



MEMORANDUM TO THE FINNISH PRESIDENCY OF THE EUROPEAN UNION

ONCE AGAIN TIME TO ‘STEP UP’ THE FIGHT AGAINST RACISM

July - December 2006

The European Network against Racism (ENAR) is a network of some 600 European NGOs working to combat racism in all EU Member States. Its establishment was a major outcome of the 1997 European Year against Racism. ENAR is determined to fight racism, xenophobia, anti-Semitism and Islamophobia, to promote equality of treatment between EU citizens and third country nationals, and to link local/regional/national initiatives with European initiatives. See: www.enar-eu.org.

1 INTRODUCTION

“The European Council calls for the fight against racism and xenophobia to be stepped up” - Tampere European Council, 15 and 16 October 1999

The previous Finnish presidency played a key role in the fight against racism and xenophobia in Europe. The summit at Tampere in 1999 provided an impetus for change in the areas of anti-discrimination, racism as a crime, and protecting the rights of third country nationals. However seven years later the sense of urgency identified at Tampere has dissipated. This is evidenced by the fact that the European Council no longer consistently addresses racism in the Presidency conclusions, and the Framework Decision on Racism and Xenophobia has not been adopted. In addition there are serious concerns that restrictive immigration policies (including family reunification and asylum) and the expanding security agenda, are contributing to a context where racism and discrimination are increasingly acceptable.

However that is not to suggest there has not been progress since the last Finnish Presidency, indeed dramatic steps forward have been taken in the area of anti-discrimination, culminating with the adoption of the Race Directive and the Employment Equality Directive, and the implementation of the Community Action Programme to Combat Discrimination. However it is clear that serious problems persist; problems that require a comprehensive approach to tackling racism in Europe. ENAR’s forthcoming European Shadow Report for 2005 concludes that: **Racism is on the increase, and more extreme forms of racism are coming to the fore.**¹

The analysis of ENAR members demonstrates that there is a commonality of experiences of racism across the European Union, even where manifestations may vary. The 2005 report particularly highlights the situation of: Roma, Traveller and Sinti communities; vulnerable migrant communities (including undocumented workers); asylum seekers; those who experience family reunification; and the diverse Muslim community.

In order to ensure that racism remains a key focus of the European Union ENAR strongly urges the Finnish Presidency to highlight this issue in the Presidency Conclusions. The Presidency Conclusions should:

*Recall the commitment to ‘step up’ the fight against racism made in Tampere in 1999 and reiterate the need to oppose any form of racism.
Invite the Council and the Commission to undertake activities to enhance mainstreaming of anti-racism.*

ENAR looks forward to working with the Finnish Presidency in the coming months.² This memo offers some brief recommendations as to how this Presidency can take a leading role in the fight against racism in Europe. The memo is divided into five broad areas: **(1) Equality and anti-discrimination; (2) Freedom, security and justice; (3) Employment and social policy; and (4) Education, culture and youth; and (5) Cross cutting issues: mainstreaming anti-racism, equality and human rights.**

¹ ENAR European Shadow Report 2005, will be available at:

http://www.enar-eu.org/en/publication/shadow_reports/index.shtml

² ENAR is a member of the Platform of European Social NGOs, this memo complements the *Tests for the Finnish Presidency* presented by the Social Platform, available at: www.socialplatform.org

2 EQUALITY AND ANTI-DISCRIMINATION

The Finnish Presidency will take place in the context of a developing anti-discrimination agenda as outlined in the European Commission Framework Strategy on non-discrimination and equal opportunities for all. This includes the preparatory work for the 2007 Year of Equal Opportunities for All and a feasibility study on the harmonisation of anti-discrimination legislation on all grounds.

Hence the Finnish Presidency has a unique opportunity to take advantage of this momentum in order to promote a more comprehensive anti-discrimination framework at the European level. In promoting the fight against racism, and ethnic and religious discrimination ENAR asks the Finnish Presidency to:

- Promote reflection and discussion on the European Commission's five-year report on the Race Directive when it is published in autumn 2006.
- Promote a debate on the 'levelling up' of anti-discrimination grounds, in the context of the Commission's feasibility study.
- Support preparations for the 2007 Year of Equal Opportunities for All and encourage Member States to work closely with national NGOs in the establishment of the national coordinating bodies for the year. Finland should demonstrate clear leadership by actively engaging with civil society stakeholders in the preparation for the Year.³
- Include a strong emphasis on the role of businesses in prompting equality during the *conference on corporate social responsibility* (22-23 November 2006), including highlighting the 'business case for diversity'. ENAR would be prepared to contribute the perspective of anti-racist NGOs in this regard.
- Call on all Member States to ratify Protocol 12 of the European Convention on Human Rights and the Revised Social Charter.
- Ensure an emphasis on the needs of ethnic minority women in the implementation of the Gender Equality Pact, and in particular of Roma women.⁴

3 FREEDOM, SECURITY AND JUSTICE

Freedom from racial discrimination is one of the most widely recognised human rights. In promoting anti-racism during its term the Presidency has a real opportunity to enhance the enjoyment of human rights by everyone in the European Union.

ENAR welcomes recent proposals by the European Commission with regard to decision-making in the area of freedom, security and justice, and urges the Finnish presidency to take all necessary action to facilitate such a transition. Applying the 'community method' to this area, as proposed by the European Commission, is essential in promoting decision-making and effective implementation. In this regard ENAR is particularly concerned about the fate of the Framework Decision on Racism and Xenophobia, discussed below.

3.1 European Union Agency for Fundamental Rights

The Finnish Presidency has committed to "ensure that the Fundamental Rights Agency is in operation from the beginning of 2007". ENAR welcomes the aim of the Presidency to

³ In autumn 2006 ENAR-Finland will host a national round table on the preparation of the 2007 Year, this event will provide an excellent opportunity for representatives of the Finnish government to engage with a broad range of civil society stakeholders. For contact details see: *Vastaus Rasismiin Suomessa*, available at: http://www.enar-eu.org/en/publication/national_leaflets/Finland_FI.pdf

⁴ ENAR supports the letter from the European Roma Rights Centre (ERRC) to Prime Minister Vanhanen of 22 May 2006, in this regard. The ERRC is a member of ENAR.

create an independent and effective agency. Despite the difficulties experienced during the negotiations on the proposed agency during the Austrian Presidency, it is essential that the opportunity to create a meaningful agency is not lost.

At the June 2006 EU summit the Council called for ‘the necessary steps to be taken’ to get the Agency started in January 2007. It is crucial that sufficient time is given to these proposals, and the negotiations on the Agency should not be rushed for political expediency. It is better to get the right agency, even if this means revising the expected timeframe.

In order to promote open and transparent discussion on the future of the Agency, ENAR calls on the Finnish Presidency to:

- Promote a broad and flexible mandate for the Agency, including structured involvement of civil society in all aspects of the Agency’s work, and competence for third pillar issues.
- Building on the open approach of the Austrian Presidency and host an informal seminar with members of civil society in order to reflect on the current proposals, particularly as the negotiations have departed significantly from the original Commission proposal and the public consultation conducted at the end of 2004.
- Use the opportunity of the EU Human Rights Forum (7-8 December 2006) to encourage discussion on monitoring human rights abuses in the European Union.

3.2 Framework Decision on Racism and Xenophobia

Following the failure of the Council to adopt the Framework Decision on Racism and Xenophobia during the Luxembourg Presidency, ENAR expressed its disappointment that the EU, since 2001, has failed to introduce a legally binding instrument on racism as a crime (despite substantially weakening the original proposal).

ENAR welcomed the opportunity to participate in an informal seminar on the Framework Decision that was hosted by the Austrian Presidency (with the EUMC and the European Commission) in June 2006. This seminar provided an opportunity to reflect on progress to date and consider next steps. Discussants noted the value of this approach and called on the Finnish presidency to follow-up on this seminar.

In this regard ENAR calls on the Finnish Presidency to:

- Place the need to address racism as a crime back on the agenda of the European Council.
- Host a second informal discussion on the Framework Decision. This seminar should focus specifically on the added value of a legal instrument for the *victims of racist violence and racist crime*.

3.3 Counter-Terrorism

Since the 11 September 2001 terror attacks in the USA, and then the London and Madrid bombings, counter-terrorism measures have shot up the international and European agendas. For some time concerns have been expressed regarding the link between racism and counter-terrorism measures.

According to the Preliminary Agenda of the Presidency its main focus in relation to the prevention of terrorism “will be on the preventing the radicalisation of terrorism and recruitment”. While it is essential that the Presidency take measures to address real security concern, it must remain vigilant to the potential impact of such strategies on

ethnic minority communities. In particular the debate on ‘radicalisation’ has the potential to negatively impact members of the Muslim communities.

There is increasing evidence that in the implementation of counter-terrorism strategies police officers and other security officials are relying on racial and religious profiling. According to research conducted by ENAR members across 20 EU Member States: “Racial Profiling is evident in the work of the police” in nearly all Member States of the European Union.⁵

Consequently ENAR calls on the Finnish Presidency to:

- Recognise racism, and in particular Islamophobia, as a source of exclusion and to promote the rights of all ethnic minority communities, as a key element of any strategy aimed at preventing radicalisation.
- Promote active measures and standards to prevent the racialisation of the European security agenda, including adopting *common standards on preventing the use of racial profiling* on counter-terrorism and mainstream policing.

3.4 Migration and Integration

“The European Union must ensure fair treatment of third country nationals who reside legally on the territory of its Member States. A more vigorous integration policy should aim at granting them rights and obligations comparable to those of EU citizens. It should also enhance non-discrimination in economic, social and cultural life and develop measures against racism and xenophobia.” - Tampere European Council 15 and 16 October 1999

The mid-term review of the Hague Programme will provide an opportunity to assess the extent to which the values of human rights and the rule of law are being adequately assessed in the realisation of the area of freedom, security and justice. It is anyway clear that there are serious delays at both EU and national level, as highlighted also by the recent Commission Communication on “implementing The Hague Programme” and by the “scoreboard *plus*”. In particular, the latter states that 18 Member States out of 22 which are bound by it, failed to fulfil their obligation to implement the Council Directive 2003/109 concerning the status of “long term resident third country nationals.”

Particular focus must be given the fundamental rights of third country nationals, including asylum seekers and refugees, documented and undocumented migrants, and those who experience family reunification. The Presidency has noted that it will oversee “a comprehensive examination of immigration issues... covering both legal and illegal immigration”. Fundamental rights must be placed at the heart of this analysis.

ENAR calls on the Finnish Presidency to:

- Take steps to enhance the protection of third country nationals in the European Union, including those groups who are most vulnerable such as undocumented workers, those involved in unskilled labour, and women and children.
- Support measures aimed at improving and facilitating decision making and implementation process in the area of Freedom, Security and Justice, including the use of the "bridging clauses" provided by the Treaties.
- Facilitate inter-institutional debate on the findings of the European Parliament delegation’s visits to retention centres, taking into account NGO reports.

⁵ ENAR European Shadow Report 2005, shortly available at:
www.enar-eu.org/en/publication/shadow_reports/index.shtml

- Promote open discussion of the Common Basic Principles on integration with civil society and the European Parliament.
- Include protection for fundamental rights, including anti-discrimination and equality training for all immigration officials, in the political guidelines for more effective control of the EU's external borders.
- Demonstrate leadership by signing the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families.
- In the debate that will be launched by the Finnish Presidency on how to develop the asylum system, recall that integration begins as soon as an individual or family arrives, and hence integration imperatives must be built into the asylum system. Particular attention should be given the situation relating to housing rights of refugees and those granted humanitarian protection, as well as accommodation conditions of asylum seeker⁶ and discrepancies in the right to work for asylum seekers across Europe.

4 EMPLOYMENT AND SOCIAL POLICY

ENAR would like to reiterate the importance of tackling discrimination and exclusion of all groups who experience discrimination, and of promoting equality in order to achieve social cohesion and growth. As such, equality and non-discrimination need to be integrated as crosscutting issues in the Lisbon Strategy and the new Social Agenda.

ENAR asks the Finnish Presidency to:

- Ensure that the Round Table on poverty and social exclusion (Tampere 16-17 October) contributes to strengthening the social inclusion strategy and raising its visibility. The discussion at the roundtable should in particular reflect the challenges for social inclusion policies in responding to the needs of ethnic minority groups, and others who are vulnerable to discrimination.
- Ensure that the National Reform Programme are effectively linked to policies for social inclusion and social protection and that they have as an objective to 'make a decisive impact on the reduction of poverty and social exclusion by 2010'.

5 EDUCATION, CULTURE AND YOUTH

"Finland will focus on the quality and effectiveness of education and equal opportunities in relation to education"

ENAR welcomes the specific focus of the presidency on equal opportunities in relation to education. Ethnic minority youth are often particularly vulnerable to exclusion as they suffer from 'double discrimination' on the ground of age and race. On the other hand, best practices in intercultural education has proved to be among the most effective means of implementing integration strategies for third country nationals, young and old. In April 2006 ENAR, in collaboration with the European Roma Information Officer (ERIO) organised a major international conference on access to education for Roma, Travellers and Sinti. ENAR invites the Presidency to:

- Consider the recommendations from this conference, and promote discussion within the relevant Council structures with regard to concrete action which the European Union can take to overcome discrimination faced by Roma in the field

⁶ The conference organised by the Ministry of the Environment on housing as a fundamental social rights (18-19 September) would be an opportunity to enhance a discussion of access to housing for groups which are target of racism and discrimination, including immigrants, asylum seekers and Roma, Travellers and Sinti.

of education.⁷ ENAR would welcome the opportunity to present the finding from this conference to the European network of policy makers of the evaluation of education systems (21-22 November 2006).

- Provide a strong political momentum following the adoption of the decision on the 2008 Year of Intercultural Dialogue, and undertake measures to ensure that the year is effectively linked to the 2007 Year of Equal Opportunities for All. Use the opportunity of the two years to call on the European Commission Directorate General Education and Culture to promote an integrated approach to anti-discrimination and equal treatment in the context of the Open Method of Coordination.
- Ensure that the discussion on the forthcoming commission proposal for a recommendation on a European Qualifications Framework, reflects in particular the concerns and issues which face third country nationals.
- Invite ENAR members to participate in the conference on adult education (3-4 October 2006).

6 CROSS CUTTING ISSUES: MAINSTREAMING ANTI-RACISM, EQUALITY AND HUMAN RIGHTS

In recent years there has been increasing recognition that in order to fully realise the fundamental principles of equality and equal opportunities it is necessary to mainstream anti-racism across the policy agenda, at both national and European levels. The European Commission has recognised this imperative by establishing an inter-service group on Roma, and more recently a group on racism.

ENAR strongly believes that anti-racism should also be mainstreamed in the work of the other European Institutions including the Council. To this end, we believe that particular attention should be paid by the Finnish Presidency to the impact on ethnic minority groups of: the debates on the future of Europe, the transparency initiative, enlargement, and the European Neighbourhood policy.

6.1 *Future of Europe*

In the absence of progress on the signature of the Constitutional Treaty, the European Union must resolve the ambivalence surrounding its commitment to the regional human rights standards established by the Council of Europe. In particular ENAR calls on the Finnish Presidency to:

- Foster discussion on the concept of ‘European citizenship of residence’ in the context of the debate on the constitutional treaty. ENAR has long advocated for an inclusive approach to European citizenship, the significance of which was recently recognised by the European Parliament.

6.2 *Transparency*

ENAR particularly welcomes the Finnish Presidency’s approach to transparency in decision-making of the European Union. ENAR believes the move to broadcast Council meetings is a welcome one, and is representative of a more open approach. ENAR urges the Presidency to give consideration to how to create the conditions for the broadest possible access to information and knowledge: both in terms of the working of the EU institutions, but also with regard to the needs of groups who are vulnerable to discrimination. For instance it may be appropriate to consider providing some information

⁷ Conference recommendations are available at:
http://www.enar-eu.org/en/events/roma/final_recommendations.pdf

on the workings of the EU institutions in non-EU languages that are widely spoken within the EU Member States.

6.3 *Enlargement*

ENAR notes that the Presidency will continue to monitor progress towards meeting the accession criteria in Bulgaria and Romania. It is vital that the opportunity to fundamentally address to situation of ethnic and religious minorities is fully exploited, in particular the situation facing the Roma community in those countries. ENAR members from the EU10 have noted that following accession in May 2004, the opportunities for change were dramatically reduced.

The debate on Turkish membership has proved contentious in recent times. The Finnish Presidency will include a review of Turkey's progress in the autumn of 2006. ENAR is concerned that in some quarters the debate on Turkish membership has fuelled islamophobic, anti-immigrant and racist sentiments. Political leadership and political parties have a key role to play in ensuring that this debate is an open and constructive one. ENAR urges the Finnish Presidency to demonstrate leadership in this regard.

6.4 *European Neighbourhood Policy (ENP)*

In the Mediterranean area, the ENP can be a crucial means to ensure that those who seek refuge and asylum, as well as better living conditions, in Europe are not exposed to serious violations of their fundamental rights, first of all the right to life. A sound governance of migration inflows requires co-operation with countries of origin and transit, including readmission agreements and border control. Nevertheless, the EU can neither close its eyes on the violations of human rights that can occur in neighbouring countries, nor pretend to have no responsibility for these violations. ENAR asks the Presidency to:

- Promote the inclusion of human rights clauses as a standard for any agreement in the framework of the ENP, also providing for an effective system of monitoring its respect.