

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

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## Contents

Legal capacity of persons with intellectual disabilities and persons with mental health problems (forthcoming October 2013 – confidential/do not publish until 9 October 2013) .....	3
2012 Annual Report (June 2013) .....	3
FOCUS: The European Union as a community of values: safeguarding fundamental rights in times of crisis .....	3
1 Asylum, immigration and integration .....	4
2 Border control and visa policy .....	6
4 The rights of the child and protection of children.....	7
5 Equality and non-discrimination.....	7
6 Racism and ethnic discrimination.....	7
7 Participation of EU citizens in the Union’s democratic functioning.....	8
9 Rights of crime victims.....	8
EU LGBT survey - European Union lesbian, gay, bisexual and transgender survey - Results at a glance (May 2013).....	9
Fundamental rights at Europe’s southern sea borders (March 2013) .....	10
Inequalities and multiple discrimination in access to and quality of healthcare (March 2013) .....	10
Access to justice in cases of discrimination in the EU – Steps to further equality (December 2012).....	10

EU-MIDIS Data in focus report 6: Minorities as Victims of Crime (November 2012).....	10
Making hate crime visible in the European Union: acknowledging victims' rights (November 2012) ..	11
FRA Annual Report 2011 - Fundamental rights: challenges and achievements in 2011 (June 2012)...	11
1 Asylum, immigration and integration .....	11
4 The rights of the child and protection of children.....	12
5 Equality and non-discrimination .....	12
6 Racism and ethnic discrimination .....	13
7 Participation of EU citizens in the Union's democratic functioning.....	13
8 Access to efficient and independent justice.....	14
9 Rights of crime victims.....	14
Involuntary placement and involuntary treatment of persons with mental health problems (June 2012) .....	14
The situation of Roma in 11 EU Member States - Survey results at a glance (May 2012).....	15
Fundamental rights of migrants in an irregular situation in the European Union (November 2011) ..	16
The legal protection of persons with mental health problems under non-discrimination law (October 2011) .....	18
(Report) Respect for and protection of persons belonging to minorities 2008-2010 (September 2011) .....	18
Migrants, minorities and employment - Exclusion and discrimination in the 27 Member States of the European Union (Update Report) (July 2011) .....	19
Migrants, minorities and employment - Exclusion and discrimination in the 27 Member States of the European Union (Update Report) (July 2011) .....	19
Homophobia, transphobia and discrimination on grounds of sexual orientation and gender identity in the EU Member States (July 2011) .....	19
Access to justice in Europe: an overview of challenges and opportunities (March 2011) .....	21
Data in Focus 5: Multiple Discrimination (February 2011).....	21
Report - Detention of third-country nationals in return procedures (November 2010) .....	22
Homophobia, transphobia and discrimination on grounds of sexual orientation and gender identity - 2010 Update (Comparative legal analysis) (November 2010).....	22
Racism, ethnic discrimination and exclusion of migrants and minorities in sport: a comparative overview of the situation in the EU .....	23
Access to effective remedies: The asylum-seeker perspective (Thematic report) (September 2010) ..	24
The duty to inform applicants about asylum procedures: The asylum-seeker perspective (September 2010) .....	24
Data Protection in the European Union: the role of National Data Protection Authorities (Strengthening the fundamental rights architecture in the EU II) (May 2010).....	25

## Legal capacity of persons with intellectual disabilities and persons with mental health problems (forthcoming October 2013 – confidential/do not publish until 9 October 2013)

“The relevant laws across the EU Member States vary considerably in the terminologies they use, making comparisons challenging. Systems that use substituted decision-making schemes, or full loss of legal capacity, may term such representation as full guardianship, ‘wardship’ (in Ireland) or ‘tutorship’ (in France and Luxembourg (tutelle) and in Italy (tutore)). The term ‘curatorship’ appears to be used in Estonia, France, Luxembourg, Portugal and Spain to refer to various systems of partial restriction of legal capacity, and systems under which the legal representative can make legally binding decisions only with the agreement or consent of the person concerned. In contrast, the Dutch ‘curator’ (curatele) system is the most restrictive, with a person under such a system requiring the curator’s permission for all legal acts.” (p. 29)

“The comparative analysis suggests that EU Member States take three approaches to designating those who may apply for protective measures. A few EU Member States put no limit on who can initiate incapacitation proceedings. [...] A smaller group of Member States restrict the range of persons who can commence the procedure to family members or the public prosecutor. In the Netherlands, for instance, the most restrictive form of guardianship can be requested only by a family member or the Public Prosecutor. Similarly, in Portugal, the range is limited to the person’s spouse, guardian or carer, a relative who is an heir or the public prosecutor. In France, this category is broader and includes persons who have “close and stable ties with the person.” (p. 34/35)

“An overview of some legal provisions found in the EU-27 exemplifies the different approaches. The Portuguese Civil Code expressly entrusts guardianship to the spouse.” (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)

### 2012 Annual Report (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)

**FOCUS: The European Union as a community of values: safeguarding fundamental rights in times of crisis**

## Crisis situations

### The situation on the ground

“Figure: Persons at risk of poverty or social exclusion, by EU Member State, 2011 (%)” p.16

“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>1</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”.<sup>2</sup> Feantsa also saw an apparent increase of homeless persons in Lithuania who come from care institutions.” p.17

### Safeguarding European values: current developments and discussions

#### Conclusion

“Political discourse in 2012 witnessed a variety of different elements of crisis above and beyond the economic crisis. In various EU Member States and transnationally a ‘crisis jargon’ evolved into potentially divisive rhetoric, especially *vis-à-vis* vulnerable economies, labelling them with a derogatory shorthand.”<sup>3</sup> p.28

## 1 Asylum, immigration and integration

### 1.2. Stateless persons

“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**). (...)In fulfilment of this commitment, **Bulgaria** and **Portugal** acceded to the 1954 Convention Relating to the Status of Statelessness and the 1961 Convention on the Reduction of Statelessness in March and October 2012, respectively.” p.45

### 1.3. Immigration and return

#### 1.3.2. Rights of migrants in an irregular situation

“EU Member States took further steps to implement the Employers Sanctions Directive (Directive 2009/52/EC). The European Commission addressed reasoned opinions to **Belgium, Cyprus, Lithuania, Luxembourg, Finland, Poland, Portugal, Slovenia** and **Sweden** in 2012 for failing to

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<sup>1</sup> European Federation of National Organisations working with the Homeless – Feantsa (2012), p. 21.

<sup>2</sup> *Ibid.*

<sup>3</sup> For example: “**Portugal**, Ireland, Italy, Greece and Spain”, by some referred to as ‘PIIGS’.

transpose the directive on time. New legislation transposing the directive entered into force in several Member States, including **Cyprus, Italy, Poland, Portugal<sup>4</sup>** and **Slovenia**. In contrast, **Belgium Luxembourg and Sweden** could not fully complete the legislative process to transpose the directive in 2012.” Pp.47-48

“Table 1.5: Types of alternatives applied by EU Member States, EU-25 and Croatia” p.53

“Establishment of effective monitoring systems in 2012 (...)

**Portugal** designated the Aliens Service (*Serviço de Estrangeiros e Fronteiras*) as the authority responsible for return monitoring.<sup>5</sup> The Aliens Service cannot, however, be considered independent, as it is the same agency implementing returns. (...)

As illustrated in Figure 1.2, at the end of 2012, legislation or cooperation agreements between the authorities and the monitoring body in 15 Member States, including the **United Kingdom** which is not bound by the Return Directive, provide for independent return monitoring. These either provide a legal basis for monitoring returns in general or designate a specific institution for this function. EU Member States where monitoring is designated to an agency belonging to the branch of government responsible for the return (**Portugal,<sup>6</sup> Sweden** and Member States where monitoring is carried out on an ad hoc or informal basis (such as pilot projects in **Finland and Poland**)) have not been included among these 15 EU Member States. (...)

Six EU Member States – **Bulgaria, France, Greece, Italy, Slovenia and Spain** – have no effective monitoring system and **Ireland** is not bound by the Return Directive. Although National Human Rights Institutions (NHRIs) may monitor the pre-departure phase in detention centres where persons pending return are held, as, for example, in **Belgium, Bulgaria and Portugal**, they generally do not act as forced return monitoring bodies. (...)

Monitoring systems are operational to different degrees. In a minority of EU Member States, the monitors accompany the actual return flight. Of the 15 Member States where FRA considers that effective monitoring systems are in place, only seven (**Austria, Belgium, Czech Republic, Denmark, Estonia, Luxembourg and the United Kingdom**) monitored a return flight in 2012, while monitoring in the other Member States remained limited to the pre-departure process. In **Lithuania**, the Red Cross plans to join a return flight in 2013. Member States with monitors who are not independent from the authority implementing the removal (**Portugal** and **Sweden**) also carry out in-flight monitoring.” Pp.55-56

## 1.4. Integration of migrants

### 1.4.1. Key developments

“The Immigrant Citizens Survey, co-funded by the European Commission, explored experiences across the EU of integration policies by first-generation migrants who have resided in an EU Member State for more than one year, in the fields of employment, languages, political and civic participation, family reunification, long-term residence, citizenship and the link between

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<sup>4</sup> **Portugal**, Law 29/2012, 9 August 2012.

<sup>5</sup> **Portugal**, Law 29/2012, 9 August 2012.

<sup>6</sup> *Ibid.*

participation and positive settlement outcomes. The survey, published in 2012 by the King Baudouin Foundation and the Migration Policy Group, covered 15 cities in seven EU Member States (Belgium, France, Germany, Hungary, Italy, Portugal and Spain), and 7,473 immigrants born outside the EU participated. (...)

The *Good Ideas from Successful Cities: Municipal Leadership in Immigrant Integration*<sup>105</sup> report shares good practices from cities in eight EU Members States (Austria, France, Germany, Ireland, the Netherlands, Portugal, Spain and the United Kingdom) on topics including city charters, programmes of inclusion, participation and belonging, as well as welcoming communities. A tendency to cut costs and reduce social benefits for third-country nationals is observed at the national level.” Pp.58-59

#### **1.4.2. National action plans on integration**

“Table 1.7: National-level action plans on integration, 16 EU Member States” p.62

“Table 1.9: Indicators used for integration monitoring in EU Member States with migrant integration action plans, 16 EU Member States” p.62

## **2 Border control and visa policy**

### **2.1 Border control**

#### **2.1.2. Persons held in airport transit zones – access to food, water and a place to rest**

“At Frankfurt airport in **Germany**, border guards can purchase food in the canteen for passengers without resources, either upon passenger request or, after two to three hours, upon offer by the police, which is then later charged to the airline.<sup>30</sup> In **Portugal**, the Aliens Service (*Serviço de Estrangeiros e Fronteiras*) acquires supplies and distributes them to passengers.” p.83

#### **2.1.3. Automated Border Control (ABC) gates and smart borders**

“Nine EU Member States have introduced ABC gates, primarily at airports: Bulgaria, the Czech Republic, Finland, France, Germany, the Netherlands, Portugal, Spain and the United Kingdom.”<sup>7</sup> p.84

#### **2.1.4. Immigration liaison officers (ILOs)**

“By 2012, approximately two thirds of EU Member States as well as **Croatia** had posted immigration liaison officers abroad: **Austria, Belgium, the Czech Republic, Denmark, Finland, France, Germany, Hungary, Italy, Latvia, the Netherlands, Poland, Portugal, Spain, Sweden** and the **United Kingdom.**” p.87

### **2.2. A common visa policy**

#### **2.2.1. Visa Information System (VIS)**

“By 4 November 2012, the VIS had recorded about 1,800,000 visa applications, of which more than 1,500,000 were issued and about 220,000 refused. Table 2.1 provides an overview of the visas with biometric identifiers (fingerprints) issued in 2012 in five Member States. As part of the consular

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<sup>7</sup> Information provided by Frontex.

representation, Member States may also cooperate on the collection of biometric identifiers.<sup>85</sup> In Istanbul, for instance – the Member States of Estonia, Portugal and Slovenia as well as Norway are represented by the Hungarian embassy, which collects the biometric identifiers on behalf of these countries.<sup>86</sup> This explains the relatively high numbers of visas with biometric identifiers issued by Hungary in Istanbul.” p.90

## 4 The rights of the child and protection of children

### 4.4. Asylum-seeking and migrant children

“Table 4.1: Asylum applicants by age group (\*), 2012 (%), by EU Member State” p.126

### 4.6. Child poverty

“In Portugal a decree adopted in June 2012 significantly reduced various benefits with severe financial implications for families with children.<sup>8</sup>” p.128

## 5 Equality and non-discrimination

### 5.2. Key developments: national aspects

#### 5.2.4. Discrimination on the ground of disability

##### Key developments in national policies and practices

“In Estonia, the Ministry of Social Affairs published a handbook including guidelines on how to improve the accessibility of buildings and other facilities for persons with disabilities and older people, while plans to promote accessibility are ongoing in several municipalities in Portugal.<sup>9</sup>” p.153

#### 5.2.5. Discrimination on the grounds of sexual orientation and gender identity

“Regarding discrimination and the right to access goods and services, the Advocate of the Principle of Equality in Slovenia found discrimination on the ground of sexual orientation in a case concerning information in a tourist catalogue negatively affecting same-sex couples. Both Portugal and Hungary reported instances of refusal to provide services. An advertising<sup>10</sup> instance was reported in Portugal while the Hungarian example referred to access to a campsite.” p.154

## 6 Racism and ethnic discrimination

### 6.1. Developments and trends in officially recorded crimes motivated by racism, xenophobia and related intolerances

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<sup>8</sup> Portugal, Decree-Law 133/2012 (*Decreto-lei n.º 133/2012*), 27 June 2012, available at: [www.cite.gov.pt/pt/destaques/complementosDestqs/Declei\\_133\\_2012.pdf](http://www.cite.gov.pt/pt/destaques/complementosDestqs/Declei_133_2012.pdf).

<sup>9</sup> See, for example, Portugal, Procedure Announcement 2473//2012; and [www.sulinformacao.pt/2012/04/tavira-prepara-plano-municipal-de-promocao-da-acessibilidade](http://www.sulinformacao.pt/2012/04/tavira-prepara-plano-municipal-de-promocao-da-acessibilidade).

<sup>10</sup> Soares, A. (2012) ‘*Imagens da campanha rejeitada pela Metro de Lisboa são “inócuas”*’, *Público*, 31 January 2012, available at: <http://p3.publico.pt/actualidade/sociedade/2130/imagens-da-campanha-rejeitada-pela-metro-de-lisboa-sao-inocuas>.

“Table 6.7: Status of official data collection on racist, anti-Roma, antisemitic, Islamophobic/anti-Muslim and (right-wing) extremist crime in EU Member States, December 2012” p.188

“Reports of human rights monitoring bodies and other organisations concerning Hungary, Italy, Lithuania, Portugal and Slovakia show that Roma remain at risk of discrimination in housing and spatial segregation.” p.197

“Concerns have been raised for Portugal, where public housing policies have failed to address the spatial segregation affecting many Roma, because of a lack of targeted measures to promote their access to mainstream social housing and because local authorities have taken steps that are not in line with international and European standards relating to the right to adequate housing, as the Commissioner for Human Rights of the Council of Europe notes.<sup>11</sup>” p.197

“Despite the adoption of policies aimed at promoting Roma inclusion in education, Roma children are especially prone to experience segregation in education in several EU Member States...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

“Concerning Portugal, the Council of Europe Commissioner for Human Rights stressed that Roma pupils continued to be taught in separate classes.”<sup>12</sup> p.200

## 7 Participation of EU citizens in the Union’s democratic functioning

### 7.1. Voting rights in the EU

“Figure 7.1: Offices which non-national EU citizens may hold in local government units” p.215

“Figure 7.2: Proportion of female parliamentarians in EU Member States and Croatia” p.219

“Table 7.1: The right to political participation of persons with mental health problems and persons with intellectual disabilities, by EU Member State and Croatia” p.222

## 9 Rights of crime victims

“14 December – Portugal becomes the first EU Member State to pass in parliament the bill of ratification of the Convention on Preventing and Combating Violence Against Women and Domestic Violence (Istanbul Convention) “ p.257

### 9.1. EU and Member State developments

“Promising practice; Improving the quality of victim support services (...)

Victim Support Europe, the umbrella network for national victim support organisations in Europe, developed the project with financial support from the European Commission Directorate-General Justice. Germany, Hungary, the Netherlands, Portugal, and the United Kingdom are participating in the project, which is managed by the Portuguese Association for Victim Support (*Associação de Apoio à Vítima, APAV*). (...)

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<sup>11</sup> Council of Europe, Commissioner for Human Rights (2012a).

<sup>12</sup> Council of Europe. Commissioner for Human Rights (2012a).



For more information, see: <http://victimssupporteurope.eu/about/projects/cabvis> “ p.258

### 9.3 Rights of victims of trafficking and severe forms of labour exploitation

“Promising practice; Training labour inspectors to identify potential trafficking victims

Portuguese authorities coordinated two awareness-raising programmes on human trafficking, aiming to improve labour inspectors’ ability to identify potential trafficking situations. The Observatory on Trafficking in Human Beings (*Observatório do Tráfico de Seres Humanos*, OTSH), the Commission for Citizenship and Gender Equality (*Comissão para a Cidadania e Igualdade de Género*) and the Authority for Working Conditions (*Autoridade para as Condições de Trabalho*) in Portugal jointly coordinated the programmes for labour inspectors, delivering sessions in Lisbon and Porto to some 100 labour inspectors.

In April 2012, in partnership with the United Nations Office on Drugs and Crime in Vienna, the OTSH organised a Trainers’ Training Programme for national experts. The main goal was to provide these professionals with training skills, with which they could then provide training in their own organisations in Portugal, as well as in their organisational counterparts in all Portuguese-speaking countries.

The OTSH also organised a training week for criminal justice practitioners in Portuguese-speaking countries from 17 to 21 September.

For more information, see: Portugal, *Observatório do Tráfico de Seres Humanos (OTSH) (2012)*, available at: [www.otsh.mai.gov.pt/?area=203&mid=000&sid=1&sid=000&cid=CNT4b605e9175313](http://www.otsh.mai.gov.pt/?area=203&mid=000&sid=1&sid=000&cid=CNT4b605e9175313)” p.266

### EU LGBT survey - European Union lesbian, gay, bisexual and transgender survey - Results at a glance (May 2013)

[http://fra.europa.eu/sites/default/files/eu-lgbt-survey-results-at-a-glance\\_en.pdf](http://fra.europa.eu/sites/default/files/eu-lgbt-survey-results-at-a-glance_en.pdf)

“Some EU Member States, including Belgium (interfederal and Flanders), France, Germany (Berlin-Brandenburg and North Rhine-Westphalia only, not at national level), Italy, the Netherlands, Portugal, Spain (Province of Barcelona, not at national level) and the United Kingdom (lesbian, gay and bisexual, and transgender action plans separately) have adopted specific LGBT action plans or integrated these issues in national human rights action plans.” P.9

“Figure 1: Respondents who felt discriminated against or harassed in the last 12 months on the grounds of sexual orientation, by country and by LGBT subgroup (%)” p.15

“Figure 2: Respondents who felt discriminated against in the last 12 months when looking for a job and/or at work because of being LGBT, by country and LGBT subgroup (%)” p.16

“Figure 3: Respondents who felt discriminated against in the last 12 months in areas other than employment because of being LGBT, by country and by LGBT subgroup (%)” p.17

“Figure 5: Respondents who had heard negative comments or seen negative conduct because a schoolmate was perceived to be LGBT during their schooling before the age of 18, by country and by LGBT subgroup (%)” p.19

“Figure 6: Respondents who had “always” or “often” hidden or disguised being LGBT during their schooling before the age of 18, by country and by LGBT subgroup (%)” p.19

“Figure 12: Respondents who said same-sex couples and different-sex couples holding hands in public is “very widespread”, by country (%)” p.25

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

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

“In the border management field, the EU and third countries have created regional cooperation mechanisms. The Seahorse network, which is set up largely through EU funds and connects Spain and Portugal to a number of west African countries, is one such example.” p.12

### 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)

“Figure 1: Life expectancy gaps between high and low educational attainment at age 60, by sex” p.38

“Africans in Malta have a 17 % perceived discrimination rate, Brazilians in Portugal 15 % and Somalis in Finland 14 %.” p.44

### Access to justice in cases of discrimination in the EU – Steps to further equality (December 2012)

<http://fra.europa.eu/sites/default/files/fra-2012-access-to-justice-social.pdf>

“Annex: Overview of equality bodies” p.64

### 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)

“This means that some Member States – such as the United Kingdom and Germany – report relatively high ‘racist’ crime figures, because their laws and data collection mechanisms allow them to count broader categories of data. In comparison, other Member States – such as Greece and Portugal – publish either no ‘racist’ crime data on a regular basis or only limited data representing a handful of cases.” p.6

“Figure 1: 12-month victimisation prevalence rate (DA2-DE2); Specific groups, % victimised at least once in the five crimes tested” p.8

“Figure 5: In-person crime with a perceived ‘racist’ motive (DD4, DE5); % of victims of serious harassment or assaults or threats with an anticipated racist/ethnic motive in the past 12 months (in the total population)” 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 2: Official data pertaining to hate crime published in 2010 by bias motivation, by EU Member State “ p.9

“In order to capture the broad range of other forms of hate crimes, Article 4 of the Framework Decision, as previously mentioned, allows for the adoption of one of two methods. The first is to create qualifications – enhanced penalties – either for all crimes or for those perceived to be most relevant or serious, such as murder, injury, insult or vandalism. A small group of EU Member States – Belgium, Bulgaria, Czech Republic, Lithuania, **Portugal**, Slovakia and the United Kingdom – have opted for this approach.” p.27

“Table 3: Summary overview of officially recorded data pertaining to hate crime, by EU Member State” p.34

“Table 4: Official data pertaining to hate crime published in 2010 by bias motivation, by EU Member State” p.35

“Thirteen EU Member States can be said to operate limited data collection mechanisms pertaining to hate crime: Bulgaria, Cyprus, Estonia, Greece, Hungary, Ireland, Italy, Latvia, Luxembourg, Malta, **Portugal**, Slovenia and Spain.” p.36

“Table 5: Classification of official data collection mechanisms pertaining to hate crime, information current as of September 2012, by EU Member State” p.36

“There are caveats, however. “Prevalence rates of victimisation of immigrants by hate crimes per country are based on very small numbers and large confidence intervals make comparisons less meaningful. On the face of it, immigrants in Belgium, Greece, Spain and Denmark perceive to be victimised by hate crimes most often. Immigrants in Finland, **Portugal** and Italy reported such crimes least often.” p.46

## FRA Annual Report 2011 - 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)

### 1 Asylum, immigration and integration

#### “1.3.2. Education;

Evidence of segregation leading to avoidance strategies is confirmed by research conducted in eight Member States (**France, Germany, Hungary, Italy, Netherlands, Poland, Portugal** and the **United Kingdom**<sup>115</sup>). In its 2011 publication *Intolerance, Prejudice and Discrimination: a European Report*, the Friedrich Ebert Foundation (*Friedrich Ebert Stiftung*) analysed “survey data collected in telephone interviews of a representative sample of 1,000 persons aged 16 and above per country in autumn 2008 in the scope of the Group-based Enmity in Europe study,” conducted by the University

of Bielefeld.<sup>13</sup> The analysis of the survey results shows that “41% of all European respondents agree ‘somewhat or strongly’ that they would not send their child to a school where a majority of the pupils are immigrants. In the Netherlands, Germany and Great Britain more than half of respondents share this opinion; in France, Poland and Italy the figure is about one third. In **Portugal** the figure is one in four.”<sup>14</sup> p.57

#### 4 The rights of the child and protection of children

“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.**<sup>15</sup>

In 2011, a number of EU Member States were in the process of carrying out partial or general reforms of their child protection systems, aiming to address existing failings – and their deeply harmful consequences for some children. The reviews – in **Bulgaria, Denmark, Estonia, Germany, Lithuania, the Netherlands, Portugal, Romania, Slovenia** and the **United Kingdom (England and Wales)** – have looked not only at how social services deal with cases of children in need of protection but also at how officials in the education and health sectors are required to respond to cases of alleged and reported cases of violence against children.” p.105

#### 5 Equality and non-discrimination

“Equality bodies in seven EU Member States (**Austria, Belgium, Hungary, Luxembourg, Portugal, Slovenia** and the **United Kingdom**) record cases involving more than one ground of discrimination as a distinct category, thereby giving an indication of the number of cases where multiple discrimination is alleged.” p.127

“In **Portugal**, an elderly couple with disabilities living on the third floor of a building without a lift requested the installation of a stair-lift. Since the co-owners refused, the couple filed a complaint before the Court of First Instance. The court issued a protective order and ordered the installation of the stair-lift. The co-owners lodged an appeal, but the Lisbon Court of Appeal dismissed their application. While the Court of Appeal’s judgment does not expressly use the term “multiple or intersectional discrimination”, it is nevertheless grounded on the intersection of two grounds: age and disability.” p.128

“The gender pay gap decreased in 15 Member States between 2008 and 2010, generally modestly. The largest decreases were observed in **Lithuania** (-7%), **Slovenia** (-4.1%), **Malta** (-2.5%) and the **United Kingdom** (-1.9 %). The gender pay gap increased in seven Member States between 2008 and 2010, with the highest variations observed in **Latvia** (+4.2 %), **Portugal** (+3.6 %), **Romania** (+3.5 %) and **Bulgaria** (+2.1 %).” p.129

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<sup>13</sup> Zick, A., Küpper, B. and Hövermann, A. (2011), *Die Abwertung der Anderen – Eine europäische Zustandsbeschreibung zu Intoleranz, Vorurteilen und Diskriminierung*, Friedrich-Ebert-Stiftung, Berlin, 2011, p. 18

<sup>14</sup> Ibid.

<sup>15</sup> Global Initiative to end all corporal punishment of children (2011), *Global progress towards prohibiting all corporal punishment*, July 2011.

“Promising practice; National Action Plans on violence and discrimination offer specific support to LGBT citizens;

In **Portugal**, the Fourth National Action Plan against Domestic Violence (*IV Plano Nacional contra a Violência Doméstica*) has found that LGBT persons are particularly vulnerable to domestic violence. The plan proposes targeted measures to protect this group, although these have not yet been specified. In the Fourth National Action Plan for Equality, Gender Citizenship and Non-Discrimination (*IV Plano Nacional para a Igualdade, Género, Cidadania e não Discriminação*), ‘sexual orientation and gender identity’ is listed as a strategic domain, under which awareness-raising measures are planned, targeting the public in general, but also strategically important professions (politicians, civil servants, professionals in various sectors such as health, education, social work, security and defence, justice, the media and among NGOs) and young people. *For more information, see: [http://195.23.38.178/cig/portalcig/bo/documentos/IV\\_PNI.pdf](http://195.23.38.178/cig/portalcig/bo/documentos/IV_PNI.pdf)* p.134

“As regards the rectification of official documents following gender reassignment, legislative developments with an impact on the legal gender recognition of transgender and transsexual persons took place in **Portugal**, where a new law was adopted to simplify the procedure and remove requirements deemed to be disproportionate.<sup>16</sup>” p.135

## 6 Racism and ethnic discrimination

“Table 6.1: Status of official data collection on racist crime, by country as of January 2012” p.157

“In June 2011, the European Committee of Social Rights (ECSR), in its decision in the case of European Roma Rights Centre (ERRC) v. **Portugal**, found that national authorities had failed to show that they had taken sufficient measures to ensure that Roma live in housing that meet minimum standards of adequacy. It also found that the implementation of re-housing programmes by municipalities have often led to the segregation of Roma populations. The ECSR unanimously found that this amounted to violations of: Article 16, which protects family rights; Article 30, which protects against poverty and social exclusion; and Article 31 (1) on adequate housing, read alone or in conjunction with Article E, non-discrimination, of the European Social Charter (Revised).<sup>17</sup>” p.173

## 7 Participation of EU citizens in the Union’s democratic functioning

“In **Portugal**, voters with visual impairments encountered problems when voting. The Association of the Blind and the Partially-Sighted of Portugal (*Associação dos Cegos e Amblíopes de Portugal*, ACAPO) and the I Want to Vote Movement (*Movimento Quero Votar*)<sup>18</sup> – a coalition of NGOs, individual persons, sponsors and private companies – called for solutions to enable persons with visual impairments to vote. Following the presidential elections on 31 January, ACAPO called for the development of Braille templates by the 2013 parliamentary elections.<sup>19</sup>” p.187

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<sup>16</sup> Portugal, Law 7/2011 of 15 March 2011 (*Lei n.º 7/2011 de 15 de Março, Cria o procedimento de mudança de sexo e de nome próprio no registo civil e procede à décima sétima alteração ao Código do Registo Civil, Diário da República, 1.ª série – N.º 52 – 15 de Março de 2011*).

<sup>17</sup> European Committee of Social Rights (ECSR) (2011a).

<sup>18</sup> For more information, see: [www.querovotar.com/movimento.asp](http://www.querovotar.com/movimento.asp).

<sup>19</sup> Portugal, Association of Blind and Partially-Sighted Persons of Portugal (*Associação dos Cegos e Amblíopes de Portugal*, ACAPO) (2011), ‘O Livre Exercício do Direito de Voto por parte das Pessoas com Deficiência Visual’, Press release, 28 January 2011.

## 8 Access to efficient and independent justice

“2011 reforms relating to NHRIs and their accreditation status took place. 108 NHRIs in two Member States, **Denmark** and **Portugal**,<sup>20</sup> were assessed and found to be in full compliance with the Paris Principles, thus maintaining their A-status.” p.208

## 9 Rights of crime victims

“Promising practice; ‘May I help you?’ – meeting the needs of victimised tourists;

In August 2011, the Portuguese Victim Support Association (*Apoio à Vítima*, APAV) launched a campaign entitled ‘May I help you?’. This campaign aims to improve information and support provided to tourists who fall victim to crime in **Portugal**. Tourists as victims of crime may feel particularly vulnerable as language and cultural barriers make it especially difficult to seek information and support. As a second component, APAV is carrying out training for foreign embassies to allow them to better meet the specific needs of tourists who have become victims of crime. Foreign embassies and consulates have an important role to play as they are often the preferred contact point for tourists when they fall victim to a crime. *For more information, see [www.apav.pt/portal\\_eng/index.php?limitstart=8](http://www.apav.pt/portal_eng/index.php?limitstart=8)*” p.220

“In **Portugal**, the Council of Ministers passed in December 2010 the fourth Action Plan against Domestic Violence, covering the years 2011 to 2013.<sup>21</sup> The plan introduces measures in five areas: information, awareness raising and education; protection of victims; preventing repeat victimisation by intervening against the offender; training of professionals; and research and monitoring.” p.222

“As concerns definitions of incitement to violence or hatred, some EU Member States, including **Denmark, Ireland, Sweden** and the **United Kingdom**, have over time introduced definitions covering sexual orientation, as has Croatia. A number of other EU Member States – **Austria, Belgium, Estonia, Finland, Lithuania, Luxembourg, the Netherlands, Portugal, Romania, Slovenia and Spain** – have enacted definitions that cover an even wider range of protected grounds, evidence that the majority of Member States recognise some form of ‘hate speech’ beyond racism and xenophobia.” p.229

## 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)

“In 13 Member States two criteria – the risk of harm *and* the need for treatment – are listed alongside having a mental health problem. This is the case in **Denmark, Greece, Finland, France, Ireland, Latvia, Poland, Portugal, Romania, Slovakia, Slovenia, Sweden** and the **United Kingdom**. In some legal frameworks, however, the need of treatment is not explicitly referred to. The notion is then more or less implied.” p.31

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<sup>20</sup> Portugal, Amendment of the Organic Law on the Portuguese Ombudsman Services (*Lei Orgânica da Provedoria de Justiça*) initially created by Decree-Law no. 279/93 of 11 August 1993.

<sup>21</sup> Portugal, Council of Ministers (2010), Resolution 100/2010 on IV Plano Nacional contra la Violencia Doméstica 2011–2013, 17 December 2010.

“There are significant differences between Member States in the regularity of reviews prescribed by law. Independent of review processes, most legal frameworks prescribe a possibility for immediate suspension of the measures in case of a change in situation. Then, initial reviews of involuntary placement or treatment take place after a short period of time. Once the initial review has confirmed the placement measure, a timeframe for regular review of the decision is prescribed. In some Member States regular reviews of placement measures take place every three months (Bulgaria, Portugal<sup>22</sup>), every six months (Finland, France, Latvia, Lithuania), after one year (Estonia, Slovenia), or after two years (Belgium, Luxembourg).” p.40

## The situation of Roma in 11 EU Member States - Survey results at a glance (May 2012)

[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)

“Figure 2: Children aged 4 to starting age of compulsory education attending preschool or kindergarten (pooled data) (%)” p.13

“Figure 3: Children aged 7 to 15 not in school (%)” p.14

“Figure 4: Household members aged 20 to 24 with at least completed general or vocational upper-secondary education (pooled data) (%)” p.15

“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

“Figure 5: Household members aged 20 to 64 in paid employment (pooled data) (%) – excluding self-employment” p.16

“The surveys found important differences between the Roma and non-Roma surveyed in France, Italy and Portugal, where only about one out of 10 Roma aged 20 to 64 is reported as being in paid employment (see Figure 5).” p.16

“Figure 6: Respondents\* aged 20 to 64 who considered themselves as unemployed (%)” p.17

“Figure 7: Respondents aged 18 and above stating that they are or will be entitled to private or state pension (%)” p.18

“Figure 8: Roma children aged 7 to 15 who work outside the home (%)” p.18

“Figure 9: Roma respondents aged 16 and above looking for work in the past 5 years, who said that they experienced discrimination because of their Roma background (pooled data) (%)” p.19

“Nevertheless, more than half of the Roma surveyed said they are or will be entitled to a pension in the Czech Republic, Hungary and Slovakia, and two out of three Roma indicated this in Portugal.” p.19

“Figure 10: Respondents aged 35 to 54 with health problems that limit their daily activities (%)” p.20

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<sup>22</sup> Portugal, Law on mental health 36/98, 11 July 2002, Art. 35.

“Figure 11: Respondents aged 18 and above with medical insurance (pooled data) (%)” p.20

“In Hungary, Slovakia, Poland, Spain, Portugal and France, medical insurance coverage of around 90 % or more is reported by both Roma and non-Roma respondents.” p.21

“Figure 12: Average number of persons per room (excluding kitchen, corridor, toilet, bathroom and any room rented out) (pooled data) (%)” p.22

“Figure 13: Persons living in households without at least one of the following basic amenities: indoor kitchen, indoor toilet, indoor shower/bath, electricity (pooled data) (%)” p.23

“Figure 14: Persons living in households at risk of poverty (%)” p.24

“In all EU Member States, at least eight out of 10 of the Roma surveyed are at risk of poverty with the highest levels reported in Portugal, Italy and France.” p.25

“Figure 15: Persons living in households in which someone went to bed hungry at least once in the past month (pooled data) (%)” p.24

“Figure 17: Roma respondents aged 16 and above who experienced discrimination because of their Roma background in the past 12 months (pooled data) (%)” p.26

“Figure 18: Respondents aged 16 and above who know about a law forbidding discrimination against ethnic minority people when applying for a job (pooled data) (%)” p.27

## Fundamental rights of migrants in an irregular situation in the European Union (November 2011)

[http://fra.europa.eu/sites/default/files/fra\\_uploads/1827-FRA\\_2011\\_Migrants\\_in\\_an\\_irregular\\_situation\\_EN.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/1827-FRA_2011_Migrants_in_an_irregular_situation_EN.pdf)

“Table 2: Policy options for persons not removed due to practical or technical obstacles – certification given to persons concerned” p.33

“In other EU Member States, repeated arrest and detention is not possible. In Portugal and Spain, a person must be released after 60 days in immigration detention.”<sup>23</sup> p.35

“In at least 19 countries, entitlements to fair remuneration apply to all workers, including migrants in an irregular situation.”<sup>24</sup> p.48

“All persons present in Portugal may benefit from social assistance, which includes access to social services and facilities.”<sup>25</sup> p.67

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<sup>23</sup> Portugal, Law 23/07, Article 146 (3).

<sup>24</sup> Portugal, communication to the FRA by the Portuguese Aliens and Borders Service;

<sup>25</sup> Portugal, Social security framework law, Law 4/07, 16 January 2007, Article 4. According to a National Social Security internal guideline, social assistance should be granted in the light of the principle of human dignity, as incorporated in the Portuguese Constitution and in the relevant international conventions signed by Portugal.



“Although Portuguese and Spanish law do not grant a specific legal status to non-removed persons, in Portugal they are entitled to social assistance if in need,<sup>26</sup> (...)” p.69

“In six countries (Belgium, France, Italy, Netherlands, Portugal and Spain) undocumented migrants’ entitlement to healthcare covers primary and secondary care, specialist and inpatient treatment.<sup>27</sup> (...)As an example, in Portugal, migrants in an irregular situation are granted access to the national health system provided that they have resided in Portugal for more than 90 days, obtain a confirmation of residence from the district administration and register as a temporary patient at a local health centre.<sup>28</sup> Those who have resided in Portugal for fewer than three months may access only emergency healthcare, maternal care and care for communicable diseases. Migrants in an irregular situation are in principle required to cover the full costs of treatment,<sup>29</sup> but they may apply for an exemption of payment if they can prove that they lack the necessary financial means to pay for care. The FRA thematic report on healthcare provides information on practices in the other countries.” pp.76-77

“In spite of their particular vulnerability, irregular migrant children up to a certain age are entitled to the same level of access to healthcare as nationals in four countries only, namely Greece, Portugal, Romania and Spain. (...)In Portugal, in order to ensure healthcare coverage of all children, the High Commissioner for Immigration and Intercultural Dialogue (ACIDI) introduced in 2004 a specific register for foreign minors.<sup>30</sup>” p.78

“Table 8: Free healthcare entitlements for irregular migrant children” p.80

“In Portugal, attending preschool, primary school, secondary or professional education is grounds for the legalisation of minors born in Portugal.<sup>31</sup> A special programme has been drawn up for this purpose.” p.88

“Table 10: The right to education for undocumented children, EU27” p.89

“Promising practice; Encouraging irregular migrants to send their children to school;

Portugal’s Aliens and Borders Service (SEF) (*Serviço de Estrangeiros e Fronteiras*) launched a go-to-school programme (*Programa SEF vai à escola*), involving national immigration authorities and schools. The project is designed to regularise young migrant children who were born in Portugal and attend state schools, but who are not lawfully staying in the country. Residence permits for both the children and their parents are granted or renewed directly at school, on the same day, avoiding bureaucracy. This project also includes local awareness-raising activities aimed at all actors of each school community. The programme considers education an inclusion factor and encourages migrants in an irregular situation to place their children in school.” p.90

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<sup>26</sup> Information provided to the FRA in May 2011 by the EMN National Contact Point for Portugal.

<sup>27</sup> Portugal, *Despacho n.o 25 360/2001 at point 4*, available at: [www.acss.min-saude.pt/Portals/0/25360\\_2001.pdf](http://www.acss.min-saude.pt/Portals/0/25360_2001.pdf);

<sup>28</sup> Portugal, *Despach do Ministerio da Saude* number 25 360/2001; and *Decreto Lei* number 135/99 (1999).

<sup>29</sup> Everyone who does not pay taxes in Portugal is required to pay for the services provided by the national health system (see Fonseca, M. L., Silva, S., Esteves, A. and McGarrigle, J. (2009) *MIGHEALTHNET, Information Network on Good Practice in Health Care for Migrants and Minorities in Europe*, Portuguese State of the Art Report, Departamento de Geografia/Centro de Estudos Geográficos, University of Lisbon, p. 28).

<sup>30</sup> Portugal, *Despacho do Ministério da Saúde* number 25 360/2001; *Decreto Lei* Number 135/99, 22 April 1999.

<sup>31</sup> Portugal, Law 23/07, Article 122(1)(b).

“Figure 7: Reasons considered most important by civil society responses for irregularity of family members, selected EU Member States (%)\*” p.98

“Table 11: Family members most often in an irregular situation according to civil society responses, selected EU Member States” p.99

## The legal protection of persons with mental health problems under non-discrimination law (October 2011)

[http://fra.europa.eu/sites/default/files/fra\\_uploads/1797-FRA-2011-Legal-protection-persons-mental-health-problems-report\\_EN.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/1797-FRA-2011-Legal-protection-persons-mental-health-problems-report_EN.pdf)

*Portugal found twice in the report, however the passages did not appear to be of huge relevance.*

## (Report) Respect for and protection of persons belonging to minorities 2008-2010 (September 2011)

[http://fra.europa.eu/sites/default/files/fra\\_uploads/1769-FRA-Report-Respect-protection-minorities-2011\\_EN.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/1769-FRA-Report-Respect-protection-minorities-2011_EN.pdf)

“If these results are broken down further, into specific groups in specific Member States, the ten minorities that experienced the highest levels of discrimination over a 12 month period were, in descending order: Roma in the Czech Republic (64%), Africans in Malta (63%), Roma in Hungary (62%), Roma in Poland (59%), Roma in Greece (55%), Sub-Saharan Africans in Ireland (54%), North Africans in Italy (52%), Somalis in Finland (47%), Somalis in Denmark (46%), and Brazilians in Portugal (44%).” p.38

“To illustrate, in Portugal non-reporting of discrimination is the norm. 100% of Sub-Saharan Africans and 98% of Brazilians who experienced discrimination did not report their most recent experience.” p.39

“When the results are broken down by group and Member State, the top groups that experienced the highest levels of discrimination at work were: North Africans in Italy (30%), Roma in Greece (29%), Roma in the Czech Republic (27%), Africans in Malta (27%), Sub-Saharan Africans in Ireland (26%), Roma in Hungary (25%), Brazilians in Portugal (24%), Turks in Denmark (22%), Roma in Poland (22%), and Romanians in Italy (20%).” p.42

“In Portugal, a case was reported to the Commission for Equality and Against Racial Discrimination<sup>32</sup> concerning a local authority worker of Cape-Verdean origin who had been suspended, allegedly for accusing the local authority president of racism after he had called her a “nigger”, and for talking Creole with her sister, contrary to the president’s instructions.<sup>33</sup>” p. 45

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<sup>32</sup> Comissao para a Igualdade e Contra a Discriminacao Racial: [www.cicdr.pt/](http://www.cicdr.pt/). The case was reported by the NGO ‘SOS Racism’.

<sup>33</sup> See <http://ww1.rtp.pt/noticias/index.php?article=356874&visual=26&tema=1>. See press release at: [www.esquerda.net/media/panflo\\_benfica\\_be.pdf](http://www.esquerda.net/media/panflo_benfica_be.pdf).

“In **Portugal**, research suggested that immigrants who applied for housing loans were sometimes discriminated against.<sup>34</sup>” p.47

“2.4. Experiences of police stops, perceptions of ethnic profiling and trust in the police;

When these figures are broken down by group and Member State, high rates (30% or higher) of fairly or very disrespectful police treatment were indicated by the Roma in Greece (51%), Roma in Poland (45%), North Africans in Italy (41%), Sub-Saharan Africans in France (36%), North Africans in Belgium and Sub-Saharan Africans in **Portugal** (both 35%), North Africans in the Netherlands (34%), North Africans in France (32%), and Roma in Hungary (30%).”p.56

### **Migrants, minorities and employment - Exclusion and discrimination in the 27 Member States of the European Union (Update Report) (July 2011)**

[http://fra.europa.eu/sites/default/files/fra\\_uploads/1696-pub-migrants-minorities-employment\\_EN.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/1696-pub-migrants-minorities-employment_EN.pdf)

*Includes data on Portugal, however there is big probability the data is outdated.*

### **Migrants, minorities and employment - Exclusion and discrimination in the 27 Member States of the European Union (Update Report) (July 2011)**

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*Includes data on Portugal, however there is big probability the data is outdated.*

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

“Seven Member States (Czech Republic, Finland, Italy, Malta, Poland, **Portugal** and Spain) currently have no equality body covering sexual orientation discrimination.” p.22

“At present only five Member States permit same-sex couples to marry (Belgium, the Netherlands, **Portugal**, Spain and Sweden).” p.23

“**Portugal** adopted in March 2011 a new law on legal recognition of gender reassignment. Under the new rules, the recognition of the preferred gender can be obtained through a simple administrative procedure and within eight days. As precondition for legal recognition, an application of the interested person is necessary, accompanied only by a certificate from a medical multidisciplinary team.” p.25

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<sup>34</sup>INVIP research. Details of the project can be found at:  
<http://www.numena.org.pt/conteudo.asp?lingua=POR&idEstrut=30>.

**“Key trends in the period 2008-2010: access to, and legal recognition of, gender reassignment** Four EU Member States have amended their legislation and practice concerning access to gender reassignment treatment and legal recognition of gender reassignment, namely alteration of the recorded name or sex on official documents. These are Austria, Germany, Latvia and Portugal; legislative changes in this regard are expected in Ireland and the Netherlands.” p.25

**“Key legal trends in the period 2008-2010: equal treatment in free movement and family reunification**

- At national level, several developments can be noted in relation to the opening up of marriage for same-sex couples. In addition to Belgium, the Netherlands and Spain, marriage is now permitted in Portugal and Sweden, and similar legislation is in the process of being adopted in Luxembourg and in Slovenia. Austria, Hungary and Ireland have also adopted a registered partnership scheme for same-sex couples.
- The meaning of the term ‘family member’ in the context of the law on free movement, family reunification, and asylum, while often remaining vague, has been or will be expanded in Austria, France, Hungary, Ireland, Luxembourg, Portugal and Spain to include same-sex couples to differing degrees and in different areas.
- On the other hand, Bulgaria, Estonia and Romania have consolidated or amended their legislation to specify that marriage is reserved for opposite-sex couples only, and to deny recognition of same-sex partnerships and marriages concluded abroad.
- This situation signals the persistence of an uneven landscape with respect to freedom of movement and family reunification for same-sex couples, which is summarised below “ p.28

“For the purposes of entry and residence rights under the Free Movement Directive, eight Member States would not distinguish between a same-sex or an opposite-sex spouse for the purposes of entry and residence rights (Belgium, Denmark, Finland, the Netherlands, Portugal, Spain, Sweden, and the UK).”p.28

“Under the Free Movement Directive if the host country’s national law treats registered partnerships as equivalent to marriage, then the Member State must grant entry and residence to the registered partner of an EU citizen moving to its territory as a family member. Fourteen Member States (Austria, Belgium, Czech Republic, Denmark, Finland, Germany, Hungary, Ireland, Luxembourg, the Netherlands, Portugal, Spain, Sweden, and the UK) seem to grant entry and residence rights to registered partnerships that have effects equivalent to marriage.”p.29

“Only eight Member States would not distinguish between a same-sex or an opposite-sex spouse for the purposes of family reunification (Belgium, Denmark, Finland, the Netherlands, Portugal, Spain, Sweden and the UK).”p.29

**“Key legal trends in the period 2008-2010: international protection** • With the developments in the legislation of Finland, Latvia, Malta, Poland, Portugal and Spain, the total number of Member States which explicitly consider lesbian, gay and bisexual (LGB) people as a ‘particular social group’ has now risen to 23 countries. This signals a clear trend towards legislative inclusion of LGBT people as potential victims of persecution. “ p.33

## Access to justice in Europe: an overview of challenges and opportunities (March 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 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.” p.39

“In some Member States it is obligatory to attempt mediation before proceeding to the trial phase of a dispute. For example in France, Portugal and Spain mediation is mandatory part of court proceedings, while in Hungary and Slovakia they are mandatory but separate from court proceedings.<sup>35</sup>” p.45

**“4.2. Eligibility for legal aid;** As Figure 9 shows, some jurisdictions only apply income tests, excluding merits, namely the following 18 countries: Belgium, Cyprus, the Czech Republic, Estonia, Finland, France, Greece, Germany, Hungary, Italy, Latvia, Lithuania, Luxembourg, Poland, Portugal, Romania, Spain and Slovakia.” p.51

**“Access to justice – irregular immigrant;** A Brazilian citizen living in Portugal asked the Public Body of Solidarity and Welfare (*Instituto Portugues de Solidariedade e Seguranca Social*) for legal aid in a case involving a labour dispute. The Body refused the request due to the person being an irregular immigrant. The Lisbon Labour Law Court ruled that regardless of immigration status, as long as the person was registered for social welfare and paid taxes, legal aid should be provided. The Constitutional Court upheld the decision. (Portuguese Constitutional Court, 17/04, 24 March 2007, available at: [www.tribunalconstitucional.pt/tc/acordaos/20040208.html](http://www.tribunalconstitucional.pt/tc/acordaos/20040208.html))” p.53

## Data in Focus 5: Multiple Discrimination (February 2011)

[http://fra.europa.eu/sites/default/files/fra\\_uploads/1454-EU\\_MIDIS\\_DiF5-multiple-discrimination\\_EN.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/1454-EU_MIDIS_DiF5-multiple-discrimination_EN.pdf)

“Figure 2

Comparison of perception of discrimination based on ethnic or immigrant origin as being ‘very’ or ‘fairly’ widespread, EU-MIDIS and Special Eurobarometer 296, all survey respondents (%)” p.9

“Figure 4

Comparing results from EU-MIDIS and Special Eurobarometer 296: discrimination experiences on more than one ground, last 12 months – all survey respondents (%)” p.11

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<sup>35</sup> Chopin, I. and Gounari, E.N. (2009) *Developing anti-discrimination law in Europe. The 27 EU Member States compared*, report prepared for the European Network of Legal Experts in the non-discrimination field, Luxembourg: Publications Office, p. 58.

## Report - 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)\*” p.33

“In some other countries, courts or other bodies have declared the practice of re-detaining the person illegal. This has, for example, been the case in **Portugal**<sup>36</sup> and Greece.” p.34

“In the European Union, there is limited use of electronic monitoring for immigration purposes. Only three EU Member States provide for the use of electronic devices as an alternative for pre-removal detention, Denmark, **Portugal** and the UK.” p.51

“Table 1: Types of alternatives applied by EU Member States” p.52

“A review of state practice suggests that different approaches are taken. Some countries, such as France, **Portugal** or Latvia normally presume that it is better for the child to remain with the family, provided they can be hosted in facilities which can cater for their specific needs.” p.57

“Table A1: National legislations – full references and short name, EU27” p.64

## Homophobia, transphobia and discrimination on grounds of sexual orientation and gender identity - 2010 Update (Comparative legal analysis) (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)

“Table 1: Requirements for rectification of the recorded sex or name on official documents” p.17

“Table 2: Discrimination on grounds of sexual orientation in legislation: material scope and enforcement bodies” p.20

“In 11 other EU Member States (Bulgaria, Cyprus, Czech Republic, Estonia, Greece, Lithuania, Luxembourg, Malta, **Portugal**, Romania, Slovenia), discrimination on grounds of gender reassignment was not explicitly dealt with in legislation or in case law, resulting in a situation of legal uncertainty as to the precise protection of transsexuals and transgender persons from discrimination.” P.21

“Table 3: Discrimination on grounds of gender reassignment or identity in national legislation” p.23

### “2.2.1. Infringement procedures for incorrect transposition of the Employment Equality Directive

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<sup>36</sup> In **Portugal**, the Supreme Court decided that it is illegal to maintain in a detention centre or in prison an illegal immigrant that has already been detained in a Centre of Temporary Detention for 60 days, which is the time allowed according to the law. Supreme Court [Supremo Tribunal de Justiça] available at: <http://www.dgsi.pt/jstj.nsf/954f0ce6ad9dd8b980256b5f003fa814/5d58a7ea0581ce80802573640058fee7?OpenDocument>.

At the time of writing, the European Commission still has 13 outstanding infringement procedures against 11 Member States: Belgium, Germany, Greece (2), Ireland (2), Italy, Latvia, the Netherlands, Poland, Portugal, Sweden, and the UK. Within the framework of those procedures, reasoned opinions have been sent to the following Member States: Germany, Greece (1), Ireland (1), Italy, the Netherlands, Poland, Portugal, Sweden, and the UK. The procedures in question concern various aspects of the directive.” p.26

“**2.2.3. The mandate of equality bodies;** Twenty Member States (now including Denmark and Estonia) now have an equality body in place that is responsible for dealing with sexual orientation discrimination: an increase of two Member States since 2008. In the other seven (Czech Republic, Finland, Italy, Malta, Poland, Portugal, Spain) there is no equality body with such a mandate.” p.28

“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 4: Criminal law provisions on ‘incitement to hatred’ and ‘aggravating circumstances’ covering explicitly sexual orientation” pp.42-43

“At the time of writing, five EU Member States allow same sex couples to enter into a marriage. In June 2008 these were only three: Belgium, the Netherlands, and Spain. Two more joined the group: Sweden (which already provided for registered same-sex partnerships) and Portugal.<sup>37</sup> (...) Keeping in mind the lack of clarity of national law in this field, in 2010 the situation appears to be the following: eight Member States would not distinguish between a same-sex or an opposite-sex spouse for the purposes of entry and residence rights (Belgium, Denmark, Finland, the Netherlands, Portugal, Spain, Sweden, and the UK).” p.46

“Table 5 - Definition of ‘family member’ for the purposes of free movement, asylum and family reunification” pp.53-54

## Racism, ethnic discrimination and exclusion of migrants and minorities in sport: a comparative overview of the situation in the EU

[http://fra.europa.eu/sites/default/files/fra\\_uploads/1207-Report-racism-sport\\_EN.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/1207-Report-racism-sport_EN.pdf)

“**Racist and xenophobic extremism;** According to the information provided, racist and xenophobic extremist movements seek to infiltrate football club fan scenes (Austria, Cyprus, Germany and Portugal), or that fan clubs are closely related to such organisations (Czech Republic, Denmark, Germany, Greece, Portugal, Romania and Spain). Part of it involves the displaying of fascist or neo-Nazi symbols and the singing of racist, anti-Semitic and right-extremist chants.” p.31

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<sup>37</sup> Portugal/Lei n° 9/2010 Permite a casamento civil entre pessoas do mesmo sexo, Diario da Republica (31 May 2010). The law entered into force on 5 June 2010.

“Table 5: Number of racist incidents recorded by police, equality bodies, sport federations and/or NGOs in men’s professional football, 2003-2008<sup>38</sup>” p.34

“Provisions in the Penal Code, Criminal Code, Acts or Laws are applicable to sport in most Member States. Ten EU Member States (Belgium, Bulgaria, Cyprus, Czech Republic, France, Italy, Luxembourg, Portugal, Romania, Spain) have introduced special legislation on racism in sport.” P.40

“Table 10: Anti-racism provisions: Handball” p.44

“In athletics, the simple lack of data make it difficult to draw an overall picture on the participation of ethnic minorities and migrants. In the post-colonial societies of Portugal and the United Kingdom there are high proportions of black athletes within the sport. In Portugal, without considering Portuguese athletes with an African background, 141 out of 243 foreign male athletes are from African Portuguese countries.<sup>39</sup>” p.48

## **Access to effective remedies: The asylum-seeker perspective (Thematic report) (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 Portugal and Romania, some asylum seekers raised the fact that they were asked to sign the receipt of written documents without understanding that it was a negative asylum decision.” P.14

“Figure 1: Availability of written translation of asylum decisions, EU27” p.15

“Figure 2: Time limits for appeal – regular procedure, by country\* (days)” p.21

“Figure 3: Time limits for appeal – accelerated procedure, by country\* (days)” p.23

“In a number of countries, asylum seekers repeatedly expressed concern about the qualification or the commitment of the lawyers assigned to them and reported delays in the assignment of a lawyer (France and Portugal).” p.29

“In most cases, respondents were accompanied by their lawyers at the hearing, although a few asylum seekers in the Czech Republic, Poland and Portugal went to the hearing on their own. In the Czech Republic and Portugal, a small number of respondents indicated that the lawyers assigned to them did not appear at the hearing (...)” p.62

## **The duty to inform applicants about asylum procedures: The asylum-seeker perspective (September 2010)**

[http://fra.europa.eu/sites/default/files/report-asylum-seeker-perspective\\_en.pdf](http://fra.europa.eu/sites/default/files/report-asylum-seeker-perspective_en.pdf)

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<sup>38</sup> For all countries that are not listed in the table either no figures for racist incidents were available for the reporting period or information was mainly based on media reports and not on information provided by police, equality bodies, sport federations and/or NGOs.

<sup>39</sup> In total, the Portuguese Athletics Federation has 3,500 registered athletes, and 443 of them are non-nationals.



“Figure 2: Number of foreign languages into which information leaflets on the asylum procedure were translated, by country” p.24

**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)

*Portugal appears in the short report several times in istings, if of interest.*