EUMC

RACIST VIOLENCE
IN 15 EU MEMBER STATES

A Comparative Overview of Findings from the RAXEN National Focal Points Reports 2001-2004

April 2005

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Foreword

Racist violence, which may take a variety of forms from verbal abuse, graffiti and harassment to arson, vandalism, physical assault or even murder, remains unfortunately a common and persistent problem in most Member States of the European Union. Racist violence is distinguished from other forms of violence in the motivation behind the behaviour. Its impact affects not only the lives of the individual victims and their families, but inter-community relations. Racist violence may also be transnational in its dimension, thereby affecting relations between Member States as perpetrators of racist violence may seek to take advantage of different standards in individual Member States to commit or support racist acts. To be effective policy responses therefore require adequate and reliable data both at the national and at the European level. In addition, reporting systems should have core minimum guidelines to ensure that victims receive a similar level of support and standard of treatment across the European Union.

However, as this report highlights there is great variation between Member States in the data collected and in their response to this problem. Member States with the best data collection systems have also the highest figures for racist violence and tend to be seen as those states with the most racist incidents. This is not the case. In order to know the true extent of racist violence and develop strategies to combat this phenomenon data collection is of paramount importance. Therefore, the EUMC invites those Member States who do not have an effective data collection system in place to examine the more sophisticated systems used by the other Member States and develop effective and systematic methods to record racist violence.

The report highlights the reality of non-existent or ineffectual official data collection on racist violence in many Member States. Without accurate data on the extent and nature of racist violence, Member States are hampered in their ability to develop effective policy responses, and accurate information on the situation of victims of racist violence will remain unattainable. Victims of racist violence run the risk of becoming or remaining invisible in Member States with inadequate or non-existent data collection systems.

This report has been produced to support Member States in their development of appropriate policy responses to racist violence. It presents an analytical comparative overview of the extent and nature of racist violence in fifteen EU Member States. Based on official and unofficial data sources collected by the EUMC's RAXEN National Focal Points, the report offers an insight into the problem of and responses to racist violence for the period 2001-2004.

The main report consists of an analysis of the general situation regarding racist violence in each Member State. Information about official and unofficial data collection mechanisms on racist violence is presented for each Member State in turn, and quantitative data are offered where this was made available to the

National Focal Points. This information is put into the national context with respect to the political and social climate in individual Member States, and at the end of each country profile a brief synopsis is made concerning recent policy developments that variously set out to combat the problem of racist violence. This is followed by a comparative EU overview of racist crime and data collection mechanisms on racist crime in the fifteen Member States, accompanied by an explanatory analysis of the phenomenon of racist violence. The summary report captures the main findings.

It is often argued that data containing information on the ethnic or national origin should not be collected. However, the European Union's Racial Equality Directive indicates that information about indirect discrimination can be gathered using statistical evidence, provided that information on ethnic origin is made anonymous, thus implying that there is no barrier to the collection of racist violence data according to the ethnic or national origin of the victim. The report provides examples of countries that currently collect data on minorities' experiences of racist violence without apparently contravening the European Union's Directive on Data Protection, and recommends a set of steps for the adoption of methods of comprehensive data collection on racist violence across the EU.

The data for this report were collected by the RAXEN (Racism and Xenophobia Network) National Focal Points. The EUMC then reviewed these data to produce a comparative overview of racist violence in the fifteen Member States. Similar overviews regarding the situation in employment, education and legislation have already been published by the EUMC and are available in print or in electronic form on its website (www.eumc.eu.int). I would like to thank the National Focal Points for the excellent work they have carried out in providing the original data for this report, and the research staff of the EUMC for producing such a thorough and detailed comparative analysis.

Beate Winkler,
Director

Executive Summary

PURPOSE AND BACKGROUND

Purpose

Racist violence is the most heinous manifestation of racism and xenophobia. Its impact stretches beyond the immediate victims to affect families, friends and whole communities. Individual incidents of racist violence or on-going examples of targeted victimisation instil fear in vulnerable communities. When governments and civil society fail to respond effectively to the problem of racist violence, by condemning it and seeking to prevent and punish it, then potential and actual victims can feel that their experiences of victimisation are not taken seriously. At the same time, ineffectual responses to racist violence can send the wrong message to perpetrators – namely, that their actions will go unpunished.

The EUMC's report on 'Racist Violence in Fifteen EU Member States' looks at the extent and nature of, and policy responses to, racist violence in the EU15. In presenting available information on racist violence, from official and unofficial sources, the report highlights what we know and don't know about the problem, and suggests how data collection on and responses to racist violence might be enhanced: Improved data collection is an important means to ensure a more effective response to a problem about which detailed and accurate information is lacking in many Member States.

Criminal justice agencies, namely the police, which have good data collection on racist violence, and which use this information to develop practical responses, can begin to more effectively target the problem with respect to the following key issues:

- **Victims of racist violence** – encourage victims to report incidents by taking their experiences seriously; in the process, develop accurate knowledge about 'who' victims are; offer support to victims, and refer victims to specialist support agencies where these exist.
- **Communities vulnerable to racist violence** – respond to fear and insecurity among vulnerable communities by building trust; developing sensitive, effective and visible policing responses can enhance trust and will encourage reporting of racist victimisation.
- **Perpetrators of racist violence** – develop accurate knowledge about perpetrators using existing and well established criminal intelligence systems and procedures to build up an effective database; by effectively policing and punishing racist violence, perpetrators will know that criminal justice agencies – and therefore the State – consider racist violence as a serious crime.

As evidenced in the main report, a number of Member States have or are beginning to develop responses to racist violence that recognise some of the above issues. When reading this summary and the main report, it should be remembered that those few Member States that, today, have developed good responses to racist violence were, in previous years, at the same stage as those Member States, which have yet to develop comprehensive policy responses.

The main report also outlines notable policy responses against racist violence in Member States both by the State and civil society:

- **State and civil society** – the State and civil society should be encouraged to build partnerships in an effort to learn from each other about racist violence (its victims and perpetrators); working partnerships can enhance knowledge about effective prevention, responses to, and punishment of racist violence, and can also help to ensure that resources are used where they are most needed and where they can deliver 'results'.
- **(Good) practice** - positive initiatives against racist violence, by the State and civil society, should be identified and highlighted as examples of 'good practice' in an effort to learn from successful initiatives (at the local, national and international level). At the same time, failed practices should also be identified in an effort to avoid duplication of poor practice and ineffectual use of resources.

This summary and the main report will provide an insight into the extent of, and policy responses to, racist violence in the EU15. To this end they provide an overview of current knowledge about and responses to racist violence, by the State and civil society, in individual Member States.

Background

The contents of this report are based on annual evidence submitted to the EUMC, by its RAXEN National Focal Point (NFP) network[1], on the extent and nature of, and policy responses to, racist violence in 15 EU Member States.[2] Information is presented, where available, for the years 2001, 2002, 2003 and part of 2004.

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[1] This network is composed of 25 contracted consortia of organisations (research organisations, NGOs, special bodies, social partners, etc) that function as the EUMC's National Focal Points in each of the Member States of the European Union collecting objective, reliable and comparable data regarding racism and xenophobia in employment, education and housing, the situation regarding racist violence and crime, as well as any relevant legislative developments including court cases.

[2] As the period covered precedes the accession of the EU's ten new Member States, in May 2004, the report is limited to data for the old 15 Member States. However, Annex II in the main report gives some information about data collection mechanisms on racist violence in the ten new Member States, which was requested from the new NFPs in 2004.

The central remit of each NFP's reporting obligations was to present all available data, from official and unofficial sources, on the extent and nature of racist violence in their country. As part of this exercise, NFPs had to outline data collection mechanisms for racist violence. In addition, NFPs were required to collect information about policy responses and other initiatives, including relevant legislation, to combat racist violence. A description of the background to racist violence in each country, and in particular the activities of extremist organisations, was also requested in an effort to put the reported findings on racist violence into the national social and political context.

Towards the end of the report, the findings for each Member State are presented as a comparative overview, which allows for a critical assessment of each Member State's data collection mechanisms on racist violence. With this in mind, the report offers a critical reading of 'good practice' in response to the problem of racist violence.

In itself, the term 'racist violence' can be interpreted in a variety of ways. Most Member States do not have a legal definition of 'racist violence'. Social scientists specializing in this field and NGOs usually define it as racially motivated criminal acts against the person and/or property, and sometimes include verbal abuse and incitement to racial hatred. To support information gathering in the national context some Member States, for example, target specifically neo-Nazi organizations and their activities. The NFPs were not supplied with a prescriptive definition of what 'racist violence' is, but were asked to collect data on the variety of approaches adopted by Member States. By doing this the EUMC hopes to capture as much information as possible and identify the similarities and differences between reporting and recording practices.

The approaches adopted by the NFPs to the subject of racist violence generally reflect the importance assigned in each Member State to the problem of racist violence. Those Member States with a long history of research, NGO activism and policy intervention in the field of racist violence also tend to have the most comprehensive data on racist violence. As a reflection of this, some NFPs had ample information to work with, while others faced a lack of available information. The results reported here clearly show great variety in the range and depth of information available in each Member State.

WHAT THE REPORT COVERS

The report is divided into three parts.

The main comparative overview of the research findings is given in Chapter 19.

PART I – THE CONTEXT OF THE RESEARCH

Part I, Chapter 1 puts the research into context with respect to what is meant by the terms 'race', 'ethnicity' and 'racism'. This helps set the scene for definitions and understandings of 'violence' and, more particularly, 'racist violence' - which forms the central area of investigation in the report. Having presented sociology and criminology-based readings of 'racist violence', **Chapter 2** presents an overview of legal definitions of and approaches to 'racist violence'. National and international instruments, which variously incorporate responses to racist violence, are briefly outlined in the chapter. Finally, **Chapter 3** offers a critical commentary about attempts to measure the extent and nature of racist violence, particularly as a comparative cross-national undertaking, and looks at the pros and cons of official and alternative data collection mechanisms.

PART II – RESEARCH FINDINGS FOR EACH OF THE 15 MEMBER STATES

Part II takes each of the 15 Member States in turn and, in **Chapters 4 to 18**, explores the available data and sources of data on racist violence. For each Member State, findings are put into context with respect to the social and political background to the phenomenon in the Member State, focusing on the presence and impact of the extremist groups on responses to immigrants and other minority groups. Each chapter presents official and unofficial data, which is deemed reliable by the NFP in question, in an attempt to paint a picture of what is known and what is not known about racist violence in each Member State. The information is then presented with respect to recent political, criminal justice and policy developments that can be considered as positive, and sometimes negative, developments in consideration of data collection on racist violence.

Some NFPs were only able to present descriptive qualitative accounts of racist incidents, often based on media reports. Rather than present a selective reading of these accounts in the comparative report, which poses the danger of offering the reader a skewed interpretation of the nature of racist violence in any one Member State, the decision was made to focus on quantitative data. Given that the prime objective of the EUMC is to 'provide the Community and its Member States with objective, reliable and comparative data', the central role of this comparative racist violence report was considered as providing a description and critical appraisal of official and unofficial quantitative data collection.

PART III – OVERVIEW AND UNDERSTANDING OF THE RESEARCH FINDINGS

Following the 15 individual national reports, **Chapter 19** presents a comparative overview of the extent and nature of racist violence for each of the 15 Member States. Given the limitations of trying to compare sparse and different data sets from different countries, the chapter examines notable data trends within selected Member States. On the basis of the research findings, the chapter asks whether Member States under-record racist incidents, and critically assesses the adequacy or inadequacy of existing data collection mechanisms for each Member State. Following the overview of the research findings, **Chapter 20** briefly outlines major theoretical explanations, from criminology and related disciplines, for racist violence. The chapter briefly refers to the cultural and crime context in which racist violent offending is likely to occur in an effort to further understand the evidence supplied in each of the country profiles. **Chapter 21** addresses responses to racist violence by Member States. The chapter looks at stumbling blocks to effective data collection on racist violence, and presents an overview of political and policy influences on recording racist violence. The mainstay of the chapter is devoted to outlining what is meant by 'good practice' interventions against racist violence, and offers selected examples of good practice in Member States. These initiatives are critically assessed with respect to innovative and traditional criminal justice interventions against racist violence. Finally, on the basis of the report's central critique that data collection on racist violence is inadequate, the chapter offers a number of recommendations for improved data collection, which is presented as a set of recommendations.

In addition to the above, the report contains two annexes: the first presents an overview of the population and non-national population for each Member State; the second presents information about data collection mechanisms on racist violence in the ten new Member States.

NOTABLE RESULTS

Data collection on racist crime and violence differs widely between Member States. These differences depend mainly on:

- whether Member States collect data on non-nationals and ethnic minorities, and, specifically, whether the law recognises criminal offences as being specifically 'racially motivated', and
- whether Member States focus on racist crime and violence as a social problem that needs addressing

As a result, no two countries have data that is strictly comparable.

Official Data Collection Mechanisms

On the basis of information made available to the RAXEN NFPs, there are three Member States – **Greece, Italy and Portugal** - that have *no public official criminal justice data on racist crime/violence*, or data on discrimination that includes racist crime and violence. **Spain** only released limited figures on racist/xenophobic acts for 2001 at the bequest of the Spanish NFP.

Belgium, Luxembourg and the Netherlands concentrate their data collection on reports of 'discriminatory offences'. While Luxembourg's data collection is limited, Belgium and the Netherlands have good mechanisms in place to record a broad range of discriminations. Belgium is also able to identify the number of discriminatory complaints that are related to racist violence, while the Netherlands is able to reveal whether reports are related to 'oral utterances' and related to the activities of extremist groups.

Austria and Germany focus their data collection procedures on the activities of extremist groups and associated acts that go against the constitution. The Austrian data does not reveal any detail about violent racist offences, but the German data does. To a lesser extent, **Denmark** focuses its data collection on complaints relating to hate/racist speech and the activities of extremist groups; although data is also available on the nature of violent incidents with a racist motive. **Sweden** also looks at the activities of extremist groups, but incorporates this within a broader framework of data collection on racist violence that is able to identify the extent of extremist group involvement in racist crime/violence

Finland, France, Ireland and the UK have comprehensive data collection mechanisms in place that can reveal a lot about the extent and/or nature of racist violence. Although Finland's data is limited to 2002, it provides a comprehensive overview and estimate of racially motivated crime and racially motivated violent crime.

On the basis of the above, official criminal justice data collection mechanisms on racist crime/violence (and associated activities) can be described as follows:

Official criminal justice data collection mechanisms on racist crime/violence

Inadequate or non-existent data collection for years 2001, 2002, 2003 and 2004	Partial data collection or data focused on general discrimination	Good or Excellent data collection mechanisms	Good data collection focusing on the activities of extreme right-wing groups/hate speech
Greece	Belgium	Denmark	Austria
Italy	Netherlands	Finland	Germany
Luxembourg		France	
Portugal		Ireland	
Spain		UK	
		Sweden	

Official Data and Under-Recording of Racist Violence

Given that many NFPs indicate that there is a problem with racist crime and violence in their country, official data would seem to under-record incidents of racist crime and violence, either because an official system recording racist violence does not exist (Greece, Portugal and Italy) or because it is not effective enough.

Therefore, very low or non-existent raw official data on racist crime and violence might reflect ineffective data collection mechanisms rather than actual low levels of racist crime and violence.

Looking at Trends in Official Data

Given that Member States have different official systems in place for collecting data on racist crimes and violence, it is misleading to try and compare raw absolute data between countries. Instead, a more meaningful reading of available data can be achieved by comparing data between years for the same Member State. In this way we can observe whether reports/records of racist crime and violence, using the same data collection mechanisms, are increasing or decreasing on the basis of percentage changes in collected data between years.

Taking seven Member States for which data on reports/records of racist crime is available for the years 2001, 2002 and 2003 – Denmark, Germany, Ireland, Netherlands*, Austria, Sweden and the UK - an analysis of trends can be undertaken for each Member State.

*   Both Belgium and the Netherlands provide data on general discrimination. However, according to evidence submitted by the NFPs, the Dutch data appears to be more focused on 'racist violence', while the Belgium data is more generic. Therefore it was decided to exclude the Belgium data from the trends mapping exercise.

Trends Over Time, 2001-2003
Official reports/records relating to racist crime/violence and associated activities[3]

	% change 2001-02	% change 2002-03	% change 2001-03
Austria	- 11.9	- 6.2	- 17.4
Denmark	- 41.4	- 23.5	- 55.2
Germany	- 12.2	- 10.5	- 21.4
Ireland	+ 137.2	- 20.6	+ 88.4
Netherlands	+ 22.2	- 15.7	+ 3.0
Sweden	- 15.4	+ 2.1	- 13.6
UK[4]	+ 2.4	- 9.7	- 7.6

Five of the seven Member States experienced an *overall decrease* in reports/records of 'racist crimes' and violence (and associated activities) in the period 2001 to 2003

Two of the seven Member States experienced an *overall increase* in reports/records of 'racist crimes' and violence (and associated activities) in the period 2001 to 2003

Looking at trends in collected data for individual Member States is a more accurate exercise than attempting to compare different data sets between Member States. However, while percentage changes can indicate an actual increase or decrease in incidents of racist crime and violence, they can also reflect changes in recording procedures. In turn, Member States with consistently low absolute figures, such as Denmark and Ireland, can report dramatic percentage increases or decreases in reports/records of racist crime and violence on the basis of very few incidents.

Unofficial Data Collection

In comparison with official data collection mechanisms, most Member States have some unofficial data collection mechanisms or research on racist violence and crime. For example, **Belgium, France, Greece, Ireland, Italy, Portugal, Austria, Spain and Sweden** all have some alternative sources of information on racist crime and violence. **Luxembourg** suffers from a lack of unofficial data on racist

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3   The data in this table is **not** comparable between Member States. Original sources are quoted in the annex to this summary and in the main report. The highest available official figures are used for each Member State.
4   Data for England and Wales

crime and violence, which could form a useful source of information given the country's lack of comprehensive official data.

Most unofficial information comes from specialist NGOs working against the problem of racist crime and violence. Working with few resources, data collection by such NGOs tends to be limited, and is often of a qualitative nature. Typically, incidents are either reported directly to an NGO, or they collect descriptive media reports of incidents. Where official data sources are lacking or partial, NGOs however play a vital role in highlighting the problem and nature of racist crime and violence.

In comparison with the Member States listed above, **Denmark, Germany, the Netherlands, Finland and the UK** all have a good range of unofficial data sources on racist crime and violence – with some research going back many years. In these countries information is available from NGOs and academic researchers, of both a quantitative and qualitative nature, about non-nationals and other vulnerable minorities' experiences of racist victimisation. One important tool that has been utilised in a number of these countries is the 'victim survey'. This research tool directly asks samples of people about their experiences of victimisation over a specified period of time, and can provide a more accurate picture of racist victimisation than official police statistics.

On the basis of the above, unofficial criminal justice data collection mechanisms on racist crime/violence (and associated activities) can be described according to the following broad categories:

Unofficial data collection/research on racist crime/violence

Inadequate unofficial data sources	Some unofficial data sources	A range of unofficial data sources
Luxembourg	Austria	Denmark
	Belgium	Finland
	France	Germany
	Greece	Netherlands
	Ireland	UK
	Italy	
	Portugal	
	Spain	
	Sweden	

Who are the 'Victims' – Who are the Perpetrators?

Official data, where available, tends to categorise victims according to nationality. In a few Member States, reports of racist crime and violence are classified on the grounds of religion - such as antisemitic or anti-Muslim incidents.

Unofficial data sources, such as NGO reports and research studies, tend to provide more detail about victim characteristics, and at times offender characteristics, than official data.

Summarising the findings from both official and unofficial research, the following broad generalisations can be made:

The most vulnerable groups identified were (listed in alphabetical order): ethnic minorities within the national population; illegal immigrants; Jews; Muslims; North Africans; people from the former Yugoslavia; refugees/asylum seekers; Roma/Sinti/'Gypsies'.

Main perpetrators tend to be: young males; members of extremist politically motivated organisations *and* others not affiliated to such groups.

Recent evidence from some NFP reports – **France, Netherlands and Sweden** – indicates that the majority of racist crime and violence is not attributable to extremist groups. Although it might be the case that extremist groups are being more careful in concealing their activities, it might also be the case that there is a trend towards racist crime and violence among persons not necessarily affiliated to such groups. With this in mind, any notable trends in reports of racist crime and violence that can be attributed to certain individuals or groups need to be carefully monitored, and particularly with regard to recent events at local, national and international level that may spark racist activities.

STUMBLING BLOCKS TO EFFECTIVE DATA COLLECTION

Effective data collection on racist crime and violence is primarily hampered by under-reporting and under-recording. While many Member States have 'good practice' initiatives in place to tackle the problem of racist crime and violence – ranging from legislative and practical criminal justice interventions through to community-based restorative justice interventions – the general absence of comprehensive and reliable data does not allow for an accurate interpretation of the extent and nature of the problem, and how to tackle it effectively.

A number of factors help to explain why some Member States collect official data on racist crime and violence, while others do not. These include: whether there is a political and social focus on victims of crime and, more specifically, victims of racist crime; whether the political and social focus is on minority ethnic groups and non-nationals as a social problem; whether there is a strong NGO movement that

can promote and support initiatives against racist crime and *for* victims; whether the police are encouraged to act as service providers to victims of crime and, in particular, victims of racist crime; and finally, whether a Member State has a strong data collection tradition.

A key element in the above is whether victims of racist crime and violence feel they can approach the police to report victimisation. Where the police proactively encourage victims to report incidents, victims are more likely to report and, therefore, the number of recorded incidents is likely to go up. However, the police are only able to record incidents as 'racist' where legislation allows this. In this regard, people may report incidents of racist violence but the information will not be incorporated in any data collection system unless there is legislation in place that can categorise incidents as 'racist' or 'racially motivated'.

In turn, official data collection on racist crime and violence is hampered by the absence or outright ban, in most Member States, on data collection related to an individual's ethnicity. This is often undertaken under the premise of data protection (see section 2.4, main report). The history of certain Member States, such as Austria and Germany, alongside the factors detrimental to data collection listed above, has served to preclude data collection on ethnicity for fear that this information could be used for, rather than against, discriminatory purposes. While some data is available in Member States on non-nationals (as non-citizens), the experiences of nationals who are also ethnic minorities is absent from criminal justice data collection in practically all EU Member States.

This absence of data presents a problem not only for individual Member States, but also for the EU and its institutions that set out to address and overcome the problem of racist crime and violence. Ideally, data would be collected that allows for a comparable overview of the problem of racist crime and violence between Member States. Yet, given that Member States, where they do collect data, use different instruments and categories, data is not, at present, comparable. Instead, the best we can presently aim for is a comparative analysis of existing data based on different data collection mechanisms. At present, the EUMC's RAXEN data collection network achieves this goal of comparative data analysis on the basis of different information supplied by individual Member States.

RECOMMENDATIONS

A number of recommendations can be suggested to improve what we know and, in turn, how we effectively respond to the problem of racist crime and violence in the EU. These include both long-term recommendations that can be viewed as gold standards for Member States to aspire to, as well as short-term recommendations that offer Member States short-term workable solutions to the problem of managing and responding to racist crime and violence.

For example, recommendations might include the long-term goal of standardising legislation and data collection on racist crime and violence across all EU Member States. In comparison, short-term recommendations could include the establishment or improvement of existing legislation and criminal justice data collection on racist crime and violence at the level of individual Member States. Yet, given the absence of effective legislation and adequate data collection mechanisms in most Member States, even these short-term recommendations can appear too ambitious.

In addition, any efforts at changing how the law, criminal justice and civil society respond to racist crime and violence demands the establishment of 'good practice' criteria in this area. This does not mean the description of activities that have been labeled as 'successful' – most often by their initiators - but rather necessitates a careful analysis of legislative, criminal justice and civil society initiatives for their effectiveness in combating racist crime and violence and assisting victims. To this end, **the findings in this report generally show that Member States with comprehensive data collection mechanisms to monitor racist crime and violence also tend to have a range of progressive initiatives to both combat the problem and assist victims.**

EU Member States might learn more about effective responses to racist violence by being able to tap into information about similarly placed projects in other Member States or in other areas within their own country. At the heart of this exchange of 'good practice' is the willingness of agencies to share information – both positive and negative. This can only be achieved if systems are in place to monitor and provide information about the extent and nature of, and responses to, racist violence.

On the basis of the findings from the report's comparative overview of racist violent in the old 15 EU Member States, the following are the report's main recommendations:

Legislation and Data Collection – Improving Mechanisms

FRAMEWORK RECOMMENDATIONS (LONG-TERM):

- **Allow data collection on ethnicity/religion that can capture incidents of racist crime/violence against national minorities.**

- **Standardise legislation on racist crime/violence in EU Member States.**

  This means adopting the Commission's Proposal for a Council Framework Decision on Combating Racism and Xenophobia[5]. If adopted, this would clearly establish a framework for punishing racist/xenophobic violence as a criminal offence, and recognise racist/xenophobic motivation as aggravating circumstances for determining enhanced sentencing.

  A central purpose of the Framework Decision is to reinforce criminal law measures aimed at approximation of the laws and regulations of the Member States regarding racist and xenophobic offences.

  If the Framework Decision were to be adopted by Member States, it could enhance data collection on racist crime/violence across the EU. Therefore, another recommendation would be to:

- **Standardise data collection on racist crime/violence in EU Member States.**

PRACTICAL RECOMMENDATIONS (SHORT-TERM):

  Practical recommendations focus on comparative analysis of existing data.

  Practical recommendations for data collection recognise that different data sets can provide a valid base for **comparative analysis**.

  To a large extent, the EUMC's RAXEN data collection mechanism and its comparative research reports are based on comparative analysis of diverse data sets. The validity of this exercise should not, given the absence of directly comparable data, be under-valued.

  If we aim for comparative analysis of different data sources, rather than attempt to generate directly comparable data, it is recommended to:

- **Establish or improve existing legislation on racist crime/violence in each EU Member State.**

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[5] COM (2001) 664 final – Proposal for a Council Framework Decision on Combating Racism and Xenophobia.

- **Establish or improve existing criminal justice data collection mechanisms for racist crime/violence in each EU Member State.**

  In addition, attention can be paid to alternative mechanisms for data collection on racist crime/violence that lie outside the confines of criminal law and criminal justice. Here it can be recommended to:

- **Develop crime/victim surveys.**

  These surveys directly ask samples of the population about their experiences of victimisation, and can include questions on racist crime/violence.
  Crime surveys allow for details to be collected on victim characteristics, and also allow for data to be collected on repeat victimisation (see main report, Chapter 3). As long as the respondents answer anonymously and present a general picture of victimisation based on group characteristics, then concerns about data protection can be met (see section 2.4, main report).

  Crime surveys are quantitative data collection tools that allow comparable data analysis, if the same research questionnaire is applied in different countries. Crime surveys can also look at trends over time, if the same research survey is used each year.

  In turn, it can be recommended to:

- **Promote research by NGOs and academic researchers on the extent and nature of racist crime and violence.**

  Particular attention should be paid to qualitative research that focuses on the characteristics of victims and offenders, and which critically explores the implementation of criminal and non-criminal justice interventions.
  Attention can also be paid to the experience of racist victimisation as part of a process (or continuum) of on-going racist harassment/threat/victimisation.

  In-depth quantitative and qualitative data collection, from a range of sources, can help to paint a more accurate picture of the extent and nature of racist violence.

  Importantly, improved data collection can accurately characterise offender and victim populations, and can establish whether current criminal justice responses to racist violence are targeting the right groups.

Towards Effective Criminal Justice and Non-Criminal Justice Intervention

We cannot judge the 'effectiveness' or 'success' of legislative and criminal justice interventions against racist crime and violence unless mechanisms exist to assess them. Comprehensive 'good practice' criteria need to be established in Member States so that we are able to make a subjective value judgment of initiatives.

Yet these critical reports of practice initiatives are, in the main, few and far between in most Member States.

POLICY RECOMMENDATIONS:

- **Establish standardised EU 'good practice' criteria with which to measure the implementation and 'success' of different criminal justice and non-criminal justice initiatives that aim to monitor, combat and respond to racist crime/violence.**

- **Develop standardised EU 'good practice' criteria with respect to: legislation; criminal justice practice; NGO interventions; academic research.**

  The above recommendations aim to establish whether legislation and practical initiatives have any positive impact on racist crime/violence.

  They demand monitoring mechanisms that ask difficult questions with respect to, for example:

  - the impact of initiatives on racist offending/recidivism;
  - the impact of initiatives on victims of racist crime;
  - the impact of new legislation on sentencing disposals;
  - the attrition rate between the number of cases reported and the number successfully prosecuted/sentenced.

PRACTICAL RECOMMENDATIONS (SHORT-TERM):

  As with attempts to standardize criminal law through the Proposal for a Council Framework Decision on Combating Racism and Xenophobia, the development of standardised 'good practice' criteria is easier said than done. Given that each Member State has a different history of and approach to social problems, including racist violence, it is not easy to agree on uniform 'good practice' criteria. Therefore, practical recommendations can suggest the following:

- **Develop and implement 'good practice' criteria at the national level.**

  These should be generic 'gold standards' that are referred to at each stage of project development, implementation and follow-up.
  National standards should reflect the limitations and possibilities that are inherent to each Member State's legal culture and history.

- **Develop and implement 'good practice' criteria at the individual project level.**

  Each project should have built-in 'good practice' guidelines that are referred to at each stage of project development.

- **Undertake a comparative analysis of similar projects; for example, youth programme initiatives to re-educate young racist offenders, or police initiatives to respond to the needs of victims of racist violence.**

  Where possible, projects should be 'matched' to facilitate ease of comparison. Matching can be on the basis of subject matter, sample group, location etc.

- **Enhance the role of Ombudsman and other national observatories (both official and semi-official) in the area of data collection, reporting and commentary concerning incidents of racist crime/violence.**

  Particular attention should be paid to the role of public officials, such as immigration officials and the police with respect to their attitude to racist violence, and their response to incidents of racist violence.

In sum, European data on and responses to racist crime and violence would be greatly improved, if EU Member States adopted a number of the above recommendations.

PART I

Contextualising the Research

1. Frames of reference

1.1. THE REPORT

1.1.1. What the report covers

The report looks at the extent and nature of, and policy responses to, racist violence in 15 EU Member States. The information in the report is based on publicly available data from official and unofficial sources, which was collected by the EUMC's National Focal Points for the years 2001, 2002, 2003, and part of 2004.

Towards the end of the report, the results are presented as a comparative overview, which also allows for a critical assessment of each Member State's data collection mechanisms on racist violence. Having outlined the extent and nature of racist violence in 15 Member States, the report provides a brief overview of major theoretical explanations on racist violence. Finally, the report offers a critical reading of 'good practices' in response to the problem of racist violence.

Before launching into an exploration of the report's findings, this chapter briefly outlines what is meant and variously encompassed by the term 'racist violence', a rather ill-defined term.

1.1.2. The parameters of the report

Racist violence has a long and diverse history in Europe. It has manifested itself as anything from genocide and inter-ethnic conflict, most recently as 'ethnic cleansing' in the former Yugoslavia, through to individual crimes against the person and property. No Member State is immune from racist violence, but responses to the problem of racist violence differ significantly between Member States and reflect each country's varied history in relation to colonialism, immigration and inter-ethnic relations.

Definitions of 'racist violence' differ according to 'who' is doing the defining. Personal experiences and interpretations, and institutional agendas, shape definitions of racist violence. In turn, the internal politics of each country determines the emphasis and tone adopted in consideration of 'racist violence' in different periods. To this end, definitions are multifarious within and between countries.

A number of terms are used to describe what this report refers to as 'racist violence'; these can include: 'racial harassment', 'racial attacks' and 'racial incidents'. Each term needs to be read in the context of the individual or agency employing it to fully appreciate what is and is not included within each definition.

For the purpose of this report, 'racist violence' was adopted as a generic term for individual interpretation by each of the National Focal Points (NFPs). Given that definitions of 'racist violence' vary widely between and within Member States, the NFPs were not supplied with a prescriptive definition of 'racist violence'. Instead, in an effort to capture as much information as possible, and to avoid exclusion of relevant data, NFPs were asked to supply information on a wide range of subjects related to the unspecified category of 'racist violence'.

To this end, the NFPs were asked to address the following broad points in order to collect information on the experience of and policy responses to racist violence at a national level:

- New policies and legislation regarding racial discrimination, racist violence, crime and offences; including special articles in Penal Codes for racial crimes, and the recording system for racial crimes.
- Other current initiatives to fight racist violence/racial discrimination and support the rights of migrants, minorities and non-nationals.
- Political climate - right-wing extremist organisations and xenophobic anti-immigration political parties.
- Groups vulnerable to racist violence; acts of racial offences; court cases and other cases of general interest; perpetrators, punishment and jurisprudence.
- Figures, trends and tendencies regarding racist violence in society
- Theoretically based explanations for racist violence; causes and consequences related to the findings
- Suggestions for recommendations to government

Some NFP reports have gone into detail about use and definition of the term 'racist violence', or its nearest equivalent, as it relates to legislation and practice in their country. Other NFP reports take the term as 'given' and do not elaborate further. To a large extent these differences reflect the degree of political debate and research interest in each country on 'racist violence'. In this regard, for example, while the UK and the Netherlands have an established history of research, legislation and policy initiatives covering aspects of 'racist violence', other Member States, such as Belgium and Portugal, have less to offer on the subject.

The parameters of the current study, based on the diverse content of NFP reports, need to be set out here to frame the report's discussion of findings with respect to the nature and extent of, and policy responses to, 'racist violence'. In this regard it is useful to briefly sketch what is meant by, first, 'race', 'ethnicity' and 'racism', and, second, 'violence', as they relate to 'racist violence'.

1.2. DEFINING RACE, ETHNICITY AND RACISM

A starting point for understanding 'racist violence' is to look at how ideas about 'race' and 'ethnicity' have developed to shape constructions of 'racism'. But, given that this report explores these ideas in the context of 15 EU Member States, we must acknowledge that the meanings and usage of 'race', 'ethnicity' and 'racism' differ between countries, agencies and individual authors. As Lentin notes with respect to her research in three European languages (English, French and Italian) in four European States (Britain, France, Italy and Ireland):

> *'The term 'racialisation' has been introduced into France by Balibar (1991) and has entered into scholarly usage also in Italy (Zincone 1994). Yet, particularly in French, a different relationship to the terms 'race', 'ethnicity' and racism has been constructed that requires attention when writing in English ...'[6]*

Each of the NFP reports reflects the usage of different terms in different countries, which, to varying degrees, reflect dominant Anglo-Saxon references to 'race', 'ethnicity' and 'racism'.

1.2.1. 'Race'

Ideas about 'race' and associated ideas of racial superiority have been institutionalised and made commonplace in Europe over the last few hundred years. 'Race' has been used to identify innate biological differences between distinct groups. At a basic level reference to people's 'race' dwells on bodily differences, such as skin colour, and can go as far as to suggest intellectual differences between 'races'.

These ideas have developed from a range of influences including the Enlightenment philosophies, the slave trade, colonialism and, more recently, the Nazi ideologies and atrocities of the twentieth century. Reference to inherent biological differences between 'races' has provided a basis from which dominant groups have been able to legitimate their actions against those groups they consider 'inferior'.

In the nineteenth and early twentieth centuries, in an era when 'science' was employed to quantify and classify things, including people, ideas about 'race' were popularised further. At this time the 'science' of 'race', or what we now critique as 'scientific racism', was able to suggest that certain 'races' were inherently less developed than others[7]. In other words, ideas of racial superiority and inferiority were central to constructions of 'race' and, hence, 'racism'.[8]

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[6]   Lentin, A. (2004) *Racism and Anti-Racism in Europe*, London: Pluto Press, p.29.

[7]   Lombroso, C. (1876) *L'Uomo Delinquente [Criminal Man]*, Turin: Fratelli Bocca.

[8]   The Council of the European Union Directive 2000/43/EC of 29 June 2000, 'implementing the principle of equal treatment between persons irrespective of racial

Today, ideas based on 'biological' or 'scientific' racism persist but are increasingly discredited. In their place we have developed new expressions of 'racism' related to ideas about social and cultural difference. In other words, there has been a shift from 'biological racism', based on bodily differences such as skin colour, to 'cultural racism'. This 'new' racism is based on ideas of cultural superiority and the negative impact of other supposedly inferior cultures on one's own.

1.2.2. Ethnicity

In 1950, UNESCO (the United Nations Educational, Scientific and Cultural Organisation) began a debate that set out to discredit 'race' and 'racism' as scientific ideas. In subsequent decades a series of statements[9], drafted by expert panels, have emerged on 'race and racial prejudice'. These UNESCO debates reflect a shift in global thinking that has seen the decline of ideas based on 'scientific racism' in favour of ideas grounded in 'ethnicity'.

As a reflection of the problematisation of 'race', as a limited and limiting concept for understanding social differences, sociological discourse has shifted its attention to 'ethnicity'. Like 'race', there is no universally agreed definition of 'ethnicity'. In its broadest terms 'ethnicity' can be understood as meaning differences between groups according to, for example, shared language, religion, and cultural practices. Unlike 'race', 'ethnicity' does not imply the superiority of one ethnic group over another.

More recently, research on 'new ethnicities' has shown that ethnic identity is anything but a fixed construct[10]. Whereas 'race' assigns people a fixed biological label, ethnicity can be understood as a dynamic identity that is subject to change. Ethnicity depends on how the individual decides to label him/herself, and, in turn, how that individual's ethnicity is perceived according to other social groups.

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and ethnic origin', clearly states in its preamble to the Directive (point 6) that 'The European Union rejects theories which attempt to determine the existence of separate human races. The use of the term 'racial origin' in this Directive does not imply an acceptance of such theories'. See -
http://europa.eu.int/comm/employment_social/fundamental_rights/pdf/legisln/2000_43_en.pdf

[9] See: http://unesdoc.unesco.org - Statement on Race (1950); Statement on the Nature of Race and Race Differences (1951); Statement on Race and Racial Prejudice (1967) (as of 11/10/04).

[10] Back, L. (1996) *New Ethnicities and Urban Culture*, London: University College Press; Modood, T. (1992) *Not Easy Being British: Colour, Culture and Citizenship*, Runnymede Trust and Trentham Books. See also Geertz, C. (1993) *Primordial Loyalties and Standing Entities: Anthropological Reflections on the Politics of Identity*, paper delivered at Collegium Budapest, 13 Dec 1993, http://www.colbud.hu/main/PubArchive/PL/PL07-Geertz.pdf - he refocuses on debates concerning primordial forms of ethnicity.

For example, an individual can variously describe him/herself as: European, Turkish-German, German-Turkish, German, Turkish, Muslim, Northern German – and so on – whereas external groups might simply label someone as 'Turkish/Muslim'. To this end, ethnicity, like race, is open to inaccurate use or misuse as a descriptive category for labelling individuals and groups. In the aftermath of September 11th 2001, religion – or more specifically Islam – has come to be used as a central identifier of ethnicity.

1.2.3. Racism

While 'racism' – as an ideology or set of beliefs – has no universally agreed definition, Kleg neatly defines it as follows:

> *'the belief that certain groups are innately, biologically, socially, morally superior to other groups, based upon what is attributed to be their racial composition'.*[11]

Kleg's definition of 'racism' usefully marries references to both biological and social differences, but remains grounded in ideas based on 'racial composition' and superiority.

Sociological discourse may have moved on to talk about 'new ethnicities', and government position papers can talk about 'strength in diversity'[12], but ideas about 'racial' difference and superiority are still with us. To this end, there is no term that, as yet, can effectively encapsulate ethnic discrimination in the same way that 'racism' continues to capture a range of discriminatory ideologies and practices.

As racism manifests itself in different forms – focusing on anything from biological essentialism to culturally distinctive practices - it is perhaps better to talk about 'racisms' rather than 'racism'. Yet here, with this report's focus on a particular manifestation of 'racism', in the form of 'racist violence', we are able to examine a range of racisms in Europe as they specifically relate to violence.

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[11] Kleg, M. (1993) *Hate Prejudice and Racism*, Albany: State University of New York Press, p.95.

[12] Home Office (2004) *Strength in Diversity: Towards a Community Cohesion and Race Equality Strategy*, London: Home Office Communication Directorate, June 2004.

1.3.   DEFINING AND UNDERSTANDING 'VIOLENCE' AND 'RACIST VIOLENCE'

The separation of 'violence' from 'racist violence' is both a useful and problematic exercise. On the one hand different academic and practitioner backgrounds approach the subject of 'violence' from different angles that variously include and exclude considerations of *racist* violence. On the other hand, the specific experience of 'racist violence' needs to be understood as part of a process of racism that incorporates both non-violent and violent thoughts, words and actions.

1.3.1.   Violence

Each Member State's criminal law/Penal Code includes definitions of prohibited actions that constitute 'violence'. On occasion, a definition of 'racist violence' is also included in reference to sentencing disposals. However, comprehensive definitions of violence are not provided in law. Instead, there is often assumed knowledge of what 'violence' is. Hence, a few points can be noted here with respect to the concept of 'violence'.

According to a comprehensive UK government-funded research programme on the nature and extent of violence in historical and contemporary contexts, *personal violence* can be understood as:

> *'Any behaviour by an individual that intentionally threatens, attempts to inflict, or does cause, physical, sexual or psychological harm to others or to themselves. An individual may commit an act of violence or intimidation with the support of a group or even the state. Depending on the circumstances, violence may be considered acceptable, unacceptable, lawful or unlawful.'[13]*

In this report, 'racist violence' is part of the above definition as it relates to 'physical harm to others', but with the addition of racist violence against *property*. And, as the last sentence in the above definition suggests, violence can be variously interpreted from the standpoint of victims, offenders, witnesses and the State.

As this report's findings are based on NFP country reports, it is necessarily limited to what each country is able to reveal with respect to the extent and nature of specifically *racist* violence. Typically, where data does exist, it refers to 'violent' acts against the person *and* property. However, as the above definition indicates, violence encompasses a range of behaviours that are not limited to physical acts

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[13]   See ESRC's 'Violence Research Programme' (UK government): www1.rhbnc.ac.uk/sociopolitical-science/vrp/RESOURCE/TAKING_STOCK_2002.pdf (as of 4/10/04). Publications emerging from this research programme include: Stanko, E.A. (2003) (ed.) *The Meanings of Violence*, London: Routledge; Lee, R.M. and Stanko, E.A. (2003) (eds.) *Researching Violence*, London: Routledge.

against people and property, and which can incorporate words, harassment and threats. Violence is experienced by victims as events that impact on their identities according to age, gender, socio-economic status, disability, sexuality, *and* race/ethnicity. In this regard, a full and extensive exploration of different manifestations of racist 'violence', as different **victim-centred** experiences, is lacking in most of the reports as a reflection of limited data and research in this area.

Conversely, violence also needs to be interpreted as **offender-centred** to understand the meaning of violence as it is perpetrated. The same social characteristics – age, gender, etc.- affect the experience of violent victimisation and violent offending. In turn, violence, as experienced by victim and offender, presents a range of emotional responses.

Research that has looked at the interplay between emotion and violence has emphasised the part played by shame. Scheff[14], along with other writers such as Gilligan[15], suggests that an unacknowledged sense of shame is a central emotion behind a large proportion of violent crime. Those with a sense of personal shame or failure – often men who feel that their masculinity is challenged by events and certain groups or individuals, and particularly those men who are on the margins of society – are likely to act out their emotional sense of having being shamed as violence. Ethnic and non-nationals are often the unwitting victims of these perpetrators.

Recognising that violence is part of a physical, threatening and emotional 'package', Kleg (drawing on Allport) developed a five-point scale with which to interpret connections between discriminatory attitudes and levels of aggression when acting out prejudices.

LOW	←	AGGRESSION	→	HIGH
Avoidance	**Defamation**	**Acts against property**	**Assault**	**Murder**
	Verbal and written	Graffiti Light damage Heavy damage Destruction	Verbal or written. Physical	Including Genocide

Figure 1: Kleg's Continuum of Aggression, as cited in Bowling and Phillips (2002)[16]

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[14] Scheff, T.J. (1997) *Emotions, the Social Bond and Human Reality: Part/Whole Analysis*, Cambridge: Cambridge University Press.

[15] Gilligan, J. (2000) *Violence: Reflections on Our Deadliest Epidemic*, London: Jessica Kingsley.

[16] See: Kleg, M. (1993) *Hate Prejudice and Racism*, Albany: State University of New York Press; Allport, G.W. (1954) *The Nature of Prejudice*, Reading, MA: Addison-

Although this 'aggression scale' can be criticised for reducing the experience of violence into simplified categories, it assists us to appreciate how prejudices can manifest themselves as aggression/violence. If this scale or continuum of violence is read alongside Becker's 'labelling theory'[17], which illustrates how acts are labelled as 'criminal' or 'non-criminal' in different contexts, we are able to appreciate how:

• violence can be legitimated in certain contexts for certain ends, and how
• discriminating attitudes can, in certain contexts, be manifested as violence.

In this regard, and bearing in mind the report's remit to map *racist violence* in 15 EU Member States, different 'violent' acts, from the mild to the serious, can be variously defined as 'criminal', 'violent', or 'racist' according to the criminal law in different jurisdictions. Here, it is useful simply to bear in mind that violence and racism are experienced differently and interpreted differently according to the individual perpetrator, victim, witness, and the law of the land.

1.3.2. Racist violence

A range of definitions of racist violence can be drawn from different academic-based research studies.

Witte, in his book 'Racist Violence and the State', defines 'racist violence' as:

> *'the (threat of) violence in which victims are 'selected' not in their capacities as individuals, but as representatives of imagined minority communities based on phenotypical characteristics, and/or religious, national or cultural origin.'*[18]

Conversely, Bowling, in his book 'Violent Racism', does not present a definition of 'violent racism' as such. Instead, by inverting the term 'racist violence' and calling it 'violent racism', he sets out to position violent racism as part of a range of racisms, and as different from and separate to violence in general. As he says:

> *'… this book is not centrally concerned with racist violence as a sub-category of violence … Instead, this book is centrally concerned with racism in its various forms, especially its violent form. In other words, this book is about a specific form of racism rather than a specific form of violence.'*[19]

What Bowling does in his book is adopt the terms used by different agencies when referring to each agency's discourse or practice in relation to 'violent racism'. So, for example, he refers to: 'racial incidents' when referring to the police; 'racial

Wesley; as cited in Bowling, B. and Phillips, C. (2002) *Racism, Crime and Justice*, Harlow: Pearson, Longman Criminology Series, p.39.

[17] Becker, H. (1964) *Outsiders*, New York: Free Press.
[18] Witte, R. (1996) *Racist Violence and the State*, London: Longman, p.11.
[19] Bowling, B. (1998) *Violent Racism*, Oxford: Clarendon Press, p.13.

attacks' when examining central government policy; 'racial harassment' when referring to local government; and 'racist violence' when referring to NGO-based work.

Given that this report is dealing with practices and terminology, translated into English, from the 'old' 15 EU Member States[20], it is not feasible or practical to try and attempt to do the same for each of the NFP country reports. Nor does the terminology exist in most instances. Instead, the definitions used in each NFP report, where they exist, tend to rely on limited legal definitions of 'violence' that might include some reference to the racist motivation or extreme right affiliation of perpetrator/s.

To a large extent, the existence of data collection on racist violence is dependent on whether the law and criminal justice agencies recognise that violence is 'racially motivated'. Traditionally, the law in most jurisdictions has focused on the offence in question rather than its motive. To consider the motive for a crime was thought to add subjectivity into the presumed neutrality of the law. Because of this, in many Member States:

- The law does not specifically refer to 'racist violence'.
- Police data collection systems, where they exist, have not collected information on 'racially motivated' crime.
- The focus in many Member States has been on the activities of extreme right-wing groups and not the general public as potential perpetrators of racially motivated crime.

However, this tradition is slowly changing as laws begin to recognise crime as 'racially motivated'.

In addition, other readings of 'racist violence' include a wider interpretation of violence than the criminal law is able to recognise. Research and NGO reports on racist violence have characterised it as anything from petty name-calling through to deaths in police custody.

Virtanen[21], in a study of racist and xenophobic violence among young people in Finland, develops a broad framework for understanding the place and manifestation of racial violence and harassment. His framework classifies racist violence and harassment with respect to 'low-level' and 'severe' violence, and with respect to 'popular' (or non-institutional) and 'institutional' violence.

While Virtanen's framework for understanding different manifestations of racist violence incorporates more than can be traditionally encompassed in criminal law,

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[20] That is, the old 15 EU Member States prior to the arrival of 10 new Member States in May 2004.

[21] Virtanen, T. (2002 – last update) Cycles of Racist and Xenophobic Violence among the Youths in Finland, in T. Virtanen (ed.) *Youth and Racist Violence in the Nordic Countries* – www.abo.fi/~tivirtanen/ (as of 14/10/04).

it does usefully remind us that racist violence is an 'everyday' experience for many people, which is context specific, and can be perpetrated by individuals and institutions.

Bowling distinguishes between violent racism that is **instrumental** and **expressive**[22]:

- *Instrumental violent racism*: Is used to exclude and undermine certain groups/individuals, and is often manifested at a political and organised level.
- *Expressive violent racism*: Is related to the expression of anger, boredom and alienation, and can be linked to Scheff's[23] ideas about shame and violence.

The manifestation of instrumental and/or expressive violent racism is, as Bowling points out, dependent on a subjective reading of each particular violent event as it occurs in a particular time and place.

1.3.3.   Looking at violence and racist violence - additional considerations

Finally, when looking to find patterns and trends in *racist* violence, we must not lose sight of overall patterns and trends that relate to **violence in general**. Any indication of an increase or decrease in racist violence should, ideally, be read alongside changes in the violent crime rate. Although the causes of *racist violence* can be distinct from the causes of *violence*, there are generic influences that can be investigated – if only to eliminate spurious connections. In this regard, consideration should be given to the following when looking at any differences and similarities between racist violence and violent crime; namely:

Official counting procedures

- Changes in the law that give more or less weight to certain violent crimes
- Official counting methods and any changes that may cause an increase or decrease in recorded crime
- Campaigns, from official and non-official sources, encouraging people to report crime

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[22]   Bowling, B. (1998) *Violent Racism*, Oxford: Clarendon Press, pp.285-317.
[23]   Scheff, T.J. (1997) *Emotions, the Social Bond and Human Reality: Part/Whole Analysis*, Cambridge: Cambridge University Press.

Characteristics of victim/offender populations

In addition, when looking at patterns in violent crime and racist violence, we should note the demographic profile of different populations. Particular attention should be paid to:

- The number of young males in different populations

As, overwhelmingly, violent crime in public places – that is, in the street as opposed to the home - involves young males as *both* perpetrators and victims.[24] In addition, consideration should be paid to the fact that:

- Some minority populations have a younger age profile than majority populations, and, therefore, are likely to be over-represented as *both* perpetrators and victims of public place violence.

A range of demographic characteristics, for both victims and offenders, should be taken into account when exploring contributory factors towards high rates of violent incidents and violent racist incidents. As violent offending and violent racist offending tends to concentrate in certain areas, primarily in large urban centres, and among certain populations, an analysis of 'who' the victims and perpetrators are can help to explain how both are often drawn from the same areas and the same socio-economically deprived populations – but, crucially, from different nationality/ethnicity groups.

In other words, a combination of socio-economic factors and demographic characteristics can inform us about the likelihood of racist violence occurring in the context of more general violence. This is not to 'blame' the victim for their own victimisation, but rather, by documenting 'who' is victimised, we can more readily understand the circumstances in which racist violence manifests itself.

In addition, the specific causes of racist violence need to be understood by examining the activities of the extreme right and populist appeals to racism at particular times in particular localised settings. While these factors should, ideally, be included in any report that looks at patterns and trends in racist violence, in reality the absence of data and research in this area makes comprehensive overviews impossible.

These points, and others, will be considered further in Part III, Chapter 20.

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[24]   Women and girls can also play a role in violent racist offending. However, official and unofficial sources of information, which include quantitative and qualitative research findings, indicate racist violence is overwhelmingly perpetrated by young males.

2. Legal Approaches to 'Racist Violence'

Turning away from sociological and criminological-based readings of 'race'/ethnicity/racism, and racist violence, the following section explores legal approaches to racist violence.

2.1. INTRODUCING THEMES FOR CONSIDERATION

In recent decades, and particularly since the UN's 1966 Convention for the Elimination of all forms of Racial Discrimination (CERD), which was used as a blueprint for legislation in a number of Member States, European jurisdictions have increasingly come to recognise racial discrimination, including racist violence. These developments are reflected in discussions and implementation of laws, in some jurisdictions, with respect to 'hate crimes'.

Criminal law in the different Member States punishes a range of actions and activities, as well as discriminatory practices, which can be related to racism and xenophobia. 'Racist violence' is not generally defined as such in criminal law, but is usually covered under 'incitement to violence, hatred and discrimination'. Violence with a racist motivation is also, increasingly, being considered as an aggravating factor for sentencing purposes in some Member States.

In those Member States with an active criminal justice history of responding to 'racist crime', we find that the interpretation and understanding of racist crime has fundamentally changed in recent years.

In England and Wales, for example, the 1999 Macpherson Inquiry into the Death of Stephen Lawrence[25] was another step towards developing a definition of a 'racist incident' that could more accurately reflect the experience of racism as it relates to vulnerable groups. The simple one line definition of a 'racist incident' in the Macpherson report, which has been adopted as a working definition of a racist incident by the criminal justice system in England and Wales, reads:

> '[a racist incident is] any incident which is perceived to be racist by the victim or any other person.'[26]

This definition places the victim centre-stage in the interpretation of an incident as 'racist', whereas the traditional focus is on agents of the State – such as the police,

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[25] Stephen Lawrence was a British Afro-Caribbean teenager who was murdered while waiting at a bus-stop in South London. His killers have not been brought to justice.

[26] Macpherson, W. (1999) The Stephen Lawrence Inquiry: Report of an Inquiry by Sir William Macpherson of Cluny (Cm 4262), London: The Stationary Office: Chapter 47, para.1.

an examining magistrate or a judge – to interpret whether an incident has been committed with racist intent. Although the Macpherson definition is context specific to the UK, it reflects working criminal justice interpretations of racist violence that are being adopted in other jurisdictions (such as Ireland).

At present, the UK's victim-centred definition of a 'racist incident' is the most broad-based in the EU. This 'open' definition, together with the UK's history of proactive criminal justice initiatives aimed at enhancing community (race) relations and encouraging victims of racist crime to report to the police, is reflected in the fact that the UK's figures for racist incidents far exceed those in other Member States where broad-based victim-centred definitions are not in use.

However, to suggest a broad definition of racist violence that can be successfully applied across different criminal justice jurisdictions is considerably easier to do in theory than in practice. Europe's different legal cultures – from common law through to inquisitorial law – variously place different weight on rules and admissibility of evidence. As a result, this impacts on how racist crime can be dealt with by the police and other criminal justice agencies. For example, when developing a definition of 'racist violence', particular attention needs to be paid to the following points; namely:

- Is the onus on the victim to prove racial motivation?
- Is the onus on the offender to disprove racial motivation when a victim or a third party alleges it?
- Can the police, or other criminal justice agencies responsible for the investigation of crime, decide themselves whether a crime is 'racially motivated'? If so, are they issued with instructions about how to determine whether crime is racially motivated?

These questions and others are, at present, variously responded to or neglected in different Member States. As such there is no homogeneous legal definition of 'racist violence', 'racist crime' or 'racism' in Europe[27], nor are there common working practices about how a crime can be determined to be 'racist'.

As pointed out by Coomber[28], it is far easier for law to define illegal conduct than it is for law to start defining terms such as 'racism'. In this regard, ECRI's[29] General Policy Recommendation No.7 on 'National Legislation to Combat Racism and Racial Discrimination' is unique amongst international instruments because it defines 'racism' in broad terms[30]; whereas most legal instruments narrowly refer to

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[27] International instruments such as EC Directive 2000/43/EC, and the International Convention on the Elimination of all Forms of Racial Discrimination (CERD), do not define 'racism'.

[28] Coomber, A. (2003) The Council of Europe: Combating Racism and Xenophobia, in *European Strategies to Combat Racism and Xenophobia as a Crime*, European Network Against Racism, pp. 17-26.

[29] The Council of Europe's 'European Commission against Racism and Intolerance'.

[30] ECRI's General Policy Recommendation No. 7 on 'National Legislation to Combat Racism and Racial Discrimination', paragraph 1 defines 'racism' as: 'the belief that a

'discrimination' on the grounds of 'race or ethnic origin'. However, the fact that the ECRI instrument is not legally binding allows it to define vague concepts such as 'racism'.

Different legal instruments variously try to capture a range of actions and activities as 'racist' without specifying what 'racism' is. Some legislation is more generously framed than others. To this end, Nickel[31] usefully outlines three basic legal approaches to the criminalisation of racism, xenophobia and discrimination; these are:

1. **A maximum concept:**
   Criminalises all possible forms of expression of racism and xenophobia; can include the punishment of racism as an attitude.

2. **A medium concept:**
   Sees the need for detailed legislation covering certain actions, but not others; sees criminal law as a relatively weak medium through which to address racism.

3. **A minimum concept:**
   Avoids detailed provisions against racism that might impact on the fundamental rights of freedom of expression and freedom of association.

Therefore, according to Nickel, ECRI - in suggesting that public expressions of racist *attitudes* should be penalised[32] - adopts a maximalist approach to combating racism, xenophobia and discrimination. Conversely, Denmark, for example, narrowly interprets its law prohibiting certain forms of racially derogatory speech because of the need to respect freedom of expression as set out in the Constitution - so adopting a minimalist approach.

In different EU Member States, the legal response to racism, xenophobia and discrimination, including elements of racist violence or incitement to racist violence, can be characterised according to the following dominant approaches:

- **Combating National Socialist/fascist/neo-Nazi ideologies**
  This approach is often grounded in protection of the Constitution, and is particularly important in those Member States with a National Socialist/fascist past. The approach focuses on surveillance of underground or banned extreme right-wing movements.

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ground such as race, colour, language, religion, nationality or national or ethnic origin justifies contempt for a person or a group of persons, or the notion of superiority of a person or group of persons'.

[31] Nickel, R. (2003) The current standards of protection through criminal legislation in the EU Member States: A general overview, in *European Strategies to Combat Racism and Xenophobia as a Crime*, European Network Against Racism, pp.5-16.

[32] ECRI policy recommendation No.7.

- **Anti-Discrimination**
  This approach is widespread in Europe, and in many Member States has its origins with the UN's CERD (Convention on the Elimination of all Forms of Racial Discrimination) and latterly in the Council of the European Union's Racial Equality Directive33 and Employment Equality Directive34. The approach focuses on the civil and legal protection of disadvantaged minorities, and often includes mechanisms and bodies for complaints procedures such as an Ombudsman. Intentional acts of discrimination are usually covered by the criminal law, while unintentional acts are usually covered by civil/administrative law.

- **Hate Crime**
  This broad-based approach encompasses race/ethnicity/religion, as well as gender, disability and sexuality. This approach is increasingly being adopted by Member States. The onus is on combating racist crime and violence through the criminal law. Offences which are found to be racially motivated incur increased sentencing sanctions.

Recent moves in some jurisdictions to punish racist crime and violence under the generic heading of **'hate crime'** are an interesting development. Recognition of 'hate' reflects harm against the individual, the group to which the individual belongs, and civil society whose norms are violated by hate crime. However, the hate crime model, in focusing on equality of protection for all, can serve to homogenise experiences of hate that, in reality, impact differently on different groups – be this disabled people, gays/lesbians, Roma or Jewish populations.

The debate about the place of 'hate crime' in European and other jurisdictions is taken up in other publications[35], suffice to say here that reference to hate crime can detract from the mainstay of racist crime which is low-level and persistent, and which is not perhaps best understood through reference to 'hate'. Reference to racist crime as 'hate crime' might be appropriate with respect to the activities of right-wing extremist groups, but is less helpful when addressing the racist activities of many 'ordinary' young people/children who are not affiliated to right-wing extremist groups. Legislation against 'hate crimes' might appear, at least on paper, to provide justice for victims and against offenders, but, in practice, it is not perhaps the most effective legal tool with which to address specific discriminatory and racist activities involving 'ordinary' young offenders.

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[33]   2000/48/EC
[34]   2000/78/EC
[35]   Bourne, J. (2002) Does legislating against racial violence work?, *Race and Class*, 44(2), pp.81-85; Jacobs, J.B. (1993) The emergence and implications of American hate crime jurisprudence, *Israel Yearbook of Human Rights*, Vol.22, pp.113-139.

2.2.   NATIONAL INSTRUMENTS

Member States increasingly display a mixed legal response to racist crime and violence that incorporates different elements of the above approaches.

While racist violence and related offences can be punished as violent crimes and other crimes under each Member State's **criminal law**, Member States have also enacted **targeted legislation to specifically address racism and xenophobia**.

Each Member State's legislation against racism and xenophobia has developed in response to its particular history. Member States with a National Socialist/fascist history, as well as other Member States that have been affected by this history, have adopted a number of specific laws that set out to prohibit and punish acts and organisations that have fascist and other extremist overtones. Other Member States have adopted more broad-based legislation.

By way of illustration, the following list presents *some examples* of key legislation in different Member States:

- Establishment of or participation in banned political parties and other organisations, and dissemination of Nazi, fascist and racist ideologies.
  For example: In Austria, the Constitutional Act prohibiting the National Socialist German Workers' Party (dating from 1945, and subsequent amendments). In Germany, paragraph 86a in the Penal Code prohibits use of symbols of anti-constitutional organisations.
- Dissemination of racist ideas.
  For example: In Greece, legislation exists to punish the preparation, possession, publication and dissemination of written and other material that is likely to bring about hatred against persons on the grounds of race, colour of skin etc. (Law No.927/1979; Law No.1419/1984).
- Incitement to racial hatred, hostility and violence against certain groups. For example: In Germany, section 130 in the Penal Code makes it an offence to incite hatred against certain sections of the population and to incite violence against such groups.
- Denial, trivialisation or approval of the Holocaust.
  For example: In Belgium, legislation from 23 March 1995 prohibits the denial, devaluation, justification or approval of genocide committed by the national-socialist German regime during the Second World War.
- Prohibition for the wearing or display of certain racist, xenophobic or discriminatory insignia and symbols.
  For example: In Austria, the wearing of neo-Nazi symbols is prohibited under the Insignia Act, section 1 and 3.[36]

Looking specifically at just two main legislative areas that are particularly relevant to racist crime and violence (as opposed to more general legislation on

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[36]   Abzeichengesetz, BGBI 84/1960, amended version BGB1 117/1980.

discrimination in relation to employment, housing, education and other areas), the following table (Table 1) descriptively summarises key legislation in each of the 15 Member States with respect to:

- incitement to racial hatred, hostility and violence against certain groups, and
- racist violence as an aggravating factor in criminal/penal law, with the possibility of enhanced sentencing[37]

When reading Table 1 consideration should be given to the following:

The information in Table 1 should be read alongside more detailed information on a broader range of legislation that variously touches on racism and xenophobia, which is outlined in the EUMC publication 'Migrants, Minorities and Legislation: Documenting Legal Measures and Remedies Against Discrimination in 15 Member States of the EU'.[38]

As legislation is constantly updated, the information contained in Table 1 might be subject to change and, therefore, should be read with this in mind.

In addition, there are instances in different Member States where judges have decided to take into account the racist motive of the offender when passing sentence in a case involving racist violence, and have subsequently increased the sentence.[39]

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[37] 'Enhanced sentencing' means that a tougher sentence (such as a longer prison sentence) can be given if a violent offence is found to have been committed with racist/xenophobic intent.

[38] ICMPD (International Centre for Migration Policy Development, Vienna) (2004), publication for the EUMC; see: http://eumc.eu.int/eumc/material/pub/comparativestudy/CS-Legislation-en.pdf

[39] see: http://eumc.eu.int/eumc/material/pub/comparativestudy/CS-Legislation-en.pdf - p.115, in reference to Denmark.

Table 1: Overview of two main legislative areas relevant to 'racist violence' in 15 EU Member States[40]

MEMBER STATE	WHAT THE LEGISLATION COVERS (Including relevant legal citation where given in RAXEN NFP reports)	
	Incitement to racial hatred (including violence/threats)	Racist violence as an 'aggravating factor' in criminal/penal law, with or without enhanced sentencing
Belgium	Public or witnessed incitement to discrimination, hate or violence against a person, a group of people (community) or its members, incitement to segregation on the basis of race, making one's intent to discriminate on the basis of race or to segregate or to commit violence on the basis of race, colour of skin, ethnicity or nationality. 1981 Law on the Suppression of Racist Acts, plus anti-Discrimination Law 2003.	Note: EUMC Legislation report states that 'For certain articles in the Penal Code - such as murder, injuries, indecent assault, fire-raising, destruction of someone's property – the law provides for aggravating circumstances if the criminal offence has been committed on one of the 'racial' or 'non-racial' grounds of discrimination.'[41]
Denmark	Criminal law contains a provision to punish a person who publicly (or with the intention of dissemination to a wide circle of people) makes statements or imparts other information by which a group is threatened, insulted or degraded on account of their race, colour, national or ethnic origin, belief or sexual orientation (Criminal Code Art.266b).	Penal Code, section 80(1) can recognise racist motive as an aggravating circumstance.
Germany	Incitement to hatred, to violence or to arbitrary measures against sections of society, impairment of the human dignity of others, agitation against another national, racial, religious or ethnic group (Criminal Code, Sec.130).	
Greece	Public encouragement to hatred or violence against a person or a group of persons on the grounds of race, national origin or religion (Law No.927/1979, Art.1; Law No.1419/1984, Art.24).	

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[40]   Information supplied by EUMC RAXEN NFPs.
[41]   see: http://eumc.eu.int/eumc/material/pub/comparativestudy/CS-Legislation-en.pdf

Table 1 continued	Incitement to racial hatred (including violence/threats)	Racist violence as an 'aggravating factor' in criminal/penal law, with or without enhanced sentencing
Spain	Incitement to discrimination, hate or violence against groups/associations of racist or antisemitic cause, or other causes related to ideology, religion or belief, family situation, belonging to an ethnic group or race, nationality, sex, sexual tendency, illness or disability (Criminal Code, Chapter IV, Sec.1).	Penal Code, Organic Law 10/1995, Art.22, No.4 - racist and antisemitic reasons are identified as aggravating circumstances in sentencing.
France	Public incitement to racial discrimination, race hatred and violence against members of other races (Law of 29 July 1881, Art.24, Section V); (Non public) incitement to racial discrimination, race hatred and violence against members of other racial groups (Penal Code, Art.625-7).	Law No.2004-204 of March 9, 2004, the 'Perben 2' law (adopted 16 March 2004), increases sanctions related to racist violence (extends law of Feb.3 2003).
Ireland	Acts that are likely to bring about hatred against persons on the grounds of race, colour of skin, citizenship, religion or ethnic or national origin [includes preparation, possession, publication and dissemination of written or other material] (The Prohibition of Incitement to Hatred Act, 1989) – according to the NFP, the Act is under review.	
Italy	Dissemination of ideas of racial superiority or ideas that are based on hatred on the basis of race or ethnic origin. Instigation to discriminatory or violent acts on the basis of race, ethnicity, nationality and religion (Decree No.205/1993, Art.1).	Law No.205/1993, section 3 – provides a general aggravating circumstance for *all criminal offences* committed with a view to discrimination on racial, ethnic, national or religious grounds, or in order to help organisations with such purposes.
Luxembourg	Public instigation to discrimination, incitement to hatred and to violence against persons, a group, a community on the grounds of race, colour of skin, descent, ethnic or national origin (Criminal Code, Art.454).	

Table 1 continued	Incitement to racial hatred (including violence/threats)	Racist violence as an 'aggravating factor' in criminal/penal law, with or without enhanced sentencing
Netherlands	Public incitement to hatred or to violence against persons or against personal property or discrimination thereof on the grounds of race, colour of skin, descent or ethnic or national origin (Penal Code, Art.137d); transmission, dissemination and possession for distribution of such expressions (Penal Code, Art.137e).	
Austria	Public incitement or instigation to animosity or hostile acts against racial, ethnic or religious groups, as well as public impairment or public insult of such groups in a manner likely to offend human dignity (Constitutional Act, Prohibition Statute; Penal Code Art.283).	Section 33, para.5 of the Penal Code cites racist or xenophobic motivation a particularly aggravating factor for any crime.
Portugal	At a public gathering, by writing or through the mass media: (a) provoking acts of violence against a person or group of persons because of their race, colour, religion or national or ethnic origin, or (b) defaming or insulting a person or a group of persons because of their race, colour, religion, national or ethnic origin … Calling for violence against these groups … (Criminal Code, Art.490).	Criminal Code on homicide, Art.132.2 and 189.1 - motives of racial, religious or political hatred are regarded as aggravating circumstances resulting in a heavier penalty. Criminal Code on assault causing actual bodily harm, Art.146 - the above aggravating circumstances may also apply.
Finland	Spreading statements or other notices among the public by which a certain race or national, ethnic or religious group or a comparable group is threatened, slandered or insulted (Penal Code, Chapter II, Section 8).	Penal Code reform (adopted by parliament on 31 January 2003, into force January 2004 (Penal Code 515/2003)) recognising the commitment of crime against a person because of 'his' national, racial, ethnical or equivalent group as an aggravating circumstance in punishment.

Table 1 continued	Incitement to racial hatred (including violence/threats)	Racist violence as an 'aggravating factor' in criminal/penal law, with or without enhanced sentencing
Sweden	Dissemination of threats or insulting expressions targeting national or ethnic groups or similar other groups with a view to their race, colour of skin, of their national or ethnic origin or religious beliefs. The written or broadcast agitation against an ethnic group is covered by the 1948 Provision on Agitation against a National or Ethnic Group, together with other sections of the Penal Code (for example: Chapter 16, Sec.8; Freedom of the Press Act, Chapter 7, Sec.4; Fundamental Law on Freedom of Expression, Chapter 5, Sec.1). In 1970, the area of legal application for agitation against national or ethnic groups was extended. 1 January 2003, new provision came into force introducing aggravated sentencing for the dissemination of racist material, such as propaganda, where this is deemed to be excessive.	Penal Code, Chapter 29, section 2(7) - whether the motive of offenders was to aggrieve a person, ethnic group or some other similar group of people because of race, colour, national or ethnic origin, religious belief … has to be taken into account as an aggravating circumstance when sentencing in cases of criminal acts such as assault, unlawful threat, molestation and inflicting damage.
United Kingdom	Threatening or defamatory behaviour that intends or is likely to incite to racial hatred. The Race Relations Act 1965 and 1976, subsequently replaced by provisions under the 1986 Public Order Act, outlawed the promotion/incitement of racial hatred.	Crime and Disorder Act 1998 - created 'racially aggravated' offences for specific crimes, with provision for tougher sentencing. Specifically: Section 29(1a), racially aggravated malicious wounding or racially aggravated grievous bodily harm; Section 29(1b), Racially aggravated actual bodily harm; Section 29(1c), Racially aggravated common assault. The Anti-Terrorism, Crime and Security Act 2001 extended laws against racially aggravated offences to include 'religious crime'. The 2001 Act amended the Public Order Act 1986 to increase the maximum penalty for racially/religiously aggravated offences from 2 to 7 years. Section 153 of the Powers of Criminal Courts (Sentencing) Act 2000 imposes a duty on courts to treat evidence of racial aggravation as an aggravating feature, so increasing offence seriousness and the sentence imposed.

In looking at the different range of national instruments that variously address incitement to racial hatred, discrimination, and racist violence as an aggravating factor in sentencing, it has to be asked how effective each of these instruments is in combating and punishing racist violence in practice In other words, laws are only effective if they are consistently applied in practice.

While broad maximalist legal instruments, such as UN Conventions, work as 'gold standards' that we can aspire to, they are not as useful in practice as some more narrowly framed national instruments that delimit what is and is not prohibited in law in each Member State. Having said this, international instruments and national legislation have different remits with respect to what they can be expected to accomplish. With this in mind, the next section will briefly sketch some of the main international instruments that form the backdrop to national legislation in the EU Member States.

2.3.   INTERNATIONAL INSTRUMENTS

The following provides a selective reading of the main international instruments, and specifically European instruments, which are of note with respect to this report's specific focus on racist violence, and for their impact on law at a national level.

As this list is limited, it should be read alongside the more extensive list on international treaties for the protection of migrants/minorities which is presented in the EUMC's 2004 publication 'Migrants, Minorities and Legislation: Documenting Legal Measures and Remedies Against Discrimination in 15 Member States of the EU'.[42]

2.3.1.   The United Nations

CERD - **Convention on the Elimination of all forms of Racial Discrimination (entry into force 1969)**[43]

- Ratified by all of the old EU15.
- Specifically, Article 4 (a), states that State Parties: 'shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as actions of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof'.

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[42]   See: http://eumc.eu.int/eumc/material/pub/comparativestudy/CS-Legislation-en.pdf - pp.98-101.

[43]   See: http://www.unhchr.ch/html/menu3/b/d_icerd.htm

- Specifically, Article 4 (b), states that State Parties: 'shall declare illegal and prohibit organisations, and also organised and all other propaganda activities, which promote and incite racial discrimination, and shall recognise participation in such organisations or activities as an offence punishable by law'.
- Some Member States have entered reservations with respect to Article 4 given its impact on the right of freedom of expression and association.
- Specifically, Article 5 (b) states that States should guarantee the right to: 'security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution'.

WCAR – Declaration and Programme for Action arising from the World Conference Against Racism (2001)

- An important tool with which to put pressure on EU Member States, as sets out internationally agreed standards against racism.
- Includes references to gender-based violence in connection with racism, and therefore is an important tool for the EU to note as recognises cross-cutting realities of racism (these ideas are also recognised by the CERD Committee).

2.3.2.   Council of Europe

The Council of Europe's 'European Convention for the Protection of Human Rights and Fundamental Freedoms' (entry into force 1953)

- The Convention is not specifically concerned with racism as a crime. However, Article 14 in the main body of the Convention deals specifically with discrimination on the grounds of race, as it guarantees rights and freedoms set out in other articles of the Convention.
- The Convention only addresses breaches of rights and freedoms made by *States*.
- *The European Court of Human Rights*, as the court before which breaches of the Convention may be tried, can only consider racist violence as a result of action or inaction by a State.

FCNM - The Council of Europe's Framework Convention for the Protection of National Minorities (entry into force 1998)

- It is the first legally binding European Convention that specifically provides for the protection of national minorities.
- The Convention's force is limited as some Member States have not ratified the Convention, and it does not provide a definition of 'national minority'.

- The Convention is more detailed than CERD, and contains protection against hostility and violence.[44]

ECRI – **European Commission against Racism and Intolerance, adopted General Policy Recommendation No. 7 on 'National Legislation to Combat Racism and Racial Discrimination' (2002)**

- This Recommendation sets out to rectify the limitations of the above European Convention by promoting action against racism and intolerance at the national level.
- However, Recommendation No. 7 is not a legally binding instrument.

2.3.3. European Union

At the level of the EU, since the mid 1990s, a range of instruments has been developed that variously attempt to tackle the problem of racial discrimination and xenophobia. Amongst these are the following:

- *Joint Action* to Combat Racism and Xenophobia (1996) – legally weak

- *Proposal for a Council Framework Decision* **on Combating Racism and Xenophobia** COM (2001) 664 final – if enforced, legally strong.

- *Racial Equality Directive* 2000/43/EC – legally binding, but subject to interpretation at the level of individual Member States.

- *Employment Equality Directive* 2000/78/EC – legally binding, but subject to interpretation at the level of individual Member States.

Forming the backdrop to these instruments are:

- Article 13 of the EC Treaty: which paved the way for the adoption of the above Equality Directives
- Article 29 of the EU Treaty: which paved the way for the Council Framework Decision on Combating Racism and Xenophobia

The effectiveness of the above instruments in relation to combating racism and xenophobia, and specifically racist violence, is debatable. The Joint Action, as a relatively weak legal instrument, was replaced by the Proposal for a Council Framework Decision, which, as yet, remains a 'Proposal'[45]. In turn, while Member States have adopted the Racial Equality Directive and the Employment Equality

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[44] Council of Europe's Framework Convention for the Protection of National Minorities (1998), Articles 4(1) and 6(2).

[45] Council of the European Union, press release 2642nd Council Meeting, Justice and Home Affairs (24 February 2005) – information relating to 'Racism and Xenophobia' – see: http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/jha/83980.pdf

Directive, these instruments do not specifically target the problem of racist violence.

Finally, the **EU Constitution**, which includes the Charter of Fundamental Rights of the Union, provides the latest backdrop to the above.

Specific articles in the Constitution address discrimination on the grounds of race/ethnicity etc.,[46] and the following article can be noted for its reference to 'security', 'crime', 'racism' and 'xenophobia':

> *Part III, Title III*
> *Chapter IV – Area of Freedom, Security and Justice, Section 1, General Provisions - Article III–257 (as of October 2004)*
>
> The Union shall endeavour to ensure a high level of security through measures to prevent and combat crime, racism and xenophobia, and through measures for coordination and cooperation between police and judicial authorities and other competent authorities, as well as through the mutual recognition of judgments in criminal matters and, if necessary, through the approximation of criminal laws.

In sum, given that issues related to freedom, security and justice are at the heart of the Union, the Constitution includes some notable references to combating racism and xenophobia as *crime*, but does this without providing clear guidelines on legislative competence. Reference is made to 'mutual recognition of judgments in criminal matters and, if necessary, the approximation of criminal laws'.[47] However, the means by which this can be achieved are unclear.

2.4. LEGISLATION AND 'INDICATORS'

Compliance with national and international laws that set out to combat discrimination, racism and xenophobia is an initial means by which to judge whether a country has the political will, at least on paper, to combat discrimination. Legislation against racism and xenophobia can be viewed as the first step in encouraging the establishment of 'indicators' of racism and xenophobia. However, without a monitoring system in place to see what the impact of these laws are in practice, their effectiveness in combating racism and xenophobia is difficult to gauge.

Before looking at 'indicators' as they relate to racist violence, a brief overview will broadly sketch what is meant by 'indicators' and how they are currently used.

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[46] Part II, Title III – Equality, Article II-81 on 'non-discrimination'; Part III, Title I – The Policies and Functioning of the Union, Article III-118; Part III, Title II – Non-Discrimination and Citizenship, Article III-124 – as of October 2004

[47] Part III, Title III, Article III-257 (as of October 2004).

2.4.1. What are 'Indicators'

Where they exist, indicators of discrimination generally provide an index of treatment or services received by different groups in the population. Using statistical data on a range of variables that can describe an individual's circumstances - such as education, employment, housing and health - indicators can establish whether different groups are treated differently, and whether this treatment amounts to discrimination or is an indication of disadvantage/social exclusion. In this regard, indicators are 'weighted' to take into account a number of factors that are influential upon end results, and which can help to establish whether indicators are a reflection of social disadvantage or discrimination. For example, inequality in access to employment, if taken to be an (indirect) indicator of discrimination, needs to be assessed relative to an individual's educational qualifications and age before discrimination can be established. In the same way, comparison of disadvantage/discrimination indicators between Member States must take into account the demographic characteristics of each country.

In those countries with well-developed data collection mechanisms on social disadvantage/discrimination, a cut-off point is often demarcated for identifying unacceptable levels of unequal treatment between different groups within the population. In many ways this represents a 'quota system' which has to be met. For example, in the USA the 'four-fifths' rule has been applied to employment and test selection criteria[48] - meaning that if recruitment of ethnic minorities is below 20 per cent when compared to the White majority, then the selection procedures are subject to invalidity and charges of discriminatory practice.

The United Nations 'Millenium Development Goals'[49] and the European Union's Laeken indicators[50] have established broad indicators for measuring poverty and social exclusion in different countries. Using statistical data, gathered through Eurostat in the case of the EU, these indicators are able to offer comparisons between countries and can frame results with respect to relative advantage and disadvantage.

2.4.2. What data is collected?

Indicators of gender inequality lie at the heart of much of the EU's and UN's work to date on discrimination. In comparison, relatively little work is undertaken in the EU on indicators of ethnic discrimination - with the exception of a recent surge of interest in data collection concerning discrimination against Europe's Roma population.[51]

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[48] US Department of Labor - Uniform Guidelines on Employee Selection Procedures; see: http://www.dol.gov/dol/allcfr/ESA/Title_41/Part_60-3/toc.htm

[49] www.un.org/millenniumgoals

[50] www.eustatistics.gov.uk/statistics_in_focus/downloads/KS-NK-03-021-__-N-EN.pdf

[51] The World Bank and the Open Society Institute has declared the years 2005-2015 the 'Decade on Roma Inclusion'; in Europe, the focus is on the following countries: Bulgaria, Czech Republic, Hungary, Macedonia, Romania, Serbia and Montenegro,

The relative absence of data on indicators of ethnic discrimination has been attributed by many European administrations to legal and, at times, constitutional barriers that prohibit data collection on ethnicity.[52] The Council of the European Union's 1995 Directive on Data Protection is often cited as a barrier to this effect.[53] However, while the EU Directive on Data Protection does prohibit use of personal information where individuals are identified or can be identified, it specifically exempts data which has been made anonymous and where the individual subject can no longer be identified. In support of this, the Council of the European Union's 'Race Directive'[54] (as referred to earlier) states that information about indirect discrimination can be gathered using statistical evidence – so indicating that ethnic monitoring is desirable. To this end, EU law provides a framework in which anonymous data on ethnicity can be collected in an effort to identify both direct and indirect discrimination.

The principles behind non-collection of data on ethnicity reflect historical developments in each country with respect to data collection and ideas of citizenship. To this end, Member States that have suffered under dictatorships are understandably wary of the uses to which data collection on ethnicity can be put. Where once ethnic monitoring was used as a tool *for* promoting racism and xenophobia, by the State, advocates of ethnic monitoring now ask countries to employ ethnic monitoring as a tool *against* racism and xenophobia. At the same time, ideals of equality of citizenship, as based on the French model, do not accommodate data collection that distinguishes between national groups as this is seen to enforce ideas of difference and, hence, discriminatory treatment.

Contrary to the above, although ethnic monitoring is not done in most Member States,[55] data *is* collected on nationality, the country of birth of individuals or that of their parents. In this way Member States are able to distinguish differential treatment of individuals on the basis of their nationality and country of birth, and can draw comparisons between nationals (citizens) and non-nationals (non-citizens). What this mode of data collection cannot do though is look at differential treatment within any nationality on the basis of ethnicity.

In comparison with the majority of EU Member States, the UK and the Netherlands have adopted ethnic monitoring mechanisms. At present the UK has the most well-developed system in place for monitoring ethnicity - although other Member States

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and Slovakia; see also: 'Breaking the Barriers: Romani Women and Access to Public Health Care' (report to the EUMC) -
http://eumc.eu.int/eumc/material/pub/ROMA/rapport-en.pdf

[52] Goldston, J.A. (2001) 'Race and Ethnic Data: A missing resource in the fight against discrimination' in *Ethnic Monitoring and Data Protection: The European Context*, Budapest: Central European University Press, pp.19-41.

[53] EU Directive on Data Protection – 95/46/EC – paragraph 26 ; see -
http://europa.eu.int/comm/internal_market/privacy/law_en.htm

[54] Council Directive 2000/43/EC

[55] Werner, H., Courbage, Y. and Compton, R. (1998) (eds) *The Demographic Characteristics of National Minorities in Certain European States*, Strasbourg: Council of Europe, Vol.1.

are also engaged in constructive discussion on ethnic monitoring.[56] According to Simon, who conducted an overview of data collection on discrimination in the USA, Canada, Australia, the UK and the Netherlands, on behalf of the European Commission, the British scheme:

'manages to simultaneously accommodate a protective framework for personal data that observes the principles of the European Directive (transposed into the Data Protection Act in 1998), with an extremely developed monitoring system covering a wide range of organisations, administrations and operators involved in collecting sensitive data.' [57]

In this way the UK, together with other countries with common law/adversarial legal systems (such as Australia and Canada), seems able to marry ethnic monitoring - for positive ends - with data protection principles.

2.4.3.   Meeting the demands of Article 13

Article 13 of the Treaty of Amsterdam (EC Treaty) paved the way for the adoption of the Racial Equality Directive (2000/43/EC) and the Employment Equality Directive (2000/78/EC) - as referred to earlier. A Community Action Programme followed in their footsteps in the same year, with the aim 'to fight discrimination on the grounds of racial or ethnic origin, religion or beliefs, disability, age or sexual orientation'.[58] One of the programme's principle objectives is to increase understanding of discrimination and assess anti-discrimination policies, and to do this by supporting the 'development and dissemination of methodologies and indicators to assess the effectiveness of anti-discrimination policy and practice'. Yet official and unofficial data collection on ethnic and racial discrimination is wanting in most Member States.

If indicators of discrimination look at different people's access to and treatment by public services, then the criminal justice system's treatment of ethnic minority victims, in comparison with majority population victims, would seem a fitting area for data collection. In comparison with 'ethnic profiling' – that is, police-initiated action that negatively stereotypes certain groups in the population as 'criminal' on the basis of their 'race', ethnicity, or national origin[59] - which is one of the most

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[56] Ireland's 'National Consultative Committee on Racism and Interculturalism', 2003 census of population consultation on questionnaire content; see: www.nccri.com http://www.nccri.com/submissions/03SepHRC.pdf

[57] Simon, P. (2004) *Comparative study on the collection of data to measure the extent and impact of discrimination within the United States, Canada, Australia, the UK and the Netherlands*, final report submitted to the European Commission DG for Employment and Social Affairs; tender No.VT/2003/01

[58] Council Decision of 27/11/00 (2000/750/EC) - discrimination on the grounds of sex is covered in other action programmes.

[59] Ramirez, D., McDevitt, J. and Farrell, A. (2000) *A Resource Guide on Racial Profiling Data Collection Systems: promising practices and lessons learned*, commissioned by the US Department of Justice; see: http://www.ncjrs.org/pdffiles1/bja/184768.pdf

controversial areas for data collection on ethnicity – criminal justice initiatives that focus on certain ethnic or nationality groups as *victims or potential victims* of racist crime can be viewed positively.

In the UK, where there is a strong history of ethnic monitoring in public services, there is some research from the Home Office on ethnic minorities' experiences of victimisation and the criminal justice system - mostly using the 'victim survey' as a research tool (see Chapter Three). In comparison, most Member States cannot provide data - in line with the demands of Article 13, the Racial Equality Directive and the Community Action Programme - on discrimination on the grounds of ethnicity, let alone ethnicity, criminal victimisation and the criminal justice system. To this end, the EC's Proposal for a Council Framework Decision on Combating Racism and Xenophobia (2001), which currently remains in legislative limbo, would be the most effective instrument the EU could introduce to combat and monitor racist crime and violence. Its introduction would necessitate that improvements are made to current official data collection systems on racist crime and violence.

2.4.4.   Towards effective monitoring

Only when governments are required to collect and analyse data on ethnic minorities, alongside data on majority nationals and non-nationals, will EU Member States be in a position to develop effective indicators of discriminatory/racist treatment. However, ethnic monitoring cannot be a credible and reliable indication of discriminatory treatment if monitoring is weakly enforced by law or left to voluntary opt-ins.

In the UK, under the terms of the Race Relations Act 2000, ethnic monitoring is mandatory for public authorities. In comparison, as research by the CRE (Commission for Racial Equality) has indicated, ethnic monitoring is not undertaken by the majority of private companies. When companies and public sector authorities can see ethnic monitoring as being in their own interests, as providing positive indicators of their efforts to combat discrimination and racism, then they might be encouraged to take up monitoring. Arguably, those with the least to hide, in terms of poor ethnic minority recruitment or discriminatory treatment of minorities, will be more open to the idea of monitoring.

Here, it can be suggested that the public sector - including the police and other criminal justice agencies - should be at the forefront of initiatives that set out to establish and monitor indicators of ethnic discrimination/racism. In response to violent crime, ethnic monitoring can be used to gauge (1) different ethnic minorities' experiences of crime and violent crime, relative to similarly placed members of the majority population,[60] and (2) poor *and* good 'performance

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[60]   For example: Home Office (UK government) research study 223 by Clancy, A., Hough, M., Aust, R. and Kershaw, C. (2001) 'Crime, Policing and Justice: the Experience of Ethnic Minorities (findings from the 2000 British Crime Survey)' (see:

indicators' with respect to criminal justice responses to different ethnic minority groups and the majority population. Only when these or comparable monitoring mechanisms are in place, will we be able to effectively judge each Member State's compliance with national and international laws that set out to combat discrimination, including racism and xenophobia. The effectiveness of legislation, which purports to be *for* ethnic minorities, can only be gauged when comprehensive and reliable monitoring systems are in place to establish the practical reality of ethnic minorities' experiences.

Bearing in mind the above, the next chapter proceeds to look at some of the practical challenges faced by data collection on racist crime and violence in the EU.

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http://www.homeoffice.gov.uk/rds/pdfs/hors223.pdf); Home Office (UK government) research study 173 by Fitzgerald, M. and Sibbitt, R. (1997) 'Ethnic Monitoring in Police Forces: A Beginning' (see:
http://www.homeoffice.gov.uk/rds/pdfs/hors173.pdf).

3. Measuring the Extent and Nature of Racist Violence

3.1. BACKGROUND TO DATA COLLECTION

Given that racist violence is difficult to conceptualise and define from a sociological, criminological and legal background, it is also difficult to 'measure' with any degree of accuracy.

Patterns and trends in racist violence differ in time and place. What we do (and don't) know about racist violence is largely a reflection of the politics of each period that determines what we can research, and how we research it. The influence of the Civil Rights movement beyond the borders of the USA, coupled with growing State and activist-led calls for victim-centred justice, has seen increasing interest in and research about experiences of racist victimisation. At the same time, criminal justice, both in the USA[61] and Europe[62], has also focused on the question of minority ethnic offending and the over-representation of minority ethnic offenders in the criminal justice system. In this regard, recognition of minority populations' experiences of victimisation balances the skewed focus on minority offending that can cloud the picture of minority populations' experiences of 'crime'.

As indicated by the recent plethora of legal instruments at European level (1996 Joint Action; 2001 Proposal for a Council Framework Decision; 2000 Racial Equality Directive), interest in and responses to racist crime and violence is growing in importance. As a reflection of this, the central remit of DG Freedom, Justice and Security, as set out in the new European Constitution, is to combat 'crime, racism and xenophobia'. Therefore, racism and xenophobia, and associated violent acts, are at the heart of Union policy. Yet the mechanisms in place for establishing the actual extent and nature of racist violence are limited.

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[61] Hawkins, D.F. (2003) *Violent Crime: Assessing Race and Ethnic Differences*, Cambridge: Cambridge University Press.

[62] Albrecht, H.J. (1997) 'Ethnic Minorities, Crime and Criminal Justice in Germany' in M. Tonry (ed.) *Ethnicity, Crime and Immigration*, Crime and Justice 21, London: University of Chicago Press; Junger, M. (1989) Discrepencies between Police and Self-Report Data for Dutch Racial Minorities, *British Journal of Criminology*, 29(3), Summer, 273-284; Junger Tas, J., Terlouw, J.G. and Klein, M. (1994) (eds.) *Delinquent Behaviour Among Young People in the Western World: First Results of the International Self-Report Delinquency Survey*, Amsterdam: Kugler.

3.2.   DATA COLLECTION

Data about the extent and nature of racist violence is usually gathered in two ways:

1. As quantitative data in the form of official criminal justice statistics, and sometimes as victim-based responses to self-report crime surveys;
2. As qualitative data in the form of in-depth ethnographic research, as biographies of victims or offenders, and as descriptive accounts of experiences of and policy responses to racist violence.

Data on racist violence can be gathered as primary research by academic institutions, government departments, NGOs and IGOs. In addition, media sources can also be used to 'count' and contextualise racist violence where other sources of information are not available.

Some research on racist violence combines elements of both quantitative and qualitative methods in an effort to obtain a thorough and balanced approach to the subject[63]. However, in most Member States, the first reference point for data on racist violence is official statistics. But, as the individual country profiles in this report reveal, publicly available data on racist crime/violence is often limited.

3.2.1.   Official Criminal Justice Data

When looking to find out about the nature and extent of racist violence our first point of reference is official criminal justice data. However, official data is limited by a number of factors; namely:

- Official data on racist crime and violence is limited by legal definitions and interpretations of the law. As a result it is unable to capture the full range of victimisation experiences.
- Changes to legal definitions and counting procedures mean that data is often incomparable over time; therefore, crime trends are difficult to determine.
- As the law and crime counting procedures are formulated differently in different jurisdictions, at both a national and cross-national level, truly comparative data cannot be established.

In turn, crime statistics cannot be taken at face value as a 'true' indication of the crime rate. In the first instance, crime is not reported to the police for a variety of reasons and, therefore, official statistics under-record crime. The under-reporting of crime is particularly acute for certain crimes. Notably, interpersonal crimes of violence are under-reported. In comparison, property crimes, particularly in

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[63]   Webster, C. (1997) *'Inverting Racism: An Empirical Study of Perpetrators of Racial Violence'*, paper presented to the British Criminology Conference, Queen's University Belfast, July 1997.

developed countries where crime reporting is a necessary prerequisite for making an insurance claim, tend to have higher rates of reporting.

The following list outlines some of the reasons why victims of *racist crime/violence* may not report crime:

- Given that victims often experience repeat 'petty' victimisation (vandalism, name calling, bullying), there may be some uncertainty about whether a 'crime' has taken place and, if so, whether it should be reported
- Belief that the police and other criminal justice agencies are either unable or unwilling to investigate the crime and/or apprehend the offender/s
- Distrust of criminal justice agencies as 'institutionally racist'
- Fear of reprisal from racist offenders/community at large

Similar levels of under-reporting have plagued crimes such as sexual assault and domestic violence. In these cases, a 'macho' police culture, together with fear of reprisals from offenders, has deterred women from reporting to the police.

In turn, if a victim decides to report a crime, a series of steps must be taken before a crime can be officially recorded in the criminal statistics. After this, further steps are taken before it is established whether to investigate a reported incident further.

From the point at which a victim decides to report a crime, through to the time when an offender is actually convicted and sentenced for an offence, a series of decisions are made by criminal justice agents – ranging from the police through to judges – that determine whether an 'incident' can be thought of as a crime, and whether someone is successfully convicted of an offence. Criminology refers to these series of decisions, in which very few criminal incidents, once reported, are actually convicted, as the *attrition rate*.

The attrition rate between reported crime and convictions is particularly high for alleged racist incidents, such as damage to property or assault, because the criminal justice authorities need to establish that a crime has taken place, and whether it was 'racially motivated'. The seriousness with which criminal justice agencies, and primarily the police, respond to reports of racist crime and violence helps to determine whether there is a small or big difference between reporting rates and final convictions. At the same time though, perhaps the biggest barriers against successful prosecution of offenders in violent racist cases lies with the absence of dedicated legislation in this area and, where specific legislation does exist, the burden of proof concerning the defendant's racist motivation.

Given the under-representation of racist crime in official statistics we must turn to other sources of information to try and gauge the 'true' extent of racist violence.

3.2.2. Alternative Data

Unofficial data sources on racist violence and crime include:

- Crime or victim surveys
- Academic research
- NGO reports
- Media reports

For the purpose of this report, and the work of the EUMC which sets out to present comparative overviews of racist violence across Europe, the crime survey is perhaps the most viable alternative tool for data collection.

CRIME/VICTIM SURVEYS

A handful of European countries have undertaken crime/victim surveys; with some, such as the UK, regularly repeating these surveys at the national level[64], and occasionally undertaking targeted research on minorities' experiences of victimisation/racist victimisation[65].

National crime surveys have traditionally emerged as government-sponsored projects, or as international endeavours facilitated through inter-governmental organisations such as the United Nations. A number of crime surveys have also been undertaken at the local level in cities and regions across Europe.[66]

These surveys directly ask samples of the population about their experiences of victimisation over, typically, the last twelve months. Because crime surveys capture both non-reported and reported experiences of victimisation, they are a more accurate reflection of victimisation rates than official statistics.

Crime surveys usually take the form of questionnaires, with their responses being coded for ease of quantitative analysis. They are typically administered to adult respondents, aged 16 and over, either as postal questionnaires for self-completion, or as interviewer-delivered questionnaires usually in the respondent's own home. Individual survey respondents are randomly selected from households, using a variety of sampling methods, and asked whether they or members of their household have been a victim of crime. Surveys set out to capture a range of victimisation experiences encompassing both personal and property crime. Attempts are also made to capture repeat victimisation by asking respondents

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[64] www.homeoffice.gov.uk

[65] Sampson, A. and Phillips, C. (1992) *Multiple Victimisation: Racial Attacks on an East London Estate*, Police Research Group Crime Prevention Unit Series No.36, London: HMSO.

[66] Jones, T., Maclean, B. and Young, J. (1986) *The Islington Crime Survey: Crime, Victimisation and Policing in Inner-City London*, London: Gower; Kaiser, G., Kury, H. and Albrecht, H.J. (1991) (eds.) *Victims and Criminal Justice*, Volumes 50-53, Freiburg: Max-Planck-Institute.

whether they have been victimised by the same crime on more than one occasion over a specified period of time prior to the survey.

Crime surveys are also particularly important because they not only capture experiences of victimisation but ask respondents about their 'fear of crime' and/or feelings of insecurity in relation to crime and other social factors – such as unemployment, health, and the environment. Surveys that target young people as respondents also ask about their experiences of victimisation *and* offending – given that young people are over-represented as both victims and offenders in most populations.

Since its origins in the UK and the USA in 1970s, the crime survey has proved to be an invaluable tool for establishing a more accurate picture of the extent and nature of criminal victimisation. Crime surveys are now common fodder in some European countries, and have been administered in both the 'new' and 'old' Member States[67], and EU candidate countries.[68]

Crime surveys have captured experiences of victimisation among 'representative' samples of the population, and have also looked at victimisation experiences of targeted populations in specified locations, as well as the experiences of specific groups among the population such as the elderly, children, and women. However, most victimisation surveys have not looked at the victimisation experiences of non-nationals and ethnic minorities in relation to racist victimisation.

Many crime surveys rely on official population and postal records as a means of finding their sample survey population. Given that data collection on people's 'race' or ethnicity is generally not permitted or not undertaken in most EU Member States (see Chapter 2 on 'Indicators'), these records are unable to offer detail about respondents' minority status. As a result, most Member States cannot undertake targeted research with minority ethnic groups. However, information about people's nationality can be established through official sources. But to date, most research on nationality and 'crime' has tended to explore the relationship between nationality and offending.

The mainstay of 'comparative' victimisation survey research in the EU, where it exists, rests with:

1. Comparison of victimisation rates between citizens according to demographic characteristics such as gender, age and socio-economic status.

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[67] The UN-supported International Crime Victims Survey (ICVS) has been carried out in a number of European countries. Its latest data collection sweep took place in 2004 and included a number of EU Member States. However, the ICVS does not collect data on, specifically, minority groups' experiences of crime/racist crime. Only differences between countries or regions can be ascertained. See: Van Dijk, J.J.M, Mayhew, P. and Killias, M. (1990) *Experiences of Crime Across the World: Key Findings from the 1989 International Crime Survey*, Deventer: Kluwer.

[68] Center for the Study of Democracy (2005) *Crime Trends in Bulgaria: Police Statistics and Victimization Surveys*, Sofia: Center for the Study of Democracy.

2. Comparisons of survey findings between different countries that can elaborate on differences between nationalities; but often these surveys are not truly comparable as they employ different survey instruments.

In sum, as indicated by the NFP country reports, crime surveys are only typical to those Member States with a tradition of research and policy responses centred on crime victims. In turn, crime surveys that target ethnic minorities are only typical to those Member States with a tradition of proactively addressing racism and xenophobia at a policy level.

3.3.   MARRYING RESEARCH AND LAW

Given the current political onus on combating crime, racism and xenophobia, it remains the case that too little research is undertaken across EU Member States about minorities' experiences of racist victimisation. Some Member States, such as the UK and the Netherlands, have developed good research in this area, while others, such as Italy and Greece, lack an established research base. In turn, what we know from crime surveys is that minorities' experience victimisation, and specifically racist victimisation and violence, as part of a process. At present, official crime data collection is not able to capture the reality of racist victimisation as it is experienced.

Both quantitative and qualitative data sources should be able to engage with racist violence as:

- part of a continuum
- repeat victimisation

3.3.1.   Racist violence as part of a continuum

Racist *violence* is not experienced in isolation to other racist incidents. Like women's experiences of harassment and sexual assault, racist victimisation is best understood as part of a 'lived reality' that encompasses anything from name-calling through to violent assault.

Most victims of racist violence experience it in the context of broader racist discrimination – from housing to employment. Racist victimisation and violence need to be contextualised against these other discriminatory experiences that, together, amount to a personal history of racist discrimination and victimisation. In turn, the individual's impressions of racist discrimination/racist violence are influenced by the experiences of others. In sum:

Lifelong and varied experiences of racist violence/victimisation/discrimination can be described and understood as part of a 'continuum' of racisms.

Recognition of racist violence as part of a continuum helps us to understand how 'victims' experience racist incidents, and why they react as they do to criminal justice intervention/non-intervention.

3.3.2. Racist violence as repeat victimisation

Crime surveys have been able to reveal the extent to which a small proportion of all crime victims are disproportionately victimised. In other words, if we look at people's experiences of victimisation over the last twelve months, or a longer period, we are able to see that certain individuals are repeatedly victimised.[69]

Repeat victimisation can target anyone, and can encompass a range of crimes from personal to property crime. For example, the same property, from a home to business premises, can be repeatedly victimised for a variety of reasons to do with both the offender's opportunities and motives to offend, and the attractiveness of the property as a target. Certain properties and certain individuals or groups of people are more likely than others to be repeatedly victimised by certain types of crime/s and/or certain types of offender/s.

Focusing on personal experiences of victimisation, crime surveys have revealed that the following groups, amongst others, are particularly vulnerable to repeat violent victimisation: child victims of sexual assault; female victims of domestic violence; young men; minority ethnic groups.

In contrast to the reality that much of racist violence is on-going repeat victimisation, the criminal law is only able to approach racist violence as single incidents. The criminal justice system is set up to respond to individual acts that break the law. Because of this, victims' on-going experiences of victimisation cannot be accommodated within the framework of criminal law. This means that racist violence is neglected as repeat victimisation. In response, crime surveys are able to capture racist violence as a series of events, over a period of twelve months or more, as they impact on victims.

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[69] Farrell, G. (1992) Multiple Victimisation: Its Extent and Significance, *International Review of Victimology*, 2, 85-102; Pease, K. (1998) *Repeat Victimisation: Taking Stock*, Police Research Group Crime Detection and Prevention Series, Paper 90, London: Home Office.

3.4. THE CHALLENGES OF COMPARATIVE RESEARCH

Attempts at cross-national comparative data analysis are replete with problems for the basic reason that like is not compared with like. Looking specifically at some of the challenges encountered with respect to data on racist violence, the following can be noted:

3.4.1. Criminal Justice Data

Member States have different approaches to the collection of criminal justice data.[70] Some have no tradition of collecting criminal justice data, while others have developed sophisticated monitoring mechanisms. Because of this, those States with the most developed and successful data collection mechanisms appear to have a high number of racist incidents, while those States with poor data collection mechanisms can appear to have no problem with racist crime as they record very few incidents.

And, while some jurisdictions do collect data, it is often not made publicly available. Research by academics and NGOs must, in many cases, fill those gaps that are left behind by an absence of adequate and available criminal justice data on racist violence.

Where criminal justice data on racist violence is collected, each Member State, and often different regions within States, has an individual approach to the 'counting' and monitoring of racist violence. These differences are mainly attributable to differences in legislation and application of legislation in practice. In this respect there is a series of questions that need to be asked to establish differences between, and within, States; namely:

- Is legislation in place against racist crime and violence?
- Is this legislation effectively enforced?
- Are mechanisms in place to record reports of racist violence?
- Are mechanisms in place that can trace a case from reporting to sentencing?

Official criminal justice data between countries is not directly *comparable*, although some *comparative* analysis can be made if we acknowledge differences

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[70] Barclay, G. and Tavares, C. (2003) *International Comparisons of Criminal Justice Statistics 2000*, London: Home Office, Issue 05/02; Killias, M. et al (2003) (ed) *European Sourcebook of Crime and Criminal Justice Statistics – 2003* (2nd edition), The Hague: Boom Juridische Uitgevers; Killias, M. and Rau, W. (2000) The European Sourcebook of Crime and Criminal Justice Statistics: A New Tool in Assessing Crime and Policy Issues in Comparative and Empirical Perspective, *European Journal on Criminal Policy and Research*, Vol.8, pp.3-12.

between official sources. Non-criminal justice sources provide valuable alternative insights about the extent and nature of racist violence.

3.4.2. Non-Criminal Justice Data

A number of research studies – from academics and NGOs - have been conducted in Europe on minorities' experiences of racist crime and violence, and State/criminal justice responses to this[71].

These studies tend to be context-specific accounts of minorities' experiences, with some reference to criminal justice statistics where these are available. As such, they provide information that cannot be strictly *compared*, although, as with official data, comparative overviews can be offered that do not pretend data sources present equivalent information.

Studies that employ the same survey instrument in different sites, such as crime surveys, go some way towards alleviating problems of comparable data analysis. The UN-sponsored International Crime Victims Survey (ICVS) uses the same questionnaire in different countries to gauge respondents' experiences of victimisation (amongst other things). In Autumn 2004, the latest ICVS sweep was conducted in the old 15 EU Member States. However, the survey *does not* include questions about people's minority status and experiences of racist crime and violence. To this end, non-criminal justice research on racist violence remains limited to individual studies in different countries that are not strictly comparable.

Research studies between Member States are not strictly comparable for a number of reasons – many of which are shared by criminal justice data collection – namely:

- Different survey instruments are used to collect data
- Data is collected on different minority groups in different places
- Data is collected at different times
- Even when using the same survey instrument, translated questions can mean different things to different people in different contexts

At the same time, it is also difficult to try and compare research findings from different studies that are conducted in the same country. A simple reason for this, which is shared by attempts at cross-national research, is that experiences of racist crime and violence need to be understood with respect to the context in which they take place.

In sum, strictly *comparable* analysis of data between countries and within the same country is impossible to realise. Only when there is harmonisation of data

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[71] Marshall, I.H. (1997) (ed.) *Minorities, Migrants and Crime*, London: Sage; Witte, R. (1996) *Racist Violence and the State*, London: Addison Wesley Longman; Virtanen, T. (2000) (ed) *Youth, Racist Violence and Anti-Racist Responses in Nordic Countries*, The Finnish Youth Research Society.

collection mechanisms will researchers, and institutions charged with the remit to collect comparative research, be in a position to claim that their work is truly 'comparable'. In comparison, data, from different sources, can be *comparatively* analysed without claims to its comparability. The practical realities of current data collection mean that an element of realism has to be introduced into most research with claims to be 'comparable'. In this regard, this report should be read as a comparative overview of racist violence in 15 EU Member States, based on available official and unofficial data collected by the RAXEN NFPs.

What follows in Part II of this report is a descriptive account of the situation in each of the old 15 EU Member States with respect to:

- contextualising the situation in each country regarding major political developments and incidents that impact on the manifestation of racist crime/violence;
- major official and unofficial sources of information on racist violence;
- the nature and extent of racist violence;
- political, criminal justice and policy developments that are relevant to racist crime/violence

The information supplied in Part II is taken from the EUMC's RAXEN NFP reports (RAXEN 3, 4 and 5), which variously supply available data for the period 2000/01 to Autumn 2004.

In rough terms, the following periods are covered by each successive RAXEN stage, although there is also considerable overlap in some reports:

RAXEN 3   2000-2002
RAXEN 4   2003
RAXEN 5   2004

When reference is made in the text to RAXEN 3, 4 or 5, this is intended as a general guide to the chronological order of research undertaken by the NFPs.

PART II

Research Findings for each of the 15 Member States

4.   Belgium

4.1.   CONTEXT

Belgium is a country of linguistic, cultural and political contrasts. It has three official languages (French, Flemish and German), is divided into an array of political and administrative sectors, and has Brussels at its heart as the European capital. These contrasts have proved to be a hindrance to effective data collection and management. In this respect Belgium suffers from an absence of coordinated data collection, including data on racist violence.

Belgium's internal divisions are reflected in the ascendancy of the populist right-wing Vlaams Blok party, which is based in the northern city of Antwerp. Members of the Vlaams Blok have promoted a blend of radical Flemish nationalism and an assimilationist or repatriation policy for immigrants. The Vlaams Blok has grown since its origins in 1978: In the last Federal election in May 2003, the party received 11.4% of votes for the Belgium Chamber of Deputies – making it the fifth largest political party in Belgium. In the last municipal election it was the largest political party in the province of Antwerp, with 24.1% of the votes.

The popularity of the Vlaams Blok can be read alongside research indicating that significant numbers of the majority population hold cautious and sometimes hostile attitudes towards minorities. As reported in RAXEN 4, the 2000 Eurobarometer survey revealed that 25% of Belgians variously display intolerant attitudes towards minorities – a figure which is higher than the EU15 average of 14%.

In response to the rise of the Vlaams Blok, the other Belgium political parties signed an agreement of non-cooperation with the Vlaams Blok – known as the *cordon sanitaire*. More recently, as commented on in the RAXEN 4 report on racist violence, there has been some public discussion about whether to maintain the *cordon sanitaire*. To date though, only the Vlaams Blok has actively sought its removal.

In comparison with the north, the French-speaking south has a number of small and fractious extreme right-wing organisations. A combination of factors has contributed to the relative weakness of the extreme right-wing in southern Belgium; namely: absence of a clear ideological identity; lack of financial means; and, notably, lack of media attention. However, against this weak political presence, southern Belgium has witnessed a number of racist violent crimes in the last few years.

4.2. MAJOR DATA COLLECTION MECHANISMS ON RACIST VIOLENCE

See 2.2 for outline of national legislation.

The police do not keep systematic statistics on racist violence or antisemitic activities/violence. However, as is common in most jurisdictions' police practices, they can record relevant details about the alleged perpetrator – such as skin colour.

In the absence of publicly available police data, the following sources provide valuable information on racist violence in Belgium.

4.2.1. Official data

- **Ministry of Justice**: The Office of the Public Prosecutor puts together a case file on the basis of every charge or complaint that is brought to its attention – and produces data on case dismissals. A main charge is attributed to each case (56A for 'racism' and 56B for 'xenophobia'). Secondary charges of racism or xenophobia are generally not registered. Therefore, the registration system does not allow for easy identification of violent racist cases – where violence is the main charge and racism/xenophobia the second, or where racism/xenophobia is the main charge and violence the second.

4.2.2. Semi-official data

- **The Centre for Equal Opportunities and Opposition to Racism (CEOOR)**: The CEOOR is a federal institution with links to the Prime Minister's Office. It was established by an Act of Parliament in 1993. The Centre collects information about reports of racist discrimination, including racist violence, and processes cases. The CEOOR monitors incidents through 18 decentralised offices that are evenly spread through Belgium and the capital. In March 2000 the mandate of the CEOOR was extended to include non-racist discrimination.

4.2.3. Unofficial data

- **MRAX**: A Brussels-based NGO that registers complaints about racism, xenophobia and antisemitism.
- **Internet site**: One internet site – www.antisemitisme.be - is identified in the RAXEN 4 report as providing an overview of antisemitic incidents, including violent incidents, in Belgium.[72]

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[72] As the data sources and the background to the organisation providing the data are not revealed on this website, the RAXEN 4 report adds a note of caution with respect to the

4.3. NATURE AND EXTENT OF RACIST VIOLENCE

4.3.1. Official

Ministry of Justice: Report by Procurators-General includes data on the number of cases registered as racist/xenophobic.

RAXEN does not provide detailed information in consideration of whether these cases were 'violent'.

- For period 1998-2002: 3693 cases were registered as racist/xenophobic, and 64 cases resulted in a conviction for racism/xenophobia.
- There was a year on year increase in registered cases until 2002.
- In 2002, 729 cases were registered as racist/xenophobic; in comparison, 829 cases were registered in 2001.
- In 2001, 44% of cases were registered in Brussels and 20% in Antwerp.
- 65% (2415) of the 3693 registered racist/xenophobic cases were dismissed for a variety of reasons – for example, lack of evidence, unidentified perpetrator etc.

Court Cases: In 2002, the RAXEN 4 report outlined 7 notable court cases related to instigation to discrimination, hate and violence. The most notable case involved the sentencing of a Chief of Police:

- December 2002: Correctional Court of Dendermonde sentenced a Chief of Police to imprisonment of 9 months, with a three years suspension, for instigating police officers to commit violence against migrants and for discrimination in his function as Chief of Police.

4.3.2. Semi-official

CEOOR: According to data collected by the CEOOR, the following patterns and trends can be noted:

2001 – 1246   2002 – 1316   2003 - 1827

Majority of complaints related to public services – particularly in relation to residence and employment.

- CEOOR data for the period January 2002 – September 2003:
Of 1710 complaints in total, 18% are related to *racist violence*; includes: insult, ill-treatment/abuse, harassment/quarrel.

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data contained on the website However, given the dangers posed to anti-racist groups that 'advertise' their whereabouts and origins, this lack of background information may simply be a precautionary tactic against attacks.

Victims can be characterised as follows: *gender* - male (53%), female (29%), gender not registered (18%); *current nationality* – Belgian (45%), African (8%); *nationality by birth* – Belgian (22%), Moroccan (14%).
Most complaints of racist violence can be contextualised with respect to: living together (29%); problems with the police (25%); education (11%); employment (9%).

- **Antisemitism**: In 2002, the CEOOR received 14 complaints related to antisemitism; the CEOOR keeps qualitative records on antisemitic incidents involving violence.

4.3.3. Unofficial

Internet site on antisemitism: In 2002, the internet site http://www .antisemitisme.be recorded 62 antisemitic acts; an increase on 30 in 2001 and 36 in 2000 (see footnote 2). The site provides extensive qualitative descriptions of racist incidents, which can be categorised according to different offences.

4.4. POLITICAL, CRIMINAL JUSTICE AND POLICY DEVELOPMENTS

The anti-racism criminal law from July 1981, which is the main Belgium law punishing racist violence[73], has been a relatively ineffectual law. Because it places a substantial burden of proof on the prosecutor and the victim to prove discrimination, there have been few successful convictions. However, there is some indication, according to CEOOR data, of an improvement in application of the law in recent years; for example:

- In the period 1982-1997, the CEOOR noted 40 court cases pertaining to the law, 58% of which resulted in convictions
- In the period 1998-2002, the CEOOR noted 46 court cases pertaining to the law, 80% of which resulted in convictions.

Against these improvements, the number of cases prosecuted under this law remain low.

In comparison, the February 2003 anti-discrimination law, which prohibits direct and indirect discrimination on a variety of grounds - including 'race', skin colour, origin or national/ethnic origin, and religion or philosophy – has introduced provisions that make it easier for victims to bring a swift civil action alleging discriminatory treatment.

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[73] Other laws exist that specifically punish certain racist activities; such as the new law from March 1995, which punishes denial of the holocaust.

In addition, the anti-discrimination law offers some improvement with respect to penal sanctions by introducing 'reprehensible motives as an aggravating circumstance'. In this regard, certain articles in the Penal Code – such as murder, blows and injuries, indecent assault, arson, destruction of property – can be subject to the charge of aggravating circumstances if the criminal offence in question has been committed on the basis of racist discrimination. Given that this law is relatively new, it remains to be seen whether the charge of 'aggravating circumstances' will be applied in practice - however, to date no data is available.

Set against these changes in the law, the **new mandate of the CEOOR** indicates a shift in focus from racist discrimination to a more generic approach covering **discrimination on the grounds of human rights**.

In 2000, the Belgian Council of Ministers decided to extend the competencies of the CEOOR to include non-racial discrimination. With the introduction of the 2003 anti-discrimination law, in line with EC Directives, the CEOOR's competencies were extended. As a result, the CEOOR now has the task to promote equal opportunities and fight discrimination in relation to - 'race', skin colour, origin or national/ethnic origin – and also – gender, sexual orientation, civil status, birth, wealth, age, religion or philosophy of life, present or future state of health, disability or physical characteristic.

Although its mandate has been extended, the CEOOR continues to work against racism, and seeks to improve mechanisms for recording incidents of racist violence in Belgium. To this end, the RAXEN 4 report notes the following:

- The Phenix Project: A discussion between the CEOOR, the cabinet of the Minister of the Interior, the cabinet of the Minister of Justice, the College of Procurator-General, and the Federal Police, has highlighted the absence of an effective statistical instrument for recording hate crimes (including racist violence). In response, the parties involved are working on a long-term project to develop a more effective statistical monitoring instrument.
- A pilot project is currently on-going in two medium-sized police zones with a significant minority presence. The project will register racial discrimination and hate crimes (that is, hate crimes related to race/ethnicity, and religion), and includes acts of racist violence The CEOOR has developed a registration form for dissemination among police services and migrant organisations. These agencies are asked to complete a registration form every time they receive a complaint related to racist discrimination/violence.

As improved data collection is only one step on the road towards combating racial violence, it remains to be seen how effective these initiatives will be in the long term if they are applied more generally.

In the past, Belgium's complex federal, regional and community structures, with their multiple layers of competencies, have worked against systematic data collection. The police were comprehensively restructured in the aftermath of the Dutroux case, which served to highlight police shortcomings at a number of levels.

Whether new legal and criminal justice developments with respect to discrimination, and particularly racist discrimination, can meet the challenges of data collection and effective criminal justice intervention against racist violence has yet to be determined.

5.   Denmark

5.1.   CONTEXT

In the period 2001-2003, incidents of racial violence were, according to RAXEN 3 and 4, influenced by three things: (1) the September 11th 2001 attacks on the USA; (2) heightened periods of conflict in the Middle East; and (3) local and general elections in Denmark.

In the first few weeks following September 11th 2001, there was a dramatic increase in the number of attacks on Muslim and suspected Muslim targets. This situation was highlighted by CERD (Committee on the Elimination of all Forms of Racial Discrimination, United Nations) in its March 2002 report, which called on the Danish government to carefully monitor the situation.

In 2001, in the run up to the country's general election, which came two months after September 11th, RAXEN 3 and 4 indicate that there was a marked increase in xenophobic statements by political parties – including the Danish People's Party and the more radical Progressive Party. As evidence of this, RAXEN 4 reports that, in 2003, most convictions for racist hate speech refer to incidents that took place in 2001. Also, at the time of the general election, ECRI (European Commission against Racism and Intolerance, Council of Europe) aired its concerns that the extreme right would put pressure on all Danish parties to strengthen their anti-immigration rhetoric.

In the end, the November 2001 general election saw the formation of a minority coalition government by the Liberal Party and the Conservative People's Party, with the support of the Danish People's Party which, with 22 seats in parliament, emerged as an important political force. A central aim of this new government, which reflects the demands of the People's Party, has been to tighten immigration controls and aggressively promote the integration of existing immigrants into Danish society. In June 2002, CEDAW (Committee on the Elimination of all forms of Discrimination against Women, United Nations), commenting on the situation in Denmark, indicated its concerns about the impact of new legislation on spousal reunification and an amendment to the Aliens Act for their potentially negative affects on the situation of migrant women.

Given the results of the general election, a number of studies have been conducted to establish the extent and nature of xenophobic attitudes among the Danish public

and, specifically, among members of the Danish People's Party. The findings suggest that overt xenophobia is not commonplace among the general public or ordinary members of the Danish People's Party, but these sentiments closely reflect the ideas of the party's leadership.

5.2. MAJOR DATA COLLECTION MECHANISMS ON RACIST VIOLENCE

See 2.2 for outline of national legislation.

- In Denmark, there is no separate legislation relating to racist crime and violence.
- Incidents of racist violence come under the general Penal Code relating to violent crime.
- Incidents of racist/hate speech, in violation of section 266b of the Penal Code, are officially recorded.

5.2.1. Official data

- **The Police** specifically record complaints relating to violations of section 266b of the Penal Code which prohibits the dissemination of prejudicial expressions relating to 'race', colour, national or ethnic origin, belief or sexual orientation.

- **PET** (Danish Civil Security Service) compiles a list of **racially motivated crime, including racist violence,** for the whole country.
- In 1992, the Chief Superintendent of PET (the Danish Civil Security Service) issued a circular to all police districts in Denmark stating that all criminal incidents with a suspected racist motive must be reported to the PET. According to the circular, suspicion of a racist motive could rest with any of the following: (1) the victim's, perpetrator's or witnesses' statements; (2) the presence of racist/xenophobic symbols or graffiti; (3) whether the victim or perpetrator knew each other; or (4) whether the crime was planned.
- In 2001, PET issued a new circular to local police forces which updated the procedure for reporting racially motivated crime to PET. The new instruction indicates that racist violence should be registered when the incident: (1) is considered a criminal offence; and (2) the offence is motivated by race, colour, national or ethnic origin, or religious beliefs. The instruction also stipulated that each police district must appoint an officer with the overall responsibility of reporting racist crime to PET.

- **The Director of Public Prosecution**: Since 1995, the Director of Public Prosecution has been notified of cases of racist/hate speech in violation of section 266b of the Penal Code, and keeps records of charges and convictions

related to these cases. However, this data is not normally made publicly available.

5.2.2. Unofficial data

- **DACoRD – Documentation and Advisory Centre on Racial Discrimination:** Records incidents, including race/hate speech and violent crime, which are and are not reported to PET. Is able to draw on a number of sources.

- **The Jewish Community (Det Mosaiske Trossamfund):** Specifically records antisemitic discrimination and incidents, including violent incidents.

- **Research Surveys**: Sporadic research surveys have been undertaken in Denmark on minorities' experiences of discrimination and, more specifically, experiences of racist crime and violence; for example, a quantitative survey by Møller and Togeby[74].

5.3. NATURE AND EXTENT OF RACIST VIOLENCE

5.3.1. Official

Police statistics on hate speech:

- 65 in 2001
- 36 in 2002
- 28 in 2003
- First three quarters of 2004 - 24

PET figures indicate the following:

Criminal incidents with a suspected racist motive (both violent and non-violent):

- 116 in 2001
- 68 in 2002
- 52 in 2003
- Up until 24/11/2004 - 24

- Of the 68 incidents in 2002, RAXEN 4 categorised them according to the following PET categories: arson, 4; harassment, 20; vandalism, 19; propaganda, 8; threats, 8; unrest, 1; physical attacks, 8.

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[74] Møller, B. and Togeby, L. (1999) *Oplevet discrimination, en undersøgelse blandt etniske minoriteter*, Copenhagen: Board of Ethnic Equality.

- Of the 52 incidents in 2003, RAXEN 4 has categorised them according to the following PET categories: arson, 4; harassment, 14; vandalism, 9; propaganda, 12; threats, 9; physical attacks, 4.
- In both 2002 and 2003, the majority of racially motivated incidents recorded by PET occurred in and around Copenhagen, with other concentrations of incidents taking place in Sjælland and Jylland.

- PET provides detail about the circumstances and nature of each incident; as a result, antisemitic and Islamophobic incidents can be extracted from the case files.

5.3.2.   Unofficial

DACoRD

- In the first nine months of 2003, according to RAXEN 4, DACoRD recorded two incidents in addition to those that were already listed in the official PET record.
- In 2002, according to RAXEN 4, DACoRD did not record any violent racist incidents that are not already listed in the official PET record.

The Jewish Community

- In 2002, 50 antisemitic incidents were recorded, of which 5 overlap with the official PET record for 2002.
- Of these 50 incidents, RAXEN 4 categorised them according to the following PET categories: harassment, 21; vandalism, 8; propaganda, 3; threats, 9; physical attacks, 9.

Research Survey on Victims, Møller and Togeby (1999)

- 1132 people from different nationalities, aged 18-66, were questioned about their experiences of discrimination and victimisation.
- Physical attacks were experienced by the following percentage of people within each nationality: Somalians 14%; Turkish 9%; Libanese 7%; Bosnians 4%.
- Being pushed was experienced by the following percentage of people within each nationality: Somalians 46%; Libanese 19%; Turkish 15%; Bosnians 4%.

5.4. POLITICAL, CRIMINAL JUSTICE AND POLICY DEVELOPMENTS

A number of divergent threads can be drawn from data on racially motivated crime in Denmark that relate to the three major events identified at the beginning of this country profile; namely: September 11th 2001; on-going conflict in the Middle East; local and general elections in Denmark.

While PET data indicates a decline in racially motivated incidents in the two years prior to 2001, having been at an average of over 100 incidents per year in the period 1992-98, the events of 2001 – in combination with increased hostilities in the Middle East - saw the number of recorded incidents increase to over 100. At the same time, extreme right-wing political parties were, according to DACoRD, issuing racist statements against Muslims in the run-up to the Danish general election in 2001. During this period, as both PET and unofficial DACoRD records indicate, racist incidents became more violent in the latter half of 2001, whereas in previous years the majority of offences recorded by PET had been propaganda related. Together, this atmosphere created an enhanced racist climate against some sections of the population, and resulted in cautionary comments regarding the situation in Denmark from both CERD and ECRI.

As a reaction to increased levels of violent racism in 2001, that saw attacks on Muslims *and* the Jewish community, the authorities set out to reorganise the PET monitoring system by swiftly issuing instructions to local police offices in an effort to broaden and standardise their data collection mechanism. Although PET can be held up as an example of 'good practice', it must be read against the fact that Danish legislation does not directly criminalise racist crime and violence. Instead, PET is reliant on the police for passing on information about racist incidents as recorded under the general heading of violent crime in the Penal Code. In comparison, Danish legislation does criminalise racist/hate speech.

However, as noted in RAXEN 4, recent court cases have begun to recognise the racist element in violent crime as an aggravating factor for sentencing. In this regard it appears that the judiciary are beginning to approach racist crime and violence as, potentially, specific offences in need of dedicated legislation. In support of this, the Metropolitan Police Force in Copenhagen has issued an instruction that in all cases of violence with a possible racist motive the prosecutor must ask the court to consider this as an aggravating factor, as specified under section 80 of the Penal Code. The same procedure may also be invoked in cases involving racially motivated vandalism, arson etc. These developments indicate a positive shift towards recognition and recording of racist violence.

In comparison with the Danish authorities' history of recording and prosecuting racist/hate speech, racist violence is relatively neglected as a specific crime in Danish law – though, as RAXEN 4 and 5 note, there has been some level of disagreement recently, which has been brought to the attention of CERD, with respect to alleged cases involving statements made by political parties. Given that a

large part of racist hate speech appears to emanate from political parties, particularly in the run up to general elections in Denmark, this is an important area that the authorities continue to carefully monitor.

6.   Germany

6.1.   CONTEXT

To a large extent, Germany's Nazi history dictates what kind of information is collected on racist crime and violence. Data collection is focused on 'politically motivated right-wing criminality' - encompassing right-wing extremism, xenophobia and antisemitism. In the same vein, and again reflecting the country's Nazi history, German statistics prohibit data collection on people's 'race'/ethnicity. Instead, information can be collected on people's nationality. As a reflection of this, the terms 'racist violence' or 'racist crimes' are not in general use by either the criminal justice system's data collection mechanisms or the research community. Therefore, strictly speaking, German data on 'racist crime' does not include everyday racist violence that is not affiliated with politically motivated right-wing criminality and/or extremism.

The State focuses its efforts on monitoring the activities of extreme right-wing groups and political parties. Members of these groups tend to fall into one of two main categories; namely (1) groups of young skinheads, and (2) neo-Nazi groups that are organised on the basis of Kameradschaften (comrade groups). According to RAXEN 4, the most prominent xenophobic parties and right-wing extremist organisations at present include: the German National Democratic Party (NPD) – with 6,100 members in 2002; the Union of German People (DVU) – with 13,000 members in 2002; the Republicans (REP) – with 9,000 members in 2002. In the period 1993 to 2002, both the DVU and REP lost significant numbers of their membership.

Since the peak of extreme right-wing *violence* and other criminal acts against migrants/minorities in the early 1990s, again in 1997, and most notably in 2000, there has been an overall decline in officially recorded extreme right-wing, xenophobic and ant-Semitic incidents – though this may partly reflect Germany's new data collection system, which came into effect on 1/1/2001, rather than an actual decline.

Propaganda crimes have increasingly come to represent the majority of officially recorded crimes of an extreme right-wing nature, which perhaps reflects growth in the use of the internet. However, violent racist crimes and instances of antisemitism continue to attract the attention of the media; although antisemitic crimes make-up a very small percentage of all extreme right-wing crimes. In comparison no official data registration exists for crime and violent crime related to Islamophobia.

Finally, the activities of extreme right-wing groups also need to be contextualised in light of German reunification and the differences that continue to exist between 'east' and 'west' German states. Both official and unofficial data sources indicate a distinctive pattern of activities between east and west. According to RAXEN 4, xenophobia is more prominent in the new Federal states of the east, and antisemitism is more prominent in the west. However, when violent racist/xenophobic/antisemitic activities are interpreted alongside demographic data for each Länder, it becomes clear that the east is over-represented by the violent activities of extreme right-wing groups.

6.2. MAJOR DATA COLLECTION MECHANISMS ON RACIST VIOLENCE

See 2.2 for outline of national legislation.

6.2.1. Official data

Germany has developed a sophisticated registration system for monitoring crimes by extreme right-wing, xenophobic and antisemitic groups – including violent crimes. The registration system, which is complicated by Germany's many tiers of data collection, has been revised in recent years in an effort to improve the accuracy of counting procedures.

Police crime statistics – PKS

- Police crime statistics on 'racist violence' are collected at the level of the individual Länder.
- Police crime statistics register the number of cases that have been dealt with by the police and handed over to the Federal prosecutor.
- The practical registration of cases occurs when cases are transferred to each Länder's Office of Criminal Investigation - LKA.
- Criminal acts against the State, which can include a xenophobic element, are registered separately under Police Crime Statistics – State Security (PKS-S).

Criminal Investigation Registration Service – KPMD

- The KPMD registers on-going criminal investigations and, therefore, provides a broader picture of 'racist violence' than the static picture provided by the PKS.
- The system provides monthly figures on reports of right-wing, xenophobic and antisemitic activities.
- In 1992 the KPMD registration system was reformed to differentiate between crimes posing a threat to State security, and xenophobic criminal acts.
- In 1993, antisemitic acts were systematically registered as part of the system.

- In January 2001, a new registration system came into effect - the Criminal Investigation Registration Service: Politically Motivated Criminality (KPMD-PMK). As a result of these changes in the criminal registration system, direct comparisons cannot be made between pre and post 2001 data.

The KPMD-PMK registration system

- Distinguishes between politically motivated criminality, politically motivated violent crime, and terrorism.
- The perpetrator's motivation and the police's assessment of circumstances surrounding an offence are central to each crime's classification; in comparison, the PKS registration system does not register the perpetrator's motivation.
- Each offence is only counted once, but is characterised under different headings in an effort to more accurately reflect its nature; namely: the quality of the offence; its topic area; its area of phenomena.
- The new system is based on the registration of a wider system of 'hate crimes'.

The new KPMD-PMK registration system allows the RAXEN reports to pinpoint politically motivated violent crime.

Cases registered by the KPMD-PMK are handed over to the State Office of Criminal Investigation (LKA), and from here to the Federal Office for Criminal Investigation (BKA).

As indicated in the RAXEN 4 report, the new registration system, while aiming at more accurate recording, still suffers from the fact that crimes are registered differently in individual Länder because of the priorities and subjective decisions of different police officers and commanders.

Judicial Statistics on Court Cases are classified according to the appropriate section of the penal code.

The Federal Office of Statistics (Statistisches Bundesamt) also undertakes general population surveys, every two years, which include questions about respondents' attitudes to migrants.

6.2.2.   Unofficial data

There is a wealth of academic research in Germany on young people's racist/xenophobic attitudes, as well as studies on perpetrators and victims of racist violence. Research is both of a quantitative and qualitative nature, and tends to focus on the activities of right-wing xenophobic and antisemitic groups.

RAXEN 4 refers to a number of studies on suspects/perpetrators; these include:

- Peucker, Gassebner and Wahl (2001) – analysis of police investigation files on xenophobic, antisemitic and extreme right-wing suspects.
- Gassebner, Peucker and Schmidt (2001) – analysis of verdicts on xenophobic, antisemitic and extreme right-wing perpetrators.
- Wahl et al. (2001) – biographical backgrounds and motivation of xenophobic violent criminals.

In comparison with research on racist suspects/perpetrators, RAXEN 4 does not refer to research on victims of racist/xenophobic/antisemitic crimes.

6.3. NATURE AND EXTENT OF RACIST VIOLENCE

According to data supplied by the Federal Ministry of the Interior, which keeps data collected by the police on 'politically motivated criminality – right-wing' (that includes 'extremist crimes') – new registration system as of 1/1/01:

- **In 2001**: 14,725 'politically motivated criminality – right-wing' crimes were recorded, including crimes that were classified as xenophobic or antisemitic (no detail supplied by RAXEN NFP).

- **In 2002**: 12,933 'politically motivated criminality – right-wing' crimes were recorded, of which 940 were classified as 'violent'.
- Of these 12,933 crimes – 10,902 were classified as 'extremist', of which 772 were classified as 'violent extremist crimes'.
- Of these 12,933 crimes – 2,789 were classified as motivated by xenophobia, of which 512 were classified as 'violent', and 1,594 were classified as motivated by antisemitism, of which 30 were classified as 'violent'.
- With respect to the above - 'acts of violence' include: homicide, attempted homicide, bodily harm, arson, and 'other' acts of violence. Damage to property is included under 'other offences'.
- **In 2002**: Looking at the ratio of violent crimes with an extreme right-wing background per 1,000 inhabitants, Brandenburg emerges as the State with the highest ratio - 3.02 per 1,000 inhabitants - and Hesse emerges as the State with the lowest ratio – 0.39 per 1,000 inhabitants.

- **In 2003**: 11,576 'politically motivated criminality – right-wing' crimes were recorded, of which 845 were classified as 'violent'.
- Of these 11,576 crimes – 10,792 were classified as 'extremist', of which 759 were classified as 'violent extremist crimes'.
- Of these 11,576 crimes – 2,431 were classified as motivated by xenophobia, of which 465 were classified as 'violent', and 1,226 were classified as motivated by antisemitism, of which 38 were classified as 'violent'.

- With respect to the above - 'acts of violence' include: homicide, attempted homicide, bodily harm, arson, and 'other' acts of violence. Damage to property is included under 'other offences'.

- **2004** (January-October): 6,474 'politically motivated criminality – right-wing' crimes were recorded, of which 397 were classified as 'violent'.
- Of these 6,474 crimes – 1208 were classified as motivated by xenophobia, of these 203 were classified as 'violent' (no breakdown for antisemitic crimes was given by the RAXEN NFP).

- According to official data on victims of xenophobic violence, around half of victims are foreign nationals, of which almost 50 per cent are asylum seekers. However, a large number of victims of xenophobic violence have German citizenship. According to the RAXEN reports this group includes Aussiedler (ethnic German migrants) and naturalised migrants. A proportion of these incidents are also committed against Germans 'without a migration background, especially non-right wing people'.

According to data supplied by the Federal Office for Internal Security and the Ministry of the Interior:

- For the period 1993-2002, RAXEN 4 indicates that there is no parallel development between levels of violent crime and 'racist violence'. In other words, an increase or decrease in violent crime is not necessarily reflected in an increase or decrease in 'racist violence'.

Judicial Statistics on Court Cases:

- The majority of legal proceedings in the area of right-wing offences are related to propaganda crimes. This reflects increased use of the internet as a tool for racist propaganda. Violent right-wing offences tend to attract the most media attention.

RAXEN 4 reports that, based on official and non-official sources:

- Right-wing offences occur more frequently in the eastern Federal states than the western Federal states.
- In the western Federal states, right-wing offences occur more in the north than the south.
- Right-wing offences are higher in number where there is a lower percentage of foreigners (2% in eastern states and 10.5% in western states).

- *Offenders*:
- The majority of offenders are male and between 15-24 years old.
- Offenders are undereducated when compared with their peers.
- There is some indication that unemployed people are over-represented among offenders.

- The majority of suspects/offenders are not first-time offenders, but have already been registered for right-wing extremist and non-right-wing extremist crimes.
- Offenders in western states are more likely to belong to skinhead groups than offenders in eastern states.
- Offences are generally committed spontaneously, as part of a group, and often under the influence of alcohol.

- *Victims*:
- More than half of the victims of xenophobic violence are foreign nationals, of which nearly 50% are asylum seekers.
- Risk of victimisation is higher for people who look physically different from the majority of German society; that is, Africans, Turks, Vietnamese, Roma/Sinti.
- Ethnic German immigrants – Spätaussiedler – are also particularly vulnerable to attacks.
- According to a survey of around 1,000 migrants by the Federal Ministry for Employment and Social Order, in 2001 an average of 14.9% of respondents said they has been 'pestered', 5.5% had been threatened, 2.0% had been assaulted, and 1.4% had been injured as a result of xenophobic acts.

6.4. POLITICAL, CRIMINAL JUSTICE AND POLICY DEVELOPMENTS

The German State has traditionally focused on repressive measures to combat extreme right-wing activities. Since the 1990s the onus has moved towards preventative measures, with a number of programmes sponsored by government and NGOs/civil society, and often with a focus on preventing extreme right-wing activities by young people.

Notable preventative initiatives include:

- 2000 – The 'Alliance for Democracy and Tolerance – Against Extremism and Violence' was founded. This is a broad alliance of programmes (XENOS, CIVITAS, ENTIMON) that encompasses many different initiatives and works with a range of actors from civil society. Within the Alliance's ENTIMON programme there is the initiative 'Together against Violence and Right-Wing Extremism', which supported 238 projects in 2003 and 153 in 2004.
- Programmes to assist young people to leave extreme right-wing organisations: For example: Since April 2001, the 'Federal Programme to Encourage Right-Wing Extremists to Leave this Movement', initiated by the Ministry of the Interior and run by the Federal Office for the Protection of the Constitution.
- EXIT programmes: Borrowing on a Swedish model, these programmes, run by non-governmental organisations, aim to encourage right-wing extremists to leave their organisations.

- Police in Dialogue with Migrants: Established projects aimed at developing a constructive dialogue/understanding between the police and migrant groups. Initiatives exist in major German cities.

Given that Amnesty International published a report in January 2004 which described alleged assaults by police officers on migrants, the last initiative is particularly welcome.

Alongside practical preventative initiatives, Germany's mainstream political parties have continued to support efforts against extreme right-wing groups and political parties. In 2001, a motion was agreed to promote various initiatives at the Federal level. With the exception of Brandenburg (5 seats) and Bremen (1 seat), extreme right-wing parties have not gained a threshold in local or federal German politics.

In turn, a number of initiatives exist to assist victims of extreme right-wing violence. Of note are the various advice centres that have been established for victims in the new German Federal States.

The new KPMD-PMK registration system for extreme right-wing offences has, since its introduction in 2001, indicated a general downward trend in the number of recorded offences of a xenophobic and antisemitic nature when compared with peaks in the 1990s and 2000. However, as RAXEN 4 speculates - while this might be indicative of an actual decline, it could also be the case that (1) the new system records fewer crimes, and/or (2) police activities have been redirected to anti-terrorist measures since the attacks on 11th September 2001 on the USA.

7. Greece

7.1. CONTEXT

In the 1990s Greece received its first significant numbers of migrants and refugees. The country's proximity to zones of international and civil conflict saw the influx of large numbers of people who were fleeing war and economic instability. According to the 2001 national census, the number of officially recorded non-nationals now represents 7.3% of the population. In the Athens Metropolitan area, non-nationals make up 10% of the population. On top of this, it is estimated that undocumented migrants represent a large group in Greece. In addition, Greece has a number of minorities, such as the Roma and the Muslim minority in Thrace, who have an established presence in the country.

Against this background, Greece has developed a strong sense of national identity over different periods in response to what it sees as an external threat to national identity and security from 'outsiders'. On the one hand, this sense of collective

national identity has not promoted an atmosphere of tolerance. On the other hand, the reliance by mainstream politicians on nationalist rhetoric has served to marginalise extreme right-wing groups whose policies on immigration and refugees are forced to become, in the words of RAXEN 4, increasingly 'ridiculous' in an effort to compete with the mainstream.

However, some populist right-wing/nationalist groups do exist in Greece, such as LAOS (Popular Orthodox Alarm) and Proti Grammi (Front Line). LAOS was not able to get any MPs elected in 2004's national election, but did get one MEP in with 4.15% of the vote in the 2004 European Parliamentary elections. In the previous national election, Proti Grammi received a sizable 12,000 votes and 48,000 votes in the 1999 European Parliamentary elections.

According to RAXEN, migrants and other vulnerable minorities experience discrimination and racism at a number of levels in Greece. Albanians are particularly vulnerable to racist discrimination and violence, and are commonly stereotyped as criminals. A number of violent racist attacks took place against Albanians in 2004 after the Albanian national football team defeated Greece on home territory (as reported in RAXEN 5).

There is a severe lack of data from both official and unofficial sources that is able to elaborate on minorities' specific experiences of racist violence. As a result, the Greek NFP has had to rely on media reports to identify incidents of racist violence.

7.2.   MAJOR DATA COLLECTION MECHANISMS ON RACIST VIOLENCE

See 2.2 for outline of national legislation.

According to RAXEN 3 and 4, the absence of relevant data on racist violence in Greece is due to the following: absence of public monitoring mechanisms and specialised bodies to undertake this task; technical deficiencies in the recording of data where it exists; inadequate coordination of data collection between the competent authorities; lack of interest in collecting data by the competent authorities; lack of funding for scientific research.

7.2.1.   Official data

The following sources can, in theory, supply information with respect to nationality and discrimination, which might include instances of racist violence.
However, data on ethnicity or religion is disallowed in official record keeping.

There is no source that specifically includes data on incidents/victims of racist violence.

- **Ministry of Public Order**: Provides police-based datasets on general criminal activity, including nationality. No information is supplied on the racial motivation of offences. No recorded arrests or prosecutions on the basis of anti-racist criminal law 927/1979.

- **Ministry of Justice**: Has no data on racist violence.

- **Ministry of Merchant Marine**: Collects data on the number of foreigners arrested for illegal entry into the country. Also has case data, but no statistics, on incidents of racial violence perpetrated by Coast Guards – however, this information was not made available to the RAXEN NFP as it constitutes part of on-going official investigations.

- **The Office of the Ombudsman**: An independent public authority, whose mandate is to look into disputes between individuals and public authorities; therefore, the Office of the Ombudsman does not collect data but keeps information on individual cases, which it can make available as reports.

- **The National Commission for Human Rights**: Provides recommendations to the government, alongside Annual Reports.

7.2.2.   Semi-Official data

- **The Greek Office of the UNHCR**: Retains records of human rights violations concerning asylum seekers and refugees, including incidents or acts of racist violence committed by public agents/authorities.

7.2.3.   Unofficial data

- **National and International NGOs**: A number of NGOs collect data about discrimination and racist violence either in the form of complaints or from media reports.

7.3.   NATURE AND EXTENT OF RACIST VIOLENCE

It might be assumed, given the above, that Greece has a reasonable network of data collection mechanisms to record instances of racist violence or, given the limitations on data collection based on ethnicity and religion, violence according to nationality. But, as the NFP reports make clear, where data collection exists it is both erratic and incomplete. The absence of a comprehensive and informed data collection tradition in Greece means that most official and unofficial accounts of racist violence are descriptive case studies.

Based on media reports, RAXEN 4 was able to report the following for the period October 2002 – October 2003:

- 11 racist attacks against the person. This is more than in previous periods. However, of these 11, five did not involve Greeks as perpetrators.
- 7 incidents of racial violence by the police or borderguards/coastguards. The Roma are documented as being a particular target of police brutality.

RAXEN 3 and 4 also refer to the particular problem of trafficking in women for the Greek sex industry. The Greek NFP categorises 'sex trafficking' as racist violence because it particularly impacts on women from poor countries rather than Greek citizens or women from wealthier EU Member States – yet it is debatable whether these crimes should be interpreted as 'racist violence' when they are more accurately described as cases of violence against women[75].

7.4.   POLITICAL, CRIMINAL JUSTICE AND POLICY DEVELOPMENTS

The lack of data on racist violence in Greece is lamentable given the ministerial and other mechanisms that could be utilised for data collection. This lack of data also reflects the absence of a strong research culture on racist violence.

In comparison with the paucity of official and unofficial sources on racist violence, Greece has a number of projects that set out to tackle aspects of social marginalisation, discrimination and racism as they relate to minorities and migrants. The EU either wholly or partially funds a large number of these projects, which variously focus on the areas of social infrastructure, services, and employment. Some projects, such as the 'Integrated Action Plan for the Roma', focus on specific minority/migrant groups. A large proportion of these initiatives, as reported in RAXEN 4, appear to be about job creation and sustainable employment.

Amongst the above, one initiative by the Ministry of Public Order can be noted as it directly addresses some of the critiques that have been levelled at the police and other public agencies with regard to their violent treatment of minorities and migrants: RAXEN 4 reports that the Ministry of Public Order has organised training sessions for the police and civilian staff about the rights of refugees and asylum seekers. The EU's STOP and ULYSSES Programmes have funded these events in cooperation with agencies such as the Greek Council of Refugees and the Greek office of the International Organisation for Migration (IOM).

In July 2004, the Greek Ombudsman issued a special report describing its five year investigation into police offences against citizens' constitutional rights, including

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[75]   See: United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons - http://www.unodc.org/unodc/en/trafficking_protocol.html

violent acts. The Ombudsman stressed that certain national groups feel unable to report to the police because of fear of ill-treatment from them; these feelings are particularly acute in cases involving allegations of police violence.

However, abuse by agents of the State continues to be reported. Notably, in September 2004, some army commandos violently abused a group of illegal immigrants on a remote island and videoed their abuse. Encouragingly, once these abuses came to light, the Ministry of the Defence took swift action – though an incentive for this could have been the international media outcry in the aftermath of revelations about US soldiers' abuses of inmates at Abu Ghraib prison in Iraq.

In light of the media attention on Athens in the period of the Olympic games, some effort was made to encourage the police to effectively deal with other nationalities. A handbook was issued to police officers, containing national and international references to human and civil rights, and instructions on how to deal with non-Greek speakers.

At the level of local government, a number of initiatives have been established that also address different aspects of discrimination and racism, including racist violence. For example, under the terms of law 2910/2001, local councils for the prevention of crime have been recently established in ten municipalities with the remit to, amongst other things, combat racism and violence. And in 2002, in view of municipal elections, the 'Citizens' Movement Against Racism' drew up an 'Anti-Racist Charter for Local Authorities', which many left of centre candidates included in their election programmes and campaigns.

At the same time as mechanisms do not exist to effectively monitor racist violence, existing legislation is woefully inadequate in punishing racist offenders; for example:

Law 927/1979, which is now 25 years old, is the only specifically anti-racist criminal law in Greece, which states that: 'whoever intentionally and publicly instigates, either orally or in the press or through written texts or illustrations or through any other means, acts or activities capable of provoking discrimination, hatred or violence against persons or a group of persons, only due to their racial or national origin, is punishable by imprisonment of up to two years or a fine or both'. The law has been amended to include participation in organised racist groups and discrimination on the grounds of religion. However, to date, there has only been one attempt to enforce this law.

A range of legal provisions are in place, including mechanisms for monitoring the authorities – such as the Greek Ombudsman (Law 2477/1997), which, theoretically, should be able to address a range of discriminatory and racist treatment. However, as illustrated by the ineffectiveness of Law 927/1979 (above), there is the 'law in the books' and the 'law in practice'.

In sum, Greek legislation against racist violence and mechanisms for monitoring incidents of racist violence, and criminal justice responses to them, are ineffectual

or non-existent. Without effective legislation and monitoring mechanisms there is no means, other than through newspaper reports, to obtain primary data on the nature and extent of racist violence in Greece. However, as reported in RAXEN 4, the range of new anti-discrimination initiatives in the public and private sector - from employment through to housing - indicates that Greece is open to combat discrimination and racism in a range of settings.

8.   Spain

8.1.   CONTEXT

Like its Portuguese neighbour, Spain has recently emerged as a country of immigration. Since the early 1990s, numbers of both legal and illegal immigrants have significantly increased. To a large extent, the country's immigration patterns reflect its colonial history in Latin America and its geographical proximity to and historical links with North Africa. Spain's burgeoning economy, in the aftermath of dictatorship, has also proved an attractive pull for migrants from central and east European countries.

According to RAXEN 4, which refers to Spain's Foreign Status Statistics Yearbook 2002, there are 1,448,671 foreigners officially registered as living in Spain – this represents 3.2% of the population. Breaking down registered foreign residents according to their country of origin, the majority are European (35.5%), followed by people from the American continent (28.7%), Africans (27.7%), and Asians (7.9%). However, given the large numbers of unregistered immigrants in Spain, these official figures are open to question, and the actual figure of registered and unregistered immigrants is likely to be far higher.[76]

Both RAXEN 3 and 4 suggest that Spanish society is becoming increasingly less tolerant of immigrants.[77] They also suggest that there are indications of increased racist violence against foreigners – a large proportion of which, according to media reports, is perpetrated by extreme right-wing groups. However, the extent and nature of racist violence in Spain is not clarified in RAXEN 3 and 4 due to the absence of both official and unofficial data sources on this subject.

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[76]   The Eurostat non-national population figures for Spain, given in Annex I, are higher.

[77]   Cea d'Ancona, M. A. (2004), *La activación de la xenofobia en España ¿Qué miden las encuestas?*, Madrid, Centro de Investigaciones Sociológicas – report by the Centre for Sociological Research indicates that the percentage of Spaniards showing aversion to foreigners, according to their research, increased from 8 per cent in 1996 to 32 per cent in 2004.

What is clear, from both RAXEN 3 and 4, is that immigration, and in particular illegal immigration, is being associated with crime and terrorism in the popular imagination. This image has been confirmed by the March 2004 train bombings in Madrid that killed 200 people, and which appear to have been organised by a group of North Africans. In the immediate aftermath of the bombings, Spain elected a new socialist government on a wave of anti-government sentiment that partly 'blamed' the Madrid atrocities on the former government's support of and contribution to coalition forces in Iraq.

According to RAXEN 3 and 4, negative images of 'outsiders' have been reinforced by some politicians and senior police officers through their associations between illegal/unwanted immigration and crime. However, xenophobic sentiments are not echoed by all political parties and, to this end, some attempt was made by a member of the Green Party, in the run up to the May 2003 elections, to punish those parties making xenophobic statements. In the end, the extreme right was not strongly represented in these elections, with only the right-wing party 'Plataforma por Cataluña' gaining four local councillors in one region. In contrast, the new socialist government appears to have offered an amnesty to migrants by approving the implementing regulation for the Law on Aliens. This will allow around 800,000 irregular foreign migrants to be 'legalised' in Spain for the purpose of residence and employment.

The RAXEN reports suggest that negative representations of 'unwanted' immigrants tend to dominate the Spanish media and populist discourse, and serve to perpetuate the image of immigrants as criminals rather than victims of crime/racist violence at the hands of Spanish citizens. In turn, Spain's image as a non-racist society was not aided by the international media attention surrounding a November 2004 England/Spain football match in Madrid, in which the Spanish coach was found to have uttered racist comments about an Afro-Caribbean England player and the crowd chanted racist abuse. The Spanish Football Federation was subsequently fined by FIFA, but the Spanish government responded pro-actively by announcing the establishment of a campaign against racism in football.

8.2. MAJOR DATA COLLECTION MECHANISMS ON RACIST VIOLENCE

See 2.2 for outline of national legislation.

8.2.1. Official data

There is no readily available public information on the extent and nature of racist violence in Spain.

- **Civil Guard**: On request, the Civil Guard Headquarters supplied RAXEN 3 with information on racial violence corresponding to the years 2000 and 2001 (up to 19 December).
- Data was supplied with respect to the following three areas: (1) xenophobic acts against property; (2) insults and threats; and (3) physical aggression

- **Ombudsman (Defensor del Pueblo)**: Regular reports include information about discrimination against/abuse of migrants/minorities; includes abuses by public actors.

8.2.2. Unofficial data

- **SOS Racismo**: NGO collects reports of discrimination and racist/xenophobic incidents against foreign migrants and ethnic minorities.

- **Movimiento contra la Intolerancia**: NGO producing quarterly reports on urban violence, racism and intolerance in Spain. Information is broken down by autonomous communities. Reports also include chapters on themes such as 'Neonazi Violence' (no quantitative data supplied by RAXEN).

Reports from CERD, ECRI, Human Rights Watch, UNICEF, and Amnesty International

- RAXEN 3, 4 and 5 refer to reports from the above IGOs/NGOs about physical assault and threats by different police forces against foreigners, and migrant children held in Spanish governed migrant detention centres.
- ECRI's 2003 report notes that the racist motivation of crimes is usually not referred to in Spanish courts – although RAXEN 5 notes a few cases where racist motivation is taken into account

The Spanish media

- Includes details of cases where immigrants/foreigners/minorities were either offenders or victims. Minorities' experiences as victims are usually included when the crime in question is particularly serious.

- RAXEN 3 and 4 include descriptive accounts of incidents of racist violence reported in the press. These are not classified, and range from intra-ethnic conflicts through to violent attacks by skinhead groups on minorities.

8.3.   NATURE AND EXTENT OF RACIST VIOLENCE

8.3.1.   Official

Civil Guard

- In 2000, a total of 61 xenophobic/racist acts were recorded.
- Of these, 33 were related to physical violence, 12 were related to damage to property, and 16 were related to insults and threats.
- In 2001, a total of 66 xenophobic/racist acts were recorded.
- Of these, 37 were related to physical violence, 14 were related to damage to property, and 15 were related to insults and threats.

Ombudsman (Defensor del Pueblo):

- 2002 Report: A number of racist incidents were reported in relation to the establishment or opening of places of worship.
- Report indicated its concern regarding the apparent increase in racist and xenophobic attacks in Spain.
- Report indicated a general reluctance among perpetrators to acknowledge their racist motivation.
- 2003 Report: Contains reports of alleged police brutality against foreigners.

8.3.2.   Unofficial

SOS Racismo:

Number of reports related to the following categories:

- Skinhead attacks: 3 (2001); 7 (2002); 5 (2003)
- Aggressions and abuses by private security forces: 4 (2001); 8 (2002); 6 (2003).
- Aggressions and abuses by public security forces: 18 (2001); 35 (2002); 25 (2003).
- Aggression and discrimination by individual persons: 28 (2001); 25 (2002); 19 (2003).

Total number of incidents each year (combining above four categories):

2001 – 53   **2002** – 75   **2003** – 55

8.4. POLITICAL, CRIMINAL JUSTICE AND POLICY DEVELOPMENTS

There is an absence of publicly available official data on racist violence in Spain. RAXEN 3 was able to obtain limited information concerning racist incidents from the Civil Guard for 2000 and 2001 – with respectively 61 and 66 incidents recorded each year – but RAXEN 4 and 5 does not supply an update on this information. The general absence of data on racist violence is, in part, explained by the fact that the Spanish Criminal Code does not specifically identify racist violence as a separate crime. However, the fact that a crime (or misdemeanour) has been committed with a racist motive is deemed an aggravating circumstance in law. In turn, the Spanish Criminal Code does identify various conducts as criminal if they provoke racial/xenophobic discrimination/hatred – though data is not available on the number of cases and successful prosecutions that are brought under these laws.

The Spanish Home Office and the police have presented various figures showing that foreigners are over-represented in Spanish crime figures and prison populations; however, no mention is made in RAXEN 3 and 4 of whether these figures include offences and imprisonment in relation to immigration offences. While some political parties have questioned the validity of these figures, their impact has served to criminalise migrants. The absence of alternative sources of information on crime and victimisation - which include a breakdown according to nationality/ethnicity, gender, age and income – does not allow for an informed debate on migrants' experiences of crime/victimisation.

As an illustration of how the *previous* government has approached the subject of crime and immigration, reference can be made to the government's 'Programme against Crime', which was launched in 2002. The programme included a diverse range of issues focusing on three strands: security in the streets, domestic violence, and promoting the integration of foreigners into Spanish society. The programme has subsequently been transferred into law, and is now Organic Law 11/2003 on 'Citizens' Safety, Domestic Violence and Integration into Society of Foreigners'. Two points can be noted in relation to the title of this Act: first, not only is the focus on foreigners' integration but, second, the focus is also on the safety of citizens – as opposed to the safety of non-citizens/foreigners/immigrants. The overt and covert message of this wide-ranging act, besides its focus on domestic violence, is to pursue a tough and rigorous approach to immigration, integration and security on behalf of Spanish *citizens*. However, on a more positive note - the new government has, with the approval of the new Law on Aliens, given around 800,000 irregular foreign migrants the opportunity to legally reside and be employed in Spain.

While there is some evidence to suggest that migrants tend to be painted in a negative light by the Spanish media, certain events involving foreigners/ minorities as victims have caught the public imagination, and have been rigorously pursued by the media. One case that is referred to in both RAXEN 3 and 4 is that of Ecuadorian Wilson Pacheco. Having been refused entry to a nightclub he was

severely beaten by bouncers, after which he was thrown into the sea and drowned. These events were captured on video and made public. However, at the trial the perpetrators were not found to have been motivated by racist or xenophobic feelings.

The media, which forms the main source of information on racist violence for RAXEN 3, 4 and 5, also refers to violent clashes involving extreme right-wing groups and minority communities and, on occasion, left-wing protestors. One such example involved a debate about the building of a mosque, which lasted several years, and which resulted in violent clashes between the right-wing groups, under the banner of 'Plataforma por Cataluña', and left-wing groups under 'Acción Antifascista'.

In sum, the RAXEN reports suggest that there is evidence of increased numbers of racist attacks organised by the extreme right, with most of these incidents taking place in large urban areas and also in towns on the outskirts of Madrid, Barcelona and Valencia. At the same time, RAXEN also points to evidence of increased numbers of 'spontaneous' racist attacks that cannot be attributed to organised groups. However, the actual extent of racist violence in Spain is difficult to gauge in the absence of official and unofficial data.

9.   France

9.1.   CONTEXT

The French Republican ideal is founded on the principle of equality of treatment before the law for individual citizens. This ideal extends to a reluctance to categorise people into groups, which includes ethnic categorisation. As a reflection of this, 'racial violence' has not, until recently, been part of public discourse, and criminal justice data collection on 'racist violence' has not been made commonplace.

At the same time, France has seen an upsurge in racist violence in recent years, and there has been a particular problem with antisemitic crime and violence. In 2000 antisemitic violence increased with the start of the second Israel/Palestine Intifada, and after 9/11 there was a brief increase in antisemitic violence and threats.[78] According to the EUMC report on antisemitism in the EU in 2002-03,[79] there was a significant increase in antisemitic violence and threats in 2002 when compared with 2001, with a peak in April 2002 in line with heightened Israel-Palestine tensions. While, according to RAXEN 4, the number of reported racist, xenophobic

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[78]   France – RAXEN 3 report on 'Racist Violence', p.10.

[79]   EUMC, *Manifestations of Anti-Semitism in the EU 2002-2003: Based on information by the National Focal Points of the RAXEN Information Network*, p.113.

and antisemitic incidents declined dramatically in 2003, the number of incidents and especially antisemitic incidents reported in the first six months of 2004 shows again a sharp increase.

In 2002, the right-wing Front National came second in the first round of presidential voting. This result displayed popular support for a racist anti-immigrant party, and was swiftly followed by a mobilisation of the anti-racist Left. In July 2003, the French President called for the creation of a commission to examine the application of secular principles in French society.[80] The newly created Commission's work received significant attention as it led to debates and subsequent legislation banning the wearing of (Muslim) headscarves, and other ostentatious religious symbols, in schools. At the same time, in line with decrees by the President and the Prime Minister, an Independent Administrative Authority will be established to fight discrimination and implement the EC's new Equality Directives.

As a reflection of these events, French intellectuals and NGOs published a number of books and articles in 2002-03 that explored and challenged racist and antisemitic attitudes and violence. However, as the RAXEN 4 report notes, there is still a general lack of informed research and data collection about actual racist and antisemitic incidents in France, and, as evidenced by a BVA opinion poll from 2002,[81] the French public places 'racism' midway and 'antisemitism' last on a list of possible social concerns.

9.2.   MAJOR DATA COLLECTION MECHANISMS ON RACIST VIOLENCE

See 2.2 for outline of national legislation.

The following list represents the major data collection mechanisms in France on discriminatory racist incidents that *include* data on racist violence. However, data is not always publicly available through these monitoring bodies.

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[80]   Decree No.2003-607, July 3rd 2003.

[81]   November 2002 opinion poll by BVA Institute (Institut d'etudes de Marche et d'Opinion). From a list of 15 possible social concerns, concern about 'racism' was in sixth place after concerns about insecurity, unemployment, poverty, terrorism and drugs. Concern about 'anti-Semitism' was in fifteenth place. Source: France – RAXEN 4 report on 'Racist Violence', pp.19-20.

9.2.1. Official data

- **Statistical data from the Ministry of the Interior**: Data collected by the Central Board of the security branch of the French police; data classified according to: (1) actions that have serious consequences (usually physical) (2) threats that are not particularly prejudicial (usually insults).

- **Annual report of the Commission Nationale Consultative des Droits de l'Homme (CNCDH) – The Human Rights Commission**: Collects data on racism according to four indicators: (1) reports of racist incidents to criminal justice bodies; (2) court statistics on sentences against racial discrimination; (3) qualitative survey of victims of racial discrimination; (4) reports on NGO activities.

9.2.2. Unofficial data

- **114 Helpline**: Toll free number initiated by Groupe d'Etude et de Lutte Contre les Discriminations (GELD) for people to report racial discrimination. Operational since May 2000. Between 16 May – 30 October 2001, 9,945 discriminatory incidents (including racist violence) recorded.[82]

- **Conseil Representatif des Institutions Juifs en France (CRIF) – The Jewish Council of France**: Collects data, via a helpline, on antisemitic incidents. Only NGO in France to have developed its own recording system for racial/antisemitic incidents.

9.3. NATURE AND EXTENT OF RACIST VIOLENCE

According to the RAXEN 4 report on racist violence:

2002 was marked by a significant rise in racial threats and violence of all types, reaching the highest levels in ten years.[83]

9.3.1. Official

The Ministry of the Interior indicates that:

- **In 2002 the total number** of <u>racist, xenophobic or antisemitic</u> **acts and threats** reported was **1305**. Of these, 924 were directed at the Jewish community.

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[82]   France – RAXEN 3 report on 'Racist Violence', pp.18-19.
[83]   France – RAXEN 4 report on 'Racist Violence', p.15.

- 313 <u>racist, xenophobic and antisemitic</u> **acts** reported. Of these, 193 were directed at the Jewish community (6 times more than in 2001).
- 992 <u>racist, xenophobic or antisemitic</u> **threats** reported. Of these, 731 were directed at the Jewish community.
- 169 reported acts were against North Africans.

UPDATED INFORMATION SUPPLIED BY THE NEW FRENCH RAXEN NFP (MARCH 2005)

- **In 2003, the total number** of racist, xenophobic and antisemitic acts and threats reported was **817**.
- Of these, 217 violent acts against people and property were reported.

- Of the 817 incidents, 588 were antisemitic.
- Of these antisemitic incidents, 125 were related to physical acts.

- **In 2004 the total number** of racist, xenophobic and antisemitic **acts and threats** reported was **1,565**.
- Of these, 369 violent acts against people and property were reported.

- Of the 1,565 incidents, 970 were antisemitic – constituting 62% of all recorded acts and threats.
- Of these antisemitic incidents, 117 were related to physical acts (including 53 directed at minors).
- Remaining incidents (not related to antisemitism) tended to be anti-Maghrebian in nature.

- Jewish and Muslim places of worship/cemeteries desecrated on 65 occasions.

- The new RAXEN NFP reports that, since 2001, the **Ministry of Education** has systematically registered racist and antisemitic acts in schools – regardless of whether the victims report the incident to the police.
- In 2004, according to the Ministry of Education, there were 1,275 racist and antisemitic acts in schools.

- 2004's reports exceeded 2002's reports (which were the highest for ten years).
- However, as the NFP notes, the last quarter of 2004 saw a drop in reported figures.

The CNCDH indicates that:

- In 2002, antisemitic violence represented 62% of all violent racist incidents (compared with 45% in 2001, but down from 80% in 2000).
- In 2002, of the 47 violent racist incidents committed in France - with the exception of antisemitic incidents - 29 were against North Africans (a decrease on previous years' figures). This equates to 62% of all violent racist incidents that are not of an antisemitic nature.

- In 2002, only 9% of racial violence was attributable to the extreme right. This compares with the CNCDH's estimates of 14% of incidents in 2001, and 68% in 1994.

These figures would seem to suggest that racist violence and related incidents are becoming commonplace and 'normalised' amongst offenders and communities with no right-wing affiliation. Given that a large part of any increase in racist violence in recent years is related to antisemitism, the spotlight of attention would seem to fall on activities by North African youth, although there is no publicly available official data with information on perpetrators' ethnicity or religion. In this regard, any analysis of racist violence in contemporary France needs to look, in light of developments on a global stage, at activities by North African youth that impact on communities at the local level in France, along with the activities of the extreme right.

9.3.2. Unofficial

The 114 Helpline indicates that:

- In the period 16 May - 30 October 2001 - 9,945 discriminatory incidents were reported, some of which include racist violence. According to the RAXEN 3 report on racist violence, the majority of calls to the line concerned reports of discriminatory incidents involving institutions.

The CRIF indicates that:

- In 2002, the CRIF recorded the following antisemitic incidents of a 'violent' nature: physical aggression – 69; insults – 59; threats – 49.

9.4.   POLITICAL, CRIMINAL JUSTICE AND POLICY DEVELOPMENTS

RAXEN 4 identified a number of problems that hamper an adequate and effective response to racist violence in France. Key amongst these is the absence of adequate data collection mechanisms that specifically examine the extent and nature of racist *violence* – from both the criminal justice system and academic/independent researchers. The RAXEN 4 report does not note any victim-based crime surveys that could shed light on experiences of racist crime and violence. To this end, the French system is dependent on statistics from the Ministry of the Interior and the, now defunct, 114 helpline. In addition, RAXEN 4 identified the severe restrictions placed on successful prosecutions by the evidential onus on proving the defendant's racist intent.

The majority of convictions for offences concerning 'racial matters' are limited to violations of a law dating from 1881. This law relates to limits to freedom of expression, particularly in relation to the press, and was revised in 1972 to include aggravated penalties for racist speech/writing. In 2001, of the 146 convictions concerning 'racial matters', 132 were related to transgressions against this 1881 law.

In comparison, no comprehensive legislation is in place to punish racist crimes, including violence. Instead, a smattering of offences exist in the Criminal Code that refer to the racist intent of the offender as a punishable act; for example, article 225-18 of the Criminal Code relating to racist violation of respect for the dead.

However, **a new law was introduced on 3 February 2003** that has increased sentencing opportunities (in the form of imprisonment and fines) for a range of offences if it is established that they were committed for racial or religious reasons. The increased penalties include the following: Murder - from 15 to 20 years; Assault leading to permanent disability or mutilation – from 10 years to 15 years; Damage caused by explosives, arson or other means dangerous to human life – from 10 years to 20 years. The new February 2003 law has also created a new offence of destruction of property in relation to racist motivation, encompassing places of worship through to vehicles used for the transport of children, with a penalty of five years or a corresponding fine.

The RAXEN 4 report contextualises these developments as part of a trend towards heavier sentences. But the report goes on to note that prison sentences are rarely given and, if at all, tend to be short or suspended.

Despite the introduction of the toll-free 114 helpline, which was intended as a comprehensive reporting and recording mechanism for discriminatory incidents, including incidents of racist violence, there has not been a significant increase in prosecutions against racist crime and violence. Significant problems with the helpline emerged. Information was not systematically followed through, except in a

handful of localities[84], largely because of the insurmountable evidential problems of trying to prove the perpetrator's motives – which, as noted at the beginning of this section, is a founding principle and stumbling block of French law in the area of racist crime and violence. As a result of the helpline's shortcomings, the newly proposed Independent Administrative Authority to fight discrimination will include data collection mechanisms that will attempt to marry data collection with action to combat discrimination.

The 'French Exception', which RAXEN 4 refers to in relation to the Republican ideal that refuses to acknowledge differences between groups, may be under siege as France begins to tackle its contemporary manifestations of racist crime and violence. But with renewed debates in consideration of new legislation restricting the wearing of headscarves, coupled with widespread support for the Front National in the 2002 elections, it will be interesting to note where France emerges with respect to its political position and policy responses to racist violence. Encouragingly, in April 2004 the Minister of Justice published a guide presenting the various criminal offences and sanctions in the field of racism, discrimination and antisemitism, which describes all the actions undertaken by the Chancellery in these areas. In addition, and in light of the debate about the wearing of headscarves, the Minister of the Interior and the French President condemned the desecration of Muslim graves in Strasbourg (June 2004).

More generally, as the RAXEN 4 report notes, France has a strong and long-established tradition of NGOs and local community organisations with human rights agendas, which include anti-racism. The massive public demonstrations on 1 May 2002, against the Front National's success in the first round of the presidential elections, were testimony to widespread support for a non-racist Republican ideal.

10.   Ireland

10.1.   CONTEXT

Until very recently, Ireland was a country of emigration. With the dramatic growth in its economy in the 1990s, the country saw the arrival of its first significant numbers of immigrants. A diverse range of different nationalities now lives in Ireland.

According to the 2002 census, the following resident nationality groups can be noted, amongst others: Irish 3,584,975; EU15 133,436; Rest of Europe 23,105; African 20,981; Asian 21,779; American (North and South) 15,383. In addition, there are 23,681 travellers in Ireland. The overwhelming majority of the population

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[84]   France – RAXEN 4 report on 'Racist Violence' refers to Dijon, Châteauroux, Metz and Paris as notable exceptions, p.11.

are Roman Catholic (3,462,606), but there is now a sizeable Muslim minority in the country (19,147). In comparison, the Jewish population is one of the smallest religious communities in the country (1,790).

Although Ireland has only recently met with cultural and religious diversity, the country has a history of conflict and religious intolerance connected with the North-South divide. The Northern Ireland 'troubles', as they are referred to, have impacted on Ireland at a number of levels, and only recently has the situation afforded a degree of stability.

Set against this background, Ireland, with its population hovering just under four million, has enjoyed a relatively low crime rate. While official crime data on crime must be interpreted with a degree of caution, Ireland can be characterised as a low crime country. However, the new influx of migrant workers and asylum seekers/refugees has presented Irish society with a set of challenges with respect to its new role as a country of immigration. One of these challenges relates to the management of racism and potential racism.

It appears that racist violence is relatively infrequent in Ireland. However, there are official and unofficial reports of an increase; though any apparent increase could simply reflect the police's improved recording practices. In an effort to counteract any problems, and borrowing from the UK's response to policing racist violence, the Irish police (the Gardaí) have stepped up their efforts to effectively respond to racist violence. Proactive cultural diversity programmes, which have been launched by the police and civil society, have accompanied these initiatives.

10.2. MAJOR DATA COLLECTION MECHANISMS ON RACIST VIOLENCE

See 2.2 for outline of national legislation.

In the period 1999-2001, mechanisms for recording racist violence have been introduced in Ireland.

10.2.1. Official data

Before 1999, police crime statistics could not be disaggregated to provide information on racist incidents.

- **PULSE**: In 1999, the police introduced a new crime data collection system called PULSE. This new system is now able to classify crime as 'racially motivated', and includes data on court proceedings and sentencing for racially motivated incidents.
- Racially motivated incidents are broken down according to the victim's nationality, gender and age.

- Racially motivated incidents are broken down according to the perpetrator's gender and age.
- In March 2002 the Gardaí approved the definition of a 'racist incident'; as a result, recording of racist incidents should be more consistent in future.

10.2.2. Semi-official data

- **NCCRI**: The National Consultative Committee on Racism and Interculturalism was founded in 1998 as an independent government-funded body. In 2001, NCCRI started an informal monitoring system for racist incidents, including racist violence. The NCCRI receives information about racist incidents from NGOs and directly from victims. Incidents are largely qualitatively logged, and are reported in NCCRI's 6-monthly publications.

10.3. NATURE AND EXTENT OF RACIST VIOLENCE

10.3.1. Official

Police/PULSE

According to police data, and initial PULSE data, the following crimes were officially recorded with a 'racist motive' in the period 2000-2003:

- **2000**: 65 incidents; **2001**: 43 incidents; **2002**: 102 incidents; **2003**: 81 incidents

Of these incidents, the following were violence-related with respect to the specific crimes of: arson; assault causing harm; assault minor; criminal damage (excluding arson); robbery from the person:

- **2000**: 55 incidents; **2001**: 27 incidents; **2002**: 80 incidents; **2003**: 53 incidents.

These figures exclude two notable incidents recorded in 2002, which were 1 incident of racially motivated manslaughter and 1 incident of racially motivated sexual assault.

These figures are not an accurate reflection of the 'true' extent of racist violence; particularly given that the police only introduced an agreed definition of a 'racist incident' in 2002. However, according to RAXEN 4, the police recorded a mere 12 incidents with a racist motive in 1999 (that is, 12 incidents that were either violent or non-violent) and, therefore, these figures are an improvement on earlier recording practices which were unable to capture crime with a racist motive.

Of all violent and non-violent crimes assigned a 'racist motive', the following (a) resulted in court proceedings, and (b) resulted in a sentence:

(a) **2000**: 17 cases (with an additional 4 categorised as 'xenophobic'; **2001** 22 cases; **2002**: 107 cases; **2003**; 25 cases

(b) **2000**: 8 sentenced; **2001**: 3 sentenced; **2002**: 21 sentenced; **2003**: 0 sentenced.[85]

10.3.2.   Semi-official

NCCRI

In its report covering the period <u>November 2002 – April 2003</u>, the NCCRI received 48 reports of incidents with a racist motive (which can include violent racism).

- Of these, 75% were reported as occurring in the greater Dublin area.
- Of incidents where the gender of the victim was recorded, 12% of victims were women and 58% were men.
- The majority of incidents were against adult victims.
- 20 different nationalities were recorded as experiencing racism in this six month period.
- Racist abuse and harassment were the most common form of incident reported.

May 2003 – October 2003:   46 incidents
November 2003 – April 2004:   42 incidents
May 2004 – August 2004 (4 month period):   50 incidents

10.4.   POLITICAL, CRIMINAL JUSTICE AND POLICY DEVELOPMENTS

Since 1999, the Irish criminal justice system has instigated a new crime counting regime, PULSE, which is also able to disaggregate crime data with a 'racist motive'. 2003 was the first year in which racially motivated incidents were clearly defined to members of the police force, and recorded through PULSE. RAXEN 4 attributes these developments to a number of factors, key amongst which is the influence of debates and shifting practices in the UK in consideration of the recording and processing of violent racist incidents.

Alongside the new PULSE monitoring system, a range of training programmes and initiatives have been launched by the police with the aim of highlighting and tackling the problem of racist crime and violence. The bulk of these initiatives have been launched through the Gardaí Racial and Intercultural Office, which was established in July 2000. This Office has been responsible for the appointment of 145 police ethnic liaison officers with the remit, amongst other things, to work with

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[85]   The data for these figures was submitted by the RAXEN NFP for Ireland at the end of 2003. Therefore, the figures for 2003 might not reflect final sentencing outcomes.

victims of crime. It also organises anti-racism training programmes for the police and immigration officials.

In comparison with these practical criminal justice initiatives aimed at tackling racist crime and violence, the criminal law is lagging behind. At present, according to RAXEN 4, there is no separate legislation covering racist violence in Ireland. The criminal law, as in every other jurisdiction, includes Acts that prohibit different violent offences, but there are no additional sentencing provisions for racially motivated/aggravated offences.

Some moves are afoot to address ineffectual legislation that could, if properly formulated and applied, address aspects of racism. The Prohibition of Incitement to Hatred Act is, according to the RAXEN 4 report, currently under review due to concerns about its ineffectiveness as a legal tool. But it remains the case that the bulk of racist crimes have to be tackled through existing legislation that does not specifically address racist crime and violence. However, there are encouraging signs that individual judges are willing to see crime with a racist motivation as warranting aggravated sentencing. For example: In 2003, a judge sentenced a man to two months imprisonment for shouting racist abuse at a Romanian, and indicated his intention to impose prison sentences should similar cases come before him.

In sum, according to RAXEN 4, there is limited evidence that there is any systematic or organised racist violence in Ireland. However, this conclusion also reflects the inadequacy of reporting and recording mechanisms that, as RAXEN 4 notes, are only now being addressed.

While PULSE and NCCRI data do not show high levels of racist crime and violence, Amnesty International's 2003 Annual Report for Ireland, as referred to in RAXEN 4, reveals concerns about racist violence and harassment, and inadequate legislation to effectively combat these crimes. These concerns are reflected in an earlier report by Amnesty, from 2001, as well as reports from NGOs such as the African Refugee Network (as referred to in RAXEN 4), which indicate that a majority of minorities have experienced racism in Ireland.

While the actual extent of racist violence in Ireland is unclear, the Irish government are endeavouring to address criminal justice responses to racist violence and crime, and specifically police responses. The government is approaching these issues within a broader framework of anti-racism and multiculturalism. Examples of this include the government's 'Know Racism' public awareness programme, which officially came to an end in 2004, and the signature by all political parties of an anti-racism protocol to govern the conduct of elections. And, most importantly, the establishment of The National Consultative Committee on Racism and Interculturalism (NCCRI), with government financial backing, illustrates the government's willingness to tackle racism and engage with Irish society as a multicultural society.

Finally, the RAXEN 4 report identifies the 'Traveller community' as one 'group' likely to experience racism; the other groups are: refugees and asylum seekers;

black and minority ethnic groups; migrant workers; and particular forms of racism experienced by women from minority groups. The current focus of the government appears to be on problems of racism suffered by new immigrants. While this focus is not problematic in itself and is to be welcome, established minorities' experiences of racism should not be neglected.

11. Italy

11.1. CONTEXT

Since the late 1980s and 1990s, the political right and extreme right have grown in importance in Italy in both electoral and social terms. The gap between the moderate and extreme right has narrowed in recent years.

A range of extreme right-wing and right-wing political parties and organisations currently exists in Italy. Most of their activities are concentrated in the north of the country where, correspondingly, there is also a concentration of immigrant groups. In particular, the north-east of the country has been influenced by the anti-immigrant propaganda and activities of some members of the Northern League, and its associated organisations. At present, as the Northern League currently forms part of the governing coalition, together with Forza Italia and the National Alliance, it has consciously toned down its more overt right-wing connections, and has moved towards populist renditions of nationalism that incorporate aspects of anti-immigrant policy.

Within the Italian right-wing a range of xenophobic attitudes are displayed. According to RAXEN 4, there are indications that three groups currently display elements of neo-fascist or neo-Nazi tendencies; namely: MSI-Fiamma Tricolore, Forza Nuova, and Fronte Sociale Nazionale. According to RAXEN 4, Forza Nuova - with its strong racist, antisemitic, and anti-Islamic overtones - currently represents the most rapidly growing and active neo-fascist group in Italy. In January 2003, members of Forza Nuova took part in a violent raid on a live television broadcast which was being held with the leader of the Muslim Union of Italy. In response, fifteen young participants in the raid, together with the Veneto secretary of Forza Nuova, were arrested and charged with incitement to racial hatred.

Some extreme right-wing groups also combine elements of anti-globalisation and anti-USA rhetoric, with some adopting a pro-Palestinian stance in the process, while still others adopt an anti-Islamic stance. In this regard the range of opinions expressed both within and between different right-wing xenophobic movements appears at times both contradictory and confusing. However, the cement that holds these various parties and organisations together is a strong xenophobic stance.

There are also a number of skinhead groups in existence in Italy, such as the Veneto Fronte Skinheads and the Azione Skinheads. According to RAXEN 4, numerable acts of racist aggression and violence, alongside specifically antisemitic acts of intimidation, are carried out by these skinhead groups.

Anti-immigrant and racist sentiments are not confined to members of extreme right-wing groups in Italy. Research by a number of different institutions, as indicated in RAXEN 4, shows that large sections of the Italian population hold negative attitudes towards migrants and other minorities. These attitudes are supported and reflected by large swathes of the Italian media which, as RAXEN 4 reports, perpetuates negative stereotypes of migrants and minorities.

11.2.   MAJOR DATA COLLECTION MECHANISMS ON RACIST VIOLENCE

See 2.2 for outline of national legislation.

RAXEN reports contain very limited information about the nature and extent of racist violence in Italy. RAXEN 4 notes a decrease in activities to monitor discriminatory and racist practices in the period September 2002 – September 2003, when compared with the previous RAXEN 3 period. Much of this decline is attributed to lack or suspension of funding for projects.

11.2.1.   Official data

According to RAXEN 3, 4 and 5 – In Italy, there are no official sources that collect information, and make it publicly available, about incidents of racist crime and violence.

At the request of the Italian NFP, the Ministry of the Interior supplied some limited information about racist and antisemitic crime in 2001-2002.

The President of the Council of Ministers published its 50th report on 'The Policy of Information and Security' (2002). A few lines within this 23 page report refer to racist propaganda and violence by the extreme right.

11.2.2. Unofficial data

According to RAXEN – In Italy, unofficial sources of data on racist crime and violence are limited.

RAXEN 3 notes the following sources that include information on racist violence:

- Faculty of Communication, Science University of Rome 'La Sapienza' (2000): Report recording incidents of xenophobic aggression/violence against foreigners in Italy in the period January-October 2000. Incidents collected through daily press reviews of 19 national and local newspapers.
- European Roma Rights Centre: Report 'The country of Gypsy camps: the racial segregation of Romanies in Italy' (2000). Report briefly documents discriminatory and violent incidents, recorded over several years, against Roma and Sinti communities, as recorded by the European Roma Rights Centre. Some of the incidents are perpetrated by police officers.
- Commission for the Integration Policies of Immigrants (2001): Second Report on the Integration of Immigrants in Italy. Chapters 3.2 and 3.4 in the report include references to incidents of discrimination and racism.
- European Commission against Racism and Intolerance (ECRI) (2001): Second report on Italy.

RAXEN 4 notes the following sources:

- Rivera, A. (2002) 'Strangers and Enemies: Racist discrimination and violence in Italy': Study containing an appendix of cases of racist discrimination and violence reported by newspapers and national press agencies in the period January 2000 – March 2003.
- The Observatory on Racism, has collected information about media reports on immigrants, which can include reports of violent incidents: http://www.osservatorio-razzismo.it/

RAXEN 5 notes the following sources:

- Abruzzese A., Manconi L., Sorice M., (2003) Questione di pelle. La rappresentazione giornalistica dell'intolleranza, (Question of skin. Media representations of intolerance) Rome, Centro Richerche Studi Culturali, (PUBIT1449): http://www.abuondiritto.it/liberta/personale/stranieri/pdf/questione_di_pelle.pdf
- The report looks at news coverage, and is specifically focused on violence and racist crimes. It was carried out by the Faculty of Communications Science at La Sapienza University, Rome, in collaboration with the NGOs Save the Children and A buon diritto.

11.3.   NATURE AND EXTENT OF RACIST VIOLENCE

Due to a lack of official and unofficial data on racist violence, RAXEN 4 collected information on the basis of reports in Italian newspapers, which were analysed on a daily basis for the period September 2002 – September 2003. The research was cross-checked with the report by Rivera (above).

On the basis of RAXEN 4's research, the following cases were identified in newspapers for the period:

September 2002 – August 2003:

Racist Violence

- 88 cases of 'racist violence' – of which, 40 cases were verbal and 48 were physical violence.
- Of these 48 cases of physical violence, 43 cases were related to aggression and ill-treatment, of which: 17 were by police and other institutional actors; 15 by non-institutional actors; 8 by extreme right-wing organisations; 3 by non-institutional actors with the help of institutional actors.
- Of these 48 cases of physical violence, 5 were death caused by violence/ill-treatment/abuse/omission, of which: 3 were by police and other institutional actors; 2 by unidentified actors.

Perpetrators

- 88 cases of verbal and physical 'violence'.
- Of those cases where perpetrators could be identified, the following classifications were assigned: Extreme right-wing individuals or groups, 23 cases; 'Ordinary' citizens or unidentified individuals/groups, 21 cases; police force members, 17 cases; members of the Northern League, 15 cases.

Victims

- Of the 88 cases of verbal and physical 'violence', victims were identified as follows: Immigrants and refugees, 64 cases; 'Gypsies', 15 cases; Jews, 12 cases (this amounts to 91, and can be explained by the same victim being characterised on two accounts; for example: someone can be described as an 'immigrant' and a 'Gypsy').
- Of the 88 cases of verbal and physical 'violence', victims were identified as follows: Men, 48 cases; Women, 17 cases; Minors, 4 cases (this amounts to 69, and can be explained by the non-identification of gender/minor status in most cases).
- The nationality of victims tended to be reported in cases involving physical violence. The nationalities most often referred to in reports where: Moroccan, 7; Tunisian, 3; Indian, 3; Nigerian, 2.
- At least two newspaper reports refer to incidents against groups of Gypsies.

<u>September 2003 – August 2004</u>

Racist Violence

- 91 cases of 'racist violence' – of which, 57 cases were verbal and 34 were physical violence.
- Of these 34 cases of physical violence, 31 cases were related to aggression and ill-treatment, of which: 15 were by police and other institutional actors; 15 by non-institutional actors; 1 by extreme right-wing organisations.

Perpetrators

- Of the 91 cases of verbal and physical 'violence', perpetrators were identified as follows:
- 'Ordinary' citizens or unidentified individuals/groups, 33 cases; extreme right-wing individuals or groups, 17 cases; sports fans, 15 cases; police force members, 11 cases; members of the Northern League, 11 cases; local or national institutions, 4 cases.

Victims

- Of the 91 cases of verbal and physical 'violence', victims were identified as follows:
- Immigrants and refugees, 58 cases; Jews, 15 cases; Muslims, 12 cases; Roma, 6 cases.
- Men, 35 cases; Women, 9 cases; Minors, 6 cases (this amounts to 50, and can be explained by the non-identification of gender/minor status in most cases).
- The nationality of victims tended to be reported in cases involving physical violence. The nationalities most often referred to in reports where: Moroccan, 6; Romanian, 3; Polish, 2 – and a mixture of other nationalities.

In addition:

The Ministry of the Interior's Central Department of the Prevention Police supplied the Italian NFP with the following information, as noted in RAXEN 4:

- In the period 2001-2002: 'racist crime' declined by 12%, and antisemitic crime increased by 10%.
- This information is not elaborated further.

RAXEN 5

Includes the following information which is taken from a report by Abruzzese, Manconi and Sorice (2003) (Faculty of Communications Science at La Sapienza University, Rome) – referred to above:

- **In 2001**, of 253 cases of violence against migrants reported in the media, 19 caused permanent damage and **48** resulted in death (equivalent to 19 per cent of the cases monitored). Racially motivated violence accounted for 32.9 per cent of the total.
- **In 2002**, of 266 cases recorded, 16 caused permanent damage and 50 resulted in death (equivalent to 21 per cent of the cases monitored).
- The report indicates that racist attacks were predominantly physical (54 per cent in 2001, and 54.2 per cent in 2002), but there was an increase in discrimination and 'verbal' attacks when compared to previous years (28 per cent in 2001, and 28.1 per cent in 2002), as well as in exploitation and mobbing (9.6 per cent in 2001 and 9.9 per cent in 2002).
- According to the report, the most frequent victims were women and children: 10 out of 38 records of violence against minors in 2001, and 12 out of 41 records in 2002 were racist-inspired. The most frequent instances occurred in southern Italy.

11.4.   POLITICAL, CRIMINAL JUSTICE AND POLICY DEVELOPMENTS

The fact that the Italian NFP had to resort to newspaper reports in an effort to estimate the extent and nature of racist violence in Italy is indicative of the absence of official and unofficial data on racist violence in Italy. Although Italian law 286/98 stipulates that regional centres should be created for 'observation, monitoring and information' related to discrimination and racism, to date no such centres have been established. In the absence of national sources, NGOs and research institutions tend to collect data on a local or regional basis.

While RAXEN 4's findings are necessarily limited and open to critique for relying on newspaper reports, their general conclusions are reflected in reports from other sources. Worryingly, a significant amount of racist violence appears to be perpetrated by members of extreme right-wing organisations. RAXEN 4 reports that the Italian Magistracy and the State Police (DIGOS) do undertake enquiries into the activities of these organisations. But, given the lack of official data collection mechanisms and commentary on racist violence by central government, as noted in RAXEN 4, it appears that the State is not doing enough to monitor and challenge the activities of the extreme-right, as well as other individuals and organisations, as they relate to racist violence. The racist activities and propaganda emanating from some members of the Northern League, which continues to enjoy a prominent position in local and national politics, is, according to RAXEN 4, indicative of the absence of controls on racist sentiments and activities by the Italian State.

RAXEN 3 and 4 also refer to reports that the police - traffic police, national police, and the Carabinieri – have been involved in cases of ill-treatment, abuse and violence against migrants and minorities as perpetrators. It appears that a number of these abuses have taken place inside immigrant detention centres – as reported

by Médecins sans Frontières and Amnesty International in 2004. Encouragingly, RAXEN 4 briefly mentions that the Italian magistracy are engaged in 'numerous enquiries' relating to these alleged abuses. A number of other cases involve abuses against the Roma community, particularly in relation to forced evictions.

However, some encouraging developments can be noted that, while not directly related to racist crime, offer positive messages to immigrants – such as extension of the right of immigrants to vote in local elections. Having said this, while both RAXEN 4 and 5 include a list of 'good practices' for migrants and minorities, none of them *specifically* relates to initiatives aimed at preventing and responding to racist crime.

12.   Luxembourg

12.1.   CONTEXT

Luxembourg is the smallest EU Member State in terms of both its geography - 2,586 sq. km. - and population - 439,539. Due to its size and its borders with Belgium, France and Germany, Luxembourg is heavily influenced by these countries, with Luxembourgish the official State language and French and German widely spoken.

Given the country's small population, its borders with three countries, and its relative wealth, there is a large influx of migrant workers into Luxembourg. Luxembourgers are outnumbered each day during core working hours by migrant workers from neighbouring countries. Eighty six per cent of the country's foreign population is made up of EU citizens, and contains a sizeable and long-established Portuguese minority.

As a reflection of the country's daily population fluctuations, coupled with its resident minority and foreign populations, the question of migration and threats to the Luxembourgish culture have been voiced at political levels. However, at present, no extremist racist party exists in Luxembourg. The last extremist right-wing party, the National Movement, was established in 1989 but dissolved in 1996. Other extreme right movements have settled in neighbouring countries.

In 1998, the country's principal political parties signed the Charter of the European Political Parties for a Non-Racist Society. According to RAXEN 4, the government has taken a positive stance towards immigration, and has tied it to the economic prosperity of the country while, at the same time, striving to promote the Luxembourgish identity. However, in contrast with this display of political anti-racism, an ILR survey, conducted in September 2000 and reported in RAXEN 4, revealed that 53 per cent of respondents thought that criminality had risen in Luxembourg since the arrival of refugees from the former Yugoslavia. But while

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the relationship between foreigners and crime has emerged as a political issue in Luxembourg, there is also evidence of people's general tolerance towards foreigners, particularly amongst the young.

The European Values Study (EVS) for Luxembourg, the results of which were published in 2003, surveyed 1,211 people resident in Luxembourg. The survey reports that people are generally less 'tolerant' towards 'socially deviant' characters than they are towards ethnic groups, immigrants or refugees. However, as reported in RAXEN 4, the EVS survey also revealed concerns about the impact of foreigners on Luxembourg society. Particular concerns relate to the Luxembourgish language and the threat of unemployment should the economic situation worsen. Another study commissioned by the government, undertaken by the Bureau International du Travail (BIT), estimated that the population would increase to 700,000 inhabitants by 2050. This estimate caused a lively debate in Luxembourg, with fears echoing the concerns expressed in the EVS survey.

12.2. MAJOR DATA COLLECTION MECHANISMS ON RACIST VIOLENCE

See 2.2 for outline of national legislation.

There is an absence of data from official, semi-official and unofficial sources on incidents of racist violence.

12.2.1. Official data

Police

The police can record complaints of racial discrimination, including racist violence, on the basis of the country's laws against racism - article 454 and subsequent articles of the Criminal Code (as amended by law of 19 July 1997).

12.2.2. Semi-official data

Special Permanent Committee against Racism

Created in 1996 by the National Council for Aliens, RAXEN 4 reports that the Committee has only received a restricted number of files. Cases have not been followed through either because complaints were not within the competence of the complaints office or were not considered complaints under the terms of the law.

Ministry for the Family

The Ministry has launched an e-mail address to receive complaints and requests for information with regard to the Commission's Racial Equality Directive 2000/43/EC and Employment Equality Directive 2000/78/EC. RAXEN 4 contains no information about complaints received.

Ombudsman

In 2003, the Luxembourg House of Commons adopted a bill to establish an Ombudsman. The Ombudsman has been operational since May 2004, and acts as an arbiter of complaints by citizens against public administrations. In theory, the Ombudsman will be able to examine cases relating to discrimination, racism and xenophobia. RAXEN 4/5 contains no information about cases relating to racist violence/abuse by State agents.

12.2.3. Unofficial data

RAXEN 4 includes no data from unofficial sources about the nature and extent of racist violence in Luxembourg.

12.2.4. Nature and extent of racist violence

Police

RAXEN 4 reports that the following complaints of racial discrimination were registered by the police on the basis of the country's laws against racism. However, RAXEN 4 does not report whether all these complaints were related to racist violence.

- In 2000, 12 complaints were registered.
- In 2001, 16 complaints were registered.
- In 2002, 11 complaints were registered.

No data is available about the progress of any of these complaints through the courts.

12.3. POLITICAL, CRIMINAL JUSTICE AND POLICY DEVELOPMENTS

RAXEN 4 reports that, in general, 'visible' acts of racist violence are rare or non-existent in Luxembourg when compared with its neighbouring countries. Instead, racism manifests itself in Luxembourg in more subtle ways, as evidenced by residents' opinions from various social surveys. However, the absence of data on racist violence does not allow a full picture of the situation in Luxembourg to emerge.

With respect to the relationship between the authorities and members of minority communities, RAXEN 4 refers to 'incidents' which took place in 2003 between the Luxembourg police force and the Muslim community.

The 'incidents' in question refer to police raids, which were carried out on 31st March 2003 as part of a criminal investigation into the activities of people suspected of engaging in an international 'Islamist' network. According to media reports related in RAXEN 4, one of the raids was against the home of a family of asylum seekers from Montenegro, during the course of which the mother and some of the children were forcefully restrained. RAXEN 4 reports that the number of 'victims' of these raids, who were not charged with any offence, is not known. The force used in the course of these raids was criticised by Amnesty International, and RAXEN 4 reports that the incidents triggered a broad discussion among the population, the government and NGOs - although no follow-up is referred to.

Public concern was also raised in the aftermath of two unrelated violent murders that took place in 2000 and 2002, and which involved minorities. Both incidents resulted in concerted action among those directly and indirectly affected, and indicated the willingness of different communities to act against displays of violence and inter-community violence. Specifically, the 2000 incident involved a Yugoslav offender, and resulted in the murder victim's parents collecting 15,000 signatures in an appeal 'Against Increasing Violence'. The 2002 incident, although not expressly found to be a racist act, involved the killing of a young black man, Spencer, as a result of an argument outside a club. In the aftermath of his death, the 'Spencer Committee' was founded by the Federation of Cape Verde Associations with the aim of strengthening the integration of young Cape Verde islanders into Luxembourg society, and of promoting non-violence among young people.

While RAXEN 4 does not report on any initiatives that directly address racist violence, it refers to a range of initiatives that variously address aspects of multiculturalism and the needs and rights of migrants/asylum seekers. A number of initiatives are specifically addressed at young people. One project - 'Quinzaine Caritas against Violence' - approaches the subject of violence in different and abnormal contexts, and includes educational material about prejudice, discrimination and scapegoating.

13.   Netherlands

13.1.   CONTEXT

In 2002, for the first time in twenty-five years, no extreme right-wing party participated in parliamentary elections in the Netherlands. The only notable extreme right-wing party to gain votes was the New National Party (NNP), which won two seats in a Rotterdam sub-municipal council. Compared with the situation in the mid 1990s, RAXEN 4 submits that the extreme right should not be considered as a credible organised political force in the Netherlands in 2002. However, at the same time, 2002 witnessed a short-lived surge of popular support for the newly emerged politics of Pim Fortuyn, which has variously been labelled as 'racist' and is accused by some of having links with right-wing extremists.

Fortuyn was assassinated on 6th May 2002[86], just a few days before a national general election. Although Fortuyn denied a racist agenda, and set out to distance himself and his party - Liveable Netherlands, and then List Pim Fortuyn (LPF) after his split with the party - from these accusations, controversy surrounded his politics. Before the police announced that his killer was a native 'white' Dutchman, there had been widespread speculation that a member of an ethnic minority group and/or a Muslim would be responsible. In the parliamentary elections of 15th May 2002, Fortuyn's followers won 26 parliamentary seats. As a result, the LPF was able to take part in the governing coalition that was formed in June 2002. But the success of LPF was short-lived. By the end of October 2002 the cabinet had resigned and LPF was no longer a viable political force as its constituency evaporated.

Apart from Pim Fortuyn and his followers, and the New National Party, which gained a couple of local seats in Rotterdam, a number of extreme right-wing/neo-Nazi groups exist as loose coalitions of activists. Amongst these are the Dutch People's Union (NVU) and Stormfront Netherlands (SFN). Other groups gather under the generic label of the National Movement, and are involved in local demonstrations and youth sub-culture movements. According to RAXEN 4, the number of activists in Neo-Nazi movements has decreased while support for the New National Party has increased. But, as noted by RAXEN 4, the NNP does not carry the same weight of support as its predecessors - namely the Centre Democrats.

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[86]   In November 2004, the controversial filmmaker Theo van Gogh was murdered in the Netherlands by a Muslim. Van Gogh made a film about violence against women in the Muslim community, which projected verses of the Koran onto women's naked bodies.. As a result of Van Gogh's murder, there has been a wave of attacks on mosques and Muslim schools in the Netherlands, which has been widely reported by the Dutch and international media.

The wave of popular support for Pim Fortuyn is reflected in a 'Report on Ethnic Minority Integration Policy for 2003' that was published by the Lower House of government and reported in RAXEN 4. According to this survey, large percentages of native Dutch people express negative views about multicultural society in the Netherlands. Looking at the same report's assessment of negative attitudes towards ethnic minorities in the period 1991-2002, RAXEN 4 asserts that this evidence indicates a steady deterioration in majority attitudes towards ethnic minorities in the Netherlands (although these findings have to be cautiously read as they only relate to what people think and not what they do - as with regard to racist violence).

The upsurge in racist violence and sentiments following the murder of controversial filmmaker Theo van Gogh by a Muslim assailant, in November 2004, (see footnote on previous page)clearly illustrates that violent racism can be readily sparked by individual local incidents, which in turn are a reflection of wider global conflicts. According to RAXEN 5, the majority of violent incidents in the wake of van Gogh's murder were against 'Muslim' targets (106 cases were identified as anti-Muslim) – including schools and mosques – but there were also a number of incidents against 'native Dutch' targets (34 cases) – mainly churches. Van Gogh's murder and the reaction to his murder, in terms of both attitudes and actions, deeply shocked Dutch society, which has typically been held up as a model of successful multiculturalism.

13.2. MAJOR DATA COLLECTION MECHANISMS ON RACIST VIOLENCE

See 2.2 for outline of national legislation.

13.2.1. Legislation

- There are no specific statutory provisions for racial violence. Violent racist incidents are punishable as violent offences under Dutch criminal law.
- The Penal Code includes a number of articles that prohibit different forms of discrimination, including: Article 137d, which makes incitement to hatred a punishable crime; Article 137e, which forbids the spreading of discriminatory utterances and, since 1992, also includes the unsolicited receipt of discriminatory publications.

13.2.2.   Official data

Board of Procurators General

- Issues instructions and guidelines to improve the investigation and prosecution of cases involving discrimination.
- The most recent instructions became effective on 1st April 2003.
- According to the instructions, all reports and complaints concerning discrimination should be recorded by the police, and the police are to periodically report cases of discrimination that have come to their attention to the public prosecutor.

Dutch Intelligence Service/Police

- The Dutch Intelligence Service asks the country's 25 police regions to collect data on racial violence and violence incited by the extreme right.
- Data is gathered in a specific standardised format.
- Data is passed on to the Dutch Monitoring Centre on Racism and Xenophobia for analysis.

National Discrimination Expertise Centre (LECD)

- Part of the Public Prosecution Service.
- The LECD is tasked, amongst other things, with creating a central registry of discrimination cases - including racist crime.
- Produces reports based on a compilation of figures for criminal enforcement of cases of discrimination.
- Information obtained via: (1) COMPAS, the automated judicial registration system, and (2) information retrieved from case files, which is requested from district public prosecutors' offices.

13.2.3.   Semi-official data

The Dutch Monitoring Centre on Racism and Xenophobia (DUMC)

- The Centre is a joint operation by four institutions: (1) The Anne Frank House; (2) The National Bureau against Racial Discrimination (LBR); (3) The National Association of Anti-Discrimination Bureaus and Agencies; (4) The University of Leiden.
- Since 1996, the DUMC has undertaken a research project and produced reports on 'Monitoring Racism and the Extreme Right'. The reports contain information about the nature and extent of the phenomenon of racist violence and violence by the extreme right in the Netherlands, and are based on data by the Dutch Intelligence Service/Police.

13.2.4. Unofficial data

The Anne Frank House
Collects information, particularly media reports, about racial violence and violence by the extreme right. Last information for 2002.

Israel Information and Documentation Centre (CIDI)
Produces an annual overview of antisemitic incidents. Last report in 2002.

Kafka anti-Fascist Research Group
Produces figures for racial violence and violence incited by the extreme right. Last report in 2002.

13.3. NATURE AND EXTENT OF RACIST VIOLENCE

13.3.1. Official

National Discrimination Expertise Centre (LECD)
According to various articles in Dutch law which prohibit 'discrimination' on the basis of the International Convention on the Elimination of all forms of Racial Discrimination (CERD), including insults and incitement to racial hatred, the following can be noted:

- **In 2001**, a total of 198 discriminatory offences were recorded.
- Of these, 167 related to oral utterances of a discriminatory/racist nature (section 137c of the Dutch Criminal Law).
- It was estimated that 161 were committed by 'private individuals' and 20 by extreme right-wing groups.
- Of the 161 suspected private individuals, 112 were classified as 'white'.

- **In 2002**, a total of 242 discriminatory offences were recorded.
- Of these, 191 related to oral utterances of a discriminatory/racist nature.
- It was estimated that 201 were committed by 'private individuals' and 8 by extreme right-wing groups.
- Of the 201 private individuals, 178 were classified as 'white'.
- In 2002, RAXEN 4 estimates that the majority of discriminatory incidents are related to discrimination based on ethnicity.
- In 2002, 26% of discriminatory cases led to a dismissal. In comparison, the national percentage for dismissals for all offences taken to court was 11%.

- **In 2003**, a total of 204 discriminatory offences were recorded.
- Of these, 154 related to oral utterances of a discriminatory/racist nature (section 137c of the Dutch Criminal Law).

13.3.2.   Semi-official

DUMC Report 'Monitoring Racism and the Extreme Right'
Includes the following categories of racial violence and violence incited by the extreme right: targeted racist graffiti, threats, bomb scares/attack, confrontation, vandalism, arson, assault, manslaughter.

Accounting for all the above categories:

- **In 2001**, a total of 317 acts were noted.
- Of which - 88 were threats, 52 were vandalism, 46 were assault, 37 were arson, and 1 was manslaughter.

- **In 2002**, a total of 264 acts were noted.
- Of which - 83 were threats, 38 were vandalism, 75 were assault, and 10 were arson.
- Of which - 139 were against persons, and 91 were against objects (the remainder being mixed or unclear). In previous years the mainstay of acts were against objects.
- Of which - 12 were prompted or suspected to have been prompted by the extreme right. In comparison, the proportion of incidents committed by the extreme right in previous years was higher.
- Accounting for all categories of racial violence and violence incited by the extreme right - 68 were anti-Islamic in nature, 46 were antisemitic, and 31 were anti-refugee. In comparison, in 2001 only 18 antisemitic acts were noted.
- In 2001 and 2002, no acts of racist violence were noted against Roma and Sinti.

- **In 2003**, a total of 260 acts were noted (later adjusted to 252)
- Of which - 73 were threats, 35 were vandalism, 60 were assault, 10 were arson, and 1 was a bomb scare.
- Accounting for all categories of racial violence and violence incited by the extreme right - 59 were anti-Islamic in nature, 39 were antisemitic, and 15 were anti-refugee.

13.4.   POLITICAL, CRIMINAL JUSTICE AND POLICY DEVELOPMENTS

As in many EU Member States, there is evidence that Dutch society is becoming increasingly intolerant towards the idea and reality of immigration. This attitude extends towards asylum seekers. The populism of Pim Fortuyn's party is testimony to an apparent shift in attitude towards minorities in some parts of Dutch society. Although Fortuyn's supporters enjoyed short-lived success in parliament in the aftermath of his assassination, it would appear that the popularity of anti-immigrant/minority sentiments should not be overlooked in the Netherlands. While this popular support cannot be linked directly with racist violence, it helps to

contextualise reports of racist violence and crime – particularly in the aftermath of Van Gogh's murder.

The DUMC report 'Monitoring Racism and the Extreme Right' notes a steady increase in the number of recorded acts of racial violence and violence towards the end of the 1990s, with a steady decrease in numbers from 2000. In the months following the September 11th attacks on the USA, in 2001, there was a sharp increase in incidents targeting Islamic property and persons. In comparison, in 2002, there was a sharp increase in the number of antisemitic incidents following von Gogh's murder in November 2004, a sharp increase in attacks against Muslim people & Property was reported.

RAXEN 4 questions the extent to which antisemitic incidents can be characterised as 'new antisemitism' - that is, actions that are connected with conflicts in Israel/Palestine, and which are believed to be perpetrated by ethnic minority Muslims. Evidence from the LECD indicates that only a minority of perpetrators of discriminatory acts, including insults and incitement to racial hatred, are ethnic minorities. While these developments need to be closely monitored, RAXEN 4 reminds us that the majority of racist violence is committed by 'native Dutch' perpetrators who are not from minority groups. In the same vein, RAXEN 5 reports that the majority of violent racist incidents in the immediate aftermath of Theo van Gogh's murder were perpetrated against Muslims (with a minority of incidents against 'native' Dutch and their property, such as Christian churches).

In turn, given that only 12 of the 264 acts of violence recorded by the DUMC in 2002 could be related to extreme right-wing groups (5%), RAXEN 4 speculates that either right-wing extremists are keeping a low profile in the Netherlands or the majority of racist violence and related acts are perpetrated by 'ordinary' people who are not affiliated to extremist groups. In comparison, in 1997 and in 1998 respectively 20% and 19% of racist violence and related acts were perpetrated by extreme right-wing groups - though this still represents a minority of all racist violence and related acts.

There is evidence that the Dutch government is making efforts to reform and improve the practical operation of the criminal justice system with respect to cases of discrimination. In this regard, different criminal justice agencies have to respond to Instructions issued by the Board of Procurators General concerning the implementation of criminal justice procedures in relation to discrimination cases - which include cases of racist violence and harassment. The National Discrimination Expertise Centre (LECD) was given the task of evaluating the effectiveness of the Board's 'Instructions for Discrimination' dating from 1999. The assessment by the LECD, together with recommendations from the National Federation of Anti-Discrimination Agencies and Hotlines and the National Bureau against Racial Discrimination, resulted in adjustments being made to the latest Instructions. These organisations variously critiqued the Instructions for their ineffective application in practice. The police were singled out for criticism. The revised Instructions, which include rules for investigation and prosecution, set out to improve the investigation and processing of discrimination cases.

14.   Austria

14.1.   CONTEXT

In Austria, racist violence – its nature and extent, and policy responses to it - needs to be contextualised with regard to the country's National Socialist past and, more recently, its present government coalition between the conservative ÖVP (People's Party) and the FPÖ (Freedom Party).

In the 1999 general election the FPÖ polled 26.91% of the votes. The European Union's 14 other Member States closely monitored the birth of the ÖVP-FPÖ coalition, and reported on the political situation in Austria in the so-called report of the 'Three Wise Men'. In the following 2002 election, the FPÖ's share of the votes declined dramatically to 10.01% - a decrease of 16.9% in the period 1999-2002. Although the FPÖ suffered in terms of both electoral support and its own internal disputes, it managed to renew its coalition with the ÖVP to form a new government in 2003.

It has been suggested the impact of the ÖVP-FPÖ coalition is reflected in a political climate that is generally unfavourable to immigrants and asylum seekers. As an illustration of this, the new Asylum Act, which entered into force on 1 May 2003, introduces particularly tough criteria for asylum applicants – though these are not exceptional in an EU-wide context, nor are they exclusive to right-of-centre coalitions.

Set against this current political climate, where anti-immigrant/asylum policies have become mainstream, the government closely monitors the activities of the right-wing extremist and revisionist scene. The roots of these right-wing activities stem from the country's National Socialist past, and the administration's legal obligation to monitor extreme right-wing activities, including antisemitism, as a threat against national security. While the administration, through the Ministry of the Interior, puts a lot of resources into monitoring the activities of these *organised* groups, there is a comparative lack of focus on 'everyday' examples of racism and racist violence.

More worryingly, continued reports of police brutality against immigrants and asylum seekers have not met with concerted condemnation on the part of the police or the government.[87] The most recent case involved the death of Cheibani Wague on 15 July 2003 - a secret film of events leading to his death showed a police officer and an ambulance attendant standing on Mr. Wague as he lay motionless on the ground. While the case relating to the death of Mr. Wague is still on-going, RAXEN 5 encouragingly reports on another case, concerning an asylum seeker from Mongolia, where a police officer was sentenced, in August 2004, to a

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[87]   Austria – RAXEN 4 report on 'Racist Violence', p.45.

conditional sentence of six months for assault and dangerous threat by unduly using official authority[88].

National and international NGOs, including Amnesty International, have actively responded to reports of police brutality by criticising the practices of the Austrian police.

14.2. MAJOR DATA COLLECTION MECHANISMS ON RACIST VIOLENCE

See 2.2 for outline of national legislation.

Austria has not, as yet, established a comprehensive monitoring system for data collection on all incidents of racist violence. Instead, the authorities have a well-established data collection mechanism on racist violence connected to the activities of right-wing extremist groups.

14.2.1. Official data

Ministry of the Interior

- Produces annual report on national security – focuses on **perpetrators**.
- The Federal Agency for State Protection and Counter-Terrorism (Bundesamt für Verfassungschutz und Terrorismusbekämpfung –BVT): This agency, which is part of the Ministry of the Interior, publishes an annual report on the protection of the constitution. The report contains a chapter on right-wing extremist organisations and their activities, and includes relevant crime statistics.
- The Registration Office regarding revitalization of neo-Nazi ideology, which is located at the Ministry of the Interior, collects information on illegal websites with right-wing extremist contents.

- In addition, the Ministry of the Interior has two separate bodies which are responsible for monitoring the activities and conduct of the police and the public security services, including any discriminatory activity:
- The Human Rights Advisory Board (Menschenrechtsbeirat - MRB): Situated in the Ministry of the Interior; established in 1999.
- Office of Internal Affairs: A department of the Ministry of the Interior; operational since 2001. Primarily investigations criminal offences committed by an official in the course of his/her duties.

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[88] Austria /LG Salzburg/ GZ 37 HV 96/ 04a, (16.08.2004) [PUBAT0895]

Ministry of Justice

- Produces data on racist and xenophobic crimes - focuses on **cases**.
- Counts data on crime with respect to the most severe punishment committed by the person/s involved in each incident.
- According to RAXEN 3, the Ministry of Justice has assigned State attorneys with the duty to report racist cases to the Chief Public Prosecutor.

14.2.2. Unofficial data

- **ZARA**: a Vienna-based NGO that counsels victims and witnesses of racism.
- The only Austrian NGO to publish a comprehensive report on racism and xenophobia - has produced three to date.
- **Forum Against Antisemitism** (Forum gegen Antisemitismus): notes antisemitic incidents including violence.
- **Helping Hands Graz**: the annual report provides a brief overview of complaints reported to them of racial violence, including assaults.

14.3. NATURE AND EXTENT OF RACIST VIOLENCE

14.3.1. Official

While Austria is able to produce detailed information about perpetrators and potential perpetrators of extreme right-wing acts, including violence, the State does not collect information about perpetrators who are *not* affiliated to extreme right-wing groups. Nor does the government collect data about victims of 'racist violence' in general. Because of this, the Austrian statistics are skewed towards monitoring the activities of a small segment of **perpetrators**.

According to data collected by the **Ministry of the Interior and the Ministry of Justice** on racist, xenophobic and antisemitic crimes connected with extreme right-wing groups, the following can be noted:

Complaints against individual persons relating to a range of prohibited racist/xenophobic acts[89]*:*

2001 – 528   **2002** – 465   **2003** - 436

- These figures are far behind 1999's figure of 717 recorded complaints.
- In 2002 - 261 incidents which are prohibited under the Penal Code and the Prohibition Statute (related to the outlawing of National Socialism) were

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[89]   Sec 3 Prohibition Statute, Sec 283 Penal Code (hostile incitement), Other related provisions of the Penal Code, Insignia Act, Art IX para 1 no 4 EGVG, Media Act.

recorded by the police. A decrease of 2.7% on 2001's figure of 335 recorded incidents.

- In 2001/02 - the following notable crimes were reported to the police: 2001 - three arson attempts; the defilement of one Muslim and two Jewish cemeteries; a violent attack on two Kuwaiti citizens; 2002 - arson attack against two Kebab booths; defilement of a Jewish cemetery; damage to a building with an Islamic prayer-room; disclosure of substantial hidden neo-Nazi arms depot.

Crimes with right-wing extremist, xenophobic or antisemitic motivation:

2001 – 335   **2002** – 326   **2003** - 299

Convictions under 'hostile incitement' (sec 283 Penal Code) and 'revitalisation of National Socialist ideology' (sec 3 lit. a-g Prohibition Statute):

2001 – 35   **2002** – 29   **2003** – 44

Antisemitically motivated offences

2003 – 3   **2004** (first six months) - 13

However, official statistics do not always differentiate between antisemitic, xenophobic and right-wing extremist offences but split reports filed with the police according to the applicable penal law provisions.

The Ministry of the Interior has noted the rise of right-wing extremist activity via the internet; with, in 2001, every third crime with a right-wing extremist background being committed via the internet. The Ministry has also indicated that the right-wing Skinhead scene is increasingly connected with German and Swiss neo-Nazis. These activities are most prevalent in Vorarlberg and Upper Austria. Correspondingly, the Ministry of the Interior closely monitors these regions for extremist activity including racist violence.

No statistical data on victims of racist violence is available. Although the 2001 Security Report from the Ministry of the Interior indicated that future criminal statistics will also include data on the nationality of victims; as yet, no such information has materialised.

14.3.2. Unofficial

NGO and research publications have addressed the plight of victims of racism, but in the main their focus has been on *all* aspects of racist discrimination rather than violent racist victimisation.

On the basis of qualitative NGO and media reports, the RAXEN 4 report on racist violence indicates that a range of minorities are vulnerable to discriminatory

practices in Austria. Black Africans are identified as being most at risk from racist crime, including police brutality.

Finally, with regard to antisemitic activities, a report by the 'Forum against Antisemitism' reported a 71.4% increase on the previous year in the number of antisemitic incidents reported to them in the period 1 January 2003 - 31 August 2003 - at 108 incidents.

14.4. POLITICAL, CRIMINAL JUSTICE AND POLICY DEVELOPMENTS

There is a broad swathe of legal provisions in Austria to punish activities by extreme right-wing groups. In comparison, the law does not serve the needs of immigrants, asylum seekers and other groups who are on the receiving end of 'everyday' racist violence or hate speech related to racist violence.

For example:

- Section 33, para 5 of the Penal Code can punish xenophobic and racist motivation as an aggravating factor in sentencing. Yet, in 2002, according to the RAXEN 4 report on racist violence, no single act in relation to this provision was reported.
- Section 283 of the Penal Code can punish hate speech that is not related to National-Socialist ideology. However, the scope of this provision is narrowly framed around protection of certain *groups* and preservation of *public order*, and, therefore, has not been applied more generously to include a range of victims of hate speech who are foreigners, migrants or asylum seekers.
- Section 117, para 3 of the Penal Code can punish racist verbal attacks against individuals. In practice this law has been ineffectively and narrowly interpreted.

What this illustrates is a failure of the law to be applied in practice to counter racist activities as generic acts that harm individuals and, by association, groups and communities. Racist violence that is unrelated to extreme right-wing activities remains the neglected partner in criminal justice activities that are designed to combat 'racism'.

Against this background, and in an effort to transpose the two EC Anti-Discrimination Directives, RAXEN 5 reports that the Austrian government has established two equal treatment bodies under the terms of the Act on the Equal Treatment Commission (ETC) and the Office for Equal Treatment (OET). These bodies will look at discrimination on the grounds of gender, race, ethnic origin, religion or belief, age or sexual orientation. However, they will have no powers to impose sanctions or adopt legally binding decisions. It is envisaged that the ETC and the OET will not be operational before the beginning of 2005.

While the above shows the State adopting its obligations under the two new EC Directives, there is a general failure of the State to engage with broader themes related to racist crime and violence besides those activities that are closely linked to the extreme right. Set against this background, a number of interesting anti-racism projects have emerged in recent years in Austria from a range of largely NGO-based initiatives. In addition, according to RAXEN, Austrian academics have also recently begun to conduct research on the subject of discrimination in relation to race/ethnicity. But, in the main, research has not directly addressed the pressing issue of racist violence - with the exception of two 'restorative justice' University projects:

One notable and hopeful initiative, which appears to have met with success, is an on-going 'restorative justice' project for young racist offenders. The project is organised by two different university departments in the Tyrol and Upper Austria, and is based on seminars on history and democracy for young racist offenders. Participants were offered the seminars as an alternative to normal penal sanctions and, as a result, it appears that re-offending rates are low.

15. Portugal

15.1. CONTEXT

Portugal has recently emerged as a country of immigration. According to RAXEN 4, the number of legal immigrants has doubled in the last three years, with the number of illegal immigrants being far in excess. Large numbers of immigrants originate from Portugal's former colonies in Africa and South America, and more recently there have been significant influxes from Moldova, Russia and Ukraine. As a reflection of this, the new coalition government, since 2002, admitted that the country could no longer be characterised as a country of emigration.

While the country is experiencing increased legal and illegal immigration, coupled with a recent downturn in the economy, there has not been a corresponding increase in mainstream support for extreme right-wing xenophobic political parties. The PNR (Nationalist Renovator Party) is the main party in Portugal that promotes xenophobic anti-immigrant attitudes but, although having run in national and local elections in 2002, has yet to gain a seat in parliament or in any other political body. Instead, the centre-right/right coalition government, which was voted in 2002, has developed policies to combat illegal immigration whilst promoting integration of foreign residents. A new socialist government was elected in February 2005, but, as yet, its policies on immigration and racism are not established.

Portugal's increased immigration is not reflected in developments in the country's data collection mechanisms concerning issues related to race/ethnicity and racism – including racist violence. While the law does not permit data collection on

race/ethnicity as unconstitutional, data on nationality and other demographic variables such as gender, which might be considered as contributing to discriminatory treatment, are kept. And, where official sources of information about registered racial or religious crimes exist, the RAXEN 4 report indicates an absence of data combined with data protection. As a result, official sources are unable to monitor discrimination and racism as they impact on the country's changing population.

In addition, there is no academic tradition of research on racist violence. Because of this, the RAXEN reports are limited in what they can report about the phenomena of racist violence in Portugal.

15.2. MAJOR DATA COLLECTION MECHANISMS ON RACIST VIOLENCE

See 2.2 for outline of national legislation.

15.2.1. Official data

- **The Legal Policy and Planning Office (LPPO)**: Part of the Ministry of Justice. Publishes an annual report – 'Justice Statistics' – based on officially recorded from Portugal's three major police forces: the Judicial Police, the Public Security Police, and the National Republican Guard. The report contains official data on criminal offences, including combined figures on racial and religious discrimination/crime in relation to article 240 of the Penal Code. The publication is not an exercise in data reporting, but is the 'annual report' covering the activities of the Portuguese justice system.

- **The Commission for Equality and Against Racial Discrimination (CEARD)**: Headed by the ACIME, the Commission is responsible for monitoring the application of the law as it relates to racist behaviour. If the Commission considers that a racist transgression has occurred, it passes the case on to the competent Inspectorate in each particular field. The Commission focuses on administrative infractions but can also address racist violence.
- According to RAXEN 4, the Commission was largely inactive in the period between the election of the new coalition government in mid-2002 and the end of 2003, although a number of cases were pending.

- **The Criminal Action and Investigation Department**: Under the authority of the Attorney General's Office, this Department process cases of racial discrimination.

15.2.2.   Unofficial data

Including data from international governmental organisations, the following sources can be noted:

- **ECRI** – European Commission Against Racism and Intolerance, second report on Portugal (2001): The report mentions racist violence on two occasions in relation to: (1) absence of reliable data, and (2) ill-treatment of Roma/Gypsies whilst in police custody.

- **Amnesty International** – Published report on Portugal in August 2003. Focuses on maltreatment by the police and the prison system, and refers to racism on several occasions.

- **SOS Racismo** – a Portuguese NGO that reports on racist violence alongside other incidents related to racism.

- **The Media**: The media reports incidents of racist violence.

15.3.   NATURE AND EXTENT OF RACIST VIOLENCE

According to RAXEN 4 - While official sources exist that, theoretically, should be able to provide data on racist violence, actual data from these sources is lacking. As a result, most data is of a qualitative nature and often from unofficial non-governmental sources.

- **The Legal Policy and Planning Office (LPPO)**: RAXEN 4 includes a table of crimes registered by the police that relate to racist or religious discrimination. Although the table covers the years 1998 to 2002, **only three crimes** are reported for the whole of this period, and only for the year 2000, that relate to racist and/or religious discrimination. RAXEN 4 indicates that data is unavailable from these sources because the 'results are protected by statistical secrecy'.

- **The Commission for Equality and Against Racial Discrimination (CEARD)**: 6 of the CEARD's 36 pending cases relate to incidents involving racist violence, five of which relate to police violence; these are: (1) a black male victim of police violence; (2) a young black male student victim; (3) a Chinese group as victims of police violence; (4) a Brazilian female victim of police violence; (5) a Brazilian male victim of police violence; and (6) a Moldovan male victim of police violence.

- **Amnesty International**: Provides detail about individual abuse cases, including cases of police abuse. Specifically, five cases of ill-treatment by the police are detailed, four of which involved foreign/ethnic minority individuals.

- **SOS Racismo** – Held a press conference at the beginning of 2003 that referred to racist Skinhead activities against Africans and other immigrants. Press conference findings reported in Portuguese newspaper *Diário de Notícias*.

On the basis of mainly newspaper articles and NGO reports, RAXEN 4 reiterates its findings from 2001 and 2002 by stating that the main **victims** of racist violence in Portugal are the Roma and people of African origin. The CEARD, as the only official data source to characterise victims, also indicates that Roma and 'black' individuals are most vulnerable to racist abuse.

According to CEARD's official data sources, police officers are the main **perpetrators** of officially recorded racist violence.

According to unofficial data sources, Skinheads are the main **perpetrators** of racist violence. Research dating from 2000 indicates that Skinheads tend to be young and live on the outskirts of Lisbon. However, in the absence of new research, this picture could have changed in recent years.

15.4.   POLITICAL, CRIMINAL JUSTICE AND POLICY DEVELOPMENTS

Reflecting Portugal's recent emergence as a country of immigration, the President of the Republic devoted a period of 'Open Presidency' – during March 2003 – to public discussion concerning Portugal's foreign communities and ethnic minorities. During this period emphasis was placed on a culture of tolerance. At the same time, the ACIME (the High Commissioner for Immigrants and Ethnic Minorities), as the government body responsible for awareness-raising activities, has promoted a range of initiatives that variously address negative stereotyping of immigrants, and has established a number of support systems for immigrants.

Specific ACIME initiatives that can assist victims of racist violence include:

- **SOS Imigrante Helpline**: Opened March 2003 as a counselling service for immigrants and institutions that work with immigrants in various fields – including racist violence.

- **Information Flier on 'Legal means of action against racism and xenophobia'**: Published in 2003 and covers the following: explains Portuguese laws against racial discrimination; identifies discriminatory practices; explains the legal penalties for racism and xenophobia; identifies how and where complaints should be presented; identifies the institutions with responsibility for dealing with complaints; explains how CEARD works; presents the required complaint forms; provides useful contacts.

- **Legal Advice Bureau on Immigration Issues**: Established in September 2003. Developed as a result of a protocol signed between ACIME and the

National Lawyers Association. Is offered in RAXEN 4 as an example of 'good practice' as offers victims of racism and discrimination, including racist violence, access to legal advice.

Together with a host of other ACIME supported initiatives, the above indicates the government's willingness, through ACIME, to address a range of issues that relate to integration of and discrimination against immigrants – which also include responses to racist violence.

Portuguese law has also been introduced or amended to combat racist discrimination and violence. In particular, the Portuguese Criminal Code has specific provisions against racially and or religiously motivated 'hate' crimes, which can result in an aggravated sentence for offenders. Immigrant communities and other associations also have the right, since 1996, to be parties in criminal proceedings where the charge is related to racist or xenophobic crimes. More recently, in 2001, the Criminal Code was amended to make several types of physical assault 'public crimes' – including those perpetrated with racist motives. What this means is that any party, and not just the victim, can now file an official complaint for an investigation to take place. But while legislation is in place to address racist crime and discrimination, including racist violence, the absence of official statistics on reported crime and information about case progress does not allow the 'success' of legislation to be interpreted.

Discouragingly, in the wake of a negative Amnesty International report on police racist violence (May 2003), the Portuguese police do not appear to be taking comprehensive effective measures against racism in the police force.

In sum, Portugal suffers from an absence of comprehensive, reliable and publicly accessible data that can reveal something about minorities' experiences of – specifically - racist violence and criminal justice responses to it. Neither official government sources nor NGOs and the academic community have addressed the need for thorough data collection mechanisms that can report on the nature and extent of racist violence and criminal justice responses to it.

16. Finland

16.1. CONTEXT

In 2003, 107,003 foreign nationals were living in Finland, which equates to roughly two per cent of the population (see Annex I). While this two per cent is lower than in many other EU Member States, it presents a five-fold increase in the country's foreign population since the early 1990s. As a reflection of this, immigration and related minority issues are relatively new topics for discussion and practical intervention.

Although immigration can be characterised as fairly 'new' to Finland, the country has a small indigenous population, the Sami, and other established minorities including the Roma, Tatars, Jews and a long-established Russian population. There are also the Ingrian-Finns who are return migrants with Russian citizenship and Finnish cultural heritage, and who are counted as part of the immigrant population since a 1990 legal provision allowing their return to Finland. In recent years, as with many other EU Member States, Finland has seen the arrival of asylum seekers, with some granted refugee status under the Finnish government's established quota system. The majority of asylum applicants have been from: Somalia, Iran, Iraq and the former Yugoslavia. Finally, a small Swedish minority has been present in Finland since the country's several centuries of Swedish rule. In contrast to most minority groups, Finland's Swedish minority enjoys a privileged position in Finnish society.

Finland has characterised itself as a tolerant and non-discriminatory country – a characteristic that is supported by Eurobarometer surveys that have found Finnish people to be, on average, more tolerant towards immigrants and minorities than respondents from other EU countries.

All political parties in the parliament have signed the 'Charter of European Parties for a Non-Racist Society' by the EU Consultative Commission. Irrespective of this, political parties exist with right-wing sentiments. For example - In parliamentary elections in March 2003, the leader of the political party 'True Finns' received the fifth highest number of votes for the whole country. His campaign, preceded by a book, was accused of racist/xenophobic statements. According to RAXEN 4, the True Finns party currently has three seats in parliament. The right-wing National Front is also particularly active in Turku, one of the largest cities in Finland, and has three seats on the City Council. In comparison, two new parties, 'Finland Arises – People Unite' and the 'Blue and White Party', which are openly racist/xenophobic, did not win a single seat in the 2003 parliamentary elections. In addition, as recent research has noted, a number of extreme right-wing organisations are active in Finland via the internet.[90]

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[90] Pekkinen, A.M. – 'Racism on the Internet – An Analysis of Xenophobic Material on the Net'; the survey was part of the 'Racism and Ethnicity in the Media' research

In an effort to bolster the country's anti-discrimination efforts, a number of bodies, principally in the form of an 'Ombudsman', have been established to monitor the treatment experienced by different minority groups – including immigrants and members of national minorities who are citizens.

16.2. MAJOR DATA COLLECTION MECHANISMS ON RACIST VIOLENCE

See 2.2 for outline of national legislation.

Both the RAXEN 3 and RAXEN 4 reports on Finland characterise the country as having 'very little information on racist violence'. Yet, when compared with other EU Member States, and particularly those with larger populations of immigrants/minorities, Finland has a relatively good system in place for monitoring racist crime and violence.

16.2.1. Official data

- **The Police**: Introduced a system in 1997 for recording a racist motive in criminal reports. In the period 2000-2003, the Ministry of the Interior published four reports dealing with crimes reported to the police, which include information on racist violence. Crimes are categorised on the basis of five possible criteria, which determine the extent of 'racist motive'. Data can also be sub-divided to give information concerning the characteristics (including nationality) of offenders and victims.
- However, according to RAXEN 4, police officers are inadequately trained to include the racist motive of a crime in criminal reports, and there is no systematic monitoring of case progress through the criminal justice system.

- **District Courts**: Data collected on cases charged/dismissed on grounds of: discrimination; employment discrimination; incitement against ethnic group.

The following can also provide information on individual cases that may relate to racist violence and discriminatory treatment.

- **The Ombudsman for Minorities**: A new office, since legislative reform from September 2001, which replaces that former Ombudsman for Foreigners. Remit to monitor and report on minorities' status and rights, amongst other things, which can include incidents related to racially motivated harassment.

- **The Parliamentary Ombudsman and the Chancellor of Justice**: They address reported cases of discriminatory treatment, include racist

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programme organised by the University of Tampere and financed by the Ministry of Education.

discrimination; particularly in relation to action/inaction by officials in the course of their duty.

16.2.2.   Unofficial data

- **Victim Survey on 'Racism and Discrimination in Finland'**: Published in 2002, and funded by the Academy of Finland. The survey interviewed the following minority ethnic groups about their experiences of victimisation: Albanians from Kosovo, Vietnamese, Somalis, Arabs, Russians, Estonians and Ingrian-Finns.

16.3.   NATURE AND EXTENT OF RACIST VIOLENCE

16.3.1.   Official data

Police Data:

- **Trends** – Of reported crimes against foreigners or ethnic minorities, the police determined that the following percentages were racially motivated: 2000 (19%); 2001 (13%); 2002 (11%). This would appear to show a decreasing trend, but as no detailed figures are available it is difficult to draw any firm conclusions.

- **In 2001** - Of reported crimes against foreigners or ethnic minorities, the police determined that 448 had a racist motive (no further data was available through RAXEN).

- **In 2002** – there were 3,367 reports of crime against foreigners or ethnic minorities. Some of these cases involved a number of victims. The typical crimes reported included: damage to property, assault, illegal threat, and disturbing the privacy of the home.
- The police classify crimes against foreigners and ethnic minorities into five categories that assign, on a declining scale, a racist motive. Three of the five categories attribute a 'racist motive': yes; most likely; possibly. Racist motive is determined by the victim's statement, evidence presented by a third party, or something noted by the police
- Of the 3,367 reported cases, the police determined that 367, or nearly eleven per cent, had a racist motive.
- Of these 367 racially motivated crimes, according to an analysis of police data: 38% relate to physical violence and attempts; 24% relate to mental violence, including defamation and menace; 18% relate to damage and other disturbance.

Place of Victimisation

- Racially motivated crimes were predominantly committed in public places (36% on the street and 12% in parks). 12% were committed in the victim's home.
- Racially motivated crime predominantly took place at night (36%) or in the evening (21%).
- 59% of racially motivated crimes were committed in Southern Finland (where the majority of immigrants live); around 30% of crimes were committed in Helsinki, and 44% of racist crimes committed in Helsinki were assaults (including attempts).

Victim Characteristics (2002):

- The number of victims by nationality (which includes ethnicity), in declining order, are: Finnish, Somalian, Turkish, Russian, Iranian. Among the Finnish group, the majority are immigrants who have been given Finnish citizenship.
- 75% of victims are men. There are 10% more male than female victims when compared with non-racist crimes.

Offender Characteristics (2002):

- Among racially motivated crimes: Police statistics indicate that 90% of suspected perpetrators are young men, with 43% aged 15-24.
- In 13% of cases the aggressor is known to the victim, and in 10% of cases is a neighbour.

Sentences of District Courts 2000-2002

- In this period, only three cases were charged with incitement against an ethnic group, of which 1 was dismissed.

16.3.2.   Unofficial data

Victim Survey on 'Racism and Discrimination in Finland'[91]

Findings published in 2002. RAXEN 4 does not provide data concerning the number of people surveyed or the dates of the survey; however, the following can be noted:

- The following groups were interviewed: Kosovo Albanians, Vietnamese, Somalis, Arabs, Russians, Estonians and Ingrian Finns.

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[91]   asinskaja-Lahti, Liebkind and Vesala (2002) 'Racism and Discrimination in Finland'. The survey was part of the Syreeni programme which is financed by the Academy of Finland.

- One third of interviewees had been victims of a racist act in the past year.
- 43% of respondents said they had been insulted or harassed because of their ethnic background; 26% had been harassed by their neighbours.
- 13.9% of respondents said they had been the victim of violence, theft or other crime – due to their ethnic background – on at least one occasion in the last year.
- The most vulnerable groups were Somalis and Arabs.
- Of those Somalis and Arabs who were vulnerable to assault, a large percentage were particularly vulnerable to repeat victimisation; for example, 31.9% of Arabs said they had been assaulted 3-5 times in a year.
- Only 10.5% of victims reported their victimisation to the police.
- The Vietnamese were the most likely to report to the police, but Russians, Ingrian Finns and Estonians were least likely to report.

16.4. POLITICAL, CRIMINAL JUSTICE AND POLICY DEVELOPMENTS

The most notable recent legislative development to address racist crime and violence is the amendment of the Finnish Penal Code 515/2003, which came into force on 1 January 2004. The new law introduces an aggravated motive for crime, including violent crime, committed for racist or equivalent motives. Sentencing charges can be enhanced in these cases. The new law also introduces a new monitoring mechanism for different types of racially motivated crime - including assaults, damage to property and illegal threats.

The RAXEN 4 report states that this is 'a step in the right direction' as it enhances recording mechanisms for racially motivated crime. However, before reported racist crime can be more accurately categorised, foreigners and minorities need to be encouraged and given the means to report racist crime. Given the apparent difference between official police statistics on racist crime and the percentage of minorities reporting racist discrimination/crime in the Finnish victim survey on racism and discrimination (reported above), there is scope to improve reporting *and* recording mechanisms.

In 1998, as reported in RAXEN 3, the Prosecutor General issued instructions placing district prosecutors under the obligation to report to the Office of the Prosecutor General those offences that have a significant effect on society – including offences with racist motives. However, as only 20 cases were reported to the Office of the Prosecutor General in 2000, it would appear that this Office only receives notice of the most severe cases with a racist motive. In this regard there is an obvious fall-off between the number of racist criminal incidents, and incidents of racist discrimination, and the number of cases that are successfully prosecuted in court.

As already noted, a number of official bodies exist in Finland with the remit to monitor and respond to minority issues and reports of discrimination. Chief among

these are the new Ombudsman for Minorities, and the established Parliamentary Ombudsman and Chancellor of Justice. In March 2001, the government also adopted an Action Plan to 'Combat Ethnic Discrimination and Racism'. The Action Plan covers a broad range of initiatives, and emphasises the need for interventions at the municipal level which can approach the problem of discrimination and racism as it is locally manifested. According to RAXEN 4, while the Action Plan has good intentions, it has not resulted in substantive practical outcomes. In June 2003, the new government announced its governmental programme, which includes a focus on immigration and refers to the desirability of good ethnic relations.

In addition to governmental bodies and initiatives, semi-official and unofficial bodies exist, such as the Advisory Board for Ethnic Relations (ETNO) and the Advisory Board for Roma Affairs, which variously target minority issues.

But, according to RAXEN 3 and 4, some of these bodies, such as the Advisory Board for Roma Affairs, have been more active than others. There is a sense of a great deal of good intention behind these initiatives with, in many cases, little to show in terms of substantive results. Having said this, a number of initiatives, which specifically target violent Skinhead groups, can be noted:

- **The Exit Project**: From 2000-2002. Run by the Joensuu Youth Workshop Association, in cooperation with the University of Joensuu and the Yoith Department of the City of Joensuu. Established with the aim of preventing and reducing racist and xenophobic violence among local Skinheads, and with providing them with the means to leave Skinhead groups.

- **The Non-Fighting Generation**: Established in 2001, and on-going during the reporting periods of RAXEN 3 and 4. Originally based in Helsinki and Turku, the project has expanded to the metropolitan Helsinki area and the neighbouring cities of Espoo and Vantaa. Targets Skinhead groups with the aim of reducing racial violence through small group meetings addressing a number of issues.

However, the 'success' of these initiatives is not reported in RAXEN 3 and 4, as data was not available.

Broad-based anti-discrimination awareness-raising campaigns, which include elements referring to discrimination on the grounds of racial or ethnic origin, also exist in Finland, and are organised through the 'SEIS' initiative (Finland Forward Against Discrimination). In 2003 and 2004, the Finish Ministry of Education organised three seminars concerning racism on the internet as part of the SEIS initiative.

In sum, Finland can be characterised as a country that is coming to terms with its changing immigrant and minority populations. The number of Ombudsman and advisory boards that specifically target discrimination and racism, including aspects of racist violence, testifies to the government's policy commitments in this

area. But, as RAXEN reports, a number of these initiatives appear to be less proactive than others when it comes to implementing substantive projects. The Exit project and the Non-Fighting Generation project, as above, are examples of innovative ideas that specifically set out to tackle racist violence, but which are now dated.

Finland has the structure in place to effectively monitor racist crime and violence. However, the system does not record the full extent of racist crimes. While legislation and guidelines, both old and new, are in place to tackle racist crime – including the obligation for the police, since 1997, to record any racist motive in criminal reports - there is an apparent need for good intentions to be put into practice. The new law of January 2004, which introduces 'racist motive' as an aggravating factor in sentencing, will be tested over the next few months. But its success can only be judged if more cases are channelled through the criminal justice process, and the progress of each case monitored.

17.   Sweden

17.1.   CONTEXT

Since the end of the Second World War, Sweden has defined itself as a country with a strong liberal tradition embedded in a comprehensive welfare culture. However, this Swedish 'model' of liberal tolerance, which is reflected in other Scandinavian countries, has recently come under threat.

At one level, the liberal Swedish model has, since the 1990s, seen Sweden emerge as a centre for the production of extreme right-wing propaganda. This has variously included internet publications, videos and CDs. In contrast with this trend, Swedish society has remained, until very recently, tolerant towards political refugees and immigrants. However, there are some indications, according to RAXEN 4, that there was a decrease in tolerant public attitudes in 2002.

According to data from the University of Gothenburg's Political Science Department (SOM), which was first complied in the early 1990s, there has been a steady increase in the willingness of Swedes to accept immigrants and political refugees. But, in 2002 this trend was reversed for the first time when an increased number of Swedes indicated their *un*willingness to accept immigrants and refugees.

This change of heart was reflected in the results of the country's 2002 general election, and the increased vote for the right-wing party the 'Sweden Democrats' (SD), which emerged with 76,300 votes and 50 seats in local government. This result gave the SD 1.4% of the national vote, so making it the largest party outside parliament. The xenophobic party the 'National Democrats' emerged with 7000 votes and 4 seats on local municipal councils.

The Sweden Democrats, which was an isolated extremist movement for much of the 1990s, has successfully moved into mainstream politics as a result of the 2002 election. At present, extreme right-wing groups, that have not enjoyed the same level of popular support as the SD, include: The National Democrats (a 2001 splinter group from the Sweden Democrats); The National Socialist Front; Swedish Resistance/National Youth; Blood and Honour; Info-14; Aryan Brotherhood; Yellow Cross; and Legion Wasa.

Among its various claims, SD promotes the idea that violent crime has risen in Sweden as a result of mass immigration. Ironically, as RAXEN 4 reports, research indicates that, on average, 23% of leading SD members, in the period 1988-1998, had been sentenced for a crime in a court of law – including violent crimes.

As RAXEN 4 reports, 2002 witnessed a curious situation whereby the increased unwillingness of Swedes to accept immigrants and refugees coincided with a decrease in officially recorded xenophobic crimes. However, as RAXEN 4 suggests, the reduction in officially recorded xenophobic crimes could also reflect the efforts of xenophobic parties to reduce their criminal activities in the run-up to a general election. In contrast, RAXEN 4 refers to research which indicates increased levels of racist crime and violence in the year following an election.

17.2. MAJOR DATA COLLECTION MECHANISMS ON RACIST VIOLENCE

See 2.2 for outline of national legislation.

17.2.1. Official data

Police Statistics

- The Protection of the Constitution Section (**PCS**) of the Swedish Security Police (**SÄPO**) collects data on: racially motivated/xenophobic crimes; antisemitic crime; homophobic crime; and the 'White Power' scene in general – which includes attacks on left-wing politicians, robberies committed by extreme right-wing groups etc.
- Data can only be directly compared from 1997 on, when new recording procedures were introduced.
- Data is collected from local police districts, where reports are put through a computer programme that checks for key words related to racist/extreme right-wing activity.
- Data is re-produced at national level in an annual report.
- Data includes information about different types of violent crime.
- Data reveals the degree of xenophobic/antisemitic (etc.) crimes committed by extreme right-wing groups as opposed to other non-affiliated actors.

- Data reveals the distribution of extreme right-wing crimes by geographical area.
- Official statistics do not separate victims according to ethnic origin, class or gender. However, according to a 2004 RAXEN questionnaire ('Rapid Response') on 'policing racist crime and violence', which was answered by all 25 NFPs, the police can record the ethnicity of the offender or the victim when the offender is not Swedish.

Criminal Intelligence Service

- At certain times, keeps data on xenophobic/antisemitic crimes for investigative purposes.
- For example, data was collected on Islamophobic crimes in the aftermath of September 11th 2001.

The Crime Prevention Council

- Drawing on police statistics, the Crime Prevention Council monitors developments and provides its own level of analysis with respect to specific crime areas, including 'race hate' crimes.

17.2.2.   Unofficial data

- According to RAXEN 4, there are no comprehensive and reliable sources of data on racist violence other than those provided by official police statistics.
- RAXEN 4 indicates that the Jewish 'congregation' may be an alternative source of information in consideration on antisemitic incidents – but no data/information is supplied in the report.

17.3.   NATURE AND EXTENT OF RACIST VIOLENCE

Police Statistics

Xenophobic Crimes: General and Violent

- In the period 1997 to 2001, xenophobic crimes (excluding antisemitism) increased steadily each year – from 1,752 in 1997 to 2,670 in 2001. After this they declined to 2,260 in 2002, and increased again to 2,308 in 2003.
- In the period 1997-2002, reports of 'incitement to racial hatred' increased the most when compared with other crime categories.
- In the period 1997 to 2002, the annual caseload of xenophobic cases related to assault and gross assault remained relatively constant between 350-500 incidents each year.

- **In 2001** there were 2,670 xenophobic crimes (peak year for recorded xenophobic crimes in period 1997-2003)
- In 2001, of these 2, 670 xenophobic crimes, the following **violent crimes against the person** were recorded: murder/manslaughter - 0; gross assault (including attempted murder or manslaughter) – 25; assault – 409; threats/harassment – 1,038.
- In 2001, of these 2,670 xenophobic crimes, the following **violent crimes against property** were recorded: xenophobic vandalism - 134; xenophobic graffiti - 74.

- **In 2002** there were 2,260 xenophobic crimes
- Of these 2,260 crimes – 15.4% were connected by the police with the 'White Power' movement.
- In 2002, of these 2,260 xenophobic crimes, the following **violent crimes against the person** were recorded: murder/manslaughter - 1; gross assault (including attempted murder or manslaughter) – 16; assault – 334; threats/harassment - 855.
- In 2002, the most common racially motivated crimes relate to 'threats and harassment'.
- In 2002, cases of assault and gross assault were the lowest since 1997.
- In 2002, of these 2,260 xenophobic crimes, the following **violent crimes against property** were recorded: xenophobic vandalism - 73; xenophobic graffiti - 58.

- **In 2003** there were 2,308 xenophobic crimes.
- Of these 2,308 crimes – 18.1% were connected by the police with the 'White Power' movement.
- In 2003, of these 2,308 xenophobic crimes, the following **violent crimes against the person** were recorded: gross assault (including attempted murder or manslaughter) – 27; assault – 356; threats/harassment - 878.
- In 2003, the most common racially motivated crimes relate to 'threats and harassment'.
- In 2003, of these 2,308 xenophobic crimes, the following **violent crimes against property** were recorded: xenophobic vandalism - 101; xenophobic graffiti - 64.

Antisemitism: General and Violent

- **In 2001**, 115 antisemitic crimes were recorded – including violent and non-violent crimes.
- Of these 115 crimes, the following **violent crimes against the person** were recorded: gross assault (including attempted murder or manslaughter) – 1; assault – 7; threats/harassment - 41.
- Of these 115 xenophobic crimes, the following **violent crimes against property** were recorded: vandalism - 8; graffiti - 12.
- Of these 115 crimes, 21 were White Power related, which amounts to 18.2% of all recorded antisemitic crime.

- **In 2002**, 131 antisemitic crimes were recorded – including violent and non-violent crime.
- Of these 131 crimes, the following **violent crimes against the person** were recorded: gross assault (including attempted murder or manslaughter) – 1; assault – 5; threats/harassment - 47.
- Of these 131 crimes, the following **violent crimes against property** were recorded: vandalism - 11; graffiti - 10.
- Of these 131 crimes, 23 were White Power related, which amounts to 17.6% of all recorded antisemitic crime.

- **In 2003**, 128 antisemitic crimes were recorded – including violent and non-violent crime.
- Of these 128 crimes, the following **violent crimes against the person** were recorded: assault – 3; threats/harassment - 35.
- Of these 128 xenophobic crimes, the following **violent crimes against property** were recorded: xenophobic vandalism - 9; xenophobic graffiti - 10.
- Of these 128 crimes, 30 were White Power related, which amounts to 23.4% of all recorded antisemitic crime.

17.4. POLITICAL, CRIMINAL JUSTICE AND POLICY DEVELOPMENTS

Sweden has undergone a number of interesting and seemingly contradictory developments in recent years with regard to support for and against racist tendencies. While 2002 saw a decline in the number of xenophobic crimes, at the same time, popular sentiment against immigrants and refugees increased. Perhaps as a reflection of these changing public sentiments, the right-wing Sweden Democrats party was able to gain over 76,000 votes in the 2002 general election. However, the party had already gained political 'respect' when it was dropped from the PCS police report in 1999. No longer seen as a 'threat', the party was able to enter mainstream politics.

The Swedish authorities, as indicated in RAXEN 3 and 4, continue to focus much of their anti-racist efforts on the activities of a minority of the population who are engaged in organised violent activities – namely, members of extreme right-wing 'White Power' groups. But, as Swedish police statistics indicate for the period 1997-2002, White Power groups only account for 15% of xenophobic crime and 21.5% of antisemitic crime. In other words, a large proportion of xenophobic and antisemitic crime is committed by people who are not affiliated to White Power groups. But given this, it would appear from RAXEN 3 and 4 that the Swedish authorities continue to focus on racist activities as carried out by right-wing extremists – although they do this in the context of broad data collection that is able to capture activities that are not attributable to the extreme right.

In 2004, the Green Party and the Liberal Party both asked that the Security Police should collect information on Islamophobic incidents. According to RAXEN 5, the

government has directed the Integration Board to undertake research on ethnic and religious discrimination, racism and xenophobia in Sweden, and specifically antisemitism and Islamophobia.

Some recent changes to the law provide a more comprehensive platform from which to address racist crime and violence. Namely, in January 2003, a range of new legislation was introduced that (a) enhanced punishment for incitement to racial hatred, and (b) made it easier to prosecute racist media, such as CDs, by lengthening the statute on limitations for prosecution. To this end, Swedish law is setting out to challenge the country's reputation as a permissive site for the production of racist material through new electronic media. In combination with the Penal Code's increased sanctions for racist crime as an 'aggravating factor', Sweden is developing a comprehensive package of anti-racist laws to challenge behaviour by organised xenophobic groups and individual perpetrators.

In addition to legislative changes, RAXEN 4 notes a number of recent initiatives that set out to challenge the problem of racist violence and crime in Sweden. These include:

- In 2003, establishment of an 'Anti-Racist Centre' by a group of NGOs, with the assistance of government funding.
- In 2003, establishment of the 'Association Defend Democracy' by a group of school teachers.
- In 2002, the Municipality Network was started to form networks between local politicians and public employees with the aim of focusing on methods to combat racism, discrimination and xenophobia in local municipalities.

The 'success' of these initiatives has yet to be determined but, at least on paper, they do indicate a willingness to challenge racism and xenophobia at different levels of civil society in Sweden.

Finally, as RAXEN 4 notes, a range of victims should be considered when responding to the violent activities of extreme right-wing groups. According to research by the Swedish NFP, anti-racism activists are just as likely to be victims of violent assault at the hands of racist groups as members of minority groups. In other words, the impact of violence, as perpetuated by extreme right-wing groups, extends to targets who are not members of minority groups.

18.   United Kingdom

18.1.   CONTEXT

In the UK, Far Right political parties have not had the level of support in general elections that their equivalents have had in some EU Member States. However, the 2003 results of local council elections gave the Far Right, in the form of the British National Party (BNP), significant pockets of support in certain parts of the UK.

In the May 2003 local elections, which were held throughout the UK, the BNP won 16 seats. Given that a total of 21,000 council 'seats' were open for electoral contest, these 16 wins were not a significant number. But in certain local areas the BNP gained notable support. For example: In Burnley, in the north west of England, the BNP won 8 council seats out of a total of 45. And in some Northern towns and the West Midlands the BNP received over a quarter of votes cast – though this was not reflected in seats gained as the British electoral system is based on a 'first past the post principle' rather than proportional representation.

The BNP's share of the vote needs to contextualised with respect to two major themes/events: (1) the hostile public debate against asylum seekers that has been on-going in the UK for some time; (2) the aftermath of 2001's urban conflicts in North-West English towns - involving young people from the majority and minority populations, and the police. At the same, the focus of racist violence shifted from its traditional origins in metropolitan centres to small towns and rural locations where asylum seekers were housed under the government's dispersal policy.

However, as the RAXEN 4 report notes, the increased BNP vote was not as great as feared. Sunderland, which was a major target for BNP campaigning in light of local hostility to asylum seekers, did not result in a single win for the BNP. Similarly the BNP failed to gain seats in Oldham (in the north), parts of Kent (in the south), and south-west England – all of which witnessed local hostility towards minorities.

These developments also need to be interpreted against Britain's long history of immigration, from former colonies, and the more recent influx of asylum seekers from countries with which the UK has few links. Throughout these different periods immigrants, as both UK citizens and non-citizens, have received a mixed reception from the authorities.

While minorities were often labelled 'criminals' in the 1980s and 1990s, due recognition is now being given to their experiences as marginalised victims of crime. The racist murder of Stephen Lawrence, and the inquiry into the police investigation of his death by Sir William Macpherson (1999), was a turning point in police investigation of racist crime and violence. The report's critique of 'institutional racism' in London's Metropolitan Police had repercussions for other

police forces and institutionals, both in the UK and abroad (see country profile on Ireland).

In 2004, a number of laws and criminal justice practices are now in place that set out to punish racist offenders and effectively respond to victims of racism. Yet these provisions need to be set against political and public antagonism towards 'unwanted' immigration, and the racist incidents of public disorder and individual attacks that can be connected with extreme manifestations of these negative sentiments.

18.2. MAJOR DATA COLLECTION MECHANISMS ON RACIST VIOLENCE

See 2.2 for outline of national legislation.

18.2.1. Official data

Implementation of legislation is monitored in reports published by the Home Office and the Crown Prosecution Service.

The Home Office

- Systematically publishes **police crime statistics**, including statistics on racially aggravated offences.
- Collects and publishes data for the **British Crime Survey** (since 1982), which directly asks the public about their experiences of victimisation. Certain 'sweeps' of the survey include booster samples of minority ethnic groups (2000).
- Publishes intermittent **research reports** on minorities' experiences of victimisation, including violent racist victimisation, along with reports that evaluate the impact of anti-racist legislation and criminal justice practice.

The Police

- London's Metropolitan Police and the Greater Manchester Police have published reports that describe the characteristics and circumstances of racist crime and violence.

The Crown Prosecution Service (CPS)

- Publishes local and national reports with **statistics on charges, prosecutions and outcomes in cases**, including cases involving racist or religious offences.
- From 2004, CPS intends to publish more comprehensive information about prosecuted cases, including information about the ethnicity of offenders and victims.

Northern Ireland: The Equality Commission notes the number of racist incidents in the province.

18.2.2.   Semi-Official data

- **Commission for Racial Equality**: Monitors the implementation of legislation and criminal justice practices on racist crime and violence. The CRE does not focus on 'data' production.

18.2.3.   Unofficial data

- **Institute of Race Relations**: Presents qualitative accounts of racist crime and violence.

- **The Board of Deputies of British Jews**: Monitors antisemitic incidents through the Community Security Trust, which works closely with the Institute of Jewish Policy Research. Data collected on a monthly basis.

- **The Muslim Line**: Catalogues Islamophobic incidents.

- **The Islamic Human Rights Commission**: Comments on attacks on Muslims, and critiques under-reporting of attacks in official statistics.

- **FAIR**: A charity that aims to combat discrimination and Islamophobia, and will also monitor reports of Islamophobic harassment and violence.

- **Researchers**: A number of academic reports exist, many based on empirical research with victims and offenders, that provide information about the extent and nature of racist violence.

18.3.   NATURE AND EXTENT OF RACIST VIOLENCE

18.3.1.   Official

Note – Data for England and Wales.

Home Office

Between 1998-2001 the number of racist offences (including violence) reported to the police increased from 13,878 to 48,000.

For the period 2000-2001:

- 53,092 racist incidents <u>recorded</u> by the police
- 25,116 racially aggravated offences <u>recorded</u> by police
- Of which, racially aggravated offences: <u>against the person</u> - 3176 wounding; 12,468 harassment; 4711 common assault; <u>against property</u> - 1765 criminal damage to a dwelling; 985 criminal damage to a building other than a dwelling; 1399 criminal damage to a vehicle; 612 other criminal damage.

For the period 2001-2002:

- 54,370 racist incidents <u>recorded</u> by the police
- 30,084 racially aggravated offences <u>recorded</u> by police
- Of which, racially aggravated offences: <u>against the person</u> - 3463 wounding; 14,975 harassment; 5164 common assault; <u>against property</u> - 2228 criminal damage to a dwelling; 1547 criminal damage to a building other than a dwelling; 1885 criminal damage to a vehicle; 822 other criminal damage.

For the period 2002-2003:

- 49,078 racist incidents <u>recorded</u> by the police
- 31,035 racially/religiously aggravated offences <u>recorded</u> by police
- Of which, racially aggravated offences: <u>against the person</u> - 4352 wounding; 16696 harassment; 4491 common assault; <u>against property</u> - 2044 criminal damage to a dwelling; 1152 criminal damage to a building other than a dwelling; 1524 criminal damage to a vehicle; 776 other criminal damage.

For the period 2003-2004:

- 52,694 racist incidents <u>recorded</u> by the police
- 35,022 racially/religiously aggravated offences <u>recorded</u> by police
- Of which, racially aggravated offences: <u>against the person</u> - 4840 wounding; 20584 harassment; 4017 common assault; <u>against property</u> - 1981 criminal damage to a dwelling; 1162 criminal damage to a building other than a dwelling; 1602 criminal damage to a vehicle; 836 other criminal damage.

For the period 2002-2003
4,806 **persons** prosecuted for racially aggravated offences, and 594 persons cautioned by the police.

For the period 2003-2004
5,629 **persons** prosecuted for racially aggravated offences, and 681 persons cautioned by the police.

Crown Prosecution Service

The CPS website contains detailed information about the number of defendants prosecuted for racially/religiously aggravated offences.

Prosecutions:

For the period 2001-2002
2674 defendants prosecuted – racially aggravated offences.

For the period 2002-2003
3616 defendants prosecuted – racially aggravated offences.

The 'attrition' rate:

Very little reported racist crime results in a successful prosecution as a 'racially aggravated' crime; though the same attrition rate (from reporting to sentencing) can be observed for other non racially aggravated crimes, such as rape (RAXEN 4).

British Crime Survey

- The 2000 BCS estimated that the number of racially motivated incidents (including racist violence) in 1999, for England and Wales, were 280,000. This estimate was below the 1995 estimate of 390,000 racially motivated incidents.
- The 2000 BCS shows that ethnic minorities are at greater risk of property crime (as violent crime) than the 'white' majority population.
- The 2000 BCS shows that ethnic minorities face similar risks of violence as the 'white' majority population; though there is great variation between different minority groups according to ethnicity, income, place of residence etc.
- BCS data for 2002-2003 – estimates that the number of racially motivated incidents were 206,000 – a significant reduction from 2000.

18.3.2.   Unofficial

Community Security Trust (The Board of Deputies of British Jews)

- In 2002, 350 antisemitic incidents were reported.
- Of these 350, there were: 5 cases of extreme violence; 42 cases of assault; 55 cases of damage/desecration of property.

- In 2003, 375 antisemitic incidents were reported.
- Of these 375, there were: 54 cases of assault; 72 cases of damage/desecration of property.

- In 2004, 532 antisemitic incidents were reported.
- Of these 532, there were: 4 cases of extreme violence; 79 cases of assault; 53 cases of damage/desecration of property.

The Community Security Trust has collected annual data on antisemitic incidents since 1996. The 2004 figure (532 incidents) is the highest total figure recorded for any one year.

18.4. POLITICAL, CRIMINAL JUSTICE AND POLICY DEVELOPMENTS

New legislation has established a comprehensive platform with which to punish and collect information on racist crime and violence in the UK.

The most important of recent laws is the Crime and Disorder Act 1998. This created the offences of racially aggravated - wounding; assault (actual bodily harm); common assault; racially aggravated fear/provocation of violence; intentional harassment/alarm/distress; and racially aggravated harassment and stalking. The Act also defines increased sentencing tariffs for racially aggravated offences.

In addition, section 39 of the Anti-Terrorism, Crime and Security Act 2001, which amends the Crime and Disorder Act 1998, adds religiously aggravated offences to the above, again with the same additional sentencing tariffs. However, few cases have been successfully prosecuted under this law. From 13th October 2003, the Attorney General was given the power to challenge lenient sentences relating to racially and religiously aggravated offences. Challenges can now be referred to the Court of Appeal for review when it is considered that a tougher sentence is merited.

The definition of a 'racist incident', as forwarded in the report by Sir William Macpherson into the investigation of the death of Stephen Lawrence - as 'any incident, which is perceived to be racist by the victim, or any other person'[92] - has now been adopted by all criminal justice agencies collecting data on racist incidents. The definition is 'victim-centred' and, as a result, opens up the scope of incidents that must be considered by the police and other agencies as 'racist'. Among the EU15, this definition is the broadest that is able to capture the widest range of racially motivated incidents (see 2.2 in this report).

A number of criminal justice tools also exist that serve to bolster legislative provisions against racism. Many of these focus on targeting young offenders, and are linked with provisions under the Crime and Disorder Act 1998 such as 'anti-social behaviour orders' and 'parenting orders'. Some of the most innovative and

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[92] Macpherson Report (1999), Chapter 47, paragraph 1.

controversial developments are related to attempts to use 'restorative justice' or 'mediation' practices with young offenders who have committed racist crime.

At the same time that the criminal justice system is focusing on offenders, it is also providing more of a 'service' to victims of crime, including victims of racist crime and violence. On the one hand, government criminal justice policy has become tougher against racist crime and offenders, and, at the same time, more victim-centred. On the other hand, the government is promoting a tough anti-immigration policy that can play into the hands of those who wish to exploit people's insecurities in relation to immigration.

Finally, it is worth noting that new constructions of racism centre on people's cultural differences, rather than previous references to their 'colour' or 'race'. As a result, there is evidence that new groups are being targeted as victims of racist violence. To this end, media and NGO reports indicate some evidence of increased violence directed at people who are or are presumed to be Muslim. In light of the UK government's involvement in the on-going conflict in Iraq, and Afghanistan, political references to Islam are sensitively couched to avoid Islamophobic references. Given the significant numbers of British citizens and new immigrant arrivals who are Muslims, this is an area that needs to be carefully monitored in future with respect to both reported incidents and policy/criminal justice responses.

Part III

Overview and Understanding of the Research Findings

19.   Overview of Research Findings

On the basis of the RAXEN NFP reports, which cover the years 2001, 2002, 2003 and 2004, Table 2 (at the end of this chapter) summarises the extent of racist crime/violence, and discrimination, as reported to and recorded by official sources in 15 EU Member States.

19.1.   THE EXTENT OF RACIST CRIME AND VIOLENCE

19.1.1.   What do the RAXEN NFP reports tell us?

Ideally, the RAXEN NFP reports on racist violence should provide a ready means for mapping patterns and trends in the extent and nature of racist violence within and between Member States. Yet there are a number of practical barriers that make direct comparisons between Member States, let alone within Member States, difficult (see Part I, Chapter 3). At a basic level, different data are collected between Member States, and sometimes within Member States. This means that 'like' cannot be compared with 'like'. In addition, as evidenced by the quantity and range of information supplied in Table 2, there is currently no standard for data collection on racist crime and violence in the EU.

However, rather than attempt to make data **directly comparable**, which cannot be achieved if we are working with different data sets, we can undertake a **comparative** overview of findings between Member States[93].

Looking at Table 2 (at the end of this chapter), we can offer a broad tentative overview about the extent of racist crime/violence, or data on discrimination where other data is not available, as reported to and recorded by official sources in Member States. For example, the data in Table 2 suggests that:

- either there is very little racist crime/violence in many Member States
- or official bodies do not record racist crime/violence in many Member States
- or there is very little racist crime/violence *and* an absence of official data collection in many Member States

Working with available data, a comparative overview of findings between Member States can be undertaken. For example - looking at Table 2 and comparing data for the UK and France - which have similar populations and which both collect data on xenophobic crime and violence (threats and acts) (although France has higher

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[93]   Wrench, J. (2004) *The Measurement of Discrimination: Problems and Solutions*, paper presented at European Conference on Data to Promote Equality, Helsinki, 9-10 December 2004.

numbers of foreigners/minority nationals - see Annex I) - the following can be noted:

France:

- 2002: 1305 racist, xenophobic and antisemitic threats and acts of intimidation reported.
- 2003: 828 racist, xenophobic and antisemitic threats and acts of intimidation reported.
- First six months of 2004: 829 racist, xenophobic and antisemitic threats and acts of intimidation, including threats and acts of intimidation against the Muslim community reported..

United Kingdom:

- 2001-2002: 54,370 racist incidents recorded by the police; of which, 30,084 were recorded as racially aggravated offences, against the person or property, by the police.
- 2002-2003: 49,078 racist incidents recorded by the police; of which, 31,035 were recorded as racially/religiously aggravated offences, against the person or property, by the police.
- 2003-2004: 52,694 racist incidents recorded by the police; of which 35,022 were recorded as racially/religiously aggravated offences, against the person or property, by the police.

Comparing the highest official figures between France and the UK, the following can be noted:

- In the 12 month period 2001-02, UK, and 2002, France – *the UK had 42 times the number of recorded incidents as France*.
- In the 12 month period 2002-03, UK, and 2003, France – *the UK had 59 times the number of recorded incidents as France*.
- Taking the average figure for all reported threats and acts for the years 2002 and 2003 for France, and comparing this with all recorded racist incidents for 2001-2002 and 2002-2003 for the UK – *the UK had, on average, 48 times the number of recorded racist/xenophobic incidents as France*.

Whether these figures reflect large disparities in actual levels of racist crime and violence, or the effectiveness of each Member State's data collection, is debatable. Although France has good data collection mechanisms in place that *in theory* should be able to capture incidents of racist violence, it might be the case that these mechanisms do not encourage reporting and/or recording of racist violence *in practice* (see Table 5 in this chapter and accompanying comments).

As the above illustrates, available data needs careful interpretation if any meaning is to be drawn from a comparative overview of the research findings. The following section looks at how we might attempt to meaningfully interpret data as outlined in Table 2.

19.1.2. Interpreting officially available data on racist crime/violence

On the basis of publicly available official data on reports/records of racist crime/violence, as reported in Table 2, we could in theory:

(1) list raw figures on racist crime/violence for each of the 15 EU Member States, according to the number of reported/recorded incidents, from highest to lowest, or

(2) list the raw figures on racist crime/violence as a percentage of the non-national population for each country

Given that Member States have vastly different official data collection mechanisms on racist crime and violence, with some having no comprehensive data collection mechanisms in place, the first of the above options, if read at face value, will provide a limited and misleading account of the extent of racist crime and violence in different Member States – as illustrated by the above example comparing France and the UK. In other words:

It does not necessarily follow that Member States with low or non-existent official data on racist crime and violence have, in reality, low or non-existent levels of racist crime and violence.

It does not necessarily follow that Member States with extensive official data on racist crime and violence have the greatest problems with racist crime and violence.

The second of the two options for data interpretation referred to above - raw figures on racist crime/violence as a percentage of each Member State's non-national population - provides an indication of the extent to which official data collection mechanisms capture racist crime and violence with respect to the number of non-nationals in the population.

As most Member States do not collect comparable data on nationals (citizens) who are ethnic minorities, looking at reports/records of racist crime as a percentage of each Member State's non-national population is the next best option – given that all Member States keep data on their non-national population.

Taking the second option, Table 3 lists Member States according to their official reports/records of racist crime as a percentage of the non-national population – see Annex I – and presents this information alongside raw official data on reports/records of racist crime.

Table 3: Reports/records of 'racist crime' (2002), and associated activities, as a percentage of each Member State's non-national population[94]

1 Member State	2 Reports/records of 'racist crime' as % non-national population[95]	3 Non-national Population	4 2002 reports/records of 'racist crime' against non-nationals/minorities (which can include violence/extremist activities)
Belgium	0.15	850,077	1,316 General discrimination[96]
Denmark	0.03	271,211	68
Germany	0.18	7,334,765	12,933
Greece	NO official data	NO official data	NO official data
Spain	0.00	1,548,941	66 (2001 data)
France	0.04	3,349,908	1,305
Ireland	0.05	224,261	102
Italy	NO official data	NO official data	NO official data
Luxembourg	0.01	162,285	11 General discrimination
Netherlands	0.03	699,954	242 General discrimination
Austria	0.07	710,926	465
Portugal	NO official data	NO official data	NO official data
Finland	3.15	107,003	3,367
Sweden	0.47	476,076	2,260
UK[97]	1.90	2,865,000[98]	54,370

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[94] The data in this table is not directly comparable between Member States as it is taken from different data sources (see Table 2 and Annex I). Source: EUMC 'infosheets', which present demographic data for each Member State - http://www.eumc.eu.int/factsheets/factSheetPage.php

[95] The results in column 2 have to be treated with caution as they are a calculation of reports/records of 'racist crime' as a percentage of each Member State's *non-national population*, whereas the data in column 4 presents overall reports/records of 'racist crime' which can be against non-nationals as well as national minorities.

[96] Belgium, Luxembourg and the Netherlands collect data on 'general discrimination', which can also include incidents of racist crime and violence.

[97] Data is for England and Wales.

[98] The data presented here is only for non-nationals, but the UK also collects census data on UK nationals who are ethnic minorities. In 2001, the UK government's National Statistics Office reported that there were 4,635,296 ethnic minority UK nationals –

The data presented in Table 3 hides differences between and within non-national populations with regard to their reporting of racist crime/violence. In other words, these percentages and raw figures do not tell us which 'groups' are more prone to racist crime and victimisation, and which people within each group – according to gender, age, income etc.- are more prone to victimisation. Having said this, official reports and records do give a rough indication of how often non-nationals are reporting racist crime/violence to the police and whether the police are recording these incidents - particularly when read alongside the number of non-nationals in each Member State.

In addition, it should be noted that the data presented in column 4 of Table 3 presents reports/records of 'racist crime' against non-nationals *and*, by default, minority nationals who are generally *not* counted in Member States' official statistics but whose reports of racist victimisation will be captured in official records. Therefore, given that column 3 of Table 3 only presents data on non-national populations, the information, in column 2, has to be treated with caution for those countries that have significant minority national populations (that are not counted here) in addition to their non-national populations – for example, France, Netherlands, UK.

Finally, given that many countries have large illegal populations that are not officially registered, Table 3 is only able to present a limited reading of the volume of racist crime and violence against non-nationals.

Bearing in mind that the data in Table 3 is not directly comparable, given that different 'crimes' and in som cases general incidents of 'discrimination'are reported/ recorded in each Member State (see footnotes relating to Table 3), we can note the following for selected Member States:

Finland – at 3.15 per cent - has the highest reporting/recording rate for 'racist crime/violence' as a percentage of its non-national population, and has the third highest figure for raw data on reports of racist crime. Either this is an indication of 'high' rates of racist crime/violence in Finland, when compared with other Member States, or it reflects the fact that the country has a well developed mechanism in place for collecting data on the extent of racist crime/violence. As Finland has one of the smallest non-national populations among the old EU15 and, according to its country profile, one of the most well-developed official data collection mechanisms on racist crime/violence, its percentage result can be cautiously interpreted as, primarily, a reflection of its effective recording practices. In comparison, the majority of Member States have reports/records of racist crime/violence that are miniscule when read as a percentage of their non-national populations.

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source: http://www.statistics.gov.uk/cci/nugget.asp?id=764 – as opposed to the figure quoted above that refers to non-nationals only. Calculating reports/records of 'racist crime' as a percentage of the UK's ethnic minority national population equates to 1.17 per cent.

If we look at the absolute figures of raw official data on reports/records of 'racist crime', the **UK** 'tops' the list of Member States with the highest number of racist incidents *reported to* the police in the period 2001-02 (54,370). Even if we take the lower figure of 30,084, which is the number of racist offences *recorded by* the police (see Table 2), the UK figures are far in excess of the next highest figure for the number of crimes registered by the German police as 'politically motivated criminality- right-wing' in 2002 (12,933). When these figures are expressed as a percentage of the country's non-national population, the UK is in second place with 1.90 per cent. Yet even if we calculate reports/records of 'racist crime' as a percentage of the UK's national population who are *ethnic minorities* (4,635,296[99]), the final percentage is 1.17 per cent.

If we look at raw official data on reports/records of 'racist crime' (and associated activities), **Germany** – with 12,933 'politically motivated criminality, right-wing' crimes registered – is in second place after the UK. Yet if we look at Germany's reports of 'racist crime' as a percentage of the country's non-national population - 0.18 per cent - the percentage result is much lower than the UK's figure.

In comparison, **Spain's** records of 'racist crime' (and associated activities) as a percentage of the country's non-national population – at 0.00 per cent – places the country near the bottom of Table 3's list of reports/records of 'racist crime' as a percentage of the non-national population. With only 66 racist/xenophobic acts recorded by official sources in 2001, according to data which was made publicly available to the Spanish RAXEN NFP, but with an official non-national population of 1,548,941 (see Annex I), Spain would appear to be under-recording incidents of racist crime/violence. And, if we consider that Spain has a significant undocumented migrant population, who also experience racist crime and violence, then Spain's under-recording is exacerbated.

While Spain appears to under-record incidents, **Greece, Italy and Portugal** present no official data on reports or records of racist crime/violence at all and, therefore, cannot be assessed with respect to reports/records of racist crime as a percentage of the non-national population.

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[99] http://www.statistics.gov.uk/cci/nugget.asp?id=764

Given qualitative reports about the pervasiveness of racist crime and violence, as referred to in the country profiles contained in this report, we must assume that the percentages given in Table 3 – which never exceed 3.15 per cent - are indicative of gross under-reporting by non-nationals, and/or under-recording of racist incidents against non-nationals by official sources.

19.1.3.   Do Member States under-record racist incidents?

The **UK's** second place ranking in Table 3 – at 1.90 per cent - needs to be critically considered in light of other information provided by the comprehensive British Crime Survey, which directly asks a cross-section of the public about their experiences of criminal victimisation, including racially motivated incidents (see Chapter 18 on the UK).

For example:

- *British Crime Survey* data for 1999 estimated that the number of racially motivated incidents (including racist violence), for England and Wales, were 280,000. On this basis, reports of racist crime as a percentage of the UK's non-national population (see Annex I) were *9.8 per cent*.
- *British Crime Survey* data for a twelve month period in 2002-2003 estimated that the number of racially motivated incidents (including racist violence), for England and Wales, were 206,000. On this basis, reports of racist crime as a percentage of the UK's non-national population (see Annex I) were *7.2 per cent*.
- Yet *official data sources* put reports of racist crime as a percentage of the UK's non-national population at only *1.90 per cent*.

Besides the UK, a few Member States are also able to provide alternative data about the extent and nature of victimisation experienced by minorities/non-nationals. For example, **Denmark's** low percentage result in Table 3 – 0.03 per cent – can be considered in light of information supplied in a Danish research study, by Møller and Togeby[100], which found that 'physical attacks' were experienced by a high of 14 per cent of Somalians and a low of 4 per cent of Bosnians surveyed. Although Denmark's result in Table 3 cannot be directly compared with the data from this survey, the latter's figures suggest that official data sources under-record actual levels of victimisation.

Given that there is a complete lack of comprehensive alternative data sources on experiences of racist crime in the majority of Member States, there is no benchmark in most countries with which to judge the ability of official recording mechanisms to capture non-nationals' experiences of racist crime/violence. Instead,

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[100]   Møller, B. and Togeby, L. (1999) *Oplevet discrimination, en undersøgelse blandt etniske minoriteter*, Copenhagen: Board of Ethnic Equality.

we can compare data between similarly 'matched' countries, which have similar numbers with respect to their national and non-national/ethnic minority populations, and which suffer from racist crime and violence – such as France and the UK – to suggest that data collection mechanisms are not comparable between countries.

Another way of looking at data on reports/records of racist crime as a percentage of the non-national population for each Member State is to graphically represent it as a bar chart.

Figure 3 (below) graphically interprets Table 3's 'reports/records of racist crime as a percentage of the non-national population', and starkly illustrates the disparity between data collection in each Member State.

Figure 3: Effective to Ineffective Data Collection
(based in reports/records of 'racist crime' and associated activities (2002) as a percentage of each Member State's non-national population)
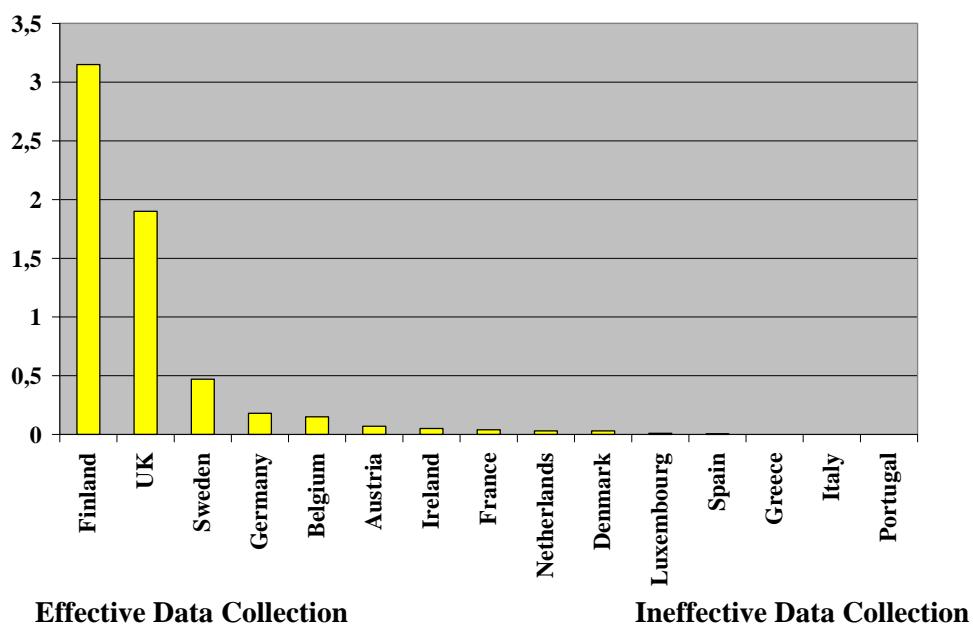
Whilst the immediate impression from looking at this figure is that the countries on the left have the greatest problem with racist violence, in fact a more reasonable interpretation is that, on the contrary, the figure portrays the 'most effective' and 'the least effective' data collection mechanisms on racist crime/violence (and associated activities) in the EU15 – with a high percentage score being 'best' and a low score 'worst'.

In sum, and in light of reports of the extensive nature of racist crime/violence in many Member States – as reported by unofficial sources including NGOs, academics, and international organisations such as CERD and ECRI:

- It can be suggested that very low or non-existent raw official data on racist crime, when read alongside the numbers of non-nationals in a country, reflects inadequate data collection mechanisms rather than actual low levels of racist crime.

And, therefore:

- It can be suggested that very low percentages for 'racist crime/violence as a percentage of a country's non-national population' are likely to indicate ineffectual data collection mechanisms on racist crime and violence.

Of course, this interpretation might be criticised for its failure to recognise the possibility that countries with low reporting and recording figures for racist crime and violence might actually not experience much racist crime and violence. Yet, in the light of context-specific readings of the situation in each Member State with regard to social and political tolerance towards non-nationals and other minorities, the assumption that low figures equate to low levels of racist crime and violence has to be questioned.

19.1.4.   Notable Trends within Member States

Given the limitations of trying to compare raw official data *between* Member States – as they employ different data collection mechanisms- **a more meaningful exercise is to look at trends *within* Member States over time.**

Looking at available data, we can establish whether any discernible trends exist in official reports of racist crime/violence for each Member State across different years.

Taking those countries that report data on racist crime and violence (and associated activities) for the years 2001, 2002 and 2003[101], the following can be noted:

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[101]   Eight NFPs provided official data on reports/records of racist crime and violence, and associated offences, for each of the years 2001, 2002 and 2003: Austria, Belgium, Denmark, Germany, Ireland, Netherlands, Sweden, and the UK. Both Belgium and the Netherlands provide data on 'racist crimes' and general *discrimination*. However, according to evidence submitted by the NFPs, the Dutch data appears to be more focused on 'racist crimes', while the Belgium data is more generic and relates to *discrimination* in relation to public services, such as housing and employment. Therefore it was decided to exclude the Belgian data from the trends mapping exercise.

Table 4: Trends Over Time, 2001-2003
Official reports/records relating to racist crime/violence and associated activities[102]

	2001	2002	2003	% change 2001-02	% change 2002-03	% change 2001-03
Austria	528 complaints	465	436	- 11.9	- 6.2	- 17.4
Denmark	116 incidents	68	52	- 41.4	- 23.5	- 55.2
Germany	14,725 crimes	12,933	11,576	- 12.2	- 10.5	- 21.4
Ireland	43 incidents	102	81	+ 137.2	- 20.6	+ 88.4
Netherlands	198 offences	242	204	+ 22.2	- 15.7	+ 3.0
Sweden	2,670 crimes	2,260	2,308	- 15.4	+ 2.1	- 13.6
UK	53,092 incidents	54,370	49,078	+ 2.4	- 9.7	- 7.6

Table 4 presents absolute figures as well as percentage changes between the years 2001-2002 and 2002-2003, and from 2001 to 2003.

Three Member States – **Austria**, **Denmark** and **Germany** – show a clear downward trend in complaints and incidents related to racist crimes and violence for each of the years 2001, 2002 and 2003.

In comparison, **Ireland, Netherlands** and the **UK** all show an increase in recorded offences for the period 2001-02, which is then followed by a decrease for the period 2002-03. This trend results in vastly different overall percentage changes when looked at for the period 2001 to 2003 – with a percentage increase of just 3 per cent for the Netherlands, in comparison with Ireland's significant increase of 88.4 per cent. In comparison, the UK experienced an overall percentage decrease of 7.6 per cent for the same period.

In contrast to the above, **Sweden** shows a decrease in recorded crimes in the period 2001-2002, and a slight increase in the period 2002-2003. This results in an overall decrease in recorded xenophobic crimes for the period 2001-2003.

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[102] The data in this table is not directly comparable between Member States as it is taken from different sources (see Table 2). Original sources: RAXEN NFP reports. It should also be noted that when NFPs provided a range of data – for example, on complaints as well as recorded offences – then the higher figure was taken in order to give a 'best estimate' of reporting and recording practices.

Figures 4 and 5 (below) graphically interpret the percentage changes outlined in Table 4.

Figure 4: Percentage change in reports/records of racist crime and violence and associated activities for the periods 2001 -2002 and 2002-2003
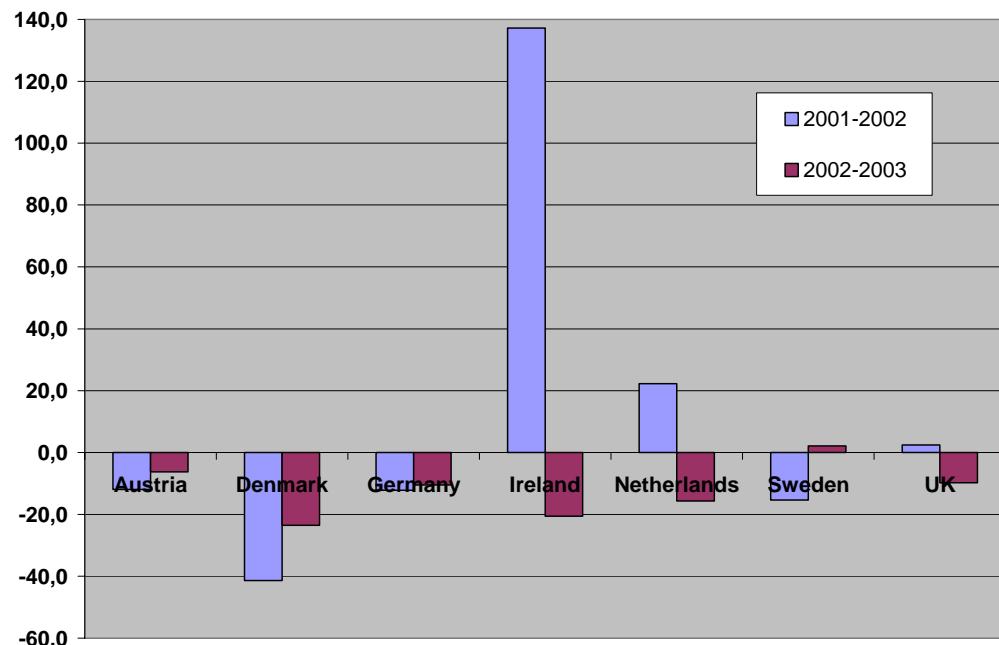

Figure 5: Percentage change in reports/records of racist crime and violence and associated activities for the period 2001 -2003
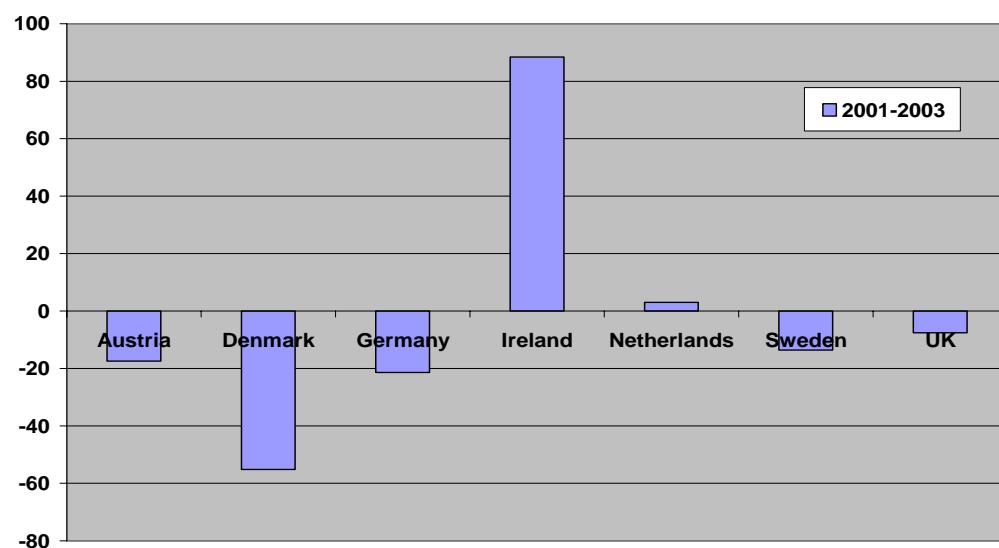
These above percentage changes can reflect:

- an actual decrease or increase in reported incidents, and/or
- changes in recording procedures, which may reflect changes in legislation and recording guidelines/practices

The context specific accounts at the beginning of each country profile (Chapters 4 – 18), together with references to political, criminal justice and policy developments at the end of each profile, give us an indication of some of the possible reasons for the above fluctuations.

Whilst an overview of trends allows for comparisons of data within countries, any significant increase or decrease in reported/recorded incidents of racist crime/violence needs to be cautiously interpreted for the following reasons:

- Member States with consistently low absolute numbers, such as Denmark and Ireland (see Table 4), can report dramatic percentage increases or decreases in reports/records of racist crime and violence on the basis of very few cases. For example – a Member State with 10 cases of racist violence in one year and 20 cases the next year can report a percentage increase of 100 per cent.
- In comparison, Member States with consistently high absolute numbers, such as the UK (see Table 4), will report less dramatic percentage increases or decreases in reports/records of racist crime and violence although their absolute figures far exceed those of other Member States.

19.1.5. What does/doesn't the data tell us?

Tables 2-4/Figures 3-4 reflect more about differences in data collection mechanisms than anything about the extent of racist violence in Europe. Therefore, we can conclude that:

Tables 2-4/Figures 3-4 do not accurately inform us about the extent of racist crime/violence in the 15 EU Member States.
If we were to read these tables at face value, as an indication of the extent of racist crime/violence in each Member State, we might (wrongly) assume that Finland or the UK have far more racist crime than other Member States, while countries such as Denmark and Luxembourg appear to have a minor problem with racist crime.

Tables 2-4/Figures 3-4 do inform us about gross under-reporting of racist crime/violence.
Comparing raw data of official reports of racist crime as a percentage of the non-national population for each Member State, it appears that racist crime is rarely reported.

Tables 2-4/Figures 3-4 more accurately reflect the ineffectiveness and disparity in official data collection mechanisms across the 15 EU Member States.

Given that (a) all Member States have non-national populations ranging from 2.0% to 8.9% of their national populations (and that these figures do not include national minorities/ethnic minorities, who also experience racist violence) and (b) given that racist crime, according to evidence from NGOs and other sources (as reported in the country profiles in this report), appears to be a significant problem in many Member States – it would appear that official data collection mechanisms are not able to capture the 'true' extent of racist crime/violence.

Looking at Tables 2 - 4/Figures 3-4 we can suggest the following for <u>most</u> countries of the EU15:

People are not reporting incidents of racist crime/violence

The authorities are not recording reports of racist crime/violence, and/or are not making data publicly available.

There is no tradition of official data collection on racist crime/violence.

In sum – there is gross under-reporting and under-recording of racist crime/violence in most Member States. As a result, it is extremely difficult to estimate the 'true' extent of racist crime/violence across the EU.

19.2.   DATA COLLECTION MECHANISMS IN THE EU 15

19.2.1.   Official Data in the EU 15

Table 2 shows that, on the basis of information made publicly available to the RAXEN NFPs, there are three Member States – **Greece, Italy and Portugal** - that have no official criminal justice data on racist crime/violence, or data on discrimination that includes racist crime and violence. **Spain** only released limited figures on racist/xenophobic acts for 2001 at the bequest of the Spanish NFP.

Belgium, Luxembourg and the Netherlands concentrate their data collection on reports of 'discriminatory offences'. While Luxembourg's data collection is limited, Belgium and the Netherlands have good mechanisms in place to record a broad range of discriminations. Belgium is also able to identify the number of discriminatory complaints that are related to racist violence, while the Netherlands is able to reveal whether reports are related to 'oral utterances' and related to the activities of the extreme right.

As a reflection of their National Socialist history, **Austria and Germany** focus their comprehensive data collection procedures on the activities of extreme right-wing groups. The Austrian data does not reveal any detail about violent racist offences, but the German data does. To a lesser extent, **Denmark** focuses its data collection on complaints relating to hate/racist speech and the activities of the

extreme right; although data is also available on the nature of violent incidents with a racist motive. **Sweden** also looks at the activities of the extreme right, but incorporates this within a broader framework of data collection on racist violence that is able to identify the extent of extreme right-wing involvement in racist crime/violence

Finland, France, Ireland and the UK have comprehensive data collection mechanisms in place that can reveal a lot about the extent and/or nature of racist violence. Although Finland's data is limited to 2002, it provides a comprehensive overview and estimate of racially motivated crime and racially motivated violent crime.

On the basis of the RAXEN NFP data for 2001, 2002, 2003 and 2004, the old EU15 can be tentatively categorised with respect to the official mechanisms that are in place to record data on racist crime/violence – see Table 5.

Table 5[103] Official criminal justice data collection mechanisms on racist crime/violence

Inadequate or non-existent data collection for years 2001, 2002, 2003 and 2004	Partial data collection or data focused on general discrimination	Good or Excellent data collection mechanisms	Good data collection focusing on the activities of extreme right-wing groups/hate speech
Greece	Belgium	Denmark	Austria
Italy	Netherlands	Finland	Germany
Luxembourg		France	
Portugal		Ireland	
Spain		UK	
		Sweden	

When looking at Table 5, we should realise that official data collection mechanisms are, in the first instance, framed by the **limitations of the law**; that is, whether 'racist motivation' is recognised in law and, therefore, whether 'racist crime/violence' can be singled out for counting.

For example:

Austria: the law does not recognise 'racist violence'; therefore official data on 'racist violence' is not collected. Instead the law recognises and collects statistics on the activities of extreme right-wing groups and, in particular, activities related to National Socialism.

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[103] Categorisation based on information supplied by RAXEN NFPs.

<u>United Kingdom:</u> the law recognises 'racist motivation' and can assign it as an aggravating factor to a range of offences in the criminal law; as a result, official data on 'racist violence' is collected.

Annex II – Official Data for New Member States

Bearing in mind the above discussion, Annex II provides an extra overview of official data collection on racist violence/crime in the ten new Member States.

As illustrated, there is a lack of publicly available official data in the new Member States.

In turn, as the comparison between France and the UK suggested at the beginning of this chapter, Member States with mechanisms in place to collect data on racist crime and violence do not necessarily have comprehensive data on racist crime and violence. Here, a comparison can be made between comprehensive legislation against racist crime and violence that, whilst looking good on paper, is not actually invoked in practice to fight racist crime and violence and convict offenders. In the same way, data collection mechanisms on racist crime and violence are only effective if they are aggressively put into practice. In this regard, Table 5 (above) is as much about the comprehensiveness of data collection mechanisms on paper – what they say they collect – as in practice – what they actually collect.

19.2.2.   Unofficial Data in the EU 15

Along with official data collection mechanisms, Member States have a broad range of semi-official or unofficial data collection mechanisms. These can range from comprehensive government-funded victim surveys through to descriptive accounts of media reports. As with official data sources, some countries are better served than others.

Table 6[104] Unofficial data collection/research on racist crime/violence

Inadequate or non-existent unofficial data sources	Some unofficial data sources	A range of unofficial data sources
Luxembourg	Austria	Denmark
	Belgium	Finland
	France	Germany
	Greece	Netherlands
	Ireland	UK
	Italy	

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[104]   Categorisation based on information supplied by RAXEN NFPs.

	Portugal	
	Spain	
	Sweden	

Luxembourg suffers from an absence of unofficial data collection/research on racist crime/violence. At the other end of the scale, it appears that **Denmark, Finland, Germany, the Netherlands and the UK** have a range of unofficial data collection and research on racist crime/violence. The remaining Member States have some unofficial sources on racist crime/violence.

19.2.3.   Comparing Official and Unofficial Data

Although both Tables 5 and 6 are based on subjective judgements about information supplied by the RAXEN NFPs for the years 2001, 2002, 2003 and 2004, they present a workable indicator on both official and unofficial data mechanisms and sources on racist crime and violence in the EU 15.

Looking at Tables 5 and 6, it can be tentatively suggested that Member States with non-existent, inadequate or partial official data collection also tend to suffer from an absence of comprehensive unofficial data collection. The Netherlands appears to be the exception to this rule – with limited official data specifically on racist violence, but good unofficial data collection on broad categories of 'discrimination'.

As ten of the fifteen Member States have 'some' unofficial sources on racist crime and violence, it appears that alternative mechanisms exist to reinforce weak or partial official data. NGO-based data collection and research forms an important back-up where official data collection is missing or inadequate.

In Denmark, Germany and the UK, where there is a tradition of official data collection on racist crime/violence, there is also a strong record of research and some unofficial NGO data collection in this field.

On this basis it can be cautiously suggested that good official data collection encourages good unofficial research and data collection. In other words, where a tradition of data collection exists, a number of sources can be found on racist violence, and/or discrimination which includes aspects of violence.

19.3.   THE NATURE OF RACIST VIOLENCE

The NFP country reports tend to present generalised descriptive reports about the nature or characteristics of racist violence in each Member State. As most countries keep sparse official data on racist crime and violence, there is very little that can be said about the nature of 'victims' and 'offenders' in cases of racist violence.

Ideally, criminal justice data on the nature of racist violence would present the following information:

- The 'race'/ethnicity/nationality/national origin of victim and offender
- The religious affiliation of victim and offender
- The nature of the violent racist offence – whether it was against the person or property
- The gender of victim (and the offender where this can be identified)
- The age of victim (and the offender where this can be identified)
- The location of the offence
- Whether the victim has been a victim of racially motivated crime on more than one occasion in the recent past – repeat victimisation

Other variables could be added to this 'ideal' list. However, as most police forces do not collect data for the above categories, the first step is to improve basic data collection on racist crime and violence.

Where official data is kept on racist crime/violence – what information is generally available?

- Offences can be sub-divided into categories on the basis of the criminal law/penal code, and a 'racist motive' can be assigned if this is recognised in law.
- Data is kept on the nationality of perpetrators, and in some States on their membership of extreme right-wing organisations. Data is sometimes kept on the nationality of victims. In comparison, Member States tend not to keep data on the 'race' or ethnicity of victims and offenders (with measurement of race/ethnicity prohibited in some jurisdictions). For example: Germany and Austria do not keep data on 'race'/ethnicity, but do keep data on nationality. In comparison, the UK can record ethnicity and nationality.
- Data tends to be kept on the location of the offence. Most jurisdictions can divide reports of crime according to police districts.

Because of the limitations of official data collection in most Member States, unofficial 'data' is a good source of information about the **nature** – and sometimes also the extent - of racist crime/violence.

In sum, on the basis of official and unofficial data sources, some broad generalisations can be noted with regard to the nature, or characteristics, of both victims and perpetrators of racist violence/crime:

19.3.1.   Who are the victims of racist crime and violence?

The RAXEN reports identified a variety of minority non-nationals/non-citizens of EU Member States as the primary victims of racist crime and violence. They also identified nationals and citizens who belong to minority groups as victims of racist crime and violence.

Within these broad categories a number of groups can be singled out as being particularly vulnerable to racist crime and violence.

While each Member State can identify specific nationalities or groups who are vulnerable to racist crime and violence, the following are consistently referred to in NFP reports (listed in alphabetical order, and not indicative of the extent of victimisation experienced by any one group):

- Ethnic minorities (in the case of the UK where ethnic minority data is collected)
- Illegal immigrants
- Jews
- Muslims
- North Africans
- People from the former Yugoslavia
- Refugees/asylum seekers
- Roma/Sinti/'Gypsies'

While this list is not exhaustive, it does give some indication of dominant vulnerable groups.

Within each of the above groups there is great variation in experience of racist discrimination, crime and violence as a reflection of each individual's demographic characteristics and personal circumstances with respect to, for example, gender, age, income, place of residence, and prior experience of victimisation. One's likelihood of being victimised is enhanced by certain personal characteristics and circumstances – such as being poor, living on a high crime estate, or being single. This is not to suggest that people should be blamed for their own victimisation, but rather to recognise that certain people or groups are more likely to experience racist crime and violence as a result of a combination of personal characteristics and circumstances which make them more vulnerable to crime. In the same vein, racist offenders are more likely to target particular individuals, groups, homes, shops and neighbourhoods as 'easy' targets[105].

Looking at evidence from individual Member States the following can be noted; for example:

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[105] Farrell, G. (1992) *Multiple Victimisation: Its Extent and Significance*, International Review of Victimology, 2: 85-102; Phillips, C. and Sampson, A. (1998) Preventing Repeated Racial Victimization, *British Journal of Victimology*, 38(1): 124-144.

Denmark:

Research survey by Møller and Togeby (1999) on discrimination and victimisation: 1132 people were questioned, from a range of nationalities, aged 18-66. 'Physical attacks' were experienced by the following percentage of respondents within each nationality group: Somalians 14%; Turkish 9%; Lebanese 7%; Bosnians 4%. 'Being pushed' was experienced by the following percentage of respondents within each nationality group: Somalians 46%; Lebanese 19%; Turkish 15%; Bosnians 4%.

Finland:

Police data: In 2002, there were 3,367 reports of crime against foreigners and ethnic minorities, of which the police estimate 10% are racially motivated. Of these racially motivated crimes, 38% relate to physical violence.

Typically, police data indicate that racially motivated violent crime occurs in public places (as opposed to racist crime in or against private places – the home).

The number of victims by nationality, in declining order, are: Finnish, Somalian, Turkish, Russian, and Iranian. Among Finnish victims, the majority are immigrants who have been granted Finnish citizenship.

75% of victims are men. There are 10% more male than female victims when compared with the gender profile for non-racist crimes.

France:

Commission Nationale Consultative des Droits de l'Homme (CNCDH): In 2002, of all violent racist incidents noted by the CNCDH, 62% were antisemitic in nature.
Germany:

Federal Ministry for Employment and Social Order: In 2001, conducted a survey with 1,000 migrants: 14.9% of respondents had been 'pestered'; 5.5% had been threatened; 2.0% had been assaulted; 1.4% had been injured as a result of xenophobic acts.

On the basis of official and unofficial sources, RAXEN notes the following: More than 50% of victims of xenophobic violence are foreign nationals, of which nearly 50% are asylum seekers. Ethnic German immigrants – Spätaussiedler – are also particularly vulnerable to attacks.

Risk of victimisation is higher for people who look physically different from the majority of German society: Africans, Turks, Vietnamese, Roma/Sinti.

United Kingdom:

2000 British Crime Survey (BCS, Home Office): In 1999, the number of racially motivated offences, including racist violence, for England and Wales, was 280,000.

BCS findings suggest that ethnic minorities are at greater risk of property crime than the 'white' population.

BCS findings suggest that ethnic minorities face similar risks for *violence* as the 'white' majority – though there is greater variation *between* different minority groups and *within* minority groups according to income, place of residence etc. However, this finding does not suggest that ethnic minorities face similar risks for *racist violence* as the 'white' majority. In other words, when we take into account racist motivation for violent crime, minority groups are more at risk than the majority population of violent *racist* victimisation.

19.3.2. How to interpret data sources on the nature of racist crime and violence

Looking at available information on victims of racist crime/violence for all the Member States, some information about victim characteristics can be noted.

- Where *official data* on racist victimisation is available, it tends to categorise victims according to nationality. In some countries, reports of racist crime/violence will also be classified as antisemitic/anti-Muslim etc.
- *Unofficial data sources* – such as NGO reports and research studies – usually provide more detail about victim characteristics.

In sum, the following points can be drawn from the NFP reports:

- Groups or individuals who are marginalised at a number of levels (because of how they look, their history of discrimination/persecution, their status as refugees/asylum seekers/illegal immigrants etc.) are particularly vulnerable to racist crime/violence.
- Racist crime and violence is compounded by different aspects of social marginalisation, such as low income and poor housing, and is cross-cut by demographic variables such as an individual's gender and age.

Although vulnerability to racist crime and violence is enhanced by combined aspects of social marginalisation – it should be remembered that both the socially marginalised *and* the socially integrated can be victims of racist crime and violence. In other words, affluence does not make people immune from racist victimisation.

19.3.3. Who commits racist crime and violence, and 'why'?

Typically, information from the RAXEN reports tends to identify, with some overlap, the following groups as the main perpetrators of racist crime and violence.

- Young males
- Members of extremist politically motivated organisations
- Others not affiliated to extremist politically motivated organisations

Evidence from official and unofficial sources indicates that young men are, overwhelmingly, the perpetrators of racist crime and violence. While some young men commit racist violence as members of right-wing extremist groups, others commit racist violence without belonging to these groups.

Although the NFP reports did not focus on inter-ethnic/inter-religious conflicts, consideration also needs to be given to the influence of other forms of 'extremism' on the manifestation of racist violence – in particular with regard to how global conflicts resurface in localised settings as racist violence and intimidation (see Chapter 20).

When looking to identify the perpetrators of racist crime and violence, a number of Member States focus their investigative and criminal justice activities on the activities of extreme right-wing groups and individuals. Austria and Germany concentrate their data collection on the activities of the extreme right. To a lesser extent, Denmark, Italy and Sweden also concentrate their criminal justice efforts on monitoring the activities of extremist political groups (although Italy does not make official data publicly available). Because of this, it is something of a self-fulfilling exercise that in Austria and Germany racist activities are connected with the extreme right.

While the extreme right, in its various guises, is undoubtedly responsible for a lot of racist crime and violence (and associated activities), there is strong evidence from some NFP reports that the majority of racist crime and violence, in recent years, is *not* attributable to the extreme right. For example:

France:

Commission Nationale Consultative des Droits de l'Homme (CNCDH): In 2001, 14% of racist incidents were attributable to the extreme right. In 2002, only 9% of racist incidents were attributable to the extreme right. In comparison, in 1994, the CNCDH estimates that 68% of racist incidents were attributable to the extreme right. Given that recent evidence shows that a minority of racist incidents are committed by the extreme right, it would seem to suggest that a large number of antisemitic incidents are related to North African youths, as NGO reports suggest, although there is no publicly available official data with information on perpetrators' ethnicity or religion.

Netherlands:

The National Discrimination Expertise Centre (LECD): In 2001, 198 discriminatory offences were recorded, of which the mainstay were 'oral utterances' and only 20 were committed by the extreme right. In 2002, 242 discriminatory offences were recorded, of which the mainstay were 'oral utterances' and only 8 were committed by the extreme right.

The Dutch Monitoring Centre on Racism and Xenophobia (DUMC): In 2002, recorded 264 racist acts, of which 83 were threats, 38 were vandalism, 75 were assault, and 10 were arson. Of these, only 12 were prompted or suspected of being prompted by the extreme right. In previous years, the proportion of incidents committed by the extreme right was higher.

Sweden:

Police data: In 2002, 2,260 xenophobic crimes (excluding antisemitism) were recorded. Of these, 15.4% were connected with the 'White Power' movement. In 2002, 131 antisemitic crimes were recorded. Of these, 17.6% were connected with the 'White Power' movement. In 2003, 2,308 xenophobic crimes (excluding antisemitism) were recorded. Of these, 18.1% were connected with the 'White Power' movement. In 2003, 128 antisemitic crimes were recorded. Of these, 23.4% were connected with the 'White Power' movement.

While it might be the case that recorded incidents are not correctly identified as being committed by the extreme right, it appears that some countries have proportionately fewer xenophobic, racist or antisemitic activities that can be attributed to the activities of the extreme right. Or, at the same time, it appears that 'ordinary' members of the public are committing 'racist' crimes. Conversely, the **Spanish** NFP, on the basis of a subjective reading of *qualitative* sources, suggests an upsurge in violent racist activities by the extreme right, predominantly taking place in Spain's big urban centres, as well as an increase in 'spontaneous' racist activities that cannot be attributed to the extreme right.

Finally, without any clear explanations for the above information, we can only speculate on 'why' people are committing racist crime and violence – particularly, as suggested, if a lot of racist crime and violence is no longer being committed by people connected with the extreme right. The data in the NFP reports does not offer any clear answers to these questions, but a number of explanatory reasons for racist violence are suggested in the country profiles contained in each chapter, and more generally by research in the field of racist crime and violence.

These different explanations for racist violence will, together with other explanations, be explored in Chapter Twenty – 'Understanding the Research Findings'.

Official data on racist crime/discrimination

Extent of racist crime/violence reported by official sources in Member States (or data on discrimination where other data is not available)[106]

Member State	Source of data	Data for 2001	Data for 2002	Data for 2003	Data for 2004 Latest info available
Belgium	Centre for Equal Opportunities and Opposition to Racism[107]	1246 reports of racist discrimination, which can include violence	1316 reports of racist discrimination, which can include violence	1827 reports of racist discrimination, which can include violence	NO data available
Denmark	Police	65 complaints relating to hate speech/racist speech	36 complaints relating to hate speech/racist speech	28 complaints relating to hate speech/racist speech	**First three quarters of 2004** 24
	PET (Danish Civil Security Service)	116 criminal incidents with a suspected racist motive	68 criminal incidents with a suspected racist motive. Of which (according to RAXEN classification under PET categories): Arson 4; harassment 20; vandalism 19; propaganda 8; threats 8; unrest 1; physical attack 8.	52 criminal incidents with a suspected racist motive Of which (according to RAXEN classification under PET categories): Arson 4; harassment 14; vandalism 9; propaganda 12; threats 9; physical attacks 4.	**Up until 24/11/2004** 24

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[106] The figures in this table are not directly comparable between Member States as they are taken from different sources. Original source: RAXEN NFP reports 2001-04.

[107] The CEOOR is considered here as 'semi-official'.

Table continued	Source of data	Data for 2001	Data for 2002	Data for 2003	Data for 2004
Germany	Federal Office for Internal Security Police	14,725 crimes registered as 'politically motivated criminality, right-wing' No breakdown given in RAXEN3	12,933 crimes registered as 'politically motivated criminality, right-wing' Of which, 940 were 'violent'. Of these 12,933 crimes, 10,902 were classified as 'extremist', of which 772 were classified as 'violent extremist crimes'. Of these 12,933 crimes, 2,789 were xenophobic, of which 512 were violent, and 1,594 were antisemitic, of which 30 were violent.	11,576 crimes registered as 'politically motivated criminality, right-wing' Of which, 845 were 'violent'. Of these 11,576 crimes, 10,792 were classified as 'extremist', of which 759 were classified as 'violent extremist crimes'. Of these 11,576 crimes, 2,431 were xenophobic, of which 465 were violent, and 1,226 were antisemitic, of which 38 were violent.	First ten months of 2004 (Jan-Oct) 6,474 crimes registered as 'politically motivated criminality, right-wing' Of which, 397 were violent. Of these, 6,474 crimes, 1,208 were xenophobic, of which 203 were violent.
Greece	NO official data	NO official data	NO official data	NO official data	NO official data
Spain	Civil Guard Data not publicly available and only supplied to the NFP on request for 2000 and 2001.	66 racist/xenophobic acts recorded. Of these, 37 were related to physical violence, 14 were related to damage to property, and 15 were related to insults and threats.	NO data available	NO data available	NO data available

Table continued	Source of data	Data for 2001	Data for 2002	Data for 2003	Data for 2004
France[*]	Ministry of the Interior	NO data available	Total: 1305 racist, xenophobic *and* antisemitic threats and acts of intimidation reported. Of which 313 were acts. Of the 1305 threats/acts, 924 were against the Jewish community. Of the 313 acts, 193 were against the Jewish community.	Total: 817 racist, xenophobic *and* antisemitic threats and acts. Of these, 217 were acts and 600 threats. Of the 817 total, 229 were racist (92 were violent acts and 137 were threats). Of the 817 total, 588 were antisemitic (125 were violent acts and 463 were threats).	Total: 1,565 racist, xenophobic *and* antisemitic threats and acts. Of these, 369 were violent acts against people and property. Of the 1,565 total, 970 were antisemitic. Of these antisemitic incidents, 117 were related to physical acts (including 53 directed at minors). Remaining incidents (not related to antisemitism) tended to be anti-Maghrebian in nature. **First six months of 2004:** There were 63 threats and acts of intimidation against the Muslim community
Ireland	Police	43 incidents recorded with a 'racist motive', of which 27 were violence related.	102 incidents recorded with a 'racist motive', of which 80 were violence related.	81 incidents recorded with a 'racist motive', of which 53 were violence related.	NOT available

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[*] French data updated subsequent to print publication of Summary report.

Member State	Source of data	Data for 2001	Data for 2002	Data for 2003	Data for 2004 Latest info available
Italy	NO official data	NO official data	NO official data	NO official data	NO official data
Luxembourg	Police	16 complaints of racial discrimination were registered	11 complaints of racial discrimination were registered	NO data available	NO data available
Netherlands	National Discrimination Expertise Centre (LECD)	198 discriminatory offences recorded, of these 167 were oral utterances and 20 were committed by extreme right-wing groups.	242 discriminatory offences recorded, of these 191 were oral utterances and 8 were committed by extreme right-wing groups.	204 discriminatory offences recorded, of these 154 were oral utterances (no further detail available).	NO data available
Austria	Police Ministry of Interior Ministry of Justice	528 complaints against individual persons relating to a range of prohibited racist/xenophobic acts 335 crimes with right-wing extremist, xenophobic or antisemitic motivation	465 complaints against individual persons relating to a range of prohibited racist/xenophobic acts 326 crimes with right-wing extremist, xenophobic or antisemitic motivation	436 complaints against individual persons relating to a range of prohibited racist/xenophobic acts 299 crimes with right-wing extremist, xenophobic or antisemitic motivation	NO data available
Portugal	NO official data	NO official data	NO official data	NO official data	NO official data

Table continued	Source of data	Data for 2001	Data for 2002	Data for 2003	Data for 2004
Finland	Police	448 reports of crime against foreigners or minorities were assigned a racist motive. NO further data available	3,367 reports of crime against foreigners or ethnic minorities, of which 367 had a racist motive. Of these racially motivated crimes, 38% related to physical violence and attempts, and 18% to damage and other disturbance.	NO data available	NO data available
Sweden	Swedish Security Police	2,670 xenophobic crimes registered (excludes antisemitism). Of which: 25 gross assaults; 409 assaults; 1,038 threats/harassment; 134 vandalism cases; 74 graffiti cases. 115 antisemitic crimes registered: Of which: 1 gross assault; 7 assaults; 41 threats/ harassment; 8 vandalism; 12 graffiti.	2,260 xenophobic crimes registered. Of which: 1 murder; 16 gross assaults; 334 assaults; 855 threats/harassment; 73 vandalism; 58 graffiti. 131 antisemitic crimes registered. Of which: 1 gross assault; 5 assaults; 47 threats/harassment; 11 vandalism; 10 graffiti.	2,308 xenophobic crimes registered. Of which: 27 gross assaults; 356 assaults; 878 threats/harassment; 101 vandalism cases; 64 graffiti cases. 128 antisemitic crimes registered. Of which: 3 assaults; 35 threats/harassment; 9 vandalism; 10 graffiti.	NO data available

Table continued	Source of data	Data for 2001	Data for 2002	Data for 2003	Data for 2004
United Kingdom[*] *(data for England and Wales)*	Police/CPS/Home Office	**Data for period 2000-01**	**Data for period 2001-02**	**Data for period 2002-03**	**Data for period 2003-04**
	Home Office	53,092 racist incidents <u>recorded</u> by police 25,116 racially aggravated offences <u>recorded</u> by police	54,370 racist incidents <u>recorded</u> by police 30,084 racially aggravated offences <u>recorded</u> by police	49,078 racist incidents <u>recorded</u> by police 31,035 racially/religiously aggravated offences <u>recorded</u> by police	52,694 racist incidents <u>recorded</u> by police 35,022 racially/religiously aggravated offences <u>recorded</u> by police
		Of which, racially aggravated offences: 3176 wounding; 12,468 harassment; 4711 common assault; 1765 criminal damage to a dwelling; 985 criminal damage to a building other than a dwelling; 1399 criminal damage to a vehicle; 612 other criminal damage.	Of which, racially aggravated offences: 3463 wounding; 14,975 harassment; 5164 common assault; 2228 criminal damage to a dwelling; 1547 criminal damage to a building other than a dwelling; 1885 criminal damage to a vehicle; 822 other criminal damage.	Of which, racially/religiously aggravated offences: 4352 wounding; 16696 harassment; 4491 common assault; 2044 criminal damage to a dwelling; 1152 criminal damage to a building other than a dwelling; 1524 criminal damage to a vehicle; 776 other criminal damage.	Of which, racially/religiously aggravated offences: 4840 wounding; 20584 harassment; 4017 common assault; 1981 criminal damage to a dwelling; 1162 criminal damage to a building other than a dwelling; 1602 criminal damage to a vehicle; 836 other criminal damage.
	Home Office			4,806 persons prosecuted for racially aggravated offences, and 594 persons cautioned by the police.	5,629 persons prosecuted for racially aggravated offences, and 681 persons cautioned by the police.

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[*] UK data updated subsequent to print publication of Summary report.

UK continued	Source of data	Data for 2001	Data for 2002	Data for 2003	Data for 2004
	CPS		2674 defendants prosecuted racially aggravated offences	3616 defendants prosecuted racially aggravated offences	
	Home Office	2120 racist incidents recorded in <u>prison</u>	4597 racist incidents recorded in <u>prison</u>	5784 racist incidents recorded in <u>prison</u>	

20. Understanding the Research Findings

20.1. MANIFESTATIONS OF RACIST VIOLENCE

If we look at the context for racist crime and violence in each Member State, as set out at the beginning of each country profile, we can begin to understand the complex and diverse manifestation of racist violence across Europe.

20.1.1. The Impact of Global Conflicts

Global conflicts impact at the local level in Member States, and can resurface as racist violence against and between different sections of the population. The on-going Israel/Palestine conflict, the wars in Iraq and Afghanistan, and the terrorist attacks of September 11th 2001, are major global conflicts that have variously impacted on levels of racist harassment and violence at the local level in Europe. For example:

- There is clear evidence from a number of Member States that attacks on Muslim communities increased in the months following September 11th.
- Attacks also increased on minorities who were (wrongly) suspected of being Muslim.
- There is also evidence from a number of Member States, such as France, Belgium, Netherlands, that attacks on Jewish people and Jewish property have flared up in response to conflicts in the Middle East.

The attacks on Muslim communities in the aftermath of September 11th have been documented by a number of NGOs in Member States, and in some instances by official sources. But these reports provide little substantial evidence with respect to the perpetrators or alleged perpetrators of these acts. In comparison, there has been some notable speculation about the perpetrators and alleged perpetrators of antisemitic violence. Young Muslim males have been regularly identified, on the basis of both fact and speculation, as the major perpetrators of antisemitic violence. Jewish communities in a number of Member States have suffered from intimidation and attacks against person and property, as the EUMC report: "Manifestations of Antisemitism in the EU 2002 – 2003" has shown. This has created a climate of fear and mistrust between Jewish and Muslim communities that has been recorded in another EUMC report on the "Perceptions of Antisemitism in the European Union". At the same time, young Muslims are also being identified as potential criminals and terrorists as EU internal security is stepped up in response to the September 11th attacks, and ensuing global conflicts, as well as, more recently, the Madrid bombings in March 2004 and the murder of Theo van Gogh in November 2004.

20.1.2.   Insecurity and Hostility towards 'Outsiders'

Negative political and media responses to particular groups can serve to enhance majority populations' hostile attitudes towards minorities. Too often, minorities are linked to increased crime rates and the threat of terrorism on the basis of pure speculation rather than 'fact'. As a consequence, people's negative attitudes towards the presence of minorities in their country are based frequently on perceived threats. In turn, these negative perceptions are affected by a combination of factors that enhance people's feelings of personal insecurity. As an illustration of this, findings from EUMC-commissioned research on majorities' attitudes towards minorities, which is based on a statistical analysis of data taken from recent Eurobarometer and European Social Surveys, found the following:

> '*The more people perceive decreases in their personal safety, or the more they distrust other people or political leaders ... or the more they perceive ethnic minorities to pose a collective threat, the more they favour ethnic exclusionism.*'[108]

What this indicates, among other things, is that people who display heightened fear of crime and distrust in others are more likely to display hostile attitudes towards ethnic minorities and immigrants. In other words, if people show hostility towards minorities – as thoughts, words or actions, including violent crime – the roots of this hostility can be partly understood by looking at individuals' personal characteristics and insecurities.

The above survey also found that people in rural areas, where immigrant and ethnic minority populations are typically small, showed more negative attitudes towards minorities than people in urban areas, where immigrant and ethnic minority populations tend to be large. What this seems to indicate is that people's attitudes are often not grounded in actual experience. Here, intolerance or 'fear' of the unknown, in this case 'outsiders', plays an important part in forming people's attitudes.

Personal insecurities are shaped by both real and perceived threats to one's well-being. Personal experience of unemployment and criminal victimisation, as concrete experiences, can serve to enhance an individual's sense of insecurity. As concrete experiences they are, in turn, affected by perceived threats to one's well-being, such as the threat of terrorism. This combination of real and perceived threats can then be directed at 'outsiders' who present an easy target to 'blame' for one's misfortune or sense of insecurity.

Many people experience both real and perceived problems and threats in their daily lives. However, it needs to be asked which individuals or groups transfer these negative experiences and perceptions into hostility against 'outsiders', and, in particular, into violent racism?

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[108]   EUMC (2005) 'Majorities' Attitudes Towards Minorities', Report IV; see: www.eumc.eu.int

20.1.3. Who are the Perpetrators?

On the basis of official and unofficial reports, racist violence, against both people and property, has shown both marked increases and decreases in different Member States since 2001. We can be certain, as indicated in Chapter 19, that certain groups are victims of racist violence. However, we can be less certain when attempting to attribute racist violence to particular groups of perpetrators.

As a great deal of racist violence is against *property*, and in most cases the perpetrators are not identified (or do not identify themselves by means of graffiti), it is a dangerous exercise to attempt to attribute actions to certain groups. In comparison, cases of racist violence against the *person* readily allow, in most instances, identification of the perpetrator. Although victims can wrongly identify their assailant's nationality/ethnicity, people can usually give a rough description of who attacked them on the grounds of appearance and speech. Similarly, an assailant's age is sometimes difficult to gauge accurately, whereas their gender is straightforward. Yet without use of racist language or obvious signs of extreme right-wing affiliation, such as swastikas and other symbols on assailants' clothing, it is not always obvious whether a violent attack against the person is motivated by racism/xenophobia/anti-Semitism.

Data collection in some Member States focuses on the activities of the extreme right. For example, in Germany the focus is on 'politically motivated criminality, right-wing'. Therefore, by default, German data indicates that racist and violent racist offences are perpetuated by the extreme right.

However, given that evidence from *some* Member States indicates that extreme right-wing groups commit a *minority* of racist violence, we can also speculate that a large proportion of racist violence is committed by people who are *not* affiliated to extreme right-wing groups.

On the basis of available data, explanations for 'who' commits racist violence can be tentatively framed as follows:

- People who are not affiliated to the extreme right/extremist politically motivated organisations commit racist crime/violence
- People who are affiliated to the extreme right/extremist politically motivated organisations commit racist crime/violence, but in some Member States the extreme right/extremist organisations commit a small proportion of all racist crime/violence
- Racist violence can manifest itself as inter-ethnic/inter-religious conflicts between minority communities

The above points are controversial because:

(a) they challenge long-held assumptions about the role of the extreme right in racist violence, and might appear to deflect attention away from the extreme right as perpetrators;

(b) they include explanations of racist violence by members of minority communities themselves, and so might appear to deflect attention away from the extreme right and majority populations as perpetrators; and

(c) they are not supported by hard evidence from each Member State.

However, if one considers that a great deal of racist violence – such as damage to property, racist name-calling and intimidating behaviour - is committed as everyday, low-level racism, and in the main by young people/school-age children, then the above statements appear less controversial.

With this in mind, it is useful at this point to see what criminology and related research has to offer by way of explanation for racist violence.

20.2.   WHAT RESEARCH TELLS US

This section presents some main explanations from criminology and related research that inform us about possible causes and manifestations of hostility towards minorities and migrants – including racist violence.

Explanations for racist crime and violence can be grouped under the following broad headings:

Meta explanations	Dominant theoretical explanations of racist violence
Meso explanations	National/local contextual readings of racist violence
Micro explanations	Explanations for racist violence that focus on the individual

20.2.1.   Meta Explanations

Some main explanations for racist violence:

Economic Competition

This theory suggests that 'outsiders', such as ethnic minorities, are seen as posing a threat to the economic livelihood of majority populations. This sense of threat is exacerbated in times of economic hardship. People on low incomes and in marginalised employment feel particularly threatened by competition for

scarce resources – employment, housing, welfare – from 'outsiders'. Research employing this theory has found mixed results, with some indication that levels of hostility towards minorities/migrants reduces with economic prosperity.[109] There is also ample evidence from NGO reports that racist violence manifests itself in areas and amongst people that are not suffering from economic hardship.

Size of Minority Population

This theory suggests that hostility towards 'outsiders' is related to the size of the minority population and, in particular, to rapid increases in the size of the minority population. Examples from Germany at the beginning of the 1990s, when large numbers of asylum seekers and refugees entered the country and violent racist attacks/incidents of arson increased, would seem to support this theory and concur with calls for restrictive immigration policies. Yet there is also contradictory evidence that racist violence has not flared up as a result of increasing numbers of minorities/immigrants. In practice, a number of researchers have found that racist violence has increased in the months *after* governments have introduced restrictive immigration policies.[110] It is also apparent that minorities experience racist violence when their numbers are small - here one thinks of attacks against the Jewish community, whose population is small in most Member States.

The Extreme Right

Support for extreme right-wing political groups and organisations, which promote racist violence, is offered as a dominant explanation for racist violence and associated activities in a number of European countries. These parties/organisations share similar ideologies, and in countries such as Austria and Germany are able to ground themselves in a National Socialist past. Although membership of extreme right-wing groups and organizations may be small, their impact stretches beyond their membership and is particularly influential on young people through channels such as the internet and so-called 'Oi!' music, which has overt racist/xenophobic/antisemitic overtones.

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[109] EUMC (2005) 'Majorities' Attitudes Towards Minorities'; see: www.eumc.eu.int – based on research exploring the relationship between GDP and attitudes towards migrants and minorities, taken from the Eurobarometer and the European Social Survey in the EU15, the 10 new Member States, and applicant countries.

[110] Bjørgo, T. and Witte, R. (1993) (eds.) Racist Violence in Europe, London: Macmillan.

Cultures of Racism

In contrast with the above approach, other researchers have attempted to identify 'national characteristics' that favour manifestations of racism, including racist violence. Drawing on histories of colonialism and the excesses of the Nazi period in the twentieth century, this approach tries to identify characteristics that are peculiar to particular countries and their people, at certain times, and which allow racist violence to thrive.[111] Rather than focus on racism and racist violence as the actions of an extremist minority, this approach puts racist violence at the heart of the State and ordinary citizens' lives. When cultures tolerate racist values, other manifestations of racism, such as violence, are, according to this theory, more likely to occur.

Different NFPs approach the subject of racist crime and violence from different standpoints. For those countries with a National Socialist past, explanations that lie with the extreme right have a greater appeal, whereas explanations that dwell on a particular country's 'culture of racism' are, for obvious reasons, less popular.

Meta explanations for racist conflict and violence that are based on economic competition theory and population size/movements appear at first sight to offer the most tangible 'answers'. But their explanatory value fails when we are confronted with racist violence in times of economic prosperity and against small/stable minority populations. Herein, other explanations for racist violence are needed.

Explanations of racist violence, which tend to focus on tangible socio-economic factors, such as unemployment, should also consider the part played by more abstract influences on manifestations of racist violence – such as perceptions of threat and related insecurities (as referred to earlier). However, people's fears and insecurities, which in turn reflect concrete realities such as unemployment, are less easy to measure than socio-economic indicators.

Explanations of racist violence can, as outlined in Part I, Chapter One, also focus on the manifestation and causes of *violence*. Although the causes of *racist violence* can be distinct from the causes of *violence*, there are points at which the two share similar characteristics and explanatory factors. Given that the majority of public place violent crime – whether racist or non-racist in motivation – is perpetrated by young males, including teenagers and children, explanations of racist violence should also concentrate on the motivations of these particular groups.

Finally, when looking to explain racist violence as it occurs in certain places, at certain times, and amongst certain populations, we need to turn our attention to the specific **context of racist violence**.[112]

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[111] Goldhagen, D.J. (1996) Hitler's Willing Executioners: Ordinary Germans and the Holocaust, London: Little Brown.

[112] Webster, C. (1997) *Local Heroes: Racial Violence Among Asian and White Young People*, Leicester: Leicester University.

20.2.2. Meso Explanations

20.2.2.1. Contextualising violent racist offending in time and place

When we attempt to understand the manifestation of violent racism and draw on some of the theories and offender characteristics offered above, it is useful to have some understanding of the local culture/s in which violent racist acts occur.

CULTURAL CONTEXT

Violent racism occurs either as a lone incident or as a series of incidents (repeat victimisation) at different times and in different places. Violent racism can be the outcome of a spontaneous act by an individual, but it can also be sparked by an event or series of events at local and national level. To this end, local and national events, and political and media responses to these events, as outlined at the beginning of each country profile, can fan the flames of racist violence.

The criminal law, through the criminal justice system, manages to strip violent racism of the wider context in which it occurs. While the circumstances surrounding a particular criminal act are well documented in law, there is no reference to wider developments at local, regional and national level which can influence acts of racist violence. Inter or intra-community hostilities, which can include inter-ethnic and inter-religious hostilities, do not generally come under the remit of criminal law as explanatory factors that can assist in the conviction or dismissal of a case relating to racist violence. In comparison, criminological and sociological studies set out to contextualise racist violence in time and place.

In addition to particular events or on-going conflicts that can impact on manifestations of racist violence at a national or international level – such as the September 11th attacks on the USA and the continuing Israel/Palestine conflict – we can also understand racist violence with reference to the particular community in which violence and/or racist violence occurs. In other words, if a local community actively or passively condones violence, intolerance and racism, then acts of (racist) violence become more readily explicable (though not excusable).

In sum, consideration can be given to:

- **The local culture/environment**: whether it silently condones racist violence or actively encourages it
- **The time/place**: racist violence needs to understood in the present and historical context of particular places, and their relationship to violence/intolerance/racism; particular relevance needs to be given to incidents that can spark violent racism

Looking at cultural context can, together with meta-theories about the causes of racism, help us to comprehend the circumstances in which racist violence occurs.

CRIME CONTEXT

We can also understand patterns of violent racist offending if we look at the combination of practical circumstances and factors that facilitate crime. To this end, we need to consider the following:

- **Opportunity**: There must be the opportunity to commit crime; that is, a likely target or victim, and the presence of an offender/s. In the case of racist offences this means the presence of likely minority targets – either a person or property belonging to minorities.
- **Impunity**: Minority groups are often victimised because they are thought to be 'easy targets'; that is, they are seen as less inclined to report their victimisation to the police.
- **Vulnerability**: Some minority groups are seen as possessing attributes that increase their vulnerability to victimisation – such as social isolation. Minority women, children and elderly people are seen as particularly vulnerable targets.

Socially marginalised minority groups are especially vulnerable to victimisation. Offenders see them and their property as 'easy targets', particularly as many minorities are unlikely to report their victimisation to the police. Because of this, a number of minorities are particularly vulnerable to **repeat victimisation**[113]. What this means is that a person or property is victimised on a number of occasions, in a relatively short period of time ranging from a few days to months, either by the same or different offenders.

In addition, when referring to the practical conditions and circumstances that facilitate racist violence, consideration should also be given to one important but much overlooked factor – the consumption of **alcohol**.

As noted in the **German NFP report**, and also in the **UK's NFP report**, alcohol is often a key component in violent racist offences. Other country reports also provide descriptive details of incidents that took place in and around bars and clubs. Although no explicit mention is usually given to alcohol in these reports, or the consumption of illicit drugs, one can speculate that violent crime is more likely to occur in settings where alcohol is consumed. As a drug, taken in excess, alcohol exaggerates normal behaviour and can encourage anti-social behaviour in peer group settings.

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[113] Farrell, G. and Pease, K. (1997) Repeat Victim Support, *British Journal of Social Work*, 27, pp.101-113.

20.2.3.   Micro Explanations

20.2.3.1.   Characterising violent racist offenders

The German NFP reports offer some interesting insights, from official and unofficial sources, about offender characteristics in cases of racist violence; namely:

- The majority of offenders are male and aged between 15-24 years.
- Offenders are under-educated when compared with their peers.
- There is some indication that unemployed people are over-represented among offenders
- The majority of suspects/offenders are not first-time offenders, but have already been registered for right-wing extremist and other crimes that are not connected with right-wing extremism.
- Offences are generally committed spontaneously, as part of a group, and often under the influence of alcohol.

The same offender characteristics were found in a UK-based research study[114], whose research with 64 offenders, who had committed violent racist acts, found that:

- The majority of offenders were young men. Of the 64 offenders interviewed, 48 were under 25 when identified as research subjects. Of the 64, five were women.
- Of the 64 offenders, around half were unemployed. Those in work tended to have poorly paid, casual/insecure, and low-skilled work.
- Of the 64 offenders, 41 had left school with no qualifications, and none had passed more than basic school examinations.
- Of the 64 offenders, over half had committed similar offences to those they were convicted for – often involving victimisation of the same premises/people.
- 64% of the offenders were non-specialist offenders who had convictions for other offences, mainly involving theft, assault, and drugs – the researchers note that this figure is probably an underestimate.
- Of the 64 offenders, very few (around three) gave any political justification for their racist violence. Only a few showed any knowledge of or interest in extreme right organizations.

It could be argued that the above points are particular to the UK study, which was based on interviews with convicted offenders from deprived housing estates on the edge of Manchester – a large, old industrial city in the north of England. However, the fact that these characteristics are broadly supported by the German NFP's

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[114]   Ray, L., Smith, D. and Wastell, L. (2003) 'Understanding Racist Violence' in E.A. Stanko (ed.) *The Meanings of Violence*, London: Routledge, pp.112-129.

findings would suggest that there is more to them than the particular findings of localised research.

The above characteristics could just as easily apply to non-racist violent offenders as racist violent offenders. Therefore, rather than try and identify violent racist offenders as somehow different from other violent offenders, it might be useful to look for shared characteristics between the two – particularly as racist offenders engage in both right-wing extremist activities and other criminal activities that are not affiliated to right-wing extremism. In other words, young male offenders who are affiliated to extremist right-wing groups share common characteristics with the bulk of young male offenders who commit violent crime in public places; namely:

- Unemployment, or
- Employment that is poorly paid, low-skilled and casual
- Educational underachievement
- A history of prior offending

In-depth research on offender biographies[115], like the Manchester-based research cited above, could provide criminal justice agencies with insightful information about the nature and circumstances of 'who' is likely to commit violent racist crime. As yet though, detailed qualitative research of this nature is few and far between.

20.3.   IN CONCLUSION

Meta, meso and micro explanations for racist violence, in combination, can help explain the manifestation of racist crime and violence in different countries over different periods.

But, given that theoretical explanations for racist violence are not, in most Member States, supported by extensive and in-depth research on the phenomenon, much of what we know about the extent and nature of racist violence is:

- Reliant on limited and/or inaccurate official data on racist crime and violence
- Informed by political and policy agendas, as well as the media.[116]

At the heart of what we know about racist violence are individual Member States' reporting and recording practices. The next chapter will explore these points further, and will make recommendations in consideration of 'good practice' developments for improvements in data collection.

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[115]   Connell, R. (1995) *Masculinities*, London: Polity Press; Wahl, K. et al (2001) 'Biographische Hintergründe und Motivationen fremdenfeindlicher Gewalttäter' in K. Wahl (ed) *Fremdenfeindlichkeit, Antisemitismus, Rechtsextremismus: Drei Studien zu Tatverdächtigen und Tätern*, Berlin: Bundesministerium des Innern, pp.162-315..

[116]   Law, I. (2001) *Race in the News*, London: Palgrave.

21. Responses to Racist Violence by Member States

21.1. STUMBLING BLOCKS TO EFFECTIVE CRIMINAL JUSTICE RESPONSES

21.1.1. Non-reporting and non-recording

Looking at the country profiles, and the summary of research findings in the previous chapter, it is clear that there is a real dearth of comprehensive official and unofficial information on the extent and nature of racist violence in the old 15 EU Member States. As outlined in Part I, Chapter Three, the reasons for this lack of data are manifest.

At one level, many jurisdictions have not given the reporting, recording and monitoring of racist violence much significance. While some Member States, such as Austria and Germany, place great weight on monitoring the activities of extreme right-wing organisations, which can include acts of racist violence, this approach does not capture the full range of violent racism. By focusing on the activities of certain groups, the everyday realities of violent racism, as perpetrated by people who are not affiliated to extremist groups and, in particular, young people and children, can be overlooked.

At another level, but connected to the first, is the simple fact that victims of racist violence do not report their experiences of victimisation to the police. If police cultures do not proactively pursue a 'victim friendly' service, and one which is geared to the needs of particular groups such as victims of racist violence, victims will not feel encouraged to report their victimisation.

Herein, a cyclical relationship leads to under-reporting and under-recording of racist violence – see Figure 6.
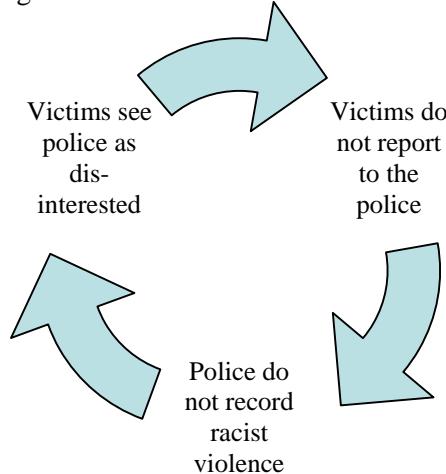
Figure 6: Under-reporting to the police

However, if victims feel that by reporting to the police their experience of victimisation will be taken seriously, and that the police will actively look into their case, then they are more likely to report to the police. Hence the police are more likely to record reports of racist violence – see Figure 7.
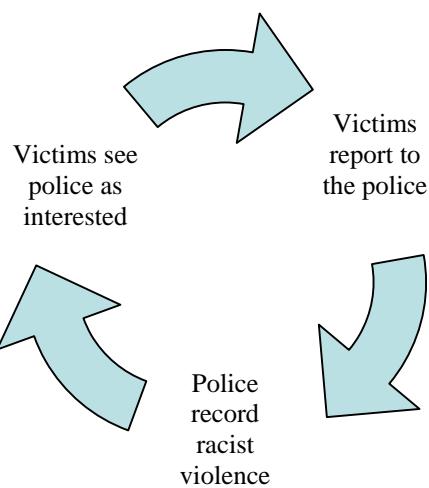

Figure 7: Enhanced reporting to the police

21.1.2. Political and policy influences on recording racist violence

As highlighted in each of the country profiles, the priority assigned to counting racist violence needs to be interpreted against the backdrop of each Member State's political and policy background. Together, a number of key factors influence the data collection process.

In general terms, consideration should be given as to whether crime is prioritised as a social problem and, specifically, whether victims of crime are prioritised alongside offenders. As criminal justice systems have traditionally focused their activities on criminals – their apprehension, conviction and sentencing – and not victims, there are a number of barriers that have to be surmounted before victims can be considered equal players in most jurisdictions[117]. In turn, few jurisdictions give consideration in practice to the special needs of various victim groups – such as children, women, people with disabilities, and ethnic minorities (to name just a few).

The extent to which the police act as service providers to victims of crime, in general, is likely to provide an indication of how they respond to victims of racist crime and violence, in particular. However, the police's response to victims of racist violence is also determined by the extent to which national minorities and foreign groups are constructed as a 'problem' in different jurisdictions. If the emphasis is to police these groups as a potential threat to social order, including their construction as a threat to national security, then prioritisation of their experiences as victims of racism is somewhat at odds with this position. While it is not unfeasible to combine both responses, a tough police response to minority communities does not encourage members of these communities to trust the police and report experiences of criminal victimisation.

Civil society has a significant part to play in promoting positive responses to victims of crime. Political and policy responses to racist violence can be influenced by a strong NGO culture that is proactive in highlighting the experiences of victims of crime, and in particular the experiences of victims of racism. In addition, a strong culture of data collection and analysis by government departments, academics and research institutions will encourage data collection on racist violence. Quality research can be used to alert policy makers and politicians to core areas for policy intervention in the area of racist crime and violence. In the absence of a proactive NGO and research culture, there is little evidence that can be drawn on to highlight the problem of racist violence, besides any media reporting.

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[117] Brienen, M.E.I. and Hoegen, E. (2000) *Victims of Crime in 22 European Criminal Justice Systems*, Nijmegen: Wolf Legal Productions; Mikaelsson, J. and Wergens, A. (2001) *Repairing the Irreparable*, Umeå: Swedish Crime Victim Compensation and Support Authority; Wemmers, J. (1996) *Victims in the Criminal Justice System*, Amsterdam: Kugler.

In sum, the major political and policy influences that currently affect the extent of data collection on racist violence, in different Member States, are – see Figure 8:
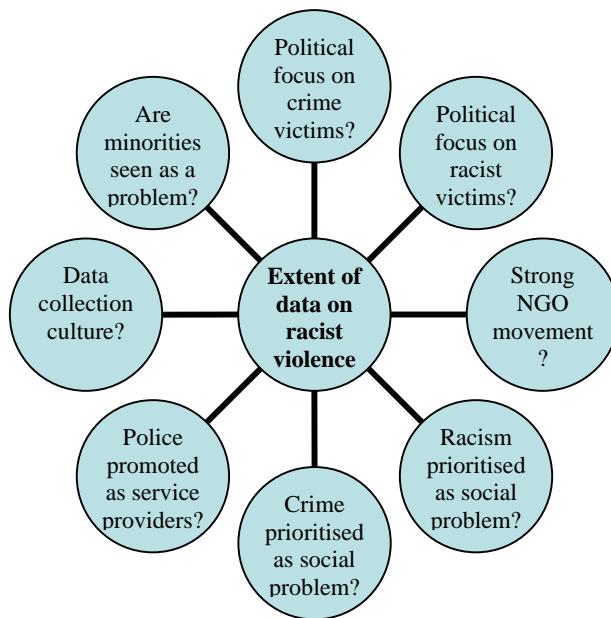
Figure 8: Political and policy influences on recording racist violence

21.2. (GOOD) PRACTICE RESPONSES TO RACIST CRIME AND VIOLENCE

Although the majority of Member States suffer from a lack of comprehensive data collection and accompanying practical responses to racist crime and violence, examples do exist of 'good practice' responses to racist violence. However, before offering some examples of 'good practice' responses to the problem of racist crime and violence, it is worth outlining briefly what 'good practice' means, and how the term is much used and abused.

In Part II of this report, the country profiles offer a snapshot of criminal justice and NGO attention that is given over to victims of racist crime and violence in each Member State. These overviews are provided by the RAXEN NFPs, which offer brief descriptive examples of 'good practice' initiatives in the area of racist crime and violence, and include examples from the criminal justice system and NGOs. However, these examples of 'good practice' are not embedded in any analysis of what 'good practice' should encompass, and what it delivers in practice. To this end, each 'good practice' example needs to be read with caution as, more accurately, an example of a **practice initiative.**

Efforts to establish examples of 'good practice' need to consider two central points, namely:

Definition: what is 'good practice'?

The term 'good practice' needs definition with respect to: project goals, 'success' stories, and possibilities for replication. At a basic level, consideration needs to be given to who defines and interprets practice as 'good'. In other words, does the agency promoting a project offer it as an example of 'good practice', or has the project been independently assessed?

Comparative and cross-national

When offering examples of 'good practice' between different regions and countries, there needs to be sensitivity to and understanding of different socio-cultural practices. In the area of 'good practice' in criminal justice, limitations to transferring 'good practice' between different legal cultures needs to be taken into account.

21.2.1. A 'Good Practice' Checklist

Before describing some of the practice initiatives against racist crime and violence that are referred to in this report, it is useful to outline the main criteria that, ideally, should be encompassed by projects that are offered as examples of 'good practice'; namely[118]:

Positive results

Outline what is meant by a 'successful' and 'unsuccessful' project, and identify examples of 'bad practice'. Focus on projects with positive outcomes for victims of racist crime and violence.

Sustainability

Identify projects with a long-term impact. In particular, identify projects that can offer assistance to victims of racist crime and violence beyond the period of project funding.

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[118] Goodey, J. (2004a) 'Promoting Good Practice in Sex Trafficking Cases', special issue of *International Review of Victimology*, 11(1), pp.89-110; Goodey, J. (2005) *Victims and Victimology: Research, Policy and Practice*, Harlow: Pearson Education, pp.114-119.

Ethical

> Identify projects that employ ethical working practices when working with victims of racist crime and violence. Consideration should be given to the experiences, feelings, and opinions of victims.

> ### The place of the victim
> At the heart of any 'good practice' initiative that claims to reduce and/or alleviate the problem of racist crime and violence, consideration should be given to the impact of initiatives on victims as well as the agencies – criminal justice and non-criminal justice- that implement these initiatives.

Finally, when looking for examples of 'good practice' from different regions or countries, researchers and organisations tend to search for practice initiatives that they can adapt to their own situation and needs. The idea of transferable 'good practice' project ideas is very attractive to researchers and organizations that are keen to come up with solutions to problems. To this end, the following can be added to 'good practice' checklists:

> ### Replication/transferability:
> Identify practice initiatives that can be transferred to other settings. Encourage information exchange about project initiatives that were both deemed to be a 'success' and a 'failure'.

Duplication can become a problem for practice initiatives if a number of agencies are working on similar projects in the same area and, as a result, cause resentment amongst local actors/victims who may feel they are being 'used' for different agencies' own ends. If duplication is to be avoided in the field of initiatives against racist crime and violence, the above 'good practice' checklist demands cooperation between different agencies. However, exchange of information is easier said then done. Agencies are, understandably, less than willing to divulge information about project failures, particularly when they are, as is the case for many NGOs, competing for limited funds. At the same time, agencies are often hard-pressed to deliver their actual work commitments, and so have little time left over to critically analyse what they have done.

What the above checklist does offer though is a 'gold standard' for project selection criteria that can be adjusted to correspond to the demands of particular projects in different countries. While the references to practice initiatives in different Member States, as identified by RAXEN, do not afford insights at the level demanded above, they do offer an insight into current approaches to the problem of racist crime and violence across the EU.

21.2.2.   Examples of (Good) Practice Initiatives Challenging Racist Crime/Violence

The following presents a selective list of examples of (good) practice initiatives that have been taken from the country profiles in Part II of this report, which in turn are reliant on data supplied by the RAXEN NFPs. Some examples of legislation that directly relates to racist crime and violence are also given.

The list does not present a comprehensive overview of (good) practice initiatives in each of the Member States. The simple reason for this is that such examples were absent from many NFP reports and, when offered, tended to refer to general anti-discrimination and multicultural initiatives; for example, see country profiles on **Italy** and **Luxembourg**. In other words, many practice examples did not specifically relate to racist crime and violence – although indirect references to racist crime and violence were sometimes made.

Austria

> One notable and hopeful initiative, which appears to have met with some 'success', is an on-going restorative justice project for young racist offenders. The project is organized by two University departments from the Tyrol and Upper Austria, and is based on seminars on history and democracy for young racist offenders. Participants were offered the seminars as an alternative to normal penal sanctions. It appears that re-offending rates are low for participants.

Belgium

> A pilot project is on-going in two medium-sized police zones with a significant minority presence. The project will register racial discrimination and hate crimes (that is, hate crimes related to race/ethnicity, and religion), and includes acts of racist violence. The Centre for Equal Opportunities and Opposition to Racism (CEOOR) has developed a registration form for dissemination among police services and migrant organizations. These agencies are asked to complete a registration form every time they receive a complaint related to racist discrimination/violence.

Denmark

> As a reaction to increased levels of violent racism in 2001, that saw attacks on Muslims and the Jewish community, the authorities set out to reorganise the PET police monitoring system, which compiles a list of racially motivated crime, including racist violence. Local police offices were swiftly issued with instructions in 2001 in an effort to broaden and standardise the PET data collection mechanism. Although PET can be held up as an example of 'good practice', it must be read alongside the fact that Danish legislation does not directly criminalise racist crime and violence.

Finland

The Exit Project:
This initiative operated between 2000-2002, and was run by the Joensuu Youth Workshop Association in cooperation with the University of Joensuu and the Youth Department of the City of Joensuu. It was established with the aim of preventing and reducing racist and xenophobic violence among local Skinheads, and with providing them with the means to leave Skinhead groups.

The Non-Fighting Generation:
This initiative was established in 2001, and was on-going during the reporting periods of RAXEN 3 and 4. Originally based in Helsinki and Turku, the project has expanded to the metropolitan Helsinki area and the neighbouring cities of Espoo and Vantaa. The project sets out to target Skinhead groups with the aim of reducing racial violence through small group meetings that address a number of issues related to violent and racist offending.

France

A new law was introduced on 3 February 2003 that has increased sentencing opportunities (in the form of imprisonment and fines) for a range of offences, if it is established that they were committed for racial or religious reasons. The increased penalties include the following: Murder - from 15 to 20 years; Assault leading to permanent disability or mutilation – from 10 years to 15 years; Damage caused by explosives, arson or other means dangerous to human life – from 10 years to 20 years. The new February 2003 law has also created a new offence of destruction of property in relation to racist motivation, encompassing places of worship through to vehicles used for the transport of children, with a penalty of five years or a corresponding fine.

Germany

The 'Alliance for Democracy and Tolerance – Against Extremism and Violence':
This is a broad alliance of programmes (XENOS, CIVITAS, ENTIMON), established in 2000, that encompasses many different initiatives and works with a range of actors from civil society. Within the Alliance's ENTIMON programme there is the initiative 'Together against Violence and Right-Wing Extremism', which supported 238 projects in 2003 and 153 in 2004.

Programmes to assist young people to leave extreme right-wing organisations:
A range of programmes exist in Germany; for example: Since April 2001, a programme called the 'Federal Programme to Encourage Right-Wing Extremists to Leave this Movement' has been in operation. The programme was initiated by the Ministry of the Interior and run by the Federal Office for Internal Security.

Police in Dialogue with Migrants:
A number of initiatives exist in major German cities that aim to develop a constructive dialogue and enhance understanding between the police and migrant groups.

Greece

RAXEN 4 reports that the Ministry of Public Order has organised training sessions for the police and civilian staff about the rights of refugees and asylum seekers. The EU's STOP and ULYSSES Programmes have funded these events in cooperation with agencies such as the Greek Council of Refugees and the Greek office of the International Organisation for Migration (IOM). These sessions can be positively viewed as directly addressing some of the critiques that have been levelled at the police and other public agencies regarding their violent treatment of minorities and migrants.

Ireland

Since 1999, the Irish criminal justice system has instigated a new crime counting regime, PULSE, which is also able to disaggregate crime data with a 'racist motive'. 2003 was the first year in which racially motivated incidents were clearly defined to members of the police force, and recorded through PULSE.

A range of training programmes and initiatives have been launched by the police with the aim of highlighting and tackling the problem of racist crime and violence. The bulk of these initiatives have been launched through the Gardaí Racial and Intercultural Office, which was established in July 2000. This Office has been responsible for the appointment of 145 police ethnic liaison officers with the remit, amongst other things, to work with victims of crime. It also organises anti-racism training programmes for the police and immigration officials.

Sweden

Some recent changes to the law provide a more comprehensive platform from which to address racist crime and violence. Namely, in January 2003, a range of new legislation was introduced that (a) enhanced punishment for incitement to racial hatred, and (b) made it easier to prosecute racist media, such as CDs, by lengthening the statute on limitations for prosecution. To this end, Swedish law is setting out to challenge the country's reputation as a permissive site for the production of racist material through new electronic media.

United Kingdom

A number of criminal justice tools also exist that serve to bolster legislative provisions against racism. Many of these focus on targeting young offenders, and are linked with provisions under the Crime and Disorder Act 1998 such as

'anti-social behaviour orders' and 'parenting orders'. Some of the most innovative and controversial developments are related to attempts to use 'restorative justice' or 'mediation' practices with young offenders who have committed racist crime.

The above presents a wide range of, mostly, criminal justice and legislative initiatives that set out to challenge racist crime and violence. These developments can be roughly divided into the following broad categories:

Improvements in data collection

Some notable examples, which specifically relate to this report's critical stance on poor data collection on racist crime/violence, include a pilot police registration scheme in **Belgium**, as well as improvements to **Denmark's** PET police registration system and **Ireland's** PULSE police registration system. In addition, a couple of other Member States, such as Sweden and the UK, already have comprehensive data collection mechanisms for racist crime/violence that have been operational for some years.

Enhanced penalties

In the absence of references to practice oriented criminal justice improvements - such as improvements in policing responses to victims of racism - NFP country reports drew on examples of changes in the law that, in theory, should enhance sentencing in cases involving racist crime/violence. In **France** and **Sweden**, for example, new laws were introduced that increased sentencing penalties for a range of offences committed for racial and/or religious reasons, and for incitement to racial hatred.

Youth projects/Restorative Justice Initiatives

Many Member States made some reference to targeted projects aimed at diverting young people away from racist violence and crime. Some of these projects are specifically aimed at young people who are involved in extreme right-wing organisations. In **Finland** and **Germany**, a number of projects are either on-going or recently completed. Intervention programmes are usually modelled on established methods that have been developed in other Scandinavian countries. A particular approach that has been adopted in **Austria** and the **UK**, and which is reflected in broader criminal justice developments, is the use of 'restorative justice' techniques with young racist offenders. A central aim of restorative justice is to confront young offenders with their wrong-doing while making them aware of the impact of their crime/s on victims and communities. Having done this, restorative justice aims to 'restore' both offender and victim back into the community.

21.3.   ARE NEW AND ESTABLISHED CRIMINAL JUSTICE INITIATIVES HELPING VICTIMS OF RACIST VIOLENCE?

21.3.1.   Restorative Justice

Of the above, **restorative justice initiatives present a particularly controversial response to racist crime and violence**. Ranging from intimate face-to-face meetings between victim and offender, through to comprehensive meetings involving victim, offender, families and communities, restorative justice has been heralded by some proponents as the most exciting development in criminal justice for decades[119]. Restorative justice eschews traditional criminal justice as a platform for resolving conflicts between aggrieved parties – victim, offender, community and the State. Instead, restorative justice attempts to resolve conflicts in more informal settings.

Although restorative justice is increasingly popular in many criminal justice jurisdictions (notably in Austria, Belgium, Germany and the UK[120]), it has been negatively interpreted for the following reasons[121]:

- By taking certain crimes – such as racist violence and domestic violence – out of mainstream traditional criminal justice (involving traditional court settings), and placing them in informal settings, these crimes are in danger of being demoted to a form of 'secondary' justice.
- Restorative justice, which is usually employed as an alternative to traditional criminal justice sanctions, can be viewed as a 'soft option' for offenders.
- The power differentials that sustain racist violence are in danger of resurfacing in informal restorative justice settings. In particular, if families of offenders are invited to take part, victims can feel particularly intimidated.
- The repeat nature of a lot of racist violence/crime, demands that restorative justice recognise the history of abuse that often exists between victims and offenders. Whether restorative justice is equipped to do this is debatable.

Critics of restorative justice have also noted its potential to reinforce power inequalities in cases involving minority offenders and, typically, middle class

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[119]   Walgrave, L. (2000) 'Extending the Victim Perspective: Towards a Systematic Restorative Justice' in A. Crawford and J. Goodey (eds.) *Integrating a Victim Perspective within Criminal Justice: International Debates*, Aldershot: Ashgate, pp.253-284.

[120]   Albrecht, H.J. and Kilchling, M. (2002) Rechtsextremistische Gewalt, strafrechtliche Sozialkontrolle, Täter-Opfer-Ausgleich und Wiedergutmachungsätze, *Recht der Jugend und des Bildungswesens*, Vol.50, pp.82-93; Kilchling, M. and Löschnig-Gspandl, M. (2000) Legal and Practical Perspectives on Victim/Offender Mediation in Austria and Germany, *International Review of Victimology*, 7, pp.305-332.

[121]   Goodey, J. (2005) *Victims and Victimology: Research, Policy and Practice*, Harlow: Pearson Education, p.214.

('white') mediators/victims[122]. Potentially, the same critique can be leveled at mediation/restorative justice initiatives that involve minority victims, 'white'/majority population offenders, and 'white'/majority mediators. However, this critique has to be read cautiously as it presents a narrow reading of crime, including racist crime/violence, which can manifest itself in diverse ways – as intra-ethnic crime; as intra-class crime etc.

As restorative justice initiatives in cases involving racist crime/violence, committed by young offenders, are fairly new in many jurisdictions, it is somewhat preemptory to suggest that their outcomes are doomed to failure. It remains to be seen, in the light of critical assessments of these initiatives according to 'good practice' criteria, whether they are of benefit to – first, victims and communities, and, second, offenders and the State.

21.3.2.   'Traditional' Justice

Set against these cautious readings of restorative justice initiatives, we need to recognise that traditional criminal justice has – to date – made little headway towards successfully addressing racist crime and violence.

A critical list of traditional criminal justice interventions in cases of racist crime and violence can be developed that, in many aspects, echoes the above critique; namely:

* Traditional criminal justice serves to marginalize victims and offenders in the resolution of their own conflicts which are 'taken over' by the State.
* Victims can feel that the police and other criminal justice actors – lawyers, examining magistrates, judges – are not sympathetic to their experiences as victims of *racist* crime/violence.
* The 'attrition rate' in cases of racist violence means that very few reports result in offenders being sentenced in a court of law.

21.3.2.1.   Enhanced Sentencing – An Effective Instrument?

While France and Sweden, as noted in the 'good' practices list above, have passed laws permitting tougher sentencing for offences committed for racist and religious reasons, and in relation to hate crimes, it has to be seen how often these new laws will be evoked in reality.

In the UK, where enhanced penalties for 'racially aggravated' offences already exist, we can observe a year on year increase in the number of prosecutions for racially aggravated offences – see Crown Prosecution Service figures for period 2000-01 to 2002-03 (see Table I in Part III, Chapter I). In comparison, most

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[122]   Delgado, R. (2000) Goodbye to Hammurabi: Analyzing the Atavistic Appeal of Restorative Justice, *Stanford Law Review*, 52, pp.751-775.

Member States are unable to offer any detail about the number of cases prosecuted and sentenced under enhanced sentencing laws.

In sum, enhanced sentencing exists at the end of a long criminal justice process which begins with crime reporting and ends, if a case is successfully prosecuted, in sentencing. Each criminal justice stage, from police recording through to sentencing, is dependent on the successful outcome of a previous stage. In other words, it is generally the case that the police cannot record a racist incident unless someone reports it, and an examining magistrate cannot investigate a case unless the police record it.

21.3.2.2.   Enhanced Data Collection – An Effective Instrument?

New laws permitting enhanced sentencing for offences committed on racist/religious grounds can only be judged a 'success' if data mechanisms are in place to record how many cases are being sentenced under these new laws. Where mechanisms for data collection – for every stage of criminal justice – are not in place, and are not made publicly available, we cannot ascertain the success of new legislative and criminal justice initiatives.

Some NFPs report critically on the ineffectiveness of existing legislation, and call for data collection mechanisms; for example:

Greece

> Law 927/1979 is the only specifically anti-racist criminal law in Greece, which punishes, amongst other things, 'hatred or violence against persons or a group of persons, only due to their racial or national origin'. The law has been amended to include participation in organized racist groups and discrimination on the grounds of religion. However, according to the RAXEN NFP reports, there has only been one *attempt*, to date, to enforce this law.

Italy

> Law 286/98 stipulates that regional centres should be created for 'observation, monitoring and information' related to discrimination and racism, to date, according to the RAXEN NFP, no centres have been established. Data collection is left to NGOs and research institutions.

The individual country profiles in this report are replete with examples of ineffectual legislation, questionable criminal justice practices, and non-existent or ineffectual data collection mechanisms that are unable to capture (a) the extent and nature of racist crime and violence, and (b) criminal justice responses to reported offences. At the same time, there is ample evidence in the report of encouraging signals, and on occasion practical action, which shows the increasing willingness of governments and criminal justice practitioners to improve how they address the problem of racist crime and violence.

Whether words and good intentions are transformed into practical actions, and positive results, has to be seen.

RECOMMENDATIONS

A number of recommendations can be suggested to improve what we know and, in turn, how we effectively respond to the problem of racist crime and violence in the EU. These include both long-term recommendations that can be viewed as gold standards for Member States to aspire to, as well as short-term recommendations that offer Member States short-term workable solutions to the problem of managing and responding to racist crime and violence.

For example, recommendations might include the long-term goal of standardising legislation and data collection on racist crime and violence across all EU Member States. In comparison, short-term recommendations could include the establishment or improvement of existing legislation and criminal justice data collection on racist crime and violence at the level of individual Member States. Yet, given the absence of effective legislation and adequate data collection mechanisms in most Member States, even these short-term recommendations can appear too ambitious.

In addition, any efforts at changing how the law, criminal justice and civil society respond to racist crime and violence demands the establishment of 'good practice' criteria in this area. This does not mean the description of activities that have been labeled as 'successful' – most often by their initiators - but rather necessitates a careful analysis of legislative, criminal justice and civil society initiatives for their effectiveness in combating racist crime and violence and assisting victims. To this end, **the findings in this report generally show that Member States with comprehensive data collection mechanisms to monitor racist crime and violence also tend to have a range of progressive initiatives to both combat the problem and assist victims.**

EU Member States might learn more about effective responses to racist violence by being able to tap into information about similarly placed projects in other Member States or in other areas within their own country. At the heart of this exchange of 'good practice' is the willingness of agencies to share information – both positive and negative. This can only be achieved if systems are in place to monitor and provide information about the extent and nature of, and responses to, racist violence.

On the basis of the findings from the report's comparative overview of racist violent in the old 15 EU Member States, the following are the report's main recommendations:

Legislation and Data Collection – Improving Mechanisms

FRAMEWORK RECOMMENDATIONS (LONG-TERM):

- **Allow data collection on ethnicity/religion that can capture incidents of racist crime/violence against national minorities.**

- **Standardise legislation on racist crime/violence in EU Member States.**

  This means adopting the Commission's Proposal for a Council Framework Decision on Combating Racism and Xenophobia[123]. If adopted, this would clearly establish a framework for punishing racist/xenophobic violence as a criminal offence, and recognise racist/xenophobic motivation as aggravating circumstances for determining enhanced sentencing.

  A central purpose of the Framework Decision is to reinforce criminal law measures aimed at approximation of the laws and regulations of the Member States regarding racist and xenophobic offences.

  If the Framework Decision were to be adopted by Member States, it could enhance data collection on racist crime/violence across the EU. Therefore, another recommendation would be to:

- **Standardise data collection on racist crime/violence in EU Member States.**

PRACTICAL RECOMMENDATIONS (SHORT-TERM):

  Practical recommendations focus on comparative analysis of existing data.

  Practical recommendations for data collection recognise that different data sets can provide a valid base for **comparative analysis**.

  To a large extent, the EUMC's RAXEN data collection mechanism and its comparative research reports are based on comparative analysis of diverse data sets. The validity of this exercise should not, given the absence of directly comparable data, be under-valued.

  If we aim for comparative analysis of different data sources, rather than attempt to generate directly comparable data, it is recommended to:

- **Establish or improve existing legislation on racist crime/violence in each EU Member State.**

- **Establish or improve existing criminal justice data collection mechanisms for racist crime/violence in each EU Member State.**

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[123] COM (2001) 664 final – Proposal for a Council Framework Decision on Combating Racism and Xenophobia.

In addition, attention can be paid to alternative mechanisms for data collection on racist crime/violence that lie outside the confines of criminal law and criminal justice. Here it can be recommended to:

- **Develop crime/victim surveys.**

  These surveys directly ask samples of the population about their experiences of victimisation, and can include questions on racist crime/violence.
  Crime surveys allow for details to be collected on victim characteristics, and also allow for data to be collected on repeat victimisation (see main report, Chapter 3). As long as the respondents answer anonymously and present a general picture of victimisation based on group characteristics, then concerns about data protection can be met (see section 2.4, main report).

  Crime surveys are quantitative data collection tools that allow comparable data analysis, if the same research questionnaire is applied in different countries. Crime surveys can also look at trends over time, if the same research survey is used each year.

  In turn, it can be recommended to:

- **Promote research by NGOs and academic researchers on the extent and nature of racist crime and violence.**

  Particular attention should be paid to qualitative research that focuses on the characteristics of victims and offenders, and which critically explores the implementation of criminal and non-criminal justice interventions.
  Attention can also be paid to the experience of racist victimisation as part of a process (or continuum) of on-going racist harassment/threat/victimisation.

  In-depth quantitative and qualitative data collection, from a range of sources, can help to paint a more accurate picture of the extent and nature of racist violence.

  Importantly, improved data collection can accurately characterise offender and victim populations, and can establish whether current criminal justice responses to racist violence are targeting the right groups.

Towards Effective Criminal Justice and Non-Criminal Justice Intervention

We cannot judge the 'effectiveness' or 'success' of legislative and criminal justice interventions against racist crime and violence unless mechanisms exist to assess them. Comprehensive 'good practice' criteria need to be established in Member States so that we are able to make a subjective value judgment of initiatives.

Yet these critical reports of practice initiatives are, in the main, few and far between in most Member States.

POLICY RECOMMENDATIONS:

- **Establish standardised EU 'good practice' criteria with which to measure the implementation and 'success' of different criminal justice and non-criminal justice initiatives that aim to monitor, combat and respond to racist crime/violence.**

- **Develop standardised EU 'good practice' criteria with respect to: legislation; criminal justice practice; NGO interventions; academic research.**

The above recommendations aim to establish whether legislation and practical initiatives have any positive impact on racist crime/violence.

They demand monitoring mechanisms that ask difficult questions with respect to, for example:

- the impact of initiatives on racist offending/recidivism;
- the impact of initiatives on victims of racist crime;
- the impact of new legislation on sentencing disposals;
- the attrition rate between the number of cases reported and the number successfully prosecuted/sentenced.

PRACTICAL RECOMMENDATIONS (SHORT-TERM):

As with attempts to standardize criminal law through the Proposal for a Council Framework Decision on Combating Racism and Xenophobia, the development of standardised 'good practice' criteria is easier said than done. Given that each Member State has a different history of and approach to social problems, including racist violence, it is not easy to agree on uniform 'good practice' criteria. Therefore, practical recommendations can suggest the following:

- **Develop and implement 'good practice' criteria at the national level.**

These should be generic 'gold standards' that are referred to at each stage of project development, implementation and follow-up.
National standards should reflect the limitations and possibilities that are inherent to each Member State's legal culture and history.

- **Develop and implement 'good practice' criteria at the individual project level.**

Each project should have built-in 'good practice' guidelines that are referred to at each stage of project development.

- **Undertake a comparative analysis of similar projects; for example, youth programme initiatives to re-educate young racist offenders, or police initiatives to respond to the needs of victims of racist violence.**

  Where possible, projects should be 'matched' to facilitate ease of comparison. Matching can be on the basis of subject matter, sample group, location etc.

- **Enhance the role of Ombudsman and other national observatories (both official and semi-official) in the area of data collection, reporting and commentary concerning incidents of racist crime/violence.**

  Particular attention should be paid to the role of public officials, such as immigration officials and the police with respect to their attitude to racist violence, and their response to incidents of racist violence.

In sum, European data on and responses to racist crime and violence would be greatly improved, if EU Member States adopted a number of the above recommendations.

In sum, on the basis of the findings from this report's comparative overview of racist violent in the old 15 EU Member States, the following main recommendations can be made:

LONG-TERM RECOMMENDATIONS

Allow data collection on ethnicity/religion which can capture incidents of racist crime/violence against national minorities and against different minorities within each nationality

Standardise legislation on racist crime/violence in EU Member States.

Adopt the Commission's Proposal for a Council Framework Decision on Combating Racism and Xenophobia

Standardise data collection on racist crime/violence in EU Member States.

Establish and implement standardised EU 'good practice' criteria with which to measure the implementation and 'success' of different criminal justice and non-criminal justice initiatives that aim to monitor, combat and respond to racist crime/violence.

SHORT-TERM RECOMMENDATIONS

Establish or improve existing legislation on racist crime/violence in each EU Member State.

Establish or improve existing criminal justice data collection mechanisms for racist crime/violence in each EU Member State.

Develop crime/victim surveys.

Promote research by NGOs and academic researchers on the extent and nature of racist crime and violence.

Develop and implement 'good practice' criteria at the national level.

Develop and implement 'good practice' criteria at the individual project level.

Undertake a comparative analysis of similarly placed national projects; for example, youth programme initiatives to re-educate young racist offenders, or police initiatives to respond to the needs of victims of racist violence.

Enhance the role of Ombudsman and other national observatories (both official and semi-official) in the area of data collection, reporting and commentary concerning incidents of racist crime/violence.

ANNEX I

Population Data

Member State[124]	National Population	Non-National Population	Non-Nationals as a % of National Population[125]
Belgium	10,355,844 - (2003)	850,077 - (2003)	8.21%
Denmark	5,383,500 - (2003)	271,211 - (2004)	5.04%
Germany	82,536,704 - (2003)	7,334,765 - (2003)	8.89%
Greece	11,018,400 - (2003)	761,813 - (2001)	6.91%
Spain	41,550,600 - (2003)	1,548,941 - (2001)	3.73%
France	58,623,000 - (1999)	3,349,908 - (1999)	5.71%
Ireland	3,963,600 - (2003)	224,261 - (2003)	5.66%
Italy	57,321,000 - (2003)	1,503,286 - (2003)	2.62%
Luxembourg	439,539 - (2001)	162,285 - (2001)	36.92%
Netherlands	16,192,600 - (2003)	699,954 - (2003)	4.32%
Austria	8,032,926 - (2001)	710,926 - (2001)	8.85%
Portugal	10,407,500 - (2003)	226,715 - (2001)	2.16%
Finland	5,206,300 - (2003)	107,003 - (2003)	2.06%
Sweden	8,940,800 - (2003)	476,076 - (2003)	5.32%
UK	59,553,800 - (2003)	2,865,000 - (2003)	4.81%

Source: http://www.eumc.eu.int/factsheets/factSheetPage.php

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[124] Member States are listed alphabetically using the spelling of their source language (following the order of protocol for the Member States).

[125] The data in column 4 'non-nationals as a percentage of national population' should be treated with caution as the source data (EUMC 'factsheets' or 'infosheets', whose data is taken from official governmental statistical data/EUROSTAT data for each Member State) does not clearly establish whether non-nationals are part of the national population or whether they are in addition to the national population. In addition, the figures for non-nationals do not indicate the number of nationals who are ethnic minorities – as in the case of the UK, which records census data on nationals who are ethnic minorities.

ANNEX II:

Information supplied to RAXEN NFPs on official data about racist violence (and associated activities) in ten new Member States

Member State	Do official bodies collect data on 'racist crime'/ violence and associated activities?	What do official bodies record?	Official quantitative data reported in RAXEN NFP report as follows: (latest available data as of March 2005)
Czech Republic	YES	Ministry of Interior publishes a monthly statistical review of crimes, including those relating to defamation of nation/race/ethnic group/confidence (art 198); initiation to hatred (art 198a); support and propagation of movements repressing human rights and freedoms (art 260, 261, 261a).	**2003** 236 'racist crimes' **Jan-Nov 2004** 209 'racist crimes'
		Ministry of Justice, Department of Information – keeps records of cases where racist, national or other hatred motivation accused.	**January – June 2004** 96 cases in which State prosecutors delivered an accusation based on racist, national or other hatred – which can include racist violence
Estonia	NO data available	The Security Police collect information on extremist groups and individuals.	NO information
Cyprus	NO data available	Offences reported to the police by nationality and type of violence. But does not include racist motivation. RAXEN 5 indicates that a set of guidelines will be adopted to classify incidents as 'racially motivated' – likely to come into force January 2005.	NO information
Latvia	NO data available	NO information	

Member State Table continued	Do official bodies collect data on 'racist crime'/ violence and associated activities?	What do official bodies record?	Official quantitative data reported in RAXEN NFP report as follows: (latest available data as of March 2005)
Lithuania	SOME LIMITED data available	**Pre-trial investigations** Ministry of the Interior **Court Cases** Ministry of the Interior State Security Department	**In 2004** 4 investigations variously relating to Art.312, Art.187 and Art.284 of Penal Code **In 2004** 4 court cases relating to Art.170 of the Penal Code (incitement of national, racial, ethnic, religious or other hatred). 2 court cases relating to Art.214 of the Code of Administrative Violations
Hungary	**YES** **SOME DATA**	Police and Prosecutorial Crime Statistics (National Statistics Data Collection Programme), collects data on crimes against: 'State and humanity' (Criminal Code 139§ and 165§); 'freedom of conscience and religion' (Criminal Code 174/A §); 'member of a national, ethnic, racial or religious group' (Criminal Code 174/B §); and 'incitement against a community' (Criminal Code 269 §). Data kept on crimes, perpetrators and punishments relating to the above offences.	**In 2003** 2 crimes against 'State and humanity' registered 11 crimes against a 'member of a national, ethnic, racial or religious group' registered. 14 crimes of 'incitement against a community' registered. **In 2004** 1 crime against 'State and humanity' registered. 8 people accused under this category. 7 crimes against a 'member of a national, ethnic, racial or religious group' registered. 6 people accused under this category. 17 crimes of 'incitement against a community' registered. 6 people accused under this category.

Member State Table continued	Do official bodies collect data on 'racist crime'/ violence and associated activities?	What do official bodies record?	Official quantitative data reported in RAXEN NFP report as follows: (latest available data as of March 2005)
Malta	NO data available	NO information	
Poland	YES SOME DATA	Police Headquarters Office publishes information in relation to violation of different aspects of the Criminal Code; specifically:	**In 2003**
		Art.256 punishes propagation of a Fascist or other totalitarian order, and includes hate based on national, ethnic, racial or denominational differences (or lack of).	14 crimes reported
		Art.257 punishes public insult of a population or individual due to ethnicity, race, denomination (or lack of), as well as violation of their bodily inviolability on the basis of these reasons.	17 crimes reported
		Art. 195 and 196 refer to religious-based violence.	44 crimes reported under Art.195(1) 32 crimes reported under Art.196
Slovenia	NO data available	Art.300 of the Penal Code prohibits incitement to ethnic, racial or religious hatred, discord or intolerance.	**In 2003** 2 cases relating to Art.300 were handled by the police – 1 case rejected, 1went to court.

Member State Table continued	Do official bodies collect data on 'racist crime'/ violence and associated activities?	What do official bodies record?	Official quantitative data reported in RAXEN NFP report as follows: (latest available data as of March 2005)
Slovakia	YES	Data on racially motivated crimes are kept by 4 different public bodies: Ministry of Interior; General Prosecutor's Office; Slovak Information Service; Ministry of Justice Ministry of Interior keeps most complex data based on police statistics, which are compiled by the Monitoring Centre on Racism and Xenophobia.	**In 2002** 109 racially motivated extremist crimes registered by police **In 2003** 119 racially motivated extremist crime registered by police. **In 2003** 43 crimes were investigated as having a racist motive. Of which, 6 cases of bodily injury with a racist motive, and 37 cases of violence with a racist motive. **In 2003** 48 people were prosecuted for racially motivated crimes. **In 2004** 79 racially motivated extremist crimes registered by the police