



European Network Against Racism
Réseau européen contre le racisme

"Tolerance and respect: preventing and combating antisemitic and anti-Muslim hatred in Europe"
Annual Colloquium on Fundamental Rights
1-2 October 2015

QUESTIONS FOR CONSULTATION WITH STAKEHOLDERS – JOINT CONTRIBUTION (see signatories below)

1 – Can you inform about new trends showing an increase in anti-Semitic and anti-Muslim incidents? What are to your mind the underlying factors for each of these phenomena: religion, culture, socio-economic or political circumstances, prejudices, etc.?

Anti-Semitism has generally increased over the last years. The Community Security Trust (CST) in the UK reported an increase of 60% of violence committed against Jews in the EU between 2008 and 2014. The evolution is not linear though. There have been important spikes in 2009, when 722 incidents were noted, in 2012, with 406 acts, and in 2014 with 533 attacks against Jews. In Belgium, the equality body reports that complaints received for anti-Semitic incidents have increased from 83 in 2013 to 4.627 in 2014.¹ According to the FRA survey, Jews in Europe feel that anti-Semitism has increased in the country they live in over the past five years (76%) and that they are increasingly afraid of being verbally harassed (46%) or physically attacked (33%). In the past 12 months, over half of all survey respondents (57 %) heard or saw someone claiming that the Holocaust was a myth or has been exaggerated.² Online anti-Semitic hate speech, especially on social media, is also exploding across Europe. These incidents, strongly condemned by a great diversity and majority of community leaders, reflect a worrying spike in anti-Semitism and come as a stark reminder that anti-Semitism is still very much a reality in Europe today.

Anti-Semitism is deeply rooted in Europe, as its resurgence after the Holocaust proved. Anti-Semitism in Europe in the medieval times was largely influenced by the Christian belief that the Jewish people were collectively responsible for the death of Jesus. The fact that Jews were forbidden to own land or to work in the craft sector by discriminatory laws, was an incentive for them to become merchants, money-lenders and tax-collectors, which made them easy scapegoats in difficult economic or political times. Restrictions and expressions of anti-Semitism continued through centuries until the development of a racial anti-Semitism and the rise of conspiracy theories in the 19th century, leading to programs and, later, to the Holocaust.

The **effects of the recession** may have exacerbated more recent negative and stereotyping views of Jews. Austerity and public service cuts have created an environment that favours the development of anti-Semitism. These issues have not been adequately challenged, as the view that Jews have controlling positions in finance, banking and media is still commonly shared across the EU.

The 2014 rise in the number of incidents against Jews can be explained by the **war with Gaza**. Increasing levels of terrorism and violence around the world make people feel threatened by those perceived to be of other faiths. The attitude of ISIS and other movements act as incentive to anti-Semitism in the EU.

The **far-right movement still plays an important role in the presence of anti-Semitism in Europe**. In France, research and surveys showed that an 'old' type of far-right anti-Semitism is still dominant and goes hand in hand with other forms of prejudice, including Islamophobia.³ In Germany, a parliament-commissioned survey shows that anti-Semitic acts are almost exclusively committed by the far-right.⁴ A recent Pew Research

¹ <http://www.diversite.be/antisemitisme-les-derniers-chiffres-confirment-une-nette-augmentation>

² http://fra.europa.eu/sites/default/files/fra-2013-discrimination-hate-crime-against-jews-eu-member-states-0_en.pdf

³ <http://www.cncdh.fr/fr/publications/rapport-racisme-antisemitisme-et-xenophobie-2013-banalisation-de-la-parole-raciste-et>

⁴ <http://www.loonwatch.com/2012/01/90-of-anti-semitic-crimes-in-germany-committed-by-right-wing-extremists/>

Center study shows that negative opinions are reaching 25 % of unfavourable opinion in Germany, where only 6 % of the population is Muslim. In Spain, where less than 3 % of the population is Muslim, close to 50 % of the population hold negative opinions about Jews.⁵

There has also been a worrying increase of Islamophobic incidents over the last years. In France, the number of attacks against Muslims was multiplied by 6 following the Paris attacks compared to the same period in 2014, according to the Collective Against Islamophobia in France (CCIF). A rise in Islamophobic incidents has also occurred in other EU countries, like England and Wales, as the last ENAR's Shadow Report on racist crimes shows.⁶ In Sweden, attacks on mosques have increased. In Italy, official islamophobic reactions including by the Venetto educational authorities, are frequent. Far-right movements are also active actors of anti-Muslim hatred. The Pegida demonstrations, which started in Germany and rapidly spread across Europe, are organised by populist and far-right groups, and are a new expression of anti-Muslim speech, disguised as "anti-Islam". They feed their ideology and discourse with xenophobic and neo-Nazi rhetoric, taking the Muslim culture as a threat for the identity of society.

Muslim women are particularly targeted by violence. CCIF reported that they represented 78% of the victims of Islamophobic violence in France in 2014. The Belgian organisation ORBIT reported that they repeatedly heard women with headscarves explain how they were physically or verbally abused in public transport or on the street. Because public debates focus on Muslim women and the wearing of the headscarf, veiled women are reduced to their religious signs in the view of many and are thus becoming privileged targets of Islamophobia.

ENAR shadow reports and FRA reports⁷ demonstrate that the heightened security context since the events of 11 September 2001 has contributed to experiences of direct and indirect discrimination by ethnic and religious minorities in Europe. In particular Muslim communities, and those perceived as belonging to Muslim communities, have been amongst the most vulnerable, at times victims of backlash from wider society after terrorist attacks and then victims of policy responses to these attacks.⁸ Perceptions of Muslims in Europe are also negatively influenced by the threat of terrorism, and reports on ISIS or foreign fighters. Surveys show that Europeans wildly overestimate the proportion of Muslims within their populations.⁹

2 – To which extent do you think anti-Semitism and Muslim hatred require a specific or a common response?

Anti-Semitism and Islamophobia are the products of different histories and ideologies; and they cover diverse realities and types of manifestations which are specific to each and/or both. However, they need to be addressed with equal attention, without playing a victimisation competition.

The specificity of the persecution of Jews and the Holocaust is undeniable and unprecedented in Europe. Unfortunately, it is still a reality for many European Jews, who experience higher rates of insults, discrimination, harassment, attacks against properties, desecration of places of worship and cemeteries, and physical violence. Anti-Semitism has led to the exclusion and dehumanisation of Jews – seen as outsiders by some, as representatives of Israel by others – and many feel forced to hide the fact that they are Jewish or have a Jewish background. The intensity of the recent deadly attacks is also shocking and extremely worrying. ENAR's yearly shadow reports on racism in Europe and FRA's surveys have provided evidence of discrimination and stigmatisation of Muslims and in particular as the result of hate crime, racial profiling, counter-terrorism policies, discriminatory laws preventing access in some areas of life like education and employment, and populist discourses by politicians and in the media.

Islamophobia and anti-Semitism each have their specificities. Both communities are not portrayed in the same way in the public space. General trends regarding discrimination in employment are also quite different (see question 10).

⁵ <http://www.pewglobal.org/2008/09/17/chapter-1-views-of-religious-groups/>

⁶ http://www.enar-eu.org/IMG/pdf/shadow_report_key_findings_final.pdf

⁷ http://fra.europa.eu/sites/default/files/fra_uploads/448-EU-MIDIS_MUSLIMS_EN.pdf

⁸ http://cms.horus.be/files/99935/MediaArchive/pdf/gpp_chart-2_4_en.pdf

⁹ <http://www.economist.com/blogs/graphicdetail/2015/01/daily->

However, anti-Semitism and Islamophobia are both specific forms of discrimination and racism in which attitudes, behaviours, institutional patterns and policies reject, exclude, vilify, or deny equal treatment to people, based on their real or perceived Jewish or Muslim background. They have the same concrete implications on the physical, psychological or financial situation of individuals.

The response to anti-Semitism and Muslim hatred should therefore deal with these common and separate factors. It is important to tackle both issues - and other forms of racism and hatred - jointly, so as to show all forms of racism and hatred are equally important to address.

3 – Beyond security measures, which are necessary to ensure the security of people and sites, how can the feeling of security of Jewish and Muslim communities in European States be improved?

Beyond immediate security measures, it is **the roots of discrimination that must be addressed**. An increased military presence in front of public places or places of worship is not satisfactory for long-term security and could lead to human rights abuses and less accountability. Security measures can even have the opposite effect: do I really feel more secure as a Jew or Muslim if I see police or soldiers in the streets or around my synagogue or mosque? It may rather contribute to increasing fear: “if there’s so much protection, the threat must be real”. Perception of insecurity is difficult to address as it is linked to sometimes irrational fears based on individual or collective experience. It is a real issue as the perception of insecurity impacts on all rights by limiting freedom of movement. The difficulties in many EU countries of being visibly Jewish or Muslim are linked to increasingly restrictive interpretation of secularism.

To prevent discrimination and violence, more **long-term social investment in education, housing, employment and health policies is crucial** to stop the massive disenfranchisement of sizeable parts of the population that nurtures violent extremism. More resources to intelligence services, police forces and justice systems are also needed to ensure fair justice and equal access to it.

Regular meetings between the police and Jewish and/or Muslim communities at national and local levels are vital to address security issues. Models of cooperation with the police - such as the one developed by the Community Security Trust - should be transferred to other countries. Public financing of community security contractors is possible for Jewish communities in France, the Netherlands, Denmark, the UK, Sweden and Spain. It could be extended to other countries, as recommended in OSCE/ODIHR’s conferences, and to Muslim institutions’ security. The possibility for Muslim communities to organise security associations for the protection of mosques and Muslim institutions should be encouraged, by putting Jewish security associations in touch with relevant Muslim community representatives. Jewish communities and other communities should participate in the design of security measures.

Meaningful cooperation between communities and between communities and authorities is important for sustainable and tailored security policies. Cooperation between schools, sports clubs, social workers and the local police is important to address security issues without turning these workers into spying agents of the community members. Lessons from ongoing prevention strategies, such as the UK Prevent strategy and Channel programme, should be learnt. Support to Muslim communities and access to funding for social inclusion programmes should not be linked to their participation in surveillance/counter-terrorism/counter-radicalisation activities. Imams, religious leaders, social workers, educators, youth educators, sport educators, or health professionals should not become agents of surveillance. The roles of the police and of social workers should be clearly separated to keep trust within communities. Police and other civil servants should receive training on security concerns of communities and on anti-Semitism and Islamophobia, in order to better understand their role. Efforts should be made to restore ethnic and religious minorities’ trust in law enforcement authorities and promote community policing, using existing best practices such as through the hiring and training of policemen/women to engage highly diverse communities in full respect of their cultural, religious and ethnic backgrounds.

The **growing sense of impunity for hate crime and discrimination** manifestations fuels fear. Better implementation of existing equality legislation, including the recognition of the specificity of both anti-Semitism and Islamophobia by State authorities, are relevant to address security concerns.

4 – Which measures do you think would be most effective in tackling the issue of hate speech, including online, with a particular focus on expressions of anti-Semitism and islamophobia?

Tackling hate speech should be based on a human rights approach. All forms of speech that include intolerant remarks, racist, or derogative expressions, as well as incitement to violence, hostility or discrimination and the use of stereotypes should trigger appropriate reactions. In some cases, and in the respect of international human rights law, they should even result in criminal proceedings. Article 20 ICCPR provides a framework, which is implemented in EU law by means of the Framework Decision 2008/913/JHA on combating racism and xenophobia. However, other responses are also needed to tackle the very root of the problem.

In the long term, combating hate speech is a matter of education. All members of our plural societies need to increase their literacy about diversity, in order to become able to recognise stereotypes, and to identify problematic information, checking the credibility of its sources. More generally, a human rights culture of understanding, going beyond the mere context of tolerance, is a core objective. General internet literacy is also part of the answer, as the share of online hate speech has become predominant.

Online hate speech requires particular actions in this respect. Moderators and managers of social networks should be trained to develop a better awareness of the problem. They should be encouraged to take down hate speech content, based on agreed criteria backed by their own charters to tackle all forms of hateful speech. Governments should take a proactive approach to encourage the relevant companies to adopt such policies and act with similar eagerness to combat illegal hate speech than other type of illegal internet content. NGOs such as [La Quadrature du Net](#), in France, have developed policy recommendations in this respect. The No Hate Speech Mouvement is a good practice which should be sustained.

Both online and offline, hate speech propagators need to be countered. When their statements reach a threshold justifying legal, including criminal proceedings, such proceedings should systematically be triggered. However, forms of hate speech that do not reach this threshold should not be left unaddressed, particularly when they come from opinion leaders, such as media or politicians. Media and political institutions should adopt their own codes of conduct to ensure that hateful statements are met by strong condemnation. Beyond sanctions, this has the objective of symbolically reiterating the dangerous and unacceptable character of derogatory and stereotyping forms of expression.

Punishment by criminal law must be part of the possible responses, when hate speech reaches the threshold of incitement to violence, discrimination or hostility (which is the criteria provided by Article 20 ICCPR). The EU's Framework Decision on racism and xenophobia made sure that criminal sanctions exist in all EU Member States. However, more should be done for law enforcement authorities and prosecutors to better know when to trigger investigation and proceedings. Tools such as training or implementation guidelines could be based on policy models such as the Incitement Test developed by ARTICLE 19 in their Policy Brief '[Prohibiting incitement to discrimination, hostility or violence](#)'.

It is also very important to develop alternative sanctions, which are not provided for in the current EU Framework Decision. Research, developed for example by Pr. Jogchum Vrielinck (KU Leuven), suggests that simple repression may have counter-productive effects in this area. Alternative penalties such as diversity training, or community service, could make a difference by also having educational effects.

5 – What are the main challenges and gaps in effectively combatting racist, anti-Semitic and islamophobic speech and crime in terms of legislation and its implementation? What should be done to overcome these challenges and how do you think the EU could facilitate this?

European legislation only partly addresses hate speech and hate crime. The Framework Decision 2008/913/JHA on racism and xenophobia is an important first step, but cannot be regarded as sufficient.

Firstly, **the European Commission needs to continue its work to ensure that it is fully enforced** across the EU. Dialogues have started with many Member States, and should be pursued until they reach their objective. Infringement procedures should be considered whenever necessary.

Secondly, **hate speech and hate crime based on the victims' religious identity is unevenly addressed** by the Decision. Article 1 (3) of the Decision allows Member States to limit the hate speech cases where religious beliefs can be used as a criteria to trigger the use of criminal legislation, for example by considering it should only be possible when religion was used as a proxy for race, colour, descent, or national or ethnic origin. In practice, it makes it more difficult to tackle certain cases of anti-Semitism or Islamophobia where the bias is essentially or exclusively related to religious identities. Article 4 of the Decision, which is the hate crime article of the instrument, is even more problematic in this respect as it only mentions "racist and xenophobic motivation".

Thirdly, **the European Commission should address the fact that Member States fail to properly investigate cases as well as whether and how to prosecute them** as hate crime. Whether bridging that gap should be done by means of amendments to the legislation, or by means of agreed guidelines prepared by the Commission together with the Member States is an open question. The existing FRA-led Working Party with the Council has a mandate that comes very close to these questions, and it could be tasked with proposing solutions.

Such guidelines should be based on existing good practices, which the Commission or the FRA could be in charge of collecting.

- For example, in the UK, the investigation of a bias or hate crime motivation is triggered each time a victim or a witness say they perceived the incident as motivated by hatred. This allows the British police and prosecution system to respect the perception of all victims and to investigate this aspect of the crime seriously – although underreporting remains an issue.
- Other policy models can be provided by the various projects that the EU, mainly thanks to the former Fundamental Rights and Citizenship Programme, funded over the last years. Projects such as [Facing Facts!](#), [Light On](#), [Tracing and Tackling Hate crime](#) all resulted in policy innovation and cooperation models between public authorities and community-based organisations. As a funder, the Commission should take the responsibility to capitalise on these projects for them to produce a long-term effect. Policy solutions should be collected and disseminated as a result.

Beyond criminal legislation, **the transposition and implementation of the Victims' Rights Directive 2012/29/EU can provide some pragmatic answers**. According to this directive, training should be provided to law enforcement officers, prosecutors, judges, lawyers and victim support services. Among the provisions training schemes should deal with, the individual assessment of victims' special protection needs is relevant to the question of hate speech and hate crime (Articles 22 and 23). In fact, the Directive makes clear that victims of crimes committed with a bias or discriminatory motive are among those for whom the needs assessment should be conducted with a particular attention.

Civil society should be involved, as much as possible, in such awareness raising processes and training, particularly as victim support services can, according to the Directive itself, be provided by civil society organisations. The involvement of community-based NGOs would also provide a frame for inter-community dialogue to be better fostered.

6 – What would be the most effective avenues of cooperation to ensure greater effectiveness in preventing and combating anti-Semitic and anti-Muslim discrimination and hatred (i.e. in the area of investigation, prosecution, data collection, victims' reporting and support, etc.)? What would be the role of civil society and national and local authorities and communities?

The role of cooperation between civil society and public authorities at various territorial levels has been explored by a number of European projects funded by the Commission, based on programmes such as DAPHNE or Fundamental Rights and Citizenship. [Facing Facts!](#), [Light On](#), [Tracing and Tackling Hate crime](#) are some of the projects that could provide policy models in various fields mentioned in the question. It should be the role of the Commission, as a funder, to capitalise on these projects by listing all the relevant learning elements and policy models that they contributed to create, in order to foster dissemination at EU level.

Specific cooperation avenues can be identified in all the policy areas listed in the question:

- **In the area of reporting and investigation**, community-based organisations should be allowed to take part in third-party reporting, to tackle underreporting by victims who do not feel at ease in dealing with the authorities. NGOs can also contribute to awareness raising efforts within the community, and

hence develop, together with police authorities, efforts to reinforce trust and confidence, thus tackling underreporting. Once an investigation has started, confidence still plays an important role. When NGOs are in a position to share expertise, for example on the use of bias indicators to assess the existence of a bias or hate motivation, they should be invited to do so. This can include contributions to training schemes devised for police and prosecution personnel.

- **In the area of prosecution**, community-based organisations can once again share expertise, and help liaise with community members who happen to be victims. A good practice, which started in Barcelona and is now extending to the rest of Spain, can be mentioned here: the prosecution services established a special prosecutor in charge of hate crime, who, as part of his mission, organised regular meetings with police forces and community organisations representing the different victimised communities (ethnic and religious communities, LGBT people, etc.).
- **In the area of data collection**, NGOs should be invited, as mentioned under “reporting and investigation”, to contribute to reporting systems. However, NGOs also produce their own data, and have a greater flexibility in capturing the experience of victimised communities, including the secondary effects of victimisation. For this reason, public authorities should take into consideration the data produced by the NGOs independently from official reporting systems. This should be regarded as an opportunity to capture specific dimensions and experiences that may not yet be addressed by the official systems.
- **In the area of victim support**, the Victims’ Rights Directive provides that such services can be provided by NGOs. The Directive also clarifies that both generalist and specialist victim support services, including when operated by NGOs, must be guaranteed by Member States. This clearly has consequences on public funding obligations, where the States decide not to operate such services themselves. More generally, the development of support services’ sensitivity to victims from specific ethnic or religious communities must be addressed through the participation of community-based NGOs, at least by means of a contribution to training and to regular exchanges allowing the services to capture the experience of community members in relation to hate speech, hate crime and their prevalence.

7 – How can social inclusion and inter-cultural cooperation contribute to actively combat anti-Semitic and Anti-Muslim discrimination and promote equality? What can be done at local level to contribute to actively combat such discrimination? Could you give some examples of best practices? What are in your opinion the most effective tools to counter amalgams, stereotypes and negative perceptions?

Obstacles to the **social inclusion** of Jews are often overlooked. But numerous Jews have suffered from the economic crisis as much as the rest of the population. In Bulgaria, the Shalom organization (the Bulgarian branch of the American Joint Distribution Committee) for instance provides emergency support to the Jewish community in addition to running a soup kitchen and a job training programme and centre.

Many Muslims also live in dire conditions. In Belgium for instance, the equality body reports that people with a North African origin (many of which are Muslim or perceived as such) are unemployed. In particular, only 31,5% of women with a North African origin are employed. A large number of Muslims in Western Europe live in segregated areas, where poverty rates are high. Poverty challenges weaken their chances of finding accommodation, a job and of succeeding at school.

If anti-Semitism and Islamophobia are present in times of prosperity, **economic marginalisation tends to increase scapegoating**. For instance, not only are Jews also hit by the crisis, but surveys have shown that Jews are often blamed for the economic crisis, in what is a recent manifestation of conspiracy theories linking Jews and international finance. According to a survey by the Anti-Defamation League, 31% of respondents across Europe blame Jews in the financial industry either “a great deal,” “a good amount” or “a little” for the current global economic crisis. The rise of Islamophobia is also grounded in fears of losing jobs for the majority population.

Most hatred stems from ignorance and lack of exposure, so **inter-cultural work** is very important. Inter-cultural and inter-faith initiatives are useful to tackle amalgams and stereotypes, but the general framework needs to be addressed to create favourable conditions for the social inclusion of all and to break the perception that Muslims are poor and live off social benefit. Those who do not adhere to common rules, such as a 'community

cohesion' policy should be sanctioned. Importantly, the majority population should be educated to minority religions and culture. Promoting events that aim to educate the public about these religions would be an option. Media could take part in this as well.

Further to joint inter-cultural dialogue, initiatives aiming to create and **act together** seem to be effective. Local and national authorities should encourage joint local projects for members of different faiths and cultures to undertake side by side so that they may have an opportunity to learn about each other and their ways of life. As forefront discussion may be difficult, acting together for social change (e.g. asking for children playgrounds, for improvement of the environment, advocating for ritual slaughter, etc.) may be an occasion to have exchanges about common concerns. EU funds for this type of initiatives would be a good incentive, and are seen as more neutral than government and municipal funds in many cases.

In order to combat discrimination it is important to provide regular funding to NGOs, so they can work continuously beyond project funding. In countries where representation of national minorities is foreseen, and where Jews and Muslims are recognised as such, representation should be possible at national and local levels. Beyond this, participation of ethnic and religious minorities in decision making processes is a prerequisite to combating discrimination and promoting social inclusion.

One of the most promising solutions to tackle both anti-Semitism and Islamophobia **are cross-community projects**. Several organisations across Europe have been working for years to promote a continuous dialogue between both groups and contribute to reduce racism and stereotypes.

- One of the best practices in combating anti-Semitic discrimination is the project "Bagel shop" in Lithuania. The main goal of the project is to encourage tolerance and stop the spread of anti-Semitism and other forms of hate. During this project, for the first time ever in Lithuania "Bagel" nominations were made for acts or behaviours encouraging tolerance in society. A Bagel Shop Club was established on the premises of the Lithuanian Jewish Community, a space for generating and implementing ideas fostering tolerance.
- The international initiative GEMJL, present since 2009, organised a platform for Muslim and Jewish leaders across Europe to communicate with one another and rapidly respond to anti-Semitic and Islamophobic crises, by call for actions, media coverage and by the creation of a "GEMJL Communications and Crisis Hotline" to help Muslim and Jewish leaders throughout Europe take part in regular online meetings to discuss crises affecting either or both communities in Europe.
- In France, the association Coexister, a youth inter-religious movement, is a social enterprise of dialogue and solidarity to promote coexistence between religious groups. It currently has three ongoing projects: "InterFaith tour", "Festiv'All Together" and "Nuit des Religions".
- In Denmark, the Jewish Muslim Platform has been acting for 13 years to promote the rights of ethnic and religious minorities in Denmark. It has evolved into a strong defender of human rights, of inter-cultural living, cooperation between Jewish and Muslim communities and working to enhance the integration process of minorities in Denmark.

At local level, city councils and regional authorities are in the frontline to combat discrimination. They can encourage the reporting of discrimination, giving more funds to local equality bodies to follow up these reports and conduct preventive campaigns in schools. Local authorities also have a duty to employ a diverse workforce and ensure their subcontractors also enforce strict diversity management policies.

8 – What are the main gaps and obstacles (legislative, political, administrative, or financial) to fill at national/local level to counter discrimination based on religion, belief and/or ethnic origin in practice? How can such gaps be tackled at EU level?

Despite the EU and national equality legislations, **the specific direct and structural discrimination** faced by Jews and Muslims imply that existing legal instruments and policy measures are not enough to ensure equality of outcome. These must be reinforced by a comprehensive effort on the part of policy makers and civil society to tackle anti-Semitism and Islamophobia and promote full equality and inclusion.

ENAR calls for the European Commission to adopt a framework for national strategies to combat anti-Semitism and for national strategies to combat Islamophobia, based on the model of the European Framework for National Roma Integration Strategies (NRIS) adopted by EU Member States in 2011. Based on

reliable data collection, Member States should draft national strategies addressing discrimination in all fields of life and combat hate crime. These strategies must be specific to the context of each Member State and should include specific goals per policies areas depending on the issues at stake (see answer to question 10 for employment and education), based on which Member States should report on progress to the European Commission.

The **proposed 2008 Equal Treatment Directive is still pending for approval by the Council**. This implies that there is no obligation under EU law to protect, among other, from discrimination on the ground of religion and belief outside of employment. This should therefore be a priority for the EU so that there is a harmonised level of protection for this ground, without undue restriction on wearing religious symbols. Article 3(a) in its current form should be revised to ensure a strict application of the proportionality test, as per international human rights standards. Most Member States however have enacted national or regional legislation that goes beyond the 2000 equality directives and already protect from discrimination on the ground of religion and belief. In some countries, the protection from discrimination is included in the Constitution or general provisions. In France for instance, “there is no express prohibition of discrimination in education other than in the case of disability but education is subject to the general principles of equality contained in the Constitution.”¹⁰

Equality data refer to all types of disaggregated data used to assess the comparative situation of a specific group at risk of discrimination, to design public policies so that they can contribute to promoting equality and to assess their implementation. There is currently no EU comparable data available on exactly how many persons experience unequal treatment because of their religion, race or ethnic origin. Without measuring and quantifying the extent of discrimination and inequalities in Europe, it becomes very difficult to tackle them effectively. Reliable and comparable equality data are important to monitor the effectiveness of equality legislation and put in place concrete solutions to tackle discrimination and to prove discrimination in court, especially indirect discrimination.¹¹ The Commission should also commit to adopting a recommendation to provide Member States with relevant guidelines on equality data collection, in accordance with fundamental rights and data protection standards and based on voluntary self-identification of ethnic and religious minorities.

The **low number of complaints and proceedings challenging instances of discrimination** is striking among Member States. ENAR Shadow Reports show that very few cases regarding discrimination in general are brought before courts and, when data are available on judicial statistics, even fewer concerning discrimination in employment on the grounds of religion, race or ethnic origin. For example in Greece, no court complaint on discrimination on the ground of origin or religion in employment was filed in the last three years. The small numbers of complaints may be a symptom of the lack of awareness of rights, an issue raised by many ENAR members. An illustrative statistic, according to a survey by the FRA in 2012, is that 63% of the respondents indicated that they had not heard of the designated equality bodies in their country of residence. **Access to legal redress** also appears to generally be a time-consuming and complicated procedure. In many countries, the victims of injustice must seek redress from various different bodies, depending on the grounds for their complaint, i.e. whether gender related or race related, for instance. This tends to confuse and complicate the process, resulting in fewer cases moving forward.

The **lack of trust in police authorities, courts or equality bodies is noticeable**. Judicial systems often fail to provide real redress for victims of discrimination because sanctions are not ‘effective, proportionate and dissuasive’. Evidence has emerged that despite the Race Equality Directive provisions on victimisation (Article 9), fear of retribution for lodging a complaint seems to be one of the biggest hurdles facing vulnerable groups. National courts also rarely find indirect discrimination.¹² Equality bodies’ equipment to deal with legal

¹⁰ Network of legal experts in the field of non-discrimination, thematic report, *National Protection beyond the EU anti-discrimination Directives*, 2013, p. 20.

¹¹ See ENAR 2014 report: *Measure, plan, Act: how equality data collection can support race equality*: <http://enar-eu.org/Equality-data-collection-matters>

¹² See OSEPI, *The Implementation of the Race Equality Directive: a Shadow Report*, 2013: <http://www.opensocietyfoundations.org/sites/default/files/Race-Equality%20Directive-Shadow-Report-20130711.pdf>

proceedings varies in terms of mandate, resources, independence and power. Budget cuts and restrictions are concerning in particular in Slovenia, Austria, Spain, Luxembourg and Italy.

Political obstacles and structural discrimination are deeply rooted in European societies. Structural discrimination occurs when rules, norms, routines, patterns, attitudes and behaviours in institutions represent obstacles to enjoyment of rights for categories of the population. Structural discrimination occurs independently of individuals' intentions. Therefore, equality legislation has failed to make a substantial difference in peoples' lives. Examples of discrimination patterns are included in answer to question 10.

There is currently **no common legal duty for employers to accommodate religious diversity under EU law**, which provides for the duty of reasonable accommodation only on the ground of disability. The EU could propose guidelines on reasonable accommodation of religious diversity in order for employees with a religious background that is different from the majority population, to participate in application processes or to perform essential job functions on an equal basis with others, unless such measures would impose a disproportionate burden on the employer.

9 – What role could leaders, including religious and community leaders, play in proposing social representations and a narrative which are inclusive, based on common values and mutual understanding? Which are the most effective practices taken that have effectively evidenced a positive impact and a potential for replication, in particular at local level and amongst and by young people? What could be the role of the media in this respect?

Efforts should be made to **empower community leaders and members of the communities** and not just religious leaders. Best practices include support and empowerment programmes led by American embassies across Europe. Consultations of real and influent opinion leaders are important through advisory bodies and ad hoc consultations. In Belgium, a charter, signed by Muslims of different trends, was published with several suggestions to tackle radicalism.

Obstacles and structural discrimination in employment, education, housing, access to bank loans and political representation should be lifted to **create the conditions for leaders to emerge**.

The participation of religious and community leaders in inter-cultural and inter-faith initiatives also contributes to inclusive narratives. For religious leaders, preaches are a key moment to promote inclusiveness and tolerance. Initiatives such as MitzvahDay and joint charity projects in the UK, where different faiths get together in person to do charitable acts while learning from each other and about each other, are very helpful.

For leaders' contribution to be meaningful **media should dedicate more time to positive initiatives** and existing positive models, especially in Hungary, France and the UK. In Iceland, TV shows have tackled inter-faith and inter-communities dialogue. Media should:

- have a critical approach to the sources of information, their position towards specific society groups (whether they represent the position of a specific institution, political party, described group of society, organisation, expert or personal opinion);
- reflect the opinion of the relevant group – either from the community representing it, organisation, representatives, that have an “inside” view towards a specific problem, topic, and know the inside opinion and arguments;
- avoid the repetition of rhetorical phrases related to typical negative and widely used associations, when writing or analysing topic related to minority groups;
- not formulate topics related to ethnic, religious, migrant and LGBT groups in a sensational and threatening manner (especially in headlines and subheadings of articles);
- not reflect different society groups only as separate societal segments, rather look into topics that connect, instead of divide;
- keep the balance of opinions, also include civil society experts in media articles to balance the opinion presented only by State institutions.

10 – What type of discriminatory obstacles Jewish and Muslims experience most frequently in the field of education and employment?

Employment

Structural discrimination is rooted in employment systems by having to adjust to official bank holidays based on the Christian religion used as a model to create European secular democracies. Many social events at work also take place on Friday, which can be an issue for both Jews and Muslims. The FRA survey on Jewish people's experience of discrimination and hate crime revealed "anti-Semitic discrimination in the past 12 months before the survey was most likely to take place in the workplace (11 % of respondents who were working during the period had experienced this), when looking for work (10 % of respondents who have been looking for work) or on the part of people working in a school or in training". Harassment and anti-Semitic jokes in the workplace are also common.

Muslim people (and especially Muslim women) tend to experience the most severe labour market discrimination, as evidenced by the 2012-2013 Shadow Reports of Austria, Belgium, Bulgaria, the Czech Republic, Croatia, Finland, France, Germany, Greece, Italy, Lithuania, Luxembourg, the Netherlands, Poland, Spain, Turkey and the UK. The feeling of **isolation or marginalisation** has also been reported by Muslim communities for not being given time to pray in the workplace, not being able to eat Halal food or even for being forced to eat lunch during Ramadan. ENAR's 2012-2013 Shadow report for the UK¹³ also specifies that "opportunities to socialise with colleagues puts particular people (especially women and religious minorities) at a disadvantage in establishing social relationships in the workplace, receiving information they might not otherwise receive and gaining promotion."

Direct discrimination on the basis of wearing a religious symbol or clothing like a headscarf during the process of job application in the private sector has been reported in shadow reports on Germany, Belgium, France, Luxembourg, Austria, the Netherlands and Spain. ENAR has received recent reports of Muslim candidates being asked questions on their beliefs or on their views on terrorism during job interviews. Wearing religious symbols in the workplace can also lead to hostility, derogative or humiliating comments. Existing stereotypes reinforce negative images of Muslims as a threat to society. Muslim men are perceived as 'backwards' and Muslim women wearing headscarves are considered 'oppressed'.

Muslims, and in particular Muslim women, also face **indirect discrimination due to restrictions to the right of wearing religious symbols in national laws and practices**, for example in France, Belgium, the Netherlands and Spain. Restrictions imposed by employers are not always in line with international human rights standards, as they are not limited to well-defined and narrow circumstances or do not pursue a legitimate goal, and States do not always check the validity of these restrictions. General bans in the public sector have been introduced in some Member States for reasons of neutrality and secularism in general which many have criticised for not being legitimate per se.¹⁴ In France, political stands, legal complexities and incomprehension on how the principle of neutrality applies have led to attempts to extend restrictions on wearing religious symbols to the private sector, which have been condemned by many, including the National Human Rights Institution.¹⁵

Despite the high level of discrimination in this field, and the fact that there is EU law in employment, there has been **no case of religious discrimination referred to the CJEU**, which may indicate reservations from national courts in this field but also the choice of applicants to go before the Strasbourg Court, whose jurisprudence has been really cautious and favourable to States' margin of appreciation.

Education

Bullying and prejudice at school are frequent for both Jewish and Muslim children. In Hungary, there are increasing reports of parents moving their child to Jewish schools following incidents in mainstream education. Jewish children also experience **discrimination or segregation** in education. ENAR's 2011-12 Shadow Report underlined the continuation of bullying in schools for Muslim pupils who are targeted by both pupils and teachers alike. For instance, in Austria, Germany and the Netherlands, negative attitudes towards Islam, which particularly affects Muslim girls, were reported. Research carried out in the Netherlands highlights the high

¹³ ENAR 2012-2014 *Shadow report on discrimination in employment*, Jessica Mai Sims, http://www.enar-eu.org/IMG/pdf/united_kingdom.pdf

¹⁴ See Amnesty International, *Choice and prejudice, Discrimination against Muslims in Europe*, 2012.

¹⁵ Lettre de la Présidente de la CNCDH au Président de la République, Mars 2015 (In French) : http://www.cncdh.fr/sites/default/files/lettre_au_president_de_la_republique_.pdf

proportion of prejudice against Muslim schoolchildren, while Muslim pupils in Germany, in particular Muslim girls wearing headscarves, also reported facing harassment from teachers. In Germany, teachers have also been reported as displaying prejudicial and stereotypical attitudes towards Muslims who are often exposed to 'depreciatory stereotypes'.

In Iceland, it was reported that young Muslims are often likely to **drop out**. They are multiple and interconnecting reasons highlighted for these **lower attainment rates**, but children who are bullied and experience prejudice will be more likely to drop out school. Repeated humiliation and harassment can deeply affect children's well-being and their motivation at school. It will have an impact on their level of education and their access to the labour market.

In France, there have been reports of schools serving **pork to Muslim children against parents' instructions**. Alternative menus to pork have been recently in the spotlight when the Mayor of Chalon-sur-Saône announced the withdrawal of alternatives to pork in public school menus from the next school year, again in the name of secularism. The *Observatoire de la Laïcité* reminded that "secularism can't be invoked to refuse the diversity of food menus. Such diversity doesn't meet religious prescriptions but allows everyone to eat meat or not, while preventing stigmatisation of children because of their personal convictions/beliefs".

As a consequence of the 2004 law prohibiting students from wearing religious symbols in public schools in France, there have been reports that Muslim girls have been particularly targeted by the law. Cases on how long skirts or loose pants have been considered religious outfits are numerous.

11 – How could the society adjust to an increasing diversity? What is the society at large ready to accommodate for a better "living together"?

Surveys have shown that **intolerance towards Jews and Muslims remains high** in Europe.¹⁶ In Lithuania for example, the annual survey on social distance to diverse social groups shows that the Lithuanian population would not be willing to live in a neighbourhood with Muslims (37%), Chechens (36%), Pakistanis (23%), Black people (18%); would not like to work with Muslim people (26 %) and would not rent a flat from them (37%).¹⁷

Opinion makers and politicians in consultation with civil society can contribute to the normalisation of diversity and the **development of positive narratives**, turned towards a shared future, challenges and hopes. The term "accommodation" of majority society is not the most appropriate, as it may seem negative or demanding. In fact, many already interact often without even realising it: we share public spaces, vote, go to school, meet in sport, cinemas, etc. Education is key to develop a sense of living and doing together. A more inclusive curriculum should not highlight differences in such a way that they are seen as a hindrance or inconvenience.

Civil society should be involved in drafting national, regional and local programmes on promoting an inclusive society and receive adequate funding for projects that cultivate diversity in society. Media could be more proactive in constructive positive images about different social groups and contribute to promoting diversity in society.

12 – What are/could be concrete measures with the greatest impact to be taken by businesses (in public and private employment) and social partners to facilitate and encourage inclusion of ethnic and religious minorities and foster mutual understanding, and how could they be disseminated?

It would be important to use **clear recruitment processes**, such as obligatory publication of vacancies on public-sponsored job advertisement platforms, in addition to resorting to private agencies, as well as use clear and transparent skills grids to justify employment/career evolution/salary. Employers should also monitor, review and accordingly report on human resources, pay, training, career progression and contracts policies and processes to shed the light on **direct or indirect discriminatory practices and bias negatively affecting minorities and migrants**. They should undertake corrective measures if needed, including target setting based

¹⁶ http://www.rand.org/content/dam/rand/pubs/research_reports/RR300/RR334z1/RAND_RR334z1.pdf

¹⁷ Data of the Institute for Ethnic Studies, Lithuanian social research centre, 2013.

on equality data collection. Similarly to the UK public sector equality duty, employers should regularly report on what they have done to promote equality.

Employers should **sign and implement diversity charters and labels** following a regular external assessment of the company's progress in leveraging diversity management measures throughout the organisation. It should include progress reports on benchmarking and targets, salary and career progression, work life balance, application of reasonable accommodation in the workplace, etc. The EU could set up a high level standard European diversity label (as for sustainable development).

A possibility is to implement a **compulsory mentorship programme** by pairing junior-level employees with an ethnic or religious minority or migrant background with more senior employees.

Member States should also adopt **national framework for reasonable accommodation of religious diversity**. In practice, employers may create prayer rooms, separate fridges for kosher food, allow for the possibility to take different holidays during religious celebrations, not holding social events on Friday evenings, offering the possibility to consume alcoholic and non-alcoholic drinks.

Employers should develop **clear internal regulations against racism, related discrimination and harassment** in the workplace. These regulations should include clear information for employees who are victims or witnesses of discrimination, internal remedy procedures and the establishment of a complaint desk/trusted representative to assist victims in reporting discrimination cases either to court or to equality bodies. Internal rules should respect the EU Employment directive: restrictions to wearing religious symbols should be limited to occupational requirements that are legitimate and proportionate.

More training should be available for operational managers on diversity, inclusion and unconscious bias, but also on inter-faith at work. Dealing with diversity should be part of performance appraisal.

To promote best practices, diversity/inclusion awards could be organised during public events and promoted nationally.

13 – Which further initiatives could Member States, EU institutions and international organizations take in order to promote common values and mutual understanding and counter stereotypes in the educational sphere (e.g. citizenship education; education about the EU history, its fundamental values and EU rights; intercultural workshops in school, training for teachers, guidelines for educators, etc.). What are already existing best practices in this respect?

To promote common values and mutual understanding, the European Commission could commission the production of **sample publications/factsheets on EU history** including the contributions of Jews, Muslims and other groups to Europe, Europe's role in the transatlantic slave trade and colonisation. A best practice in this respect is the factsheet produced by the Council of Europe and the University of Graz on Roma history.¹⁸ Member States should ensure that the **comprehensive history of, among others, Jewish and Muslims communities** in Europe is included in education curricula. Modules on understanding/history of all religions and beliefs should be compulsory for all children, in order to debunk myths and sometimes get understanding of common roots. It is important to ensure that everyone can identify in history lessons, otherwise resentment is created and, for instance, lessons on the Holocaust are counter-productive. Member States should also ensure that Holocaust education is not disconnected to teaching about contemporary forms of anti-Semitism, racism and other genocides.

Factsheets or modules on the values the EU was built on and how these values translate into fundamental rights listed in the Charter of Fundamental Rights could also be produced on the model of the recent FRA toolkit on Fundamental Rights and Holocaust remembrance.¹⁹ Interactive modules and apps for mobile phones should be encouraged, such as the FRA Charter app.

¹⁸ Roma history factsheets, accessible here: <http://romafacts.uni-graz.at/>

¹⁹ FRA toolkit, January 2015, accessible here: <http://fra.europa.eu/en/news/2015/fundamental-rights-and-holocaust-remembrance>

Building on existing material for teachers and educators,²⁰ the EC could commission the FRA and other research organisations to **produce detailed training modules** on unconscious bias, stereotypes, prejudice, racism Islamophobia, anti-Semitism and discrimination. Specific attention should be given to prevention and reaction to hate speech, including anti-Semitic and Islamophobic speech at school. These modules should be available in all EU official languages and actually implemented within education curricula so that bullying, discrimination and diversity are part of compulsory programmes. Role models and diversity champions should be involved to reemphasise the message. Social competences such as critical thinking, working in a diverse society and mobilising for change should be encouraged within programmes such as the Erasmus +. A training programme with an EU certificate on diversity and EU values could also be delivered.

In order to **avoid discrimination in education**, as described in question 10, school management and teachers themselves should be trained on these issues and equipped to deal with conspiracy theories and emphasise the need to acquire social competences. Training should go beyond educators and teachers and should also reach civil servants, police, etc.

This consultation is signed by:

1. ENAR - the European Network Against Racism
2. CEJI – a Jewish contribution for an Inclusive Europe
3. FEMYSO – Forum of European Muslim Youth and Student Organisations
4. EMISCO – European Muslim Initiative for Social Cohesion
5. Centre for Equality Advancement – Lithuania
6. Lithuanian Centre for Human Rights – Lithuania
7. Foundation for Subjective Values – Hungary
8. CIE Centro d'Iniziativa per l'Europa - Italy
9. CAP Liberté de Conscience – France
10. Studio Praxis – France
11. UKREN – UK Race and equality Network – United Kingdom
12. Northamptonshire Rights & Equality Council – United Kingdom
13. ORBIT – Belgium
14. Ísland Panorama Office – Iceland
15. Institute for African Studies – Slovenia
16. AJAME - Association des Juristes Arabo Musulmans - France
17. JUST West Yorkshire – United Kingdom
18. KISA - Action for Equality, Support, Antiracism - Cyprus

²⁰ Including the many OSCE tools on anti-Semitism, available here: <http://www.osce.org/odihr/antisemitism> and the UNESCO OSCE Guidelines for Educators on Countering Intolerance and Discrimination against Muslims, Addressing Islamophobia through Education, 2011, available at: <http://www.osce.org/odihr/84495?download=true>