## Content

**Executive summary** .......................................................................................................................... 3

1 **Background** .................................................................................................................................. 4

2 **Conference proceedings** ............................................................................................................... 6
   2.1 Welcome address ............................................................................................................................ 6
   2.2 Keynote speeches ............................................................................................................................ 7
   2.3 Panel debate: Equal rights for everyone – a luxury in times of crisis? ................................. 10
   2.4 Working groups ............................................................................................................................ 12
      Working groups: day 1 ..................................................................................................................... 17
      2.4.1 Access to justice ..................................................................................................................... 13
      2.4.2 Access to services .................................................................................................................. 14
      2.4.3 Freedom of movement .......................................................................................................... 15
      2.4.4 Access to basic rights for everyone ...................................................................................... 16
      Working groups: day 2 ..................................................................................................................... 17
      2.4.5 Implementing legislation and developing evidence-based policies .................................. 17
      2.4.6 Enhancing rights awareness among marginalised groups .................................................. 18
      2.4.7 Encouraging reporting and improving access to redress mechanisms ............................ 19
      2.4.8 Enhancing duty awareness through training and education .............................................. 20

3 **Summary of Conclusions** ............................................................................................................. 21
   3.1.1 Effective implementation of fundamental rights at all levels .............................................. 21
   3.1.2 Strengthened monitoring mechanisms .................................................................................... 21
   3.1.3 Proactive approaches in redress mechanisms ...................................................................... 21
   3.1.4 Human rights education .......................................................................................................... 22

4 **Follow up by the FRA** ................................................................................................................ 23
   4.1 Thematic activities ....................................................................................................................... 23
   4.2 Horizontal activities .................................................................................................................... 24

**Annex 1: Conference programme** .................................................................................................. 26
**Annex 2: Online survey** .................................................................................................................. 29
**Annex 3: Conference participants** .................................................................................................. 30
**Annex 4: Participants’ Evaluation of the Conference** ..................................................................... 31
EXECUTIVE SUMMARY

The Fundamental Rights Conference (FRC) is the key annual event of the European Union Agency for Fundamental Rights (FRA). In 2009 the FRC was devoted to the situation of marginalised groups who are vulnerable to rights violations, discrimination and social exclusion. The event was organised in cooperation with the Swedish Presidency of the European Union and took place on the 10-11 December 2009 in Stockholm.

The hosts of the event – Swedish Minister of Integration and Gender Equality, Nyamko Sabuni; and Chair of the FRA Management Board, Anastasia Crickley – opened the conference. FRA director Morten Kjaerum then presented the Agency’s assessment of the current human rights situation, outlining challenges and positive developments in 2009. Mary Robinson, former UN Commissioner for Human Rights, spoke about global human rights issues and poverty as a major barrier to accessing rights.

At the centre of the first days plenary sessions were two key themes – the panel debate “Equal rights for everyone– a luxury in times of crisis” and the results from the European Union Minorities and Discrimination Survey (EU-MIDIS). High-level speakers – Thomas Hammarberg, the Council of Europe's Commissioner for Human Rights; Renate Horning-Draus from the German Employer's Association, Miranda Vuolasranta from the European Roma and Travellers Forum and the FRA director Morten Kjaerum – discussed the impact of the economic crisis on human rights. The second day began with a keynote speech by Czeslaw Walek, Czech Vice-Minister for Human Rights, who spoke about the importance of developing evidence-informed strategies and the need to involve the local level when devising Roma inclusion policies.

The Fundamental Rights Conference set itself an aim to create an opportunity for interactive debate and discussion. Thus, working groups were at the core of the agenda. The first day working groups were dedicated to four broad themes, reflecting different problems faced by marginalised groups: access to justice, access to services, freedom of movement and access to basic rights. Based on existing evidence, participants identified concrete challenges and discussed practical solutions to tackle them. The second day working groups clustered these solutions into four crosscutting intervention areas: legislation, policy and data collection; rights awareness; redress mechanisms; and duty awareness. This resulted in the identification of a set of suggestions for action and strategic follow-up by the participants of the Conference. A panel debate with the working group chairs summarised the results in the concluding plenary.

The FRC conclusions highlighted the importance of empowering marginalised communities to participate in policy-making, mainstreaming human rights into policy and legislation, improving monitoring, developing a pro-active approach in redress and complaint mechanisms, as well as continuous and tailor-made human rights training for public employees. A number of the FRA research, awareness raising and networking activities will follow up these conclusions in 2010.
1 BACKGROUND

The European Union Agency for Fundamental Rights (FRA) launched its programme of Fundamental Rights Conferences (FRC) in 2008 to create a space for policy-makers, experts and human rights defenders to examine key fundamental rights challenges and develop courses of action that better guarantee their protection. The FRC takes place annually, around the International Human Rights Day, and is a key event on the EU’s human rights calendar. The FRC intends to be:

- A forum to pool knowledge on fundamental rights and to share experience on developing good practices;
- A catalyst for developing an evidence-based approach to decision-making and practice;
- An opportunity to build strategic partnerships between fundamental rights actors from supranational to local level.

Making rights a reality for all – the theme of the FRC 2009

The FRC 2009 was devoted to the situation of marginalised groups who are vulnerable to rights violations, discrimination and social exclusion in the EU.

The FRC built on recent FRA studies and surveys, in particular the European Union Minorities and Discrimination Survey (EU-MIDIS) and studies on the situation of Roma, discrimination and the rights of the child. These reports provided significant evidence regarding the extent of discrimination and victimisation experienced by vulnerable groups in the EU. The Agency’s research, as well as evidence gathered by other organisations, served as a solid starting point for
discussions on how to enhance the effectiveness of fundamental rights protection and anti-discrimination policies. The discussions cross-cut discrimination grounds, considering persons with the right to special protection (children), and also looking at specifically vulnerable categories such as irregular migrants. A particular focus throughout the conference was given to the situation of the Roma as the ethnic group most vulnerable to discrimination and marginalisation in the EU.

The aims of the conference

The FRC 2009 aimed to facilitate an evidence-based dialogue on how the EU and its Member States can better protect people against discrimination and victimisation, ensure redress for victims of rights violations, and support the social inclusion of marginalised groups. To this end, the conference identified proposals for action by the Agency and other fundamental rights actors in relation to:

**GAPS**
Gaps in laws and policies to protect against rights violations and to support non-discrimination and social inclusion of persons in vulnerable situations

**BARRIERS**
Practical barriers to accessing fundamental rights (such as, the lack of rights or duty awareness; inaccessibility of protection and support structures; lack of confidence in complaints mechanisms)

**SOLUTIONS**
Solutions and actions to overcome such barriers and to better protect the fundamental rights of persons in vulnerable situations.
2 CONFERENCE PROCEEDINGS

2.1 Welcome address

The Fundamental Rights Conference was opened by the hosts of the event – Nyamko Sabuni, Swedish Minister for Integration and Gender Equality; and Anastasia Crickley, Chairperson of the FRA Management Board. Both emphasised the importance of changing the way we perceive marginalised groups and the need for concerted action to make their rights a reality. Jacques Barrot, European Commission Vice-President and Commissioner responsible for Justice, Freedom and Security, addressed the participants through a video message.

Here are some excerpts from the welcome speeches1:

“The Fundamental Rights Conference takes place in a very particular context. With the entry into force of the Lisbon Treaty, the Charter of Fundamental Rights becomes legally binding instrument, thereby reinforcing rights protection across the EU. Moreover, the new European Commission will have a dedicated portfolio for fundamental rights. And finally, the European Council adopted the Stockholm programme, which defines the framework for the EU action in the area of justice and home affairs. With the support of the Swedish Presidency, we managed to place fundamental rights at the heart of this strategy.” – J. Barrot

“The spreading of democracy and the defence of human rights are cornerstones of the EU. We have much to be grateful for - but more remains to be done.”

N. Sabuni

“In the struggle to realise rights in Europe, we need to think in terms of a paradigm shift. This paradigm shift requires linking rights with recognition, linking exclusion with equality, linking rights denial with rights claiming, and most of all linking laws and policy with implementation through participation and active involvement of the voices from those who are marginalized.”

A. Crickley

“Human rights concern everybody. They need to be visible, or even tangible, for everyone. The key to this is implementation. Successful implementation requires knowledge of how to make the necessary changes. This is why I am happy that so many of you have come here today. So that we can share experiences and best practices. Help each other to develop policies and strategies that are adapted to our different needs.” – N. Sabuni

Mahatma Ghandi, that the nations greatness is measured by how it treats its weakest citizens.” – A. Crickley

2.2 Keynote speeches

Morten Kjaerum, Director of the FRA
STOCK-taking in STOCKholm: 2009 – a good year for fundamental rights?

“Europe is diversifying. In one way or another, we are all “others”. We are of different genders, different nationalities, different ethnicities, different sexual orientations, different religions, and different ages. Some of us cannot see, some cannot hear, some cannot walk. But none of these facts alone defines us. The mix of all this makes each of us a unique person.”

Reminding us of the diversifying Europe we live in, the FRA director invited the audience to look at the “high resolution photo” of the human rights situation. In Europe, discrimination, homophobic bullying, and exploitation in the sex industry or black labour market are only several among numerous challenges that marginalized groups face every day. Yet, when asked about discrimination, “82% of those who were discriminated against in the past 12 months did not report their most recent experience of discrimination anywhere. Even some of the people who know that equality is a right are not realising that right. The result: those who discriminate can act with impunity, and significant parts of our population do not access justice.”

In response to this, “actors at all levels must face up to their obligation to respect, protect and fulfil fundamental rights. This includes European institutions and national governments, but also local authorities and, increasingly, private sector service providers. Police authorities, health service personnel and those within schools must act on the evidence presented, but also doormen and women at nightclubs and managers at sports clubs. Local level actors are crucial if we are to close the gap between the rights proclaimed in international human rights instruments, and the ability of people to exercise these rights in practice. The nurse at the hospital for people with mental health problems should in the future be perceived as an important human rights defender.”

On the other hand, there are several reasons to believe in positive change. First of all, the Treaty of Lisbon with the legally binding Charter of Fundamental Rights strengthens and deepens fundamental rights protection in the EU. Secondly, the new Commissioner portfolio for Justice, Fundamental Rights and Citizenship can become a driving force for the “Community of rights and values”. And finally, the Stockholm programme will offer more room for fundamental rights implementation.

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“I am confident that we will enter 2010 better equipped to make rights a reality for all.” Morten Kjaerum
Mary Robinson, President, Ethical Globalisation Initiative – Realising Rights
Realising rights in times of economic crisis

Drawing from her experience in developing countries, Mary Robinson, former UN Commissioner for Human Rights, placed human rights concerns into a global perspective. Reflecting on the impact of the current economic crisis, Ms Robinson spoke about fundamental labour standards, corporate responsibility, as well as the increasing need to integrate informal economy into the systems of social security and legal protection.

“Realising rights – what we mean by that is very simple. First of all, everyone in the world should realise that they have human rights. And secondly, those with power must realise rights i.e. implement those rights, protect people from human rights violations.”

“If I was asked about the biggest human rights problem globally, the answer would be absolute poverty, which very often means bad governance, corruption, conflict, but also life without any rights and so many barriers to access them.” The International Labour Organisation forecasts that the global jobs crisis could linger for the next 6 to 8 years. The World Bank predicts that, as a result of the financial crisis, 89 million more people will be living in extreme poverty by the end of 2020. Poverty is a major barrier to accessing rights. Today, approximately 4 billion people in the world of 6.7 billion have no access to justice or rule of law.

“There is a need for a human rights response to the economic crisis.”

Mary Robinson

In the face of the current economic and environmental challenges, Ms Robinson called for “a major rethink about the global economy and the underlining principles that should drive policy in the years ahead. In the race for economic development, fundamental rights do often continue to be marginalised. The prevalent view holds that protecting fundamental labour rights does not always make financial sense, particularly in the midst of the economic downturn. But various initiatives show that countries with respect for human rights are actually in a better position to build more sustainable growth and development.”

“We all know that it is not only governments that play a key role in realising human rights. International institutions, such as the World Bank and IMF, regional organisations, such as the European Union, multinational corporations, and civil society, all are significant stakeholders for successful human rights policies. But if we are going to make difference, we must put people at the centre of human rights policies.”
Czeslaw Walek, Deputy Minister for Human Rights, Czech Republic
The role of evidence in policy-making – the example of the Czech Republic

Czeslaw Walek talked about Roma inclusion policies tried in his country. Focusing on the need for research and statistical data to underpin strategies, Mr Walek asked whether governmental policies and strategies are based on evidence, statistics and analysis.

"When it comes to Roma integration strategies, a plethora of information is coming from analysis, surveys conducted by international or non-governmental organisations. However, when asked, many officials repeat that obtaining ethnically based statistical data is illegal in their country; that census data are insufficient and that is why they base their policies on field information and individual expertise." "I would allow myself to say that at local level the situation is even worse. I know of only one municipality in the Czech Republic that conducted a thorough analysis of the Roma situation before creating a plan of action. Other municipalities usually use an unfavourable public opinion on Roma to support their so called ‘zero tolerance policies’.”

Against this background, the Government faced two major challenges when implementing its policy on Roma integration:
- lack of its implementation at local level;
- lack of monitoring mechanisms that would actually show whether this policy is successful and effective.

Since 2004 the government has been presented with an annual report on the situation of Roma in the Czech Republic. The report collects information from various surveys or studies on Roma and creates a picture of developments in this area. Moreover, in 2005 a first major nationwide survey on social exclusion of Roma was conducted. Partially due to the sobering results of the survey, partially due to good political constellations in January 2008, the Czech government agreed to create an Agency for Social Inclusion.

The agency is a paradigm shift in the work of the State in the area of social inclusion. Its goal is to provide local partners with know-how, finances and all necessary support to create and implement such programs that will lead to the elimination of socially excluded areas and to the inclusion of Roma into local communities.
2.3 Panel debate: Equal rights for everyone – a luxury in times of crisis?

A panel of high-level speakers – Thomas Hammarberg, the Council of Europe’s Commissioner for Human Rights; Renate Hornung-Draus from the German Employer’s Association, Miranda Vuolasranta from the European Roma and Travellers Forum and FRA director Morten Kjaerum – discussed the impact of the economic crisis on human rights. Speakers expressed deep concern with some of the current challenges to human rights:

- **Decrease in solidarity** with the most vulnerable members of our societies.

- **Growing support for right wing extremism, promoting fear and intolerance.** The messages of the extreme right are increasingly making inroads into mainstream politics.

- **Xenophobia and violence** put a number of minority communities in danger, such as LGBT, Roma and other groups. “In 2009 the Hungarian president publicly stated that due to the economic crisis, public authorities are not in a position to defend Roma citizens from paramilitary neo-Nazi groups which are marching through Roma settlements and killing Roma, including children”, said Miranda Vuolasranta. According to her, during the past two years alone, more than 20 Roma were murdered in EU Member States, mostly Romania, Bulgaria, Czech Republic and Italy.

- **Deepening the social exclusion of the most marginalised, especially the Roma.** Expelled from their homes and without a social safety net, Roma suffer from extreme poverty and face the strongest discrimination in the EU. Legitimising discrimination, Roma communities have been accused of not being willing to integrate into society. Yet, research shows that Roma want to integrate, while wishing to preserve their culture.

- **Rapid increase of modern forms of slavery** is a result of massive layoffs in different social sectors. “It is worrying to see how a “slave market” is booming across Europe”, said Morten Kjaerum. While public policies are focusing on combating human trafficking of sex workers, the larger scope of modern slavery remains unaddressed, that is the exploitation of irregular migrants in agriculture, construction and other industries. In words of Renate Hornung-Draus, “economic activity is the basis for many human rights – social protection and core labour standards are better implemented when economy is flourishing. Businesses provide employment in the formal sector this way giving people access to legal and social protection”.

“**In times of crisis it seems like Europe is losing its values.”**

**Miranda Vuolasranta**

“There is no cultural right to discriminate, and we should avoid any hierarchy on the different grounds of discrimination.” **A participant from the Austrian government**
Concluding a lively open debate with the audience, the panel called for:

- **Stronger commitment at the highest political level.** “A significant number of EU Member States have so far failed to ratify some important international agreements. The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and Protocol 12 of the European Convention of Human Rights are not yet ratified by many EU Member States”, said Thomas Hammarberg. “In times of economic crisis, it is more important than ever that politicians stand up for our common values.”

- **Systematic work for human rights**, aiming to close the gap between legal commitments and actual implementation. National Human Rights institutions, Equality bodies and other stakeholders should join forces to build comprehensive National Action Plans for Human Rights and regularly monitor progress.

- **Active involvement of people concerned**, which is a key factor for successful policies. Relevant stakeholders from international to the grassroots level, and members of the marginalised communities themselves, should be involved in developing and implementing inclusion policies.

- **Balance between cultural diversity and integration.** The majority should not impose its way of life on the minority, but start the human rights discussion with the communities, empowering them to positive change. To quote Mr Hammarberg, “we are both minorities and majorities in several respects. All of us! The important thing is to respect and encourage those different identities we have, empowering them. Multiculturalism must be a European value and defended as such”.

- **Human rights aware and responsible media** is crucial in order to promote dialogue and cultural diversity in Europe. Unfortunately, media too often reproduces racist stereotypes, rather than spearheading fundamental rights. Without limiting freedom of speech, there is a need for more systematic self-regulation within the media industry.

- **Human rights education.** The education system, from pre-school to university, should create possibilities to get to know and discuss basic human rights values and principles. Human rights and diversity issues should be part of the school curriculum across the EU.

- **Engagement of private sector in human rights protection.** There is a clear link between business development and access to human rights. Employment in the formal sector gives

“Everyone talks about the integration of Roma. Yet I ask myself: is there anyone who wants to be integrated with me? Integration should go both ways.” *Participant from a Roma organisation*

“How much should we speak about different cultures, such as Roma and Muslims? There are big differences in every culture. We should speak more about violations of individual rights.” *Participant from the Finnish League for Human Rights*
people access to legal and social protection, allowing them to exercise their rights. There is a lot of potential in how the private sector could contribute to realising people’s rights in Europe.

2.4 Working groups

The Fundamental Rights Conference set itself an aim to create an opportunity for interactive debate and discussion, thereby ensuring that the outcomes of the Conference draw on the diverse experiences and the expertise of the many participants. Working groups were therefore at the core of the conference agenda.

The first day working groups were dedicated to four broad themes, reflecting different problems faced by marginalised groups: access to justice, access to services, freedom of movement and access to basic rights. Based on existing evidence, participants identified concrete challenges and discussed practical solutions to tackle them.

The second day working groups clustered these solutions into four crosscutting intervention areas (legislation, policy and data collection; rights awareness; redress mechanisms; and duty awareness). This resulted in the identification of a set of suggestions for action and strategic follow-up by the participants of the Conference.

Results of the working groups were summarised in plenary sessions, where working group chairs presented main highlights and conclusions, as well as engaged in discussion with all participants.
**Working groups: day 1**

**2.4.1 Access to justice**

**Theme and objective**
Anyone facing injustice is in a vulnerable situation. Evidence shows that, for example, few victims of discrimination actually take the step to make a complaint and claim their rights. The FRA EU-MIDIS report revealed several reasons for non-reporting of discrimination, such as lack of awareness of or trust in complaint mechanisms, considering discrimination incidents too trivial (and thus partly accepted), and being concerned about possible negative consequences of complaining: this may apply to anyone. Hence, the aim of this working group was to identify barriers to access to justice in a broad sense, and make suggestions for strategies to overcome these challenges.

**Highlights and conclusions**
Limits to access of justice occur due to a variety of reasons, including:

- **Long and costly procedures**, which have caused people to question that institutions are there to help. This is especially true for irregular migrants, who, above all, fear being punished for claiming their rights;
- **Lack of easily accessible institutions**, which can provide legal assistance and advice for people who experience rights violations;
- **Mistrust in public authorities** is reinforced by lack of rights awareness;
- **Poor knowledge** of existing redress mechanisms is reinforced by lack of legal aid and advice.

Participants identified a number of strategies that could facilitate access to justice.

- **Alternative redress mechanisms** (e.g. mediation) should be available in all Member States.
- **Legal aid** including free of charge language assistance should be available for everyone.
- **Compulsory human rights training** should be more emphasised as a strategy to raise rights awareness among public officials and officers of the court.
- **Situation testing** has proved to be a successful strategy to unfold often well-hidden cases of discrimination. The method should be linked to training of personnel and NGOs.
- **Stronger capacities** of equality bodies, NHRI and other institutional actors are key for supporting access to justice.
- **National action plans**, underpinned by indicators, systematic evaluation and follow-up could result in innovative policy solutions and thereby contribute to better functioning of institutional and judicial mechanisms.
2.4.2 Access to services

Theme and objective
In the context of the European Year for Combating Poverty and Social Exclusion (2010) the issue of access to services for vulnerable groups is a crucial one. Discrimination in access to services, such as health care, education and housing, not only leads to poverty and social exclusion, but it also constitutes a violation of socio-economic rights. Among those most marginalised are immigrants and ethnic minorities, such as the Roma, but also LGBT persons, those from socially disadvantaged backgrounds and persons with disabilities.

Highlights and conclusions
Recognising various challenges that vulnerable groups face while accessing public services, participants identified a number of policies and existing good practice in the Member States:
- Strategies around the new UK Equality Bill take into account socio-economic rights, especially access to services;
- In Belgium public authorities published a guidebook on homophobia for primary schools, while Ireland for the same purpose launched a campaign in schools;
- Dutch police introduced a special contact point for LGBT persons;
- British health care institutions encourage women to put a red spot on their urine sample as a sign of experience of domestic violence;
- Public campaign “Inclusion Scotland” promoted affordable and accessible housing;
- Several Eastern European countries have started Roma desegregation projects.

Yet, good practice examples also show that every vulnerable group requires different solutions – what works for one, does not necessarily suit the other.

Participants identified a number of strategies that could facilitate access to services:
- Awareness raising, which can be achieved either through a bottom-up approach – empowering vulnerable groups and their support networks; or through a top-down approach – mobilising political leadership;
- Legislative initiatives to close existing legal gaps, such as fragmented anti-discrimination laws, which do not cover all grounds for discrimination and fail to impact on service delivery across all sectors;
- Interaction between service providers and users;
- Appropriate human rights budgeting, applying a rights-based approach in public service delivery;
- Human rights impact assessment for socio-economic policies and legislative proposals;
- Human rights education, from early age education to tailor made training across various professions, especially in public service;
- Stronger equality bodies, with broader mandate and sufficient resources to bring cases to court.
2.4.3 Freedom of movement

Theme and objective
The freedom to move and reside freely within the territory of the EU Member States is coined in fundamental rights language (Article 45 of the Charter of Fundamental Rights). Nevertheless the Free Movement Directive makes clear that this right is far from unconditional. Moreover, free movement is often hindered by a variety of factual hurdles making the promise of European mobility often difficult to realise on the ground. The working group discussed the limits of the right to free movement and the ways in which the factual limitations preventing full exercise of this right can be addressed.

Highlights and conclusions
Discussions in the working group revealed the complexity of reasons that contribute to low mobility in the EU. Beyond well-known barriers to free movement, such as language differences, recognition of diplomas and lack of information about employment opportunities in other Member States, certain vulnerable groups have additional legal, institutional and social difficulties to enjoy their right to free movement. Consequently, the right to freedom of movement works well for retired or rich people, but fails to offer equal opportunities for the most marginalised members of society:

- **Poverty, racism and discrimination**, especially against LGBT and Roma, are well-known push and pull factors for mobility;
- **Residence registration** has an uneven effect on vulnerable groups;
- Duty bearers often have **limited understanding of rights** and obligations for persons exercising freedom of movement;
- In particular, there is little knowledge of the issue among **local authorities**, which are first to implement some of the requirements, such as the obligation to register. As a result practice varies from one locality to the other.

In order to fulfil the right to free movement for all citizens in the EU, it was suggested to:

- **Raise rights awareness** of persons exercising the freedom of movement;
- **Promote good practice exchange** in the field of freedom of movement among Member States;
- **Collect reliable data** on migration flows of ethnic minorities and other vulnerable groups;
- **Promote freedom of movement** as a fundamental right in the EU.
2.4.4 Access to basic rights for everyone

Theme and objective
There is significant research evidencing the fact that persons with precarious legal status, such as irregular migrants, face legal and practical obstacles limiting their ability to access their rights to health and education. Increasing reporting obligations for school directors and public health service officials, as well as the cooperation between public service providers and immigration authorities in some EU countries, can cause irregular migrants to fear accessing school and health care services. At the same time, there is a growing trend to criminalise sheltering and the provision of humanitarian aid to irregular migrants. This leads to further marginalisation of irregular migrants with particularly negative effects on children. The objective of this working group was to map gaps and obstacles in present policies, legislation and practices and to develop strategies that could increase access to health and education for everyone.

Highlights and conclusions
While discussing access to basic rights, participants focused their attention on the issues of access to healthcare and education for irregular migrants, detainees and other vulnerable groups.
- **Irregular migrants** are considered to be a security problem, and therefore are denied access to the most basic rights. They risk falling victim to extreme poverty and crime, including human trafficking;
- **Negative public image** of irregular migrants and other vulnerable groups is widespread, thus making it difficult for them to get support from public servants;
- In **fear of getting reported and afterwards deported**, most irregular migrants "rarely" turn to public institutions for help.

Suggested strategies to ensure access to healthcare and education for irregular migrants:
- **Effective access to basic healthcare** should be guaranteed for everyone, independent of his or her legal status;
- **Targeted health care policies** are needed for minors under 18 years and women during pregnancy and the first months after the child's birth;
- **Special training programmes** could improve capacities of health professionals to better cope with cultural diversity and adapt to specific language needs;
- **Cultural mediation** services and involvement of immigrant families into parent associations would facilitate access to education;
- **Public perceptions** of irregular migrants should be better addressed by media and education systems;
- **Rights awareness raising** within migrant communities should build their trust in public institutions and encourage them to seek help;
- **State subsidies and family support** structures should in particular target early education for children from disadvantaged groups.
Working groups: day 2

2.4.5 Implementing legislation and developing evidence-based policies

Theme and objective
Reports by many organisations, including the FRA’s EU-MIDIS data, provide rich evidence of the extent of discrimination and victimisation faced by vulnerable groups across the EU. Following up on the thematic discussions from Day 1, the working group discussed how to use such data to assess and improve the impact of legislation, policies and action plans in the EU and Member States. The aim was to develop targeted and evidence informed measures that would ensure the fulfilment of rights by everyone in society.

Strategies and actions
The working group identified a number of strategies and actions that lead to better law and policy implementation:

- **Political leadership.** Implementation depends on successful political leadership, mobilising relevant stakeholders across government levels and areas of responsibility;
- **Broad-based policy consensus** requires better bottom-up community involvement, from public consultations on legislative proposals to community awareness raising and training activities after the legal act is in force;
- **Target groups** should take part in legislative and policy-making processes. Yet to achieve this, efforts should be given to create capacities on the grass-roots level e.g. by training communities to engage with legislation;
- **Requirements for legislation** include that legislative acts consider human rights as a public duty, are based on a thorough needs assessment, follow a multi-level participatory approach to governance and foresee adequate resources for implementation as well as effective enforcement mechanisms at all levels;
- **Human rights mainstreaming** is important in order to integrate a fundamental rights perspective into regular policy making and legislative processes. Human rights impact assessments for legislative proposals and training on human rights for legislative drafters were recognised as important tools;
- **Evidence and analysis** should serve as a basis to build a case for human rights. For example, the Czech Republic calculated the economic and social costs of Roma exclusion, which helped to gain public support for social inclusion policies;
- **Targets and indicators**, as well as qualitative data from stakeholder consultations, should be better used for planning, monitoring and evaluation;
- **Mobilised resources.** In order to better use existing resources, many human rights policies can make better use of the EU Structural Funds.
2.4.6 Enhancing rights awareness among marginalised groups

Theme and objective
The effectiveness of human rights law only truly unfolds itself when people bring rights violations to the surface by taking cases to competent authorities or the court. This presupposes that persons in vulnerable situations are aware of their rights. Reports by many organisations, including the EU-MIDIS data, provide worrying evidence of the extent to which groups most vulnerable to discrimination are uninformed about where to turn to for assistance if they have been discriminated against. The working group discussed how relevant institutions – governments, equality bodies, local authorities, civil society and others - can enhance rights awareness among marginalised groups and other persons in vulnerable situations in the EU.

Strategies and actions
The working group discussion suggested the following strategies to enhance rights awareness:

- **Accessible information** on human rights, which could be achieved by establishing information and advice centres in local communities. Based on the ‘one-stop shop’ approach, such centres should include translation services, employment facilitation and advice on complaint and redress mechanisms. Good practice examples for similar facilities are already in place in Portugal and Greece.

- **Rights aware media.** Human rights training for journalists, editors and scriptwriters, diversity management during recruitment of journalists, as well as human rights guidebooks and terminology glossaries could be useful tools.

- **Human rights education** should be included in the school curricula, especially emphasising the importance of early education. School programmes should reflect cultural and life-style diversity. Special rights awareness and training programmes should be targeted at teachers.

- **Rights friendly public service** could be achieved by awareness raising initiatives for health care providers, police, staff members in detention centres, and other professional groups. Specific trust building measures between public authorities and immigrants could facilitate their adaptation and integration. In this regard, language training and linguistic assistance (e.g. free of charge translation services for medical services) are of particular importance.

- **Mobilisation of human rights actors through political participation and policy coalitions.** Above initiatives require considerable political support, which could be achieved through targeted lobbying by coalitions, bringing together national and local institutions, as well as civil society and vulnerable groups.
2.4.7 Encouraging reporting and improving access to protection and redress mechanisms

Theme and objective
Justice belongs to all, but not all are able to enjoy it. Victims of injustice, including victims of discrimination, are often unaware of their rights and redress mechanisms for claiming those rights. Evidence shows that there is little knowledge of, or trust in, complaint mechanisms, especially among victims of discrimination. The aim of this working group was to develop concrete actions for encouraging reporting and other more proactive measures. In addition, actions for increasing awareness on redress mechanisms were elaborated upon.

Strategies and actions
Participants suggested a number of concrete actions to improve access to redress:

- **Stronger intermediaries** between institutions and people. Following the example of municipal anti-discrimination bureaus in the Netherlands or legal aid busses in France, similar initiatives could make legal redress mechanisms more accessible;
- **Better coordination and cooperation** between NHRIs, Equality Bodies and other actors;
- **Strengthening capacity of Equality Bodies** should include adequate resources and certain adjudicating powers, mediation and the ability to represent victims in courts. Equality Bodies should have a sufficiently wide mandate to deal with cases related to services and ability to act beyond citizenship limitation;
- Media, social partners, civil society – all could be valuable partners in raising awareness about existing redress mechanisms;
- **NGOs** should have the right to represent in court collective action for faulty transposition or law implementation. With dedicated financial instruments in place, civil society organisations could also play an important role in representing victims;
- **Effective measures at the European level**, by better dissemination of international surveys, reports and case law reviews from the European Court of Justice, European Committee of Social Rights and European Court of Human Rights;
- **Adequate funding** should be ensured for strategic cases related to the implementation of EU law, for example, by establishing a European Equality Case Law Fund.
2.4.8 Enhancing duty awareness through training and education

Theme and objective
Given the gap between policy level commitment and actual implementation, there is a need to reinvigorate the link between duty awareness and human rights. The reflection of human rights in standard curricula of formal professional training and education is limited. Human rights training for specific professional groups tends to be informal and voluntary. Often, it does not fully meet the challenge of reconciling the perceived conflict of interest between duty bearers and rights holders. This working group discussed specific areas of duty awareness aimed at narrowing the gap between policy level commitment and implementation. The overall objective was to develop strategies and steps of action to make duty bearers aware of their responsibilities vis-à-vis addressing specific human rights challenges experienced by marginalised and vulnerable groups.

Strategies and actions
Strategies and actions developed in the working group can be summarised as follows:

- **Commitment.** Member States should be committed to support human rights education, in particular for service providers at local level. Adequate resources should be available across governance levels, creating incentives for local and central authorities to cooperate;
- **Mainstreaming human rights** into National Action Plans and national education curricula should ensure that policies do not depend on election cycle. Systematic evaluation by independent bodies should link policies with reality;
- **Good practices in human rights education** should be shared on a European level. Here an important role could be played by the Council of Europe, the FRA as well as European level civil society organisations;
- **Integrated approaches** to human rights education should be developed together with the target audience and include trust building measures;
- **Ethical journalism.** Recognising the role of the media in transporting human rights issues (portrayal of minorities, irregular migrants, etc.), it is important not only to establish training programmes for journalists, but also integrate human rights into university curricula of media studies;
- **Rights aware public service.** Awareness raising among public service providers would ensure better duty awareness. For this matter, good practice would be to involve minority representatives in all services provided.
- **Mediation** could, in certain cases, have many advantages compared to litigation. It is therefore important to have legislation that would create more possibilities for mediation, especially for children and youth. Other crucial steps include human rights training for mediators and better dissemination of information about existing possibilities.
3 SUMMARY OF CONCLUSIONS

3.1.1 Effective implementation of fundamental rights at all levels

People’s ability to realise fundamental rights depends on effective implementation. Hence international and European commitments in the field of fundamental rights should be underpinned by systematic implementation at national, regional and local levels. In order to overcome existing implementation gaps, it is important to:

⇒ Apply a participatory approach to policy planning, implementation and evaluation. In order to ensure their support and ownership, relevant stakeholders, including the target communities, should be involved as early as possible in the planning of policies related to fundamental rights implementation;
⇒ Introduce a rights-based approach into policy and legislation cycles, thereby ensuring systematic fundamental rights implementation;
⇒ Ensure systematic evidence-based planning and evaluation of fundamental rights policies, drawing on clearly defined indicators, benchmarks, baseline studies and impact assessments.

3.1.2 Strengthened monitoring mechanisms

Effective monitoring mechanisms should help to identify successful policies and draw lessons from less effective initiatives. In order to strengthen existing monitoring mechanisms:

⇒ Data collection and systematic analysis should be exercised both at national as well as local/regional levels;
⇒ Policy evaluation and monitoring should be underpinned by sound quantitative and qualitative indicators;
⇒ Public authorities should ensure independence, sufficiently strong mandates and adequate resources for human rights monitoring bodies;
⇒ Results of human rights monitoring should feed into policy planning, implementation and evaluation.

3.1.3 Proactive approaches in redress mechanisms

Easily accessible and “customer-friendly” redress mechanisms are crucial in order to make rights a reality for all. A proactive approach in redress mechanisms requires to:
⇒ Raise awareness of existing redress mechanisms and build trust for available complaint mechanisms and institutions;
⇒ Increase accessibility and visibility of institutions, which provide legal assistance and advice for people who have experienced rights violations;
⇒ Strengthen capacities of NHRIs and equality bodies, extending their mandate with a possibility to bring cases to court;
⇒ Make redress mechanisms more representative and attractive;
⇒ Reduce minimum procedural obstacles that pose a barrier for access to justice;
⇒ Introduce intermediaries between the judicial system and victims of rights violations.

3.1.4 Human rights education

Human rights education and training is key to raise rights and duty awareness. Efforts of local, national and international actors, state entities and NGOs, media and education institutions, should aim to:

⇒ Include human rights education in school curricula, especially in early education programmes;
⇒ Offer tailor-made human rights training programmes for public service providers, such as police and border guards, teachers, journalists, health-care personnel, social workers, local level officials and other professional groups;
⇒ Share good practices in human rights education at European as well as national levels;
⇒ Follow an integrated approach by developing training material and programmes together with the target audiences.
4 FOLLOW UP BY THE FRA

Following up on the results of the Fundamental Rights Conference 2009, the FRA will continue to place marginalised groups at the centre of the Agency’s research, awareness raising and networking activities. Insights and suggestions from the FRC participants have fed into a number of projects that the FRA will undertake in 2010. Below are some examples of the Agency’s ongoing work related to the protection of marginalised groups.

4.1 Thematic activities

Access to Justice

Suggestions from the working group on access to justice provided a valuable contribution to the research activities the FRA will carry out in 2010. The Agency’s study on access to justice will analyse the experiences of individuals using the existing fundamental rights architecture in selected Member States. In 2008 the FRA initiated a two-year study on access to justice. In its first year the research focused on the legal dimension of access to justice, whereas in 2010 it will be devoted to various social aspects of the issue.

Encouraging reporting of discrimination and victimisation

The outcomes of the FRC working group on “Encouraging reporting and improving access to protection and redress mechanisms” highlighted underreporting by victims of discrimination as a key issue to be tackled. Underreporting was an issue evidenced through the FRA’s EU-MIDIS survey. In 2010 the Agency will discuss the issue with equality bodies and other stakeholders in order to explore solutions for improving the reporting of fundamental rights violations.

Freedom of Movement for Roma EU citizens

The FRC 2009 focused through one of its working groups on the existing difficulty for vulnerable groups to enjoy freedom on movement within the EU territory. Already in 2009 the FRA, together with the OSCE and Council of Europe, initiated a project related to Roma migration and freedom of movement. The project examined the movements of Roma populations within the European Union, mainly analysing push and pull factors, the social situation of the Roma with a particular emphasis on the situation of children, and the different integration measures authorities have implemented.

Fundamental Rights of Persons with Intellectual Disabilities and Persons with Mental Health Problems

Related to the FRC theme, the FRA is undertaking a project to analyse the fundamental rights of persons with mental health problems and persons with intellectual disabilities. The project aims at
better understanding how the fundamental rights of these groups are safeguarded in the EU and where violations of rights occur. The project pays particular attention to access to justice and the right to independent living, especially in terms of accessibility and availability of community based services. Interviews will be conducted in selected European countries with persons who experience intellectual disability or mental health problems, with their families and carers as well as service providers and health, social, disability and legal professionals. Research activities will be underpinned by setting-up of networks of organisations dealing with fundamental rights aspects of intellectual disability and mental health problems.

**Discrimination against LGBT people**

FRC participants emphasised LGBT as one of the most vulnerable groups in the EU, suffering from discrimination and hate crime. Building on the findings from its previous studies, the Agency will provide a legal update on “Homophobia and discrimination on grounds of sexual orientation”. Research activities will focus on access to education, healthcare and employment for LGBT persons.

**Fundamental rights situation of irregular immigrants in the European Union**

Irregular migrants are among the most vulnerable groups within society, experiencing, as the conference repeatedly highlighted, a number of barriers in accessing basic services, such as education and healthcare. Aiming to draw attention to the issue, in 2010 the FRA launched a two-year project to assess the fundamental rights situation of irregular immigrants in the EU. The areas covered by the research include health, housing, education, social care, employment status, fair working conditions and access to remedies against violations and abuse. By examining current challenges and documenting good practice, this project also intends to give practitioners practical tools to promote the rights of irregular immigrants.

### 4.2 Horizontal activities

**Strengthening the fundamental rights architecture in the EU**

The FRC emphasised the importance of strengthening the institutional framework of rights protection. In May 2010, the FRA released three reports related to the overarching architecture for fundamental rights in the EU: 1. a survey on rights awareness that in part relates to equality bodies (based on EU-MIDIS data); 2. a report on data protection authorities; and 3. a report on national human rights institutions in the EU. All three reports provided evidence on several issues raised at the FRC, such as the need for enhanced coordination among public bodies competent for human rights at the national level, stronger European cooperation among such bodies, and the importance of independence as well as a sufficiently broad mandate of such bodies.

**Connecting human rights – Joined-up Governance project**

Participants stressed that multi-level cooperation among stakeholders and different government layers was required to achieve a more effective protection of the fundamental rights of vulnerable
people. The FRC in particular highlighted the responsibility of local authorities, given that many fundamental rights are first and foremost exercised at local level. In 2010, the FRA launched an innovative stakeholder driven project, which aims at exploring collaboration between national, regional and local governments to address complex fundamental rights challenges in an integrated fashion. The project will map collaborative good practices across the EU, and develop suggestions for joined-up mechanisms to advance practical rights implementation across levels of government.

**Human rights education and awareness raising**

The conference highlighted the importance of human rights education for the development of an inclusive society. In 2010 the FRA has conducted a human rights education stakeholder consultation in order to map existing practice and to assess further needs in the field of human rights education. In line with the results of the exercise, a human rights education strategy and programme is being developed. Currently the Agency’s human rights education projects include a Diversity training toolkit for TV broadcasters, a Holocaust education and human rights education project, a handbook for teachers visiting historical sites, and anti-discrimination training for media students.
The Fundamental Rights Conference, Stockholm 2009

ANNEX 1: CONFERENCE PROGRAMME

Wednesday 9 December

19:30 Welcome reception hosted by the FRA
    Clips from the film “Me, my gipsy family and Woody Allen” with producer Davide Tosco in attendance

Thursday 10 December

08.30 – 09.15 Registration

09.30 – 10.00 FRC 2009: Putting fundamental rights protection for marginalised groups at the centre of the EU agenda

    Anastasia Crickley, Chairperson of the Management Board, European Union Agency for Fundamental Rights (FRA)
    Nyamko Sabuni, Minister of Integration and Gender Equality, Sweden
    Jacques Barrot, European Commissioner responsible for Justice, Freedom and Security (video message)

10.00 - 10.15 STOCK-taking in STOCKholm: 2009 – a good year for fundamental rights?

    Morten Kjaerum, Director, FRA

10.15 - 11.00 Realising rights in times of economic crisis

    Mary Robinson, President, Realising Rights: The Ethical Globalisation Initiative

11.00 – 11.30 Coffee Break

11.30 – 13.00 Equal rights for everyone– a luxury in times of crisis?

    Panel debate and plenary discussion with
    Thomas Hammarberg, Commissioner for Human Rights, Council of Europe
    Renate Hornung-Draus, Managing Director, BDA (Confederation of German Employers' Associations), Director European and International Affairs
    Morten Kjaerum, Director, FRA
    Miranda Vuolasranta, Vice President, European Roma and Travellers Forum

13.00 – 14.30 Lunch
14.30–15.30 Facts & figures on discrimination in the EU today

Key results from the European Union Minorities and Discrimination Survey (EU-MIDIS) (new release)
Jo Goodey, Head of Freedoms & Justice Department, FRA

15.30–18.00 Guaranteeing equal rights to everyone in society
Identifying challenges and strategies (working group discussion)

- **Access to justice** – How to ensure that people in vulnerable situations are able to claim their rights?
  *Chairled by* Mikko Puimalainen, Deputy Chancellor of Justice, Finland
  *Introduction*: Elisabeth Abiri, Human Rights Delegation, Sweden

- **Access to services** – How to guarantee equality to persons belonging to marginalised groups, such as the Roma?
  *Chairled by* Sia Spiliopoulou Åkermark, Director of the Åland Islands Peace Institute
  *Introduction*: Dimitrina Petrova, Executive Director of Equal Rights Trust, UK and

- **Freedom of movement** – How to make this freedom a reality for everyone?
  *Chairled by* José Alegre Seoane, Head of the Fundamental Rights sector, DG JLS, European Commission
  *Introduction*: Robbie McVeigh, Taskforce on Traveller Education, Department of Education, Northern Ireland

- **Access to basic rights for everyone** – How to ensure access to health or education to persons with precarious legal status, such as irregular migrants?
  *Chairled by* Yorgos Kaminis, Greek Ombudsman
  *Introduction*: Miguel Angel Gil Leal, Head of Unit of the Action Plan, General Directorate of Immigrants Integration, State Secretariat of Immigration and Emigration, Ministry of Labour and Immigration, Spain and
  Paul Pace, Former Director of the Jesuit Refugee Service, Malta

19.30 Reception hosted by the Ministry of Integration and Gender Equality, Sweden
Friday 11 December

09.30 – 10.45 Putting solutions on the table
Presentation and discussion of conclusions from Day 1

10.45 – 11.00 The role of evidence in policy making – the example of the Czech Republic
Czeslaw Walek, Deputy Minister for Human Rights, Czech Republic

11.00 – 11.30 Coffee Break

11.30 – 13.00 Making rights work
Defining priorities, actors and actions (working group discussion)

- Implementing legislation and developing evidence-based policies
  Chaired by Belinda Pyke, Director at DG EMPL, European Commission
  Introduction: Czeslaw Walek, Deputy Minister for Human Rights, Czech Republic

- Enhancing rights awareness among marginalised groups
  Chaired by Carl Söderbergh, Head of Policy and Communications, Minority Rights Groups, UK
  Introduction: Katalin Gregor, Senior Counsellor, Equal Treatment Authority, Hungary

- Encouraging reporting and improving access to protection and redress mechanisms (including victim support, legal aid)
  Chaired by John Wadham, Group Director Legal, Equality and Human Rights Commission, UK
  Introduction: John Stauffer, Director at the Equality Ombudsman, Sweden and Tamás Rettich, IPOSZ, Association of Craftmen’s Corporations, Hungary

- Enhancing duty awareness through training and education
  Chaired by Maria Leissner, Ambassador and Chair of the Roma Delegation, Sweden
  Introduction: Michaël Guet, Council of Europe/ Dosta! and Murat Yildiz, Police Training Adviser of the Organization for Security and Cooperation in Europe, Strategic Police Matters Unit (SPMU)

13.00 – 14.30 Lunch

Summing up - Interactive panel with working group chairs

15.45 – 16.00 Closing Remarks
Christer Hallerby, State Secretary, Ministry of Integration and Gender Equality, Sweden
Morten Kjaerum, Director, FRA
Results from the FRA online-survey “Equal rights for everyone— a luxury in times of crisis?”

In preparation for the conference, the FRA launched a short, non-representative survey on its website, aiming to ask main stakeholders as well as the broader public about their impressions on how the economic crisis impacted on fundamental rights in Europe.

83% of all respondents thought that due to the economic crisis fundamental rights issues at least to some extent receive less attention and funding in Member States. Moreover, when asked how the economic crisis changed public views towards vulnerable groups, such as ethnic minorities, asylum seekers, gays and lesbians, religious minorities, the elderly etc., 43% indicated that perceptions have worsened. Access to health, education and other services were identified as the most negatively affected by the economic crisis.

“The crisis has undermined trust in all institutions, which means people have no faith that defending their rights or those of others is worthwhile.”

“A simple ‘human’ problem— when there is plenty, people are more ready to share. When there is little, people are less ready to share and those who had plenty become greedy.”

“The perceptions have worsened.”

“In general, solidarity among people has increased.”

“Possibly the situation might even improve because we won’t spend so much money on discussions but everyone will be more concrete and focused on action.”
ANNEX 3: CONFERENCE PARTICIPANTS

The Fundamental Rights Conference brought together 236 participants from national governments, local/regional authorities, specialised human rights bodies, Inter-governmental organisations, civil society, social partners and other.
ANNEX 4: PARTICIPANTS’ EVALUATION OF THE CONFERENCE

At the end of the conference participants were asked to give their opinion about the conference in the evaluation questionnaire. All in all 103 responses (47% out of 218 participants) were received.

An absolute majority of participants (87%) thought that the overall quality of the conference was either excellent or good. A further indicator of this overall positive evaluation of the FRC is the fact that the vast majority of respondents thought the Agency should be organising such a conference on an annual (67%) or biannual (23%) basis.

What participants liked the most were the first day plenary session, in particular the panel debate “Equal rights for everyone— a luxury in times of crisis?” and the presentation of the EU–MIDIS results. Many stressed, that it was important for them that the panellists represented contrasting views.

Asked how they benefited from the conference, almost everyone (91%) indicated that it was an excellent or good opportunity for networking and good practice exchange.

Also, the majority of participants benefited from knowledge and good practice exchange (79 %) and thought the conference was useful in terms of promoting an evidence-based approach (64 %).

As a follow-up to the conference most participants were going to either write a report, policy paper, article, or report orally about the results of the discussions to their peers. Also, quite many respondents (36 %) were planning to use the conference results for actual policy development. In addition, most participants expected concrete follow-up activities from the organisers.

“For once, I found the discussion in plenary even more useful than in working groups. The choice of the panellists was good and gave a possibility for a real debate.”
Participant from an Intergovernmental Organisation

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“Asked how they benefited from the conference, almost everyone (91%) indicated that it was an excellent or good opportunity for networking and good practice exchange.”

“We know who needs to do what and why, the difficult task is to encourage them to act.”
Participant from a civil society organisation

“The EU-MIDIS report was very interesting and my main reason for attending the conference.”
Participant from a National Government

As a follow-up to the conference most participants were going to either write a report, policy paper, article, or report orally about the results of the discussions to their peers. Also, quite many respondents (36 %) were planning to use the conference results for actual policy development. In addition, most participants expected concrete follow-up activities from the organisers.

3 FRA staff excluded