



EU EQUALITY BODIES AND THE FIGHT AGAINST RACIAL DISCRIMINATION

SPECIAL REPORT | JULY 2021

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EU equality bodies have a significant potential to contribute to more equal societies, and they have proved to be effective agents of change.

Last September, the European Commission proposed an [EU Anti-Racism Action Plan](#), which laid out policies to address structural racism and provide financial support for national positive-action policies.

The EU executive also plans to review its existing legal protections, such as the Racial Equality Directive, and aims to present new legislation by 2022, especially in the area of law enforcement.

At the same time, EU and national equality bodies are crucial in promoting equality, as well as in implementing and monitoring EU equal treatment legislation.

This Special Report examines their current working conditions and what is needed to make their contribution to the implementation of EU legislation effective.

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INTERVIEW

EU's anti-racism coordinator: Collecting equality data is vital tool in fight against racism

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By Alexandra Brzozowski | EURACTIV.com



Michaela Moua was appointed the EU's first anti-racism coordinator earlier in May. [Jaana Siljander, Helsinki Helsingsfor]

Without measuring and quantifying the extent of discrimination and inequalities in Europe, it becomes very difficult to effectively tackle them, the EU's first anti-racism coordinator, Michaela Moua, told EURACTIV.

Michaela Moua is a former basketball player and Finnish justice ministry official. She was appointed the EU's first anti-racism coordinator earlier in May.

In your new capacity, you're responsible for liaising between people from ethnic

or racial minorities and the European authorities. What is the goal to reach by the end of your term?

As anti-racism coordinator, it is my task to ensure the implementation of the Anti-racism Action plan. I will be in close contact with civil society organisations to learn about the concerns of people from a minority ethnic background and to pass on their concerns to the Commission. I will also engage with the member states, the European Parliament, and academia to strengthen policy responses in the

field of anti-racism. Finally, I will join forces with other Commission services to implement the Commission's policy on preventing and combating racism.

My aim is that by the end of my term we will have been able to effectively implement the EU anti-racism action plan. I want to create change on the ground.

When making policies, anti-racism has to be taken into account – I cannot emphasise this enough and I think that we need a real shift for this to

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happen. All member states need to adopt their respective national action plans against racism, and combating racism has to be a priority on their agendas. I will use my term to build a constructive, permanent mechanism with civil society organisations that continue to support the Commission's anti-racism work.

All EU policy areas need to take anti-racism into account, and we need to ensure the intersectional viewpoint. As you can see, plenty of work lies ahead of us, but I am confident that by the end of my term, the EU anti-racism policy framework will be looked at as a benchmark for comprehensive, horizontal and intersectional anti-racism policymaking.

The EU 'action plan' on racism calls for the collection of sound data on race and ethnicity, what could this look like?

With the EU Anti-racism action plan, the EU stepped up its game to fight anti-racism and to really turn the tide. One important basis to be able to do that is to have data on discrimination. We need to know where we stand. So collecting equality data broken down to racial or ethnic origin is crucial. Without measuring and quantifying the extent of discrimination and inequalities in Europe, it becomes very difficult to effectively tackle them.

In addition, accurate and comparable data is essential in making the scale and nature of discrimination suffered by marginalised groups visible. It also makes it possible to create effective and targeted policies. With good data, policymakers can better design, adapt, monitor and evaluate policies.

Collecting data may sound technical and dry, but I can tell you: equality data is a powerful tool in the fight against racism, discrimination and exclusion.

Where are particular areas where you see member states lagging behind?

Fighting anti-racism also means fighting hate speech. Hate speech and hate crime on the basis of racial or ethnic origin is illegal in the EU as a result of the Framework Decision on racism and xenophobia. Yet hate speech still exist, especially online. To prevent and counter the spread of illegal hate speech online, the EU has created the "Code of conduct on countering illegal hate speech online".

Ten platforms are already part of it and it has proven to be a robust tool. I encourage more online platforms to join this effort. In addition, the Commission is planning to extend the list of EU crimes to hate crime and hate speech.

Furthermore, the Digital Services Act proposed on 15 December last year will introduce a horizontal framework setting the obligations for online platforms to act diligently and ensure the safety and the respect of fundamental rights in the online space. All member states will have to comply with these new rules.

So, a lot is already happening and planned for the future but what really concerns me – and now I will come to the aspect of your question on where the member states are lagging behind – is that not all national criminal codes correctly criminalise hate speech and hate crimes.

Should there be more infringement

procedures or sanctions against member countries that fail to implement measures?

The Commission has created rules but not all member states play by these rules. This is why we are making a huge effort to ensure all member states incorporate EU directives into their national laws, especially regarding the definition of hate speech or the criminalisation of hate crime. If dialogue and engagement with member states are not enough, we take legal action and launch infringement procedures which might lead to financial penalties.

There are currently seven infringement proceedings underway in member states to ensure that the criminalisation of hate speech, including when occurring online, as well as hate crime is correctly incorporated into the national law of the EU member states.

Many NGO's criticise the EU's fight against racism isn't working. Should there be less focus on discrimination by individuals and more on the structures that perpetuate bias?

Racism should be tackled on all the different levels from the interpersonal to the structural because all levels are linked. I have been working for and with NGOs as well so I know their side. Their frustration stems from the focus of the work being on the end game of racism, meaning how racism affects the individual. However, it's the root causes or structures that uphold and perpetuate these inequalities that we need to fix.

The Commission's Anti-racism Action plan also recognizes the importance of fighting structural racism to achieve sustainable change.

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It recognizes that structural racism perpetuates the barriers placed in the way of citizens solely due to their racial or ethnic origin. Every day, people affected by racism can feel its impact when they are accessing jobs, healthcare, housing, financing or education. And of course, there are also cases of violence. Structural racism is the most dangerous form of racism, due to the silent mechanism in which it operates. It is almost invisible but at the same time affects a person's access to equal opportunities.

After the George Floyd case, Europe has seen a renewed debate about police brutality. What can be done to help and incentivise member states fight those tendencies in their police forces?

There is no place for violence in Europe. And there is no place for racism in Europe. It is the duty of law enforcement authorities to protect citizens from violence and keep them safe. Whereas national authorities are competent for law enforcement matters, any use of force must always be exercised in a proportionate manner. If there are such incidents, they must be addressed swiftly, effectively, and in full respect for the rule of law and human rights.

It is important to remember that efficient policing and respect for fundamental rights are complementary. Through the high-level group on combating racism, xenophobia and other forms of intolerance, the Commission supports member states in preventing discriminatory attitudes within law enforcement. Special skills are necessary to investigate and prosecute hate crimes and victims need to be treated fairly and adequately.

How do you plan to address

the discrimination threats of digitalization, especially when we think about the fact that facial recognition is already used in the public space in many member states? How worried are you that regulation is too slow to prevent negative effects?

The digital transition and development of new technologies can help strengthen the fight against racism. But, of course, we have to be careful because they can also bring new challenges to racial equality and non-discrimination and equality of opportunities more generally.

On 21 April, the Commission proposed new rules and actions regarding Artificial Intelligence (AI), including facial recognition. These rules underline that it is very important that AI systems do not create or reproduce bias. Rather, when properly designed and used, AI systems can contribute to the reduction of bias and existing structural discrimination. If we do it right, AI can actually lead to non-discriminatory decisions, for example in recruitment.

Under the new EU legislation, there will also be specific transparency rules regarding the automated recognition of gender, sexuality, race/ethnicity and disability. I trust that the comprehensive EU approach provides sufficient protection and that we will be able to benefit from the beneficial aspects of AI.

For long, there has been no reference to Europe's past of slavery and colonisation. What path should the EU institutions take to address colonialism in their institutional communication?

We need to address our past,

which certainly has been marked by inequalities along the way if we want to fight racism and reach our big goal of creating a Union of Equality.

Colonialism, slavery and the Holocaust are embedded in our history and have profound consequences for society today. We have to acknowledge these historical roots of racism if we want to address prejudices and stereotypes. Ensuring remembrance is an important part of encouraging inclusion and understanding: in my view, the EU should, for example, explicitly mark key commemorative days linked to racism, such as the International Day for the Abolition of Slavery, as proposed by the European Parliament. In July 2020, the Council of Europe adopted a recommendation calling for the inclusion of the history of Roma people and/or Travellers in school curricula and teaching materials.

There are also funding programmes with which we support projects that seek to remove barriers and that encourage the social inclusion and participation of underrepresented and disadvantaged groups. Those programmes include aspects such as the place of minorities in European society and the historical legacy of colonialism. Two programmes that come to my mind are, for example, Creative Europe and the Citizenship, Equality, Rights and Values programme.

INTERVIEW

More support needed for national equality bodies, stakeholders warn

By Alexandra Brzozowski | EURACTIV.com



Equinet, the European Network of Equality Bodies which brings together national equality bodies from across Europe. [Shutterstock/ r.classen]

National equality bodies across Europe still struggle with different levels of independence and competencies, and the EU should do more to support their efforts in the fight against racial discrimination, experts and rights activists warn.

“The strengthened Black Lives Matter movement certainly managed to draw more attention to the problem of racism in Europe,” Tamas Kadar, deputy director of Equinet, the European Network of Equality Bodies which brings together national

equality bodies from across Europe, told EURACTIV.

Asked whether the EU institutions are doing enough progress on the issue of racial non-discrimination, Kadar welcomed “an increasing focus on fighting racism”.

Over the past year, the European Commission has put forward an EU Anti-Racism Action Plan, EU Roma equality strategy and EU anti-Semitism strategy.

The EU executive also plans to

review its existing legal protections, such as the Racial Equality Directive, and aims to present new legislation by 2022, especially in the area of law enforcement.

Kadar also described the EU’s Anti-Racism Action Plan, the first-ever dedicated Commissioner for Equality, Helena Dalli, and a task force on equality mainstreaming, as “major steps forward”.

However, according to him, institutional and structural racism, hate speech and the low effectiveness

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of sanctions and remedies remain some leading issues.

“It is certainly true that it’s important to target systems, structures and institutions that perpetuate discrimination. Individuals of course do discriminate,” Kadar said.

“But the effect and harm of these systemic instances of discrimination may be far wider and far more difficult to address,” he said, adding that Equinet is set to organise a conference on institutional racism later this year in December.

A [recent report](#) particularly pointed to gaps in the Racial Equality Directive as well as problems around its implementation.

Moreover, it stated that “sanctions, in cases where discrimination is found, are often found to be too low or too narrowly drawn”.

Asked whether there should be more EU infringement procedures or sanctions against member countries that fail to implement measures, Kadar said that “when concerns arise as to the compliance of some national laws and practices with EU equality law, infringement procedures should be launched”.

“Our understanding is that some infringement procedures have been ongoing for a substantial period of time without tangible progress,” he said, adding that it would be crucial to follow up and “bring to a satisfactory solution all infringement cases within a reasonable timeframe”.

However, Equinet is only as strong as its equality bodies across Europe are, which currently struggle

with different levels of independence and competencies.

“When it comes to implementation, the Commission is shamefully passive,” Lilla Farkas, race ground coordinator of the European Network of legal experts in gender equality and non-discrimination, told EURACTIV.

“Many member states have established equality bodies as promotional bodies, which means their activities stop at providing legal advice to victims,” she said.

And as Equinet, as an umbrella organisation, has only the status of an NGO, it is unlikely it could more than it does from the funds it has, Farkas said.

Asked whether there are sufficient synergies between the existing national equality bodies to those on the European level, the law expert said “there is an abundance of monitoring bodies at the EU and Council of Europe level, which works against synergies and leads to repetitive reporting”.

“So, if you come from the perspective of monitoring, there is a reporting overkill,” Farkas said.

“Yet, if you approach the situation from the perspective of implementation, there are huge gaps with member states underfunding and undermining activist equality bodies,” she said, adding that the Commission would be “looking the other way”.

According to her, the legislative deadlock could be overcome by strengthening the mandate and scope of equality bodies and providing EU funding for legal aid to

victims of discrimination.

“Like the Commission has funded legal service on the free movement of workers,” Farkas said.

At the same time, she pointed out that the European Commission’s 2008 anti-discrimination directive, which would have transposed the principle of equal treatment into EU law, has been stuck with member states.

“The reason is the lack of political support from Germany and Poland,” Farkas said, adding that especially Berlin would have a rather conservative perspective and weak protection on the national level when compared to other member states.

INTERVIEW

MEP: Diversity is 'severely missing' in European Parliament

By Alexandra Brzozowski | EURACTIV.com



ARDI is a cross political party grouping that aims to promote racial equality, counter racism, and educate about non-discrimination. [EP/Alexis Haulot]

Members of the European Parliament are directly elected by citizens to represent them and accordingly should reflect European society, an MEP from the Parliament's Anti-Racism and Diversity Intergroup (ARDI) told EURACTIV.

ARDI is a cross-political-party grouping that aims to promote racial equality, counter racism, and educate about non-discrimination.

"In a time of rising racism and xenophobia, it is vital to building

strong cross-party alliances to uphold EU values, and it's vital that we tackle racism and discrimination – be it in the EU institutions, in European society and beyond, and secondly, to promote diversity positively," MEP Monica Semedo (Renew Europe), and ARDI member, told EURACTIV.

"Here, the EU institutions should lead by example and establish best practices promoting diversity," Semedo said.

Nevertheless, NGO's, rights groups and non-discrimination experts have

long criticised that EU institutions, in general, still lack diversity, despite some progress made.

Asked whether the EU is lacking the will to diversify themselves, the Luxembourgish MEP said that "members of the European Parliament are directly elected by citizens to represent them; accordingly, they should reflect our societies".

"Currently, this diversity is severely missing," she said, adding that this change will only happen when diverse candidates are in electable positions

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on national party lists.

“Then we will see a different and truly representative European Council and Parliament,” she added.

The intergroup has highlighted diverse issues such as police misconduct in the EU after the killing of George Floyd in the US and has called for justice for Stanislav Tomas, a 46-year-old Roma man who died after being detained by police.

SOUL CAP CONTROVERSY

Most recently, they prominently pointed towards racial inequalities in sports, just ahead of the Olympic Games in Tokyo.

Members of the anti-racist parliamentary group this week in [a letter accused the global sports community](#), including the International Olympic Committee (IOC), of having “institutional structures and rules that exclude people of colour and Black women specifically.”

Their comments came after the International Swimming Federation’s (FINA) refused to approve swim caps designed for “thick, curly, and voluminous hair” – developed by the UK-based brand Soul Cap – because they do not “follow the natural form of the head.”

The EU lawmakers said the ban would “reflect stigmatisation of Black hair and leads to institutional inequalities, especially targeting Black women” and their interest in the case would be as “the EU’s treaties encourage the bloc to promote fairness and openness in all sporting

competition”.

“We must consider all groups in our society, listen to them, and involve them when finding solutions. We must take an intersectional approach. We are not one homogeneous group, but we are united in our diversity,” Semedo said.

The MEP pointed out that the EU’s recently proposed EU Anti-Racism Action Plan, EU Roma equality strategy and EU anti-Semitism strategy are welcome developments.

“It is important to have the political will from the Commission. However, in the end, it is up to the member states to implement and transpose legislation to eradicate racism and discrimination in their countries,” she said.

INFRINGEMENT PROCEDURES?

In their reports and letters, the intergroup had repeatedly criticised member states like Greece, the Netherlands and Lithuania, where the national laws do not fully or accurately transpose EU rules on combating racism and xenophobia through criminal law.

In Hungary, they pointed out that legislation fails to comply with the Racial Equality Directive.

“We can draft laws, but they are redundant if not implemented – here, the Commission must step up and take firm action,” Semedo said.

Asked whether there should be more infringement procedures or sanctions against member countries

that fail to implement the strategies laid out by the European Commission, she said that they are “important tools in taking action to bring change”.

However, she emphasized that although “these procedures help, we must also raise awareness of the different problems people face in the EU”.

“We need a change of mindset in society – this won’t happen overnight and will take hard work to achieve, but I believe we can have a society that embraces diversity,” Semedo added.

9 in 10 hate crimes go unreported, EU fundamental rights agency finds

By Alexandra Brzozowski and Benjamin Fox | EURACTIV.com



Up to 9 in 10 hate crimes and attacks in the EU still go unreported because victims face difficulty reporting them, do not trust the police and believe that nothing would change if they report it, according to a new study by the EU's Fundamental Rights Agency. EPA-EFE/MARCO DE SWART

Up to 9 in 10 hate crimes and attacks in the EU still go unreported because victims face difficulty reporting them, do not trust the police and believe that nothing would change if they report it, according to a new study by the EU's Fundamental Rights Agency.

The findings in the report 'encouraging hate crime reporting: the role of law enforcement and other authorities' published in July suggest that millions of people across the bloc experience hate-motivated violence and harassment.

The 81-page report found that the COVID-19 pandemic had exacerbated

existing racism, xenophobia and related intolerance, and triggered an upsurge in racist and xenophobic incidents against people of (perceived) Asian origin, Roma and migrants.

"EU countries have a duty to ensure access to justice for all. But too many hate crime victims do not report being attacked and too many countries do not record hate crimes properly," said FRA Director Michael O'Flaherty.

"This needs to change. Countries should simplify reporting and improve hate crime recording, investigation and punishment to fully uphold victims' rights," he added.

Among its recommendations, the FRA urges EU countries to make hate crime reporting easier "by enabling third-party or anonymous reporting".

It also states that EU countries "should provide practical guidance and training to the police, establish specialised hate crime units and ensure structured cooperation between law enforcement authorities, victim support organisations, civil society organisations and equality bodies".

The report notes that among black people, those who are Muslim face slightly more frequent racist harassment than non-Muslims (24 %

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compared to 20%), while minority groups are twice as likely to suffer harassment or violence, the study found.

Of 8,709 respondents who provided details of the most recent bias-motivated incident they had experienced – and of the 708 who reported the incident – only 13 contacted a national equality body, human rights institution or Ombudsperson.

Meanwhile, even of the cases that were reported, only 36% were reported to the police.

A majority of Jewish and Roma victims did not report the incident to the police or any other organisation because they were not convinced that reporting would change anything. Others said that the reporting process was too bureaucratic and time-consuming.

9% of all respondents had experienced physical violence in the five years before the survey, but that figure rose to 22% among those from an ethnic minority, and 19% for those who self-identify as lesbian, gay or bisexual. 17% of people with a disability or health problem had experienced violence.

The European Commission led by Ursula von der Leyen has vowed to tighten its policies on combating racism and other forms of discrimination, last year unveiling an EU Anti-racism Action Plan 2020–2025, as well as individual strategy plans on victims' rights, gender equality, Roma and LGBTIQ equality.

However, a general lack of data collection across much of the EU and the weakness of national equalities organisations in many EU countries, have resulted in uneven levels of reporting.

The low level of reporting of hate crimes means “obscuring the true extent of the problem and the urgent need for action. Victims that do not report such crimes will receive neither redress nor the necessary support,” the report read.

French equality body sounds alert about extension of COVID-19 pass

By Anne Damiani | EURACTIV.fr



Thousands of protesters gather by the Louvre pyramid during a demonstration against the COVID-19 vaccination in Paris, France, 17 July 2021. In a recent TV statement, French President Emmanuel Macron announced France will extend the use of its Vaccinal Passeport to cultural place, transport, restaurant, etc, after Covid-19 infections soared this week because of the more infectious Delta variant. [EPA-EFE/YOAN VALAT]

While the controversial extension of COVID-19 pass has been approved by the French Parliament on Sunday (25 July) and still needs to be approved by Constitutional Council next week (5 August), the country's equality agency, *Défenseur des droits*, has published 10 points that need to be watched closely.

Since President Macron announced the extension of the COVID-19 pass on 12 July to combat the spread of the delta-variant, [including making COVID-19 jobs compulsory for healthcare professionals](#), French citizens and politicians have expressed [their disagreement](#).

The *Défenseur des droits*, a constitutionally independent

authority, published a public opinion on Tuesday (20 July). While recognising the importance of vaccination in the fight against the pandemic, they "question both the method and the proportionality of most of the provisions and restrictions in the text".

The ten points to be monitored include the need for a democratic debate, intelligibility of the text, restrictions on access to public transport and goods and services, control of population, employment discrimination, risks of infringement of children's rights, people living in poverty, extended isolation measures, risks related to data processing and compulsory vaccination for some work categories.

The *Défenseur des droits* is competent in four different areas: the rights of the users of public services, the defence of children's rights, the non-discrimination and promotion of equality, and the issue of ethics in security services. Moreover, the *Défenseur des droits* has a protection responsibility and is mandated to address the improvement of access to rights and promote equality.

In 2020, more than 165,000 requests for assistance or advice have been received, which led to 96,894 files of complaints. Despite a 6% decrease in claims, security ethics cases have increased by 10.5%, according to [their annual report](#), showing that the pandemic and lockdowns have

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impacted citizens' freedom.

“The *Défenseur des droits* insists on the need to regularly re-evaluate the system in light of the health situation so that the restrictions only last as long as is strictly necessary to manage the crisis, and that measures adopted in a hurry are not perpetuated”, the public opinion said.

They have already received numerous complaints since the announcement of the introduction of the COVID-19 pass, “all of which illustrate that the haste and the difficulty of understanding certain provisions are likely to hinder the exercise of rights and freedoms in a manner that is not proportionate to the objective pursued.”

POWERS OF INQUIRY AND INTERVENTION

In all EU countries, equality bodies have been created, following [Race Equality Directive](#) in 2000. The Equinet Network, meanwhile, enables members to share their expertise at European level.

Like other countries, France has extended this directive to all discrimination provided for by the law.

The French institution, led by Claire Hédon since last July 2020 on a 6 year mandate, has powers of inquiry and powers of intervention. It can resolve a conflict by mutual agreement by making recommendations or through mediation/conciliation, to intervene in support of a civil or criminal transaction, to request disciplinary action against an security officer, to

request observations before a court in order, and to recommend sanctions by the administration against a physical person or legal entity at the origin of discrimination. Its actions are supported by the work of regional delegates, 400 persons working on a voluntary basis which represent the institution across France.



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