



United Nations
Educational, Scientific and
Cultural Organization

UNESCO - SOCIAL AND HUMAN SCIENCES SECTOR



International Coalition of Cities against Racism

DISCUSSION PAPERS SERIES

Number 5

**Study on Challenges in the Development
of Local Equality Indicators – A human-rights-
centered model**

By

European Training and Research Centre
for Human Rights and Democracy
(Graz, Austria)



European Coalition of Cities against Racism

*Study on
Challenges in the Development of Local Equality
Indicators – A Human-Rights-Centred Model*

Commitment 2 of the Ten-Point Plan of Action



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A Human-Rights-Centred Model**

**Commitment 2 of the Ten-Point Plan of Action of the European Coalition of Cities
against Racism**

was carried out by:

European Training and Research Centre for Human Rights and Democracy, Graz, Austria

Written by Klaus Starl and Jennifer Pinno

With the assistance of Mira Nausner and Kathrin Schuster

The study was conducted in the framework of the Working Group on Indicators of the European Coalition of Cities against Racism (ECCAR).

The Working Group is composed of the cities of Botkyrka (Sweden), Graz (Austria), Madrid (Spain) and Potsdam (Germany) and their respective research institutes Cidalia Madrid, ETC Graz, Multicultural Centre Botkyrka, University of Potsdam as well as UNESCO and ECCAR e.V. It is coordinated by ETC Graz.

**Published by the United Nations Educational,
Scientific and Cultural Organisation
7, place de Fontenoy, 75352 Paris 07 SP, France:**

ISBN 978-92-3-104171-6 (revised version)

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Graphic design: UNESCO

Typeset: UNESCO

Printed by UNESCO

Printed in 2010

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Executive Summary

This study was commissioned by the Struggle against Discrimination and Racism Section of UNESCO's Social and Human Sciences Sector in the framework of Commitment 2 of the Ten-Point-Plan of Action of the European Coalition of Cities against Racism (ECCAR). ECCAR established a working group, which consists of cities and research institutes in order to develop a formal model of adequate indicators, the ECCAR Anti-Discrimination and Equality Index (ECCAR-ADIX).

The study aims at:

- Providing a theoretical fundament of ECCAR Indicators to measure racism or (in)equality¹ and to evaluate municipal anti-discrimination policies (framework concept), and
- Discussing related legal and practical issues such as legality and reliability of available 'ethnic' data (legal and practical preconditions)

in the context of ECCAR's endeavours to set up an ECCAR-wide applicable system of monitoring racism, discrimination, equality and respective municipal policies.

The study is structured in three parts. In the first part, preliminary questions concerning legality and practical feasibility of 'ethnic' data collection as a prerequisite for the development of and work with adequate indicators will be discussed. The second part deals with the conceptualization of human rights law as the constructing principle of ECCAR Indicators. It includes the discussion of the proposed model of the ECCAR-ADIX. The third part of the study describes practical examples of indicator use in selected ECCAR member cities. The section shows various approaches and gives evidence on different attempts by municipalities to set up fact-based anti-racism policies but also highlights the variety of methods, data, measurement topics, goals, etc.

The examination of the legal provisions at international, regional and national levels with respect to 'ethnic' data collection shows that under international human rights law it can be understood to be the duty of the states to fulfil human rights law. However, strong safeguards are required. The National law in seven selected countries allows for 'ethnic' data collection under the requirement of explicit consent by the data subject and statistical data processing, and for pursuing a legitimate aim, which is deemed to be the case once it serves the fulfilment of human rights. The study also examines the opinion of representatives of vulnerable groups and comes to the conclusion that their opinion generally complies with the opinion of the international organizations.

Even though the legal conditions for developing ECCAR indicators are fulfilled, there are a couple of obstacles to overcome in order to establish an adequate system at the municipal level. Firstly, technical questions of modelling and data gathering need to be resolved. Secondly, the diversity of ECCAR member cities in respect to size, composition of population, competencies and other parameters needs to be 'harmonized' for the model.

¹ What term exactly will be used by the participating member cities will be used is up to the political context and discussion. For some reasons, measuring racism may sound too harsh, some cities are more interested in measuring equality rather than inequality. In our context these are only labeling questions. In the context of Art. 1 ICERD we use these terms synonymously.

Thirdly, political reluctance has to be overcome and fourthly, the effort needs capacities and resources which are deemed to be scarce.

The second part introduces a human rights-centred approach for the construction of ECCAR indicators to measure racism or (in)equality and policy impact. The proposed model argues for operationalising Art. 1 of the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD), which serves as the conceptual framework of ECCAR-ADIX. The proposal encompasses three indicators in order to firstly, measure racism/equality, secondly, to assess the adequacy of the municipal policy and thirdly, to evaluate its impact on (factual) equality in the respective cities' society. ECCAR-ADIX therefore focuses on the four dimensions of racism: distinction, exclusion, restriction and preference in all public spheres – as stipulated in Art. 1 ICERD while measuring equality. Thus, ECCAR-ADIX focuses on the 10 Point Plan of Action of the ECCAR. With this concept municipal policies will be assessed in respect of their adequacy for improving equality. Finally, it will be evaluated whether the situation improved in practice and whether municipal policies were causal for the change.

The third part of the study then examines different approaches taken by selected cities whether they will fit into the concept of the human rights-centred ECCAR-ADIX. This part also gives an outlook on the further work to be done in order to set up the ECCAR-ADIX for all ECCAR member cities as a common reference concerning the commitment 2 of the 10 Point Plan of Action.

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A. Introduction

The call for equality of people is as old as the call for freedom. Despite all tensions between these two concepts, freedom and equality do condition each other. Both, freedom as well as equality are rooted in the human dignity. However, our societies still have major problems of guaranteeing equality in practice. Racism, xenophobia, ethnic intolerance and related discrimination are still widespread in Europe. Therefore, in the last decade all international organisations started to work on the question of measuring equality, on adequate data collections, on performance indicators and on all necessary tools in this respect.

It is a challenging task to allude to the concept of ‘race’ without referring too much to it and reinforcing stereotypes. In this study the notions of ‘ethnic identity’ and ‘ethnized/racialized groups’ are used to describe the self-determined and heteronymous identities rather than granting existence of supposedly racial categories.

This paper introduces a conceptual framework on equality indicators. With this framework, we are breaking new ground while using previous findings, particularly from the Council of Europe² and the European Union³. The major features of the ECCAR-ADIX model are:

1. it operationalises human rights law;
2. it measures (in)equality at local/municipal level;
3. it assesses the municipal anti-discrimination policy performance and its impact on the situation in the city;
4. it is modelled to be open to various data according to availability disaggregated by ‘ethnic’ identity or racialisation.

In 2004 UNESCO launched the European Coalition of Cities against Racism (ECCAR) with the overall objective to involve cities and municipalities in the struggle against racism and all forms of discrimination. At the heart of the initiative is a Ten-Point Plan of Action (10PPA)⁴, which proposes ten commitments and corresponding concrete examples of action to be implemented by member cities. The main goals outlined therein concern:

- **prevention and positive action** including awareness raising and educating in mutual tolerance, creating respect of cultural diversity, promoting intercultural dialogue, peaceful coexistence, human rights and democratic citizenship;
- **monitoring and vigilance** including collecting data and developing relevant indicators in order to assess discriminatory situations and policy impact;
- **empowerment and support** of victims in their efforts in affirming, organising and defending themselves;
- **mediation** including arbitration, explanation, awareness raising and reconciliation;
- **punishment** including reinforcing administrative and judicial mechanisms and uncompromisingly prosecuting racist acts.

² *Council of Europe*, Concerted Development of Social Cohesion Indicators – Methodological Guide, Strasbourg 2005.

³ *European Commission*, The fight against discrimination and the promotion of equality – How to measure the progress done? Brussels 2008.

⁴ Every ECCAR member city commits itself to adopt a 10PPA to respond to the individual challenges it faces. The overall model of the 10PPA is available at UNESCO’s website: www.unesco.org/shs/citiesagainstracism.

The ultimate objective of each member city is to design, pass, implement and evaluate its own Ten-Point Plan of Action according to its specific local situation, which would allow for the achievement of the aforementioned goals. In 2009, around 100 European cities⁵ are members of ECCAR.

Already in 2006, the ECCAR, with support and under the coordination of UNESCO, started its efforts to establish a common framework for assessing the local situation with respect to racism and equality, as well as for the evaluation of the respective policies, their success and impact on individuals and society. This work is to be understood as a work still in progress. Some challenges could be met, some problems resolved and some obstacles overcome. However, a number of crucial questions remain open. This paper and the discussion present the current achievements, but more importantly, it addresses plenty of scientific, technical and political questions.

A few important milestones of the project are to be mentioned. In the framework of the UNESCO Coalition of Cities Discussion Paper Series, a study on the construction and use of indicators at municipal level was commissioned to the Canadian Centre for Research on Immigration, Ethnicity and Citizenship (CRIEC)⁶ in 2005. Furthermore, in 2007 the University of Liège (ULG, Belgium) was assigned by UNESCO to further develop a framework to measure racism at municipal level which could be implemented in practice. For this purpose, ULG, in cooperation with ECCAR, UNESCO and the City of Liège, organized a seminar for the exchange of the state of the art in this respect of academics, local politicians and authorities as well as regional bodies and organizations as the EU Fundamental Rights Agency or OSCE in May 2008. A report was compiled which gives an overview on definitions, data collection and analysis methods, examples of indicator use by ECCAR member cities and includes a discussion on a possible set of indicators. At the ECCAR Annual conference in Bologna (Italy) in September 2008 cities presented examples of indicator use and data collection. UNESCO, ULG and the ETC Graz presented a preliminary feasibility study in respect to legality and methodology of appropriate data collection and the ETC Graz presented the results of a small survey on the expectations of politicians and public officials from such enterprises.⁷

The geographical range of ECCAR is the Council of Europe area. This brings the advantage of a common legal basis with respect to human rights and additionally, to the UN regulations, namely the European Convention of Fundamental Rights and Freedoms (ECHR) and the European Social Charter (ESC). One of the major preliminary questions in respect of measuring racism or equality is the question of the legality of collecting sensitive data with reference to privacy and data protection as a precondition of indicating (in)equality. Therefore, this paper clarifies in advance the position of the intergovernmental organizations and then scrutinizes whether selected national legal systems allow for it and if, under what conditions. Our answer will be a 'yes' under certain conditions which must be fulfilled in accordance with international law, i.e. a given consent by the data subject and the justification with a legitimate aim. The latter is deemed to be given for the purpose of the ECCAR-ADIX in accordance with UN ICERD.

⁵ Ibid for the current list of member cities.

⁶ *Icart, Labelle, Antonius, CRIEC ed.*, Indicators for evaluating municipal policies aimed at fighting racism and discrimination, February 2005, available online at: <http://unesdoc.unesco.org/images/0014/001496/149624E.pdf> (19.06.2009).

⁷ The documents are accessible through: http://www.comune.bologna.it/ECCAR/index.php?option=com_content&task=view&id=70&Itemid=87 (26.10.2009).

The next two chapters deal with questions of reliability and feasibility. How reliable can an indicator take into account limits of accessibility and availability of data? How to indicate on ethnic identity or ‘ethnicization’ when there is no direct reference made in official registration data? Even more basic: what is ‘ethnic’ data, how can it be defined? Which methods have to be applied in order to get reliable data? Several proposals were made; however, a final decision could not be taken so far. Most probably, there will be employed a mix of methods using different data sources depending on purpose, topic and accessibility. A whole range of questions is related to the feasibility chapter. Certainly, the imperative is keeping it simple without simplifying. Simple indicators are attractive but bear two important risks. Firstly, they might be too attractive in the sense that policy will target only indicators and secondly, they risk being meaningless. Besides the question of construction, there exist major concerns on availability and accessibility of adequate data. These technical issues may be overcome, however, is it likely that cities all over Europe can cope with this challenge? Furthermore, there is always the Damocles’ sword of lacking resources of capacities and financial means. Also it is difficult for smaller cities to have access to experts’ knowledge for processing and evaluating statistical data. Furthermore, the political will and commitment should not be underestimated as an important parameter of success or failure. A small survey among ECCAR member cities on their experience and expectations, as well as on their opinion on the feasibility of implementation of the ECCAR-ADIX project revealed that there is not too much consent except that indicators are deemed to be useful. There might be major objection of politicians in using such a tool – an interesting finding!

Considering the diversity and the multitude of participating cities in respect to size, cultural heritage, legal system, number and diversity of their inhabitants, the ECCAR-ADIX project aims at searching for a meaningful, non-rigid and flexible, but standardized model which can be applied according to capacity and resources, as well as according to local specificities. As ECCAR is a human rights project it was obvious to choose a human rights related approach. The innovation of ECCAR-ADIX is its operationalization of Art. 1 ICERD, which serves as the common reference. In a three-phases-evaluation cycle ECCAR-ADIX is constructed in order to

1. measure distinction, restriction, exclusion or preference in the participation of people in all areas of public life at a certain place and moment,
2. assess adequacy of respective policies using the ECCAR Ten-Point Plan of Action, and
3. evaluate the impact of policy.

The ECCAR-ADIX model builds the core part of this paper. We will discuss how ECCAR-ADIX is constructed, why it is meaningful, objective and necessary and what the added value might be.

B. Preliminary questions concerning the legality, feasibility and reliability of collecting and processing ethnic data

I. State of the art on the collection of sensitive data: United Nations, OSCE, Council of Europe, European Union

I.I. Usefulness of ethnic data collection

First of all, there is a **general consensus** among the UN, the OSCE, the Council of Europe, and the European Union about the collection of ethnic data being useful to give an insight on the current situation of racism, discrimination and inequality within a state, due to the fact that ethnic data can be used to measure equality and social inclusion, to facilitate evidence-planned policy-making and to measure policy impact.

At international level, the **Committee on the Elimination of Racial Discrimination (CERD)** points out that State Parties to the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) are even under an *obligation* to report upon their legislation on non-citizens and its implementation, including socio-economic data on the non-citizen population within their jurisdiction. The data should be disaggregated by gender and national or ethnic origin.⁸ Furthermore, State Parties are asked to include some indication in their ICERD-specific document to be submitted under Art. 9 ICERD of the number of persons – whether they are nationals or non-nationals – who might be treated less favourably on the basis of the characteristics like ‘race’, colour, descent or national or ethnic origin, in order to be able to monitor the progress in eliminating discrimination.⁹ States that do not collect information on these characteristics in their censuses are therefore requested to provide information on mother tongues, languages commonly spoken, or other indicators of ethnic diversity, together with any information about race, colour, descent, or national or ethnic origin derived from social surveys.

The **Organisation for Security and Co-operation in Europe (OSCE)** points out that the collection of ‘ethnic’ data is a sensitive and controversial issue. However, states should not avoid this issue, since it will not be possible for states to monitor whether actions taken to combat all forms of discrimination are having the desired effect without such data.¹⁰

The **Council of Europe** acknowledges that collecting data will assist in assessing and evaluating the situation and experiences of groups which are particularly vulnerable to racism, xenophobia, anti-Semitism and intolerance. Furthermore, the collection of ‘ethnic’ data

⁸ *United Nations*, CERD General Recommendation No. 30 on Discrimination against Non-citizens, 17 November 2004 (CERD/C/64/Misc.11/rev.3), point 1 (5), available online at: <http://www.legislationline.org/legislation.php?tid=11&lid=4300> (19.06.2009).

⁹ See *United Nations*, CERD Guidelines for the CERD-specific document to be submitted by State Parties under Article 9, paragraph 1, of the Convention, 13 June 2008 (CERD/C/2007/1), point 11.

¹⁰ *OSCE*, Decision No.10/7 Tolerance and Non-Discrimination: Promoting Mutual Respect and Understanding, MC.DEC/10/7, adopted on the Second day of the Fifteenth Meeting, MC(15) Journal No.2, Agenda item 8, p.2, available online at: http://www.osce.org/documents/mcs/2007/12/28629_en.pdf (03.04.2009); *OSCE*, Recommendations on Policing in Multi-Ethnic Societies, February 2006, p.13f, available online at: http://www.osce.org/documents/hcnm/2006/02/17982_en.pdf (03.04.2009).

contributes to the development and the effectiveness of the implementation of policies concerning these phenomena.¹¹

The **European Union** also recognizes the positive contributions of the collection of 'ethnic' data to evaluation and policy development. Additionally, it recognizes the use of 'ethnic' data in judicial processes as an empirical evidence of direct and indirect discrimination, the benefit of comparing 'ethnic' data to improve the monitoring functions of certain organisations and bodies, and also the awareness-raising function of 'ethnic' data regarding discussions on equality and discrimination.¹²

I.II. Concerns about the collection and processing of 'ethnic' data

Although there is a consensus on the usefulness of 'ethnic' data collection, there remain some **general concerns**, including the lack of a clear definition of the term 'ethnic data'¹³, the 'natural' risk of wrong data, the risk of unlawful or excessive use of the collection and the possibility of discrimination or stigmatization of specific (vulnerable) groups.

The **United Nations** are concerned that states are likely to use their power to make excessive exceptions – that is when such an exception is not necessary for the protection of national security, public order, public health or morality – which would lead to a departure from the principles of lawfulness and non-discrimination.¹⁴

Additionally, the **OSCE** expresses its concern by means of 'ethnic' data collection the rights of individuals, namely the right of protection of personal data and the right to self-identification (which is defined by the OSCE as every person's right to choose whether or not to be treated as belonging to a minority) may be violated.¹⁵

The **Council of Europe** is concerned about the danger of inadequate, irrelevant and excessive data collection in relation to the purpose for which they are stored. It is also claimed that there is a possibility that data will be obtained and processed in an unfair and unlawful way, and stored for illegitimate purposes.¹⁶

The **European Union** shares this concerns, and recognizes further the danger resulting from insufficient safety of personal data transmissions and the danger of violation of fundamental rights and freedoms of natural persons, in particular their right to privacy, as a result of data processing.¹⁷

¹¹ *ECRI*, General Policy Recommendation No.1 on combating Racism, Xenophobia, Anti-Semitism and Intolerance, adopted by ECRI on 4 October 1996 (CRI(96)43 rev.), p.6, available online at:

http://www.coe.int/t/dghl/monitoring/ecri/activities/GPR/EN/Recommendation_N1/Rec01en.pdf
(03.04.2009)

¹² *European Commission*, European Handbook on equality data: Why and how to build to a national knowledge base on equality and discrimination on the grounds of racial and ethnic origin, religion and belief, disability, age and sexual orientation, November 2006, p.7, available online at:

http://ec.europa.eu/employment_social/publications/2007/ke7606381_en.pdf
(03.04.2009).

¹³ See also chapter II.I .

¹⁴ *United Nations*, Guideline 45/95, principle 6.

¹⁵ *OSCE*, Recommendations on Policing, p.13f.

¹⁶ *Council of Europe*, Convention 1981, Art. 5.

¹⁷ Directive 95/46/EC, Preamble 9 and Art. 7-10.

I.III. Opinions of organisations representing vulnerable groups

After having examined in detail the opinions of international, governmental organisations and having learnt that all of them welcome statistical data on (in)equality, discrimination and ethnic difference, we will take a look at the opinions of two important non-governmental organisations or networks in the field, the European Roma Rights Center (ERRC) and the European Network against Racism (ENAR). These two institutions reflect the opinion of more than 600 non-governmental organisations fighting all forms of racism at all levels.

The **ERRC** published a position paper in 2004 in the context of the transposition of the EU Directive on the fight of racist discrimination¹⁸ into national law:

‘Over the last six-seven years, the European Roma Rights Centre has been among the most consistent advocates of collecting ethnic data for purposes of fighting racism and discrimination and for drafting viable equality programmes. Our position has been initially developed in the context of implementing anti-discrimination law to benefit the members of the most disadvantaged groups in European societies. More recently, as part of accession obligations, governments of European Union candidate countries worked with the Employment and Social Affairs Directorate of the European Commission on Joint Inclusion Memoranda, to be followed by National Action Plans. In the process, the deficiency of reliable Roma-related statistics loomed large as a major obstacle to rights based policy of Roma inclusion. The ERRC addressed the issue in most of its advocacy interventions in this regard.’¹⁹

Dimitrina Petrova discussed the position with the conclusion that ‘ethnic’ statistics can be defined as a right as well as a duty in the defence of human rights and therefore, the ERRC calls for ethnic data collection: ‘FROM THE POINT OF VIEW of human rights defence, ethnic statistics can be defined as a component of:

- a) a right: the fundamental right to be free from racial discrimination should be interpreted as implying the right of the victim to obtain statistical data broken down by race/ethnicity, if such data would be critical evidence proving discrimination.
- b) a duty: the positive obligation of the government to ensure effective equality irrespective of race or ethnicity should be interpreted as including the collection, processing, analysis and use of impersonalised statistics disaggregated by ethnicity.’²⁰

Even though the ERRC states that in recent years, the need for statistics on Roma became even more acute, it critically remarks that:

‘A common defect of all these programmes is that they are not based on reliable demographic, labour, health, education and housing statistics broken down by ethnicity. The reasons for the miserable state of Roma-related data include:

1. *misperception that personal data protection laws prohibit the gathering of ethnic data;*
2. *failure to understand the strategic importance of ethnic monitoring for the fight against discrimination;*
3. *fear that ethnic statistics can be misused to harm the respondents;*

¹⁸ Directive 2000/43/EC.

¹⁹ *ECCR*, Roma Rights 2/2004: Ethnic Statistics of 30.7.2004, available online at: <http://www.errc.org/cikk.php?cikk=1998&archiv=1> (29.10.2009).

²⁰ *Petrova Dimitrina*, Ethnic Statistics, 2004, available online at: <http://www.errc.org/cikk.php?cikk=1935&archiv=1> (29.10.2009).

4. *weakness of political will of governments drafting programmes for Roma integration, lack of vision of genuine reform based on quantitative assessment of needs and readiness to allocate adequate resources;*
5. *fear in governments that they may be embarrassed if statistics reveal ugly corners in their societies;*
6. *methodological difficulty of the question: who should be counted as 'Roma', those who state their Romani ethnicity or a much larger group defined through external attribution;*
7. *methodological difficulty of dealing with the refusal of Roma to 'admit' their ethnic belonging - a refusal which differs widely across space and sub-ethnic identity.*²¹

The ERRC discussed the issue of 'ethnic' statistics from several viewpoints in its position paper. Andrei Ivanov and Susanne Milcher present the UNDP experience in assessing the development needs of Roma in Eastern Europe. Ferenc Babusik reveals the dilemmas that Hungarian sociology has been trying to solve when collecting data on Roma. Lilla Farkas looks at the issue from the prism of international law, revealing the paradoxical epistemological situation of knowing while not knowing the numbers of Roma. Sasha Barton comments on the British practice of ethnic monitoring and presents grounds for optimism even as it transpires that Gypsies and Travellers in the UK have not benefited from ethnic monitoring. Claude Cahn notes that the European Union has not yet provided meaningful guidance on 'ethnic' statistics.²²

The ENAR states that data disaggregated by ethnic categories will be necessary to fight hate crime as well as social exclusion, particularly poverty. In a conference on the fight against hate crimes in 2007 the ENAR stated:

*'In particular ENAR urges OSCE participating states to allow data collection concerning ethnicity/religion that can capture incidents of racist crime and violence against minorities and to establish or improve existing criminal justice data collection mechanisms for racist crime and violence in each EU member state.'*²³

In the context of fighting social exclusion during economic crisis ENAR states in 2009:

'Ethnic minority communities are amongst the groups most vulnerable to poverty and social exclusion across Europe and are often amongst those 'furthest' from the labour market, due to the additional barriers of discrimination and racism which they face. Gaps in data collection cannot hide the reality: ethnic minorities tend to have higher unemployment rates, lower occupational attainment and wages than the majority population.'

*In order to address this situation, disaggregated data on the social exclusion of ethnic and religious minorities must be collected. Data is key to developing precise and targeted policies to address the specific needs of ethnic and religious minorities within social inclusion policies and to monitor the impact of such policies on these groups. Barriers faced by ethnic minority communities in accessing the labour market, such as lack of language skills or legal status, must also be identified.'*²⁴

²¹ Ibid.

²² All accessible online via: <http://www.errc.org/cikk.php?cikk=1935&archiv=1> (29.10.2009).

²³ ENAR, Press Release, June 2007, available online at: <http://cms.horus.be/files/99935/mediaarchive/pdfpress/2007-06-07%20conference%20on%20combating%20discrimination.pdf> (26.10.2009).

²⁴ ENAR, Press Release Oct. 15, 2009, available online at: <http://cms.horus.be/files/99935/mediaarchive/pdfpress/2009-10-15%20round%20table%20poverty.pdf> (26.10.2009).

It is important for the development of local equality indicators that representatives of vulnerable groups in principle share the views of the international community. However, better safeguards are required by the civil society organisations. Furthermore, methodological obstacles concerning data availability, as well as the concept of ethnic self-identification/attribution may substantially influence the success and usefulness of the data input for meaningful indicators on racism. The ECCAR-ADIX will take these concerns into account.

I.IV. Conditions for the collection and processing of ‘ethnic’ data

As a remedy, **strict and effective mechanisms** need to be implemented with respect to data protection and respect for privacy.

The Council of Europe’s Convention ETS 108 *for the protection of individuals with regard to automatic processing of personal data*²⁵ was the first Europe-wide instrument in this field, due to the consideration of the Member States that it is desirable to extend the safeguards for everyone’s rights and fundamental freedoms, particularly the right to respect for privacy, taking into account the increasing flow of personal data undergoing automatic processing across frontiers.²⁶

At European Union level, Directive 95/46/EC *on the protection of individuals with regard to the processing of personal data and on the free movement of such data*²⁷ was designed to give substance to and amplify the principles of the protection of the rights and freedoms of individuals, notably the right to privacy, contained in Convention ETS 108, in order to remove the obstacles to flows of personal data and to equal the level of protection of these rights in all Member States.²⁸

At international level, the United Nations issued ‘*Guidelines for the regulation of computerized data files*’²⁹, which were adopted by the General Assembly in its Resolution 45/95.

These normative instruments contain certain **conditions** under which local authorities can collect sensitive data disaggregated by ethnic identity/racialized groups in order to set up RIX³⁰ and policy performance indicators:

- 1. Data has to be collected and processed in a fair and lawful way.** The crucial indicator for fairness is that the purpose of the collection/processing is transparent to the data subject. A census is a prime example of lawful collection/processing. In both cases, consent of the data subject can be deemed to be given.

²⁵ *Council of Europe*, Convention for the protection of individuals with regard to automatic processing of personal data, Strasbourg, 28 January 1981 (ETS No.108), available online at: <http://conventions.coe.int/Treaty/EN/Treaties/HTML/108.htm> (03.04.2009).

²⁶ Preamble of the Convention ETS 108.

²⁷ *European Parliament and Council*, Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23/11/1995 p.0031-0050).

²⁸ Preamble (8),(11) of Directive 95/46/EC.

²⁹ *United Nations*, Guidelines for the regulation of computerized data files, adopted on 14 December 1990 by the General Assembly of the United Nations in its Resolution 45/95, available online at: <http://www.unhchr.ch/html/menu3/b/71.htm> (20.03.2009).

³⁰ See Chapter C.II.

2. **Data has to be collected for specified, explicit and legitimate purposes** (e.g. public interest). The collection of data in order to implement the 10PPA is an obligation derived from Art. 1 ICERD.
3. **Data should neither be further processed in a way incompatible with those purposes** nor should it be used for ends contrary to the purpose of the UN Charter.
4. **Data collection has to be adequate, relevant and not excessive in relation to the purposes for which it is collected and/or further processed.**
5. **Data has to be accurate and, when necessary, kept up to date.** This requires regular checks.
6. **Data has to be kept in a form which permits identification of data subjects for no longer than necessary for the purposes for which the data were collected or further processed.**

These conditions have to be fulfilled according to Convention ETS 108 (Art. 5) and Directive 95/46/EC (Art. 6). Additionally, there are minimum guarantees set out by the UN Guidelines, which should be provided in national legislation:

7. **Access of data subjects about whether information concerning him-/herself is being processed, has to be ensured.**
8. **Appropriate security measures to protect data files against dangers have to be established.**
9. **An authority for supervision and sanctions has to be designated.**

II. Legality of collecting and processing ethnic data

II.I. ‘Ethnic data’/Sensitive data: Data collection in the light of data protection law

In the context of data collection in the light of data protection law it is fundamental to know how the normative instruments in this field refer to **‘ethnic’ data**.

Both, Convention ETS 108 and Directive 95/46/EC, refer to ‘ethnic’ data as ‘special categories of data’, so-called *sensitive* or personal data, which have to be distinguished from *statistical* or impersonal data which do not allow the identification of an individual person. It is argued that due to the very nature of statistical processing, further processing and dissemination of data require no special supervision once they have been made anonymous and therefore, cannot be linked to individuals.³¹

In Art. 6, the Convention ETS 108 lists personal data revealing ‘racial’ origin, political opinions or religious or other beliefs, as well as personal data concerning health or sexual life, and personal data relating to criminal convictions.

Similarly, Art. 8 (1) of Directive 95/46/EC lists personal data revealing ‘racial’ or ethnic origin, political opinions, religious or philosophical beliefs, trade-union membership, and data concerning health of sex life.

³¹ See *Patrick Simon*, ‘Ethnic’ statistics and data protection in the Council of Europe countries: Study Report, published by the European Commission against Racism and Intolerance (ECRI), Strasbourg 2007, p.12, available online at: http://www.coe.int/t/dghl/monitoring/ecri/activities/Themes/Ethnic_statistics_and_data_protection.pdf (03.04.2009).

The UN Guidelines follow a non-discriminatory approach, referring in Art. 5 to data which is likely to give rise to unlawful or arbitrary discrimination like information on ‘racial’ or ethnic origin, colour, sex life, political opinions, religious, philosophical and other beliefs as well as membership of an association or trade union.

II.II. Special regulations for the collection and processing of sensitive data

Due to their special content linked with special risks, sensitive data require special regulations.

According to Art. 6 of the Convention ETS 108, sensitive data *may* not be processed automatically *unless* domestic law provides appropriate safeguards.

This general prohibition is laid down more explicitly in Art. 8 (1) of Directive 95/46/EC which stipulates that the Member States are obliged to prohibit the processing of sensitive data. Nevertheless, there exist a number of exceptions regarding the consent of the data subject and the pursuance of certain legitimate aims.³²

Following their non-discrimination approach, the UN-Guidelines state in Art. 5, that data, which is likely to give rise to unlawful or arbitrary discrimination, should not be compiled. Similarly to the EU Directive, Art. 6 constitutes the power to make exceptions under certain conditions: There has to be a **legitimate aim**, such as the protection of public order, and the exception may be authorized only within the limits prescribed by relevant instruments in the field of protection of human rights and prevention of discrimination.

II.III. Data protection law in selected states

Consequently to the already mentioned international instruments in the field of data protection, most states have developed rules of national law, on data protection, containing provisions on sensitive data.

In the course of this study, data protection laws of selected states which are exemplary for participating ECCAR cities, namely the laws of Austria, Belgium, Germany, Italy, Spain, Sweden and the United Kingdom were examined.

Summing up, it can be stated that **‘ethnic’ data is covered by all analysed laws**, for it is under the scope of sensitive data.

Furthermore, there is certain heterogeneity of the legal positions concerning the processing of sensitive data: In general, it is prohibited, unless the **consent of the data subject is given** – whereas Belgium, Italy and Spain require a written consent – OR it is prohibited unless the processing is **necessary for a specified legitimate aim**, such as scientific research. Italy only allows for processing of sensitive data when it is authorized by law.

³² See Art. 8 (2)-(5) of Directive 95/46/EC.

The **Swedish** government has implemented Directive 95/46/EC by enacting the Personal Data Act (1998:204)³³ and the Personal Data Ordinance (1998:1191)³⁴.

In order to protect people against the violation of their personal integrity by processing personal data, Section 9 of the Personal Data Act states several conditions, similar to those in Convention ETS 108 and Directive 95/46/EC, which have to be satisfied. Additionally, Section 10 points out that personal data may be processed in any case (*including* sensitive data), if the consent of the registered person has been given or if processing is necessary for a specific legitimate aim.

In Section 13, the Personal Data Act explicitly mentions *sensitive* data, which is defined as personal data that reveals race or ethnic origin, political opinions, religious or philosophical beliefs, membership of a trade union, and data concerning health or sex life. The procession of these data is prohibited, except for certain exemptions laid down in Section 14-19. Interestingly, there exists an exemption in Section 19 for research and statistic purposes, stating that sensitive data may be processed, if following conditions are fulfilled: A research ethics committee shall approve the processing, if it is necessary for a legitimate aim (see Section 10), and the interest of society in the research/statistic is manifestly greater than the risk of violation of the personal integrity of the individual involved, or if the processing is otherwise provided by the rules on secrecy and confidentiality.

Austria has adopted both Convention ETS 108 and Directive 95/46/EC and developed a national law on the protection of personal data [*'Bundesgesetz über den Schutz personenbezogener Daten (Datenschutzgesetz 2000)*'³⁵] which contains in its §1 (1) the fundamental right to the protection of personal data for every natural person.

According to this provision, every natural person who is subject to a processing operation, whether or not by automatic means, has – notwithstanding the exceptions – the right to be informed about who processed which data on him or her, where the data was collected and for what purpose, especially to whom they will be transmitted; furthermore the right of adjustment of incorrect data and extinction of inadmissibly processed data.

Germany has implemented Directive 95/46/EC by enacting the Federal Data Protection Act (*Bundesdatenschutzgesetz BDSG*)³⁶, which applies to the federal public sector as well as to the private sector. Moreover, all “*Länder*” (except Sachsen and Bremen) have adopted new Data Protection Laws, applying to the public sector of the respective “*Länder*”, in order to implement the Directive.³⁷

According to section 3 (9) of the Federal Data Protection Act, ‘ethnic data’ falls under the scope of “special categories of personal data”, meaning information on a person’s ‘racial’ or ethnic origin. The Law states further that the collection, processing and use of personal data shall be admissible only if permitted under the respective Act or if the data subject (the person concerned) has given his/her consent. In so far as special categories of personal data are

³³ Personal Data Act (1998:204) issued 29 April 1998, available online at: <http://www.sweden.gov.se/content/1/c6/01/55/42/b451922d.pdf> (06.04.2009).

³⁴ Personal Data Ordinance (1998:1191) issued 3 September 1998, available online at: <http://www.sweden.gov.se/content/1/c6/02/56/33/ed5aaf53.pdf> (06.04.2009).

³⁵ Referred to as ‘Datenschutzgesetz 2000’.

³⁶ *Bundesdatenschutzgesetz*, adopted on 18 May 2001, published in the Federal Law Gazette I No. 23/2001, p.904.

³⁷ For a detailed overview of the Data Protection Laws see: http://ec.europa.eu/justice_home/fsj/privacy/law/implementation_en.htm (06.03.2010).

collected, processed or used, the consent of the data subject must refer expressly to these data (sections 4 (1) and 4a(3)).

Additionally, section 4d (5) stipulates that before special categories of personal data are processed, a prior checking process is to be carried out by the data protection official – unless a statutory obligation applies, the data subject’s consent has been obtained or the processing serves the purposes of a contract or a quasi-contractual fiduciary relationship with the data subject.

Spain has also established its own national legislation with regard to data protection, by enacting Organic Law 15/1999 of December 13 on the Protection of Personal Data³⁸. Art. 4 mentions certain criteria, similar to the criteria laid down in Convention ETS 108 and Directive 95/46/EC, which have to be fulfilled in order to make a data collection lawful, such as the adequacy and relevance of data collected and processed.

According to Art. 6, the unequivocal consent of the data subject is required unless it is laid down otherwise by law. Interestingly, even in cases where the consent of the data subject is not required for the processing of personal data, the data subject may be object to such processing provided that there are compelling and legitimate grounds relating to a particular personal situation.

The Organic Law refers to the treatment of *sensitive data* under its Art. 7, which states that files created with the sole purpose of storing personal data such as ideology, trade union membership, religion, beliefs, and ethnic identity or sex life, shall be prohibited. Such data may only be processed if the explicit and written consent of the data subject is given – some exemptions are contemplated for files maintained by political parties and other associations regarding data relating to their associates or members.

Belgium implemented Directive 95/46/EC by modifying its law of 8 December 1992 on Privacy Protection in relation to the Processing of Personal Data³⁹. Art. 4 complies with the provisions of data quality laid down in Convention ETS 108 and Directive 95/46/EC.

Sensitive data is defined in Art. 6 as data revealing ‘racial’ or ethnic origin, political opinions, religious or philosophical beliefs or trade-union memberships, and sex-life. The processing of such data shall be prohibited unless certain requirements are satisfied, such as *inter alia* the written consent of the data subject⁴⁰, or the necessity of the processing by virtue of employment law or scientific research. In those cases, additional safeguards must be ensured, regarding the data subject information about the categories of individuals having access to the data and the law or normative provision authorizing the processing operation.

³⁸ Ley Orgánica de Protección de Datos de Carácter Personal (15/1999) issued on the 13th of December 1999, available online at: http://www.ua.es/es/normativa/datospersonales/pdfs/Ley15_99.pdf (29.04.2009).

³⁹ Wet van 8 december 1992 tot bescherming van de persoonlijke levenssfeer ten opzichte van de verwerking van persoonsgegevens Gecoördineerde versie, zoals laatst gewijzigd door de wet van 11 december 1998, issued in December 1992 and modified in December 1998, available online at: www.e-privacy.be/privacywet.pdf (29.04.2009).

⁴⁰ The consent may be withdrawn by the data subject at any time.

Italy has also enacted a national law on data protection, the Italian Personal Data Protection Code⁴¹. It contains in section 11 similar requirements as Convention ETS 108 and Directive 95/46/EC regarding the processing of personal data and data quality.

The processing of personal data by private entities or profit-seeking public bodies shall, pursuant to section 23, only be allowed if the data subject gives his/her explicit consent. Section 24 lists conditions under which consent shall not be required, e.g. if the processing is necessary to comply with an obligation imposed by (national) law, regulations or Community legislation.

The Italian data protection law also refers to *sensitive data*, which is defined in section 4 (1) (d) as personal data allowing the disclosure of 'racial' or ethnic origin, religious, philosophical or other beliefs, political opinions, membership of parties, trade unions, associations or organizations of a religious, philosophical, political or trade-unionist character, as well as health and sex life. The processing of such data is subject to various restrictions: In principle it shall only be allowed where it is expressly authorized by a law, specifying the categories of data that may be processed and the categories of operation that may be performed as well as the substantial public interest. Additionally, certain safeguards, which are laid down in section 26, have to be fulfilled unless it is stated otherwise, such as the written consent of the data subject and the prior authorisation of the Italian Data Protection Commission (supervisory authority).

The **United Kingdom** has likewise established its own national data protection law, the Data Protection Act 1998⁴². It implements inter alia the conditions for collecting and processing personal data, according to Convention ETS 108 and Directive 95/46/EC, in Schedule 2.

Sensitive data is defined in Part 3.1.2. as information regarding 'racial' or ethnic origin, political opinions, religious beliefs or other beliefs of a similar nature, membership of trade unions, physical or mental health or condition, sexual life, as well as the commission or alleged commission of any offence or any proceedings for any offence committed or alleged to have been committed by him or her, the disposal of such proceedings or the sentence of any court in such proceedings.

The conditions for processing sensitive data are laid down in Part 3.1.3. (Schedule 3 of the Act). At least one of the following conditions has to be satisfied, in addition to at least one of the conditions for processing in Schedule 2 (which apply to the processing of all personal data): The data subject has given his/her explicit consent to the processing of the personal data and/or the processing is necessary for the purposes of exercising or performing any right or obligation which is conferred or imposed by law on the data controller on connection with employment.⁴³

⁴¹ Italian Personal Data Protection Code (English version), available online at: <http://www.privacy.it/privacycode-en.html#sect1> (08.05.2009).

⁴² Data Protection Act 1998, issued on 16 July 1998, available online at: http://www.ico.gov.uk/upload/documents/library/data_protection/detailed_specialist_guides/data_protection_act_legal_guidance.pdf (08.05.2009).

⁴³ For further details see: The Data Protection (Processing of Sensitive Personal Data) Order 2000 (Statutory Instrument 2000 No.417), available online at: <http://www.opsi.gov.uk/si/si2000/20000417.htm> (19.06.2009).

To summarize, there are different levels of data protection and privacy concerning sensitive data in the seven countries that have been briefly examined. However, there are important communalities in respect to the beforehand purpose.

Firstly, all seven states distinguish between sensitive personal data and statistical data.

While the collecting and processing of statistical data is generally allowed by law in all of these countries, personal data can only be collected and processed with the consent of the data subject. The evidence necessary differs: in some countries it has to be given in writing, some laws deem as sufficient once an implied consent can be assumed.

All countries' laws know the possibility of a justification by a legitimate aim of the collection of sensitive data. This is assumed to be given by the human rights centred approach of ECCAR-ADIX.

III. Reliability and feasibility of 'ethnic' data collection: Challenges for ECCAR-ADIX

The ECCAR-ADIX project faces a whole range of challenges and obstacles, including the questions of comparability of data, availability and accessibility of data, quality and reliability of data, the definition of ethnic categories, the methods of disaggregation by 'ethnic' categories and the complex issue of a trade off between simplicity/feasibility and complexity/meaningfulness.

This section deals with some questions of reliability and feasibility of data collections as a precondition for the use of indicators. These questions encompass such issues as: How reliable can an indicator take limits of accessibility and availability of data into account? How to indicate on ethnic identity or 'ethnicization' when there is no direct reference made in official registration data? Which methods are to be applied to get reliable data?

Several proposals were made in the ECCAR Seminar in Liège. However, a final decision could not be taken so far. Most probably, there will be employed a mix of methods using different data sources depending on purpose, topic and accessibility in the respective cities. This means that the proposed model of ECCAR-ADIX indicators should be flexible enough to cope with these differences in cities. Even though comparability between cities would be welcomed by ECCAR, comparability will be limited anyway due to several reasons: the variety of specific problems in cities, their different size, immigration history and composition of population, legal context and many others.⁴⁴ We must be aware of three major issues:

1. What concept of 'ethnic data' shall we apply? First of all, 'race' and ethnicity are not natural categories, but social constructs. This means that, given that it lacks of a scientifically valid basis and they are perceived subjectively by individuals, there is no objective way to define these categories.⁴⁵ Most

⁴⁴ See for a discussion of parameters of applicability of recommendations in ECCAR: *Starl et al*, Study on measures taken by municipalities and Recommendations for further action to Challenge Racism through Education, UNESCO 2005, p. 105 et seq. Available online: <http://unesdoc.unesco.org/images/0014/001465/146590E.pdf> (22.10.2009).

⁴⁵ *Makkonen*, Measuring Discrimination – Data Collection and Equality Law, 2007, at p. 74.

countries lack definitions. The only example of clear legal definitions is the UK, which provides five categories with subcategories based on self-identification.⁴⁶ Some countries use proxy data, e.g. place of birth, place of birth of parents, nationality and other. Our proposal is to use two different types of categories. One category is the self-identification of ethnic identity including the option of non-identifying oneself with an ethnic concept and the second category is the concept of ‘racialisation/ethnicization’ which gives a picture of vulnerability to racial discrimination based on attributions by others.

2. What methods of data collection can be applied based on this concept?
3. And, considering that most works⁴⁷ on this issue refer to data availability at national level, ECCAR-ADIX refers to data at municipal level. Boussetta proposes in this respect census and registration data, processed statistical data, various types of surveys, opinion polls, behavioural testing and complaints and judicial data. An availability study should clarify what sources of data are available in the ECCAR cities, and, if not available, what will be the conditions of establishing these data sources.

A whole range of questions is related to the feasibility chapter. Simple indicators are attractive, but bear two important risks. Firstly, they might be too attractive in the sense that policy will target only indicators and secondly, they risk being meaningless.

Besides the question of construction, there exist major concerns on availability and accessibility of adequate data. Can cities all over Europe cope with this challenge? Lacking resources of capacities and financial means could be a major barrier to implement ECCAR-ADIX, e.g. as it may be difficult for smaller cities to have access to experts’ knowledge for processing and evaluating statistical data.

The political will and commitment are important parameters of success or failure. A small survey among ECCAR member cities on their experience and expectations, as well as on their opinion on the feasibility of implementation of the ECCAR-ADIX project revealed that there is not too much consent except that indicators are deemed to be useful and there might be a major objection of politicians in using such tool – an interesting finding!

A small survey carried out by UNESCO and the ETC among ECCAR Steering Committee members⁴⁸ showed that there is consent among ECCAR cities on the usefulness of indicators. But it was also made obvious that there is a wide range of different expectations of policy-makers and public officials and differences concerning the areas of measurement between the responding cities, which raises the question whether common indicators for ECCAR Cities are useful/feasible at all.

It was not surprising that the survey showed some definite contradictions as well. In spite of Commitment 2 of the Ten-Point Plan of Action, which clearly obliges member cities to ‘initiate or develop further the collection of data on racism and discrimination, establish achievable objectives and set common indicators in order to assess the impact of municipal policies’, there is no clear consent on what should be measured. While 100% of respondents think that policy *impact* should be measured, there is a strict objection to measure racism by

⁴⁶ See http://www.statistics.gov.uk/about/ethnic_group_statistics/ (2.5.2009)

⁴⁷ We particularly refer to *Simon*, ‘Ethnic’ Statistics and Data Protection in the Council of Europe Countries, 2007 and *Makkonen*, European Handbook on Equality Data, 2007, as well as *Makkonen*, Measuring Discrimination – Data Collection and Equality Law, 2007.

⁴⁸ Unpublished.

25% of the respondents or equality by 12.5% of the respondents. However, the former would be quite meaningless if not impossible without the latter.

When asked about who would probably object to 'ethnic' data collection, 62.5% think that it would be politicians and decision makers, while members of vulnerable groups are not thought to be likely to object. These are interesting assumptions, as they reflect an ambivalent attitude towards data collection and its purpose.

In order to measure racism/equality and policy impact by using indicators it is necessary to build on a reliable and lawfully implemented collection of 'ethnic' data. According to the survey, the majority of ECCAR Steering Committee members support the method of quantitative and qualitative data processing; only a minority (25%) considers operationalised qualitative data as the appropriate means.

Finally, when it comes to concerns and risks of 'ethnic' data collection, 75% think that legal provisions take a stand against efforts and 75% deem a lack of resources as a major obstacle for the implementation of Commitment 2.

The ECCAR-ADIX working group therefore recommends carrying out a representative survey among the member cities for a better knowledge about the cities' expectations and possibilities. This is deemed to be necessary in order to avoid fundamental objections to the ECCAR-ADIX. Furthermore, it is recommended carrying out a feasibility study with the goals of firstly, getting an insight on the availability of necessary data, secondly, getting knowledge on the possibilities and resources available and thirdly, testing the proposed model of indicators.

The first stage of developing a common framework for data collection and analysis, specifically focusing on discrimination, consists in drawing a descriptive inventory of existing instruments and methodologies within ECCAR.

The adoption of a bottom-up strategy guarantees (to a large extent) the participation of cities in all stages of development and consequently the relevance of the framework for cities as well as the sustainability of the undertaking: It is suggested to conduct a survey among lead cities in order to define a set of harmonized indicators. Interested ECCAR cities are proposed to provide information on their data collection methods and the methodology traditionally applied to analyse these data. The ECCAR Working Group on the Development of Indicators for Measuring Racism and Evaluating anti-discrimination Policies would then analyse this information in order to present it in a report. This report would be discussed with the leading municipalities and a working group composed of competent technical municipal staff (e.g. statisticians).

The resulting model would be tested in five to ten selected ECCAR pilot cities to allow in-depth testing as well as continuous refinement. In order to assess the outcome of the testing, it has to be agreed on key success factors, such as local availability of data, high scales of 'Implementation' and 'Impact/Result' indicators and a high level of cooperation and a productive on-going dialogue between researchers and policy-makers.

The common holistic and coordinated approach allows sharing of information and comparison between cities. It also allows cities without a research and development budget to enjoy the benefits of research.

The participation of civil society (and victims of racism and discrimination) will be ensured by means of the bottom-up approach starting from their point of view when developing and testing the indicators.

In view of further developing ECCAR ADIX, the working group, in its meeting in Paris in May 2009, formulated a plan for further activities:

1. **Expectation-Survey:** The first step in this working process will be the design of an online-questionnaire for ECCAR cities in order to get a representative and reliable survey on their expectations of measuring racism and inequality with indicators (at local level). The results of this survey should be reflected when defining concrete parameters and indicators as a further step.
2. **Perception-Survey:** A survey on the expectations of vulnerable groups at local level (based on self-identification and racialisation) is necessary to evaluate potential objections against the collection of 'ethnic' data in the light of the right to the protection of personal data.
3. **List of Indicators:** The next step after this will consist of defining concrete parameters and indicators to measure the situation of racism and inequality at local level, to assess the respective policy and to evaluate the policy impact, disaggregated by ethnic identity/racialisation, age and gender as these identities are shared by everyone and most often reason for multiple, compound and intersectional discrimination. The list should be discussed and defined by the working group members.
4. **Data-Availability:** A data-availability study shall be conducted, based on a list of indicators and referring inter alia to the question for whom the data will be available and accessible (data collection methods) and to the questions arising concerning data protection law. This study will be designed at ECCAR-level, but needs to be carried out at city-level.
5. **Feasibility-Study:** Furthermore, a reliability and feasibility test of the proposed Model is necessary to see if the Model is appropriate as an interpretation and evaluation tool and whether the Model is meeting cities needs and expectations (as evaluated in point 1.) in the light of the gathered information and at what costs.
6. **Pilot-Study:** There will be a pilot project of an ECCAR survey among ECCAR working group cities (Botkyrka, Graz, Madrid, Potsdam and others), which is intended to result in a set of harmonized indicators applicable for ECCAR and its members.

C. A human rights centred approach to measure (in)equality/racism with indicators at local level

I. Conceptual framework: Art. 1 ICERD⁴⁹

To combat racism and discrimination and to promote equality at municipal level, the ECCAR working group for the development of indicators for measuring racism and evaluating local anti-discrimination policies proposes a human rights centred approach: In the course of their obligation to act in compliance with fundamental rights the ECCAR member cities are challenged to respect, protect and fulfil human rights, which implies that the city itself **must not discriminate**, it shall **prevent and prosecute discrimination**, and it shall **facilitate equal opportunities** and **promote equality actively**.

Considering the diversity of municipal approaches and methodologies involved in the collection and analysis of primary data, as well as the lack of availability of statistical data, the development of a flexible common framework for data collection and analysis, specifically focusing on discrimination, is needed.⁵⁰

During the ECCAR Seminar on common indicators in Liège in May 2008 it was found that Art. 1 ICERD⁵¹ constitutes the common framework for the development of indicators and the measurement of equality and discrimination. It defines distinction, exclusion, restriction and preference to be measured for the reason of negative effects of 'racial' discrimination on the equal recognition, enjoyment and exercise of human rights in order to assess the current situation concerning racism and discrimination in cities. Furthermore, it defines the areas of measurement, namely the political, economic, social, cultural and any other area of public life⁵².

The human rights centred approach based on Art. 1 ICERD is a promising and appropriate approach for several reasons: It is legally binding for all ECCAR member cities as well as for the respective states parties to ICERD. It is open to individual approaches concerning preventive and reactive policies according to the respective city's problems, but

⁴⁹ *United Nations*, International Convention on the Elimination of All Forms of Racial Discrimination, adopted and open for signature and ratification by General Assembly resolution 2106 (XX) of 21 December 1965, available online at:

<http://www2.ohchr.org/english/law/cerd.htm>
(19.10.2009).

⁵⁰ See *Bousetta Hassan*, Monitoring anti-discrimination in European cities: what tools, what strategies? Final report, achieved in partnership with UNESCO in the framework of ECCAR, April 2009, p.29f. See also chapter D below.

⁵¹ ICERD Article 1 para. 1: 'In this Convention, the term 'racial discrimination' shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.'

⁵² *ECCAR*, Seminar on the Development of Indicators for Measuring Racism and Evaluating Local anti-discrimination Policies (2008). Summary, available online at:
http://209.85.129.132/search?q=cache:FHzmpIB7dakJ:blankett.dupoint.com/download_public.php/19921/080613-019-doi-del%2520tv%C3%A5.doc+unesco+discussion+paper+eccar+starl&cd=3&hl=de&ct=clnk&gl=at
(22.10.2009).

also to individual approaches concerning methods and data collection according to legal norms, availability, needs of vulnerable groups, as well as concerning particular topics. Furthermore, it allows for affirmative action,⁵³ which is important as this will be necessary in order to actively promote equality. The concept of affirmative action has been reluctantly introduced into national law by the states, sometimes it has not been introduced at all. The states usually refer to their constitutional equality norms being committed to formal concepts of equality and therefore, they are sceptic towards other concepts of social justice⁵⁴. A particular asset of the ECCAR-ADIX approach is that it operationalises human rights law.

The human rights centred approach means that firstly, the focus is placed on the individual (human rights subject) rather than on groups or the society. Secondly, an existing normative framework is used as the common reference. Thirdly, recognition, exercise and enjoyment of human rights are both, precondition for and result of a successful anti-discrimination policy. Fourthly, differently to other anti-discrimination laws, human rights law conceives the concept of 'ethnicity' as descent, self-identification and racialized attribution but not as 'origin'.

⁵³ ICERD, Art. 1 para. 4: 'Special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved.'

⁵⁴ *Fredman Sandra*, *Discrimination and Human Rights – The Case of Racism*, Oxford University Press 2001, Chapter 2.

II. Developing ECCAR indicators

The basic requirement for the ECCAR-ADIX is to develop a model which is flexible enough to cope with different types of data on the one hand and standardized enough to be meaningful concerning the indicators' results on the other hand. To assess the progress of equality- and anti-discrimination policies appropriately, sets of three different indicators are required. The indicators are designed to be applicable for local policy-makers. The working group considered the state of the art when elaborating its proposal for two main reasons: to build on solid ground and to make use of synergies of international or regional developments. The United Nations, the Council of Europe, as well as the European Union made huge efforts to develop standards for measuring equality, discrimination and related policy impact in the recent years. The working group's proposal is therefore based on the previous work of UNESCO in the context of ECCAR⁵⁵, on the LISI report of EURAC⁵⁶, on the MIPEX⁵⁷, on the proposal of integration indicators within the Handbook on Integration for Policy-makers and Practitioners⁵⁸, on the European Handbook on Equality Data⁵⁹ and on the growing body of related literature and reports⁶⁰, which more and more draws a harmonized picture of the field.

The EU proposal on a European level framework consists of indicators 'factualising inequalities', a set of indicators 'operationalising the law and respective implementation policies' and thirdly, a set of indicators 'evaluating improvements (impact and performance)'.⁶¹ The CRIEC report⁶² suggests two main types of indicators, 'Implementation' and 'Result' indicators.

The ECCAR-ADIX working group decided to introduce a three-phases-evaluation cycle⁶³ in order to:

⁵⁵ *Icart, Labelle, Antonius, CRIEC ed.*, Indicators for evaluating municipal policies, UNESCO Discussion paper series 3, available online: <http://unesdoc.unesco.org/images/0014/001496/149624E.pdf> (20.10.2009). *Bousetta Hassan*, Monitoring anti-discrimination in European cities: what tools, what strategies? Final report, achieved in partnership with UNESCO in the framework of ECCAR, April 2009. Bologna Conference Proceedings: ECCAR Annual Conference 2008: Available online at: http://www.comune.bologna.it/ECCAR/index.php?option=com_content&task=view&id=70&Itemid=87. (26.10.2009).

⁵⁶ *EUR.AC research European Academy Bozen*, The LISI Indicators: Legal indicators for social inclusion of new minorities generated by immigration, Bozen/Bolzano 2003.

⁵⁷ *British Council Brussels/Foreign Policy Centre/Migration Policy Group 2005*: European Civic Citizenship and Inclusion Index, Brussels 2005. *Niessen, Huddleston, Citron et. al.*, Migrant Integration Policy Index (MIPEX), British Council and MigPolGroup, Brussels 2007.

⁵⁸ *Niessen, Schibel*, Handbook on Integration for Policy-makers and Practitioners, European Commission, MigPolGroup, Brussels 2007.

⁵⁹ *Makkonen*, European Handbook on equality data: Why and how to build to a national knowledge base on equality and discrimination on the grounds of racial and ethnic origin, religion and belief, disability, age and sexual orientation, European Commission November 2006, available online at: http://ec.europa.eu/employment_social/publications/2007/ke7606381_en.pdf (03.04.2009).

⁶⁰ Excellent examples are: The UK approach of deriving local indicators from the national indicators and adapting and complementing them (see: <http://www.communities.gov.uk/documents/localgovernment/pdf/621282.pdf> (12.11.2009)); and the *World Economic Forum*, Gendergap Report 2009.

⁶¹ See also: *European Commission*, The fight against discrimination, p. 30.

⁶² *Icart, Labelle, Antonius.CRIEC ed.*, Indicators for evaluating municipal policies, p. 58.

⁶³ The authors are aware of the critique on this simplified modeling of policy-cycles. Due to many reasons politics follow different dynamics depending on power constellations, elections etc. Additionally the assumed policy-cycle does not explicitly deal with 'external' dynamics as economic crises, situational changes or whatever 'shocks'.

1. **measure** distinction, restriction, exclusion or preference in the participation of people in all areas of public life at a certain place and moment. This first set operationalises the law and factualises inequality.
2. **assess** the adequacy of respective policies using the ECCAR Ten-Point Plan of Action.
3. **evaluate** the impact of policy. The major difference to the European Commission proposal lays in (consists in?) the operationalisation of human rights within the framework model in order to describe the current situation.

The first set of indicators is the '**Racism/Equality indicator (RIX)**': To formulate a political goal, it is necessary to provide a picture of the current situation, so RIX is a prerequisite for 'Implementation' indicators. At the same time it eliminates the risk of meeting indicators instead of targeting aims. Furthermore, RIX is a prerequisite for 'Result' indicators since primary data collection on the current situation is needed in order to have comparable data over a given time period so as to assess whether the situation has changed (improved).

On the basis of this first assessment concrete achievable goals can be formulated by local policy-makers, aiming directly at the deficiencies measured. This may afford to adjust existing local anti-discrimination/equality laws and practices or to set up new ones, including the full implementation of international and national anti-discrimination/equality law.

The progress of the implementation of equality and anti-discrimination policies will be evaluated with the set of '**Implementation or Progress indicators (IMPLIX)**'. IMPLIX evaluates the degree of implementation of legal tools and policy instruments provided for the implementation of international and national anti-discrimination law into local policies. IMPLIX reflects whether there exists an appropriate policy concept to address the situation according to the RIX findings, whether concrete measures were adopted to counteract deficiencies, and whether these measures are fully implemented in practice in order to promote:

- factual equality,
- inclusion,
- equal opportunities and
- equal treatment.⁶⁴

At last it is necessary to assess whether the respective goals have been achieved, by means of measuring the impact of the local anti-discrimination and equality policy.

The set of '**Impact indicators**' (**IMPACTIX**) serves to evaluate the improvements of the situation of the people concerned, resulting from effective and efficient policy measures combating the assessed inequalities. IMPACTIX should give information on whether the factual situation has changed, but also whether the respective policy was adequate and effective. This implies an establishment of cause-effect hypotheses of a certain measure and its outcome.

All ADIX components need to be disaggregated by ethnic categories as defined above in order to measure inequalities, as well as the impact on different groups. Ideally, two other cross-cutting individual characteristics are taken into account for disaggregation: age and gender.

⁶⁴ These are thought as the counterparts of distinction, exclusion, restriction and preference.

The major arguments for the proposed ECCAR-ADIX human rights based model are:

- Bringing international human rights norms into practice at local level;
- Operationalisation of human rights norms as standard-setting at local level;
- Focusing on individuals rather than (socially constructed) groups;
- Flexibility concerning the content (specific problems a city may face), the extent and the capacity a city may afford, methods applied and the diversity of data sources;
- Individuality, which allows for each city to adapt and define its own operational objective functions regarding its diagnosis;
- Ability to exclude the risk of meeting indicators instead of targeting aims and
- Implementation of sustainable processes rather than focusing on numbers/outcomes;
- Guaranteeing (to a large extent) the participation of cities in all stages of development;
- The common holistic and coordinated approach allows for information sharing and (within limits) comparison between cities;
- The common approach allows cities without a research and development budget to enjoy the benefits of research.

ECCAR-ADIX is likely to cope with the diversity of data sources, as indicators from primary data (municipal surveys, aggregate behavioural testing, opinion surveys etc.) are included as well as indicators derived from secondary data (census, national registers, complaints databases, etc.) and qualitative indicators (case-studies based on interview material).⁶⁵ The range of useable data sources is wide in order to be flexible and to be able to adapt monitoring strategies according to the individual needs/context of a city. A preliminary research will be necessary to assess whether there is data collection within the city, where municipal authorities are responsible to identify the kind of data, which is available etc.

The usefulness of different data collection methods can be assessed through the factors of their reliability, validity, scope and cost-effectiveness. A data collection method is reliable to the extent of the assessment procedure yielding the same results as repeated trials. It is valid to the extent to see how far it really measures (racism and) discrimination (but not any other issues). Finally, a useful data collection procedure must in practice be viable also in terms of its financial applications.⁶⁶ All these questions should be answered within the proposed feasibility study on the implementation of ECCAR-ADIX.⁶⁷

⁶⁵ *Bousetta Hassan*, Monitoring anti-discrimination in European cities: what tools, what strategies? Final report, achieved in partnership with UNESCO in the framework of ECCAR, April 2009, p.30.

⁶⁶ See *European Commission (Makkonen)*, European Handbook on equality data, p.27.

⁶⁷ See chapter B, section III.

III. The ECCAR-ADIX Model

	RIX	IMPLIX	IMPACTIX
<i>Political/ civic area</i>	measures <ul style="list-style-type: none"> • Distinction • Exclusion • Restriction • Preference tested against standards of the ECHR	assesses <ol style="list-style-type: none"> 1. Policy concept according to RIX- results and operationalised goals; 2. Measures formulated appropriately to the 10PPA and implemented in practice in order to promote <ul style="list-style-type: none"> • equality • inclusion • equal opportunities • equal treatment with the 10 Point-Plan of Action. 	evaluates if <ul style="list-style-type: none"> • situation changed by comparing RIX results of period n/n+1 • implementation significant for change? <ol style="list-style-type: none"> a) Policy adequate? b) Policy effective? (Evaluation of policy concepts and measures)
<i>Economic area</i>	<ul style="list-style-type: none"> • Distinction • Exclusion • Restriction • Preference tested against standards of the European Social Charter	as above	as above
<i>Social area</i>	as above	as above	as above
<i>Cultural area</i>	as above	as above	as above

Art. 1 ICERD

ECCAR 10 PPA

III.I. Racism/Equality indicator (RIX)

RIX is designed to measure the four dimensions of racism – distinction, exclusion, restriction and preference – for each ‘racialized’ group in the different areas mentioned in Art. 1 ICERD. The outcome of the assessment of equality/racism in each dimension is proposed to be evaluated by means of a scale, ranging from ‘not favourable’ to ‘less favourable’, ‘quite favourable’ and ‘favourable’.

The crucial questions regarding the definition of RIX are:

- What will be applied as the standard which RIX is evaluated against?

Art. 1 ICERD defines recognition, enjoyment or exercise of fundamental rights as the benchmark for the fulfilment of this specific right. We have defined the Council of Europe as the common legal space. Therefore, the ECCAR-ADIX Working group proposes to apply the standards derived from the European Convention of Human Rights (ECHR) in the area of political and civic rights, and the European Social Charter in the three other areas. As a main source of information and interpretation of these legal norms, the reports of the European Commission against Racism and Intolerance (ECRI) are deemed to be appropriate. However, the decisions and comments of the UN Treaty bodies, particularly CERD should be taken into account for operationalisation (in particular the comments on the implementation of the right to housing, education and health).⁶⁸

- What data is indicating distinction, restriction, exclusion or preference in the recognition, enjoyment and exercise of fundamental rights?

This study cannot provide a proposal of an elaborated list of possible indicators within the given limits, which requires a further step in the development of ADIX. However, the indicators proposed in earlier documents might serve as a basis for this development.

- What groups will be compared in order to prove distinction, restriction, exclusion or preference?

In principle, all 'ethnicities' living in the city should be considered. In the context of ECCAR-ADIX these are the categories stemming from expressions of self-identification and the categories derived from attribution ('ethnicization') through perception of others, perception of the perception of others or through the image conveyed by the media, which is particularly important to assess, since this image contributes significantly to the formation of public attitudes towards minorities.

III.II. Implementation indicator (IMPLIX)

Within the conceptual framework of Art. 1 ICERD the areas of policy strands are further defined by the ECCAR Ten-Point Plan of Action⁶⁹ (10PPA), which contains the commitments of the member cities and the obligation to integrate the Plan in their municipal strategies and policies. By means of the commitments according to the 10PPA, it can be evaluated whether the policy concept and the policy measures are formulated accordingly, (operationalized), and accomplished. The next sections discuss what should be measured and which approaches can be recommended for this task.

a) Policy concept

Have appropriate goals been set and are the formulated measures likely to be effective?

⁶⁸ CESCR, General Comment No. 4 (CESCR E/1992/23); General Comment No. 13 (CESCR E/C.12/1999/10); General Comment No. 14 (CESCR E/C.12/2000/4). For a complete analysis see: *Vandenhoe, Wouter*, Non-Discrimination and Equality in the View of the UN Human Rights Treaty Bodies. Intersentia, Antwerpen / Oxford 2005.

⁶⁹ The current 10PPA is accessible through UNESCO's website www.unesco.org/shs/citiesagainstracism. It is composed of ten commitments covering the various areas of competence of city authorities such as education, housing, employment and cultural activities. It suggests in particular implementing practical policies. The signatory cities undertake to integrate this Plan of Action in their municipal strategies and policies, and to involve the various actors within civil society in its implementation.

According to Point 1 of 10PPA, concerning the establishment and advancement of monitoring and vigilance networks against racism at city level, the set of indicators evaluates *inter alia* the formulated goals being achieved or not by assessing whether the financial budget devoted to the achievement of these goals will be sufficient and whether all relevant stakeholders (local NGOs, judiciary, police, etc.) are integrated in a co-operational level.

In order to assess the fulfilment of the city's obligation resulting from Point 2 of the 10PPA, which requires the initiation or the further development of a collection of data on racism and discrimination, IMPLIX evaluates whether the deficiencies of the local policy have been defined and considered while formulating the objectives. A further task of the set of indicators is to assess whether these objectives are achievable.

Regarding Point 3 of the 10PPA, IMPLIX assesses whether the encountered deficiencies (according to the RIX assessment) are taken into account by local policymakers when formulating goals aimed at the support of victims of racism and discrimination. The consideration of the achievability of these goals most notably includes a preliminary estimate of the local budget devoted to their realization, which may not be appropriate in the end.

IMPLIX is also designed to evaluate the goals resulting from Point 4 of the 10PPA, concerning the increase of the knowledge of city dwellers on their rights and obligations as well as on penalties for racist acts or behaviour. The indicators evaluate whether these goals are designed in a way to make their achievement possible, which is naturally difficult to evaluate since the impact of information policies and activities on the population is scarcely predictable; questionnaire surveys should find a remedy.

Point 5 of the 10PPA contains the city's obligation to act as an active supporter of equal opportunities in the labour market. IMPLIX serves to evaluate whether the encountered deficiencies – unwarranted differences between the situation of different minority groups in various areas of the labour market – are transferred into setting up goals for the improvement of the respective situation. This contains a statement on the achievability of these goals, which may be feasible provided that official labour market statistics exist and they can be disaggregated by ethnic identity or racialized group, but it may be rather challenging when it comes to other data sources.

The city commits itself according to Point 6 of the 10PPA to be an equal opportunities employer and equitable service provider. The IMPLIX assessment contains a statement on the formulation and achievability of these policy goals aiming at equal access to work and services of the municipality for all living within the city's territory.

In order to assess the compliance with the commitment of Point 7 of the 10PPA, IMPLIX evaluates whether the local policy-makers are taking efforts to counteract the rather negative trend of segregation and separation and to set achievable goals to ensure equal access to (reasonable) housing for the whole population of the municipality.

In order to assess the compliance with the commitment of Point 8 of the 10PPA, IMPLIX evaluates whether the municipal policy elaborates and employs strategies to combat racism and discrimination in and through education. Are the goals properly formulated and achievable, how does the municipality use discretionary power to provide complementary programmes to enhance equal opportunities and human rights education.

IMPLIX also serves to assess whether the local policy-makers formulated concrete and achievable goals according to Point 9 of the 10PPA, taking into account all encountered deficiencies concerning cultural diversity in the public space.

The IMPLIX assessment answers the question of how the local authorities cope with hate crimes against members of minority groups within their domain. It assesses whether the primary goals, according to Point 10 of 10PPA, have been formulated to aim at the reduction or prevention of hate crimes and at a functioning and effective conflict management system within the municipality.

b) Policy measures

Have the planned measures been taken and have the goals of implementation been met?

Regarding Point 1 of the 10PPA, IMPLIX is able to assess whether the existing monitoring systems have been enhanced and also whether new systems have been established, e.g. liaison committees including different stakeholders or an institution to represent the interests of migrants in public affairs, an anti-discrimination office etc. At this level, it is quite easy to assess whether certain monitoring systems exist or have been enhanced or recently established. There should not be problems with the evaluation regarding these monitoring systems being in form or the content being congruent, neither with the formulated goals.

Concerning Point 2 of the 10PPA, IMPLIX serves to monitor whether there is any follow up planned by local policy makers, e.g. the reflection of the objectives in local political or administrative programmes aimed at combating racism and discrimination within the municipality, information and training of municipal staff concerned by these objectives and programmes, etc. The evaluation of the level of implementation of these objectives ought to be quite easy, as information on measures taken by local policymakers is usually accessible in an easy way.

In order to measure the progress made in the implementation process of the goals according to Point 3 of the 10PPA, IMPLIX indicates whether there have been positive developments in this area, such as an enhanced applicability and accessibility of institutions or the establishment of new institutions, e.g. a unit for psychological and legal aid for victims of racism and discrimination. This evaluation takes place at the formal level, indicating the local laws and practices concerning the support of victims of racism and discrimination, and therefore, it is rather effortless to conduct.

In connection with Point 4 of the 10PPA, a range of information activities can be measured, which include for instance information brochures, recognizing that the convenience of data availability about information activities is an indicator of the accessibility per se.

For Point 5 of the 10PPA, IMPLIX assesses whether concrete measures have been taken, especially by means of existing discretionary powers of the city authorities, e.g. to introduce measures likely to lower the unemployment rate of minority members or to adjust the pay differential between the city's minority population.

By means of IMPLIX it can be evaluated if the formulated goals according to Point 6 of the 10PPA to enhance access to various municipal services for minorities and to achieve equal opportunities at the workplace within the municipal administration are transformed into concrete measures to prevent and to react to racist and discriminatory incidents in the aforementioned areas. If so, it has to be asked whether these measures are evaluated on a

regular basis and what consequences are foreseen in case of underachievement of these objectives. Assessing whether the sanctions imposed in case of underachievement are appropriate may be rather challenging, as it has to be seen in the light of the benefit for integration within the municipality.

Regarding the commitment concerning the housing sector, Point 7 of the 10PPA, IMPLIX shows whether the city authorities are strengthening their policies and taking concrete measures against discrimination in the housing sector in order to fulfil the formulated goals.

IMPLIX is designed to assess whether the city has taken concrete measures towards the full enjoyment of the right to education for all at local schools and other educational institutions, towards a satisfactory level of adult education and towards an intercultural dialogue within the municipality aiming at mutual tolerance and understanding, as required in Point 8 of the 10PPA.

In order to assess the progress made in the implementation of the goals according to Point 9 of the 10PPA, IMPLIX evaluates the measures taken so far by the local authorities to promote cultural diversity in the public space and to integrate immigrants, minority groups, etc. into the public domain. This procedure may be more challenging in the cultural area than in other areas, since the data sources mostly do not include official statistics, which are available and comparable in a simpler way than other sources of data.

By means of IMPLIX it can be assessed if the measures taken to comply with the obligations resulting from Point 10 of the 10PPA improve the ability of the guarantors to cope with racist motivated crimes and conflicts in an effective and fast way, and if the measures prevent the local officials themselves to act in a discriminatory way while executing official acts concerning people with a minority background. It further assesses whether there are consequences for political hate speech, namely for the politicians concerned as well as for the political party.

III.III. Impact/Result indicator (IMPACTIX)

What was the success of the implemented policies in terms of improved conditions for individuals and population groups at risk being discriminated?

At first, the RIX results, which have been collected over a certain period of time, will be compared. Thereby it can be assessed whether the primal situation of the measured scale of distinction, exclusion, restriction and preference in the areas concerned has changed in a positive way over a certain period of time.

In a next step it has to be assessed whether the implementation (measured by IMPLIX) has been significant for a possible change. Therefore, it is necessary to conduct an evaluation of the policy concepts and policy measures (resulting from the commitments according to the 10PPA), with regard to their adequacy and effectiveness.

Regarding the city's obligation in Point 1 of the 10PPA, IMPACTIX assesses *inter alia* the efficiency of the improved and newly established monitoring networks. This process is challenging, since it requires a comprehensive assessment of the value of local policies concerning racism and discrimination. It may also be challenging to measure whether the goals are entirely achieved, as it is obvious that the fight against racism requires a persistent

allocation adjustment of local policies in order to cope with new forms and manifestations of racism.

Point 2 of the 10PPA contains the obligation to initiate or develop further the collection of data on racism and discrimination at local level. In order to assess whether the measures taken by local policy-makers to combat racism and discrimination at local level contribute to the realization of the objectives, it is indispensable to assess preliminary under which conditions the objectives can be achieved. This requires an ongoing and productive dialogue between researchers and policy-makers, which is a quite demanding task, taking into account the above mentioned contradictory expectations of policy-makers.

The evaluation of the impact of the measures taken to support victims of racism and discrimination within the municipality, as requested in Point 3 of the 10PPA, requires an in-depth analysis, with special attention given to the established victims' institutions including their functioning and efficiency. The challenge of assessing the goals concerning the support of victims of racism and discrimination being achieved or not is the interpretation of the collected data: A lower number of victims applying to counselling institutions may indicate a positive development, assuming a lower number of victims of racism and discrimination within the municipality. It may also indicate a negative development, assuming a more restrictive applicability of these institutions or a lack of information about their existence (impact on achievement of the goals formulated under commitment 4) or trust in them. The collected data shall therefore be carefully analysed. It could be complemented by surveys among those who have benefited from/make use of these institutions in order to obtain information about their efficiency and the perception of these institutions by their users (victims of racism and discrimination).

In respect of the city's obligation in Point 4 of the 10PPA, IMPACTIX is a tool to evaluate whether the measures taken to inform the city's population on racism, equality and the city's policy, show the designated effect, that is to say a more positive attitude towards minorities living within the municipality and a resentment against any form of racism and discrimination, combined with an enhanced awareness on how to claim one's rights when affected by racist or discriminatory acts or behaviour. It may be demanding to define the extent to which the information activities contributed to these outcomes, since increased tolerance and awareness can be based on various reasons.

Furthermore, IMPACTIX evaluates if the city's labour market policy, resulting from its obligation in Point 5 of the 10PPA, are positively contributing to equal opportunities employment practices and diversity in the labour market. Did they have an impact on unemployment rates, wage differences, career opportunities and so on?

IMPACTIX also assesses whether the measures taken by local policy-makers are leading towards equal access to municipal services and equal opportunities at the workplace within the municipality, as required in Point 6 of the 10PPA, or whether they are counterproductive and therefore have to be adapted. With a view to the goals regarding the city as an equal opportunities employer, the income discrepancies may be easier to evaluate than the progress of measures against discrimination in the workplace or other measures. However, they build all together the picture of equal opportunities and therefore are equally important.

IMPACTIX assesses if the city's policies and measures concerning anti-discrimination in the housing sector (Point 7 of the 10PPA) are contributing, for instance, to an enhanced access to housing for minorities living within the city. It may be quite demanding to evaluate

whether access to housing for minority groups, etc. has been improved, as it mostly depends on individual (discriminatory) experiences. The growth/decrease of certain areas of segregation may be easier to evaluate, though it will take much more time to see the efforts of local policies on this subject.

Following the city's obligation according to Point 8 of the 10PPA to guarantee access to and enjoyment of all forms of education and to promote intercultural dialogue, IMPACTIX evaluates if the measures taken positively contribute to its achievement, especially taking into account the fight against racism and discrimination through education. Educational statistics facilitate this process, as they are rather easy to compare. To get a holistic picture of the education situation of persons belonging to minorities, it is necessary to assess diverse data sources, which may be more difficult to obtain and to compare.

IMPACTIX further assesses whether the measures taken by local policy-makers show the desired effect of Point 9 of the 10PPA, namely (increased) participation and diversity in cultural programmes. The main data sources of this area of measurement are specific surveys of a representative sample of the target population on their feelings belonging within the municipality and on possible reports/complaints of experienced discrimination. Obtaining data from these surveys requires more efforts than obtaining official statistics. One can put into question the reliability of these sample statements, but nevertheless, they are a useful indicator of the prevailing climate within the municipality.

Finally, by means of IMPACTIX the level of implementation of the commitment according to Point 10 of the 10PPA should be assessed. Did the measures taken improve the ability of the guarantors to cope with racist motivated crimes and conflicts in an effective and fast way? Furthermore, it will be measured if the vigilance against racism and discrimination among the municipality's population has grown and if the impact of this vigilance on the actual situation of immigrants and minority groups living within the municipality is a positive one.

III.IV. Comparative table

The following table shows exemplary questions as starting points for the formulation and operationalization of indicators. The list is neither authoritative nor exhaustive.

10PPA	IMPLIX concept	IMPLIX measures	IMPACTIX
<p>Commitment 1 Greater Vigilance Against Racism: To set up a monitoring, vigilance and solidarity network against racism at city level.</p>	<ul style="list-style-type: none"> • Have relevant goals been set concerning the establishment and advancement of monitoring and vigilance networks? • Is the financial budget devoted to the achievement of these goals sufficient? • Are all relevant stakeholders involved in the co-operation? 	<ul style="list-style-type: none"> • Do monitoring systems exist? • Have the existing monitoring systems been enhanced and new systems established? • Are these monitoring systems in form or content congruent with the formulated goals? 	<ul style="list-style-type: none"> • Are the improved and newly established monitoring networks effective and efficient? • Could they trigger change/improvement?
<p>Commitment 2 Assessing Racism and Discrimination and Monitoring Municipal Policies: To initiate, or develop further the collection of data on racism and discrimination, establish achievable objectives and set common indicators in order to assess the impact of municipal policies.</p>	<ul style="list-style-type: none"> • Have deficiencies of the local policy been defined and considered while formulating the objectives? • Are objectives operationalized? • Are these objectives achievable? 	<ul style="list-style-type: none"> • Has data been collected? • Have the indicators been calculated/evaluated? • Is any follow-up planned by local policy makers? • Is there a reflection of the objectives in local political or administrative programmes? • Has there been information and training of municipal staff concerned by these objectives and programmes? 	<ul style="list-style-type: none"> • Did results influence policy? • Have the results been used by administration? • Have they been discussed publicly? • Did the results trigger changes in policies concerning measures, target groups etc?
<p>Commitment 3 Better Support for the Victims of Racism and Discrimination: To support victims and contribute to strengthening their capacity to defend themselves against racism and discrimination.</p>	<ul style="list-style-type: none"> • Have RIX-results been taken into account when formulating goals aimed at the support of victims? • Is it reflected in budgetary terms? • What measures to support victims have been designed? 	<ul style="list-style-type: none"> • Have planned measures been implemented, • remedies introduced, • enhanced, • extended? 	<ul style="list-style-type: none"> • Did measures improve the access to remedies/justice? • Did complaints data change in number/structure/complainants? • Did complaints impact, e.g. judgements, police awareness, investigation etc?

<p>Commitment 4 More Participation and Better Informed City Dwellers: To ensure better information for city dwellers on their rights and obligations, on protection and legal options and on the penalties for racist acts or behaviour, by using a participatory approach, notably through consultations with service users and service providers.</p>	<ul style="list-style-type: none"> • Have measures and goals been formulated appropriately? • Will their achievement be possible? 	<ul style="list-style-type: none"> • Have measures been realized? • What kind of participation / participatory processes have been employed? 	<ul style="list-style-type: none"> • Are citizens informed about the issues concerning them? • Are they informed about the political goals and measures? • Do citizens actively engage in the anti-discrimination policy? • Did complaints increase due to better information? • Are stakeholders more aware?
<p>Commitment 5 The City as an Active Supporter of Equal Opportunity Practices: To facilitate equal opportunities employment practices and support for diversity in the labour market through exercising the existing discretionary powers of the city authority.</p>	<ul style="list-style-type: none"> • Have RIX results been considered when formulating goals and measures? • What powers did the city use to intervene in labour market? • Labour market programmes set up? 	<ul style="list-style-type: none"> • Have concrete measures been taken? • Labour market programmes implemented? 	<ul style="list-style-type: none"> • Did measures impact? • Change in complaints? • Change of opportunities? • Better legal compliance?
<p>Commitment 6 The City As An Equal Opportunities Employer and Service Provider: The city commits itself to be an equal opportunities employer and equitable service provider, and to engage in monitoring, training and development to achieve this objective.</p>	<ul style="list-style-type: none"> • Has an equal opportunities programme been formulated? • Does it contain operationalised goals? • Is it obligatory to implement? • Have explicit measures been formulated? • Are they covered by budgets? 	<ul style="list-style-type: none"> • Have planned measures been implemented? • Have financial resources been employed? 	<ul style="list-style-type: none"> • Did access to (public) employment and services improve? • Have members of minorities been employed by the city and in what areas? • Are high positions in the city equally occupied?
<p>Commitment 7 Fair Access to Housing: To take active steps to strengthen policies against housing discrimination within the city.</p>	<ul style="list-style-type: none"> • Have RIX results been considered when formulating goals and measures? • What powers did the city use to intervene in housing market? • Have segregation and separation trends been considered and measures to counteract been designed? 	<ul style="list-style-type: none"> • Have measures and plans been implemented? • Resources and powers used? 	<ul style="list-style-type: none"> • Have access to housing been improved? • Development of complaints data? • Convictions of offenders? • Have rents been equalized? • Segregation reduced?

	<ul style="list-style-type: none"> • Are intervention plans innovative in terms of approaches and competences? • Are budgetary resources dedicated? 		
<p>Commitment 8 Challenging Racism and Discrimination through Education: To strengthen measures against discrimination in access to, and enjoyment of, all forms of education; and to promote the provision of education in mutual tolerance and understanding, and intercultural dialogue.</p>	<ul style="list-style-type: none"> • Are active measures in education according to the cities competencies foreseen/planned? • Have stakeholders been involved? • Is human rights and diversity education promoted by the city? 	<ul style="list-style-type: none"> • Have measures been implemented? 	<ul style="list-style-type: none"> • Has access to education improved/facilitated? • Have education achievement been improved? • Does human rights education impact on the living together / cohesion, i.e. does it contribute to an open and peaceful society?
<p>Commitment 9 Promoting Cultural Diversity: To ensure fair representation and promotion for the diverse range of cultural expression and heritage of city dwellers in the cultural programmes, collective memory and public space of the city authority and promote interculturality in city life.</p>	<ul style="list-style-type: none"> • Has cultural diversity been formulated as a political goal, does the official city identify with cultural diversity? • Does the city acknowledge the right to privacy when formulating “integration” policies in respect to diversity? • Have concrete measures been formulated? • Does the city provide equal access to funds for all cultural groups? 	<ul style="list-style-type: none"> • Have measures been implemented? 	<ul style="list-style-type: none"> • Does public funding of cultural event reflect cultural diversity? • Do mainstream cultural programmes reflect cultural diversity? • Is it reflected in “high culture”? • Is cultural difference respected in public space? • What picture is transported by the media?
<p>Commitment 10 Hate Crimes and Conflicts Management: To support or establish mechanisms for dealing with hate crimes and conflict management.</p>	<ul style="list-style-type: none"> • Have the RIX results been considered? • Do official positions take hate speech and hate crimes seriously? • Is racism considered and perceived as a crime? • Are stakeholders institutionally involved? • Are mechanisms established / planned? 	<ul style="list-style-type: none"> • Have measures / institutions / mechanisms set up? • Have stakeholders been involved / consulted? • Has public awareness been created? • Have vulnerable communities been informed / trained concerning remedies etc? 	<ul style="list-style-type: none"> • Change in numbers of incidents? • Convictions of perpetrators? • Interventions of police? • Development of perceptions of respective security?

III.V. Illustrative examples

The following examples stem from the city of Graz/Austria and are used for illustration of the ADIX evaluation.

a) Discrimination in education (commitment 8 of 10PPA)

I. RIX:

- Distinction: The Austrian educational law [§ 1 Schulpflichtgesetz 1985⁷⁰] differentiates compulsory education according to the legal status of a person: School attendance is merely compulsory for ‘permanently residing’ [“dauerhaft aufhältige”] persons. Under §§ 17 and 18 leg cit, ‘not permanently residing’ [“nicht dauerhaft aufhältige”] persons have the right, but not the obligation, to attend and finish school. This differentiation violates Art. 13 Abs 1 ICESCR, Art 7. ICERD, Art. 28 CRC and Art. 2 AP1 to ECHR⁷¹ in conjunction with Art. 14 ECHR, and is therefore to be assessed as *not favourable* according to the scale.

- Exclusion: The missing compulsory education for ‘not permanently residing’ persons affects asylum seekers (because of allocation difficulties) and illegal immigrants in an exclusionary way, since the right to education is thereby not provided for all persons without differentiation according to their legal or other status.⁷² Unfortunately, there is no data available on the question of how many children of asylum seekers or illegal immigrants are excluded from (access to) education in Austria. The excluding situation is to be assessed with *not favourable*. The Austrian national situation applies to the city of Graz as well.

II. IMPLIX:

There are currently neither policy goals nor policy measures aiming at the elimination of distinction and exclusion in the right to education, but could be as well as at the municipal level.

III. IMPACTIX:

The situation has not improved at all, due to the fact that there have been nor policy goals neither policy measures aiming at an improvement.

b) Labour-market policy measures: ‘Nostrifikation’ (economic area) (positive) (commitment 5 of 10 PPA)

I. RIX:

- Exclusion: There is a distinction of citizens and non-citizens regarding access to and prospects for the Austrian labour market: According to the ‘Human Rights Report 2007’ of the city of Graz,⁷³ the percentage of non-citizens in total unemployment is 19,5% for the year 2007. The risk of unemployment is thus 50% higher for non-citizens compared to citizens.

II. IMPLIX:

Policy goal: Improving labour market access for migrants.

Policy measure: An example of a measure in this field is the OMEGA project ‘Vocational integration through *Nostrifikation*’. In the year of 2007, 62 discussions were conducted with

⁷⁰ Bundesgesetz über die Schulpflicht (Schulpflichtgesetz 1985), BGBl. Nr. 76/1985 (WV), zuletzt geändert durch BGBl. I Nr. 20/2006.

⁷¹ Europäische Konvention zum Schutze der Menschenrechte und Grundfreiheiten (EMRK) vom 4. November 1950.

⁷² Starl Klaus, Migration und Bildung – Verletzt Österreich das Recht auf Bildung?, p. 91 et seq. in: Posch and Schleifer (eds.), Rechtsfragen der Migration und Integration. Graz 2008.

⁷³ Stadt Graz, Menschenrechtsbericht der Stadt Graz 2007 (Human Rights Report 2007), p. 44, available online at: http://www.etc-graz.at/typo3/fileadmin/user_upload/ETC-Hauptseite/themen/MRB-Bericht-Web.pdf (29.10.2009).

persons interested in the project. 24 persons participated in the project and received intense support and advice.

III. IMPACTIX:

Situation changed? Yes.

Implementation significant for change? Policy evaluation: All participants gained positive experiences and further perspectives, such as occupation possibilities, *Nostrifikation* of trainings, and graduation of continuative vocational training.

c) Political hate speech: Monitoring of election campaigns (commitment 1 & 10)

I. RIX:

- Political hate speech during the election campaigns (at local level) against Africans and Muslim people [see: Human Rights Report 2007 of the city of Graz]

II. IMPLIX:

- Policy measure: Monitoring of local election campaigns through an expert group assigned by the Human Rights Council of Graz.

III. IMPACTIX:

- Situation improved: Intensive discussion on human rights in the city in the media. Reduction in racist offences. Conviction of the perpetrator (hate speech, incitement to hatred).

D. Practical approaches of Selected Cities

ECCAR-ADIX working group members and other ECCAR member cities made already various efforts to measure racism and discrimination, equality, equal opportunities, attitudes of majority population, perceptions of discrimination by minority groups, as well as policy progress or success and other topics related to the ECCAR realm. In the context of the present study some of these approaches shall be briefly introduced and evaluated with regard to their compatibility with the ECCAR-ADIX model. All these methods can be implemented and combined in various ways in order to develop anti-discrimination strategies and to start defining indicators.

I. The City of Botkyrka (Sweden)

Sweden's integration policy covers areas concerning equal rights, obligations and opportunities for all (irrespective of ethnic and cultural background), integration of newly arrived immigrants into society, compensation to municipalities for the reception of refugees, promotion of integration and Swedish citizenship, and urban development.⁷⁴

Botkyrka is actively combating racism and discrimination and one of the few Swedish municipalities to pursue a coordinated ethnic diversity strategy.

Aims:

The City of Botkyrka clarified its goals concerning the fight against racism and discrimination and the promotion of ethnic diversity in its Council Plan, which is adapted every four years. The municipality as working place and the municipal services are important, as well as it is important to strengthen the citizenship and the sense of belonging.

⁷⁴ Government Offices of Sweden, Integration, available online at: <http://www.sweden.gov.se/sb/d/2188/a/19443> (12.01.2009).

Method:

The municipality has chosen specific commitments as part of its Council plan in order to measure the degree of success and the results of its activities and policies. Four out of 18 targets set out in the Council Plan specifically relate to the fight against racism and discrimination and the promotion of ethnic diversity:

In 2012, 75% (66% in 2007) of the population will agree upon the same rights and opportunities to be given to everyone.

In 2012, 90% (84% in 2007) of the population will feel that they belong to the municipality and feel at home.

In 2012, 26% (17% in 2007) of the municipality's leaders/supervisors will have migration background.

In 2009, 42% (already met) of municipal employees will have migration background.

Statistics Sweden provides data about the ethnic origin (country of birth) of the citizens of all municipalities. Sweden does not collect data about religion or language.⁷⁵

Conclusion:

Botkyrka concentrates on primary and secondary data. Representative surveys among the citizens on their attitudes regarding discrimination and racism and on their feelings towards the city, are a meaningful method to evaluate anti-discrimination policies. The information is even enlarged by adding quantitative data about the municipality as working place for people with migration background. These two methods may be compatible with ECCAR-ADIX, and may be integrated in RIX and IMPLIX, but it has to be kept in mind that the dual ethnic data concept of the ADIX is different and more extensive than the concept of Botkyrka.

II. The City of Galway (Ireland)

The City of Galway has developed the Galway City Anti-Racism Strategy which is based on the Irish National Action Plan Against Racism. The target groups are cultural and ethnic minorities.

Aim:

The overall aim is to eliminate all forms of discrimination in the city and to encourage diversity and interculturalism. There are five strategic objectives:

Protection: enhancing protection against racism

Inclusion: ensuring economic inclusion and equality

Provision: accommodating cultural diversity in service provision

Recognition: recognition and awareness of cultural diversity and racism

Participation: enhancing the participation of cultural and ethnic minorities in Irish society

Method:

⁷⁵ See http://www.comune.bologna.it/ECCAR/images/documenti/materiali/Sjostrom_Lundgren_Botkyrka.pdf (13.11.2009)

From January 2003 to July 2004 the work focused on three key issues of the project: developing an understanding of racism, exploring racism in Galway City and devising the appropriate strategic responses. From 2005 to 2008 further research and work was done, for example, an explorative racist incident recording system was launched in 2007 in order to document the extent of discrimination, where trained persons are responsible for recording racist incidents from four locations. The data is classified into nationality, ethnicity, religion, member of Travellers community.

Among others, an Intercultural Forum has been established together with 14 ethnic minority group organisations to better involve discriminated groups. This forum represents the interests of the target groups and provides a place of interaction, networking and discussion. More than 50% of the Anti-Racism Advisory Committee members are of ethnic minority descent.⁷⁶

Conclusion:

Ireland has adopted a national anti-racism and anti-discrimination strategy, including an indicator system, which is well elaborated. Adding the primary data gained from counting the racist incidents in the city over a certain period of time may be very informative about the effects of the anti-discrimination policies in Galway itself. Exploring racism in Galway is important for the ECCAR-ADIX (especially the RIX), but the concentration on the municipal level could be enlarged. Moreover, it is not clarified which concept of 'ethnicity' is used to classify the data.

⁷⁶ See <http://www.galwaycity.ie/AllServices/CommunityCulture/Publications/FileEnglish.674.en.pdf> (11.11.2009).

III. The City of Graz (Austria)

The City of Graz pursues three different approaches:

1. The Human Rights Council, which was constituted by the Mayor in 2007, publishes an annual Human Rights Report with recommendations and the qualitative evaluation of their implementation. The period specified for the first Human Rights Report is from 2001 until the end of 2007, with a focus on the year 2007. The core chapters of this report were 'Racism' as well as 'Islamophobia'. Altogether almost 40 recommendations were formulated and acknowledged by the City Council. The report on 2008 evaluates the implementation, whereby 18 recommendations were started being implemented, four have been implemented in the year before.

Method:

The first step in the beginning of the year 2007 to be done was to collect data. For that purpose different local organisations relevant to the subject of human rights (NGOs, public institutions, court, executive authority, etc) were invited to transfer relevant information to the office of the Human Rights Advisory Council. Out of the total of 165 invitations only 34 organisations contributed (~20%). In addition, 6 interviews have been carried out and 7 written requests for further information were passed. Even though the working group did not have any research orders, it was necessary to collect further information in different fields.

2. With the 10PPA the city tries to introduce operational goals to measure achievements. This method was adopted from the example of Botkyrka.

3. The Life Quality Index (LQI) tries to measure the life quality and individual contentment of the population in Graz with the help of eleven main indicator groups, which include social integration, housing, safety and workplace. There are three different data sources used to form the LQI, which are primary and secondary objective data (demographic data like nationality, city structure...), primary subjective data (importance and contentment for/of the inhabitants) and specific data of certain institutions (services...).

Conclusion:

Graz is mainly focusing on the municipal and individual level, which is perfectly compatible with the ECCAR-ADIX. The annual Human Rights Report may provide important information for all three indicators, the RIX, IMPLIX and IMPACTIX. The LQI provides important additional data, and especially the social integration indicator can also be applicable for the ECCAR-ADIX. Unfortunately, the LQI-data concerning housing, workplace and social services have not yet been related to discrimination and racism, and therefore, cannot be used directly for the ECCAR-ADIX yet. However, the competent authority plans to extent the LQI to include ECCAR-ADIX indicators in its five-year-investigation.

IV. The City of Madrid (Spain)

The City of Madrid has established the Centre for Migration and Intercultural Coexistence (OMCI). It is based on the Madrid Plan for Social and Cross Cultural Coexistence which aims at the accurate 'analysis and understanding of social reality'. The Madrid Plan has developed a variety of mechanisms and organisations to build a society conducive for all citizens in Madrid.⁷⁷

⁷⁷ See <http://www.munimadrid.es/UnidadesDescentralizadas/ServALaCiudadania/InmiCoopVolun/Inmigracion/EspInformativos/ObserMigraciones/Presentacion/ingles.pdf> (12.11.2009).

Aim:

The Madrid Plan of Action is formulated for four strategic fields:

1. Prevention of racism, discrimination and intolerance
2. Report of racist, xenophobic and intolerant acts
3. Protection of victims
4. Evaluation and Monitoring with a system of indicators on racism.⁷⁸

The OMCI aims to increase the understanding of migration phenomena and multicultural coexistence through research, policy evaluation and publication. The Centre has two main objectives. Firstly, it wants to monitor and to analyse the change of the demographic and the social climate in Madrid in order to foster and promote open-minded coexistence and diversity through citizen participation. Secondly, the centre intends to increase dialogue and interaction between all the residents of the city via organised forums and district discussions on coexistence, as outlined in the Madrid Plan.

Method:

The Centre has two branches in order to accomplish these objectives, the area of social research and the area of coordination. The area of social research initiates and actualizes independent research on migration and multicultural co-residence in the City of Madrid, and also analyses and interprets demographic and socioeconomic data. It also develops, publishes and circulates reports on findings and studies and maintains a specialized documentation centre on issues and topics related to migration, social cohesion and multicultural co-development. Coordination and collaboration with other departments of the Madrid Plan as well as multilevel exchange of experiences and information are important points, not only between citizens, but also between municipal, national and international organisations.⁷⁹

Conclusion:

Madrid is elaborating a system of indicators relating to six points of the 10PPA. There are several indicators within the preventive framework, the report framework and the protection framework. Madrid's strategy may be compatible with ECCAR-ADIX, but there is no information provided about a concept for collecting 'ethnic' data. Nevertheless, primary as well as secondary data are used, which can be important for the RIX and IMPLIX.

V. The City of Rotterdam (Netherlands)

Rotterdam (as the first municipality of the Netherlands) has launched an Implementing Programme Integrated Approach of Discrimination and Exclusion. The Rotterdam strategy points out that it is the task of the municipal authority to fight discrimination and exclusion. Nevertheless, it is tried to establish relationships between all persons and organisations, which pursue the same goal.

Aim:

The City of Rotterdam has committed itself to the 10PPA to fight racism, discrimination and exclusion. The aim is to increase the willingness of reporting discrimination on the basis of an increase in complaints.

Method:

Discrimination is prohibited by law; discriminatory offences have to be actively prosecuted. There has been created a list of actions which should trigger an increase of the

⁷⁸ See http://www.comune.bologna.it/ECCAR/images/documenti/materiali/Lores_Madrid.pdf (13.11.2009).

⁷⁹ See <http://www.munimadrid.es/UnidadesDescentralizadas/ServALaCiudadania/InmiCoopVolun/Inmigracion/EspInformativos/ObserMigraciones/Presentacion/ingles.pdf> (12.11.2009).

willingness to report. A message of tolerance is propagated, the municipal departments try to provide a good example, diversity in the labour market and in education is promoted and the limits of repression are explored where it is necessary and possible.

Apparently, the number of submitted complaints cannot be used as a criterion for the results of the policy. More clarity is provided by the annual RADAR reports, which start from the stage of complaints being submitted, but also use other databases. The city omnibus (a municipal survey, which is carried out every year among the majority and minority population) of the Centre for Research and Statistics includes questions about experiencing discrimination and exclusion at the local level.⁸⁰

Conclusion:

The City of Rotterdam concentrates more or less on only one indicator by counting the submitted racism- and discrimination-related complaints (and does not only focus on racism alone). This is clearly not an appropriate method to evaluate the municipal anti-discrimination policies because by only counting the complaints it is impossible to identify the individual reasons for the claimant to file a complaint. It is also not described whether or not the background of the claimants themselves has been analysed. Nevertheless, the number of complaints and reports are important secondary data, which may be compatible with ECCAR-ADIX (especially the IMPLIX).

VI. The UK-Approach

In the UK, there has been established a nation-wide program to build cohesive communities. An important element to achieve that goal is to eliminate racism and discrimination and to encourage positive interaction between people from different backgrounds.

Aim:

The aim of the UK-wide approach of 'Building Cohesive Communities' – the new local performance framework - is to improve quality of life in places and to provide better public services by shared endeavour of local and central government and the empowerment of local citizens.⁸¹

⁸⁰ See <http://www.cos.rotterdam.nl/smartsite229.dws?MainMenu=0&goto=2245459&style=2036&substyle=> (4.5.2010).

⁸¹ See <http://www.communities.gov.uk/documents/localgovernment/pdf/621282.pdf> (12.11.2009).

Method:

The strategy describes that achieving the goals requires the creation of a shared endeavour between central and local government, and local and regional delivery partners. The focus has to be on improving outcomes for local people as well as business, bureaucracy has to be reduced and rigorous performance management has to be ensured. Furthermore, it concentrates on building confidence of local people in public services, and tries to encourage innovation and recognise success.⁸²

The local authority has to consult comprehensively to develop the so called 'Sustainable Community Strategy' which should reflect the perspectives and priorities of the local authority, its partners and the community itself. The national priorities are a part of the 'Comprehensive Spending Review'. There is a 'Single Set of 198 National Indicators' which shall be used to measure performance in all areas for a period of three years from 2008 to 2011. The local authorities are responsible for the delivery of the national priority outcomes. Then, the Local Area Agreements bring together national standards and priorities set up by the Government with local priorities, informed by the vision developed by the local authority and its partners. An outcome-focussed, proportionate and risk-based 'Comprehensive Area Assessment' (CAA) was introduced in April 2009. The National Improvement and Efficiency Strategy aims to support local authorities and their partners in achieving the priorities.⁸³

Conclusion:

The UK-wide approach is focused on the work of local authorities, which are responsible for achieving the national priority goals. The indicator system evaluates whether or not the communities become a safer and stronger environment and it tries to capture the living and working conditions of the people; however, there is no special focus on racism and all forms of discrimination. Anyway, the data received from these indicators may already draw a certain picture to see how successful anti-discrimination policies are, but cannot be used for ECCAR-ADIX without further adaption.

VII. The City of Zuerich (Switzerland)

The City Council of Zuerich established an interdepartmental working group to take measures against racism and discrimination. The first racism report was published in 2009, which is focused on five subjects: residential market, problems concerning apprenticeship training positions, ethnicized violence, police work and the work of anti-racism institutions.

Aim:

The aim is to evaluate the situation concerning the extent of racism and discrimination in the City of Zuerich, to give a broad overview of the ongoing activities and to point out where action against racism and discrimination is needed.

Method:

Up to now, the City of Zuerich has not developed any instruments to observe racism and discrimination systematically. It is necessary to fall back on existing evaluations and studies which provide indications for the general situation and the five topics mentioned above to a certain extent, as for example the federal statistics of criminality where complaints about racial discrimination in the City of Zuerich are registered. Furthermore, there is data available from the chronology of racist incidents, which has been compiled since 1992. There

⁸² See <http://www.communities.gov.uk/documents/localgovernment/pdf/552605.pdf> (13.11.2009).

⁸³ See <http://www.communities.gov.uk/documents/localgovernment/pdf/621282.pdf> (12.11.2009).

are no studies about xenophobic attitudes of the citizens but the census, which is carried out every year, provides information about the cohabiting of people with different cultural backgrounds.⁸⁴

Conclusion:

In its report, the interdepartmental working group relies on secondary data which are connected to the five crucial topics. The data may also be used within the ECCAR-ADIX because they are measuring important parts of the RIX. It is acknowledged that much more studies are necessary to capture all forms of racism and discrimination in the City of Zuerich, because there is hardly any information about the municipal level. Moreover, the concept of measuring 'ethnic' data has to be compatible with the ADIX so that the data can be used.

VIII. Harmonising Cities' approaches with ECCAR-ADIX

Currently, there is a wide range of diversity of methodology, goals and purposes and stages of development of the different cities' approaches.

Methodology:

Up to now, the ECCAR-ADIX concept of 'ethnicity' has not been applied by any city. It is important to clarify the concepts of 'ethnicity' used by the cities (if there is any) to be sure what is actually measured and to have a basis for harmonisation.

The cities use primary and secondary data, like census data, socioeconomic data and data concerning the number of submitted racism- and discrimination-related complaints. However, it is essential to know what data is used by the cities and why, and to promote harmonisation to really understand the situations. For instance, in Zuerich, complaints about racial discrimination are registered in the federal statistics of criminality, and these numbers are published in the city's racism report. In Graz, there are no numbers published. Following someone could suppose that there are no racist incidents in the City of Graz, or that there are no complaints or convictions. For this reason, heading for relative data (e.g. conviction-acquittal ratio in this case) and harmonisation is recommended. Linked to the variety of data used, there is also a diversity of methods of data collection with analogical problems.

Goals and Purposes:

The inconsistency of objectives and their legal basis mainly concerns the national approaches of the UK and Ireland, which are difficult to be harmonised with ECCAR-ADIX because of the relative inflexibility of legal provisions regulating concepts, data sources and indicators. However, there is still the option to take additional (local) steps, like the City of Galway does.

All the other goals could be harmonised with the appropriate political will, even if they are far from a complete uniformity (e.g. fighting racism, increasing the willingness to report racism and discrimination, establishing a diversity policy...) and therefore, also have different focuses of what needs to be measured (e.g. racism, integration, policy progress, life quality...).

Stage of Development and Regularity:

The different cities' approaches also vary in their stage of development. Some cities only use already available secondary data, whereas others carry out city-specific studies. For harmonisation these levels have to be adjusted to ECCAR-ADIX. It is also necessary to point

⁸⁴ See http://www.stadt-zuerich.ch/content/dam/stzh/prd/Deutsch/Stadtentwicklung/Publikationen_und_Broschueren/Integrationsfoerderung/Integrationspolitik/Rassismusbericht%202009.pdf (11.11.2009).

out that the data used by the cities has been collected in different years and in varying intervals, which also should be changed if complete harmonisation shall be realised.

Harmonising the different approaches with ECCAR-ADIX is required in order to establish an instrument which can be used by all the cities, and to make comparisons possible. From the cities' perspectives there are advantages of harmonisation, because each city gets a model ready to use without expenses for the model itself.

E. Conclusion.

The study *Challenges in the Development of Local Equality Indicators - The ECCAR-ADIX – A Human-Rights-Centred Model* firstly clarified the legal preconditions in respect of the data needed in order to measure racism and to evaluate the progress and the impact of respective policies. Secondly, the study discussed the methodological and practical challenges concerning the availability of appropriate and reliable data at local level. Thirdly, it proposed a theoretical model of the ECCAR-ADIX indicator sets.

All international and European organizations, as well as important NGOs underline the usefulness, even indispensability, of ‘ethnic’ data collection in the fight against racism and discrimination. However, concerns remain in respect to misuse, stigmatizing data and in respect to the reliability of such data. The examination of existing international and selected national law proved that ‘ethnic’ data collection is legal if the consent of the data subject has been given, the collection is made to pursue a legitimate aim or if statistical data is processed instead of personal data.

The discussion of the feasibility of developing appropriate indicators on racism and respective policy progress and impact dealt with different issues. The key issue might be a methodological one. ‘Ethnicity’ is a social construction and it has two very different, but interdependent components: the ethnic self-identification and the ethnic attribution to a person by others (racialization). Additionally, a problem is the motivation of an individual person to reveal the ethnic self-identification: this might be opportune in the case of exercising granted minority rights or not in the interest of a person, if he or she fears stigmatization or discrimination. The question, how ethnicity may be conceptualized and whether this concept will lead to reliable data, is being discussed; yet, not completely resolved. Another, very pragmatic, issue is the one of available resources and, connected with this, the question of political will to make the effort. All these issues need to be examined in more detail in the further work of the ECCAR-ADIX working group.

The core part of the study is dedicated to the formulation of an appropriate theoretical framework model of the ECCAR-ADIX indicators. The proposed model is a human rights-centred model of three sets of indicators: The racism/equality indicators (RIX) measuring racism and equality in the municipal society. RIX operationalizes the definition of racism stipulated in Art. 1 ICERD. The second set should assess the anti-discrimination policy of a municipality according to the respective 10PPA and its implementation (IMPLIX). The third set should evaluate whether this policy impacted on the people concerned and on society as a whole (IMPACTIX).

The study also took a closer look at practical examples by selected cities. The section highlights the variety of methods used, data sources employed, topics to measure or goals being pursued. A first assessment based on the limited available information showed that these approaches can be harmonized within ECCAR-ADIX provided there is political will to make available the necessary resources and to adjust the goals in order to make them fully compatible with the ECCAR goals of anti-racism policies. The question of whether or not an appropriate concept of ‘ethnicity’ will be found and agreed upon, is crucial.

Further research will be needed at ECCAR-level as well as at municipal level. It is recommended to do this in accordance with the strategies of the Council of Europe and the European Union in order to use synergies and to avoid redundancies or additional costs. Most

importantly, a ‘map of diversity’ in ECCAR member cities should be drawn to find out the appropriate categories of ethnicities (at the methodological level) and to show the vulnerability (and its diversity) to discrimination in ECCAR cities (at the municipal level). Thus, a list of meaningful indicators needs to be set up, discussed among and agreed upon by the member cities. Also, an availability study concerning the necessary data for the ADIX will be needed. After these issues will have been clarified, the first pilot ECCAR-ADIX can be generated.

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Struggle against Racism and Discrimination Section

1, rue Miollis
75732 Paris Cedex 15
France

www.unesco.org/shs/citiesagainstracism

Fax
+33 (0) 1 45 68 57 26

E-mail
m.scarone@unesco.org
k.guse@unesco.org

