



Europe

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The experiences of ethnic, religious and linguistic minorities and migrants in Europe reveal persistent discrimination, prejudice, stereotyping and racism. Xenophobic attacks occur regularly throughout the continent. While there have been fine declarations and well-meaning anti-discrimination policies and legislation, considerable work remains to be done in confronting widespread prejudices on the streets and in the mindset and language of mainstream institutions.

Around one in six people in Europe claims to have personally felt discriminated against or harassed, according to a Eurobarometer survey released by the European Commission in November 2009. The results of the survey show that, at 61 per cent, discrimination on ethnic grounds is seen as the most widespread form of discrimination in the European Union (EU). More than one-third of Europeans also think that discrimination on the grounds of gender and religion or belief is widespread.

The EU's Agency for Fundamental Rights (FRA) published the first ever EU-wide survey on ethnic minority and immigrant groups' experiences of racist crime and discrimination in 2009. It revealed a certain resignation on the part of ethnic minorities and immigrants, due to a lack of faith that the authorities would provide effective protection against discrimination, harassment and racially motivated violence. Racist crime and discrimination may, therefore, be far more widespread than is recorded in official statistics.

Europeans were also asked how they thought the recession would impact on funding for equality and diversity policies in their countries. The 2009 Eurobarometer figures show that Europeans have few illusions about the impact of the crisis, with 49 per cent of Europeans believing that, because of it, policies promoting equality and diversity will be considered less important and receive less funding. Furthermore, more than half of Europeans think that a possible increase in the levels of discrimination in the labour market on the grounds of ethnic origin will follow, while more than 40 per cent state that the crisis will contribute to increased levels of discrimination in the labour market on the grounds of gender (43 per cent) and religion or belief (42 per cent).

In response, the Council of Europe (CoE) Commissioner for Human Rights, Thomas Hammarberg, called on states to ensure better pro-

tection of vulnerable groups in the current economic climate, so that the response to the crisis leads to more rather than less equality.

Non-governmental organizations (NGOs) working on social justice issues and human rights also draw attention to the impact of the economic crisis on the poorest and most marginalized communities. In the absence of reliable statistical data on vulnerability caused by the economic recession, the International Federation of Red Cross and Red Crescent Societies (IFRCRCS) published in October 2009 testimonies of people from 52 countries in Europe, Central Asia and the Caucasus, many of them belonging to a minority group. The IFRCRCS identified pre-existing vulnerabilities, namely poverty, age, membership of a minority or being a migrant, as the key determinants of adverse impact. Moreover, the organization expressed fears that the economic downturn may make such vulnerabilities more entrenched.

Commentators warn that it is still too early to assess the social, economic and political impact of the recession on minorities. However, the Anti-Defamation League (ADL), a US-based NGO, carried out a survey in seven European countries in February 2009 which found that 31 per cent of respondents blame Jews in the banking sector for the current economic crisis. Populist-nationalist parties in Europe are spreading anti-Semitic, anti-immigrant and anti-integration messages, blaming ethnic and religious minorities for the downturn. Blaming the Jewish community for the recession or playing on sensitive issues such as immigration, Islam and 'benefit-breeding', the radical right made gains in the European Parliament and won seats in Austria, Denmark, Greece, Hungary, Italy, the Netherlands, Slovakia, Romania and the UK. A new Eurosceptic group was formed in the European Parliament, the Europe of Freedom and Democracy group, under the leadership of the UK Independence Party (UKIP). A number of the group's parties are described by national and European media as far-right, anti-immigration, xenophobic and, in some cases, racist.

Anti-migrant messages, such as comments made by the far-right British National Party (BNP) leader Nick Griffin soon after he entered the European Parliament in 2009, found their parallels in reality. In May 2009, Italy forcibly returned more than 200 migrants to Libya, without screening them to dis-

cover if any might be refugees or victims of trafficking, pregnant women, unaccompanied children, sick or injured. Boats carrying the migrants were intercepted at sea, and Italy persuaded Libya to receive the passengers following an earlier agreement. Joint naval patrols and other returns soon followed. Libya has no asylum procedure and has not signed the 1951 United Nations (UN) Convention relating to the Status of Refugees. Many migrants are held indefinitely in detention centres where conditions are reported to be poor.

This incident led to an international outcry and put European migration policies in the spotlight. Hammarberg also highlighted the European trend of criminalizing undocumented migration, stating that it raises serious human rights issues. In Italy, for example, the parliament approved legislation in 2009 which criminalizes irregular entry, allows citizens' patrols to help the police to keep order, and sentences landlords to up to three years in prison if they rent to undocumented migrants. In April 2009, Jennifer Chary was prosecuted in France for aiding and abetting an undocumented migrant who was the man she was about to marry. When they applied for a marriage licence, Chary's partner was deported and she was charged with the offence, which carried a penalty of up to five years' imprisonment plus a steep fine. Ultimately, negative publicity led the prosecutor to drop the case. Such restrictive migration laws and policies not only criminalize migration but also run the risk of encouraging xenophobic attitudes towards both migrants and established minorities. Moreover, the criminalization of undocumented migrants means that fewer individuals will be willing to bring complaints against people-smuggling rings, or employers who take advantage of the undocumented.

Nevertheless, a harsh tone was maintained at the EU level as well. EU member states have for the first time asked for the creation of joint flights to deport irregular migrants, financed by Frontex, the European agency in charge of the EU's borders. And an EU Directive was adopted during 2009 that penalizes employers of undocumented migrants, further risking the exploitation of migrants already in a vulnerable position. The Stockholm Programme (adopted under the Swedish Presidency of the EU in December 2009) outlines the EU's vision in the area of freedom, security and justice for the period 2010–14 and covers topics such as migration, asy-

lum and visa policy. The Programme was criticized for its restrictive security approach, to the detriment of the protection of human rights.

Of particular concern is the treatment of child migrants and minor asylum-seekers, who are especially vulnerable to human rights abuses, particularly if they are unaccompanied when crossing borders. In October 2009, Human Rights Watch (HRW) raised concerns over France's treatment of the 1,000 unaccompanied migrant children who arrived in Paris by plane in 2008 and were detained in transit zones, where they were denied rights granted to other migrant children in France. Greece, which has long been criticized for its migration policies and for conditions in its detention centres, planned to grant citizenship to some 200,000 migrant children but also to send thousands of detainees away. In the UK, a medical report was published which revealed the serious physical and mental health problems of children who are asylum-seekers and are held in British detention centres.

Member states have introduced a series of new measures with the stated aim of better integrating their migrant populations. In 2009, the EU launched its integration portal and platform for member states to exchange good practices and views, and to act together on integration issues. In reality, however, some countries have been strongly criticized for introducing integration measures that risk being discriminatory and appear intended to control immigration. In 2009 the UK Borders, Citizenship and Immigration Act of 2009 introduced the concept of 'earned citizenship', whereby migrants are encouraged to undertake voluntary service to reduce the time it takes to gain citizenship. It also created a new category of 'temporary leave to remain', with restricted access to public services and benefits. The Act was criticized, among other things, for not addressing the detention of asylum-seeking children.

In October 2009, Jorge Bustamante, the UN Special Rapporteur on the human rights of migrants, urged states to take a 'serious and in-depth approach' to tackle racism, xenophobia and related forms of intolerance, which, he noted, persist and impact seriously on the lives of millions of migrants every day. Hate crimes against ethnic and religious minorities and migrants continue to be a serious problem throughout Europe. The Organisation for Security and Co-operation in Europe (OSCE) Office for Democratic Institutions

and Human Rights (ODIHR) launched a report on the occasion of International Tolerance Day, drawing attention to the numerous instances of intimidation, threats, vandalism, assault, arson and murder committed against minorities in Europe. The CoE Commission against Racism and Intolerance (ECRI) issued a series of country reports examining racism and intolerance. Noting positive developments in Bulgaria in terms of a strengthened institutional framework against racism and discrimination, ECRI warned that the situation of Roma and asylum-seekers remained worrying, and that the response of the justice system to allegations of racist or discriminatory behaviour should be improved. Problems with the implementation of existing legislation prohibiting discrimination against migrants and asylum-seekers, as well as racist or xenophobic overtones in political discourse, were noted in Belgium, Germany, Hungary, Norway and Slovakia.

Protection of national minorities' languages in Slovakia came under international scrutiny after the Slovak government introduced amendments to the Law on the State Language that was due to come into effect on 1 September 2009. The proposals established fines of up to 5,000 euros for using minority languages in public services if the minority in question forms less than 20 per cent of the local population. The amendments stirred up tensions between the Slovak and Hungarian governments, and tens of thousands of the half million ethnic Hungarians living in Slovakia gathered to protest. Knut Vollebaek, the OSCE High Commissioner on National Minorities, mediated between the Hungarian and Slovakian governments to ensure that, while the Slovak government takes steps to preserve the state language, the linguistic rights of national minorities are also respected. Vollebaek issued a statement after the adoption of the law's implementation principles on 4 January 2010, stating that he will closely monitor the implementation of the law.

Institutional racism remains a major concern. In the UK, 10 years after the Stephen Lawrence inquiry that established evidence of institutional racism in the police, an independent review by the Runnymede Trust, a London-based race equality think-tank, concluded that institutional racism within the police still persists. In Northern Ireland, the family of an Asian man who was killed five years ago accused the Public Prosecutors Service of insti-

tutional racism. In Austria, Amnesty International (AI) accused the police and criminal justice system of being guilty of racial profiling, in particular that there is a widespread assumption that persons belonging to ethnic minorities are perpetrators rather than victims of crime. In Malmö, Sweden, over 100 demonstrators marched in protest against police racism in March 2009.

Hate speech is spreading on the streets of Europe and on the internet. In television adverts, the Czech National Party campaigned with the slogan, 'Final solution of the Gypsy question', evoking the rhetoric of the Third Reich. Also in the Czech Republic, neo-Nazis invited David Duke, former leader of the Ku Klux Klan in the United States, to give lectures in Prague and Brno. He was arrested on his arrival in the country in April 2009 on charges of denying the Holocaust, a crime punishable by up to three years' imprisonment in the Czech Republic.

In its 2009 country report on Belgium, ECRI noted with concern the persistence of racist, anti-Semitic, Islamophobic and xenophobic discourse on the internet. The Chair of the Danish Nazi organization, the National Socialist Movement in Denmark (DNSB), uses Facebook, the online social networking website, to recruit members to his organization. 'Some of the newest technologies are being used to peddle some of the oldest fears,' said UN Secretary-General Ban Ki-moon in June 2009, stating that everyone has a role to play in eliminating cyber-hate.

Racist violence, whether it is physical violence, vandalism or damage to property, is an everyday reality for Europe's ethnic, religious and linguistic minorities. The November 2008 EU Framework Decision on Combating Certain Forms and Expressions of Racism and Xenophobia by Means of Criminal Law requires governments to challenge and counter racist crimes through an effective transposition and implementation of the Framework Decision into national law. The Framework Decision encourages EU member states to amend their criminal legislation to punish the act of assistance in racist or xenophobic activities, and to consider racist or xenophobic motivation as an aggravating factor in the determination of penalties by the courts. Some countries, like Finland for example, have started to compile data and statistics on hate crimes, which are not recognized as a separate category in Finnish law (although racist

motivation has been recognized as an aggravating circumstance in criminal cases since 2004). Once transposed into national laws and implemented, the Framework Decision may remedy inconsistencies in EU member states' criminal law provisions on racism and xenophobia.

The draft directive prohibiting discrimination on the grounds of religion or belief, age, disability and sexual orientation outside the employment sphere was presented by the European Commission in 2008 and was being debated by member states during 2009. In April 2009, the European Parliament backed the proposal and called for multiple discrimination to be introduced into the text. This is not likely to happen, as many member states still face problems with the transposition of the directives adopted in 2000: the Race Equality Directive and the Employment Equality Directive. As the European Commission launched infringement proceedings against governments for their failure to take the necessary steps, the Czech Republic could have been subjected to high EU fines since it passed the Anti-Discrimination Act only in 2009.

Following the ruling of the European Court of Justice (ECJ) in the Belgian case *Centrum voor Gelijkheid van Kansen en voor Racismebestrijding v. Firma Feryn* in 2008 – in which the ECJ established that a firm that had publicly stated that it would not recruit employees of a certain ethnic origin was in breach of the principle of equal treatment in the labour market – the Labour Court of Brussels issued a judgment in August 2009 reiterating the same principle. The Labour Court ordered the abolition of Feryn's discriminatory recruitment criteria and the publication of the judgment in four widely published Belgian newspapers.

New approaches for the protection of human rights in Europe were established by the entry into force of the Treaty of Lisbon on 1 December 2009 and by the appointment of a new EU Commissioner for Justice, Fundamental Rights and Citizenship. The Lisbon Treaty establishes a core set of values of dignity, equality, tolerance, justice and solidarity, which were not explicitly mentioned in previous treaties and which the European institutions have to take into account when formulating policies and legislation. The Lisbon Treaty introduces the European Charter of Fundamental Rights into EU primary law as a legally binding body of rights and values. A further substantial ele-

ment concerning strengthened fundamental rights protection lies in the accession of the EU to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), as provided for in the Lisbon Treaty. Accession to the ECHR means that, while upholding EU law, the ECJ would be able to apply the ECHR directly. Moreover, the EU and its institutions can be made accountable to the European Court of Human Rights (ECtHR) on rights and obligations arising under the Convention.

The new Treaty and the Charter are significant from a minority rights standpoint. They establish that the rights of persons belonging to minorities should be respected and that the EU should respect cultural, religious and linguistic diversity. Article 21 of the Charter widens the list of prohibited grounds of discrimination, which now include, 'sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation'. The enforceable nature of the rights contained in the Charter means that individuals and NGOs will be able to hold European institutions accountable for breaches. There are EU member states which have yet to ratify the CoE's Framework Convention for the Protection of National Minorities (FCNM), namely Belgium, Greece, Luxembourg and France (which has not signed); in these countries, the provisions of the Charter can help to ensure more effective minority rights policy and practice. The same holds true for Turkey, via its EU accession process. However, with regard to Poland and the UK, which insisted on opt-out clauses, the Charter will not create any justiciable rights.

Roma

In the absence of precise data, the European Roma community is widely estimated to comprise more than 10 million people and constitutes the biggest single minority group in the EU. The Roma community is composed of several groups and sub-groups distinguished by language, ethno-cultural identity, religion, way of life, history of migration and legal status. These differences impact strongly on their standing and opportunities in the wider society, but most Roma suffer from the same deep-rooted discrimination and segregation in the fields of education, employment, health care and housing,

Growing religious intolerance in Europe

In the second half of 2009, the Swiss country town of Langenthal became the focus of international attention following a campaign, backed by the ultra-conservative Swiss People's Party (SVP), to ban all minarets from mosques in Switzerland. On the grounds that minarets symbolize 'Islamic power' and thus represent ideological opposition to the country's Constitution, members of two parties initiated a national referendum asking the Swiss electorate whether they wished to add the sentence, 'The construction of minarets is forbidden', to Article 72 of the country's Constitution. The referendum was held on 29 November 2009; 57 per cent of those participating backed the ban, although it may be overturned by the Swiss Supreme Court or the ECtHR. The ban may be put to the test by a mosque construction project that is already pending in Langenthal.

The vote has been condemned by human rights groups, including Minority Rights Group International (MRG), warning that the ban violates both the right of Muslims in Switzerland to manifest their religion and the prohibition of discrimination on the grounds of religious belief, as set out in international human rights instruments. The UN High Commissioner for Human Rights, Navi Pillay, spoke out against the Swiss minarets ban in December 2009. Already, in October 2009, the UN Human Rights Committee expressed concerns about both the referendum initiative and the discriminatory advertising campaign which accompanied it, depicting a *burqa*-clad woman against a background of threatening, missile-like minarets.

The Swiss case is not a rare or isolated example of rising Islamophobia and anti-Semitism in Europe. In May 2009, ultra right-wing groups held an 'anti-Islam' rally to oppose the building of a large new mosque in Cologne, Germany. This was countered by a peaceful demonstration by church groups, the Green Party, trade unions and anti-racism organizations. After the authorities in Denmark's capital city Copenhagen approved the country's first purpose-built mosque, the extreme-right Danish People's Party launched an anti-mosque campaign in September 2009. Full-page advertisements claiming that the new mosque would be funded by the 'terror regime in Iran' were published in several daily papers.

In Athens, Greece, the only capital city in Europe without a licensed mosque or cemetery to serve its Muslim population, a shop used as a Muslim prayer centre was attacked with firebombs in May 2009. Five persons were injured. The attack came a day after the police clashed with more than 1,000 Muslim demonstrators, protesting that a police officer had reportedly desecrated a copy of the Qur'an during an identity check.

A mosque in France was set on fire in the Rhone region in December 2009, only two weeks after the desecration of Muslim graves in the military cemetery of Arras. According to a recent survey conducted in France, the Swiss ban has contributed to rising tensions concerning Islam in the country, where 41 per cent of interviewees are opposed to the construction of Muslim places of worship as opposed to 22 per cent in 2001.

In Belgium, a 2009 survey undertaken by the Instituut voor Sociaal en Politiek Opinieonderzoek (Ispo) at the Leuven Catholic University (Katholieke Universiteit Leuven) showed similarly negative perceptions, with nearly one Flemish person in two having a negative opinion of Muslims and Islam: 48 per cent of Flemish people believe the values of Islam are a threat to Europe and 37 per cent believe that most Muslims do not respect European culture and way of life.

These survey results and the apparent negative public opinion against Muslim minorities



and Islam should be viewed in light of a recently published Gallup study on the level of integration and exclusion of Muslim communities in France, Germany and the UK. France has the largest

Above: A controversial poster in a Zurich train station calls for a ban on minarets in Switzerland. The poster was brought out by a right-wing political party. *Mark Henley/Panos.*

Muslim population in Europe – approximately 5 million people (most of whom hold French nationality). The study shows that, like the just over 2 million Muslims in the UK and approximately 3 million Muslims in Germany, French Muslims identify with their country and support its values and institutions. It also found that patriotism is shared across religious lines, as the majority of respondents see no contradiction between religious practice and identification with their respective countries and their institutions.

Nonetheless, a new report examining discrimination against Muslims in the EU, conducted by the EU's FRA, confirms persistent Islamophobia across Europe. According to the report, 1 in 3 Muslim respondents were discriminated against and 11 per cent were victims of racially motivated 'in-person crime' (assault, threat or serious harassment) at least once in the previous 12 months. The highest levels of discrimination occurred in employment and in private services. Discrimination, harassment and racist crime remain grossly under-reported, mainly because of lack of confidence that the police would be able to do anything.

FRA Director Morten Kjaerum also highlighted the growing number of anti-Semitic incidents in a report that revealed new data on incidents against the Jewish community in Europe. He stated that:

'The Agency's research shows that during 2007 and most of 2008, the number of anti-Semitic incidents in the EU declined, but that it has been on the rise again since December of 2008 ... this rise could partly be affected by the situation in the Middle East, as well as by the global financial crisis.'

Concerns that Israel's invasion of the Gaza strip in December 2008 would spark anti-Semitic violence against Jews in a number of European cities, as well as other public expressions of anti-Jewish attitudes, were expressed by human rights groups. These fears were confirmed by a series of violent attacks in a number of countries in the aftermath of the invasion: physical assaults on Jews and attacks on synagogues have been reported in Belgium, Denmark,

France, Sweden and the UK during 2009. In France, two firebombs, intended for a synagogue in an ethnically mixed north Paris neighbourhood, hit the façade and shattered the windows of a nearby kosher restaurant on 2 January 2009.

In a report published in September 2009, the ADL examined a rise in anti-Semitic criticism in Spain following Israel's three-week military operation in Gaza, including the publication of anti-Semitic cartoons and articles in mainstream media.

A survey conducted in Austria, France, Germany, Hungary, Poland, Spain and the UK by the ADL also points to the alarming trend of blaming Jews in the financial industry for the current global economic crisis. Nearly one-third of respondents blame Jews in the banking sector for the current economic crisis. A similar proportion believe that Jews have 'too much power' in business and finance and are not loyal to their country.

In the meantime, the debate on allowing the wearing of religious symbols in public areas and on reconciling freedom of thought, conscience, religion or belief with other fundamental rights such as freedom of expression, freedom of association and peaceful assembly, respect for private and family life, the prohibition of discrimination or the right to education continues in legislatures and in courtrooms. In November 2009, the ECtHR ruled against the display of crucifixes in Italian classrooms, on the grounds that it violated the child's right to freedom of religion and the right of parents to educate their children in line with their convictions. The Court concluded that there had been a violation of the right to education as contained in Article 2 of Protocol No. 1 to the ECHR, and a breach of freedom of conviction and religion as also protected by the ECHR. The Court's decision sparked anger in the largely Catholic country and it has since been appealed.

Striking a fair balance between different rights in a multicultural context is a challenge also faced by the EU as the proposal for a new anti-discrimination directive is debated. The new directive seeks to outlaw discrimination on the grounds of religion or belief, disability, age and sexual orientation in the fields of health care, social protection and benefits,

education, and access to goods and services, including housing. The main political issues surrounding the proposal are, on the one hand, whether the EU enjoys the necessary legal competence to legislate in these areas – some governments, like that of Germany for example, question the EU's powers to legislate on topics such as education, health care and social protection in the framework of the new proposal. On the other hand, there is the balance to be found between the interests of individuals, as members of a faith community, to have their right to manifest their religion or their right to education be respected, and a possible general public interest, or the rights and interests of others.

Human rights NGOs, such as the European Network Against Racism (ENAR), which advocates for the rights of religious minorities, argue that on the question of balancing religion or belief in the public sphere and access to education on the grounds of religion or belief, the discretion of the member state must be exercised with full respect for all fundamental human rights and cannot lead to the denial of the right to education. In this regard, the ECHR and the case law of the ECtHR provide guidance, setting out that everyone has the right to freedom of thought, conscience and religion or belief in teaching, worship, practice and observance. Restrictions on the wearing of religious clothing and symbols should reflect a general approach which is neutral and impartial between all forms of religion or belief, and is compatible with the principles of respect and the need to foster tolerance and pluralism.

The continuing debate on the question of the place of religion in public life demonstrates the sensitivity around the issue in an increasingly multicultural Europe. Education systems and schools are directly concerned with the issue and there is no unanimity, not only over the presence and wearing of religious symbols in schools but also over the status to be given to teaching about religions, particularly minority religions, such as Islam or Judaism. In Antwerp, in the Flemish region of Belgium, 60 Muslim girls dropped out of school after the decision by a school to introduce a ban on headscarves that rapidly led to a general blanket ban

in all schools of the region. On behalf of the girls, a Belgian feminist group (Baas Over Eigen Hoofd – BOEH, Boss of my own head) filed a case against the decision with the Council of State, the highest administrative court in Belgium in September 2009. Media reported that the Moroccan community was now planning to fund its own schools. Mohamad Chakkar, president of the Federation of Moroccan Associations, said, 'Research has shown that the education gap between immigrant and non-immigrants students in Flanders is the widest in Europe.' He also expressed dismay over the speed with which the ban had been decided.

Meanwhile, international organizations and NGOs are supporting communities in their efforts to build tolerance, including human rights education and other initiatives aimed at changing discriminatory and exclusionary attitudes. The OSCE created a website called 'The Tolerance and Non-Discrimination Information System', which provides a rich source of information on issues relating to religious and other forms of intolerance, including legislative initiatives, international standards and detailed country information.

The rise of the far right

Right-wing radicalism and the spread of xenophobic and extremist attitudes towards ethnic, religious and linguistic minorities is an issue confronting the whole of Europe. Contemporary forms of extreme right-wing ideologies have gained momentum as part of a backlash against the rapid changes induced by globalization and other cultural and social shifts in post-war Europe. Pursuing strategies playing on (and encouraging) growing anxieties in an increasingly pluralistic Europe, political parties and movements have emerged that are propagating racism and intolerance against the 'other'. These movements have proved adept at hiding behind advocacy of free speech and selling claims that supposedly homogeneous majority cultures are in need of protection.

A study undertaken by the private, non-profit organization, Bertelsmann Stiftung, on the radical right in Europe argues that the face of today's far-right is changing. Instead of an old-fashioned

'classical' biological racism, the new 'populist' right embraces an ideology comprising ethnocentric nationalism with an element of religion-based exclusionism. Aiming to establish themselves in mainstream political arenas at the national and European levels, ultra right-wing populist parties justify their anti-immigration, anti-Semitic and Islamophobic rhetoric not by arguing openly for the superiority of the white race but by stoking fears that ethnic minorities, immigrants, Muslims, homosexuals and others are a threat to the integrity of the national community and will destroy the achievements of modern societies. The economic crisis has boosted the popularity of populist nationalist organizations that feed the resentment towards minorities, blaming them for economic and social problems reinforced by the recession. Openly racist and militant right-wing extremists are still present, of course. But the shift in argument and style from the classical racist discourse proved successful in the 2009 European elections, which indicated substantial support for far-right populist parties in many EU member states.

Despite declines in some member states, such as Belgium, France and Poland, far-right parties gained European Parliament seats in a number of countries. In Austria, the Freedom Party (FPÖ) won two seats, the Dutch anti-Islam and anti-immigration Freedom Party of Geert Wilders (PVV) sent four representatives to the European Parliament, and Italy's Northern League has more than doubled its representation from four to nine members of the European Parliament. Two other right-wing parties (the Alleanza Nazionale, formerly led by Gianfranco Fini, and Alessandra Mussolini's Social Action) merged with Italian Prime Minister Silvio Berlusconi's People of Freedom Party and are now represented in the biggest European-level centre-right party, the European People's Party (EPP). With no seats in the previous European Parliament, the BNP and the Hungarian far-right Jobbik made significant breakthroughs winning two and three seats respectively. Denmark, Greece, Romania and Slovakia also sent far-right representatives to the European Parliament.

In addition to a centre-right majority (the centre-right EPP won 264 seats as opposed to the 184

seats of the socialist Progressive Alliance of Socialists and Democrats), the new European Parliament is much more fragmented, with new anti-EU groups, such as the European Conservatives and Reformists Group and the hard-right Europe of Freedom and Democracy group, made up of anti-immigration and xenophobic parties, such as the Italian Lega Nord (Northern League), the Danish People's Party, the True Finns Party, the Mouvement pour la France and UKIP. In October 2009, Hungary's Jobbik and the BNP cobbled together a further ultra-right pan-European grouping, called the Alliance of European Nationalist Movements – including France's Front National, Italy's Fiamma Tricolore, Sweden's National Democrats and Belgium's Walloon extremists, also called the Front National – but failed to get public funding.

The gains made by right-wing populists in the European Parliament signal a dangerous development. By adapting their rhetoric to bypass national bans on ultra-right views (and the Charter of European Parties for a Non-Racist Society, signed by the European Parliament in 2001), they have gained considerable support in many countries. Footholds in the European Parliament and at the national parliamentary level allow these populist right-wing parties to shift formerly far-right ideas (on immigration, for example) into the mainstream. In Austria and the Czech Republic, racism watchdogs and political analysts have pointed to an increase in crime related to extremism, which they believe is connected to the growing number of supporters of far-right movements. They warn that mainstream political parties must change their approach. Sonya Ferker from the ZARA anti-racism organization in Austria, warned that political debate on immigration, 'is entrenching polarization and producing an "us and them" view on immigration'.

Illustrative of the efforts of far-right parties to move into the mainstream is the merger in Italy in 2009 of the National Alliance (Alleanza Nazionale) and Social Action with Prime Minister Silvio Berlusconi's People of Freedom Party. On 7 June 2009, when (as in most countries) the European, council and provincial elections were held at the

same time, the Italian radical right-wing Northern League achieved a major victory in the wealthiest parts of the country, such as the Veneto and northern Lombardy. The Northern League promotes a hard-line and xenophobic immigration policy. In this political climate, it is not surprising that the Italian parliament has passed the toughest immigration law in Europe and also discussed introducing a ban on the *burqa*. A bill was introduced in October 2009 but not debated by the parliament before the end of 2009.

Far-right parties in other parts of Europe also have parliamentary ambitions. According to a new opinion poll, an increasing number of Swedes would help the xenophobic Sweden Democrats to win their first-ever seat in the Swedish parliament, the Riksdag.

Hungary's radical nationalist party, Jobbik (Jobbik Magyarorszagert Mozgalom – Movement for a Better Hungary) has already gained sufficient support to cross the 5 per cent threshold for representation in parliament. Jobbik blames Jews and Roma for the social and economic problems facing Hungary post-transition and post-EU accession. It has also coined the term 'Gypsy crime' to denote certain types of crime supposedly committed exclusively by Roma. More worrying was Jobbik's cooperation agreement with TMRSZ, a police trade union, although this has since attracted criticism from, among others, the Hungarian prosecutors' office. The authorities have also attempted to crack down on the banned Hungarian Guard (Magyar Garda), a pool of volunteer militia created by Jobbik which draws on Nazi-style symbols. Nevertheless, approximately 15 per cent of Hungarians voted for Jobbik in the European Parliament elections in 2009, and a survey last year concerning attitudes towards extremist movements showed 10 per cent public support for the Hungarian Guard.

The announcement by Jobbik that it was setting up a London branch, the British Jobbik Society, in order to strengthen links with the BNP, stoked fears about the reach of the far right into the UK. An expert on community relations, who led the government review into the country's worst race riots

in 2001, said that far-right militants are becoming more sophisticated and, unless politicians challenge their message head on, a repeat of those incidents could be provoked. Groups like the anti-Islamist English Defence League and the Aryan Martyrs' Brigade made headlines when issuing threats, including a death warrant sent by the latter to the secretary of Unite Against Fascism, 'for crimes against all loyal white patriots and British nationalists'. Politicians too have expressed concerns after the Stop Islamization of Europe group confronted around 1,000 opponents outside a mosque in north London. The Communities Secretary said that extremists are using tactics that echo those of the 1930s British fascists.

In a move to increase pressure on right-wing radicalism, the German Interior Minister banned a far-right youth organization, the Heimattreue Deutsche Jugend (Patriotic German Youth), for disseminating its Nazi propaganda to young people. The organization was said to have close links to the National Democratic Party (NDP), Germany's main far-right nationalist party, which also supports the annual neo-Nazi 'mourning march' on 14 February in Dresden. On this day, right-wing extremists from all over Europe gather to commemorate the fire-bombing of the city by the Allied forces during the Second World War. The organization United Against Racism and the local platform Geh Denken called for international support to end acceptance of this annual neo-Nazi demonstration; 10,000 supporters protested against the march.

While anti-immigrant, xenophobic and nationalist extreme right parties and movements are establishing themselves in Europe, minorities are still under-represented in politics, government and public life. In the last weeks of 2009, an ongoing discussion in Bulgaria on broadcasting Turkish news on the state television channel led Prime Minister Boyko Borisov, the leader of the centre-right party GERB, to announce the party's support for a national referendum on the issue. The suggestion was initiated by the nationalist party ATAKA (The Attack). There are approximately 800,000 Turks in Bulgaria, and state television has been broadcasting

10 minutes' news in Turkish every evening since the 1990s.

At the end of 2009, the Constitutional Court in Turkey banned the pro-Kurdish Democratic Society Party (DTP) and 37 of its members from politics for five years. In its decision, the Court's eleven members agreed unanimously that the DTP had links to terrorist activities. Many national and international human rights organizations and regional institutions, such as CoE and the EU, criticized the decision, as the party had not only been a channel for Kurdish voices but also promoted gender equality and constitutional rights. Besides, the decision could run the risk of harming the peace process in Turkey as it coincided with a new 'Kurdish Initiative Programme'.

In Italy, the first black mayor in the country is a member of the anti-immigration Northern League party. Sandy Cane, an Italian-American became the mayor of Viggiu, a town of 5,000 near Milan. The UK's *Independent* newspaper quoted Cane, who voted for US President Barack Obama in the United States and sees no contradiction in a black woman running for an anti-immigrant party, saying, 'To tolerate illegal immigration above all harms those who enter our country with the desire to work and integrate themselves and to have a normal life.' Italian human rights activists just nodded in resignation as this statement was in line with so much else that is xenophobic. There were media reports in January 2009 that the kebab had become the new target of a Northern League campaign against 'ethnic food' in northern Italy. The drive to make Italians eat Italian actually led to a ban on the opening of any new kebab and ethnic food outlets. The campaign was labelled 'gastronomic racism' by the opposition and by leading chefs. Media noted some confusion over what actually counts as 'ethnic' cooking, given that Sicilian cuisine is influenced by Arab cuisine. If it used French flavours, it would presumably survive the Italian 'culinary ethnic cleansing'. ■

and access to goods and services. They face growing anti-Roma attitudes across Europe.

The different legal statuses of Roma minority groups add to their ambiguous place in the broader national communities, as it differs both within and between countries. Depending on the period of migration of the groups, and on the level of official recognition of them as a national or ethnic minority, some long-established communities are citizens of the country where they live and are entitled to rights granted to recognized minorities. However, in others, such as Denmark, Roma are not recognized as a minority group. Newly arrived groups are sometimes considered refugees or asylum-seekers, or even illegal immigrants. A large number of Roma are nationals of the countries that joined the EU in 2004 and 2007, and, as such, are entitled to the right of free movement, but, due to restrictions that some countries, such as the UK, introduced for Romanian and Bulgarian nationals, lack full residence and employment rights.

Being a minority everywhere and widely dispersed across Europe and beyond it, but lacking a kin state, the Roma population occupies a peculiar position, characterized by political and social marginalization. The Roma are not recognized as a national or ethnic minority in many countries and are thus at a disadvantage compared to other historical national minorities, whose minority rights are protected by domestic legislation as well as international treaties and conventions. The lack of authorized legal status is a fundamental issue, as it strongly impacts on possibilities to participate in public and political life as well as accessing social and economic rights. Acknowledging the importance of this issue, the European Parliament, in its 2005 Resolution on the Situation of the Roma in the European Union, called on EU institutions, member states and candidate countries to consider recognizing the Roma as a European minority. In 2009, the CoE Commissioner for Human Rights Thomas Hammarberg also called on states to 'employ all possible means to end the statelessness of Roma and provide them with a nationality'.

The situation of Roma EU citizens migrating to and settling in other EU member states was also a key theme addressed at an international conference organized jointly by the FRA, the Council of Europe and the OSCE in November 2009. The FRA presented a report which detailed how many

Roma EU citizens who exercise their right to free movement and settle in another EU member state in search of better living conditions continue to experience racism, discrimination and exclusion. Barriers remain to their enjoyment of key civil, political, economic and social rights, including the right to vote in local and European elections, and access to social protection, health care and public housing. For example, the Finnish capital Helsinki refused to offer housing or health services to Roma from Romania, stating that social problems should have been solved in their home country.

In Italy, 11 months after the government adopted its 'declaration of the state of emergency with regard to settlements of nomad communities' in 2008, the authorities engaged in coercive documentation of Roma and Sinti in numerous camps, taking photographs of them and fingerprinting them, and using the information gathered to deport those who could not prove their right to live in Italy. Human rights groups urged the European Commission to start infringement proceedings addressing Italy's violation of the fundamental rights of Roma and Sinti enshrined in the EU Race Equality Directive and the EU Data Protection Directive. By the time of writing, no official response had been received to the letter sent to European Commissioner for Justice, Freedom and Security Jacques Barrot and European Commissioner for Employment, Social Affairs and Equal Opportunity Vladimir Spidla.

The FRA report identified a tendency towards, 'a more general "Roma response" covering Roma nationals, Roma citizens of other EU countries and Roma third country nationals'. Such a policy, which categorizes all Roma together regardless of their legal status, risks undermining their citizenship rights, infringing their enjoyment of human rights, and putting Roma communities in a vulnerable position. The FRA report recommends that the EU and its member states adopt targeted policies based on 'integrated rights- and equality-based standards promoting social cohesion and delivering the promise of *civis Europaeus sum*'.

Following the first European Roma Summit in 2008, the EU Council adopted a set of 'Common Basic Principles for Roma Integration' in June 2009, aiming at promoting the full inclusion of Roma, and making use of a policy-coordination and best practice-sharing mechanism, the Integrated European Platform on Roma Inclusion, which was

formally inaugurated in April 2009. The Platform held its second meeting, dedicated to education, in September 2009. The EU Roma Policy Coalition, which was set up by human rights NGOs to advocate for Roma rights and inclusion at the EU level, was highly critical of the mandate and structure of the Platform, expressing concern over the lack of key targets and a coherent structure for the process itself, which would be necessary to achieve a strategic EU approach to Roma issues.

The 2008 Roma Summit clearly identified the EU member states and their governments as the main actors responsible for improving the situation of Roma in the EU. It remains to be seen whether the Spanish Presidency of the EU will be able to achieve real progress upon the occasion of the Second EU Roma Summit, which will be held on 8 April 2010, International Roma Day. While social policy belongs to the exclusive competence of the EU member states, and thus does not fall within the scope of EU harmonization, key international organizations and NGOs are keen to see the EU assume a stronger role in promoting Roma participation and consultation in decision-making processes.

Referring to the FCNM as representing 'an emerging international consensus' on protecting minorities, the ECtHR reinforced the principle of non-discrimination in its decision in the case of *Munoz Diaz vs. Spain*. The case involved a woman of Roma origin whose marriage was not recognized by the Spanish authorities as it had been held according to Roma rites. The court underscored that, 'cultural diversity is of value to the whole community'.

'Neglect is not an option', said the OSCE Contact Point for Roma and Sinti Issues at a United States Helsinki Commission meeting in June 2009, warning that if governments do not take urgent steps, tensions between majority populations and Roma communities will increase, with the risk of further violence targeted at Sinti and Roma.

Hammarberg also urged European governments to adopt more effective and inclusive policies for the Roma, stating that 'Anti-Gypsyism continues to be a major human rights problem in Europe.'

In fact, 2009 was marked by a sickening spiral of violence against Roma across Europe. The abuse of six Roma boys, aged between 10 and 16 years, by police officers in the Slovakian town of Kosice on

Below: Roma girls from Sajókaza. *Sándor Naske.*

21 March 2009, provoked an international outcry. The European Roma Rights Centre (ERRC) and AI called on the government of Slovakia to ensure that an unbiased investigation is conducted and that the perpetrators are brought to justice. The boys were forced to hit and kiss each other and strip naked while being filmed by the officers. It has also been alleged that the police set dogs loose on the boys and that two boys were bitten.

The Kosice incident is just one of a string of attacks against the Roma community. The violence is reinforced by openly racist public discourse that scapegoats Roma, not only by extremist right-wing parties and movements, but also sometimes by mainstream politicians and public figures. On 2 April 2009, Máté Szabó, Hungarian Parliamentary Commissioner for Civil Rights, stated in an interview with an online news portal that ‘criminality categorized on an ethnic basis’ – so-called ‘Gypsy crime’ – exists, and identified it as a type of crime

performed to earn a living. He also referred to Roma as being, ‘a collectivist, almost tribal-level social group’. A group of Hungarian human rights defenders (the Hungarian Helsinki Committee, the Legal Defence Bureau for National and Ethnic Minorities, the Chance for Children Foundation, the Roma Civil Rights Foundation) and the ERRC denounced these statements as irreconcilable with the prohibition of discrimination as defined by the Constitution.

In Hungary, anti-Roma sentiment and violence escalated, taking eight lives and leaving dozens injured in a period of 18 months, between January 2008 and June 2009. In one of the attacks, a Roma man and his 5-year-old son were shot dead as they were trying to escape from their house, which was set on fire by Molotov cocktails moments before. After a Roma woman was shot dead and her daughter seriously injured at the beginning of August 2009, the police asserted that the incident was related to a series of attacks targeting the Roma; four suspects were later charged with the assaults

and killings. Far-right groups have denied any links to the attacks, but emphasize the need to fight ‘Gypsy crime’. During 2009, the far-right Magyar Garda (Hungarian Guard), set up by the anti-Roma and nationalist Jobbik party, staged several public events in towns and villages with large Roma communities, who started to form self-defence groups. In the town of Sajobabony, local Roma clashed with supporters of Jobbik and Magyar Garda after one such event.

Multiple grounds of discrimination confronted by Roma women continue to be a cause of grave concern. According to a letter sent to Hammarberg by a coalition of human rights organizations in February 2009, forced sterilization continues in the Czech Republic, Hungary and Slovakia, with cases reported as recently as last year. This was confirmed by the ECtHR, which ruled on 28 April 2009 that Slovakia had violated the rights of eight Roma women by denying them full access to their medical records, which they had sought in order to prove that they had been forcibly sterilized after giving birth.

The Czech government announced that it regretted the forced sterilization of Roma women in the past. Rights activists are now hoping that Slovakia will follow suit. From the 1970s until 1990, the Czechoslovak government systematically sterilized Roma women in order to reduce the birth rate of Roma. The Czech government decided that a series of measures would be undertaken by the end of 2009 to ensure that such violations do not occur in the future. In Hungary, the Ministry of Social Affairs and Labour issued a statement promising financial compensation to a Roma woman for sterilization undertaken against her will.

Substandard Roma and Traveller housing remains a major concern across Europe. According to a report issued by the FRA, the overall housing situation of many Roma and Travellers in the EU is dire. Many live in barely habitable dwellings, without basic infrastructure and with poor access to mainstream institutions. Evictions and demolitions of Roma settlements are common across the EU. In Burgas, a Bulgarian Black Sea town, 200 Roma families protested against the planned demolition of their houses, built without planning permission. They created a human chain surrounding their houses but were finally left homeless. Gypsies and Travellers living on one of the UK’s largest unau-

thorized sites, near Wickford in Essex, have also lost their latest battle against eviction.

In Slovakia, a wall is being built between a Roma settlement and the rest of the village of Ostrovany with the agreement of the local authorities, who turned a deaf ear to the claims of the Roma inhabitants of the village who say that the wall will turn their settlement into a zoo.

It hardly comes as a surprise that in the EU Minorities and Discrimination Survey conducted by the FRA, the Roma reported the highest overall levels of being discriminated against of the groups surveyed. According to the report, 1 in 5 Roma were victims of racially motivated personal crime (including assaults, threats and serious harassment) and every second Roma respondent was discriminated against at least once during the 12-month period surveyed.

Cyprus

The Constitution of Cyprus, which was drawn up in 1960 after the country gained independence for the first time in its history, divided the Cypriot population into two communities and cemented a rigorous bi-communalism between the Greek and Turkish populations on the island. Greek and Turkish were designated as official languages, but after the 1974 division of the country, bi-lingualism in practice ended. Members of the Turkish Cypriot community who stayed in the government-controlled area have not been able to exercise their language rights fully as provided in the Constitution. At the time of independence, members of the island’s recognized three religious minorities, the Armenian Orthodox, Maronite Catholics and Roman Catholics (Latin), had to opt to join one of the two communities for voting purposes and all three chose to belong to the Greek Cypriot community.

These three minority groups were designated as national minorities under the FCNM, which entered into force in 1998. In its third periodic report on the application of the FCNM submitted in April 2009, Cyprus reflected on the Advisory Committee’s opinion regarding the obligation of affiliation to either the Greek or the Turkish Cypriot community imposed on national minorities. It stated that any changes would require constitutional amendment, which ‘would be politically incorrect, if not practically impossible’ in the sensitive political climate of the country.



Religious minorities and the European Court of Human Rights

Lucy Claridge discusses ground-breaking legal cases from 2009 and their implications for religious minorities in Europe.

Discrimination against minorities and political participation

In a ground-breaking recent case before the European Court of Human Rights (ECtHR), a Bosnian Jew and an ethnic Roma successfully challenged discriminatory provisions within Bosnia's Constitution and electoral laws which deny their right to public participation. The case is the first time that the ECtHR has looked at how to apply relatively recently enacted anti-discrimination provisions of the European Convention on Human Rights (ECHR).

Jakob Finci, a prominent Jew, and Dervo Sejdić, of Roma ethnicity, argued that the country's Constitution and election law are discriminatory in preventing them from running for or being elected to the presidency or upper house of the parliament. In particular, the applicants argued that this discrimination was based solely on the grounds of their race/ethnicity and, in the case of Finci, his religion. MRG represented and advised Finci throughout.

Bosnia's Constitution and electoral law state that only members of the 'Constituent Peoples' – ethnic Serbs, Croats and Bosniaks – are eligible to stand for election to the three-member presidency of the House of Peoples of the Parliamentary Assembly. Those who are not 'Constituent Peoples' – defined

in the Constitution as 'Others' – are denied the right to stand for election to those bodies. This includes national minorities who have lived in Bosnia and Herzegovina for centuries. In the words of Jakob Finci, 'We are simply deprived of the right to take part in elections, we are unable to exercise our ... right, the right to be elected.'

Further, although the case did not specifically address this issue, it is not only minorities throughout Bosnia who are disenfranchised as a result of these arrangements. The House of Peoples has 15 members distributed equally among the three 'Constituent Peoples': five Bosniaks (Bosniaks are recognized as Muslims and the term is distinct from 'Bosnians', which denotes citizens of Bosnia and Herzegovina irrespective of their ethnic origin/religion), five Croats from the Federation of Bosnia and Herzegovina, and five Serbs from the Republika Srpska. Serbs in the Federation of Bosnia and Herzegovina (BiH) and Bosniaks and Croats in the Republika Srpska are therefore also excluded from standing for office.

Bypassing usual procedure, the case was referred directly to the Grand Chamber of the ECtHR and judgment was delivered on 22 December 2009. The Court found Bosnia and Herzegovina to be in breach of Protocol 12 of the ECHR, which provides for the right to equal treatment and non-discrimination, in failing to allow its citizens who are not 'Constituent Peoples' to stand for election to the presidency. The Court also found a violation of Article 14 of the ECHR, which provides for freedom from discrimination, taken in conjunction with Article 3 of Protocol No. 1, which protects free elections to the legislature, as a result of the ineligibility of 'Others' – including national and religious minorities – to stand for election to the House of Peoples.

Of particular importance is the judgment's confirmation that racial and religious discrimination can rarely, if ever, be justified. Referring to previous case law, the Court stated that 'racial discrimination is a particularly egregious kind of discrimination', which 'requires ... special vigilance and a vigorous reaction' and which is not 'capable of being objectively justified in a contemporary democratic society built on the principles of pluralism and respect for different cultures'.

The ruling is expected to have huge ramifications in Bosnia and Herzegovina and beyond. If correctly implemented (and at the time of writing, draft amendments to Bosnia's Constitution and election law were being considered by the Parliamentary Assembly, in order to bring these provisions in line with the ECHR in time for elections in October 2010), it will assist in breaking down ethnic and religious divisions in the country, by encouraging political participation and representation, and promoting social cohesion. In addition, the decision offers important protection for religious and ethnic minorities who lack electoral rights in other ECHR states, in providing a legally binding judgment that can be relied upon against their own governments. The case is also highly significant on an international level, as it is the first time that the ECtHR has considered how Protocol 12 of the ECHR should be applied to potentially discriminatory situations. As Jakob Finci recognizes, 'The most important thing is that we can now ensure that all citizens ... will enjoy equal rights.'

Minorities, religious freedom and the wearing of religious symbols

Accommodating religious diversity within states is an issue of much controversy within Europe and beyond. In fact, Europe has not reached agreement on how states should reconcile freedom of thought, conscience, religion or belief with the rights to freedom of expression, freedom of association, respect for private and family life, the prohibition of discrimination and the right to education. It is therefore not surprising that the extent to which governments can determine and indeed control the wearing of religious symbols and clothing in public areas, for example a headscarf, turban or crucifix, has been continuously tested and challenged both in domestic courts and in the ECtHR. This issue has received most attention in the context of public educational institutions, where there is a perceived need to avoid schools becoming places of religious indoctrination rather than of education, as discussed in two key cases below.

According to Article 9 of the ECHR, everyone has the right to manifest their religion or belief in teaching, worship, practice and observance. This has generally been interpreted by the ECtHR to

include the wearing of religious symbols. Cases include *Moscow Branch of the Salvation Army v. Russia* (Application No. 72881/01, judgment dated 5 October 2006) and *Leyla Sabih v. Turkey* (Application No. 44774/98, judgment dated 10 November 2005). However, there are certain circumstances in which the state can place restrictions on people who wish to wear such symbols.

Article 9 provides that such limits must be prescribed by law, necessary in a democratic society – to protect public interests, including the rights and freedoms of others – and proportionate. In the absence of a common approach to religious diversity in Europe, the ECtHR gives states a broad 'margin of appreciation' in determining what restrictions are in the public interest. In other words, it gives governments a wide and perhaps dangerous discretion to decide the relationship between the role of the state and the role of religion, and also what is appropriate in each domestic context. In this way, states can justify bans on wearing religious symbols in public, and still comply with Article 9 of the ECHR.

In November 2009, the ECtHR issued a contentious ruling, in which it declared that the display of crucifixes in Italian classrooms violated Article 9 of the ECtHR and also Article 2 of Protocol No. 1, which protects the right to education, on the grounds that it is contrary to a parent's right to ensure her child's education and teaching in conformity with her religious and philosophical convictions (*Lautsi v. Italy*, Application No. 30814/06; judgment dated 3 November 2009).

Soile Lautsi, a parent and citizen of both Finland and Italy, had claimed that Italy's administrative law requiring the compulsory display of the crucifix in every state school classroom violated the right of parents to ensure their children's education in conformity with their own religious and philosophical convictions.

In reaching its decision, the Court held that the right to education under Article 2 of Protocol 1 is aimed at safeguarding pluralism and social inclusion in a state's educational system. The right also protects respect for the religious and philosophical convictions of parents. The state must therefore avoid, even indirectly, imposing beliefs on children. The presence of the crucifix

could easily be interpreted by pupils of all ages as a religious sign, and they would feel that they were being educated in a school environment bearing the stamp of a given religion. It concluded that, where the state has an established religion, it has a special duty to protect the religious freedom of others, particularly those in a religious minority.

The judgment has sparked much debate, with widespread condemnation from both Italian politicians and the Vatican, who declared, 'It seems as if the court wanted to ignore the role of Christianity in forming Europe's identity, which was and remains essential.' At the time of writing, a request to refer the case to the Grand Chamber, the Court's highest chamber, is yet to be decided. ■

In September 2009, the Committee of Ministers of the CoE adopted a series of recommendations regarding the application of the European Charter for Regional or Minority Languages, which Cyprus ratified in 2002. Under the Charter, Armenian and Cypriot Maronite Arabic are acknowledged as minority languages. After reviewing the state of minority languages in 2009 the CoE recommended the development of a structured policy for the promotion of Armenian and Cypriot Maronite Arabic, including targeted financial support and teacher training initiatives. Some members of the Roma community speak a mix of Turkish and Kurbetcha, which is not acknowledged as a regional or minority language, however. And the CoE notes that Turkish is in a very similar situation in government-controlled areas, despite its status as being one of the official languages of the country.

The strict bi-communal institutional structure has been criticized by human rights groups advocating for the rights of minorities and migrants living on the island, such as the Nicosia-based KISA – Action for Equality, Support, Anti-racism. They argue that it fails to address the needs of the country's minorities and migrants. As KISA argues, the division of the island in 1974 further alienated the two main communities and consolidated the conviction that ethnic or religious difference is a potential threat. Minorities who had opted for the Greek Cypriot community continue to live in the Turkish part of the island.

A long-standing country of emigration, Cyprus has experienced a rapid transformation into a host country for immigrants. This is due to a number of factors, including the easing of restrictions on crossing the Green Line dividing the northern and southern parts of the country, as well as accession to the EU in 2004. KISA and the 2009 European Social Watch Report on Migrants point out that migration to Cyprus is widely viewed as a temporary phenomenon – that the country is seen as a transit stop for most third-country nationals on their journeys towards other European countries. Hence, migration policies tend to put less emphasis on integrating the growing migrant population, many of whom have settled in Cyprus. Migrants can only stay if they are enrolled in higher education or are working. This leaves many migrants vulnerable to exploitative working conditions.

The *Migrant Cities* study by PRIO Cyprus (the International Peace Research Institution) shows Cypriot society reacting to the presence of migrants with both incidents of racism and xenophobia, and a wider lack of interest, 'a small, extreme, racist minority ... is opposed to the presence of migrants ... [but] the majority simply does not care about the experience, conditions, problems, or joys of migrants in Cyprus and this perpetuates a situation of "living apart" and not "together",' said Olga Demetriou, a project leader at PRIO Cyprus at the launch of the report in 2009.

A police sweep operation carried out in September 2009 in search of illegal immigrants and those responsible for a violent clash between worshippers at the Omeriye mosque a month earlier led to a further deterioration of the relationship between Cypriots and the migrant population. The police were heavily criticized by members of ENAR-Cyprus and KISA for the raids in the old town of Nicosia, which started at 5 a.m. and involved 247 police officers. According to the *Cyprus Mail*, the police alleged that the operation, involving the blockage of six exit points from the old town and house searches, was intended to 'prevent crime, combat illegal immigration and restore the sense of security in the old town'. The raid ended with 150 migrants being taken to police stations for identification; there were 12 arrests in connection with the Omeriye mosque violence and 36 for illegal residence. A number of organizations staged a demonstration on 4 October 2009 to condemn the police operation, which they saw as discriminatory and not

backed up by any statistical evidence regarding a supposed growth of criminal activity among migrants.

Germany

'Much has been achieved in the fight against racism in Germany over the past few years. Yet much still needs to be done,' concluded Githu Muigai, the UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance during his 10-day visit to the country in July 2009. In a statement issued in Berlin, the UN Special Rapporteur emphasized that Germany needs to broaden its concept of racism from one associated only with right-wing extremists to one that also encompasses the discrimination and harassment occurring in everyday life, particularly towards migrants. Thus, Germany has to step up its efforts to integrate its migrant population.

The gap in the educational achievements of migrant pupils and of native Germans remains significant and is steadily increasing. Poverty, other socio-economic hurdles, plus a migrant background reduce the educational opportunities of migrant children, and differences remain in place even between children of the same general socio-economic background. At the same time, young people with a migrant background have considerably fewer chances to enter further education and vocational and professional training than their German counterparts. This trend is confirmed by the 2009 country report of the CoE's ECRI, which also notes that some teachers reportedly display discriminatory attitudes in the classroom, in particular towards Turkish and Muslim children.

In 2008, the first court decisions within the context of the General Equal Treatment Act (AGG) were taken. The AGG came into force on 18 August 2006; it implements the EU's equal treatment directives and extends protection against discrimination on the grounds of race or ethnic origin, gender, religion or belief, disability, age or sexual orientation to public employment and a number of private law fields. In 2009, however, ENAR members raised concerns that neither the AGG nor the Federal Anti-Discrimination Agency are providing effective protection for victims of discrimination and that the latter fails to meet its obligations adequately.

In its 2009 report, ECRI noted positive developments, such as a number of government measures to eliminate inequalities or discrimination in the fields

of employment and education, including efforts to promote and foster the linguistic abilities of children. However, ECRI also expressed concerns over some aspects of the AGG, in particular regarding housing. The report confirms human rights groups' concerns about the limited knowledge of potential victims about their rights under the AGG, and emphasizes that the Act's effectiveness is hampered by the two-month time-limit for initiating a complaint. According to the report, the latter issue is compounded by the limited role afforded to NGOs under the law. According to the ECRI 2009 report, the Federal Anti-Discrimination Agency, with its small staff and annual budget, appears to have relatively few resources to carry out its statutory tasks.

Germany's repatriation policies for members of Roma, Ashkalia and Egyptian (RAE) minority communities to Kosovo prompted CoE Commissioner for Human Rights Thomas Hammarberg and the UN High Commissioner for Refugees (UNHCR), as well as minority rights organizations such as MRG and the Kosovo-based Roma and Ashkalia Documentation Centre (RAD), to investigate the state of minorities forcibly returned to Kosovo from Germany. Among the countries that have readmission agreements with Kosovo concerning the forced repatriation of members of the RAE communities to their country of origin (including Austria, Sweden and Switzerland) Germany, with the majority of RAE refugees living in the country, is the biggest sender. From 1999 until the end of August 2009, there were 92,240 voluntary returns and 21,852 forcible returns. The UNHCR confirmed in a report in November 2009 that the situation of minority communities in Kosovo is precarious, and that 'respect for minority rights continues to be the most significant human rights issue in Kosovo in the post-independence era'. The social, political and economic exclusion of Kosovo's minorities is a remaining issue, and after attacks on Roma by Kosovo Albanians in September 2009, the CoE's Committee of Experts on Roma and Travellers called on states to consider granting asylum to members of the Kosovo Roma community. Referring to the UNHCR report and his own repeated visits to Kosovo in March and July 2009, Hammarberg sent a letter to the Chancellor of Germany, Angela Merkel, in December 2009, urging the German government to halt forcible returns, in particular of Roma.

The ultra right-wing remains a serious problem in Germany. 'Germany for Germans!' and similar slogans are frequently heard at rallies all over Germany. Moreover, national socialism appears to have support beyond those who appear in public demonstrations. According to an annual report published in May 2009 by Germany's Federal Office for the Protection of the Constitution, there are nearly 5,000 militant neo-Nazis, while 30,000 Germans consider themselves as having extreme right-wing views.

However, far-right parties have suffered a sharp decline in votes in the 2009 national elections compared to four years ago. The two prominent far-right parties, the National Democratic Party and the German People's Union between them won support from 681,000 voters, well down from the 858,000 who voted for them in 2005 when the parties entered into an electoral pact. The outcome meant that only 1.5 per cent of the 44 million Germans who turned out to vote in 2009 supported the extreme right parties, although in some states, such as Saxony, support for the NDP reached 4 per cent.

Support for Islam to be granted the same legal status as Christianity and other recognized religions is growing in the country and is being actively discussed by the main political parties. The Green Party expressed its support for taking concrete steps in this direction. Interior Minister Wolfgang Schäuble of the Conservative Christian Democratic Union has said that this is his long-term aim, but also stated that Muslim communities are still some way from meeting the requirements that have to be fulfilled under the German Constitution, including the ability to provide teachers to educate children enrolled in state schools about their faith. The creation of the German Islam Conference (DIK) could be an important symbol of change. The goal of the Conference is to ensure better integration of Muslims and to promote inclusive communities by counteracting segregation and preventing extremism.

Two prominent court cases in 2009 helped to highlight racism and hate-motivated crimes. A German man was sentenced to life imprisonment for the brutal murder of a pregnant headscarved Egyptian woman, Marwa El-Sherbini. The killing sparked outrage in Sherbini's home country and led to renewed debates about Islamophobia in Germany.

The trial of the 89-year-old John Demjanjuk, a Ukrainian-born Soviet prisoner of war who joined

the SS as a concentration camp guard during the Second World War, was widely seen as breaking new ground. In the decades following the war, the German authorities prosecuted only top leaders of the Nazi regime for the Holocaust. Guards and others working in the concentration camps were seen as acting under command and thus had limited culpability.

The Netherlands

Discussions concerning the position of Muslims in the Netherlands featured prominently in the public debate on discrimination and racism during 2009. Islam is frequently portrayed as a threat to Dutch society by politicians and public figures. After the far-right Freedom Party leader Geert Wilders made a controversial film equating Islam with violence and the Qur'an with fascist texts, an Amsterdam court ordered prosecutors to put him on trial. The decision followed numerous complaints by human rights groups and citizens over the prosecution services' refusal to press charges against Wilders, and stated that, 'in a democratic system, hate speech is considered so serious that it is in the general interest to ... draw a clear line'. The court order is notable, as Dutch courts tend to be reluctant to restrict freedom of expression when it concerns statements made by politicians and public figures. Wilders attracted headlines in the UK during 2009, when he was stopped from entering the country. He had been invited by the Eurosceptic UKIP to screen his film, but the then Home Secretary Jacqui Smith banned his entry. The ban was later overturned by a High Court decision, leading to Wilders' visiting the UK in March 2010. He screened the film at the House of Lords, upon UKIP's invitation.

Muslims constitute around 5.2 per cent of the population and are mainly concentrated in larger cities. According to 2008 figures of the Central Bureau of Statistics, there are approximately 373,000 Turks and 335,000 Moroccans; other Muslims come from the country's former colony of Suriname or are asylum-seekers from the Middle East. As the 2009 report of the US Commission on International Religious Freedom (USCIRF 2009) notes, the Turkish government appoints imams for most of the more than 200 Turkish mosques in the Netherlands. The Dutch government provides funding for education in religious schools and other religious institutions. Headscarves are in practice permitted almost everywhere, including in schools. A ban on face-cov-

ering religious clothing was however introduced for teachers, parents and students in educational settings, and also for government officials interacting with the general public. In May 2009, a court ruling also introduced the requirement that female school staff shake hands with males in greeting, even if this goes against their religious affiliation.

While a government report released in 2009 shows that integration of ethnic and religious minorities has improved in the last couple of years, human rights groups and the CoE indicated otherwise. Human rights group Defence for Children International warned that the rights of migrant and refugee children are inadequately guaranteed in the Netherlands, and that those separated from their parents are vulnerable to abuse or ill-informed about their rights.

CoE Commissioner for Human Rights, Thomas Hammarberg, also emphasized that 'policies towards migrants and asylum-seekers require further review' in the country report presented in March 2009. Addressing issues concerning discrimination and intolerance, the rights of the child, anti-terrorism measures and ethnic profiling, the Commissioner recommended that the protection of minority rights be strengthened.

Russia

With the collapse of the Communist bloc and the emergence of post-Soviet states in the territory of the Former Soviet Union, the Russian Federation has experienced considerable political, economic and social change during the last decades. Growing nationalism, xenophobia, racism and religious intolerance have become increasingly visible. After a steady rise in ethnic violence, official statements concerning hate crime were first made in 2004, when a 9-year-old Tajik girl was killed. According to the Equal Rights Trust, the acting Interior Minister at that time, Rashid Nurgaliyev, admitted that 'acute manifestations of extremism' towards visible minorities existed in the country. Incidents of racial violence were identified as 'extremist crimes' that were threatening the security of Russia. The 2009 National Security Concept of the Russian Federation states that 'ensuring national security includes countering extremist activity by nationalist, religious, ethnic and other organizations and structures directed at disrupting the Russian Federation's unity and territorial integrity and destabilizing the domestic political and social situation in the country'.

In the national report submitted to the UN Universal Periodic Review, the term 'extremist crime' was used again by Russian state authorities, who officially acknowledge the existence and increase of such crimes and provide some statistics. 'Extremist crime in Russia is on the rise. In 2004, 130 extremist acts were carried out; in 2005, 152 were registered, while the figure rose in 2006 to 263 and in 2007 to 356. In the first half of 2008 alone, 250 were registered.' The Moscow-based SOVA Centre for Information and Analysis prefers the term 'hate crimes' and reports that, according to their research, there were 525 victims (of whom 97 died) of racist violence in 2008. The following year, 48 people had been murdered and 253 injured by September as a result of racist attacks. Many violent attacks are reported against members of the Armenian, Jewish, Muslim and non-Russian Orthodox Christian communities.

Comprehensive figures on the actual numbers of racially motivated or xenophobic attacks are hard to establish, as victims and their families may be loath to approach the authorities. However, as AI reports, despite the government's call for harsh punishments for those convicted of such crimes, no comprehensive government plan to combat racism and racial discrimination has been put in place. In 2008, Russian NGOs presented an alternative report to the UN Committee on the Elimination of Racial Discrimination (CERD) that examined Russia's compliance with the International Convention on the Elimination of All Forms of Racial Discrimination. The alternative report confirms that the Russian government has become more active in opposing racist violence and hate speech. For example, the numbers of persons charged with incitement of ethnic hatred has increased, and a number of top officials have acknowledged and condemned ethnically motivated violence and the incitement of racial hatred. Nevertheless, the NGO alternative report points out that, in spite of an increasing prosecution rate for hate crimes, this should be viewed in light of the scale of hate crimes and the amount of racist propaganda being distributed. According to NGO estimates, hate crimes have been growing by about 20 per cent a year and have become increasingly violent, often involving weapons and explosives.

The NGO alternative report criticizes the Russian government's approach towards combating hate crimes, arguing that it is too limited and selective

when suspending or terminating mass media outlets or NGOs that disseminate hate. The report states that this shifts 'the focus of preventing and eliminating discrimination from protection of the individual's rights and dignity to a fight against those whom the state deems its opponents'.

The 2002 Law on Extremism (amended in July 2006) was also mentioned in USCIRF 2009 for its impact on religious minorities, particularly the Muslim community, by allowing the criminalization of a wide spectrum of speech and activities. The law risks encouraging racial and religious discrimination. USCIRF placed Russia on its watch list in 2009. As the report notes, security services tend to treat the leaders of some Islamic groups, and groups termed 'non-traditional', such as the Jehovah's Witnesses, as a security threat.

The Federal List of Extremist Materials is updated four times a year by the government. According to the human rights group Forum 18, in May 2009, there were 367 items on this list of banned publications. While the list of banned texts includes extreme nationalist and anti-Semitic publications, it also comprises Islamic religious texts. Publication of the texts on the list can be punished with a four-year prison term. One problem identified by USCIRF is that even low-level local courts, with little knowledge of religious doctrine, can ban texts, with the result that the ban is enforced throughout Russia.

Although the 1997 legislation concerning religious practice grants protected status to the four founding religions recognized by the state (the Russian Orthodox Church, Buddhism, Islam and Judaism), human rights reports highlight the privileged status accorded to the Russian Orthodox Church, including official arrangements to provide spiritual counselling and conduct religious education. The country's other religious communities, such as Jehovah's Witnesses, Orthodox Old Believers, Protestants, Roman Catholics and others must accept greater government control. In 2009, the Russian government established the Expert Religious Studies Council, which has been criticized for its over-broad mandate. The Council has among its powers the right to investigate religious groups at the time of registration and their written materials.

Increasing discrimination against Russia's approximately 20 million Muslims was also reported by the USCIRF 2009. In parts of the country, for example the regions of Kabardino-Balkaria and Dagestan,

laws exist that ban Wahhabism, a term increasingly used by government officials, journalists and the public to mean Islamic extremism. The Russian NGO Memorial reports that Muslims considered 'overly devout' may be arrested or be 'disappeared', especially in the North Caucasus. Inter-community tensions and anti-Islamic sentiments resulting in discrimination persist after the 2004 school siege in Beslan, North Ossetia, with no intervention by the authorities. Muslim communities face difficulties in opening and maintaining mosques.

According to USCIRF 2009, there are at least 80 Russian-based anti-Semitic websites and approximately 100 small, ultra right-wing newspapers that regularly print anti-Semitic and Islamophobic materials.

Sweden

In the second half of 2009, Sweden held the Presidency of the EU. The Swedish Presidency was open to working with NGOs in the negotiations on the draft EU Equal Treatment Directive but could not achieve its adoption before the end of its Presidency. The UN High Commissioner for Refugees and other human rights organizations working on protecting the rights of asylum-seekers and migrants called on the Swedish government to reassert the importance of a rights-based approach to migration and border controls within the framework of the 'Stockholm Programme', which was adopted during the Presidency and sets out key priority areas for the EU in the area of justice and home affairs. A key achievement during the Swedish Presidency was the entry into force of the Lisbon Treaty and the establishment of the European Charter of Fundamental Rights as a legally binding document.

Domestically, an important milestone in the protection of minorities was the adoption of the new Discrimination Act by the Swedish Parliament, which entered into force on 1 January 2009. The Act outlaws discrimination based on gender, ethnicity, religion, disability, sexual orientation, gender identity and age. It also established a new watchdog, the Equality Ombudsman, which is headed by Katri Linna, the former Ombudsman against Ethnic Discrimination. The reform streamlines the ombudsman function and gathers four of the previous ombudsman posts into one authority.

According to national population statistics, up to the first quarter of 2009, the largest group who immigrated to Sweden were returning Swedish citi-

'They told me I did not deserve to stay in Sweden'

For Iraqi refugees fleeing the current conflict, arrival in Sweden can seem like the start of a new life. But many are finding that their difficult journey to the country only ends in official rejection and the risk of being returned. For Iraqis from minority religious and ethnic communities, this is particularly difficult to face. Zeena*, an Iraqi Christian mother of three, tells Suzan Ayyildiz about her experiences.

Since the US-led invasion of Iraq in 2003, many Iraqis fear for their safety on a daily basis. Minority groups, such as Chaldo-Assyrians, suffer in particular. They and their places of work and worship are physically targeted by extremist groups in an attempt to make them convert or leave their homes. This constant threat to their security has led many members of minority groups to flee the country in search of a new beginning.

In October 2009, the UNHCR reported that the number of asylum-seekers originating from Iraq has consistently been the highest for the last four years, with 13,200 Iraqis making claims in the first half of 2009 alone. The majority of the claims made by Iraqis in the last four years were made to Germany, the Netherlands and Sweden. Sweden has been a popular destination for Assyrians in particular, as there is an existing Chaldo-Assyrian community there.

However, there has been a sharp decline in asylum claims to Sweden since 2007, when a migration court ruled, 'that the situation in Iraq was not one of "armed conflict"'. The implication of the above ruling is that many of these refugees may now be turned away, even though conditions

in Iraq continue to be dangerous for minority groups.

Zeena, a 44-year-old Assyrian woman, and her three children, aged 17, 15 and 9, have been in Sweden since December 2007 waiting for their appeal to be accepted. All they have had is rejection. Zeena said the response to her appeal states that Iraq is a safe country and that she and her family do not need to stay in Sweden.

But Zeena's experiences in Iraq have been far from safe. Before leaving the country, Zeena's family faced daily bomb threats and her husband, who is still in Iraq, has been threatened by gunmen. Like many other minority communities in the country they were forced to stay at home and not go to work or, as a final choice, to leave the country. After she and her family decided to make a new start, they initially went to Syria and stayed there for two months.

Of Sweden she says: '[I] hoped this would be a place where there is no worry about safety.' However, arriving in the country was only the first step. Now, Zeena has to deal with the complications of her claim to gain her legal status. She says, '[The authorities] told me that I did not deserve to stay in Sweden.' But for her there is no other option. Sweden is where she and her children are finally beginning to feel safe.

Many appeals are rejected but people want to keep their hopes up, as Zeena has done so far. She says that she will renew her appeal as returning to Iraq is not an option. 'Nobody threatens us here; we are part of the society but only not legally,' she adds. She and her children feel free to participate in social activities in Sweden. Her children can go to school and she can go out to meet with her friends or see her lawyer, although there is always doubt about being deported.

There are many stories like Zeena's; despite the tougher laws, asylum-seekers from Iraq continue to seek refuge in Sweden, the rest of Europe and worldwide. Many will face being returned; but, particularly for those from minority communities, it is a ruling that seems impossible to follow. ■

*Names have been changed to protect identities

Edited by Rahnuma Hassan

zens (3,857), followed by Iraqis (2,451) and Somalis (1,305), who are the largest African community in Sweden (about 25,159 people). According to a 2005 report submitted to the OSCE by the International Helsinki Federation for Human Rights, Sweden has the largest number of Roma in the Nordic countries with about 50,000 Roma living there. There are numerous religious communities in the country; their numbers are estimated on the basis of statistics submitted by religious organizations as the government does not register the religion of citizens. Approximately 5 per cent (450,000–500,000) of the population is Muslim; the Jewish community estimates that among Sweden's 20,000 Jewish people there are 8,000 practising members. As stated by USCIRF 2009, religious education covering all major world religions is compulsory in public schools and a government authority was established in 2003 to promote the protection of human rights and the values of tolerance and democracy.

Religious and ethnic discrimination continues to be a concern, however. Swedish members of ENAR reported that individuals originally from Middle East and Africa are subject to greater levels of racism and discrimination. Roma also face widespread discrimination.

In August 2009, MRG raised concerns about the practice of Swedish authorities of forcing Roma to return to Kosovo, where they face discrimination and other violations of their human rights. MRG warned that:

'Sweden should ensure that before it returns Kosovo Roma, circumstances are created which allow them to live in dignity and without discrimination ... most are placed on planes without any aid and dropped at the airport in Kosovo without any support in terms of housing, employment or health care.'

AI also criticized Sweden for the treatment of asylum-seekers from Iraq. In its 2009 country report, AI cited the UN Committee Against Torture (CAT), which raised serious concerns about the practice of Swedish authorities of keeping asylum-seekers in detention before deportation without any time-limits set by law. According to the report, most new applications for asylum were rejected by the Migration Board on the grounds that there was no internal armed conflict in Iraq. In February 2008, an agreement was reached by Sweden and

Iraq, whereby rejected asylum-seekers could be forcibly returned to Iraq. Prior to this, only Iraqi nationals who agreed to be returned were accepted by the Iraqi authorities. Those returned go back to an uncertain future. MRG's 2009 report on Iraq's uprooted minorities cited an August 2009 Swedish Radio News investigation which revealed that Iraqi Christians whose asylum applications had been rejected by the Swedish government and who have been forcibly or voluntarily returned to Baghdad, are once more fleeing the country. Out of 25 interviewed for the programme, including seven children, 'all but one are now on the run again from widespread persecution in Iraq'.

Despite the establishment of a hate crime unit by the Stockholm County police to train police officers to detect and inform the public of hate crimes, and its subsequent expanded role to cover the whole country in 2009, racism within the police caused a major uproar in Sweden. Police officers were caught on video using racist insults during a riot in an ethnically mixed neighbourhood in Malmö and some 50 officials adopted racist names while role-playing criminals and suspects during a training exercise. The police chief subsequently promised an independent inquiry into racism within the police.

Meanwhile the leader of the far-right Sweden Democrats openly argues against Muslims in the country, saying that 'Islam is Sweden's biggest threat' since the Second World War. Jurists believe that the text, which appeared in the opinion section of the *Aftonbladet* newspaper in October 2009, qualifies as hate speech and agitation against an ethnic group. But Chancellor of Justice Göran Lambertz said he was not considering launching an investigation into whether the article violates Swedish rules governing freedom of expression. The party, founded in 1988, argues that Sweden should remain a homogeneous society by drastically cutting the numbers of immigrants. It has recently made gains in local elections and there are fears that it may win a seat in the national parliament in the 2010 national elections.

Turkey Contributed by Nurcan Kaya

In 2009, Turkish state policy on minorities began to be discussed openly for the first time in the history of the Republic. At a congress that took place on 23 May 2009, Prime Minister Erdoğan stated,

'Many things were done in this country for years. People from different ethnic backgrounds were expelled. This was the result of a fascist approach.' Government representatives organized workshops with representatives of Roma NGOs, Alevi NGOs and non-Muslim minorities, which were welcomed by some but criticized for not resulting in any concrete progress.

The 'Ergenekon case' (concerning suspects accused of involvement in an alleged military coup in October 2008) continued in 2009. It saw the accused brought before the courts for the first time. A military-backed strategy aimed at reducing public support for the ruling Justice and Development Party (AKP) and reportedly drafted in April 2009, was disclosed by daily newspaper *Taraf* in June 2009. Likewise, the 'Cage Operation Action Plan', allegedly drawn up in March 2009 to target, harass and attack non-Muslim minorities, and mentioning the killings of three Zirve Publishing staff, the 2007 murder of journalist Hrant Dink and the 2006 murder of Father Santoro, a Catholic priest, was also published by *Taraf* in November 2009. The plan apparently sought to blame the AKP for those deaths, Turkish media reported, and was meant to garner support for the suspects in the Ergenekon case.

In addition to killings of non-Muslims since 2007, the accused in the Ergenekon case are reportedly linked to various extra-judicial killings that took place in the 1990s in south-eastern Turkey. While a section of Turkish society and intellectuals has been supporting the prosecution of these acts, in the hope that Turkey will face its past and make a fresh start that will ensure equal treatment of all citizens, the military, nationalists, republicans and the main opposition party have been strongly critical.

Another important positive development was the 'Democracy Opening', which was initially called the 'Kurdish Opening'. Announced by the Minister of the Interior in July 2009, it aimed to bring about equality for all citizens, including Kurds, Alevis, Roma and non-Muslim minorities. The Minister of the Interior met journalists, NGO staff and representatives of different sections of society in August 2009 to discuss finding a peaceful solution to the Kurdish question. Later, the minister briefly shared the contents of these talks in a speech before parliament on 13 November 2009. As with the Ergenekon case, the opposition and nationalists accused the government of betraying the state.

While the minister's opening was welcomed by the pro-Kurdish Democratic Society Party (DTP), many Kurds and intellectuals, it was criticized by others for being unclear. Moreover, the initiative was followed by various developments that did not fit with its stated aims. The DTP was closed down, 37 party members were banned from political activities and two MPs were removed from office following a decision by the Constitutional Court in December 2009. Soon after, many members of the DTP, including some mayors, were detained following accusations that they were members of the banned Kurdistan Workers' Party (PKK) or the Kurdistan Communities Union (KCK), which is alleged to be the urban arm of the PKK.

Despite the government's initiatives, no concrete progress was achieved during 2009 regarding the treatment of minorities. The government remains reluctant to review constitutional provisions. Ethnic minorities, including Caucasians, Kurds, Laz and Roma, are not recognized as minorities and are therefore not fully guaranteed a number of rights or services, including access to media in their own languages and mother tongue education or training.

In 2009, several racist attacks against Kurds and Kurdish politicians took place. Some human rights organizations, such as the Contemporary Jurists' Association, criticized public officials for not taking effective measures to prevent these attacks or conduct proper investigations. The military still has influence on the country's political discourse as well as on its judiciary, and there is a separate judiciary for members of the military services.

Religious minorities

Changes are needed to Turkey's policies and legal and administrative mechanisms regarding the treatment of religious minorities. The government still refers only to the 1923 Treaty of Lausanne, which, while guaranteeing specific rights to non-Muslim minorities, has not kept up with developments in international human rights standards. Moreover, Turkey continues to violate the Treaty of Lausanne by applying it only to Armenians, Rums (members of the Eastern Orthodox community) and Jews. This leaves other non-Muslim groups, such as Assyrians, Baha'is, Chaldeans, Protestants and Yezidis outside the scope of the Treaty. Furthermore, Turkey has limited the property and



Left: A Kurdish nomadic family sit outside a cave where people lived until forced to settle by the government. *Carolyn Drake/Panos.*

their problems and possible solutions for the first time. Bianet, an online news agency, reported in November 2009 that these workshops were criticized by some Alevis for not being sufficiently concrete in finding any solutions. Alevi NGOs organized a conference in November 2009 to demand equal treatment, including the removal of the compulsory classes from the school curriculum and the official recognition of Cemevis as places of worship.

The very small Jewish community in Turkey, comprising approximately 23,000 people, is facing increasing discrimination. According to a 2008 Pew survey on European attitudes toward Jews and Muslims, 76 per cent of respondents in Turkey had a negative view of Jews, compared to 49 per cent in 2004. A 2009 study on radicalism by Yilmaz Esmer, a professor at Bahçesehir University, showed that 64 per cent of Turks in 34 cities stated that they do not want Jewish neighbours. In response, the community has initiated an outreach programme. For example, Chief Rabbi Ishak Haleva is conducting inter-faith prayer services at the Neve Shalom synagogue in Istanbul, the site of previous extremist attacks, including a car-bombing in 2003 that left more than a dozen people dead and many injured.

Timur Topuz, President of the Board of the Istanbul Protestant Churches Foundation estimates that there are 5,000 Protestant Christians in Turkey. Although the Law on Constructions (Law no. 3194) allows new churches to be built and opened, Protestants report that they face bureaucratic obstacles when seeking recognition from municipalities. According to the regulations, places of worship need to be at least 2,500 square meters – a requirement which is almost impossible to meet. However, the Istanbul Protestant Church did gain legal status, despite not meeting this requirement. Protestant churches also have problems when setting up non-profit foundations. According to Topuz, their foundation is the only one that is officially recognized. Although missionary activities are legal in Turkey, prejudice and harassment are common against Protestants. They receive threats by email, phone or post; mostly these are not properly investigated and judicial proceedings are slow. Another problem is that non-Turkish citizen Protestants are not allowed

to volunteer at their churches. According to Topuz, American, British and German volunteers in Izmit were expelled on the basis of not having work permits, although they were volunteering at their church. ■

education rights of Armenians and Rums, in violation of the Treaty.

The Law on Foundations (Law no. 5555) that entered into force in February 2008 allows non-Muslim foundations to apply to recover properties seized by the state in the 1970s, but only if they are still in the hands of the state. According to the European Commission's 2009 *Turkey Progress Report*, 1,393 applications were lodged by non-Muslim foundations to recover their properties before the deadline of August 2009. The law does not guarantee the return of, or compensation for properties belonging to non-Muslim foundations that were seized and sold to third parties.

Discrimination and racist attitudes towards non-Muslim minorities are widespread. The cases brought against the accused of the racially motivated murders of the Armenian journalist and human rights activist Hrant Dink and the Christian staff

of the Zirve Publishing House in Malatya are still pending. The police officers, who were accused of negligence for failing to protect Dink despite having received intelligence that his murder was being planned, remain in their posts. No case was brought against them in 2009 despite attempts by human rights lawyers.

Alevis are still not acknowledged as a diverse group, different from Sunni-Muslims. Their places of worship, 'Cemevis', are not recognized by authorities. Alevi children are obliged to attend compulsory 'religious culture and ethics' classes which focus on Sunni Islam, despite the ECtHR's ruling in *Hasan and Eylem Zengin vs. Turkey*, issued on 9 October 2007, which found that the classes violated the Alevi children's right to education under Article 2 of the first Protocol to the ECHR.

Beginning in June 2009, government representatives organized workshops with Alevis to discuss