

# European Union Agency for Fundamental Rights, selection of relevant and recent passages from published reports related to Spain

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## Data explorers from FRA reports (LGBT, Violence Against Women, Roma, etc)

See <http://fra.europa.eu/en/publications-and-resources/data-and-maps> for specific survey-based data concerning violence against women, LGBT, Roma, etc, including country comparisons and maps in data explorers.

## Fundamental rights: challenges and achievements in 2013 - Annual report 2013

[http://fra.europa.eu/sites/default/files/fra-2014-annual-report-2013\\_en.pdf](http://fra.europa.eu/sites/default/files/fra-2014-annual-report-2013_en.pdf)

“National action plans (NAPs) in the area of fundamental rights protection have proved to be “useful tools for clarifying the authorities’ responsibilities and for identifying and addressing gaps in human rights protection”. EU Member States such as Croatia, Finland, the Netherlands, Spain, Sweden and the United Kingdom (Scotland) have experience with such action plans and a number of other Member States including Austria and Greece are considering introducing NAPs.” (p. 14)

“The CJEU’s jurisprudence was used to provide guidance in the interpretation of national constitutional law outside the scope of EU law, for example in a judgment from Spain. In a case concerning the civil

legislation that regulates the order of surnames in Spain and civil registration of names, the national court used the CJEU judgment in C-208/09, the Sayn-Wittgenstein case, to stress that the name of a person is an element of his or her identity and privacy, whose protection is guaranteed by Article 7 of the Charter.” (p. 28)

“In 2013, Frontex-coordinated operations alone returned 2,159 persons to their home countries. This is only a small portion of the total number of forced removals that Member States carried out directly. Spain, for instance, chartered 153 return flights and coordinated only six through Frontex in 2012.” (p. 45)

“[Using synergies between the National Preventative Mechanism and forced return monitoring] A similar practice has evolved in Spain, where the Ombudsman office in its capacity as NPM monitors several phases of return operations, including treatment on the plane, and issues recommendations concerning forced returns.” (p. 47)

“The construction of fences, as undertaken or planned at sections of land borders in Bulgaria, Greece and Spain, limits the ability of persons in need of international protection to seek safety. Many undocumented asylum seekers who would try to use official border-crossing points would be intercepted by third-country authorities before reaching the external EU border.” (p. 65)

“Discriminatory ethnic profiling is unlawful, yet it persists, thereby contributing to the deterioration of social cohesion and to loss of trust in law enforcement. Evidence of such profiling was found in Austria, Finland, Germany, Greece, Ireland, the Netherlands, Sweden, Spain and the United Kingdom [...]. The practice involves treating an individual less favourably than others who are in a similar situation, for example by exercising police powers such as stop and search solely on the basis of a person’s skin colour, ethnicity or religion. Persons with an ethnic minority background were found to be much more likely to be stopped and searched than members of the majority population in the Netherlands, Spain and the United Kingdom” (p. 155–156).

“A number of EU Member States undertook initiatives to improve and enhance their institutional responses to combat racism and related intolerance. In Spain, a prosecutor’s office was set up in each of the 50 provinces to investigate offences with discriminatory or racist motivations. The activities of these offices are coordinated by a national delegate appointed by the state’s general attorney.” (p. 157)

“Data collection on racist and related crime in Spain became comprehensive as a result of changes introduced in relation to what data are collected and training offered to frontline police officers on how to record racist and related crime. Data are now collected on crimes motivated by racism, xenophobia and intolerance of another person’s religion or beliefs as well as antisemitism. In addition, about 20,000 law enforcement officials received training in how to identify and record such crimes in 2013” (p. 159)

“Austria and Spain consulted Roma civil society on how to implement their national strategies [...]” (p. 171)

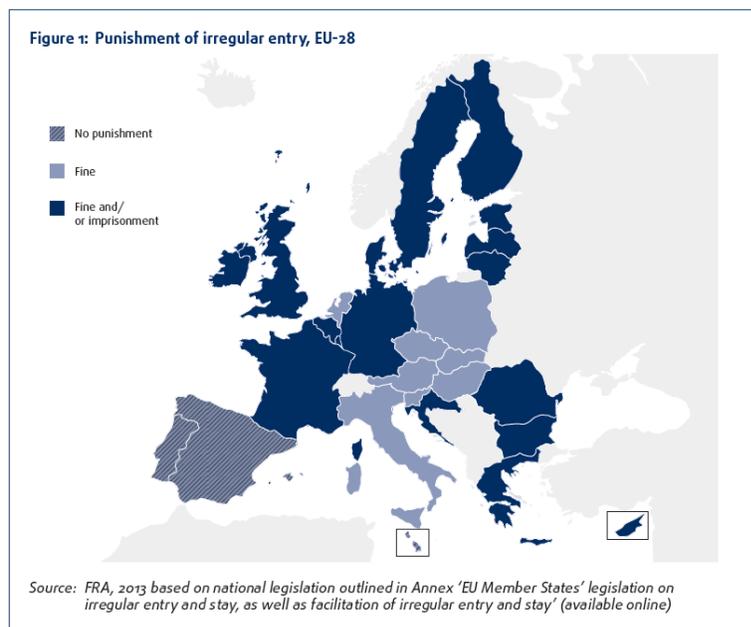
“According to the European Commission 2013 Flash Eurobarometer Survey on Justice in the EU, public perceptions about justice and the rule of law across the EU are consistently low in the Czech Republic, Greece, Italy and Spain.” (p. 192)

“Budget cuts, which may force non-judicial bodies to provide reduced services and hence undercut their ability to adhere to their mandate, were reported in 2013 in, for example, Bulgaria, Ireland, Slovakia and Spain.” (p. 202)

## Criminalisation of migrants in an irregular situation and of persons engaging with them (March 2014)

[http://fra.europa.eu/sites/default/files/fra-2014-criminalisation-of-migrants\\_en.pdf](http://fra.europa.eu/sites/default/files/fra-2014-criminalisation-of-migrants_en.pdf)

“Malta, Portugal and Spain do not punish irregular entry with a fine or imprisonment, but return procedures are immediately initiated.” (p. 4)

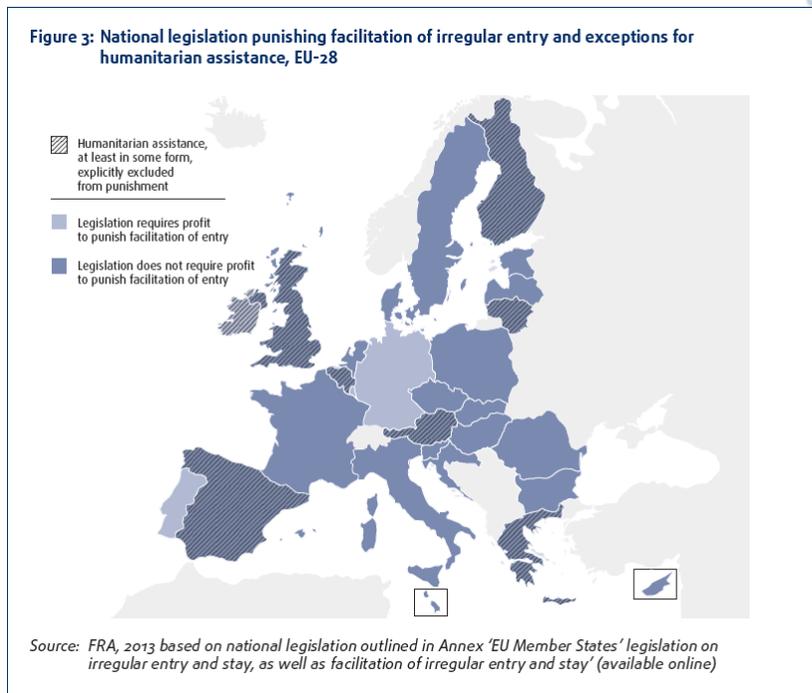


(p. 4)

“National legislation in, for instance, France, Spain and the United Kingdom allows undocumented women who are victims of domestic violence to apply for residence permits independent of the main permit holder. These laws also protect them from destitution by granting them access to the labour market or public funds.” (p. 7)

“Some EU Member States punish facilitation of entry and stay with fines or imprisonment, others with both in combination. The penalty scales vary greatly. The maximum fine for facilitating entry and stay is €78,000 in the Netherlands. In Spain, the fine for facilitating stay can be up to €100,000. In both the Netherlands and Spain facilitation of stay is punishable only if the motive is gain.” (p. 9)

“In Spain, it is not an offence to transport an asylum seeker into the country if he or she has presented an asylum request without delay and it has been admitted for processing.” (p. 10)



(p. 10)

“In addition, based on rules on facilitation of stay, under the national laws of 11 Member States, landlords renting accommodation to migrants in an irregular situation may also risk a fine and/or imprisonment. In another seven EU Member States – Bulgaria, Czech Republic, Finland, Latvia, Romania, Slovenia and **Spain** – the punishment is a fine. In aggravated circumstances, the punishment may be imprisonment.” (p. 13)

**Violence against women: an EU-wide survey. Main results report (March 2014)**

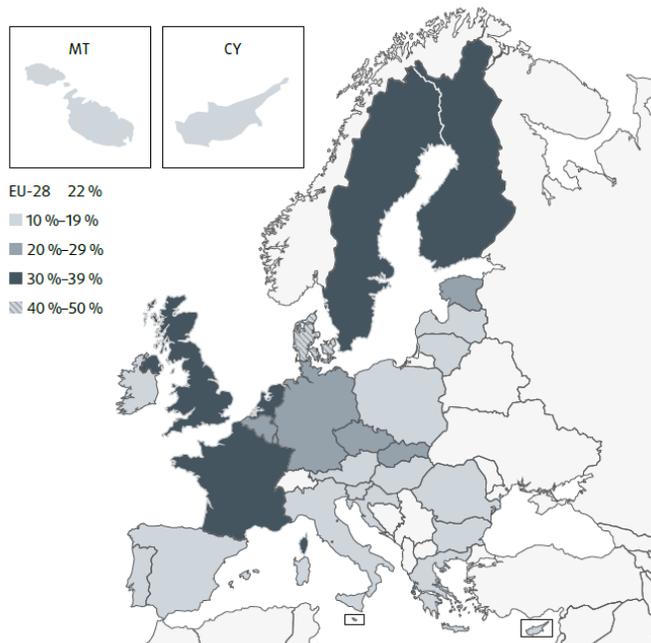
[http://fra.europa.eu/sites/default/files/fra-2014-vaw-survey-main-results-apr14\\_en.pdf](http://fra.europa.eu/sites/default/files/fra-2014-vaw-survey-main-results-apr14_en.pdf)

Table 2.1: Women who have experienced physical and/or sexual violence by current and/or previous partner, or by any other person since the age of 15, by EU Member State (%)

| EU Member State | Current partner <sup>a</sup> | Previous partner <sup>b</sup> | Any partner (current and/or previous) <sup>c</sup> | Non-partner <sup>d</sup> | Any partner and/or non-partner <sup>d</sup> |
|-----------------|------------------------------|-------------------------------|--|--------------------------|---|
| AT              | 3                            | 15                            | 13   | 12                       | 20  |
| BE              | 8                            | 29                            | 24   | 25                       | 36  |
| BG              | 11                           | 38                            | 23   | 14                       | 28  |
| CY              | 6                            | 24                            | 15   | 12                       | 22  |
| CZ              | 6                            | 23                            | 21   | 21                       | 32  |
| DE              | 7                            | 24                            | 22   | 24                       | 35  |
| DK              | 12                           | 31                            | 32   | 40                       | 52  |
| EE              | 7                            | 23                            | 20   | 22                       | 33  |
| EL              | 10                           | 17                            | 19   | 10                       | 25  |
| ES              | 4                            | 18                            | 13   | 16                       | 22  |
| FI              | 11                           | 31                            | 30   | 33                       | 47  |
| FR              | 11                           | 31                            | 26   | 33                       | 44  |
| HR              | 7                            | 13                            | 13   | 13                       | 21  |
| HU              | 7                            | 23                            | 21   | 14                       | 28  |
| IE              | 4                            | 19                            | 15   | 19                       | 26  |
| IT              | 9                            | 25                            | 19   | 17                       | 27  |
| LT              | 11                           | 31                            | 24   | 16                       | 31  |
| LU              | 7                            | 26                            | 22   | 25                       | 38  |
| LV              | 13                           | 38                            | 32   | 17                       | 39  |
| MT              | 5                            | 28                            | 15   | 15                       | 22  |
| NL              | 9                            | 27                            | 25   | 35                       | 45  |
| PL              | 5                            | 17                            | 13   | 11                       | 19  |
| PT              | 8                            | 28                            | 19   | 10                       | 24  |
| RO              | 14                           | 30                            | 24   | 14                       | 30  |
| SE              | 7                            | 29                            | 28   | 34                       | 46  |
| SI              | 5                            | 21                            | 13   | 15                       | 22  |

(p. 28)

Figure 2.2: Physical and/or sexual non-partner violence since the age of 15, EU-28 (%)



Source: FRA gender-based violence against women survey dataset, 2012

(p. 30)

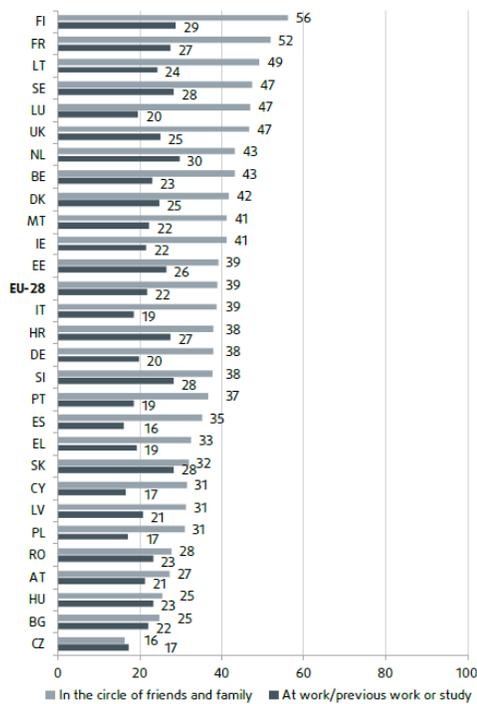
“Considering the results at the country level (...), the rates of partner violence range from 30 %–32 % in Finland, Denmark and Latvia to 13 % in Austria, Croatia, Poland, Slovenia and Spain. The prevalence rates for non-partner violence present a similar degree of spread, from a high of 34 %–40 % in Sweden, the Netherlands and Denmark to 10 %–11 % in Portugal, Greece and Poland.” (p. 30)

“The second model combines the arrest of the suspect with the possibility of a restraining order subsequently issued by a court or a public prosecutor. This approach has been adopted in at least five EU Member States: Belgium, France, Ireland, Spain and Sweden” (p. 68)

“At the EU Member State level, the results range from 60 % of women in Denmark and Latvia, and 53 % of women in Finland having experienced some form of psychological violence in their relationships, to one in three women in Ireland (31 %), Greece (33 %) and Spain (33 %) having experienced this.” (p. 73)

“With regard to place of work or study, more people (male and female) in Sweden (24 %), Finland (21 %) and the Netherlands (20 %) say they know of a victim where they work or study, as opposed to only 6 % in Bulgaria and the Czech Republic, and 7 % in Spain and Portugal” (p. 156)

Figure 9.5: Knowledge of cases of domestic violence in the circle of friends or family, or in the work environment, by EU Member State (%) <sup>a,b</sup>



Notes: a In the circle of friends: out of all respondents (N = 42,002).  
 b At work/previous work or study: out of all respondents who are/were in work or study (n = 40,054).  
 Source: FRA gender-based violence against women survey dataset, 2012

(p. 156)

“When asked about the existence of specific legislation, 28 % of women in Estonia, Malta and Finland, and almost every fourth woman in Greece (24 %), Latvia (23 %), the United Kingdom (23 %) and Bulgaria, Spain and the Netherlands (each 22 %) indicate that they do not know if there are any specific

laws or political initiatives for protecting women in cases of domestic violence in their country of residence.” (p. 160)

### **Access to data protection remedies in EU Member States (January 2014)**

[http://fra.europa.eu/sites/default/files/fra-2014-access-data-protection-remedies\\_en\\_0.pdf](http://fra.europa.eu/sites/default/files/fra-2014-access-data-protection-remedies_en_0.pdf)

“When asked about the damage caused by the data protection violation, the complainants and non-complainants most commonly tended to describe it in psychological or social terms. In the former case, they focused on their emotions; in the latter, on the opinion of other people or the impact on their relations with other people. They mentioned varying degrees of emotional distress, offence, insecurity (including feelings of being persecuted or under surveillance), helplessness or damage to their professional or personal reputation, loss of trust and other forms of moral damage (in, for example, Austria, Bulgaria, Germany, Greece, Hungary, Italy, Latvia, the Netherlands, Poland and **Spain**). A complainant in **Spain** noted that an aspect of this is feeling “impotence regarding an abuse of power.” (p. 28)

“In most of the 16 EU Member States researched, costs and financial risk were among the major concerns individuals had when deciding to initiate or continue their case (Austria, the Czech Republic, Finland, France, Greece, Hungary, Italy, Latvia, the Netherlands, Poland, Portugal, Romania and **Spain**).” (p. 39)

“Participants in various EU Member States expressed criticism of the national DPAs. In some countries they questioned the independence of the authority or described it as not completely independent (as noted in Austria, Bulgaria, the Czech Republic, Hungary, Italy, Latvia, the Netherlands, **Spain** and the United Kingdom).” (p. 46)

### **Legal capacity of persons with intellectual disabilities and persons with mental health problems (July 2013)**

<http://fra.europa.eu/sites/default/files/legal-capacity-intellectual-disabilities-mental-health-problems.pdf>

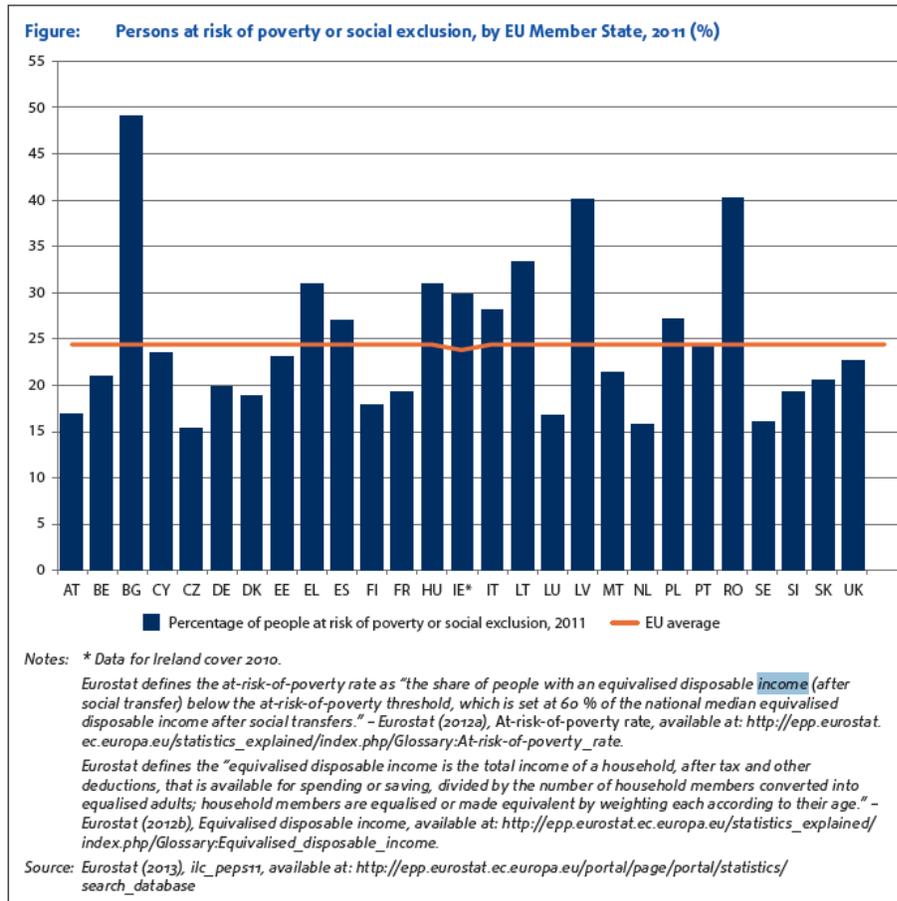
“About half of EU Member States explicitly provide in their national legal frameworks for the person concerned to request a restriction of his or her legal capacity. This is the case in Austria, Denmark, Estonia, Finland, France, Germany, Greece, Italy, Luxembourg, Slovakia, Slovenia, **Spain**, Sweden and the United Kingdom” (p. 35)

“The comparative analysis shows that in the majority of EU Member States a guardianship measure is in principle instituted for an unlimited period of time and is not subject to periodic review. In Slovakia, for instance, there is no maximum time limit for the duration of the protective measure.<sup>252</sup> Bulgaria is another such example, since the law does not limit the duration of guardianship once it has been established. Other Member States without a statutory maximum duration include Belgium, Cyprus, the Czech Republic, Greece, Ireland, Lithuania, the Netherlands, Poland, Portugal, Slovenia and **Spain**.” (p. 38)

## The European Union as a Community of values: safeguarding fundamental rights in times of crisis (July 2013)

[http://fra.europa.eu/sites/default/files/fra-2013-safeguarding-fundamental-rights-in-crisis\\_en.pdf](http://fra.europa.eu/sites/default/files/fra-2013-safeguarding-fundamental-rights-in-crisis_en.pdf)

“Whereas it is difficult to assess causal links between the socio-economic crisis and vulnerability, including of persons who do not necessarily belong to vulnerable groups, vulnerability rises in times of crisis. For instance, the “economic downturn [...] has had some impact on the overall extent of homelessness. For Greece, Ireland, Italy, Portugal, Spain, and the UK, the crisis was identified as a key driver of increased homelessness in the past 5 years,”<sup>50</sup> as the European Federation of National Organisations working with the Homeless (Feantsa) reports. Feantsa also highlights that the rate of homelessness has increased by 25 % to 30 % in Greece, Portugal and Spain since the beginning of the economic crisis. It observes a trend to more homeless migrants, due to “cuts in welfare, housing, health, probation services, education and training” (p. 12-13)



## Fundamental rights: challenges and achievements in 2012 (June 2013)

[http://fra.europa.eu/sites/default/files/annual-report-2012\\_en.pdf](http://fra.europa.eu/sites/default/files/annual-report-2012_en.pdf)

“Whereas it is difficult to assess causal links between the socio-economic crisis and vulnerability, including of persons who do not necessarily belong to vulnerable groups, vulnerability rises in times of crisis. For instance, the “economic downturn [...] has had some impact on the overall extent of homelessness. For Greece, Ireland, Italy, Portugal, Spain, and the UK, the crisis was identified as a key driver of increased homelessness in the past 5 years,”<sup>49</sup> as the European Federation of National Organisations working with the Homeless (Feantsa) reports. Feantsa also highlights that the rate of homelessness has increased by 25 % to 30 % in Greece, Portugal and Spain since the beginning of the economic crisis. It observes a trend to more homeless migrants, due to “cuts in welfare, housing, health, probation services, education and training”” (p. 17)

“Half of the EU’s Member States – Austria, Belgium, Bulgaria, Denmark, France, Hungary, Luxembourg, the Netherlands, Portugal, Romania, Spain, Sweden and the United Kingdom – as well as Croatia committed themselves to taking action in the area of statelessness. Such commitments ranged from considering joining the 1961 Convention (Belgium, Luxembourg, Portugal and Spain) to reviewing the implementation of the 1954 Convention (for example, Austria and the United Kingdom).” (p. 45)

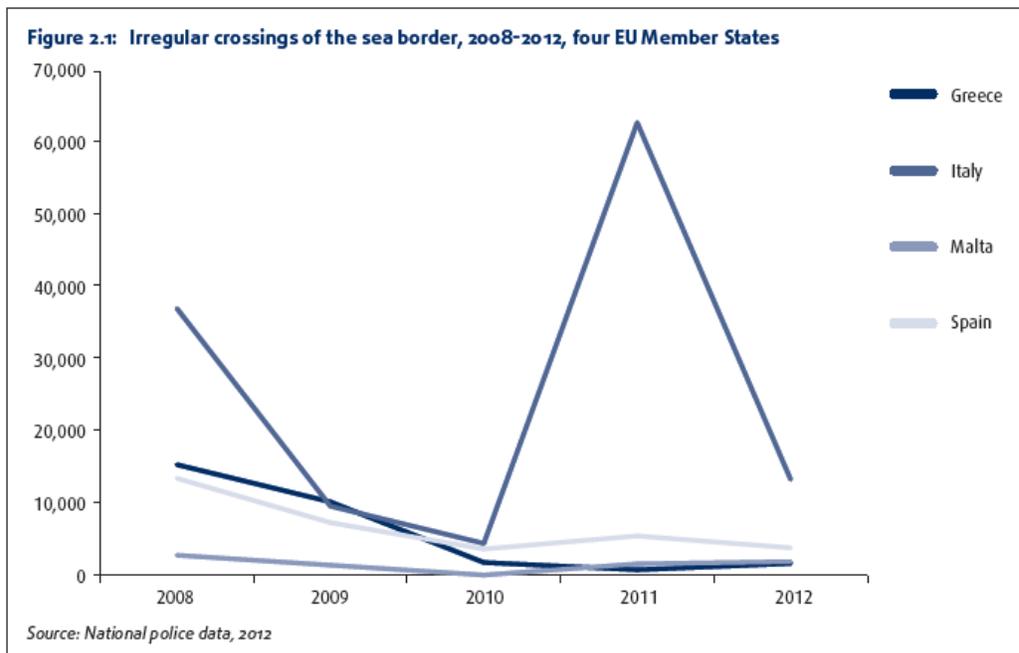
“Access to healthcare for migrants in an irregular situation continued to be a topic of policy discussions in some EU Member States. In Spain, the Foreigners Act was amended in April, limiting equal access to healthcare for undocumented migrants to emergency assistance, healthcare for persons under 18 years of age and care during pregnancy, childbirth and postpartum.” (p. 48)

(Table below on alternatives to detention of a migrant in irregular situation)

**Table 1.5: Types of alternatives applied by EU Member States, EU-25 and Croatia**

| Country | Duty to surrender documents | Bail/sureties | Regular reporting | Designated residence | Designated residence & counselling | Electronic monitoring |
|---------|-----------------------------|---------------|-------------------|----------------------|------------------------------------|-----------------------|
| AT      |                             | x             | x                 | x                    |                                    |                       |
| BE      |                             |               |                   |                      | x                                  |                       |
| BG      |                             |               | x                 |                      |                                    |                       |
| CZ      |                             | x             | x                 |                      |                                    |                       |
| DK      | x                           | x             | x                 | x                    |                                    | x                     |
| DE      | x                           |               | x                 | x                    | x                                  |                       |
| EE      | x                           |               | x                 | x                    |                                    |                       |
| EL      | x                           | x             | x                 | x                    |                                    |                       |
| ES      | x                           |               | x                 | x                    |                                    |                       |
| FI      | x                           | x             | x                 |                      |                                    |                       |
| FR      | x                           |               | x                 | x                    |                                    | x                     |
| HU      | x                           |               | x                 | x                    |                                    |                       |
| IE      | x                           |               | x                 | x                    |                                    |                       |
| IT      | x                           |               | x                 | x                    |                                    |                       |
| LV      | x                           |               | x                 |                      |                                    |                       |
| LT      |                             | x*            | x                 | x                    |                                    |                       |
| LU      |                             |               | x                 | x                    |                                    |                       |
| NL      | x                           | x*            | x                 | x                    |                                    |                       |
| PL      |                             |               | x                 | x                    |                                    |                       |
| PT      |                             |               | x                 | x                    |                                    | x                     |
| RO      |                             |               | x                 | x                    |                                    |                       |
| SE      | x                           |               | x                 | x                    |                                    |                       |
| SI      | x                           | x             | x                 | x                    |                                    |                       |
| SK      |                             | x             | x                 | x                    |                                    |                       |
| UK      | x**                         | x             | x                 |                      | x                                  | x                     |
| HR      | x                           | x             | x                 | x                    |                                    |                       |

(p. 53)



(p. 80)

“Seven EU Member States, namely Austria, Estonia, Hungary, Italy, Malta, Slovenia and Spain, adopted the second approach and created new mechanisms dedicated to monitoring CRPD implementation. Many of these new mechanisms also systematically involve persons with disabilities through their representative organisations.” (p. 150)

“In November 2012, Spain reinforced existing systems of data collection. The Secretary General for Immigration and Emigration of the Ministry of Employment and Social Security and the Secretary of State for Security of the Ministry of Interior jointly published a *Handbook for training security forces in identifying and recording racist or xenophobic incidents*.<sup>11</sup> Changes made to the crime statistics system meant that security forces in Spain record crime statistics on racist and xenophobic offences, as well as on offences motivated by religious intolerance, sexual orientation, gender identity and disability. The statistics include data on the characteristics of victims and offenders as well as on the type and location of the crimes.” (p. 180)

“Evidence from Malta shows that migrants experience discrimination in the housing market,<sup>65</sup> while evidence from Poland<sup>66</sup> and Spain<sup>67</sup> demonstrates that migrants faced unequal treatment when trying to access social housing or the private rental market, as was established in Spain through discrimination testing.” (p. 192)

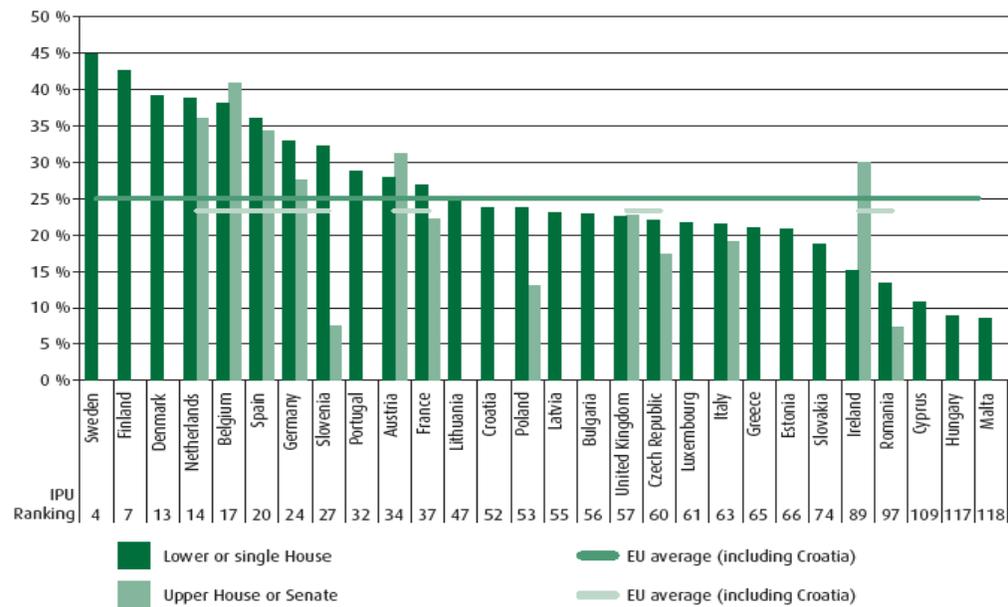
“The Spanish Equality Body issued its *Annual Study on discrimination based on racial or ethnic origin: the perception of the potential victims 2011*, whose findings reveal that ethnic minorities perceive that they experience the highest rate of discrimination in the area of employment, with 46.7 % of those surveyed saying they had experienced discrimination on ethnic or racial grounds” (p. 194)

“The results from Spain show that among 1,497 Roma Spanish nationals and 361 Eastern European Roma from Romania and Bulgaria, aged 16 and over, 53.9 % of the Spanish Roma and 33.9 % of the Eastern European Roma respondents perceived that they had been discriminated against in health centres and hospitals in the 12 months preceding the survey.” (p. 197)

“The segregation of Roma children in education can take several forms, with evidence showing that they can be over-represented in special remedial schools for children with intellectual and other disabilities as is the case, for example, in the Czech Republic, Hungary, Romania or Slovakia. Alternatively, they may be put in special classes or schools as is the case, for example, in Austria, Finland, Greece, Latvia, Portugal or Spain.” (p. 199)

“In many EU Member States, namely Denmark, Estonia, Finland, Hungary, Ireland, Latvia, Luxembourg, Malta, the Netherlands, Portugal, Slovakia, Spain, Sweden and the United Kingdom, nothing prevents non-national EU citizens from running for or being nominated to the position of mayor.” (p. 215)

**Figure 7.2: Proportion of female parliamentarians in EU Member States and Croatia**



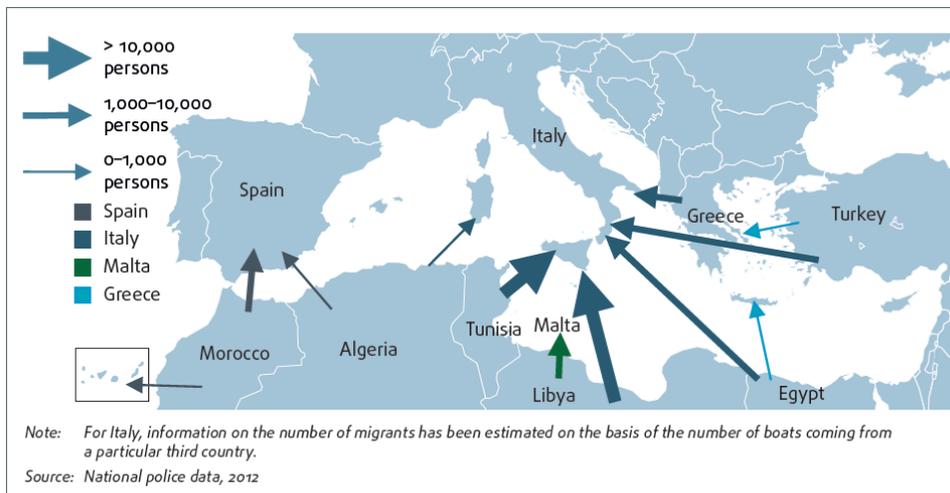
Note: Only 13 EU Member States have an upper house or a senate.

Source: Data extracted from the Inter-Parliamentary Union, Women in National Parliaments as of 1 January 2013, available at: [www.ipu.org/wmn-e/classif.htm](http://www.ipu.org/wmn-e/classif.htm).

(p. 219)

### Fundamental rights at Europe's southern sea borders (March 2013)

[http://fra.europa.eu/sites/default/files/fundamental-rights-europes-southern-sea-borders-jul-13\\_en.pdf](http://fra.europa.eu/sites/default/files/fundamental-rights-europes-southern-sea-borders-jul-13_en.pdf)



Note: For Italy, information on the number of migrants has been estimated on the basis of the number of boats coming from a particular third country.

Source: National police data, 2012

(p. 9)

“Research also indicates that migrants arriving by sea make up only a small portion of the overall population of migrants in an irregular situation living in southern Europe. [...] In Spain, according to National Immigrant Survey data for 2007, the proportion of immigrants illegally entering the country, (for example by boat) amounted only to 1 % of the total number of arrivals, with the majority of foreigners entering the country by air.” (p. 20)

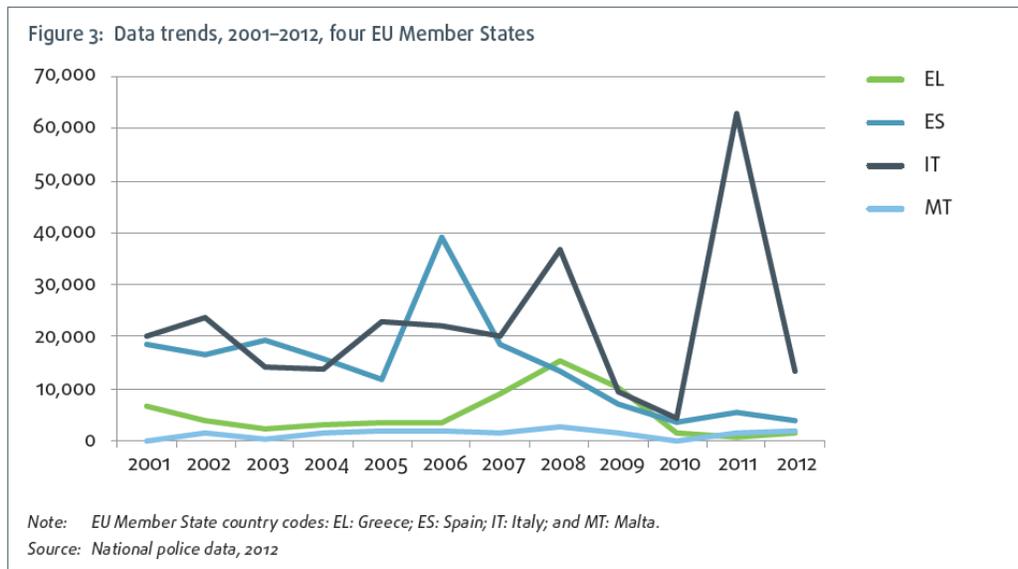
Table 1: Third-country national arrivals by sea, 2001–2012, four EU Member States

|    | 2001   | 2002   | 2003   | 2004   | 2005   | 2006   | 2007   | 2008   | 2009   | 2010  | 2011   | 2012   |
|----|--------|--------|--------|--------|--------|--------|--------|--------|--------|-------|--------|--------|
| EL | 6,864  | 3,926  | 2,439  | 3,047  | 3,371  | 3,456  | 9,240  | 15,314 | 10,165 | 1,765 | 757    | 1,627  |
| ES | 18,517 | 16,670 | 19,176 | 15,675 | 11,781 | 39,180 | 18,656 | 13,424 | 7,285  | 3,632 | 5,443  | 3,798  |
| IT | 20,143 | 23,719 | 14,331 | 13,635 | 22,939 | 22,016 | 20,165 | 36,951 | 9,573  | 4,406 | 62,692 | 13,267 |
| MT | 57     | 1,686  | 502    | 1,388  | 1,822  | 1,780  | 1,702  | 2,775  | 1,397  | 28    | 1,579  | 1,890  |

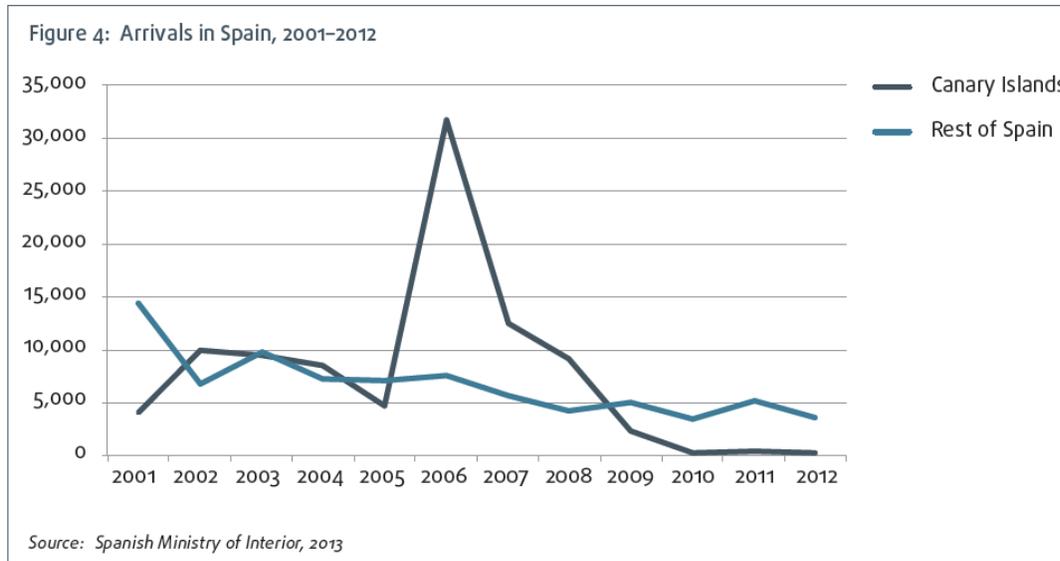
Notes: The table includes spontaneous arrivals as well as persons rescued at sea. Figure 3 provides a graphic illustration of these figures. EU Member State country codes: EL, Greece; ES, Spain; IT, Italy; and MT, Malta.

Source: National police data, 2012

(p. 21)



(p. 21)



(p. 22)

“Interviews with Moroccans near Tangier waiting to depart for Spain indicated that those with little means were placed in overcrowded facilities with rudimentary conditions where they had to wait for several months before attempting a sea crossing.” (p. 24)

“In Spain, the trend seems to be different. The Spanish NGO Andalusia Association for Human Rights (APDHA) reported almost 600 people dead or missing when trying to reach the Spanish coasts in 2008, a number which dropped to some 200 people in 2011. Of these, as noted above, authorities officially registered only 29 corpses.” (p. 30)

“A risk of *refoulement* also persists in several of these countries. In Morocco, for example, a common practice to deal with migrants returned by Spain is to escort them to the Algerian border in the desert.” (p. 50)

“FRA administrated a questionnaire to the bodies in charge of border management in Finland, Romania and Spain. The responses indicate that practitioners have different perceptions of whether surveillance images collected contain personal data. Finland replied that persons can be identified through the images. Spanish and Romanian border management authorities indicated that their systems do not allow for the recording of personal data. Domestic data protection legislation, which would regulate issues such as the maximum period of data storage, sharing data with third parties, access by data protection supervisors, is therefore not considered applicable to Spain and Romania’s surveillance systems, whereas it applies in Finland.” (p. 60)

“While in all facilities migrants are deprived of their liberty insofar as they are not allowed to leave without permission, a distinction can be made between the migrants hosted in the Italian centres and those detained in Malta on the one hand and those held in Greek and Spanish police facilities on the other. In Italy and Malta, migrants can move freely within the facility, or at least certain parts of it,

whereas in Greece and Spain they are confined to their cells. In general terms, migrants held in all facilities are separated by sex. The separation usually starts at the pier. In Greece and Spain, families cannot typically remain together; placement is done in cells, in which women are systematically separated from men.” (p. 83)

“In Italy, Malta and Spain, asylum applications are usually not formally registered during the identification interview but at a later stage, after the person is transferred to a pre-removal detention facility or a reception facility for asylum seekers. Spain generally gives no information on asylum during the short identification interview after disembarkation. None of the migrants interviewed in Andalusia recalled having received information on the right to asylum, nor did the FRA observe such information being given when FRA assisted with the arrival of a group of migrants in August 2011.” (p. 91)

“While mechanisms put in place to identify suspected victims of trafficking were found to be weak or non-existent in Greece and Malta, Italy and Spain have introduced some promising initiatives. Spain is the only country in which interviewees mentioned the existence of specific internal instructions to identify potential victims of trafficking;<sup>301</sup> if human trafficking is suspected, the first action is to separate the victim from the rest of the group, although this may not necessarily mean releasing him or her, authorities said.” (p. 94)

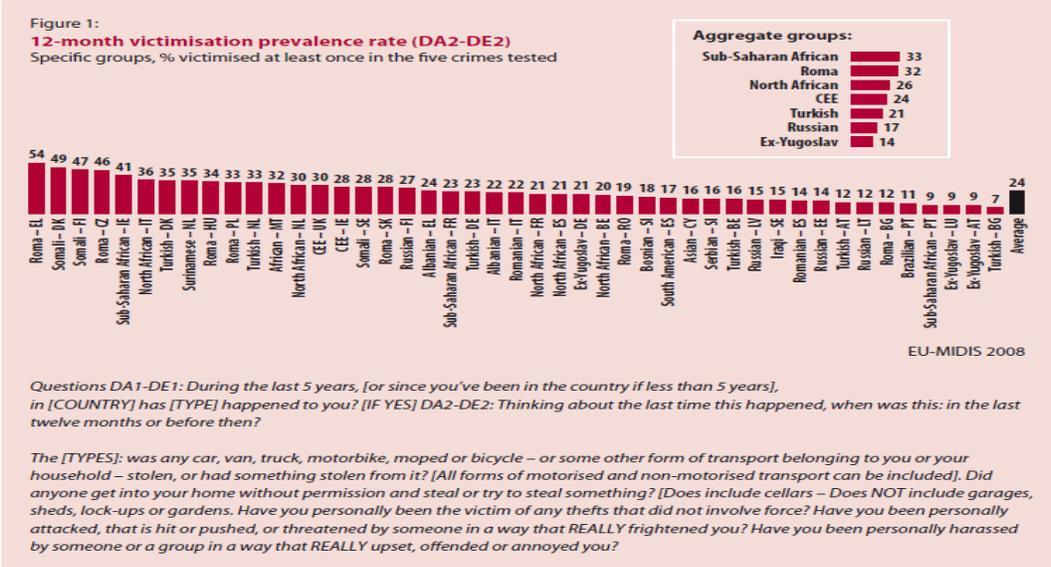
### **Inequalities and multiple discrimination in access to and quality of healthcare (March 2013)**

[http://fra.europa.eu/sites/default/files/inequalities-discrimination-healthcare\\_en.pdf](http://fra.europa.eu/sites/default/files/inequalities-discrimination-healthcare_en.pdf)

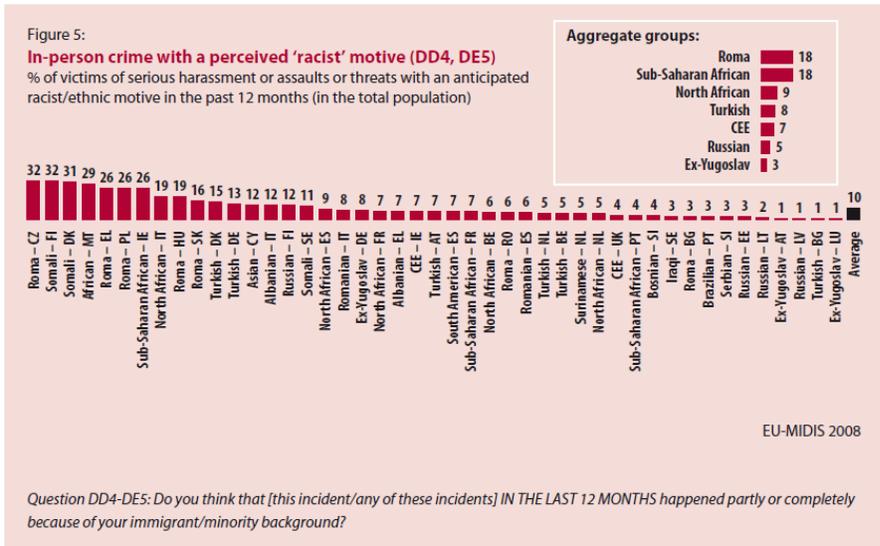
“FRA’s large-scale survey of the Roma population in the EU, which interviewed over 64,000 Roma and 20,000 non-Roma in 11 EU Member States, shows that, except in Slovakia and Spain, more Roma than non-Roma said that they are limited in their daily activities.” (p. 36)

### **EU-MIDIS Data in Focus Report 6: Minorities as Victims of Crime (November 2012)**

[http://fra.europa.eu/sites/default/files/fra-2012-eu-midis-dif6\\_0.pdf](http://fra.europa.eu/sites/default/files/fra-2012-eu-midis-dif6_0.pdf)



(p. 8)



(p. 11)

## Making hate crime visible in the European Union: acknowledging victims' rights (November 2012)

[http://fra.europa.eu/sites/default/files/fra-2012\\_hate-crime.pdf](http://fra.europa.eu/sites/default/files/fra-2012_hate-crime.pdf)

**Table 1: Classification of official data collection mechanisms pertaining to hate crime, by EU Member State**

| Limited data   | Good data   | Comprehensive data  |
|--|---|---|
| <i>Few incidents and a narrow range of bias motivations are recorded</i>   | <i>A range of bias motivations are recorded</i>   | <i>A range of bias motivations, types of crimes and characteristics of incidents are recorded</i> |
| <i>Data are usually not published</i>  | <i>Data are generally published</i>   | <i>Data are always published</i>  |
| Bulgaria<br>Cyprus<br>Estonia<br>Greece<br>Hungary<br>Ireland<br>Italy<br>Latvia<br>Luxembourg<br>Malta<br>Portugal<br>Slovenia<br>Spain | Austria<br>Belgium<br>Czech Republic<br>Denmark<br>France<br>Germany<br>Lithuania<br>Poland<br>Slovakia | Finland<br>Netherlands<br>Sweden<br>United Kingdom  |
| Romania*   |   |   |

Notes: \*No evidence on hate crime data collection was found for Romania.  
 Information as of September 2012.  
 Source: FRA desk research and FRA analysis of data provided by the FRA's research network

(p. 8)

### Fundamental rights: challenges and achievements in 2011 (June 2012)

[http://fra.europa.eu/sites/default/files/fra\\_uploads/2211-FRA-2012\\_Annual-Report-2011\\_EN.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/2211-FRA-2012_Annual-Report-2011_EN.pdf)

“(The right to appeal negative visa decisions) In Germany, the refused applicant may request that the consulate reconsider the decision and may also submit a further appeal to the Administrative Court in Berlin. Spain applies the same system of appeal and the designated body is the High Court of Madrid.” (p. 80)

“Whereas all EU Member States have prohibited corporal punishment against children in schools and penal institutions, as of October 2011 only 16 EU Member States had prohibited all forms of corporal punishment including against children at home and in alternative care settings: Austria, Bulgaria, Cyprus, Denmark, Finland, Germany, Greece, Hungary, Poland, Latvia, Luxembourg, the Netherlands, Portugal, Romania, Spain and Sweden” (p. 105)

“In Spain, public attention focused on the ‘stolen children’ who, between the 1940s and 1980s, were given up for adoption at hospitals with neither their mothers’ knowledge nor consent. This allegedly constituted a systematic practice in some hospitals, involving doctors, nurses and nuns. In June 2011, the general public prosecutor said that of the 849 investigations launched, evidence of a crime had been found in 162 cases and in those cases charges had been filed. There are growing indications, however, that the practice may have involved hundreds of children. Complaints by various organisations – such as the National Association of the Victims of Irregular Adoptions (*Asociación Nacional de Afectados por Adopciones Irregulares*) and SOS Stolen Babies (*SOS Bebés Robados*) – over state delays in opening registries to enable the search for lost relatives prompted the general public prosecutor to point out

that the investigations would take time because they need to be coordinated with all the autonomous communities of Spain as it was believed that various networks had been involved.” (p. 107)

“At the national level, EU Member States have undertaken legal reforms relevant to undocumented children. In Spain, for example, the new Organic Act 10/2011 allows illegally residing women who report being victims of gender-based violence to request a residence permit for their under-age or disabled children or if they are unable to provide for their own needs. This provisional residence permit is granted automatically” (p. 112)

“Younger workers are also faced with long-term unemployment. In its 2011 update on *Global Employment Trends for Youth* between the ages of 15 and 24, the International Labour Organization cites Italy as an example of a developed economy where the long-term youth unemployment rate far surpasses that of other adults. In 2010, young people there were three and a half times more likely to be in long-term unemployment than were other adults. In other EU Member States such as Belgium, France, Greece, Hungary, Ireland, Slovakia, Spain, and the United Kingdom young people were about twice as likely to find themselves in a similar situation.” (p. 143)

“The Spanish council for the promotion of equal treatment and non-discrimination on the grounds of ethnic or racial origin [...] carried out a survey in 2010 among 556 members of ethnic and migrant groups in Spain on their perceptions of discrimination. The results of this survey, published in March 2011, show that 28.8% of the respondents said they had felt discriminated against in the area of health in the past 12 months.” (p. 163)

## **Involuntary placement and involuntary treatment of persons with mental health problems (June 2012)**

[http://fra.europa.eu/sites/default/files/involuntary-placement-and-involuntary-treatment-of-persons-with-mental-health-problems\\_en.pdf](http://fra.europa.eu/sites/default/files/involuntary-placement-and-involuntary-treatment-of-persons-with-mental-health-problems_en.pdf)

“The 2002 report noted that 12 out of 15 EU Member States had special mental health laws regulating involuntary placement and involuntary treatment in 2002.<sup>131</sup> According to the 2002 report, the main reason for not specifically legislating in this area in Greece, Italy and Spain, is to prevent the stigmatising effect of a rule applied only to persons with mental health problems.” (p. 29)

“In a small group of EU Member States, the need for therapeutic treatment of the person, combined with a mental health problem, could justify involuntary placement. Legislation in these countries does not list the criteria of presenting a danger to oneself or others as a condition for involuntary placement. This is the case in Italy and Spain. [...] Article 763 (1) of the Spanish Civil Procedure Act, the main criterion to be fulfilled in order to subject a person to involuntary treatment is the mental health problem of the person concerned. Article 763 of the Civil Procedure Act builds upon a clinical criterion. This means that any clinical circumstance that strongly requires the provision of treatment under hospital conditions would be sufficient to order an involuntary placement.”

## The situation of Roma in 11 EU Member States - Survey results at a glance

[http://fra.europa.eu/sites/default/files/fra\\_uploads/2099-FRA-2012-Roma-at-a-glance\\_EN.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/2099-FRA-2012-Roma-at-a-glance_EN.pdf)

"[...] in Hungary and **Spain**, for instance, at least seven out of 10 Roma and non-Roma children surveyed are reported to attend pre-school or kindergarten. In stark contrast, in Greece, less than 10 % of Roma children are reported to be in preschool or kindergarten compared with less than 50 % of non-Roma children." (p. 13)

"In five out of 11 EU Member States, Portugal, Greece, **Spain**, France and Romania, fewer than one out of 10 Roma is reported to have completed upper-secondary education." (p. 15)

"**Spain** is an exception in this regard with the overwhelming majority of both Roma and non-Roma households having these basic amenities" (p. 23)

Relevant data extracted from the survey data explorer - Results from the 2011 Roma survey:

<http://fra.europa.eu/DVS/DVT/roma.php>

### Education

Data from FRA Roma pilot survey 2011<sup>[1]</sup>

- 78% of Roma children are enrolled in pre-school
- Literacy rate of Roma men is 91% and of Roma women is 83%
- 14% of Roma men and 19% of Roma women have never went to school
- 5% of Roma aged 20 to 24 have completed upper-secondary education

### Employment

Data from FRA Roma pilot survey 2011

- 29% of Roma men and 14% of Roma women are employed
- 49% of Roma men and 31% of Roma women are unemployed
- 40% of Roma women are fulltime home makers
- 46% of Roma state that they are entitled to pension

### Housing

Data from FRA Roma pilot survey 2011

- Roma household has on average more than 1.5 persons per room
- 4% of Roma live in a household with no piped water or no sewage or no electricity

### Health

Data from FRA Roma pilot survey 2011

- 99% of Roma have medical insurance
- 25% of Roma aged 35-54 have health problems that limit their daily activities
- 51% of Roma women over 50 years have very bad health that limits them in daily activities

### Poverty

Data from FRA Roma pilot survey 2011

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<sup>[1]</sup> The FRA Roma Pilot survey sampled the Roma population at risk of marginalization thus it doesn't claim its findings to be representative of the entire Roma population.

- 91% of Roma live in a household at risk of poverty
- 14% of Roma experienced that someone in their household went to bed hungry last month

Active citizenship / Rights awareness

Data from FRA Roma pilot survey 2011

- 32% of Roma experienced discrimination on ethnic grounds
- 32% of Roma are aware of an anti-discrimination law when applying for a job
- 51% of Roma voted in the last national election

## **The Racial Equality Directive: application and challenges (January 2012)**

[http://fra.europa.eu/sites/default/files/fra\\_uploads/1916-FRA-RED-synthesis-report\\_EN.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/1916-FRA-RED-synthesis-report_EN.pdf)

“Some questions have also been raised regarding the independence of equality bodies from central government. This is owed to the relationship that an equality body may have with government ministries. This may be physical (where an equality body shares its premises with a ministry), financial (where a ministry determines the level of funding), organisational (where equality body’s director is appointed by a minister or attached to a ministry). One or more of these concerns were expressed in relation to Italy, Malta, Hungary, Slovenia and **Spain**. While these issues may not affect the independence of the equality bodies in practice, they may give rise to unfavourable perceptions, affecting the confidence of victims to approach them” (p. 12)

“In more than half of the Member States victims are entitled to be represented by trade unions in at least some dispute settlement fora: Austria, Belgium, Bulgaria, Cyprus, the Czech Republic, Estonia, Germany, Ireland, Italy, Latvia, Luxembourg, the Netherlands, Poland, Portugal, Slovenia, **Spain** and the UK. Trade unions in some Member States also provide financial assistance to cover the legal costs of those involved in disputes. They were also able to initiate legal proceedings upon satisfaction of certain criteria in the following Member States: Belgium, Bulgaria, Denmark, France, Italy, Malta, the Netherlands, Poland, Romania, **Spain** and Sweden.”(p. 14)

## **Homophobia, transphobia and discrimination on grounds of sexual orientation and gender identity in the EU Member States (June 2011)**

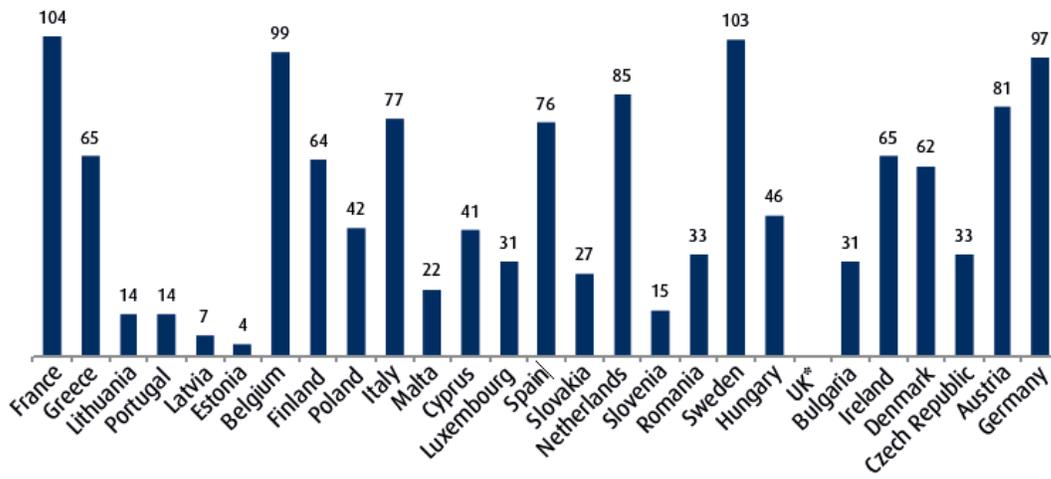
[http://fra.europa.eu/sites/default/files/fra\\_uploads/1659-FRA-homophobia-synthesis-report-2011\\_EN.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/1659-FRA-homophobia-synthesis-report-2011_EN.pdf)

“Another area where hetero-normativity is expressed is in the area of reproductive health services, since many Member States limit access to fertility treatment to women in heterosexual relationships. However, in some Member States (for instance Denmark, Romania, **Spain** and the UK) lawmakers and the courts have moved towards the removal of barriers to reproductive health services for LGBT persons, permitting access for individuals regardless of marital status or sexual orientation.” (p. 24)

## **Fundamental rights: challenges and achievements in 2010 (June 2011)**

[http://fra.europa.eu/sites/default/files/fra\\_uploads/1633-annual-report-2011\\_EN.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/1633-annual-report-2011_EN.pdf)

Figure 1.2: Number of nationalities which applied for international protection in 2009, by country



Note: It should be noted that the number of nationalities does not necessarily reflect the number of languages spoken by the asylum applicants.

\* No data available for 2009.

Source: FRA (2010b). Data based on Eurostat Asylum Statistics, extracted in September 2010.

(p. 32)

“In **Spain**, the equality body, the Council for the promotion of equal treatment of all persons without discrimination on the grounds of racial or ethnic origin (*Consejo para la promoción de la igualdad de trato y no discriminación de las personas por el origen racial o étnico*), became operational in late 2009. According to information on its website, a complaints mechanism has been introduced by drawing on the capacity of eight existing NGOs. A network of centres to assist victims of discrimination was launched in June 2010 with more than a hundred offices across **Spain**.” (p. 89)

“Beyond the area of gender reassignment, **Spain** modified its legislation to provide better protection in the area of criminal law from abuse and violence motivated by transphobia. In June 2010, among other grounds, discrimination on the grounds of ‘sexual identity’ was added to the aggravating circumstances laid down in Article 22 (4) of the criminal code. The article now considers as aggravating circumstances ‘committing an offence out of racist, anti-semitic or other kinds of discriminatory motives related to the victim’s [...] gender, sexual orientation or identity [...]’.” (p. 97)

“In **Spain**, the National Police Corps in the central district of Madrid has reached an agreement with the Madrid LGBT association (COGAM) to guarantee that an ‘immediate response’ will be given to homophobic aggressions. At the level of the autonomous communities, it is worth mentioning that in Catalonia a ‘Protocol for police action against homophobia’ was adopted, which enables the Catalan police to report immediately to the prosecution office any offences that appear motivated by the victims’ sexual orientation, in order to record statistical information on this issue. The Public Prosecutor’s Office in the province of Barcelona has created a Special Service on Hate and

Discrimination Offences. This example of good practice has been followed by the creation of a similar service in Madrid.” (p. 98)

Table 6.1: Status of official criminal justice data collection mechanisms on racist crime in the EU27

| Official data not systematically available  | Limited  | Good  | Comprehensive   |
|---|--|---|---|
| Official national data tend either not to be collected or made publically available | Limited reporting on a handful of investigations and court cases, and/or focus on general discrimination that can include racist crime | A good system exists to register crimes, and/or system focuses on right-wing extremism and/or anti-Semitism | Extensive data collection, with detail typically provided about victim characteristics, place of victimisation etc. |
| Bulgaria<br>Cyprus<br>Greece<br>Portugal<br><b>Spain</b>                            | Estonia<br>Hungary<br>Italy<br>Latvia<br>Lithuania<br>Luxembourg<br>Malta<br>Netherlands<br>Romania<br>Slovenia                        | Austria<br>Belgium<br>Czech Republic<br>Denmark<br>France<br>Germany<br>Ireland<br>Poland<br>Slovakia       | Finland<br>Sweden<br>UK   |

Source: FRA, 2010

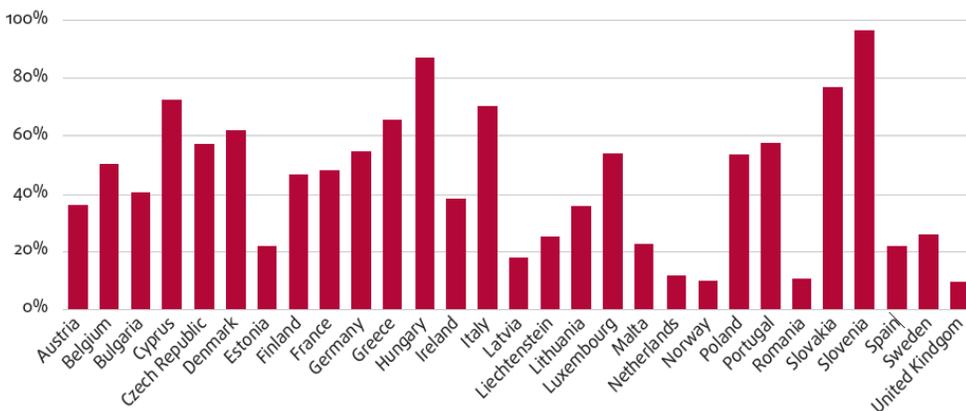
(p. 121)

## Access to justice in Europe: an overview of challenges and opportunities (May 2011)

[http://fra.europa.eu/sites/default/files/fra\\_uploads/1520-report-access-to-justice\\_EN.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/1520-report-access-to-justice_EN.pdf)

“In many Member States NGOs are able to provide legal representation or initiate court proceedings either in the name of the victim or on their own behalf. NGOs are able to bring cases to court without the consent of the victim in certain circumstances (such as for ‘class actions’), for example in Bulgaria, Hungary, Italy and the Slovak Republic. In other Member States the consent of the victim is required, for example in Latvia, Lithuania, and **Spain** (though in the latter only in cases outside the sphere of employment).” (p. 39)

Figure 5: Violations concerning length of proceedings as a percentage of all ECtHR's judgments finding violations of the ECHR, by EU Member State plus Liechtenstein and Norway (%), during the period 1959–2009



Source: ECtHR, '50 Years of Activity: European Court of Human Rights. Some Facts and Figures', 2010<sup>66</sup>

(p. 41)

“(Access to legal aid for all, irrespective of nationality and immigration status) [A]liens not legally residing in **Spain** are entitled to receive legal aid (or representation by an assigned counsel) in all proceedings of all jurisdictions where they are a party and not only within penal or contentious-administrative proceedings regarding their expulsion from the Spanish territory or relating to asylum.” (p. 53)

### **Separated, asylum-seeking children in European Union Member States (December 2010)**

[http://fra.europa.eu/sites/default/files/fra\\_uploads/1692-SEPAC-comparative-report\\_EN.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/1692-SEPAC-comparative-report_EN.pdf)

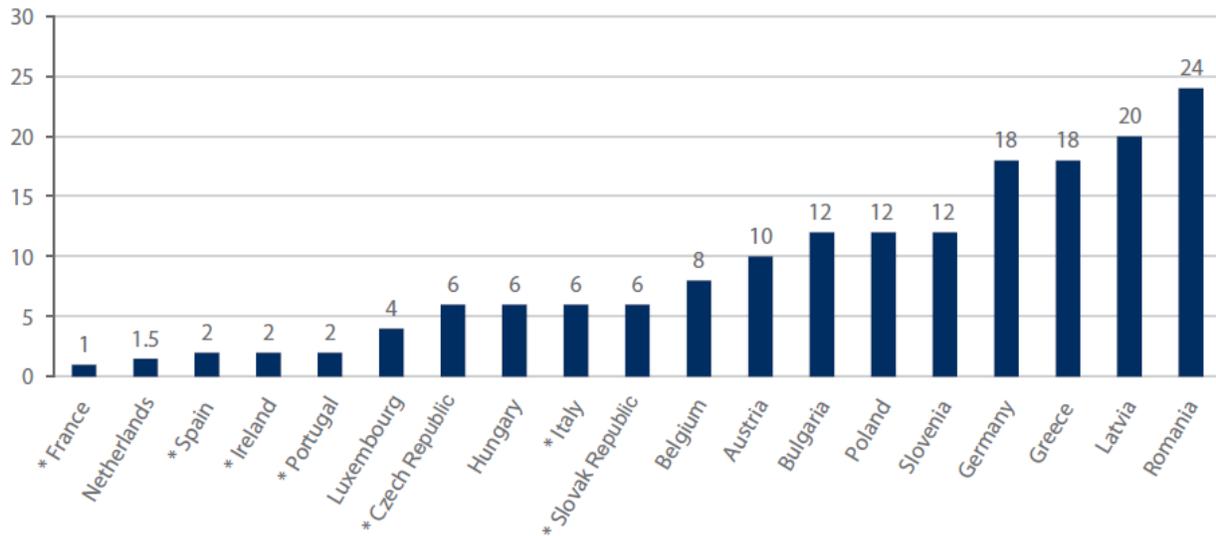
“One psychologist interviewed in Italy stated that parents sometimes did not want their children to be friends with separated, asylum-seeking children. Adults, particularly in **Spain** and the UK, also spoke of the prevailing prejudice against migrants and asylum-seekers, often portrayed by some media as ‘criminal delinquents’ or as ‘scroungers with bogus claims of being minors’. Children also mentioned some examples of racial discrimination. [...]In turn, this negative image impacts on the lives of the children, affecting people’s attitudes and behavior towards them. For example, in **Spain**, efforts to establish new accommodation centres for separated children were resisted by residents leading authorities to relocate them in more remote areas.” (p. 46)

“Notwithstanding the fact that most separated children felt ‘accepted’ in the receiving country, some children in Austria, Belgium, Cyprus, Hungary, Italy, the Netherlands, **Spain** and Sweden reported experiences of discrimination and racism in their daily life. According to adult respondents, the separated children were frequently fined in public transportation or stopped by the police, as a result of ethnic profiling, similarly to other migrants, for example in Cyprus, France and **Spain**.” (p. 73)

### **Detention of third country nationals in return procedures (November 2010)**

[http://fra.europa.eu/sites/default/files/fra\\_uploads/1306-FRA-report-detention-december-2010\\_EN.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/1306-FRA-report-detention-december-2010_EN.pdf)

**Figure 2: Maximum length of detention, by country (month)\***



Note: \* Lengths of detention expressed in days or weeks in national legislation are provided in months in the graph.

Source: FRA, September 2010

(p. 33)

## Homophobia, transphobia and discrimination on grounds of sexual orientation and gender identity (November 2010)

[http://fra.europa.eu/sites/default/files/fra\\_uploads/1759-FRA-2011-Homophobia-Update-Report\\_EN.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/1759-FRA-2011-Homophobia-Update-Report_EN.pdf)

“As of 2010 the prohibition of sexual orientation discrimination covers all areas mentioned in the Racial Equality Directive in 11 Member States (Belgium, Bulgaria, Czech Republic, Germany, Hungary, Romania, Sweden, Slovak Republic, Slovenia, **Spain**, the UK).” (p. 19)

“In **Spain**, gender identity is not expressly mentioned in Article 14 of the Spanish Constitution, which bans discrimination against any national on account of birth, race, sex, religion, opinion or any other personal or social condition or circumstance. With its decision 176/2008, adopted on 22 December 2008, the Constitutional Court established that gender identity is to be read in among the prohibited grounds of discrimination” (p. 22)

“In conclusion, 13 Member States (Belgium, Denmark, Estonia, France, Ireland, Lithuania, the Netherlands, Portugal, Romania, Slovenia, **Spain**, Sweden, and the UK) explicitly criminalise incitement to hatred or discrimination on grounds of sexual orientation.” (p. 40)

**Table 5 - Definition of 'family member' for the purposes of free movement, asylum and family reunification**

| Country Codes | Free movement <sup>29a</sup> |         | Family Reunification |         | Asylum |         | Comments   |
|---------------|------------------------------|---------|----------------------|---------|--------|---------|--|
|               | spouse                       | partner | spouse               | partner | spouse | partner |  |
| AT            |                              | ✓       |                      | ✓       |        | ✓       | Article 59 of the Registered Partnership Act (BGBl. I, No. 135/2009) modifies Article 9 of the Settlement and Residence Act, which now stipulates that the definition of 'family member' includes a registered partner. Article 57 of the Registered Partnership Act modifies Article 2/1 of the Asylum Act [Asylgesetz], which now stipulates that the definition of 'family member' includes a registered partner, provided that the registered partnership had already existed in the country of origin. Same-sex spouses are likely to be treated as registered partners.  |
| BE            | ✓                            | ✓       | ✓                    | ✓       | ✓      | ✓       |  |
| BG            |                              |         |                      |         |        |         | Article 7 of the new Family Code (01.10.2009) confirms that marriage is a mutual agreement between a man and a woman.  |
| CY            |                              |         |                      |         |        |         |  |
| CZ            |                              | ✓       |                      | ✓       |        | ✓       | Same-sex spouses are likely to be treated as registered partners. Rights concerning family reunification and asylum are restricted to registered partnerships.   |
| DE            |                              | ✓       |                      | ✓       |        | ✓       | Same-sex spouses are likely to be treated as registered partners. Rights concerning family reunification and asylum are restricted to registered partnerships.   |
| DK            | ✓                            | ✓       | ✓                    | ✓       | ✓      | ✓       |  |
| EE            |                              |         |                      |         |        |         | The new Family Law Act (entry into force 01.07.2010) defines marriage as a different-sex institution only and considers marriage between persons of the same sex invalid. Family reunification possible when the partner can prove that he/she is economically or socially dependent.  |
| EL            |                              |         |                      |         |        |         |  |
| ES            | ✓                            | ✓       | ✓                    | ✓       | ✓      | ✓       | Organic Law 2/2009 of 11 December (Spain/Ley Orgánica 2/2009 (11.12.2009)) has modified Organic Law 4/2000 in order to grant couples who have an affective relationship similar to marriage the right to family reunification. Implementing regulations to this law have not been adopted, thus the meaning of the requirement that the 'affective relationship' be 'duly attested' remains to be clarified. Article 40 of the Law 12/2009 of 30 October on the right to asylum and subsidiary protection [del derecho de asilo y de la protección subsidiaria] replaces Law 5/1984 of 26.03.1984 and, by transposing the EU <i>acquis</i> , confirms the notion that a family member includes the <i>de facto</i> partner having an affective relationship similar to marriage. |
| FI            | ✓                            | ✓       | ✓                    | ✓       | ✓      | ✓       |  |
| FR            | ?                            | ?       | ?                    | ?       | ?      | ?       | As a result of the entry into force on 14.05.2009 of a new Article 515-7-1 of the French Civil Code, inserted by law 2009-526 of 12.05.2009, foreign registered partnerships are recognised in France; the repercussions of this change for the purposes of free movement of EU citizens are still unclear. Family reunification of third country nationals depends upon the authorities' discretion, which may require additional conditions. No information available on refugees.   |
| HU            |                              | ✓       |                      | ✓       |        | ?       | Entry and residence rights for free movement are also granted to the unmarried <i>de facto</i> partner, subject to conditions.   |
| IE            |                              | ✓       |                      | ✓       |        | ✓       | Adoption of Civil Partnership Act in 2010. Immigration, Residence and Protection Bill not yet enacted, but the government intends to treat registered partners in the same way as spouses.   |
| IT            |                              |         |                      |         |        |         |  |
| LT            |                              |         |                      |         |        |         |  |
| LU            |                              | ✓       |                      | ✓       |        | ✓       | The new law on free movement and immigration (29.08.2008) recognises as a family member a spouse or registered partner provided the conditions set forth in article 4 of the partnership law (09.07.2004) are fulfilled. Rights concerning family reunification and asylum are restricted to registered partnerships. Same-sex spouses are likely to be treated as registered partners.  |

## Towards More Effective Policing, Understanding and preventing discriminatory ethnic profiling: A guide (October 2010)

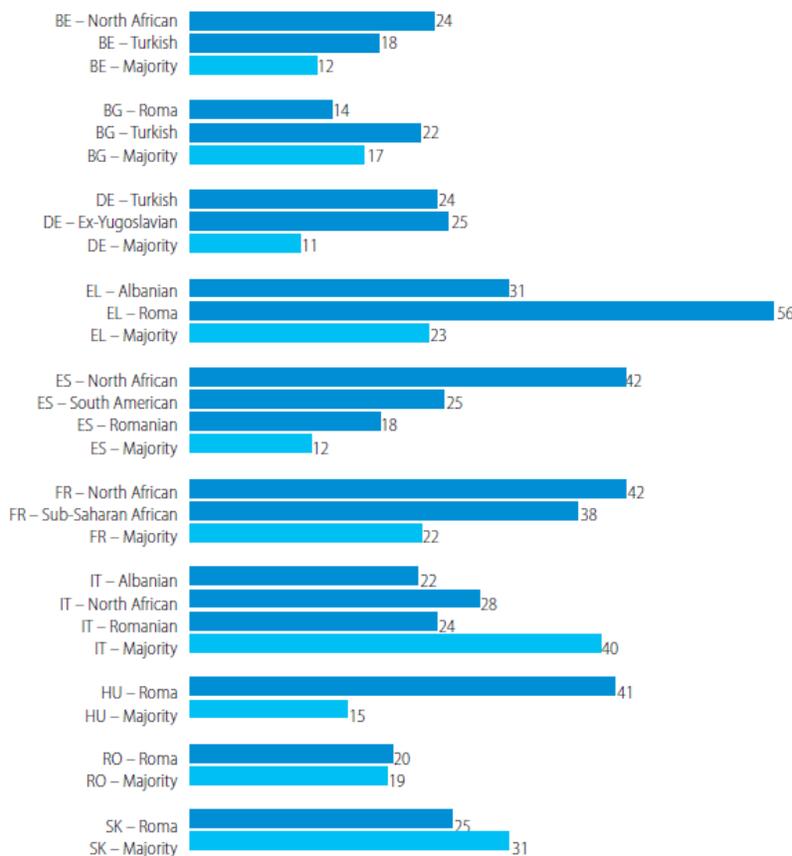
[http://fra.europa.eu/sites/default/files/fra\\_uploads/1133-Guide-ethnic-profiling\\_EN.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/1133-Guide-ethnic-profiling_EN.pdf)

“A 2009 case in which the Human Rights Committee of the United Nations found unlawful discrimination on the grounds of racial profiling – although the term does not appear explicitly in the judgment – is *Rosalind Williams Lecraft v. Spain*. The ruling is particularly significant, as it is the first UN-level body to

rule against race and ethnicity motivated identity checks by the police. In this case, the complainant was stopped by a police officer on the platform of a train station in **Spain** and was asked to display her identity documents. The complainant asked the police officer why she was the only person stopped on the platform, and received the following reply: ‘It’s because you’re black.’” (p. 17)

Figure 1

### Stopped by police in the past 12 months (% out of all respondents) <sup>(36)</sup>



Source: EU-MIDIS Survey Questionnaire, question F3

## Access to effective remedies: The asylum-seeker perspective (September 2010)

[http://fra.europa.eu/sites/default/files/fra\\_uploads/1691-report-access-remedies\\_EN.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/1691-report-access-remedies_EN.pdf)

“In Cyprus and more frequently in **Spain**, asylum seekers mentioned that they were informed that their application was rejected only when they inquired with the authorities or approached them to renew their residence cards.” (p. 14)

## Annual Report 2010 (June 2011)

[http://fra.europa.eu/sites/default/files/fra\\_uploads/917-AR\\_2010-conf-edition\\_en.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/917-AR_2010-conf-edition_en.pdf)

“In two countries, Constitutional Court decisions upheld the principle of positive action. In **Spain**, the court rejected the claim that the establishment of gender quotas on electoral lists violated the constitutional principles of merit and ability” (p. 17)

“Cases reported during 2009 of the extreme exploitation of such workers were found in a number of countries, for example: foreign agency workers in the Czech Republic, berry pickers from South East Asia and Eastern Europe in Finland; foreign workers in the cleaning sector in Greece; Moldavian and Ukrainian citizens in Lithuania; Africans in Malta; Chinese construction workers and African taxi drivers in Romania; workers from Bosnia and Herzegovina in Slovenia; female domestic workers in Cyprus, and Moroccan textile workers and Chinese sweatshop workers in **Spain** (Andalusia and Catalunya respectively).” (p. 57)

“(Roma and the recognition of marriage) [The case *Muñoz Díaz v. Spain*] [...] [c]oncerned the refusal by the Spanish authorities to recognise a marriage performed in accordance with Roma traditions and customs for the purposes of obtaining a survivor’s pension under the General Social Security Act. The ECtHR found that the State’s refusal to recognise the marriage on the basis of the good faith of the applicant was at odds with its recognition of marriage for the purpose of survivor pensions in other cases and that this constituted discriminatory treatment within the meaning of Article 14.” (p. 90)

“In **Spain**, in its Decision 13/2009 of 19 January 2009, the Spanish Constitutional Court dismissed an action filed against various articles of the Law 4/2005 of 18 February 2005 of the Basque Parliament on equality between women and men, rejecting the claim that the establishment of gender quotas on electoral lists was violating the constitutional principles of merit and ability, the freedom of the political parties to prepare the lists and the right to equal access to the public services.” (p. 103)

## Data Protection in the European Union: the role of National Data Protection Authorities (Strengthening the fundamental rights architecture in the EU II) (May 2010)

[http://fra.europa.eu/sites/default/files/fra\\_uploads/815-Data-protection\\_en.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/815-Data-protection_en.pdf)

“In a number of Member States (e.g. Germany, Slovenia) officials of Data Protection Authorities are elected by the legislative assemblies, sometimes even through procedures which require consensus between the majority and the opposition (e.g. Greece). With some exceptions (such as Hungary, where

a constitutional practice allows parliamentary parties to distribute available positions amongst each other according to that party's choice of candidate), this ensures a high level of independence of the elected officials. In other Member States, in contrast, data protection officers are directly appointed by the Government (e.g. Ireland, Luxembourg), with no involvement of the opposition in Parliament. In several cases (e.g. United Kingdom,<sup>53</sup> Lithuania, Estonia) this has raised severe concerns as to the effective independence of the Data Protection Authority. Similar concerns may arise in those countries where the supervisory authority is attached to the Ministry of Justice (e.g. Denmark, Latvia). Finally, other Member States (e.g. France, Spain, Portugal, Belgium) provide for a combined procedure to nominate the officers of the national Data Protection Authority, involving the executive, the legislature and the judiciary or other organized societal groups (e.g. the Supreme Council of the Universities in Spain) at the same time.” (p. 19)

“The autonomy of the supervisory body is particularly enhanced where, as in Portugal and Greece, the existence and remit of an independent authority, tasked to oversee the respect of data protection legislation, is explicitly established in the Constitution. Other significant guarantees of institutional independence, then, are provided by the attribution of distinct legal personality to the Data Protection Authority (e.g. Spain, Malta) and by the possibility for it to commence legal proceeding before the national Constitutional Court (e.g. Slovenia).” (p. 20)

Table No. 1 Powers of investigation

| Member State   | Request information and documents | Access data banks and filing systems | Search of premises and seizure without judicial warrant | Search of premises and seizure premises with judicial warrant | Conduct audits  |
|----------------|-----------------------------------|--------------------------------------|---|---|-----------------|
| Bulgaria       | •                                 | •                                    | •   |   | •               |
| Belgium        | •                                 | •                                    | •   |   | •               |
| Czech Republic | •                                 | •                                    | •   |   | •               |
| Denmark        | •                                 | •                                    | •   |   | •               |
| Germany        | •                                 | •                                    | •   | • <sup>54</sup>   | •               |
| Estonia        | •                                 | •                                    | •   |   | •               |
| Greece         | •                                 | •                                    | •   |   | •               |
| Spain          | •                                 | •                                    | •   |   | •               |
| France         | •                                 | •                                    |   | •   | •               |
| Ireland        | •                                 | •                                    | •   |   | •               |
| Italy          | •                                 | •                                    | • <sup>55</sup>   | •   | •               |
| Cyprus         | •                                 | •                                    | •   |   | •               |
| Latvia         | •                                 | •                                    | •   |   | •               |
| Lithuania      | •                                 | •                                    | •   |   | •               |
| Luxembourg     | •                                 | •                                    | •   |   | •               |
| Hungary        | •                                 | •                                    | •   |   | •               |
| Malta          | •                                 | •                                    |   | •   | •               |
| Netherlands    | •                                 | •                                    | •   |   | •               |
| Austria        | •                                 | •                                    | •   |   | •               |
| Poland         | •                                 | •                                    | •   |   | •               |
| Portugal       | •                                 | •                                    | •   |   | •               |
| Romania        | •                                 | •                                    |   |   | •               |
| Slovenia       | •                                 | •                                    | •   |   | •               |
| Slovakia       | •                                 | •                                    | •   |   | •               |
| Finland        | •                                 | •                                    | •   |   | •               |
| Sweden         | •                                 | •                                    | •   |   | •               |
| United Kingdom | •                                 |                                      |   | •   | • <sup>56</sup> |

(p. 21)

Table No. 2 Powers of intervention

| Member State   | Register processing operations | Authorize processing operations likely to present specific risks | Halt processing operations | Order the erasure or destruction of data | Issue a warning or reprimand the controller |
|----------------|--------------------------------|--|----------------------------|--|---|
| Bulgaria       | •                              | •  | •                          | •  | •   |
| Belgium        | •                              | •  |                            |  |   |
| Czech Republic | •                              | •  | •                          | •  | •   |
| Denmark        | •                              | •  | •                          | •  | •   |
| Germany        | •                              | •  | • <sup>57</sup>            |  | •   |
| Estonia        | •                              | •  | •                          | •  | •   |
| Greece         | •                              | •  | •                          | •  | •   |
| Spain          | •                              | •  | •                          | •  | •   |
| France         | •                              | •  | •                          | •  | •   |
| Ireland        | •                              | •  | •                          | •  | •   |
| Italy          | •                              | •  | •                          | •  | •   |
| Cyprus         | •                              |  | •                          | •  | •   |
| Latvia         | •                              |  | •                          | •  | •   |
| Lithuania      | •                              | •  | •                          | •  | •   |
| Luxembourg     | •                              | •  | •                          | •  | •   |
| Hungary        | •                              | •  | •                          | •  | •   |
| Malta          | •                              | •  | •                          | •  | •   |
| Netherlands    | •                              | •  | •                          | •  | •   |
| Austria        | •                              | •  | •                          | •  | •   |
| Poland         | •                              | •  | •                          | •  | •   |
| Portugal       | •                              | •  | •                          | •  | •   |
| Romania        | •                              | •  | •                          | •  | •   |
| Slovenia       | •                              | •  | •                          | •  | •   |
| Slovakia       | •                              | •  | •                          | •  | •   |
| Finland        | •                              | •  | •                          | •  | •   |
| Sweden         | •                              | •  | •                          | •  | •   |
| United Kingdom | •                              |  | •                          | •  | •   |

Table No. 3 Powers to hear claims and engage in legal proceedings

| Member State   | Hear and review claims or complaints | Refer the case to the police or judicial authorities | Bring the case directly before judicial authorities | Make a determination itself as to the merits of a claim | Refer the matter to national Parliaments |
|----------------|--------------------------------------|--|---|---|--|
| Bulgaria       | ●                                    | ●  | ●   | ●   |  |
| Belgium        | ●                                    | ●  | ●   | ●   | ●  |
| Czech Republic | ●                                    | ●  | ●   | ●   |  |
| Denmark        | ●                                    | ●  |   | ●   |  |
| Germany        | ●                                    | ●  | ● <sup>59</sup>                                     | ● <sup>60</sup>   | ●  |
| Estonia        | ●                                    |  |   | ●   | ●  |
| Greece         | ●                                    | ●  |   | ●   | ●  |
| Spain          | ●                                    | ●  |   | ●   |  |
| France         | ●                                    | ●  |   | ●   | ●  |
| Ireland        | ●                                    |  | ●   |   |  |
| Italy          | ●                                    | ●  |   | ●   | ●  |
| Cyprus         | ●                                    | ●  |   | ●   |  |
| Latvia         | ●                                    |  | ●   | ●   |  |
| Lithuania      | ●                                    | ●  |   | ●   | ●  |
| Luxembourg     | ●                                    | ●  | ●   | ●   |  |
| Hungary        | ●                                    | ●  |   |   | ●  |
| Malta          | ●                                    | ●  | ●   | ●   | ●  |
| Netherlands    | ●                                    | ●  |   | ●   |  |
| Austria        | ●                                    |  | ●   | ●   |  |
| Poland         | ●                                    | ●  |   | ●   |  |
| Portugal       | ●                                    | ●  |   | ●   |  |
| Romania        | ●                                    | ●  | ●   | ●   |  |
| Slovenia       | ●                                    | ●  | ●   | ●   |  |
| Slovakia       | ●                                    | ●  |   | ●   | ●  |
| Finland        | ●                                    | ●  | ●   | ●   | ●  |
| Sweden         | ●                                    | ●  | ●   |   |  |
| United Kingdom | ●                                    | ●  |   |   |  |

Table No. 4 Advisory powers.

| Member State   | Must be consulted by the legislature or adm. offices | May be consulted by the legislature or adm. offices | Provide advice and information to parties involved in data processing | Issue general recommendations and opinions | Authorize the transfer of data to third countries |
|----------------|--|---|---|--|---|
| Bulgaria       | ●  |   | ●   | ●  |   |
| Belgium        | ●  | ●   | ●   | ●  |   |
| Czech Republic |  | ●   | ●   | ●  |   |
| Denmark        |  | ●   | ●   | ●  | ●   |
| Germany        | ●  | ●   | ●   | ●  | ● <sup>61</sup>                                   |
| Estonia        | ●  |   | ●   | ●  |   |
| Greece         | ●  | ●   | ●   | ●  | ●   |
| Spain          | ●  |   | ●   | ●  | ●   |
| France         | ●  | ●   | ●   | ●  | ●   |
| Ireland        |  | ●   | ●   | ●  | ●   |
| Italy          | ●  | ●   | ●   | ●  | ●   |
| Cyprus         | ● <sup>62</sup>                                      |   | ●   | ●  | ●   |
| Latvia         | ●  |   | ●   | ●  |   |
| Lithuania      |  | ●   | ●   | ●  | ●   |
| Luxembourg     | ●  |   | ●   | ●  | ●   |
| Hungary        |  | ●   | ●   | ●  | ● <sup>63</sup>                                   |
| Malta          |  | ●   | ●   | ●  | ●   |
| Netherlands    | ●  |   | ●   | ●  | ●   |
| Austria        | ●  |   | ●   | ●  | ●   |
| Poland         |  | ●   | ●   | ●  |   |
| Portugal       | ●  |   | ●   | ●  | ●   |
| Romania        |  | ●   | ●   | ●  | ●   |
| Slovenia       |  | ● <sup>64</sup>                                     | ●   | ●  | ●   |
| Slovakia       |  | ●   | ●   | ●  | ●   |
| Finland        | ●  | ●   | ●   | ●  |   |
| Sweden         | ●  | ●   | ●   | ●  | ●   |
| United Kingdom |  | ●   | ●   | ●  | ● <sup>65</sup>                                   |

(p. 27)

“The majority of EU Member States (Bulgaria, Lithuania, Austria, Ireland, Finland, Denmark, Sweden, Luxembourg, Czech Republic, Spain, Italy, Malta, Netherlands, Poland, Romania, Slovenia, Cyprus, Estonia, Greece, Portugal, Latvia, and Germany) have elaborated a legal framework that transposes the stipulations of the Data Protection Directive in an effective manner. By effective transposition it is meant that the national legislation is *prima facie* in compliance with the requirements of the Directive. The effectiveness of the actual implementation of national legislation varies between Member States and is the object of the analysis found in the following paragraphs. On the other hand, 5 Member States (France, Hungary, Slovakia, United Kingdom, and Belgium) exhibit deficiencies in their laws which create inconsistencies between the overall system created by the Data Protection Directive and the national provisions.” (p. 29)

Table No. 5 Remedies

| Member State   | Administrative remedies before the DPA | Non-judicial remedies before the DPA | Judicial remedies before the ordinary courts or tribunals. |
|----------------|--|--------------------------------------|--|
| Bulgaria       | •                                      |                                      | •  |
| Belgium        |  | •                                    | •  |
| Czech Republic | •                                      |                                      | •  |
| Denmark        | •                                      |                                      | •  |
| Germany        | •                                      |                                      | •  |
| Estonia        | •                                      |                                      | •  |
| Greece         | •                                      | •                                    | •  |
| Spain          | •                                      |                                      | •  |
| France         | •                                      |                                      | •  |
| Ireland        | •                                      |                                      | •  |
| Italy          | •                                      | •                                    | •  |
| Cyprus         | •                                      |                                      | •  |
| Latvia         | •                                      |                                      | •  |
| Lithuania      | •                                      |                                      | •  |
| Luxembourg     | •                                      |                                      | •  |
| Hungary        | • <sup>62</sup>                        |                                      | •  |
| Malta          | •                                      |                                      | •  |
| Netherlands    | •                                      |                                      | •  |
| Austria        | •                                      |                                      | •  |
| Poland         | •                                      |                                      | •  |
| Portugal       | •                                      |                                      | •  |
| Romania        | •                                      |                                      | •  |
| Slovenia       | •                                      |                                      | •  |
| Slovakia       | •                                      |                                      | •  |
| Finland        | •                                      |                                      | •  |
| Sweden         | •                                      |                                      | •  |
| United Kingdom | •                                      |                                      | •  |

Table No. 6 Sanctions

| Member State   | Administrative fines imposed by the DPA | Criminal fines imposed by the judicial authorities | Detention imposed by judicial authorities |
|----------------|---|--|---|
| Bulgaria       | ●                                       |  |   |
| Belgium        |   | ●  |   |
| Czech Republic | ●                                       |  |   |
| Denmark        |   | ●  | ●   |
| Germany        | ● <sup>83</sup>                         | ●  | ●   |
| Estonia        | ●                                       | ●  | ●   |
| Greece         | ●                                       | ●  | ●   |
| Spain          | ●                                       |  |   |
| France         | ●                                       | ●  | ●   |
| Ireland        | ●                                       | ●  |   |
| Italy          | ●                                       | ●  | ●   |
| Cyprus         | ●                                       | ●  |   |
| Latvia         | ●                                       |  |   |
| Lithuania      |   | ●  |   |
| Luxembourg     | ●                                       | ●  |   |
| Hungary        |   | ●  | ●   |
| Malta          | ●                                       | ●  | ●   |
| Netherlands    | ●                                       | ●  | ●   |
| Austria        |   | ●  | ●   |
| Poland         |   | ●  | ●   |
| Portugal       | ●                                       |  | ●   |
| Romania        | ●                                       | ●  |   |
| Slovenia       | ●                                       | ●  | ●   |
| Slovakia       | ●                                       | ●  | ●   |
| Finland        | ●                                       | ●  | ●   |
| Sweden         |   | ●  | ●   |
| United Kingdom |   | ●  | ●   |

Table No. 7 Compensation

| Member State   | Extension of the existing framework of civil liability | Existing framework of civil liability with the reversal of the burden of proof | Special framework of civil liability |
|----------------|--|--|--------------------------------------|
| Bulgaria       | •  |  |                                      |
| Belgium        | •  |  |                                      |
| Czech Republic | •  |  |                                      |
| Denmark        |  | •  |                                      |
| Germany        |  | •  | •                                    |
| Estonia        | •  |  |                                      |
| Greece         |  |  | •                                    |
| Spain          | •  |  |                                      |
| France         | •  |  |                                      |
| Ireland        | •  |  |                                      |
| Italy          |  | •  |                                      |
| Cyprus         | •  |  |                                      |
| Latvia         | •  |  |                                      |
| Lithuania      | •  |  |                                      |
| Luxembourg     | •  |  |                                      |
| Hungary        |  |  | •                                    |
| Malta          | •  |  |                                      |
| Netherlands    | •  |  |                                      |
| Austria        | •  |  |                                      |
| Poland         | •  |  |                                      |
| Portugal       | •  |  |                                      |
| Romania        | •  |  |                                      |
| Slovenia       | •  |  |                                      |
| Slovakia       | •  |  |                                      |
| Finland        | •  |  |                                      |
| Sweden         |  | • <sup>84</sup>  | •                                    |
| United Kingdom | •  |  |                                      |

(p. 36)

“While the Data Protection Directive, in Article 8(1) prohibits the processing of personal data revealing trade-union membership, a number of Member States (Italy, Hungary, Spain, Slovenia, Slovakia, Czech Republic, Portugal, Poland, Netherlands, Luxembourg, Latvia, Ireland, Greece, Finland, Belgium) have also introduced special provisions (either through employment legislation or in general data protection laws) to guarantee a higher standard of compliance with the right to privacy and personal data in the context of the employment relationship. These provisions specify a role for the Data Protection Authorities, which are authorized to draw up general regulations and guidelines, especially for private companies. Trade unions, then, besides providing consultation to the workers in questions regarding data protection, are often directly involved both beforehand in negotiating agreements with employers to establish a personnel records system and subsequently in monitoring compliance therewith.” (p. 37)

“Two studies are available for Spain. The first bears the title “Study on the Level of Compliance of Small and Medium Sized Spanish Companies with the Organic Law on Personal Data Protection and with the new Statutory Regulation”. It affirms that 96% of the small and medium size Spanish companies have files containing personal data, and 78% are in the medium of electronic files, so that all of them fall under the scope of data protection legislation (the results are based on telephone interviews with a stratified sample of 250 small and medium sized companies (companies with under 50 employees)). Small and medium size Spanish companies show a positive attitude towards data protection: 82% of the studied

companies affirmed that they were aware of the need for compliance with the relevant legislation, whereas 79% confirmed their intention to assign economic and/or human resources to comply with the legislation on data protection. There is also an important study by the local Basque Agency on Personal Data Protection conducted in June 2008, which deals with the social perception of data protection in the Pais Vasco (based on a stratified random sample of 600 respondents, interviewed over the telephone). This study states that 37% of the population of this Autonomous Community are very or quite concerned about how public bodies and private companies are using citizens' personal data." (p. 40)

### **EU-MIDIS Data in Focus Report 3: Rights Awareness (May 2010)**

<http://fra.europa.eu/en/publication/2012/eu-midis-data-focus-report-3-rights-awareness>

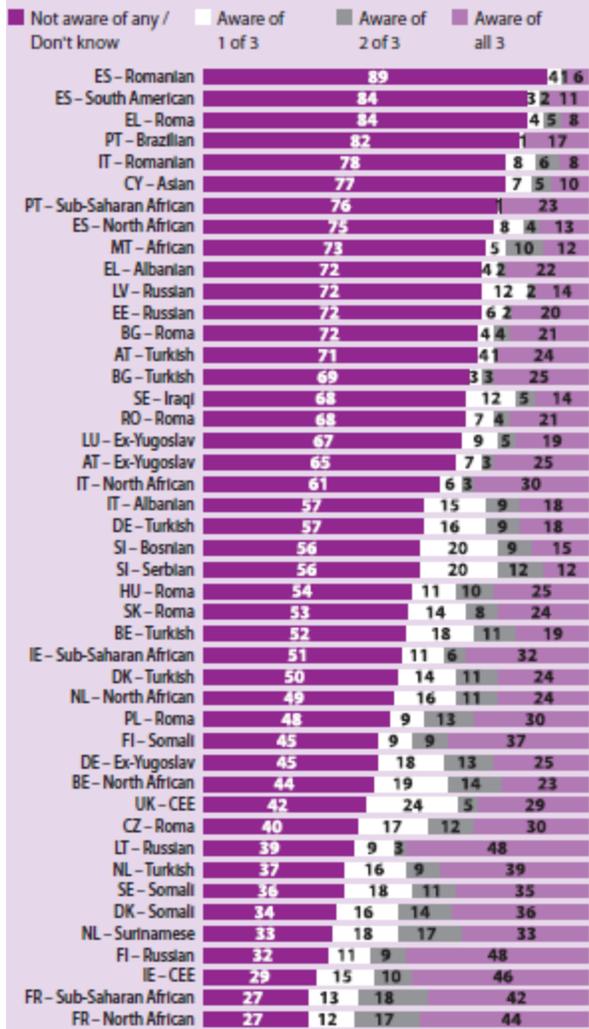
"Individual minority groups generally display the same level of knowledge or lack of knowledge about the existence of anti-discrimination legislation when asked about different areas where the law might apply (employment, goods and services, and housing). For example, minority groups in France tend to be more aware of anti-discrimination legislation in different areas, whereas minority groups in **Spain** tend to be less aware across different areas." (p. 3)

"Figure 2 indicates the percentage among different ethnic minority, immigrant and national minority groups in each Member State who did not know about the existence of anti-discrimination legislation when applying for a job. The results present a wide range of legislative awareness among different groups and across Member States. For example: in France, the two groups surveyed – North Africans and Sub-Saharan Africans – are amongst those most aware of legislation, while the three groups interviewed in **Spain** – North Africans, South Americans and Romanians – are amongst those least aware of legislation." (p. 5)

"The results in Figure 5 generally underline the survey findings for individual areas of legislative awareness; that is – the same groups tend to indicate the same level of knowledge across different areas of legislation. For example, in general, respondents with an immigrant or ethnic minority background in France are among those most aware of anti-discrimination legislation, while minorities in **Spain** are among those least aware. In this regard it is evident that awareness campaigns about the existence of antidiscrimination laws need to be targeted in certain Member States at particular minority groups." (p. 7)

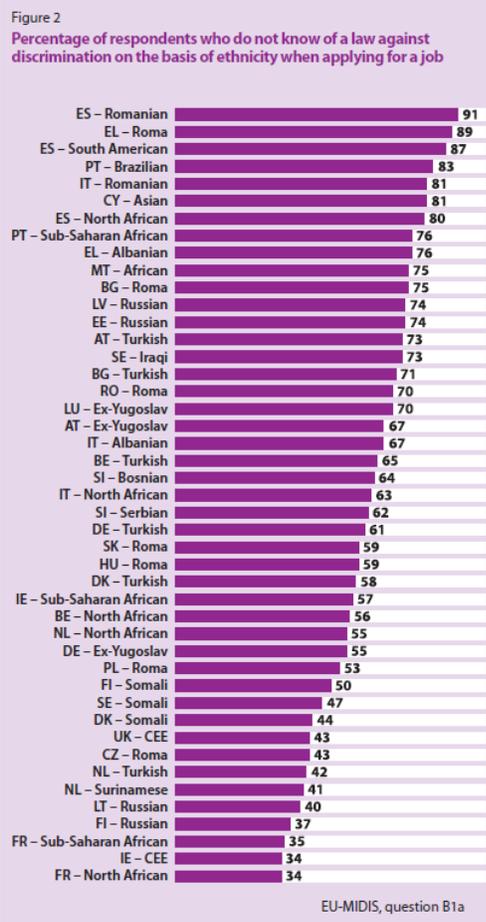
Figure 5

Percentage of respondents who do not know of a law against discrimination of immigrants and ethnic minorities in any of the three situations



EU-MIDIS, questions B1a-B1c

(p. 7)



(p. 6)

## National Human Rights Institutions in the EU Member States (Strengthening the fundamental rights architecture in the EU I) (May 2010)

[http://fra.europa.eu/sites/default/files/fra\\_uploads/816-NHRI\\_en.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/816-NHRI_en.pdf)

**Table 1: NHRIs in EU Member States by Accreditation Status**

| Status         | EU Member States   |
|----------------|--|
| A              | Denmark, France, Germany, Greece, Ireland, Luxembourg, Poland, Portugal, <a href="#">Spain</a> , United Kingdom (with an NHRI in its constituent countries: Great Britain, Northern Ireland and Scotland <sup>14</sup> ) |
| B              | Austria, Belgium, the Netherlands, Slovakia, Slovenia  |
| C              | Romania  |
| Not accredited | Bulgaria, Cyprus, the Czech Republic., Estonia, Finland, Hungary, Italy, Latvia, Lithuania, Malta and Sweden <sup>15</sup>   |

(Source: ICC Chart of the Status of National Institutions, 2 June 2009, <http://www.nhri.net> updated as of December 2009)

(p. 12)

**Table 2: EU Member States with an NHRI, by year of receiving A-status (1999-2008)**

| Year of A-Status | NHRIs Granted A-status   |
|------------------|--|
| 1999             | <b>Denmark, France, Poland, Portugal, (Sweden)</b> <sup>27</sup> |
| 2000             | <b>Spain</b>   |
| 2001             | <b>Greece</b>  |
| 2002             | <b>Luxembourg</b>  |
| 2003             | <b>Germany</b>   |
| 2004             | <b>Ireland</b>   |
| 2006             | <b>Northern Ireland (UK)</b>                                     |
| 2008             | <b>Great Britain (UK)</b>  |
| 2010             | <b>Scotland (UK)</b> – <i>expected</i>                           |

(Source: ICC Chart of the Status of National Institutions, 2 June 2009, <http://www.nhri.net> updated as per ICC meeting November 2009)

(p. 13)

**Table 3: States with an NHRI, by year of receiving A-status (1999-2008)**

| Year of A-Status | Number of States | NHRIs Granted A-status (EU Member States in bold)  |
|------------------|------------------|--|
| 1999             | 14               | <b>Denmark, France, Poland, Portugal, (Sweden)</b> , <sup>15</sup> Australia, New Zealand, India, The Philippines, Argentina, Canada, Costa Rica, Mexico, Panama, Peru |
| 2000             | 8                | <b>Spain</b> , South-Africa, Bolivia, Togo, Indonesia, Malawi, Senegal, Honduras   |
| 2001             | 7                | <b>Greece</b> , <sup>16</sup> Ghana, Rwanda, Columbia, Morocco, Uganda   |
| 2002             | 8                | <b>Luxembourg</b> , <sup>17</sup> Malaysia, Mauritius, Venezuela, Ecuador, Guatemala, Niger, Nepal   |

(p. 21)

Figure 2: ICC assessment of A-status NHRIs in EU Member States, 2007-2009

| ICC General Observations<br>Areas raised as in particular problematic are shaded in grey | DENMARK | FRANCE | GERMANY | GREECE | IRELAND | LUXEMBOURG | POLAND | PORTUGAL | SPAIN | UNITED KINGDOM |      |
|--|---------|--------|---------|--------|---------|------------|--------|----------|-------|----------------|------|
|  |         |        |         |        |         |            |        |          |       | NIHRC          | EHRC |
| Year of Review Session   | 2007    | 2007   | 2008    | 2007   | 2008    | 2009       | 2007   | 2007     | 2007  |                | 2008 |
| <b>1. Competence and responsibilities</b>  |         |        |         |        |         |            |        |          |       |                |      |
| 1.1 Establishment  |         |        |         |        |         |            |        |          |       |                |      |
| 1.2 Human rights mandate   |         |        |         |        |         |            |        |          |       |                |      |
| 1.3 Encouraging ratification of treaties   |         |        |         |        |         |            |        |          |       |                |      |
| 1.4 Interaction with the International Human Rights System                               |         |        |         |        |         |            |        |          |       |                |      |
| 1.5 Cooperation with other human rights institutions                                     |         |        |         |        |         |            |        |          |       |                |      |
| 1.6 Recommendations  |         |        |         |        |         |            |        |          |       |                |      |
| <b>2. Composition and guarantees of independence and pluralism</b>                       |         |        |         |        |         |            |        |          |       | N/A            |      |
| 2.1 Ensuring pluralism   |         |        |         |        |         |            |        |          |       |                |      |
| 2.2 Selection and appointment of the governing body                                      |         |        |         |        |         |            |        |          |       |                |      |
| 2.3 Government representatives   |         |        |         |        |         |            |        |          |       |                |      |
| 2.5 Immunity   |         |        |         |        |         |            |        |          |       |                |      |
| 2.6 Adequate Funding   |         |        |         |        |         |            |        |          |       |                |      |
| 2.7 Staff  |         |        |         |        |         |            |        |          |       |                |      |
| 2.8 Full-time Members  |         |        |         |        |         |            |        |          |       |                |      |
| 2.9 Guarantee of tenure for members of governing bodies                                  |         |        |         |        |         |            |        |          |       |                |      |
| 2.10 Administrative regulation   |         |        |         |        |         |            |        |          |       |                |      |

Figure 4: A typology of NHRIs in EU Member States

| Type of NHRI           | Member States  |
|------------------------|--|
| Commissions            | Ireland<br>Northern Ireland (UK)<br>Great Britain (UK) |
| Advisory commissions   | France<br>Luxembourg<br>Greece <sup>139</sup>          |
| Ombudsman institutions | Poland<br>Spain<br>Portugal                            |
| Institutes             | Denmark<br>Germany                                     |

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Table 4: NHRIs in EU Member States by Status.

| EU Member States   | National Institution  | Status           |
|--------------------|---|------------------|
| Austria            | Volksanwaltschaft [Ombudsman Board]   | B                |
| Belgium            | Centrum voor Gelijkheid van Kansen en voor Racismebestrijding / Centre pour l'égalité des chances et la lutte contre le racisme [Centre for Equal Opportunities and Opposition to Racism] | B                |
| Denmark            | Institut for Menneskerettigheder [The Danish Institute for Human Rights (DIHR)]   | A                |
| France             | Commission Nationale Consultative des Droits de l'Homme (CNCDH) [National Consultative Human Rights Commission (NCHRC)]   | A                |
| Germany            | Deutsches Institut für Menschenrechte (DIMR) [German Institute for Human Rights (GIHR)]   | A                |
| Greece             | Εθνική Επιτροπή για τα Δικαιώματα του Ανθρώπου (ΕΕΔΑ) [National Commission for Human Rights (GNCHR)]  | A                |
| Ireland            | Irish Human Rights Commission   | A                |
| Luxembourg         | Commission Consultative des Droits de l'Homme du Grande-Duché de Luxembourg (CCDH) [Consultative Commission on Human Rights of Luxembourg]  | A                |
| Netherlands        | Commissie Gelijke Behandeling (CGB) [Equal Treatment Commission]  | B                |
| Poland             | Rzecznik Praw Obywatelskich (RPO) [Commissioner for Civil Rights Protection]  | A                |
| Portugal           | Provedor de Justiça [Ombudsman Office]  | A                |
| Romania            | Român pentru Drepturile Omului (IRDO) [Romanian Institute for Human Rights (RIHR)]  | C <sup>143</sup> |
| Slovakia           | Slovenské národné stredisko pre ľudské práva [Slovak National Centre for Human Rights]  | B                |
| Slovenia           | Varuh človekovih pravic [Human Rights Ombudsman]  | B                |
| Spain              | Defensor del Pueblo Español [Ombudsman]   | A                |
| Great Britain (UK) | Equality and Human Rights Commission (EHRC)   | A <sup>144</sup> |
| N. Ireland (UK)    | Northern Ireland Human Rights Commission (NIHRC)  | A                |
| Scotland (UK)      | Scottish Human Rights Commission  | A                |

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#### 4.2.1. A-status

Since the present form of accreditation was set up in 1999, the number of A-status NHRIs in EU Member States has grown steadily, with about one per year (see Table 5).

**Table 5: NHRIs Granted A-status in EU Member States by State**

| Year of A-Status | Number of NHRIs | NHRIs Granted A-Status in EU Member States                 |
|------------------|-----------------|--|
| 1999             | 5               | Denmark, France, Poland, Portugal, (Sweden) <sup>145</sup> |
| 2000             | 1               | Spain  |
| 2001             | 1               | Greece   |
| 2002             | 1               | Luxembourg   |
| 2003             | 1               | Germany  |
| 2004             | 1               | Ireland  |
| 2006             | 1               | Northern Ireland (UK)                                      |
| 2008             | 1               | Great Britain (UK)   |
| 2010             | 1               | Scotland – <i>expected (UK)</i>                            |

(p. 26)

“(Ombudsman institutions) The ombudsman institution derives from the original Scandinavian model dealing mainly with individual legal protection, with particular focus on the handling of complaints of maladministration. Fully accredited ombudsman institutions can be found in **Spain**, Poland, and Portugal.” (p. 27)

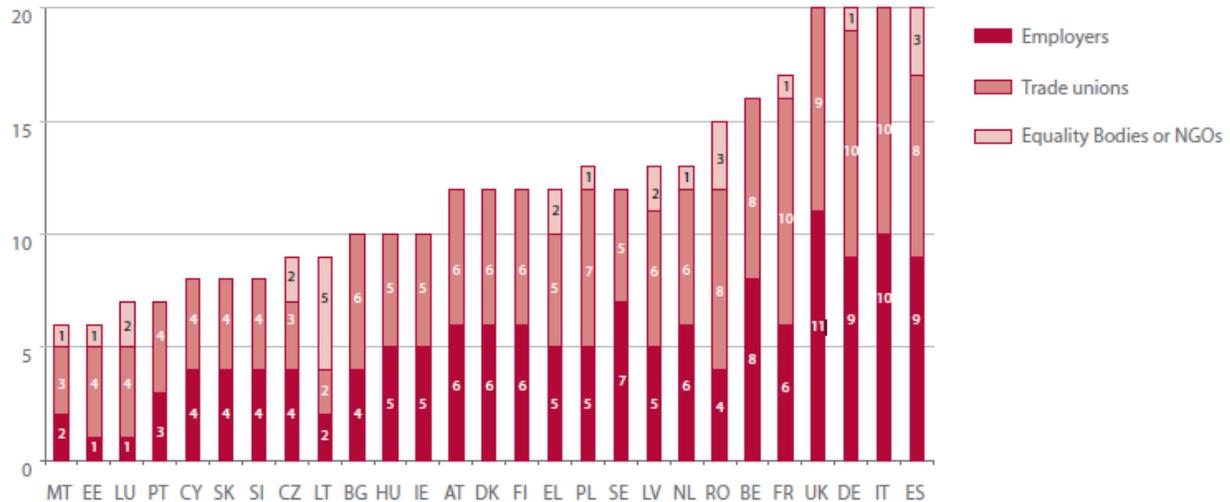
“(4.3.1. Solid legal foundation) The following commissions have been established by legal acts setting out their mandates: Ireland, Northern Ireland, Great Britain, Scotland, France, Greece, and Luxembourg. The following ombudsman institutions have their foundation, including their mandates, in the constitution, and specified in organic laws: Poland, Portugal, and **Spain**” (p. 31)

“The Polish, Portuguese, and Spanish NHRIs are appointed by the Parliament for a fixed period of four (Portugal) or five years (Poland and **Spain**), which is normally renewable. They enjoy parliamentary immunity. They may be dismissed only in certain circumstances stipulated by law. Incompatibility rules exist for all three NHRIs in order to ensure their independence, for example incompatibility with certain political positions. Moreover, the timing of appointment may guarantee independence, for example through ensuring that the mandate of a person appointed by the Parliament, does not correspond with the parliamentary term.” (p. 34)

## The impact of the Racial Equality Directive - Views of trade unions and employers in the European Union (Strengthening the fundamental rights architecture in the EU IV) (May 2010)

<http://fra.europa.eu/en/publication/2012/impact-racial-equality-directive-views-trade-unions-and-employers-european-union>

Figure 1 : Numbers of interviews, by country and category



Source: FRA, 2010

(p. 18)

(Domestic companies) “In **Spain** the food sector business, Grupo Alimentario Guissona, has 3,000 employees of whom 56 per cent were born outside the country. Proportionately to the size of its national economy and population, the food industry Zito dd’s 1,550 employees is an even more important firm within Slovenia.” (p. 22)

(Impact of the economic crisis) “In **Spain**, a CCOO respondent reported growing antagonism among Spanish-born workers to the provision of unemployment benefit to non-Spanish workers. The respondent expressed real concern that the economic crisis could mean that the progress that has taken place is put into reverse: *“The fight against racial and ethnic discrimination has been achieving things, people are more aware of it. Unfortunately, the economic crisis is destroying part of the improvements. There is the danger of an increase in racism and xenophobia.”*” (p. 48)

“Other employers felt that the courts had to give much clearer guidance on tackling racial discrimination. One of the interviewees from the Spanish Building Industry Federation drew a stark contrast between the judgements in relation to the gender equality legislation, which had significantly affected management practices, and the total absence of legal action in relation to racial or ethnic discrimination, despite the adoption of the Racial Equality Directive six years earlier. The respondent of **Spain**’s Promsa cement manufacturing company established the same contrast, reporting that the

national government sent out strong messages regarding discrimination in relation to disability and gender but not in relation to ethnic origins.” (p. 71)