



## Policy Brief

# genderace

**The use of racial anti-discrimination laws**

**N° 3**

Gender and citizenship in a multicultural context

September 2009

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## Studying racial discrimination complaints: A gender perspective

WP4 has been designed to analyse data sources on racial discrimination complaints and case law studies within a gender perspective. This data has been collected from equality bodies, local anti-discrimination offices and NGOs in the six countries participating in the research.

Our objectives for this workpackage have been firstly, to achieve a better understanding of the impact of gender on the experience of racial discrimination and also on the use of the legal administrative instruments. Our second goal has been to obtain a better understanding of how gender influences the way in which complaints are processed and the extent to which gender may be significant within methods adopted in settling disputes.

The first section of the WP4 report focuses on the construction of the sample and issues of conducting international research. Here, the availability and coverage of comparable statistical data has been a key factor as the project has recognised the substantial differences in collection methods between national contexts. These variations exist not only in terms of motivations for data collection or

in criteria and categories used, but also in the particular methods of collection themselves. Privacy protection laws have meant that access to the data has been restricted in all countries with the exception of Sweden where transfer of data was well facilitated for the researchers.

The sample comprises 864 cases with a greater incidence of those concerning women (429 compared to 392 men). It clearly reveals that those who use legal resources to address discrimination primarily consist of individuals of foreign origin who have a high level of education and who hold steady employment.

### **The impact of gender on the experience of discrimination**

An initial hypothesis of our investigation was that complainants would experience different types of discrimination depending on their gender. The findings have largely confirmed this:

**Although men and women principally lodge complaints concerning employment, they can also experience different types of discrimination in other sectors:**

Women are subject to discrimination mostly in the field of access to goods and public services, and also in relation to education and housing;

Men most often experience discrimination from the law enforcement and judiciary systems as well as racism concerning access to goods and private services, particularly in relation to recreational activities.

These distinctions between men and women may be seen to reflect gender-based divisions of labour as it can be argued that women must take responsibility for the welfare of their families by a higher utilisation of public services.

Variations may also result from constructions of differentiated and gender-based representations of foreign men and women or those who are assumed to be foreign. These attitudes may be such that men, (especially young men of Muslim and/or African descent) are more likely to be regarded as dangerous or violent, whereas women are more generally viewed within the role of victim.

Our results have shown that two types of population are particularly exposed to discrimination against both men and women: the Roma, particularly in Bulgaria and Spain and Muslim communities.

We have also found that most frequently, perpetrators of discriminatory acts are employers or direct superiors within the private and public sectors.

Thus, we can see that relations of power/domination based on a person's origin may go hand in hand with relations of power based on gender.

We have seen quite clearly that this is the case in Spain, where employers are

usually men, and where women experience more discrimination.

We have also observed that even in those cases where the superior is a woman, there still exists a greater tendency for discrimination towards women to occur (France, Spain, Sweden).

## **Multiple discrimination**

In WP4, we have conducted an examination of how institutions process cases of discrimination. In doing so, we have discovered a low number of complaints based on multiple discrimination.

This can be explained firstly by the fact that legislative frameworks may prohibit legal remedy procedures for cases involving more than one ground, as is the case in Spain.

Distinct anti-discrimination laws for each ground may also preclude the citing of multiple forms of discrimination within files.

Additionally, organisations which receive and process complaints may be accustomed to working on the basis of treating a single ground of discrimination and thus tend to favour this. This may be seen in terms that the ground selected is that which the most evidence can be collected on.

Some anti-discrimination bodies comprise separate services for different forms of discrimination. This division of competencies makes it difficult to process cases multi-dimensionally.

However, even when single bodies may competently treat of many forms of discrimination, they may not necessarily take multiple discrimination into account.

## Reactions to discrimination: using the resources

Both female and male complainants frequently consult equality bodies even when these organisations are relatively recently established, as we can see in France and Bulgaria.

**However, greater numbers of men than women lodge complaints based on ethnic origin and "race"** even if deeper analysis reveals differences according to sector or community, which is the case amongst Roma.

Moreover, a correlation can be determined between a person's educational level and their likelihood to pursue legal proceedings after experiencing discrimination, especially amongst women.

We have noted that women have more difficulty recognising or articulating the nature of discrimination that they may experience. This is especially so as regards to gender discrimination, and there is a tendency for women to identify ethnic origin over gender as the primary ground.

Finally, complainants with a more stable legal status, such as full citizenship or a long-term resident visa, reveal a greater tendency to lodge complaints. This is the case in Spain, especially for European men and Roma women.

**Looking at women, those who are non-citizens and/or of foreign origin lodge fewer gender-based complaints.** This is the case in the UK where those who lodge complaints are primarily *white*. Likewise, in Bulgaria we see that women belonging to a minority group do not seem to lodge gender-based complaints.

This may reflect a lack of support from organisations such as trade unions in cases of racial and/or gender-related discrimination. In addition, women's

organisations are usually highly focused on political action, often failing to provide legal support to assist complaints by women, as is the case in Spain and France. While support for complaints is provided to women who are victims of domestic violence, as in Bulgaria, it remains that they generally only support cases of gender discrimination but not of racial/ethnic discrimination as we find to be the case in Germany.

**The Roma community, in both Spain and Bulgaria** appear very active in defence of their rights, men and women alike. In Spain, Roma women are even more active than men.

## Processing the complaint

Methods used in the settlement of disputes have been analysed within a gender perspective to examine whether the gender of complainants impacts on the treatment of complaints or solutions proposed.

Our findings show that Gender has little impact on the processing of complaints, of which the majority are handled through mediation and/or recommendations and only very rarely through legal remedy in all the countries.

However, we have observed possible differences between men and women in the two countries in which anti-discrimination laws are most established.

Firstly, In Sweden, we can point to the example of employment to see that anti-discrimination organisations redirect complaints by men to unions more often than complaints by women. Secondly, in the United Kingdom, cases brought to the employment tribunal are more often settled through an agreement between the involved parties when the complainants are women, as men are more likely to follow the judicial process to its full conclusion.

## Policy recommendations

Our analysis of complaints data has revealed many shortcomings of complaint registration systems as well as a lack of information among certain social actors within these processes. Moreover, we can see that complainants often experience difficulties in identifying the nature of discrimination suffered.

### Systems of data collection must be improved through:

- Standardisation of collection methods at national levels so as to allow for better identification of groups which are discriminated against. This includes the contexts in which discrimination occurs and the circumstances that often lead to experiences of discrimination;
- Higher visibility for multiple discrimination through a complaint encoding system, including the possibility of lodging a complaint on several grounds of discrimination, on the one hand, or in several sectors and committed by different persons, on the other.

### Understandings of phenomena of discrimination, including that of multiple discrimination, should be better facilitated through:

- The publication of complaint statistics (analysis of grounds, sectors of occurrence, types of discrimination from a gender perspective) in the annual activity reports of equality bodies;
- Easier access to data for researchers by the anonymisation of complaints;
- The introduction of socio-demographic data on complainants in complaint registration systems to identify sub-groups who are discriminated against and those who seldom or never lodge complaints. This may help to target non-discrimination policies more effectively.

- Means for provision of subjective information for complainants to describe the circumstances of discrimination which reflect their perception of events.

### The handling of complaints could be improved through:

- Development of an internal methodology allowing adequate treatment of cases of multiple discrimination, including dialogue between services where organisations have divided their tasks on the basis of the different grounds of discrimination covered.
- Implementation of collaboration protocols between racial and gender anti-discrimination bodies in cases where the institutions are distinct. This would include the harmonisation of encoding systems to encourage visibility of such cases at a cross-organisational level.

### Awareness and training actions on multiple discrimination (for detection, analysis and legal treatment) are most necessary for:

- Those groups most exposed to discrimination, to strengthen their exercise of rights, in particular by encouraging the creation of advocacy groups, especially amongst women;
- Women's organisations and trade unions, both of which have a very limited presence in several countries in the area of assistance with the lodging of complaints;
- Social intermediaries such as regional and local officials in direct contact with the public in the areas of integration, training and employment, to enable them to identify potential cases of multiple discrimination and to use legal instruments to prevent or remedy such cases;
- Law professionals (judges, lawyers, legal experts, etc.) so that they may develop specific defence methods.

## GendeRace Aims

Focusing specifically on "race", ethnic and gender discrimination, the project's objectives are:

- ❖ To deepen understanding of the impact of gender on the experience of racial/ethnic discrimination;
- ❖ To improve the knowledge of the combined effects of racial/ethnic and gender discrimination in order to reveal the various forms of specific discrimination that women experience;
- ❖ To deepen understanding of the impact of gender on the treatment of complaints;
- ❖ To improve knowledge of the motivations underlying the use of the law and of the expectations of the complainants;
- ❖ To test key theories concerning the

### GendeRace project website launched

The GendeRace project has launched its new website at:

<http://genderace.ulb.ac.be>

The site explains the aims of the research and shows the work of the project so far

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ground specific approach to antidiscrimination legislation on the treatment of double discrimination based on "race"/ethnicity and gender;

- ❖ To develop practical tools to assess the effectiveness of policies and practices in the field of antidiscrimination in order to take into account the intersectional dimension of discrimination.

## GendeRace Partners

The GendeRace project is being carried out by a partnership of research team in 6 European member states, co-ordinated by the Université Libre de Bruxelles (ULB) and the University of Barcelona (UB).

### Contact Details

*For more information about the project, or to be added to the GendeRace project mailing list, contact:*

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The other partners are: the Social Policy Research Centre (SPRC) of Middlesex University in the UK; the Centre for Technology and Society at the Technical University of Berlin (TUB); The Kalmar University in Sweden and the Centre for Minority Studies and intercultural Relations (IMIR) in Bulgaria.

## Dissemination activities

The Genderace Project was presented at the **Second European Conference on Multidimensional Equality Law** which took place in Leeds in March 2009 and in **IMISCOE in Stockholm** (workshop C9 the multilevel governance of immigrant and immigration policy).

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In France, the GENDERACE team participated to a workshop organised by **GEMMA** (Paris, 22 September 2009). GEMMA is a project carried out by 5 European organizations with the support and collaboration of the European Commission. It aims at improving access to synthesized EC-funded Gender and Migration research results and related policy recommendations for policy-makers and civil society organizations at national level.

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The UB team are pleased to announce the upcoming conference organised by GRECS (Research Group on Exclusion and Social Control). This will be held in Barcelona 19-20<sup>th</sup> November, and the UB joint coordinators will be chairing a session on Intersectionality and Genderace on November 20<sup>th</sup> with participation by the UB Genderace team, a representative of the FSG (The Fundación Secretariado Gitano), Spain's primary Roma organisation, and the sociologist Megan Comfort (University of San Francisco, California). The conference, entitled 'Els Fantasmes de l'Exclusió', or 'Spectres of Exclusion' will encompass a range of lectures and discussions on topics such as gender, migration, and public space with a number of key experts in these fields including a session by the French

sociologist, Loïc Waquant. We take this opportunity to extend an invitation to all members of the Genderace team that may wish to attend. Following the conference, a brief report will be provided in the forthcoming Policy Brief (no. 4).

In addition, the GENDERACE project was discussed by a member of the University of Barcelona at the International Congress of Anthropology organised by the Associação Portuguesa de Antropologia in Lisbon, August 2009.

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The GendeRace British Team presented the GendeRace project at the University of Utrecht in Holland. The Team was invited by the Vereniging voor Vrouw en Recht, a Dutch organisation aiming to improve the position of women and to provide a network for female lawyers. The organisation consists of practitioners as well as academics and counts a number of lawyers working for the Dutch Equal Treatment Commission amongst its members.

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In Germany, the GendeRace Project was presented in the Workshop *Discrimination and Diversity in the Public Authorities* at INTICITIES Conference in Berlin ("Integrating Cities: Embracing Diversity Achieving Equal Opportunities", April 2, 2009) and at the Humboldt University of Berlin (September) during a Meeting organised by three research projects funded by the EU.