
POLITICS AND POLICIES OF INTEGRATION IN AUSTRIA, HUNGARY, CZECHIA, DENMARK AND AT THE EU LEVEL

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FOREWORD

Michael Emerson

This book studies the recent resurgence of extreme right political parties in Europe, and in particular their positioning in relation to issues of immigration and ethnic minorities, which are at the core of these parties' ideologies and political agendas. The book falls into two parts, first examining the role of extreme right parties in four countries, and secondly examining how policies for the integration of both old and new minorities have been developing in these countries.

The approach has been to look at a sample of four of the smaller member states of the European Union: two of the new member states from Central Europe, the Czech Republic and Hungary, and two older member states, Austria and Denmark. Together their populations amount to only 35 million, or 6% of the EU total. But as manageable sample they can be considered significant for European as a whole, given that they span old and new Europe.

But what and who are the extreme right? One of the studies (by Kamila Čermáková and Radko Hokovský) identifies three key features of far-right politics (1) populism, with anti-elite and anti-establishment positions, (2) authoritarianism, and (3) nativism, i.e. combining nationalism and xenophobia. Each of these elements can be a matter of degree and there are certainly borderline cases where it is hard to say who is just to the right, rather than to the extreme right. The extreme right would be openly discrimina-

tory towards minority communities, either long-standing ones such as the Roma in central Europe, or more recent Muslim immigrant communities. The populist discourse of the extreme right uses emotional nationalist slogans to mobilise support, including insulting anti-semitic, anti-Muslim or anti-Roma references.

The motivation of the study is of course the possible relevance of these political movements to the nightmare scenario of any resurrection of the political tragedies experienced in the living memories of today's elderly Europeans: the rise to power of fascist, nationalist and racist movements in Germany and Italy in the 1930s, and the consequent second world war. The European Union stands as the bulwark to prevent anything like this ever happening again, and was for that reason in 2013 awarded the Nobel Peace Prize. The mega question to be at least in the back of the mind while looking at these four case studies of the extreme right is therefore whether we are seeing a major revisionist challenge to Europe's democratic values and code of human rights, or just a marginal shift to the right in the centre of political gravity in four small states.

This mega question was already posed as Jorg Haider built up increasing support for the Austrian Freedom Party (FPÖ) during the late 1980s and 1990s on the basis of an anti-immigrant, anti-establishment and eurosceptic agenda, which was fitted together with an ambiguous interpretation of the Nazi past. FPÖ peaked in popularity when it won 26.9% of the vote in the 1999 parliamentary election, the second largest of all parties, which the leading party was then forced to accept in a coalition government in 2000. This prompted serious concern over the legal incapacity of the European Union to act to counter any of its member states becoming undemocratic. Accession candidates could be tested in advance of accession for their democratic credentials, but after accession there was nothing that could be done. And indeed two of the states here studied are from post-communist Central Europe, where their democracies might prove to be superficial and reversible.

In fact there was a response to Jorg Haider, when the European Union included a 'suspension clause' in the Treaty of Amsterdam signed in 1999 (Article 7), subsequently carried over into the Treaty of Lisbon, according to which a member state seriously breaching the EU's democratic prin-

ciples could be deprived of their voting rights in the Council, a provision that has never so far been used.

The extreme right political parties

In this book a first set of chapters looks at how selected political parties of the right or extreme right (as listed in Table 1) relate to traditional or mainstream parties.

Table 1

Selected political parties of Austria, Denmark, Czech Republic and Hungary, and political group of the European Parliament

Austria
Freedom Party (FPÖ). Led by Jörg Haider from 1986 to 2005. Peak popularity of 26.9% of the vote in 1999.
Czech Republic
Sovereignty Party (Jana Bobosikova's Bloc). Won 3.7% of the vote in 2010.
Worker's Party of Justice (DSSS). Won 1.1% of the vote in 2010.
Denmark
Danish Peoples Party. Won 12.3% of the vote in 2011 elections.
Hungary
Fidesz. Currently the ruling party with a two-thirds parliamentary majority.
Jobbik. Won 16.7% of the vote in 2010.
European Parliament
Europe of Freedom and Democracy (EFD) group. A mixed bag of right and extreme right parties and individuals, including the Danish Peoples Party and the UK Independence Party.

The chapter on Austria by Fabio Wolkenstein explains that after the FPÖ's entry into government coalition in 2000 its popularity faded, but has since 2006 has regained momentum, with the aid of crude and polarising slogans such as "Abendland in Christenhand" (the occident in the hands of Christians) and "Heimatliebe statt Marokkaner-Diebe" (love of the

homeland instead of Moroccan thieves). In the 2009 European elections the FPO adopted strongly Eurosceptic line, with slogans such as “asylum lunacy.” The party has surely influenced the national debate with the major parties now favouring stricter immigration and integration policies, but the contribution of FPO to this national trend is debatable. In discussing the strategies of the major mainstream parties, the author makes a central point for the whole of this book: that the extreme right have clearly succeeded in pushing such a clear agenda that the major parties find themselves responding reactively to this, rather than taking the initiative with their own agendas.

Hungary is arguably the country in which the extreme right have made major political advances, but as in the Czech Republic their main target are the Roma, since Muslim immigration has been minimal. The Jobbik party is uncontroversially of the extreme right, gaining parliamentary representation in 2010 with 16.7% of the votes, and with opinion polls suggesting further increases in their support. The author of this chapter, Attila Juhasz, describes Jobbik as follows: ‘refutes the liberal interpretation of human rights and remains ethnocentric, irredentist, homophobic and anti-semitic.’ Its anti-Roma stance has been highlighted by its stereotyping slogan about ‘gypsy crime,’ and has profoundly influenced wider public discourse about this community. The ruling Fidesz party, led and dominated by Viktor Orban, is more nuanced in its discourse about the Roma. However it has caused great concern in the European Union on two other accounts: first nationalist measures in support of the Hungarian diaspora in Romania, Slovakia and Serbia, and secondly constitutional measures heading towards an authoritarian state. The latter tendency has not so far prompted activation of Article 7 of the treaties, but has at least provoked thoughts whether this is going to be called for.

Radko Hokovsky in his chapter on the Czech Republic considers two parties to belong to the extreme right, but neither has passed the 5% threshold to enter the national parliament. The Sovereignty Party did however see its leader and founder, Jana Bobosikova, a former television personality, elected to the European parliament in 2004. Its agenda is nationalistic and eurosceptic. The Workers’ Party of Social Justice is a successor party to the Workers’ Party which was banned by the Supreme Court in

2010 due to “... its ideological connection to national socialism and neo-nazism ...” Its electoral results have remained very poor, with only 1.1% of the votes in 2010. Issues about immigration and Islam are relatively low keyed in the Czech Republic, since the scale of such immigration has been until now very limited. The main target of the extreme right parties have on the other hand been the long-established Roma community, whereas the mainstream parties stick to a politically correct discourse. This has not prevented the Sovereignty Party from being openly anti-Muslim. The DSSS is highly critical of the Roma, sponsoring demonstrations under such banners as ‘Roma terror on the majority population.’ Overall the extreme right in the Czech Republic thus remains a small political force.

Denmark’s system of proportional representation with a low 2% threshold results in a fragmentation of the political landscape across eight parties, among which the Danish Peoples Party is widely viewed as the most extreme right. Winning a significant number of seats in parliament, this party is generally brought in to support centre-right coalition governments as in 2001 to 2011, without having cabinet positions. The author of this chapter, Brian Arly Jacobsen, notes while there are relatively minor differences in positions taken by the mainstream and extreme right parties, the Danish Peoples Party is able to exploit its position as a strategic partner of centre-right parties in order to win compromises in favour of its positions. As a result there is a normalisation of its more extreme positions on Islam, immigration and integration policy.

Since 2009 three transnational far-right parties become established in the European Parliament, namely that European Alliance for freedom (EAF), the Movement for a Europe of Liberties and democracy (MLD), and the Alliance of European National Movements (EANM). These transnational parties do not have enough MEPs to qualify as a political group in the Parliament, but one or other of them include the several parties identified in this study. In addition there is one Eurosceptic party group, the Europe of Freedom and Democracy (EFD) with 11 far-right parties including the Slovak National Party, the Danish Peoples party the True Finns, the UK Independence Party and the Polish Solidarity. The EFD revealed its position on immigration issues is supporting the French government’s decision in 2010 to repatriate certain Romanian Roma immigrants. In gen-

eral these far-right parties advocate restrictive immigration and an end to multi-culturalism.

A cross-cutting chapter by David Zahumensky examines the use of the concept of ‘hate speech’ in the four country sample, with legislation enacted in all four countries in line with the requirements of Conventions and Decisions of the UN, Council of Europe and European Union. These legal acts are aimed at criminalising acts that incite violence or hatred towards any groups defined by race or ethnicity. While there are many differences in the detail of implementing legislation, the case law of the European Court of Human Rights makes a contribution towards establishing common standards. However the Court has had to take great care on how to define hate speech as an exceptional derogation from the general rule of free speech. The author considers that these issues have to be discussed more openly at the political level, rather than leave the terrain in the hands of populists and extremists.

Integration policies

The second set of research papers concerns how more precisely these four countries have been handling the issue of integration of minority communities, i.e. the focus is not only on the extreme right political parties but on national policies.

In Austria the major distinction made between ‘minority policies’ which concern autochthonous groups of Austrian citizens, and ‘integration policies’ that concern immigrant communities. The Roma communities are an instance of overlap between the two categories. The minorities are Carinthian Slovenes and Croats and Hungarians in the Burgenland, which represent legacies of the Austro-Hungarian empire. The author of this chapter, Bernhard Perchinig, did not consider it necessary to discuss these minority matters further. As regards immigrant communities the emphasis on ‘integration’ has been gathering strength since the late 1980s. In 2000 the government introduced a first programme of compulsory German language training, as a condition for access to stable residence and equal treatment, followed in 2011 by pre-entry tests in German for those requesting immigration. Since 2007 EU antidiscrimination legislation has

been fully implemented in Austria, with a distribution of responsibilities between federal and local levels. However the enforcement of this law has been criticised by independent experts for its scattered and complex legal framework, and racial and religious discrimination is seen to be growing in practice. Evaluations of the status of immigrant communities from Turkey and the former Yugoslavia show lower rates of labour market participation and educational achievement, with higher risks of poverty and poor housing conditions.

The major issue in Hungary concerns the long-established Roma community, the large majority of which have Hungarian citizenship and therefore in law full political rights. However, as Attila Juhász, Péter Krekó and András Zágoni-Bogsch show in their chapter, the socio-economic status of the Roma, in terms of education, housing, employment and health, appears to be increasingly disadvantageous. This is despite the existence of a legal framework for anti-discrimination, which seems to have little impact on majority attitudes and stereotypes that speak abundantly about Roma criminality and parasitism. The government has been through several programmes in the 2000s aimed at the problem, and the Hungarian Presidency of the EU sponsored in 2011 the 'EU Framework Programme for National Roma Integration Strategies,' alongside its Hungarian 'National Social Inclusion Strategy – Deep Poverty, Child Poverty the Roma (2013–2020).' The authors of this chapter raise the question whether these heavily discriminatory attitudes can be overcome without a paradigm shift in policy, away from that which is still defined mainly in universal non-ethnic terms such as the underprivileged and poverty-stricken, onto a basis that has positive ethnic specificity.

In the Czech Republic the two most numerous of foreign nationalities are from Slovakia and Ukraine, and the minorities communities have therefore completely different profiles compared to the new and mainly Muslim immigrants into Austria and Denmark. The Slovaks are of course the most integrated because of their common state with the Czechs during most of the 20th century. Ukrainian immigration also has a long history, but the numbers have swelled in the post-Soviet period. There is also a sizeable Vietnamese community whose origins date back to the Communist period. However the major issue discussed in

this chapter, by Markéta Blažejovská, is the status in society of the old Roma community, whose origins in the Czech Republic date back to the 14th century, and which today still suffer from low levels of socio-economic and cultural integration. The difficulties for the Czech political class to handle problems of discrimination are illustrated by the fact that it was in 2009 the last EU member state to enact legislation to get into conformity with EU anti-discrimination directives. This was not before the bill had been refused by the senate in 2006 and vetoed by the famously eurosceptic President Vaclav Klaus in 2008.

In Denmark also immigrant communities from non-Western countries are still far behind the national average with regard to labour market participation, educational achievement, income and housing conditions. Indeed this is a standard feature across Europe as a whole. In the 2000s Danish integration policy and discourse has directed focus on issues such as social cohesion and 'Danishness,' requiring immigrants to integrate with Danish culture, values and norms. A comprehensive review published in 2007 on the basis of a sample survey revealed that the main immigrant groups, from Turkey, Pakistan, the Balkans, Iraq, Iran and Vietnam, generally supported democracy almost as much as Danes, and found only limited experiences of discrimination for which there are established channels to deal with this. This chapter on Denmark, by Shahamak Rezaei and Marco Goli, is striking for its assessment that the relatively high professional skills and knowledge of the Danish language and culture of these communities have been changing the very nature of 'Danishness,' reshaping it in a multi-cultural and multi-ethnic way.

A final cross-cutting chapter, by Michaela Kopalová, details the jurisprudence of the European Court of Justice and the European Court of Human Rights in regulating the rights of foreign nationals in Europe, covering such issues as the rights of legal long-term residents, family reunion, immigration law, expulsion measures. The author concludes that the case law of both courts is rather favourable towards foreign nationals, and 'unkind' to the authorities of member states. This sees an incongruous situation, in the view of the author, in which politicians and citizens appear to be behind the judges as regards openness towards foreign nationals.

The wider European context

The current political context in the European Union places these case studies alongside important political developments in some of the larger member states not covered in the project, namely France, Italy and the United Kingdom, but which merit a brief mention.

In France in the 2012 Presidential election campaign the far-right Front National candidate, Marine Le Pen, was seen as a very serious challenge to the political establishment. This was because Marine Le Pen projected herself as a highly presentable and charismatic personality. This was not at all the ugly face of the extreme right. But actually her feared electoral breakthrough never happened, and she failed to reach the second round of the election, doing worse therefore than her father Jean-Marie Le Pen, who was able to challenge Jacques Chirac in the second round run-off in 2002.

In Italy the Eurozone crisis has provoked the rise of the ultra-populist movement of the professional comedian Beppe Grillo, which won 27% of the votes in February 2013. This case poses a challenge to the categories used in the present study, given the blurred frontiers between the extreme right and the extreme populist parties. Both are threats to democracy, and the extreme right can be extremely populist. But not all the extreme populists belong to the extreme right. Whereas Marine Le Pen's agenda is dominated by opposition to immigration, Beppe Grillo's agenda has been so far a general protest against all the established political parties, without a substantive policy agenda. It is too early at the time of writing in June 2013 to judge whether the Grillo phenomenon is going to be sustained, although there are some signs from local elections in May 2013 that it has already passed its peak, maybe a political bubble.

This is far from the case however with the United Kingdom Independence Party (UKIP), which is achieving an extraordinary gain in popularity, challenging both Tory and Labour parties in the polls, and considered quite likely to become the biggest UK party in the next European Parliament after the June 2014 elections. This movement started as a single issue, anti-European Union, party. It has developed alongside increasing euro-scepticism in the Tory party, and led Prime Minister Cameron to commit to an 'in or out' referendum after the next general election, due

in 2015. The UKIP party has responded to its increasing public support by broadening its political agenda, most notably to oppose immigration. The UKIP has no particular undemocratic features, but it could lead to secession from the European Union, with great uncertainty over how far this would weaken the entire European project.

Returning now to the initial definition of the extreme right, combining populism, nativism and authoritarianism, we have a problem of consistency. It is clear in the four sample countries, as well as the three large countries just mentioned, that there is commonality in the identified political parties for their populist style and discourse, and anti-immigration and often ethno-racist agendas. This also links in many cases to eurosceptic or frankly anti-European agendas. But these political parties cannot on the whole be branded, on the basis of present showings, as undemocratic. The only party that can be branded as seriously heading in an authoritarian direction is the Hungarian Fidesz party, whose policies with regard to minorities is to the right but hardly the extreme right. The major problem for European political leaders is rather that the Eurozone crisis is permitting negative synergies to develop between the social distress caused by the economic recession, and the rising opposition to both immigration and the European Union which is being cast in the role of the one to blame.

PART I

Politics of Mainstream and Extremist Parties on Integration of Immigrants and Minorities

INTRODUCTION

Radko Hokovský

Mainstream political parties across Europe are losing voters and the votes often slip to populist, radical or extremist parties, which promise quick and simple solutions to difficult problems. One of them is connected with the challenge of integration of immigrants and minorities. Our assumption is that the attractiveness of populists and extremists is not based on their particularly clever policy proposals, but rather on the absence of understandable and well communicated proposals of the mainstream parties. That is why we have tested political programmes and statements of both mainstream and far-right political actors in several party systems. For our analysis we have chosen four middle-sized European countries, namely Austria, Hungary, Czechia and Denmark, and on top we have looked at the party system at European level. Our research was guided by the following question: *Why the extremist political parties dominate the political discourse on immigrants and minorities and what the mainstream political parties can do about it?*

We can clearly see that immigration policy, integration of immigrants and policies for inclusion of ethnic or national minorities are three quite distinct policy domains, which are implemented by different governmental agencies and non-governmental organizations. However, it makes sense to look at them all together. The reason is not substantive, but is related to political communication, which is after all what decides whether elec-

tions are won or lost. And far right parties has managed to create a narrative about one problem of “inadaptable people” in our societies caused by wrong immigration and integration policies of the mainstream politicians. Therefore, in terms of political discourse, we can speak of one problem, that of integration of immigrants and minorities.

Another fact is that post-communist parties of Central Europe, namely Hungary and the Czechia, have very different immigration history and demographic structure than states such as Austria and Denmark. Those communities under spot lights of political debate in Central Europe are mainly Roma, and further to the west that are predominantly Muslims. Nevertheless, in both cases the mainstream parties are losing significant number of voters, who believe that the populists or extremists are better qualified to solve the problems with those social groups. And there are real challenges to maintenance of inclusive, cohesive and harmonious societies, indeed. Assessment of how the actual integration policies look like in the four countries and recommendations how they could be made more effective, we offer in the second part of our publication.

Our overall ambition was to present a practical and useful analysis and not just a theoretical study of political science definitions and terminology. Therefore we have not tried to distinguish precisely between populist, radical, far right and extremist parties in the four states and at the European level. We have primarily identified the mainstream, mostly the dominant centre-right and the centre-left party and looked what significant actors are on the far edge of the political spectrum. Statements concerning immigrants and minorities of those marginal parties are sometimes populist, sometimes radical and sometimes extremist. But given the fact that their existence was not banned by legal means and therefore they were recognised as operating within the constitutional framework, the only way to conquer them is in a political battle. And in order to win a fight in a democratic politics one needs to focus on the means how policy preferences of different parties are presented to the voters. That is what we have done in our analysis.

We have developed a common methodology for all the five chapters focusing on different party systems. The empirical focal point is on party and election manifestos, and, crucially, on the political discourse, understood as partisan positioning in everyday politics, diffused in the national

media. Since research on extreme right discourse is still rather rare, our analysis represents a novel and original angle. All the chapters are organized as follows. First, a brief description of the major parties under investigation is offered. In the subsequent section, the analysis of parties' policy positions and frames of justification is carried out. The chapters conclude with a discussion of the findings, and extract some recommendations for the mainstream parties.

In order to analyse the political discourse of each party we were looking for statements on: (1) citizenship, (2) integration, (3) immigration, (4) discrimination, and (5) Muslims-Islam / Roma. The focus is not on policy-making but on positions articulated by parties in the political discourse in general, and the relationship of mainstream parties and extreme right in particular. Hence, political utterances represent here our unit of analysis. The method used is core sentence-based and relational. Such an analysis is designed to code relations between political objects, in our case between political actors and/or issues.

Qualitative and quantitative variables are employed. While the former grasp the meaning, the key elements of political argumentation and the context, the latter allow us to measure the restrictiveness of policy proposals and the frequency of frames of justification. We have distinguished between three types of normative explanations used by the party actors to justify their particular policy positions. Any justification fall under one of the following categories: (i) pragmatic, (ii) identity-based or (iii) moral-universal. For example, pragmatic argumentation may emphasis costs of certain policies or measures, whereas identity-based explanations refer usually to exclusive values, nationality or ethnicity, and moral-universal justification is based on general principles such equality or justice.

A homogenous coding scheme was adopted. Statements were found using keywords. For instance name of a party or its leader was searched together with each of the keywords (citizenship, integration, immigration, discrimination, and Muslims, Islam, or Roma). These statements were coded on a scale, from -2 to +2 using the following procedure:

1. A highly restrictive policy stance (e.g. "We have to stop the immigration tide.") will receive -2.
2. A mildly restrictive policy stance (e.g. "Citizenship cannot be awarded without knowledge of our language.") will receive -1.

3. A neutral stance (e.g. “We have to debate immigration openly in our country.”) will receive 0.
4. A mildly open policy stance (e.g. “Immigrants are welcome, but they have to make an effort of integration.”) will receive +1.
5. A highly open policy stance (e.g. “We are a country of immigration.”) will receive +2.

National Chapters

In the following section we summarise particular chapters. The chapter on political parties in **Austria** first explains how the public discourse on immigration and minorities was influenced by Jörg Haider becoming chairman of the Austrian Freedom Party. Next to the political program and rhetoric of this far right party, the chapter offers overview of the two mainstream parties – Social Democratic Party of Austria and People’s Party of Austria – and their development and positions on integration of immigrants. After application of our standard methodology, the chapter concludes with three general recommendations for the mainstream parties that can be summarized as normativity, activity and clarity.

The chapter on **Hungary** explores how prominent mainstream political forces, i.e., right-wing conservative Fidesz and Socialists MSZP, and the far-right, i.e., the Jobbik party, approach issues related to the Roma minority, its presence, future and integration. Due to the specific circumstances in Hungary, the text offers a detail analysis of the Jobbik’s political rhetoric and actions, followed by examination of the responses by the mainstream parties. The chapter shows how one extremist party managed to successfully reframe political discourse concerning the Roma minority and dominated the public discourse, while the mainstream parties completely failed to counter the Jobbik’s offence on the political field and were forced to a reactive role. The Socialists have even show how ineffective is a strategy of ignoring an extremist rhetoric.

In the case of **Czechia** three parties were identified as the major mainstream ones: Civic Democratic Party and TOP 09 (Tradition Responsibility Prosperity) on the right and Czech Social Democratic Party on the left. Even though there is no extreme right party in the Parliament since

1998, we have chosen two anti-minorities and anti-immigration parties with considerable influence on the public debate: Sovereignty – Jana Bobošíková’s bloc and Workers’ Party of Social Justice (DSSS). Immigration and integration of immigrants or minorities has rather a low profile on the public agenda. The mainstream parties tend to avoid the issue and remain with only general statements that are surprisingly often backed by justifications, which are, however, only vague. Even though or may be just because of the fact, the Czech population is relatively homogenous, there is high level of xenophobic feelings and anti-Roma prejudices, that can be easily miss-used by extremist parties. The reason why this has not yet happened on greater scale can be explained by the fact that extremist parties and movements in Czechia are still waiting for that kind of capable and determined leaders that can be found in other countries.

Analysing political discourse on immigration in **Denmark**, our chapter has focused on four major parliamentary parties: *Venstre* – The Liberal Party, Social Democrats, Danish People’s Party and *Det radikale Venstre* – The Social Liberal Party. Three distinct discourses can be identified, one that is restrictive on immigration and integration policy and clearly critical of Muslims, represented mainly by the The Danish People’s Party. Another, which is less restrictive and focuses more on integration of immigrants and their acceptance of specific core Western values (especially the Liberals and Social Democrats). Finally, a discourse represented by the Social Liberal Party which is most open to immigration and put emphasis on successful integration of immigrants. However, since 1990s there is an overwhelming consensus across the Danish society that the immigration should be more selective and controlled and that there exist two fundamentally different value systems, one of the Danes and one of the Muslim immigrants. As a result, there are only minor differences among mainstream and extreme right positions on immigration and integration policy in Denmark.

European Context

The aim of the chapter on political positions of **EU parties** is to complement the four preceding chapter with a European perspective. As party

actors we understand both the political groups in the European Parliament and the corresponding Europarties. We have analysed two mainstream actors: the European People's Party (EP group and the Europarty) and the Social Democrats (S&D Group and Party of European Socialists). As the far-right were examined positions of the Europe of Freedom and Democracy group with affiliated Europarties. The major methodological challenge here was the fact that the far-right party actors at European level have lack of coherent programme documents or election manifestos. Nevertheless, the results of our analysis clearly show that the far-right parties tend to explain their positions more clearly and explicitly than the mainstream ones, while the Socialists provide only vague justification for their policy stands and thus leaving room open for the extremists.

The chapter on **limits of freedom of speech in Europe** elaborates on whether the concept of hate speech regarding immigrants and minorities is a tool to fight extremism or rather a censor of a political discourse. It provides an overview of international definitions of hate speech as well as national legislation. Special attention is given to hate speech laws in the four countries covered in our publication. Important is also analysis of the case law of the European Court of Human Rights. The chapter concludes that silencing of the issues connected with an increasingly multicultural Europe under the guise of political correctness could only increase the electoral support of populist and extremist parties.

Conclusions

Our research was unique because we have compared not only the political statements, but also the way political actors are actually justifying their positions. Surprisingly highly coherent findings were found despite the different contexts of the four countries and the EU level. The most successful in giving explanations of their political stands on immigration and minorities were the far-right parties. We believe that this can partially explain why they are more successful to build their electorate around these issues. On the other hand the centre-left mainstream parties provided the lowest portion of justification of their positions. The table below shows that only in case of Czechia the far-right did not have the highest percent-

age of statements backed by certain explanation. This might be explained by the fact, that the far-right in Czechia is the least developed and institutionalised of all studied countries and EU level.

Table

Justification %	centre-left	centre-right	far-right
Austria	21.2	39.1	75.3
Denmark	63.6	64.6	68.3
Czechia	86.5	81.5	85.5
Hungary	least	middle	most
EU	54.9	60.0	68.0

It seems that the mainstream parties are avoiding the issue as they do not want to be held responsible. They perform sort of “hiding strategy” / ostrich policy. But this approach has proved ineffective and dangerous in case of the Socialists in Hungary, where the mainstream centre-left deliberately chosen not to react or comment statements of the major far-right party (Jobbik). As a consequence Jobbik party managed to reframe the public debate about the Roma people with dramatic consequences for the country. Mainstream parties are rather avoiding the question of immigration and integration policy. Even though it is undoubtedly one of the most urgent and strategic issues for the future of European societies next to Economic growth and ensuring security, the mainstream parties rather choose to react to the agenda-setting by the far right actors.

AUSTRIA

Fabio Wolkenstein

1. BACKGROUND

Ever since Jörg Haider came to power as chairman of the Freedom Party (FPÖ) in 1986, the extreme right has played a prominent role in Austrian politics. Haider succeeded Norbert Steger, who sought to bring to the fore a liberal agenda in the FPÖ, and initiated a shift to the right. While Steger's strategy did not meet electoral success, Haider's FPÖ experienced a steady increase in voters' support. Breaking with the more recent past of the party, the FPÖ started to mobilise voters with an (1) anti-immigrant and (2) anti-establishment stance, as is typical for extreme right parties (Pelinka 2002; Betz and Johnson 2004). Two structural factors largely account for this development. First, the success of the FPÖ is connected with Austria's inability to deal with its past, which fostered a prevalent *victim culture* – meaning a self-conception of having been the first victim of Nazi Germany – and resulted in overall remote contrition with respect to the Nazi past. The extreme right has found a hospitable political environment in Austria, where, as Art (2006, 197) has shown, "(...) elite views [on the lessons of the past] polarized rather than converged (...)." While apologetic interpretations of the Nazi past were dominant within the political mainstream, only a small elite within the Austrian left offered an alternative frame. As a result, norms on acceptable political discourse remained un-

derdeveloped (Art 2006). Cultural parochialism was rarely seen as threatening fundamental values in the political discourse. Rather, the social acceptance of the extreme right was furthered by incomplete marginalisation (or even endorsement) of the FPÖ by the mainstream parties, and the generally unwavering support of Austria's most widely read tabloid, the *Kronen Zeitung*.

Second, electoral studies have shown that broad disenchantment with the political mainstream (the protest vote) was a powerful lever of the FPÖ's initial electoral support (Kitschelt 1995, 159-201). Since its shift to extreme right populism, the FPÖ has capitalized on its promise to bring about political change. Political discontent is commonly connected with extreme right success in political science (e.g., Mudde 2007). The voter cohorts who disproportionately vote for the extreme right have low social mobility, famously dubbed "losers of globalization" by Kriesi *et al.* (2006). These often feel neglected by political mainstream elites – a discontent the extreme right manages to exploit, working up a self-image of being group-oriented and representing the interests of the "little man" (e.g., Rooyackers and Verkuyten 2011). Austria is no exception here. While the rise of the FPÖ was also facilitated by the support of the *petit bourgeois* (e.g., small shopkeepers), the support of production workers (e.g., assemblers, mechanics and bricklayers) exceeds the average by a factor of 1.6 in Austria (Oesch 2008, 356; see also Plasser and Ulram 2000). And although often ignored in scholarship and commentary, the anti-establishment rhetoric of the FPÖ has retained considerable salience (Wolkenstein n.d.). This is not least because of the overall disaffection with the prevalent "grand coalition" of the social democrats (SPÖ) and the moderate conservative People's Party (ÖVP) (Plasser and Ulram 2008, 74), as well as the high level of party penetration in Austria, which consolidates the power of the mainstream bloc (see Van Biezen *et al.* 2012).

For analytical reasons, let us divide the FPÖ's rise into three periods, following Luther (2008). First, the period of initial populist vote maximization, one marked by strong competition in the political arena, and aggressive rhetoric against immigrants and the political mainstream. Exploiting its electoral opportunities, the FPÖ increased its vote share from 9.7 per cent in 1986 to 16.6 per cent in 1990, 22.5 per cent in 1994, and

subsequently 22 per cent in the early re-election of 1995. In 1999, it became the second most popular party behind the SPÖ, gaining 26.9 per cent of the vote. The successive entry of the FPÖ into government in 2000 – then the greatest hitherto success for an extreme right party in Europe – initiated a second period in the fortunes of the FPÖ, the one of incumbency. Due to the need to coalesce with the moderate conservative ÖVP, the FPÖ faced obstacles being now part of the political mainstream. By seeking to employ neo-liberal economic policy goals in Austria, chancellor Wolfgang Schüssel (ÖVP) compromised the FPÖ's populist "little man" strategy. In fact, party chairman Haider often absented himself to avoid making unpopular decisions, publically criticizing them in turn. Accompanied by unusually high ministerial turnover and severe internal conflict, the FPÖ's inconsistency was punished by the voters in 2002, when the FPÖ came in third place with just 10 per cent of the vote. However, Schüssel, who won the 2002 elections with 42.3 per cent, decided to coalesce again with the FPÖ. In Schüssel II from 2003–2006, what commentators have described as, "(...) unresolved divisions of strategy, policy and personality, a loss of members and a rudderless leadership" (Luther 2011, 466) led to an implosion of the FPÖ. Haider, as a result, formed the splinter party BZÖ (Alliance for the future of Austria) in 2005. In 2006, the black-blue, and alternatively black-blue/orange coalition was voted out of office.

Following internal conflicts, the party split and a series of electoral defeats, the FPÖ readopted its initial populist vote-maximizing strategy in 2006. This is the third and ongoing period in the FPÖ's strategy, one that proved to be successful in the national elections (*Nationalratswahlen*) of 2008, where it gained 17.5 per cent of the vote, and in several regional elections. Notably, in the 2010 Vienna elections, the FPÖ came in second place after the SPÖ with 25.8 per cent of the vote. Slashing at the political mainstream on the one hand, and immigrants on the other, the FPÖ's campaigns were from 2006 again marked by crude and polarizing slogans such as "*Abendland in Christenhand*" (the occident in the hands of Christians), "*Mehr Mut für unser 'Wiener Blut'*" (more courage for our 'Viennese blood'), or, in the Innsbruck municipal elections of spring 2012, "*Heimatliebe statt Marokkaner-Diebe*" (homeland-love, instead of Moroccan thieves). Moreover, the FPÖ was able to mobilize against the EU, and

its alleged “asylum lunacy” and “financial mafia” in the 2009 elections to the European Parliament, capitalizing on the strong and stable Euroscepticism of the Austrian electorate (Kuhn *et al.* 2010).

So, there can be no doubt that the extreme right is again on the up in Austria. Mainstream parties have reacted only tentatively to the FPÖ’s challenge (see e.g., Bale *et al.* 2010). Particularly as regards immigration and integration policy, where one would expect the extreme right to shape debates, there is ample evidence that the discourse has shifted to the right, while the actual extent of extreme right influence on policy-making remains contested. Two distinctively different takes have dominated both scholarly and journalistic diagnoses. The first line of argument suggests that the FPÖ has been instrumental in passing more restrictive immigration policy. Chiming with the “contagion from the right” thesis (Rydgren 2005) the contention here is that the diffusion of the extreme right’s ethnocentric and anti-establishment frame has influenced the debates on immigration and Islam in particular. With the growing salience of restrictive immigration and integration policy positions, mainstream parties are expected to adapt accordingly. In October 2001 for example, with the FPÖ in government, the Schüssel I cabinet passed a new integration law, one which obliged immigrants to take integration courses. Failure to pass the course could result in the denial of residence and work permit renewal. And while the asylum law was not changed at that time to the objection of the FPÖ, it was decided that asylum seekers would be fingerprinted. Notably, in the aftermath of 9/11, pressure from the FPÖ and Haider himself forced the coalition government to adopt a “harder line” on immigration (Zaslove 2004, 110). Step by step, so the argument proceeds, such a harder line is normalized in everyday politics, reflected in the mainstream right’s eventual commitment to ‘get tough’ on immigration, which also holds true for the ÖVP (Bale 2003). In July 2008, for example, about two years after the black-blue coalition was voted out of office, interior minister Maria Fekter (ÖVP) argued that “particularly with regard to the difficulty of immigrant rights (*Fremdenrechtsproblematik*), too lenient laws led to an excessive exploitation of our system,” since immigrants who “come to Austria for their raids (*Raubzüge*)” can “hide behind asylum law” (*Der Standard*, 23.07.2008).

A second line of argument contends that the influence of the extreme right on immigration and integration policy should not be overstated. Several studies have shown that, “(...) the direct influence of radical right parties on policy change was rather marginal,” (Akkerman 2012, 523) which is also connected to the mainstream right’s shift. Even during the FPÖ’s period of incumbency, as Duncan (2010, 350) has demonstrated, immigration policy-making, “(...) was generally not at odds with developments elsewhere in Europe nor with the laws passed under previous Grand Coalitions.” This is because Austria’s immigration policy regime is and has always been comparatively restrictive, and because of the moderating effects of coalition participation on the extreme right. Analogical to the FPÖ’s three periods outlined above, the highly restrictive stance on immigration and integration could not be maintained in government, as the following examples illustrate. Whereas the FPÖ in 1999, when entering government, insisted on an immediate immigration stop, it softened its stance and committed only to a decrease in foreign immigration in 2002 at the dawn of Schüssel II. Similarly, while in 1999 it called for a consistent deportation of foreign criminals, only a more effective use of detention prior to deportation was suggested in 2002 (Duncan 2010, 343). Once voted out of office, the FPÖ readopted the initial restrictive stance.

One preliminary conclusion to be made from these two arguments is that (1) the discourse on immigration has generally shifted to the right over the last decade, and that (2) immigration policy changed accordingly, but extreme right influence remains *one* explanatory variable, rather than a direct causal factor measurable in the metrics commonly used by political scientists. Pitched against the background of these previous findings, this chapter seeks to shed light on the policy positions on issues of immigration and integration, contrasting the Austrian mainstream parties SPÖ and ÖVP with the dominant extreme right party FPÖ. Relying on the standardized methodology used in all country reports of this project, the empirical focus is on party and election manifestos, and, crucially, on the political discourse, understood as partisan positioning in everyday politics, diffused in the media. Since research on extreme right discourse is rare, particularly in the case of Austria, such an analysis provides a novel and original angle. The chapter is organized as follows. First, a brief description

of the three parties analyzed in this paper is offered. In the subsequent section, the analysis of parties' policy positions and frames of justification is carried out. The paper concludes with a discussion of the findings, and yields recommendations for mainstream parties.

2. POLITICAL PARTIES

Before proceeding to the empirical analysis, it is necessary to analyse the political parties in question. While there are presently five parties represented in the Austrian parliament, the selection of parties in this analysis has been narrowed down to a contrast of mainstream vs. extreme right, which leaves us with three relevant parties. In order to map the policy positions of mainstream parties, the following focuses on the two biggest and most influential parties, namely the Social Democratic Party of Austria (SPÖ) and the moderate conservative People's Party (ÖVP). On the other hand we look at the Freedom Party (FPÖ), which, as elaborated above, holds a typical extreme right party profile (Pelinka 2002). The FPÖ's splinter party Alliance for the Future of Austria (BZÖ) is not included in the analysis for two reasons. First, it has in recent times undergone programmatic liberalization and cannot be considered as a classic extreme right-wing party. Under the new leadership of Josef Bucher, market-liberal positions and a less radical approach to politics have become increasingly common. Second, particularly after Jörg Haider's death in 2008, the BZÖ has been politically and electorally insignificant (except in Carinthia, which remained its sole stronghold).

2.1 SPÖ

The Social Democratic Party of Austria (SPÖ) was founded in 1945 as a successor to the Social Democratic Workers Party of Austria (SDAP), which was initially founded in 1889 by Viktor Adler, but illegalized under the Austro-fascist regime and under Nazi rule (Ucakar 2006, 322-324). In the period after World War II, the *Second Republic*, the SPÖ played a decisive role in Austrian politics. Only in the short period of 1966-1970, and under the Schüssel I & II cabinets from 2000-2006, did the SPÖ not hold government responsibility. While the electoral success and political

strength of the SPÖ reached its apex in the 1970s under chancellor Bruno Kreisky, it became regarded in the 1980s by many citizens as responsible for the pathologies of rigid partisan politics, such as various political scandals connected with party patronage (Ucakar 2006, 325). As recent manifesto analyses have shown, the SPÖ performed an ideological shift, too. The Marxist-reformist line of the 1970s which criticised capitalism's vulnerability to crisis, has been gradually abandoned in favour of a more market-friendly outlook (Kapeller and Huber 2009, 170-175). Yet, being entwined in large corporatist structures (Tálos 2006), the SPÖ still attempts to preserve redistributive justice and propounds state intervention in markets.

2.2 ÖVP

The People's Party of Austria (ÖVP) was founded in 1945 and sought to distinguish itself immediately from its predecessor party – the Christian Social Party, which established the authoritarian Austro-fascist regime from 1933–1938 – with a clear commitment to parliamentary democracy. From the outset it represented a combination of forces on the socio-economic right, above all Catholic conservatism and economic liberalism. Within the party, three large heterogeneous interest groups exert considerable influence, namely, the Austrian Economic League (ÖWB), the Employees' Association of the People's Party of Austria (ÖAAB), and the Austrian Farmers' Federation (ÖBB). This is why the ÖVP has never had a strong programmatic foundation, or a single ideological trajectory (Müller 2006, 341-354). Today it seeks to position itself as distinct from the social democrats by emphasizing a more liberal-economic standpoint, often conjuring the notion of individual effort (*Leistung*), and a smaller state. While dominating Austrian politics as the strongest party from 1945–1970, it only re-entered government in 1987 as part of the “grand coalition” of SPÖ and ÖVP. Since then it has been part of every coalition government, and still holds government responsibility today in a coalition with the SPÖ. Controversially, the ÖVP coalesced with FPÖ from 2000 to 2006 under chancellor Wolfgang Schüssel, which eventually triggered EU bilateral sanctions against Austria.

2.3 FPÖ

The extreme right-wing FPÖ was formed in 1956, as a successor to the League of Independents (VdU), a group consisting mostly of conservatives and German-national (*deutschnational*) partisans. Until the mid-1960s the FPÖ was a marginal party in Austria with very little electoral success. Its gradual “normalization” under Friedrich Peter (a former SS-*Obersturmführer* and FPÖ chairman from 1958–1978), and the intermediate turn to liberalism in the early 1980s certainly made the FPÖ more visible in political competition (Luther 2006, 365f). Yet it was not until Jörg Haider’s came to power in 1986 and the subsequent shift to extreme right-wing politics and populism that the FPÖ became an important player in Austrian politics. As already noted, the FPÖ can today be characterized as an extreme right-wing party, with a pronounced (1) anti-immigrant and (2) anti-establishment stance, i.e., opposing immigration and multiculturalism on the one hand, and established parties, as well as the EU, on the other hand. It propounds a total immigration ban, a strong state, and extensive prerogatives for citizens (over immigrants). Since its formation the FPÖ has only held government responsibility in two short periods. First, as coalition partner of the SPÖ from 1983–1987, when the it had only 5 per cent of the vote (compared with 48 per cent of the SPÖ) and thus little political leverage. Second, in the Schüssel I & II cabinets from 2000–2005, when it entered the coalition much better prepared for power, and with an all-time high vote share (see Luther 2011).

3. ANALYSIS

Presenting the findings of this study, the following section is divided into five parts, covering the policy fields of (1) citizenship, (2) integration, (3) immigration, (4) discrimination, and (5) Islam. As noted above, the focus is not on policy-making but on positions articulated by parties in the political discourse in general, and the relationship of mainstream parties and extreme right in particular. Hence, political utterances are the unit of analysis. The method used is core sentence-based and relational. Such an analysis is designed to code relations between *political objects*, i.e. between political actors and/or issues. Qualitative and quantitative variables

are employed. While the former grasp the meaning, the key elements of political argumentation and the context, the latter allow us to measure the restrictiveness of policy proposals and the frequency of frames of justification.

3.1 Citizenship

It is widely recognized that the model of citizenship is a key variable in accounting for varieties of integration and immigration policies (Brubaker 1992). Therefore beginning with an analysis of parties' positions on citizenship appears intuitive. Austria has an ethnicity-based model of citizenship, also known as *ius sanguinis*. Citizenship is first and foremost granted to people with Austrian parents. As past research has shown, such a model of citizenship favours comparatively restrictive naturalization policies (see Bauböck *et al.* 2006). In fact, the MIPEX report 2011 has found that in Austria, "(n)aturalisation is one of the riskiest and most expensive gambles in [the] EU" (Huddleston *et al.* 2011, 27). Applicants need to document for the last three years a minimum income, and funds for rent, loan repayment, garnishments and alimony. But is there evidence for this restrictiveness in the political discourse, too?

In its current manifesto the FPÖ states that "(l)egal and legitimate immigrants who are already integrated, who can speak the German language, who fully acknowledge our values and laws and have set down cultural roots should be given the right to stay and obtain citizenship." (FPÖ 2011, 5) This means that the requirement of integration, however defined, has to be fulfilled before full citizenship can be granted. In the subsequent sections the FPÖ's understanding of integration and premises of immigration will be explored. For now, however, it is clear that such a position fits well with the overall restrictive stance of the FPÖ that previous studies have identified (e.g., Luther 2006). A notion the FPÖ often conjures in the political discourse in this respect is that of "decency" (*Anständigkeit*). It is usually set as an abstract requirement for naturalization. "Decent" (*anständig*) immigrants are thus sooner or later eligible to obtain citizenship. Decency recurs in explicit and implicit forms. Whenever explicitly evoked, speaking German and employment are argued to be main criteria of decency. Conversely delinquent (and hence, implicitly, non-decent) new citi-

zens should be immediately deprived of their citizenship, and citizenship is proposed as condition for receiving any social benefits, such as family allowance or access to public housing.

As one might expect from a conservative party, the ÖVP approves of the current naturalization regime, i.e., the ethnic model of citizenship. Naturalization is seen as the last step in the integration process. One proposal worth mentioning, however, came from former interior minister Maria Fekter, who suggested that the naturalization ceremony should involve swearing an oath to the (Austrian) flag to strengthen migrants' identification with their host country. Similarly the SPÖ has little to say about citizenship. Only one statement has been coded. As a progressive measure intended to facilitate integration, the SPÖ Vienna proposed optional dual citizenship for migrants below 18 years of age. Vienna has large migrant communities, and this measure should allow young migrants to identify as Austrian *and* something else simultaneously.

3.2 Integration

The most relevant issues in the competition of mainstream and extreme right are found under the heading of integration. As indicated above, Austria's integration policy regime is restrictive compared with other EU countries. For example, commitments to targeted labour market measures and migrants' political participation are weak; conditions for family reunion are among the most restrictive in Europe (Huddleston *et al.* 2011, 26-31). In line with this, parties' tend to be restrictive in their positioning. Yet most statements are justified in pragmatic terms.

The FPÖ stresses first and foremost that linguistic integration is key. Particularly the youngest generation of migrants ought to acquire knowledge of German, and be introduced to the language at an early age. German classes, the FPÖ proposes, should be available and compulsory for non-German-speaking migrants prior to regular schooling. Also, a language test should be passed a year before enrolment in primary school. And the immigrant quota in school classes should be lowered to between 20 and 30 per cent as less ethnic mixing is presumed to provide a better environment for learning German. In order to enforce these measures of early integration, an "offensive" strategy is proposed. To increase pressure

on families, the receipt of welfare benefits such as family subsidies (*Familienbeihilfe*) should be contingent upon their efforts to integrate. A family which refuses to send their children to compulsory language courses would accordingly be deprived of benefits. Command of the German language is proposed to be a criterion to be met for public housing eligibility, and the migrant quota in public housing estates should be lowered to the percentage of migrants in the total population. As another “incentive for integration,” the FPÖ insists on not extending suffrage to non-citizens.

Table 1. *Parties’ key policy commitments*

	Citizenship	Integration	Immigration	Discrimination	Islam
FPÖ	No early naturalization. Acceptance of Austrian values and laws.	Enforce linguistic integration. Support for better integration of existing migrants. Acceptance of Austrian values and laws. Deprivation of welfare benefits as incentive for integration. Continued deprivation of suffrage as incentive for integration. Lower immigrant quota in school classes.	Immediate stop of “mass immigration.” Consistent deportation of foreign criminals. Limited support for necessary labour migration. No work permit for asylum seekers.		Immediate stop of immigration from Islamic countries. Prayer rooms allowed. Referendum required for building mosques. Minaret ban. Punish radical Islamist statements with deportation. Monitoring Islam teachers. Ban on headscarf and Burka.

	Citizenship	Integration	Immigration	Discrimination	Islam
ÖVP	Approval of ethnic model of citizenship. No early naturalization.	Enforce linguistic integration. Support for better integration of existing migrants. Acceptance of Austrian values and laws. Second free mandatory year of kindergarten for language learning. Penalties for absents from school.	Commitment to immigration. A1-level knowledge of German prior to arrival. Support for high-skilled labour immigration. Targeted criteria-based immigration. No work permit for asylum seekers.		Burka ban. Support for expanded legal means to punish religious extremism and terrorist activities. Educating Imams in Austria for better integration and endorsement of European values. Muslim prayers in German.
SPÖ	Dual citizenship for migrants below 18 years of age (SPÖ Vienna).	Linguistic integration. Support for better integration of existing migrants. Acceptance of core European values and Austrian laws. Pre-school language courses for migrant children. Bilingual schools.	Commitment to immigration. A1-level knowledge of German prior to arrival. Support for high-skilled labour immigration. Targeted criteria-based immigration. No work permit for asylum seekers.		Burka ban. Acceptance of core European values.

Source: Political statements coded in most recent (i) party manifestos, (ii) election manifestos, and (iii) the media.

In the field of integration policy, the ÖVP has gradually gained greater visibility over the last few years. By establishing the secretariat of state for integration in April 2011, led by 26-year-old Sebastian Kurz, it took a large step towards redefining the issue within the party. Kurz seeks to present a more positive and motivational approach to integration. “*Integration durch Leistung*” (integration through effort) has become the heading of the ÖVP’s new integration strategy, alluding to migrant self-responsibility and empowerment. Yet the ÖVP’s stance is less liberal than prescriptive: language learning should be enforced among resident migrants. Since the offer of voluntary language courses was refused by many, sanctions such as cutting family subsidies should be imposed upon migrants who refuse to learn German. Pre-school migrant-only language classes are proposed as an ideal environment to start acquiring language skills, and state-secretary Kurz in 2011 demanded a second free mandatory year of kindergarten for language learning. As with other parties, language skills are seen as the key factor for integration. Therefore schools are regarded as locus of integration. Arguing that migrant children are more likely to absent from school, Kurz also proposed increasing the penalty fees for consenting parents from 220 to 1500 Euros. This should foster a sense of responsibility among parents and thwart absenteeism. Lastly, following the strategy of “integration through effort,” Kurz established the recognition of non-EU academic qualifications. The ÖVP justifies its strategy predominantly in pragmatic terms.

Divergent views on integration policy are found within the SPÖ, and there is an awareness of programmatic weaknesses in this field. Its overall position on integration policy is openly compared with other parties yet close to neutral (see Table 2). Neutral statements such as, “we need to discuss integration more broadly” recur frequently in political discourse. Political justification is widely neglected (see Table 3), and statements often implicitly or explicitly take the FPÖ as a point of reference, denying the extreme rights’ stance on the issue. In the SPÖ specifically the feasibility of targeted labour market measures is contested. While there is a general commitment to all legal foreigners’ right to work and further training, it is also argued within the party that fully opening the Austrian labour market to asylum seekers is unsustainable in the current economic climate (in line with ÖVP and FPÖ). By contrast, it is uncontested that command of the

German language is crucial for integration. Here the SPÖ also proposes early language learning for migrants, starting before primary school. Justifications evoked are pragmatic, e.g., that multilingualism is a competitive advantage in the labour market. Also, more teachers with migratory background should be employed. The SPÖ Vienna is particularly visible with respect to integration policy. In the light of Vienna's growing Turkish minority it proposed that Turkish language courses be introduced in schools and even bilingual schools. This was justified pragmatically, namely, that learning a new language is easier for children who are fully proficient in their native language. Lastly, the SPÖ repeatedly called for, "(...) a clear commitment to core European values and to Austria's legal order" (SPÖ 2008, 32) on the part of migrants, as integration requires "clear rules" (SPÖ 2008, 32), however defined (see also the section on Islam).

3.3 Immigration

Immigration has been a politically contentious issue in Austria in the past few decades. Third country national (TCN) immigration in particular tends to be politicized by the extreme right (Salucci 2009). In 2008 (the latest Eurostat data) 39,055 immigrants from third countries migrated to Austria, with the largest third countries of origin being Serbia and Montenegro, Turkey, Bosnia and Herzegovina (cited in Huddleston *et al.* 2011, 26). The extreme right can be considered an issue leader in this field. It opposes specifically Muslim immigration (i.e., from Turkey and to some extent Bosnia), as we will also see in the section on Islam. Moreover, the FPÖ remains the only (electorally relevant) political party in Austria which disputes that Austria is a country of immigration despite its long migration history. Its highly restrictive stance on immigration is developed on the basis of this claim, insofar as the FPÖ has an exceptional role in Austrian politics. In both its manifestos (see fn 3), the FPÖ states clearly that, "Austria is not an [sic] country of immigration" (FPÖ 2011, 5). In the previous manifesto, this position is justified in pragmatic terms. It is argued that Austria's "topography, population density, and (...) limited resources" call for restricted immigration. Otherwise, the "fundamental right to homeland (*Heimat*)" cannot be protected (FPÖ 2005, 6).

However, the FPÖ is not entirely consistent with its claim that Austria is not a country of immigration. While a full immigration halt is regularly

demanded, statements have been coded in which this position is qualified. In line with the pragmatic argument that immigration (in particular low-skilled immigrants from third countries) places a burden on the welfare state, highly skilled labour immigration, itself profitable for the economy is endorsed. This argument is extended in a double way. First in the form of opposing “mass immigration” (*Massenzuwanderung*), a term often used by FPÖ officials. State-regulated high-skilled labour immigration, favoured by some in the FPÖ, can never be mass immigration. Second an identity-based justification is evoked in the contrast of immigration from Europe vs. immigration from Islamic countries. While migrants from Europe—much fewer, according to the FPÖ—are assumed to share the cultural values of the Christian West, migrants from Turkey in particular allegedly have difficulties integrating as their value-system differs (see also the section on Islam). Moreover, the FPÖ insists on depriving asylum seekers of work permits and limiting immigration from Eastern Europe to prevent the displacement of Austrian labour.

Table 2. *Quantitative variables: issues-restrictiveness and frames of justification*

	FPÖ	ÖVP	SPÖ
Issue-restrictiveness (mean)			
Citizenship	-1.0	-0.67	1.0
Integration	-1.07	-0.4	0.14
Immigration	-1.83	-0.75	-0.17
Discrimination	-	-	-
Islam	-1.6	-0.59	-0.56
(n)	(73)	(128)	(118)
Frames (%)			
Pragmatic	41.8	64	64
Identity-based	30.9	12	4
Moral-universal	27.3	24	32
(n)	(55)	(50)	(25)

Note: Issue-restrictiveness measures follow the coding of partisan positionings between -2 (very restrictive) and 2 (very open). The more statements coded, the more precise the measure. Fields where $n=0$ have been left blank.

Prior to the recent change of strategy within the ÖVP (see previous section), former interior minister Fekter became well known for a restrictive tone in questions of immigration. Particularly in asylum policy, Fekter publicly pushed for a hard line, proposing that asylum seekers be detained for up to four weeks to prove their eligibility to be granted asylum. The National Action Plan for Integration (NAP) of 2010 introduced a range of restrictive measures directed at immigration policy. Fekter proposed that all immigrants have knowledge of German (at A1-level) prior to arrival. This was always framed in pragmatic terms, pointing out that such measures facilitate integration, and decrease the burden on the Austrian welfare state as labour market mobility is strengthened by linguistic proficiency. While there is broad consensus within the ÖVP that consistent immigration is desirable for demographic reasons, the overarching rationale is to promote more targeted and regulated immigration. Therefore, the ÖVP favours a criteria-based immigration scheme over quotas. The economy, so the ÖVP argues, should benefit from skilled migrants. The so-called Red-White-Red-Card should facilitate the immigration of skilled TCNs. Language skills, integrity, and labour market mobility through qualifications are seen by the ÖVP as criteria for eligibility. As Table 2 shows, immigration is the ÖVP's most restrictive policy field, echoing Bale's (2003) thesis of right-wing policy alignment. Yet it is less an opposition to immigration (such as within the FPÖ) that characterizes the ÖVP's position than a demand for more selectiveness.

In questions of immigration policy, the SPÖ takes a slightly restrictive stance in the political discourse (see Table 2). Like the ÖVP, the SPÖ holds that Austria is and remains a country of immigration. As noted above, a key SPÖ demand is a commitment to core European values and Austria's legal order on the part of immigrants. It supports high-skilled labour migration within the EU, and the above mentioned Red-White-Red-Card, which regulates high-skilled immigration from third countries. Contra

unregulated immigration there is continuous support for the replacement of quotas by a criteria-based immigration scheme. There is also unfettered support for the ÖVP's proposal that immigrants have basic knowledge of German prior to arrival in Austria. This is justified with the pragmatic argument that it firstly helps ad hoc integration and, secondly, that it is feasible due to the large number of institutions which offer German language courses around the world, such as the German Goethe-Institutes. This demand is extended to pre-departure measures for family reunions (where Austria's regulations are already restrictive above European average, see e.g., Huddleston *et al.* 2011, 29). In fact, the SPÖ supports that family reunion should be conditional upon basic knowledge of German on the part of family members yet to immigrate.

3.4 Discrimination

Discrimination is a minor issue in Austria. The concept is rather used in connection with issues of women's equality or disabled people than with migrants. Publicly known cases of racial discrimination date back to the early 2000s and are hardly relevant for recent policy debates. Thus, there are very few context-specific findings in political discourse. No statements have been coded. However, it appears worthwhile to remark that the above mentioned 2010 National Action Plan for Integration (NAP) has been criticized by human rights organisations for neglecting discrimination. The NAP contains, according to its critics, too little regulatory measures against police racism and the like. Indeed, from a legal perspective, Austria has taken a "minimalist approach" to comply with EU regulations on discrimination, and victims have very weak access to justice (Huddleston *et al.* 2011, 31). Former interior minister Fekter defended the NAP on the grounds that authorities have taken responsibility for past cases of discrimination. Perpetrators, Fekter argued, have been suspended from work and punished accordingly.

3.5 Islam

Islam has proven to be among the most salient issues for the extreme right. Strong anti-Muslim sentiment, e.g., warning about the threat of "Islamisation" is widely considered a key feature of extreme right parties (for

an overview see Zúquete 2008). They portray themselves as defenders of a (Judeo-) Christian Western culture, to which the political mainstream is not sufficiently committed. Regarding the political struggle over Islam, past research has emphasized the importance of state-Islam relations (Dolezal *et al.* 2010). Austria is one of the few countries where Islam is officially recognized by the state. A juridical legacy of the Austro-Hungarian Empire, Islam was given equal status with other religions in 1912 (Schmied and Wieshaider 2004, 202). Dolezal *et al.* (2010) argue that this high level of formal recognition triggers debates around questions of Muslim customs and religious infrastructure. Let us now again explore the parties' positioning towards Islam.

As is typical for extreme right parties, the FPÖ takes an adversarial position to Islam in general. Three central arguments can be identified. First, the core claim is that there is a fundamental cultural difference between Islam and Christianity. Islamic values, thus understood, are against *our* values, i.e., the values of Christian Western countries. It is rarely explained what exactly those cultural differences are. Yet one recurring point is that Islam, as opposed to Christianity, has never undergone a period of Enlightenment, and therefore lacks an understanding of liberty, secularism and human rights. This assumed fundamental incompatibility leaves us with identity-based and moral-universal justifications (rather than pragmatic ones). Islam is held to threaten Western identity, and compromise values, which are of universal validity in Western culture. "Mass immigration" from Muslim countries thus has to be stopped, according to the FPÖ, as Muslims have difficulties to integrate in their host societies because of different value-systems. Also, it is claimed that Islam (also because of its deficient secularism) seeks to seize Western culture. Warning of "radical demographic changes" the FPÖ states in its 2008 election manifesto, "Muslims (*Islam*) form the second largest religious community in Austria and seek to become the by far strongest demographic group by the end of the century" (FPÖ 2008, no page number).

Second, against this backdrop, the expansion of Muslim infrastructure is strictly opposed by the FPÖ. Suggestions differ. Muslim prayer rooms are tolerated (as Islam is a recognised religion in Austria), but minarets or muezzins should not be allowed. Yet it has also been repeat-

edly suggested that the construction of mosques or minarets should be conditional upon a referendum among residents. Third, the extreme right opposes specific Muslim customs. In particular, all forms of headscarves (including the Burka) should be banned in public since they are held to represent political Islam and the oppression of women. Similarly, but certainly with less salience due to only very few publicly known cases, forced marriage and female circumcision are opposed. Teachers of Islamic religious education or preachers should be obliged to testify to democratic values, and, the FPÖ argues, expelled if not willing to do so. In order to ensure their compliance with the value-system of their host society, teachers of religion should be monitored. Also, radical Islamist statements should be punished with immediate deportation. With regard to customs, moral-universal frames dominate. Contra headscarves and forced marriage, women's equality is held up as fundamental human right, and democratic values are considered as a universally valid legacy of the Enlightenment.

As Table 2 shows, the ÖVP is very much on equal terms with the SPÖ as regards Islam. Three key issues can be identified in the case of the ÖVP. First, on the grounds of women's rights and European values, the Burka should be banned. Second, the 'anti-terror' law (also known as §278) should counter religious extremism by punishing participants of Islamist terror camps. Third, as state-secretary Kurz proposed, Imams should be educated in Austria to be exposed to a Western value-system and preach in German to enhance integration. Despite the dominance of moral-universal framings of the issue, the ÖVP does occasionally make use of language particular to the extreme right. After the Vienna elections in October 2010, for example, Karlheinz Kopf, leader of the ÖVP's parliamentary group spoke of the "Islamisation" of Vienna (*Der Standard*, 10.10.2010). And former interior minister Fekter called for an awareness that "Shari'a is not our legal order" (*Der Standard*, 27.10.2009). The SPÖ is most restrictive towards Islam, compared with other policy fields (see Table 2). Most statements can be connected to the already noted commitment to core European values the SPÖ demands of migrants. With respect to the headscarf, perhaps the most salient issue in this field in general, there is no entirely clear position within the party. Banning the Burka, however, is suggested

for two reasons. Framed in moral-universal terms, the Burka is held to be a symbol of female oppression and political Islam, contradicting European values of universal equality and secularism. A pragmatic argument is also evoked, namely, that wearing a full veil is detrimental to success on the labour market (i.e., in job interviews) and thus hindering integration. Lastly, in both the ÖVP and SPÖ forced marriage and female circumcision are clearly opposed on the grounds of human rights.

4. DISCUSSION AND CONCLUSION

The empirical analysis carried out in this chapter considered three relevant Austrian parties, namely, the extreme right-wing FPÖ and the mainstream parties ÖVP (moderate conservative) and SPÖ (social democratic). Let us now summarize the findings accounting for quantitative and qualitative measures in turn. Overall, the parties' programmatic positions tend to be restrictive, in key with past discourse and policy-making. As expected, the FPÖ takes the most restrictive stance on immigration and integration policy. The FPÖ's messages are clear. Neutral policy statements are effectively avoided in the media, which contributes to its strong position on the restrictiveness scale (see Table 2). As Table 3 shows, the FPÖ also provides extensive justification for its positions, and it evokes predominantly pragmatic frames of justification, rather than merely identity-based ones as commonly expected from extreme right parties. By contrast the SPÖ remains close to neutral in most immigration and integration policy issues (see Table 2). As a main strategic shortcoming, the SPÖ provides only very scarce political justification (see Table 3). The ÖVP takes an intermediate position between SPÖ and FPÖ regarding both programmatic statements and frames of justification. While the ÖVP's former interior minister proposed on several occasions a decisively tougher line on immigration and integration, as the establishment of the ÖVP-led secretariat of state for integration in April 2011, a more motivational tone has been found. Integration is framed in a language of *Leistung*, emphasizing individual effort among migrants. Despite deficient policy justification (see Table 3), the ÖVP has thereby managed to provide a new frame for integration.

Table 3. *Political justification*

	FPÖ	ÖVP	SPÖ
Rate of justification (%)	75.3	39.1	21.2
Statements (n)	(73)	(128)	(118)
Frames (n)	(55)	(50)	(25)

From a qualitative vantage point it is clear that there is broad consensus on three key issues among all parties under scrutiny. First, the importance of linguistic integration. Knowledge of German is held to be crucial for successful integration throughout. Schools are seen as locus of integration where measures to improve language learning have to be taken. Second, there is a general tendency to demand a more restrictive immigration regime. Immigration should be more selective and regulated according to labour market needs, which involves measures to facilitate high-skilled labour immigration. This is one major issue where the FPÖ proves to be inconsistent, claiming that Austria is not a country of immigration, while supporting necessary labour migration. Third, Islam is indeed seen by all parties as threatening specific core Western values, in particular women's equality and democratic rights. As a result, moral-universal frames of justification recur, qualifying the findings of Dolezal *et al.* (2010) that justifications are first and foremost pragmatic in the struggle over Islam. Specifically with regard to the Burka ban, it appears that this tension between value systems is uncontested.

Qualitative differences within the parties' positions appear to be less of substance than of form. In fact, mainstream parties often criticise the extreme right's agitation (*Hetze*) against migrants. Clearly the FPÖ is less neutral and conciliatory in its rhetoric, and tends to be polemic, particularly with respect to Islam. Such rhetoric finds fertile ground in a country where norms on acceptable political discourse are underdeveloped (Art 2006). Yet the extreme right's policy positions do not differ as greatly from the mainstream ones as one might expect. This is in line with Duncan's (2010) analysis of Austria's immigration and integration policy regimes, which finds only minor substantial divergences among mainstream and extreme right (see also the introduction to this chapter). The extreme right

capitalizes on its message's clarity (i.e., avoiding neutral statements) and the extensive justification provided. As a result, parties struggling to find a normative line on integration and immigration policy have few means to combat the extreme right. They may only *react* by denying the FPÖ's position, giving even greater leverage to its issue-leadership, rather than providing a new angle on the issue (a problem the SPÖ faces). The ÖVP has made an effort to reframe the debate by evoking a more motivational narrative. However, efforts of this kind are rare in Austria, and badly needed. To evaluate the success of this new frame, future research has to focus on the demand-side as well. The quantitative measures of our supply-side approach suggest that political justification is a crucial practice to work on for the political mainstream for now, as the degree of justification proves to be most clearly distinguishing mainstream and extreme right (see Table 3). Increasing political justification is not only desirable to demarcate a parties' normative space (White and Ypi 2011) – it might also be the most powerful application to counter the extreme right.

The main findings yield the conclusion that the extreme right-wing FPÖ has a considerable competitive advantage over the political mainstream in Austria, as it provides the clearest and most comprehensible policy statements, as well as extensive political justification. The quantitative measures deployed have proven to be particularly telling regarding the differences between parties in political discourse. Reacting to the challenge of the FPÖ, the Austrian political mainstream has to consider the following:

Normativity. Mainstream parties need to evoke their own frames and narratives. Ones which link policy statements to the parties' core values rather than drawing on the language of the extreme right. The ÖVP's "integration through effort (*Leistung*)" strategy, for example, brings to the fore a new angle on integration.

Activity. It is detrimental for the successful communication of policy positions to merely *react* to the statements the FPÖ makes. Instead of denying the extreme right's frames, mainstream parties have to take an active role in diffusing their position in the debate immigration and integration policy.

Clarity. In order to respond to the challenge of the FPÖ, it is crucial for mainstream parties to avoid neutral statements and justify policy posi-

tions throughout. Neglecting the “why”-dimension of policies decreases the statements’ power to convince, leaving the door open to the extreme right. Clear policy justification is not only normatively desirable but also a lever for successful political contestation.

Bibliography

Akkerman, Tjitske. 2012. “Comparing Radical Right Parties in Government: Immigration and Integration Policies in Nine Countries (1996–2010).” *West European Politics* 35 (3): 511-529.

Art, David. 2006. *The Politics of the Nazi Past in Germany and Austria*. New York: Cambridge University Press.

Bale, Tim. 2003. “Cinderella and Her Ugly Sisters: The Mainstream and Extreme Right in Europe’s Bipolarising Party Systems.” *West European Politics* 26 (3): 67-90.

Bale, Tim, Christoffer Green-Pedersen, André Krouwel, Kurt Richard Luther and Nick Sitter. 2010. “If You Can’t Beat Them, Joint Them? Explaining Social Democratic Responses to the Challenge from the Populist Radical Right in Western Europe.” *Political Studies* 58: 410-426.

Bauböck, Rainer, Eva Ersboll, Kess Groenendijk and Harald Waldrauch. 2006. *Acquisition and Loss of Nationality. Policies and Trends in 15 European States. (Volume 2: Country Analyses)*. Amsterdam: Amsterdam University Press.

Betz, Hans-Georg and Carol Johnson. 2004. “Against the current-stemming the tide: the nostalgic ideology of the contemporary radical populist right.” *Journal of Political Ideologies* 9 (3): 311-327.

Brubaker, Rogers. 1992. *Citizenship and Nationhood in France and Germany*. Cambridge M.A.: Harvard University Press.

Caiani, Manuela, Donatella della Porta, and Claudius Wagemann. 2012. *Mobilizing on the Extreme Right: Germany, Italy, and the United States*. Oxford: Oxford University Press.

Der Standard. 2008. "Fekter: Sie kommen auf ihre Raubzüge nach Österreich." 23 July. <http://derstandard.at/1216325457580> (April 29, 2012).

Der Standard. 2009. "Scharia ist nicht die Rechtsordnung." 27 October.

Der Standard. 2010. "Wiener ÖVP kassiert 'eine furchtbare Watschn.'" 10 October. <http://derstandard.at/1285200475202/OeVP-Wiener-OeVP-kassiert-eine-furchtbare-Watschn> (April 30, 2012).

Der Standard. 2011. "Graf: Kein Richtungsstreit über Ausländerpolitik." 17 January. <http://derstandard.at/1293370847911/Graf-Kein-Richtungsstreit-ueber-Auslaenderpolitik> (April 28, 2012).

Dolezal, Martin, Marc Helbling and Swen Hutter. 2010. "Debating Islam in Austria, Germany and Switzerland: Ethnic Citizenship, Church-State Relations and Right-Wing Populism." *West European Politics* 33 (2): 171-190.

Duncan, Fraser. 2010. "Immigration and integration policy and the Austrian radical right in office: the FPÖ/BZÖ, 2000–2006." *Contemporary Politics* 16 (4): 337-354.

FPÖ. 2005. *Das Parteiprogramm der Freiheitlichen Partei Österreichs*. Vienna: FPÖ.

FPÖ. 2008. *Österreich im Wort. Auswahl und Zusammenfassung inhaltlicher Ziele der Freiheitlichen Partei Österreichs für die neue Legislaturperiode*. Vienna: FPÖ.

FPÖ. 2011. *Party Programme of the Freedom Party of Austria (FPÖ)*. http://www.fpoe.at/fileadmin/Content/portal/PDFs/2012/2012_parteiprogramm

gramm_englisch_web.pdf (April 10, 2012).

Huddleston, Thomas, Jan Niessen, Eadaoin Ni Chaoimh and Emilie White. 2011. *Migrant Integration Policy Index 2011*. Brussels: British Council and Migration Policy Group.

Kapeller, Jakob and Jakob Huber. 2009. "Politische Paradigmata und neo-liberale Einflüsse am Beispiel von vier sozialdemokratischen Parteien in Europa." *Österreichische Zeitschrift für Politikwissenschaft* 38 (2): 163-192.

Kitschelt, Herbert. 1995. *The Radical Right in Western Europe. A Comparative Analysis*. Ann Arbor: University of Michigan Press.

Kriesi, Hanspeter, Edgar Grande, Romain Lachat, Martin Dolezal, Simon Bornschieer and Timotheos Frey. 2006. "Globalization and the transformation of the national political space: Six European countries compared." *European Journal of Political Research* 45: 921-956.

Kuhn, Theresa, Fabio Wolkenstein, Flooh Perlot and Sarah Meyer. 2010. "Austria." In *The 2009 Elections to the European Parliament: Country Reports*, ed. Wojciech Gagatsek, Alexander Trechsel and Fabian Breuer. Florence: European Union Democracy Observatory.

Luther, Kurt Richard. 2006. "Die Freiheitliche Partei Österreichs und das Bündnis Zukunft Österreich." In *Politik in Österreich. Das Handbuch*, ed. Herbert Dachs, Peter Gerlich, Herbert Gottweis, Helmut Kramer, Volkmar Lauber, Wolfgang C. Müller, Emmerich Tálos. Vienna: Manz.

Luther, Kurt Richard. 2008. "Electoral Strategies and Performance of Austrian Right-Wing Populism, 1986–2006." In *The Changing Austrian Voter*, ed. Günter Bischof and Fritz Plasser. New Brunswick: Transaction Publishers.

Luther, Kurt Richard. 2011. "Of goals and own goals: A case study of right-wing populist party strategy for and during incumbency." *Party Politics* 17 (4): 453-470.

Mudde, Cas. 2007. *Populist Radical Right Parties in Europe*. Cambridge: Cambridge University Press.

Müller, Wolfgang C. 2006. "Die Österreichische Volkspartei." In *Politik in Österreich. Das Handbuch*, ed. Herbert Dachs, Peter Gerlich, Herbert Gotweis, Helmut Kramer, Volkmar Lauber, Wolfgang C. Müller, Emmerich Tálos. Vienna: Manz.

Oesch, Daniel. 2008. "Explaining Workers' Support for Right-Wing Populist Parties in Western Europe: Evidence from Austria, Belgium, France, Norway, and Switzerland." *International Political Science Review* 29 (3): 349-373.

ÖVP. 1995. *Grundsatzprogramm*. <http://www.oevp.at/download/000298.pdf> (April 10, 2012).

ÖVP. 2008. *Neustart für Österreich*. Vienna: ÖVP.

Pelinka, Anton. 2002. "Die FPÖ in der vergleichenden Parteienforschung. Zur typologischen Einordnung der Freiheitlichen Partei Österreichs." *Österreichische Zeitschrift für Politikwissenschaft* 31 (3): 281-290.

Plasser, Fritz and Peter Ulram. 2000. "Rechtspopulistische Resonanzen. Die Wählerschaft der FPÖ." In *Das österreichische Wahlverhalten*, ed. Fritz Plasser, Peter A. Ulram and Franz Sommer. Vienna: Facultas Wuv.

Plasser, Fritz and Peter A. Ulram. 2008. "Electoral Change in Austria." In *The Changing Austrian Voter*, ed. Günter Bischof and Fritz Plasser. New Brunswick: Transaction Publishers.

Rooyackers, Ilse N. and Maykel Verkuyten. 2011. "Mobilizing support for the extreme right: A discursive analysis of minority leadership." *British Journal of Social Psychology* 51 (1): 130-148.

Rydgren, Jens. 2005. "Is extreme right-wing populism contagious? Explaining the emergence of a new party family." *European Journal of Political Research* 44 (3): 413-437.

Salucci, Lapo. 2009. "The FPÖ and BZÖ Against Migrants in Austrian Cities." (working paper) *University of Colorado at Boulder, Department of Political Science*. http://sobek.colorado.edu/~salucci/research/assets/Salucci_APSA09.pdf (April 10, 2012).

Schmied, Martina and Wolfgang Wieshaider. 2004. "Islam and the European Union: The Austrian Way." In *Islam and the European Union*, ed. Richard Potz and Wolfgang Wieshaider. Leuven: Peeters.

SPÖ. 1998. *SPÖ – Das Grundsatzprogramm*. <http://www.spoe.at/parteiprogramm.html> (April 10, 2012).

SPÖ. 2008. *Wahlmanifest der Sozialdemokratischen Partei Österreichs. Nationalratswahl 2008*. Linz: SPÖ.

Tálos, Emmerich. 2006. "Sozialpartnerschaft. Austrokorporatismus am Ende?" In *Politik in Österreich. Das Handbuch*, ed. Herbert Dachs, Peter Gerlich, Herbert Gottweis, Helmut Kramer, Volkmar Lauber, Wolfgang C. Müller, Emmerich Tálos. Vienna: Manz.

Ucakar, Karl. 2006. "Sozialdemokratische Partei Österreichs." In *Politik in Österreich. Das Handbuch*, ed. Herbert Dachs, Peter Gerlich, Herbert Gottweis, Helmut Kramer, Volkmar Lauber, Wolfgang C. Müller, Emmerich Tálos. Vienna: Manz.

Van Biezen, Ingrid, Peter Mair and Thomas Poguntke. 2012. "Going, going, ... gone? The decline of party membership in contemporary Europe." *European Journal of Political Research* 51 (1): 24-56.

Wehling, Elisabeth. 2011. *Der gedankliche Abbau sozialdemokratischer*

Werte. *Zur Sprache der Sozialpolitik in Großbritannien, Italien, Österreich und Deutschland*. Berlin: Friedrich Ebert Stiftung.

White, Jonathan and Lea Ypi. 2011. "On Partisan Political Justification." *American Political Science Review* 105 (2): 381-396.

Wolkenstein, Fabio. N.d. "Extreme Right-Wing and Social Democratic Parties in the Electoral Arena: Evidence from Austria." Unpublished working paper.

Zaslove, Andrej. 2004. "Closing the Door? The ideology and impact of radical right populism on immigration policy in Austria and Italy." *Journal of Political Ideologies* 9 (1): 99-118.

Zúquete, José Pedro. 2008. "The European extreme-right and Islam: New directions?" *Journal of Political Ideologies* 13 (3): 321-344.

HUNGARY

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1. BACKGROUND

As immigration to Hungary is marginal and consequentially is not among the central topics of Hungarian politics and political discourse, this chapter will concentrate on the Roma minority present in Hungary, with a primary focus on how prominent mainstream political forces (i.e., right-wing conservative Fidesz and Socialists MSZP), and the Hungarian far-right (i.e., the Jobbik party) approach issues related to this minority, its presence, future and integration. Ironically, the sequence of mainstream and far-right may just as well have been reversed above, as it is the far-right that has dictated the pace and the manner of political discourse surrounding the Roma minority in recent years: what is more, their strong stance regarding the issue has been a cornerstone of Jobbik's political identity and propaganda. The abusive exploitation of the issue by the far-right has only met faint and half-hearted responses from the mainstream, who deemed that mildly denouncing the anti-Roma agitation of the far-right while principally remaining on the defensive was more secure from a political standpoint. With an aim to capture the actual social and political reality in Hungary regarding the situation of the Roma, and with regard to the above mentioned strategy of Jobbik which successfully exploited the situation of the minority to deliver a steep surge in the polls to gain par-

liamentary representation, this chapter will focus on political discourse surrounding the Roma from the year 2007, when the Jobbik party started its remarkable climb from relative irrelevance, until April 2012, when the party completed almost two years in parliamentary opposition. By collecting information from the election manifestos of the parties, along with the relevant statements and comments of their members, this chapter will offer a clear and comprehensive overview of how the Roma-issue is being addressed in contemporary Hungarian party politics. Given the obvious differences in the position of the Roma minority from that of immigrants in countries such as Austria and Denmark, a number of adjustments to the general methodological framework were applied in this chapter. As the vast majority of the Roma living in the country are Hungarian citizens on the right of being born to parents that already are Hungarian citizens, citizenship with regard to the minority is not an issue, and was therefore not included in the research. The same applies to the category of immigration, as outlined above. The dominant issue surrounding the Roma minority is thus the issue of their integration into society.

The first section of this chapter will offer an introduction of the three political parties included in the analysis that follows in the second and main section. The chapter will be concluded by a summary of the conclusions.

2. INTRODUCTION OF THE POLITICAL PARTIES

2.1. FIDESZ – Magyar Polgári Szövetség (Hungarian Civic Union)

FIDESZ, currently in government relying on a massive two-thirds majority in Parliament, is a right-wing, national conservative popular party. The organization was originally founded by a group of students in 1988 as a liberal, anti-communist party, only to take a sharp turn to the right, orchestrated by Viktor Orbán and László Kövér, two figures who have since remained prominent in the party leadership. The party passed the parliamentary threshold with modest results in 1990 and 1994, with the first major success coming in 1998, when it received close to 29 per cent of the vote in the general election, and was subsequently able form a coalition government with the then right-wing conservative MDF (Hungarian Democratic Forum) and agrarian-conservative FKgP. After four years

in office, Fidesz suffered two consecutive electoral defeats, with Socialists MSZP forming governments with SZDSZ (Alliance of Free Democrats) in both 2002 and 2006. Nonetheless, current Hungarian prime minister Viktor Orbán has managed to keep his role as the leader of the party despite the two major setbacks. Nevertheless, the profile of the party underwent substantial changes after the first electoral defeat, shaping the party and its organization toward its present form: powers were further centralized in the hands of Viktor Orbán, who returned to his role as party chairman as he had left this position during his time in the Prime Minister's Office. It was this reform that changed Fidesz to its present popular, catch-all profile: the party encouraged the formation of "civic circles," small, local communities of Fidesz supporters eventually forming a movement; and lured to the party a number of prominent figures originally linked to the left. After the 2006 electoral defeat, the government formed by the Socialists and the Liberals encountered grave difficulties and constantly suffered to regain credibility after the "Őszöd-speech" of PM Ferenc Gyurcsány had been leaked. Widespread dissatisfaction with the government and severe economic difficulties have paved the way for FIDESZ to register a windfall victory at the polls in 2010, securing a two-thirds majority in parliament with 52 per cent of the votes. In forming a government, FIDESZ included its satellite party, KDNP (Christian Democratic People's Party), aimed at appealing to the more conservative and clerical electorate. With the overwhelming legislative majority in place, the second Orbán-cabinet embarked on a highly intensive and often controversial overhaul of both the establishment and the economy, dubbed a novel "system of national cooperation." While the overly autonomous and often belligerent stance of the government toward the European Union and other international organizations drew criticism both at home and abroad, FIDESZ put forward the EU framework of National Roma Integration Strategies up to 2020 as one of the marquée achievements of the Hungarian Presidency of the EU in the first half of 2011, the nature and initial consequences of which will be elaborated on in detail in the second section of this chapter, along with the general stance of the party on issues related to the Roma minority and their integration. Fidesz is a member of the European People's Party caucus in the European Parliament.

2.2 MSZP (Magyar Szocialista Párt; Hungarian Socialist Party)

Socialists MSZP currently have the largest opposition caucus in parliament with 48 seats. The margin between the Socialists and third-placed Jobbik has, however, narrowed significantly since 2010 as ten MPs seceded from the caucus to join former PM Ferenc Gyurcsány's Demokratikus Koalíció (Democratic Coalition), which was ultimately denied the right to form their own caucus. Former house speaker Katalin Szili had earlier left the Socialist caucus and has worked as an independent MP ever since. MSZP was originally founded in 1989 at the very last congress of MSZMP (Hungarian Socialist Worker's Party), becoming the partial successor of the ruling party during the years of socialism in Hungary between 1956 and 1989. Even though the MSZP caucus and membership has been far from ideologically homogenous, the party today could be described as centre-left, socially liberal and social democratic. After an obvious setback at the first elections in 1990 amid the general sentiment in the country following the fall of the socialist regime, MSZP came back into power emphatically after the second democratic elections held in 1994, forming a surplus majority coalition with liberals SZDSZ, ultimately governing with a two-thirds majority, a fact which has prompted the opposition to compare the period with the current Fidesz-governance, arguing that the left-wing coalition never abused its supermajority the way the conservative administration does now. Surprisingly, the Socialists were strong advocates of economic policies labeled as liberal and free-market during all three of their administrations, raising further questions on how to define the party's identity. The 2006 elections produced the first instance of a prime minister successfully running for a second consecutive term in office since the fall of the socialist regime, with MSZP forming a coalition government with liberals SZDSZ once again. However, the scandal surrounding the notorious speech of the PM which hit the government early in their second term overshadowed their entire governance, while uneasy reforms accompanied by unpopular austerities reinforced the tendency of support for the left-wing cabinet plummeting, and the liberals ultimately breaking away from the coalition, leaving MSZP with a minority position in the legislative body. When further harsh austerities had to be implemented amid the financial crisis that shook the Hungarian economy, PM Gyurcsány opted to

resign and an unusually long struggle to appoint a new prime ministerial candidate followed. Eventually, Gordon Bajnai was able to form a government supported by SZDSZ, yet the Socialists could not regain momentum ahead of the elections, and conceded massive losses to FIDESZ in 2010. In fact, the party has still failed to break out of the political quarantine they find themselves in as a result of their uneasy eight-year governance, with no credible personal or policy proposal changes having been made.

2.3 Jobbik Magyarországért Mozgalom (Movement for a better Hungary)

Among the political parties included in this chapter, great emphasis will be placed on the far-right Jobbik party, as the organization successfully exploited the Roma-issue on its way to becoming a relevant entity in the field of Hungarian party politics: in fact, introducing the controversial concept of “gypsy crime” was one of the main features Jobbik used to raise its profile nationally. The emergence of Jobbik altered the natural of political discourse surrounding the Roma. Thus, this chapter will examine the expressions of political parties from the point where Jobbik started setting the pace.

Initially, The predecessor of Jobbik was an organization mainly composed of students, called Jobboldali Ifjúsági Közösség (Rightist Youth Community), which in 2003 was formed into a political party. Jobbik failed to achieve success at the 2006 elections, when it ran as an ally of MIÉP, yet the party became notably stronger afterwards. At the European parliamentary election in 2009, Jobbik secured three mandates, having received close to 427,000 votes (14.77%), whereas at the general elections a year later in 2010, Jobbik passed the parliamentary threshold as the third most popular political party, boasting more than 855,000 votes. In the recent past, Jobbik has succeeded in increasing support for the party and achieving a higher level of popularity than in the April 2010 general elections. Currently, more than 20% of committed voters with party preferences would cast their votes for Jobbik, compared to the 16.67% of votes that the party collected in the elections in 2010. With this popularity, Jobbik is now one of the strongest parties in the European far right, whereas the party is definitely more radical than other parties carrying the same political label in Western Europe. This more

radical stance is visible not only in the ideology of the party, but was also made palpable by the support and initiation of the formation of The Hungarian Guard (Magyar Gárda), currently a banned paramilitary organization. The Guard was Jobbik's most efficient instrument for mobilization and recruitment, and it was one of the main factors behind the party's success. The ideology embraced by Jobbik is essentially anti-liberal. Jobbik refutes the liberal interpretation of human rights, and remains ethnocentric, irredentist, homophobic and anti-Semitic. In its economic policies, the party opposes free-market liberalism, whereas in terms of foreign policy, the party would be willing to relinquish Western orientation and approach Eastern partners instead (most notably Iran and Turkey). The consolidation of the far right in Hungary had become a fact of life well before the entry of the Jobbik party to parliamentary politics, after the 2009 European Parliamentary elections. The more than 427,000 votes cast for the Jobbik already demonstrated that, aside from having integrated the majority of far-right voters, the party had also been successful in addressing voters disappointed in or categorically rejecting all established parliamentary parties (Krekó, Juhász and Szabados, 2009). The phenomenon was closely linked to the economic crisis in 2008 and the government crisis that accompanied it, along with Fidesz's political strategy that in many areas blurred the line between moderate and radical policies.

With a view to the general hypothesis of this chapter, i.e., that the emergence of Jobbik as a nationally relevant political force and their exploitation of the Roma card essentially altered public discourse surrounding the Roma, the second and principal section will firstly discuss Jobbik and its expressions, followed by mainstream parties Fidesz and MSZP.

3. POSITIONS EXPRESSED BY JOBBIK

This section concentrates on statements regarding the Roma minority between 2007 and 2012: a strong radical opening countered by tepid responses by the mainstream.

3.1 Jobbik and the concept of "gypsy crime"

The politics of Jobbik played a decisive role in transforming the long-standing dichotomous division of the Hungarian party system (Juhász,

2010), as the emergence of the party, and the simultaneous decline of MSZP and the demise of liberal SZDSZ, shifted the entire Hungarian party system toward the right. Meanwhile FIDESZ, with its further strengthening and windfall election victory in 2010, remained the only genuinely dominant political force in the country. It is without a doubt that the demand side for right-wing politics has been an essential factor in the rise of Jobbik, generated as a combined result of dissatisfaction with the establishment and mainstream politics, along with the parties forming the former government conceding enormous losses to their public support.

However, Jobbik's politics, i.e., the supply side, is just as important to examine upon analyzing the rise of right-wing radicalism in Hungary, since these politics managed to successfully build on the demand for radical responses in society. Since late 2006, the introduction of the term "gypsy crime" has been an essential part of Jobbik's politics and their successful rise in the polls. In fact, the nationwide campaign focused on "gypsy crime" was one of the main factors which fuelled Jobbik's rapid surge in the polls between 2007 and 2009. To most voters, the term had been unknown before Jobbik launched a campaign based on it, producing a situation in which the politicians of the party had the freedom to define its meaning, subtext and usage. Thereby, the term was given meanings that reached far beyond its original criminological significance, as it created a common reference for the otherwise heterogeneous ways and forms of discrimination against the Roma, and provided a legitimate form of prejudiced public expressions against them. This prejudice, often referred to as "experience" or "judgment" in the far right scene, gained a shelter with the creation of this term, as many started framing their discriminatory attitudes using the term "gypsy crime," as if its usage effectively justified their unchanged discriminatory attitudes. What is more, the party created a subtext of "finally revealing the truth" behind the concept of "gypsy crime," which further strengthened their position with regard to the rest of the parties. In this position, they not only found themselves in a position where they were continuously taking the initiative and setting the pace concerning the public debate that surrounded the Roma minority, but managed to portray themselves as the only "truthful," "candid," "straight-forward" and "honest" political party in Hungary, as opposed to all the

rest “aiming to conceal the reality.” As to the common typology applied in this study, this implication was a strong moral-universal argumentation about Hungarian politics as a whole: Jobbik argued that since the Hungarian political mainstream is lying about the perils and risks posed by the Roma minority, it is inferior to the sole force that reveals the truth to the electorate, i.e., the far-right.

During the rise of Jobbik between 2007 and 2009, to the point of culmination when the party entered the parliament with a result at the polls in 2010 that exceeded earlier expectations, the usage of the term “gypsy crime” showed clearly detectable patterns. The expression had become established in public discourse, not only after a number of events that provoked sensationalist media attention, but in the regular course of the Hungarian media as well. What is more, the frequent appearance of the term was not limited to media outlets that are typically linked to Jobbik and the far-right scene, as the appearance of the term “gypsy crime” was all over the mainstream media. However, a good part of the appearances came in articles that were aimed at questioning or denouncing its usage and application. The instances where the term appeared most frequently in the media were scandals and events provoking sensationalist media coverage. Firstly, the Gyöngyöspata lynching, where a 44-year old local teacher was beaten to death by a group of Roma offenders; secondly, on the occasion of the founding ceremony of Magyar Gárda (Hungarian Guard), the paramilitary organization of Jobbik; followed by the initial events, marches and further actions of the organization. Subsequently, the Cozma-murder, where a group of Roma offenders stabbed professional Romanian handball player Marian Cozma to death, and assaulted two of his teammates following an altercation in a local in Veszprém generated a rich abundance of appearances featuring “gypsy crime,” signalling the point of culmination with regard to the number of articles mentioning the term. In an already heated period, a controversial statement by Parliamentary Commissioner for Civil Rights, Máté Szabó, on “gypsy crime” sparked yet another flurry of usage. The importance of these events reached beyond the press, setting the agenda of national politics. With the infiltration of the term into the national media and politics, it became established in the Hungarian media, with between 20 and 40 daily appearances even in 2010 in mainstream

press outlets, along with many more in the press linked to the far-right. Going by the typology of Nikosz Fokasz (Fokasz, 2006), who distinguishes three categories when labelling the patterns of propagation in the media with regard to certain topics, i.e., “sensations,” “evergreen topics” and “those that offer something to chew on,” the issue of “gypsy crime” had clearly become a sensation after the Gyöngyöspata lynching, and gradually turned into an evergreen issue during the time that followed. The dynamics which formed the issue from sensation into an omnipresent issue on the far-right scene were accompanied by a strong integrative feature in the far-right: in this sense, the term “gypsy crime” became an identity-based argument expressing the common views and identity of the far-right camp. This identity-based argument was rendered even more effective by the strong emotional content that accompanied the aforementioned events, which aided greatly the “gypsy crime” campaign.

3.1.1 The rise of Jobbik on the back of the Roma issue between 2007 and 2009: an analysis of the main arguments and expressions

In the previous section, an analysis of “gypsy crime” as a concept was offered. In turn, this section will focus on the evolution of this concept, with a focus on the arguments used during its propagation, primarily in the period between late 2006 and early 2009, when the concept of gypsy crime was established and the interpretation of Jobbik cemented. To ensure clear structure, the arguments will be introduced in bullet points and in a concise manner for the sake of the fullest possible extent of comprehensiveness, while keeping in mind the constraints of this chapter. As many arguments have occurred repeatedly, redundancies in this section are avoided. The arguments will be presented in a chronological order, and concluded by a summary.

- a) After the Gyöngyöspata-lynching in 2006, politicians of Jobbik argued that “the number of brutal crimes committed by gypsies is increasing at breakneck pace,” without offering appropriate statistical justification. They denounced “positive discrimination which concealed the ethnic identity of the offenders,” and called for the repeal of “laws that clearly offend the principle of equality in front of the law” (i.e., that the ethnicity of offenders is not disclosed). This is to be followed by “radically different and duly implemented policy line regarding the Roma minority.” The

basis for this new policy line must be “a crisis management based on the acknowledgment of gypsy crime,” and “the candid disclosure of facts and data to the Hungarian people,” while “strongly reminding the Roma that Hungarian laws apply to them as well.” Finally, the party offered its contribution in developing a detailed and comprehensive Roma-strategy, which they noted would never be successful if the Roma minority did not adopt a more constructive and cooperative approach. Jobbik used (1) pragmatic arguments when making a statement about the rising number of brutal crimes; and the importance of a new strategy to approach the Roma issue, (2) identity-based arguments when stressing that the identity of offenders is to be revealed, i.e., in order for everybody to possess the ability of differentiating between Roma criminals and Hungarian criminals, and (3) moral-universal arguments when urging the government to acknowledge “gypsy crime;” and to let the Hungarian people learn “the truth” (i.e., “data and facts”). Finally, the argument calling for the Roma to respect the law combines a moral-universal argument (i.e., the law is to be obeyed) and an identity-based one (i.e., by stressing the word ‘Hungarian’ as an attributive to the word ‘law’).

- b) “Several elements of Roma culture are in diametrical opposition to the European norm, and a significant part of their communities make the process of living together between the Roma and the non-Roma utterly impossible without the slightest willingness to peacefully incorporate to majority society. Thus, Jobbik strongly opposes all efforts (...) which urge forceful integration. Especially in the field of education, (...) where successful work is often only possible with segregation.” The combination of (1) pragmatic statements (i.e., the Roma are unwilling to incorporate to society, therefore segregation is the way) are supported by a lingering sense of revealing the truth, in the lack of appropriate statistical, or any other factual backing, realized by the use of stylistic tools, i.e., the use of the adjectives “diametrical,” “significant,” “slightest,” “strongly,” all demonstrating a combative stance, exploiting the strong negative emotional content against the Roma minority after the tragedy in Gyöngyöspata. (although it is not explicitly carried in the statement, the (2) identity-based and the (3) moral-universal content is incorporated stylistically in an implicit manner.)

- c) “The system and the structure of social benefits is to be reformed. State funds without control are to be replaced by other, carefully directed forms of support, funding is to be dependant on the completion of community work on a weekly basis (...)” The inclusion of cutting back on social benefits on the same page with Roma integration is yet another instance of the implicit strategy of Jobbik, as it refers to the parasite-stereotype regarding the Roma. The model here is the same as in b), i.e., an explicit (1) pragmatic statement with an implicit (2) identity-based and (3) moral-universal extension.
- d) Following in the footsteps of the Freedom Party in the Netherlands, Jobbik launched a website “about gypsy crime,” www.ciganybunozes.com. As to the implicit message concerning the press release announcing the creation of the website, the text was illustrated by a picture showing a half-naked man covered in blood, holding a giant axe. “The Movement for a Better Hungary calls on the Hungarian people to practice self-defence against gypsy crime. While groups of gypsy criminals are terrorizing law-abiding citizens in various parts of the country, the government is helpless and the hands of the police are tied. Jobbik has been unsuccessful in trying to resolve this outrageous state of affairs with the inclusion of gypsy leaders, and therefore is now launching a website which not only presents gypsy crime in its current state, but offers ways of self-defence against it. The website serves the purpose of an honest revelation of facts by presenting the ethnic side of a number of crimes committed which are concealed in the media, while offering solutions that strictly rely on the constitution and remain within legally defined confines. (...)” The release goes on to call on “victims of gypsy crime” to offer their testimonials on the website, with the specifics of the incident, the location and the time of the incident specified. Again, a formally (1) pragmatic proposition is painted in obviously (2) identity-based (as by opposing Roma criminals to “law-abiding citizens”) colors, while using stylistic and symbolic tools to create a genuinely dreadful, hostile and belligerent subtext, offering an implicit (3) moral-universal semantic framework.
- e) While being locked in a virtually continuous debate during the first half of 2007 with Orbán Kolompár, the head of ÖCO, Jobbik repeatedly

blasted the government along with the command of the police on the national level for “sabotaging all sorts of counter-action against Roma offenders for political reasons, thereby contributing to the drastic deterioration of public safety in various parts of the country.” This instance effectively demonstrates the phenomenon described in the introduction of this chapter, i.e., that the Jobbik party managed to keep the initiative throughout the “gypsy crime” campaign, as in this instance the party comfortably steers itself into a position where the government and the national command of the police are forced to consider reactions to the highly publicized statements of an otherwise non-parliamentary party. This statement, with regard to its low level of factual content, is considered (3) moral-universal.

- f) A typical instance of Jobbik’s two-fold communication strategy was provided in response to a statement by a mainstream politician (Károly Herényi of MDF, liberal conservative), who stressed the importance of stepping up against the theft of metals from various public appliances. Jobbik in their response called on Herényi to acknowledge the existence of “gypsy crime,” emphasized that the purely technical arguments raised by the politicians were insufficient, whereas a “complex crisis management program” was needed. Remarkably, the release included “racially motivated crimes” as a synonym of “gypsy crime,” effectively demonstrating Jobbik’s strategy of developing subtext.
- g) A clear demonstration of Jobbik’s explicitly and increasingly restrictive stance toward the Roma minority came after an open letter of ÖCO leader Kolompár, who threatened that 800,000 Roma citizens may leave the country and waive their Hungarian citizenship, if the climate of hostility created by Jobbik persists and is not countered by the mainstream. In a remarkable twist of words, Jobbik replied that “by waiving their citizenship, Kolompár effectively demonstrated that in his opinion, gypsies believe to find their home where a living standard is provided to them. Jobbik is hoping that Romas such as Kolompár, who with their parasitic and criminal lifestyles have participated in terrorizing law-abiding citizens in entire regions of this country, will all leave the country.” It is obvious that the part of the sentence introducing a restriction by “such as Kolompár” is far less emphatic than the rest, which

- conveys a genuinely strong restrictive message, using (2) identity based and (3) moral-universal arguments.
- h) An example of the principally double nature in Jobbik's communication of the "gypsy crime" campaign was delivered in an interview with party chairman Gábor Vona in late 2007 in *Barikád*, the party's weekly magazine. When quizzed about the meaning of the term "gypsy crime," Vona replied "Jobbik is using this term. Contrary to the version propagated by the media, we do not mean to say that all gypsies are criminals, as the criminality of minors does not imply that all minors are robbers either. Gypsy crime is not a collective stamp, not a sociological, but a criminological term. It is to say that there are certain forms of criminality which are typical of the Roma, such as metal theft and mass brawls." This quote demonstrates that Jobbik had a (1) pragmatic communication panel in place for the cases where a politically correct interpretation of the term is necessary. This version would again occur in the official party program of 2010. Later in the interview, Vona stresses that the difficult situation of the Roma is determined by socio-cultural factors, and that certain mainstream forces are interested in keeping the minority in its current position, in order to exploit them politically. He adds that the Jobbik party is looking to cooperate with responsible Roma leaders to find appropriate solutions for enhancing the situation of the Roma.
- i) Upon incidents where teachers were physically insulted by Roma schoolchildren in a school in March 2008, the government passed legislation protecting those who carry out services of common social interest. In response to this act, Jobbik blasted the cabinet for implementing "fake measures deliberately circumventing the issue of gypsy crime (...)" as the measures have one common shortcoming, i.e., that they miss the very point of this phenomenon, that such attacks are almost exclusively linked to the Roma minority, therefore the issue can only be resolved by developing a complex program focusing on the Roma," not marginal and technical legislation. The release adds that "the political elite handles a macro-level problem (i.e., gypsy crime) as if it is a marginal issue which only concerns a profession, and has no ethnic shades, whereas the lifestyle of gypsies, their totally anti-social behavior causes physical aggression to occur to teachers, doctors, paramedics, firefighters and

public officials. By greatly enlarging the issue of a teacher being pushed by a Roma child, and placing it on levels of high abstraction, it is exactly the pragmatic solutions dealing with concrete problems that the party refutes, while adopting a strong (3) moral-universal stance: again, effectively demonstrating the parallel presence of arguments that differ from each other fundamentally.

- j) Following the tragic Cozma-murder in early 2009, Jobbik initially made two strong law and order policy proposals. Firstly, they suggested that the gendarmerie be reinstated, then raised the idea of restoring the death penalty. By this time, no frequent mentioning of the Roma origins of the suspects of the Cozma-murder were necessary – in fact, in the official statement of Gábor Vona, the word “gypsy” only occurs once – as the gypsy crime campaign was already up and running, effectively demonstrated by the previously mentioned fact that the term appeared in the press most frequently during the days after the murder. As the subtext put forward by the party (i.e., gypsies are criminals), they could easily afford to put forward two genuinely (1) pragmatic proposals.

3.1.2 From European Parliamentary success to present: “the task is done, the maker rests”

The meaning of words and concepts is in a state of continuous change, determined by what attributes are vested in them by a given community in a given context. In the time between late 2006 and early 2009, Jobbik managed to establish the term “gypsy crime” in the broadest possible context in Hungary, and was never genuinely challenged in determining its meaning by mainstream politics.

After the stunning success of the party at the European Parliamentary elections, where the 426 746 votes, or 14,77% of the total was cast for the party, the situation of Jobbik changed considerably as it had become an established force in Hungarian party politics, with the aim of becoming the “Third Force,” the party slogan used in the general elections a year later, turning into an effective reality (votes cast for the runner-up behind Fidesz, i.e. MSZP were at 501 967, or 17,76%). This is not to say that the tentative, or rather attempted and later seemingly reconsidered shift of Jobbik toward the centre, due after the 2010 elections, had begun after the

European Parliamentary elections. The “gypsy crime” campaign however, with its Jobbik-inspired meaning dominantly in place, was comfortably allowed to shift its attention to the policy extensions of “gypsy crime,” with a natural focus on strong and discriminatory law and order initiatives. This in turn was greatly aided by the Hungarian Guard movement and its successors and pendants, groups of volunteers forming paramilitary organizations and patrolling in areas hit by ethnic tension. It is remarkable that the Guard movement was an essential factor in the overall mobilization and rise of the Jobbik party, with a strong statistical connection between the founding of local Guard organizations and local organizations of Jobbik in place. In 2009, the dissolution of the Guard was a prominent topic in the media, and the emergence of successor organizations spoke of the fact that tackling the far-right with legal measures only was never going to be possible.

Jobbik launched its campaign for the general elections in a comfortable climate, and could continue its strategy of double communication throughout the run-up to the election in April 2010. In the section of the election program dealing with the Roma minority, entitled “Back from the gypsy way,” the party offers the following proposals: a) assessment of the situation of the Roma minority; b) leading the Roma back to the world of laws, labour and education; c) a reform of the system of social benefits based on stimulus; d) strengthening the education of the Roma youth, by both integration and segregation if necessary; e) dissolution and reform of ÖCO, a total reconsideration of the representation of Roma interests; f) the elimination of gypsy crime; g) a stronger involvement of the churches and civic organizations in Roma integration.

The section of the program goes on to blast liberal political correctness for rendering debate about the Roma minority entirely impossible, states that the issue in its current state is a time-bomb that can push Hungary to a state of civil war, and that the issue is a complex social one that thus needs a complex program. This is followed by the previously mentioned, politically more correct interpretation of “gypsy crime” – i.e., that the term is a criminological one that is not genetically determined, but socially and culturally – which is identified as the first and foremost matter to address in any Roma integration campaign. The program takes credit for “break-

ing the silence” regarding “gypsy crime,” and concludes that the party was labelled ‘extremist’ by the very actors who have contributed largely to the current, increasingly difficult state of the Roma minority with their neo-liberal policies, which have rendered returning to the world of labour and education ever more difficult for the Roma. Jobbik identified the following policy measures as necessary: a) a full assessment of the Roma minority by way of a comprehensive census focusing on the number of the population, family status, demographic dynamics, education, attitudes towards criminality, attitudes toward the majority of society and integration; b) strengthening the police and reinstating the gendarmerie for the elimination of gypsy crime; c) instead of social benefits, opportunities for labour are to be provided, or even community work; d) social benefits must not be paid in cash, but in a social benefit card, so that they reach the places they are intended for; e) for the elimination of Roma families raising children for existential reasons only, i.e., social benefits, such benefits after the third child in a family are to be transformed into tax breaks, and all such benefits must be dependent on the participation of the child in education; f) differentiated education instead of forced integration (*even though not specified, this is almost certainly a supportive statement to segregation*), g) integration is a process that is to be initiated as early as possible, on the kindergarten level; h) an appropriate system of sanctions is to be developed with regard to those continuously breaching school norms; i) education and qualification of Roma teachers in regions where the minority is large. A redesigned state scholarship program should support this aim; j) as an immediate solution, unqualified Roma teachers are to be employed; k) education reform enabling as many Roma citizens as possible to gain qualifications that are in demand in the labor market; l) the comprehensive reform of the representation of Roma interests, the dissolution of ÖCO and the creation of a system which is capable using abundant state funds with no result; m) a greater involvement of churches and civic organizations in leading the Roma to the world of education, labor and the law.

If we assess the communication and the proposals put forward by Jobbik in a scale that measures the extent of restrictiveness expressed by the party, the content included in the party program is surely the most open stance of Jobbik toward immigrants, with a mean of 0.23 calculated from

the above mentioned policy proposals using the homogeneous coding scheme applied in this study, showing a vast difference from the evaluation of the messages propagated by the party during the “gypsy crime” campaign between 2007 and 2009 and onwards, calculated at -1,44 from the expressions included in 3.1.2. in this study.

The double communication strategy of the Jobbik party with regard to the Roma minority is in effect demonstrated by the difference in the two numbers: in official documents such as the election program and in formal interviews such as the one quoted in g) of 3.1.2., the party expressed mildly restrictive, neutral and even mildly inclusive policy positions, whereas simultaneously, highly restrictive messages painted in racist colours appealed to the high-levels of anti-Roma sentiment, after traumatic incidents (such as Gyöngyöspata and the Cozma-murder) and in general. Yet another dimension of this difference is detected between local and national politics, as the party expresses restrictive stances much more freely on the forums of the former, and often takes refuge in the more lenient policy expressions when forced into the defensive on the latter. Perfect examples of this tendency were offered during the campaign leading up to municipal elections held in 2010, quite tellingly labelled with the term “Parasites,” when candidates of Jobbik campaigned locally in highly restrictive tones, though principally applying the same policy proposals as included in the earlier national campaign. For instance, the local candidate of the party in Miskolc put forward a proposal that suggested that “perpetrators of gypsy crime” should be closed up in a “public safety” quarantine with a view to protecting the life and peace of law-abiding citizens.

During the two years that have passed since Jobbik became a parliamentary force the party has maintained its stance on the Roma minority, has continuously questioned and blasted the lack of action the new government takes to provide public safety, and has been using its policy proposals, primarily on law and order, and secondly on social benefits and educational reform, to keep up the frequent presence of the Roma-issue and the term “gypsy crime” in parliament and public discourse. As previously mentioned, the issue of the Roma minority, dominantly framed in Jobbik’s concept of “gypsy crime,” has become an evergreen topic in Hungary, whereas Jobbik today are the political force reporting about almost every

single altercation, controversy or crime which happens and is registered in the country as perpetrated by a member of the Roma minority, urging imminent policy measures to eliminate “gypsy crime,” and fuelling hatred for a minority already in a desperate situation, merely out of political calculations. The semantic framework not only for crimes committed by the Roma, but for the minority as a whole is in place and functioning in the minds of millions of Hungarians, having been invented and designed by Jobbik, hence the subtitle of this section.

4. MAINSTREAM RESPONSES

With a view to understanding the restricted nature of mainstream responses to Jobbik’s reframing of the Roma issue, a brief overview of prevailing attitudes regarding the Roma, along with a number of features of Hungarian politics is necessary. Prejudiced attitudes are strong in Hungary, with the main target group of prejudice being the Roma minority. Furthermore, this is not limited to the radical-right electorate, but is dominant throughout the society: a majority of Hungarians are more likely to agree with even strongly restrictive statements, such as “crime is in the blood of gypsies.” In a climate where anti-Roma sentiment is a social norm and tolerant attitudes are the minority, political parties have no interest in coming out emphatically against the dominant norm, as this would obviously bring no political gains. Furthermore, the parties that decided to go against the dominant norm openly (formerly SZDSZ and recently LMP) have not met any success, and were unable to influence the deep-rooted, prevailing attitudes. The common notion that the social, cultural and economic situation of the Roma minority is a major task that requires a broad political consensus and a genuinely long period of time to resolve has also worked against the logic of political parties which primarily consider four-year terms as a frame for action. Also, the arrangement of the political representation of minorities, wherein minority self-governments are formed at both local and national levels, i.e., the aforementioned OCO, recently renamed as ORÖ (National Roma Self-Government) didn’t provide any ground for the formation of ethnic political parties that would have been able to carry out effective representation of Roma interests on

the national level. Instead, a quasi-representation of national party politics is to be found in the National Roma Self-Government, with the parties supporting various candidates who run on the elections for the minority self-governmental mandates. In this structure, and keeping in mind the overall sensitive nature of the Roma-issue, mainstream political parties have tended to use their allies in Roma representation to articulate messages aimed for and about the minority.

4.1 FIDESZ – from political circumspection to a new national Roma strategy

Following a second consecutive election defeat in 2006, and in the political turmoil that followed almost immediately the formation of the third term of the left-wing government, it was not until a year after the term “gypsy crime” was introduced by Jobbik that Fidesz came out with a denouncement of the concept and the campaign, even though it was not specifically named in the text. On 7 December, 2007, the executive board of the party issued a release which blamed the, “five years of left-wing governance for the escalating social and economic crisis in the country,” and went on to call for “patience,” “solidarity,” and “the consistent prosecution of all breaches of the law within the framework provided by the rule of law.” Subsequently, the release went on to denounce, “all ways of generating hatred and ethnic discrimination” and stated that the Fidesz party would come out against these with all the means provided by the constitution. This argumentation was repeated in parliament shortly afterwards, on the occasion of the Day of Human Rights when Zoltán Balog of KDNP restated the above, and added that, “it is not right to talk about gypsy crime, even though we all know that there are places in Borsod and Szabolcs and else, where Hungarians may find themselves in a situation where they are exposed to the Roma minority. Not only the minority, but the majority as well is entitled to human rights, as what is majority today may be minority in the future.” Balog, then chairman of the Parliamentary Committee for Human and Minority Rights, Religion and Civil Affairs, supported a denouncement of the Hungarian Guard’s patrol in Tatárszentgyörgy issued by then President of the Republic, László Sólyom, and stressed that he denounces, “the marches of the Hun-

garian Guard aimed at generating fear, and the language of public figures who talk about ‘gypsy crime’ to generate differences between Hungarians and the Roma.” A day later, Balog added that it was clear that, “a comprehensive social, educational and economic program was needed to lift the Roma from deep poverty.” The first instance of party leader Viktor Orbán making a statement about Jobbik also followed shortly after in left-leaning news channel ATV, when the politician stated he agreed with “every word” of the statements made earlier by the President and by Balog. When asked whether he personally would ever distance himself from Jobbik and the Guard, he replied that there was no need as his party was already distanced from these organizations and this was going to remain the same. He added: “We condemn all kinds of politics which generate fear in people, along with all discriminatory politics. All politics, that instead of involving people in our common affairs and providing them with the rights they are entitled to based on their human dignity, is willing to deprive them of these rights.” The general (3) moral-universal argument was later repeated on several occasions by Balog. In late 2008, Orbán was asked about the possibility of ethnic conflicts, and how to address the Roma-issue in an interview by right-leaning weekly *Heti Válasz*. In response, the leader of Fidesz said that the left-wing was looking to label the entire Hungarian population fascists, and was willing to fight against racism instead of crime. Conversely, he added, the other pole is looking to identify the reasons for criminality in the genetic attributes of gypsies. “Two radical positions, two failed attitudes (...)” he added. He also mentioned a policy measure put forward by Fidesz that would have allocated three billion HUF to new police recruitment and concluded with the unclear statement that in his view, the adequate stance regarding this idea was that “everyone has the right to protect himself.” Subsequently in early 2009, Orbán stated that “with regard to public safety, it must be stressed that the number of Roma perpetrators in serious crimes is on the rise. There is no gypsy crime, but there are gypsy criminals.” He also added that work and education must be provided to gypsies as well, as they must not feel excluded from society. The (1) pragmatic argumentation applied by Orbán, along with the clever wording regarding “gypsy crime” and “gypsy criminals” demonstrates that the politician realized

the high level of political sensitivity in the issue, and was unwilling to concede voters – i.e., those who were otherwise convinced by the stance of the far-right on the Roma issue – to Jobbik, a typical and recurring feature of the politics of FIDESZ.

Other pragmatic, or rather professional lines of argumentation came from Livia Járóka, a Member of the European Parliament nominated by Fidesz, who criticised the fact that instead of actual issues regarding the education, the employment and the discrimination of the Roma, only talk of “gypsy crime” was present in Hungary.

The 2010 election program of Fidesz, entitled “The Politics of National Issues,” addressed the Roma issue in its social policy and social benefits section, on the same page with social safety, families, seniors, handicapped citizens, child support, youth and poverty. In line with the general framework of the program, the section on the Roma begins by harshly criticizing the approach adopted with regard to the issue during the eight years of left-wing governance, stating that, “issues falsely portrayed as human-rights related were raised, and therefore wrong answers were found, and the utterly false system of benefits resulted in hatred towards the Roma community.” The program further blasts the Socialists and the Liberals for cutting back on the scholarship program originally initiated by FIDESZ during their term between 1998 and 2002, and for the rest of their integration policy. As to the constructive part, the document is phrased in abstract terms, with the main message being that, “the Roma issue is to be handled as national policy, not as poverty policy.” Nevertheless, the program makes an allusion to Jobbik’s “gypsy crime” campaign, by stating that, “responsible social policy answers are to be found, with a view to preventing the scapegoating which is so popular these days.” Just like the entire program, however, the section on the Roma also falls short of concrete policy proposals, vaguely concluded by the notion that, “the physical and psychological barriers to Roma integration” are to be removed by education and labour strategies.

Since the election victory of Fidesz in 2010, however, the party has shown credible willingness to take over the initiative in the Roma issue from Jobbik, by developing and promoting a comprehensive integration policy. The previously quoted Zoltán Balog, as State Secretary for Nation-

al Inclusion and later as Minister of Human Resources was a prominent figure in promoting the issue, along with Livia Járóka on the European level. Subsequently, during the Hungarian Presidency of the European Union, the government regarded its success in pushing through a “Roma Framework Strategy” as a trademark achievement of the period, as this policy stipulates all member states of the European Union to develop their national strategies for Roma integration. In line with reports about the Hungarian Presidency, this development also made the headlines in Hungary, yet did not challenge Jobbik’s concept of “gypsy crime” fundamentally, as the framework strategy, just like the national strategy drafted in 2011, entitled the National Social Inclusion and Roma Strategy 2011–2020, came down as yet another set of policy proposals aimed at enhancing the social situation of the Roma, as one in a sequence of many strategies. Thus, the credible policy-oriented approach of FIDESZ since during its time in power has failed to substantially discredit the expressions and the semantic framing of Jobbik, and a parallel presence of the two approaches is present in Hungary today. The provocative nature and the strength of Jobbik’s concept was demonstrated when a far-right MP addressed the PM in parliament, demanding he say whether he believed “gypsy crime” existed or not. Viktor Orbán decided to dodge the question, ordering the Minister of the Interior, Sándor Pintér to answer it instead. He gave a tepid and negative response, stating that in law, the term “gypsy crime” makes no sense.

With regard to their policy-oriented nature, the communication of FIDESZ has had many pragmatic shades, underscored by both identity-based (i.e., the nation cannot be successful without the successful integration of the Roma; the issue is not just a matter of social policy, but national policy) and moral-universal (e.g., the issue of the Roma may only be approached with professionalism and commitment; once Hungary is clearly concerned with the Roma issue, it is a logical step to take initiative and leadership in it on the European level). As a result of the fair abundance of largely inclusive moral-universal expressions used by the party, only called into question on rare occasions by ambiguous statements with the aim of making tentative gestures to the far right-electorate, Fidesz scored 1,40 using the common coding scheme, based on the statements included in the research.

4.2 MSZP: a failed strategy of silent isolation

From the beginning of Jobbik's strategy to reframe the Roma issue to present, Socialists MSZP have been fairly reluctant to enter into direct debate with any of Jobbik's politicians or ideas or even directly comment on them, based on the theoretical notion that the far-right, often labelled by them as "fascists" or "neo-fascists," is outside the democratic spectrum, and should therefore be overlooked by mainstream politics. This strategy, even though astonishingly discredited by Jobbik's electoral success stories, has persisted within the ranks of MSZP, even until the present day. Secondly, as MSZP has traditionally focused on FIDESZ as their main political rival, the Socialists made every attempt to exploit the emergence of Jobbik to imply similarities and interconnections between the far-right and Viktor Orbán's party. A prime example of this was the reaction of PM Gyurcsány to a statement of Orbán, quoted on page 18 of this chapter, i.e., that the number of criminal offenses perpetrated by Roma offenders is on the rise, which Gyurcsány condemned by saying that the statement without any statistical grounds to it is a sign of "mere longing for power." Otherwise, PM Gyurcsány addressed the issue in highly abstract, (3) moral-universal terms, e.g., by saying that those living in extreme poverty may easily be prone to slip to criminality, and in Hungary among the poorest the Roma are the most plenty; and even though people are impatient, the problem is not that of the Roma community, but of "both communities." A famous (2) identity-based argument used by the PM was when he was quoted as saying that, "if they blast Gypsies, then I am a Gypsy, if they blast Jews, than I am a Jew," pointing at his idea of a united Hungarian nation. In another speech in parliament, Gyurcsány kicked off an address to the Roma in the Roma language. In fact, a number of marginal policy measures and government decisions, which may just as well be regarded as merely acts of political communication and hence an instance of political discourse, were also implemented, such as the dismissal of Albert Pásztor, a police chief in Miskolc who stated in early 2009 that, "all robberies in the city were perpetrated by Gypsies," or the previously mentioned legislation protecting those carrying out services of common social interest after teachers were assaulted. A number of reactions, such as former caucus leader Ildikó Lendvai saying that, "her hair stands on end" whenever she

hears about Jobbik, or PM Gyurcsány ordering all state institutions and state-owned companies to cancel subscriptions for Magyar Hírlap after the paper published a controversial opinion about the Cozma-murder and the term “Gypsy crime” – otherwise written by a figure close to the FIDESZ-leadership – are also worth a mention.

Nevertheless, the overall aloof manner of MSZP with regard to the far-right was again demonstrated in 2012, when in a parliamentary session chaired by Socialist István Ujhelyi, the microphone of one of Jobbik’s MPs was turned off after he mentioned the word “Gypsy crime.” Ujhelyi told him to refrain from such language, yet in his instructions, in line with most Socialist politicians, he himself did not pronounce the words “Gypsy crime.” Ironically, the failed isolation strategy of MSZP, which refuted discussing the ideas brought up by Jobbik based on a general liberal standpoint, was once again emphatically discredited by the results of research programs (Grajczár and Tóth, 2010) which indicated that around 20% of Jobbik’s voters in 2010 were citizens who had previously voted for MSZP. In a mixture of scarce, yet consistently inclusive statements and expressions by the party regarding the Roma, MSZP scored 1,75 using the common scheme.

5. CONCLUSION: A SUMMARY OF THE FINDINGS

With its campaign promoting the term “Gypsy crime,” Jobbik successfully reframed political discourse concerning the Roma minority in Hungary. With the Roma issue traditionally being a topic mostly outside public discourse on the national level, and with the high level of negative attitudes toward the Roma in society, and the uneasy complexity of policy solutions rendering the issue genuinely sensitive politically, mainstream parties failed to emphatically counter the arguments put forward by Jobbik, and have thus far been unable to challenge the new semantic framework developed by the party.

Jobbik has raised concerns of (1) pragmatic nature with regard to the Roma minority in its campaign, such as public safety, integration, education and the system of social benefits, painted, though, by strong (3) moral-universal and even (2) identity-based arguments that border on racism, or occasionally ravaging in the tone of race theories. However,

a conspicuous pattern of double communication was identified in the messages of Jobbik, as the official documents of the party and a number of high-profile interviews adopted only mildly restrictive or even slightly inclusive tones, whereas on other, mostly local or particular forums, highly restrictive messages occurred. Nevertheless, with its successful strategy that took the initiative in discussing the Roma minority, Jobbik dominated the public discourse even as a non-parliamentary party, and exploited the Roma-topic to produce a steep surge in the polls, creating a situation in which mainstream parties were forced to a reactive role.

In their reactions, mainstream FIDESZ adopted a mild (3) moral-universal stance while in opposition, only slightly modified by political strategy seeking not to alienate the party from the far-right electorate. In government, FIDESZ attempts to dominate the field with a characteristic policy strategy. In turn, MSZP opted not to recognize Jobbik as a political force, and handled the growing presence of the “Gypsy crime” framework as if non-debatable or even non-existent, while scarcely expressing vague and abstract (2) identity-based and (3) moral-universal stances which cautiously avoided mentioning the terms created and used by Jobbik. Meanwhile, the party made efforts to exploit the emergence of the Hungarian far-right to paint their main political opponent, i.e., FIDESZ.

Bibliography

Fidesz – Magyar Polgári Szövetség. 2010. *Nemzeti ügyek politikája*. http://static.fidesz.hu/download/481/nemzeti_ugyek_politikaja_8481.pdf (August 15, 2012)

Jobbik Magyarországért Mozgalom. 2010. *Radikális változás. A Jobbik országgyűlési választási programja a nemzeti önrendelkezésért és a társadalmi igazságosságért*. <http://www.jobbik.hu/sites/jobbik.hu/down/Jobbik-program2010OGY.pdf> (August 15, 2012)

Juhász A. 2010. A “cigánybűnözés,” mint az igazság szimbóluma. In: *an-Blokk* 2010/4., 12-19.

Juhász A. 2010. *A Jobbik politikájának szerepe a pártrendszer átalakulásában – különös tekintettel a cigánybűnözés kampányra.* In: Magyarország Politikai Évkönyve 2009-ről. Budapest: Demokrácia Kutatások Magyarországi Központja Közhasznú Alapítvány.

Juhász A. 2011. *Romamigráció és romaintegráció.* In: Magyarország politikai évkönyve 2010-ről. Budapest: Demokrácia Kutatások Magyarországi Központja Közhasznú Alapítvány

Karácsony G.–Róna D. 2010. *A Jobbik titka. A szélsőjobb magyarországi megerősödésének lehetséges okairól.* In: Politikatudományi Szemle, XIX/1., 94–123.

Kopecky, P; Mudde, M. 2002. *The Two Sides of Euroscepticism – Party Positions on European Integration in East Central Europe.* In: European Union Politics, 2002., Volume 3, 297–326. o.

Krekó P. – Molnár Cs. 2010. *A szélsőjobboldal iránti kereslet növekedése Magyarországon.* In: Sándor P. – Vass L. Magyarország Politikai Évkönyve, 2009. DKMKA, Budapest.

Lehet Más a Politika. 2010. *A fenntartható jövő, a befogadó társadalom és a megújuló demokráciastratégiája.* http://lehetmas.hu/upload/9/9/201003/LMP_Program_2010_1.pdf (August 15, 2012)

Magyar Szocialista Párt. 2010. *Nemzeti modernizáció, összetartó közösség*

Meijerink, Frits – Cas Mudde and Joop [J.M.] van Holsteyn. 2000. *Right-Wing Extremism.* In: Acta Politica, 1998, 33. sz., S. 165–178. o.

Minkenberg. M. 2000. *The Radical Right in Europe: Challenges for Comparative Research. Strategies for Combating Right-Wing Extremism in Europe.* Bertelsmann Stiftung.

Mudde, C. 2000. *The ideology of the extreme right*. Manchester University Press.

Political Capital Institute. 2009. Reasons behind the resurgence of the far right in Hungary. http://www.riskandforecast.com/post/in-depth-analysis/reasons-behind-the-resurgence-of-the-far-right-in-hungary-_307.html (August 15, 2012)

Political Capital Institute. 2010. *Back by Popular Demand – Demand for Right-Wing Extremism Index*. http://www.riskandforecast.com/useruploads/files/derex_study.pdf (August 15, 2012)

Political Capital Institute. 2011. *Multiculturalism in the cross hairs*. http://www.riskandforecast.com/post/in-depth-analysis/multiculturalism-in-the-cross-hairs_698.html (August 15, 2012)

Political Capital Institute. 2011. *The second season of patrolling in Hungary*. http://www.riskandforecast.com/post/in-depth-analysis/the-second-season-of-patrolling-in-hungary_694.html (August 15, 2012)

Tamas P. 2007. *Radikális jobboldali világképek a 2006 politikai évad kezdetén*. In: Sandor Peter; Vass Laszlo (eds.): Magyarország politikai évkönyve 2006-rol. Budapest, DKMKA, 313–322. o.

Tóth A.–Grajczár I. 2010. : *Válság, radikalizálódás és az újjászületés ígérete: a Jobbik útja a Parlamentbe*. Demokrácia Kutatások Magyar Központja Alapítvány.

CZECH REPUBLIC

Radko Hokovský and Jakub Janda¹

1. BACKGROUND²

Czech asylum and immigration policies do not have a long history, especially given the political situation prior to 1989 that led to the former Czechoslovakia generating refugees rather than accepting them. In historical terms the Czechoslovakian socialist republic fell under the Eastern bloc and the Czech population is more or less homogeneous. The number of immigrants in the Czech Republic has been rising since 2000 and has reached 425,000 people for 10.6 million citizens in 2012. Immigrants comprise 4% of the Czech population – 1.3% being EU citizens and 2.7% citizens of third countries. There were 124 000 Ukrainians (29% of all immigrants), 72,000 Slovaks (17%), 60,000 Vietnamese (15%), and 32,000 Russians (8%) in the Czech Republic in 2010 (Government of the Czech Republic, 2012). The Czech Republic is primarily a target of economic migration, which is reflected in the average age of the immigrants (half of the immigrants are between the ages of 20 and 39, the percentage of children and seniors is insignificant). While only 25% of foreigners living in the Czech Republic in 2000 had a permanent residence permit, there were

1 The authors would like to thank to Lucia Klincová who has provided assistance with collecting the data on parties' positions.

2 The text is based on a background paper by Janda (2012)

45% (190,000) official permanent residents in 2011. An analysis by Newton Media from 2008 and 2009 showed that articles about immigrants in print media were neutral in 47% of cases, negative in 44% of cases and positive only in 7% of cases (Newton Media 2009). Migration is thus generally perceived as having a negative connotation.

In March 2011 55% of Czech citizens responded that is it *right to employ foreigners in the Czech Republic*, similar to the data from 2001 and 2009. Thus the attitude of Czech citizens towards immigrants has not changed over the years, as it is the case in Western Europe. This fact could be explained by rather restrictive measures in immigration politics (Kušniráková, Čížinský 2011).

Despite the dynamic migration (the number of immigrants grew from 2% to 4.5% of the Czech population between 2000 and 2009) this topic is ignored both by media and politicians. Paradoxically, both Ukrainians (124,000) and Vietnamese (60,000) often do not obtain Czech citizenship, these large groups are thus politically underrepresented at the national level, as well as being barely represented in municipalities. Immigrants without citizenship also do not have the right to vote, and thus do not fall under any target groups of political subjects on the mainstream political scene. Immigration has not been a decisive topic in any elections since 1990.

2. MINORITIES IN THE CZECH REPUBLIC AND THE ROMA CARD

An example of a situation which has been politicized could be considered the presence of Roma minority in the Czech Republic. It can not be statistically specified how many members of the Roma minority the Czech population comprises; the estimates vary from 200 to 400 thousand out of the 10 million citizens. Especially in certain regions (North Bohemia, Brěclav) with highly populated Roma communities, more intensive involvement of the Roma card in local politics can be observed. Roma people generally do not have an immigrant status (as they mostly live in the Czech Republic permanently) and are citizens of the Czech Republic, thus have the right to vote. Although as equal citizens they are given all political rights, especially due to certain cultural specifics they are not represented on the political scene. It is the coexistence of the society with the Roma minority that has been growing

as a political question since the 1990s. After 1989 the 5% threshold in order to receive mandate in the lower chamber of the Parliament was crossed twice (in 1992 and 1996) by an extreme-right Republican party (Association for the Republic – Czechoslovakian Republican Party, SPR-RSČ) whose rhetoric was built on a criticism of the unconformity of Roma people (its chairman, Miroslav Sládek, is the only post-revolution Czech politician who used the term “Gypsies” on a regular basis). Otherwise, none of the successor extreme-right parties with a program and rhetoric built on the Roma card has succeed in Parliamentary elections. *“The problematic position of Czech extreme-right parties is not caused only by its internal fragmentation but also by its outward appearance. It did not manage to address a broader voter groups in the long-term, which was due to its thought and strategic miserableness... the electoral success of SPR-RSČ in 1992 and 1996 was a result of the ability of republicans to radically differ from other political parties and the rest of the political spectrum”* (Mareš 2000)” It is the positioning of their rhetoric in criticising the establishment (specifically the topic of corruption, which the party explains as the result of the role of *political dinosaurs* – entrenched parties) that led a political party called Věci veřejné (Public Affairs) to pass the 5% threshold and enter the lower chamber of the Parliament in 2010. But the core of this study are parties that handle the topics of immigration and minorities.

The introduction of examined political parties

There were five subjects included in the examined political parties: three entrenched parties representing the mainstream subjects and two parties classified as extremist. From a comparative standpoint those parties (registered by the Ministry of the Interior) that played the most significant role on the Czech political scene between April 2009 and April 2012 were chosen. Two selected parties (ODS and ČSSD) have been in power since the beginning of 1990s, apart from two bureaucratic governments there has never been a prime minister of other political affiliation than the two aforementioned parties, and in the 2010 elections they placed first and second. The third selected party falling under the category of mainstream schema is TOP 09 which received the third largest amount of votes in the 2010 elections³ and

3 Election results to the Chamber of Deputies in May 2010: ČSSD 22.08%, ODS 20.22%, TOP 09 16.7%, Komunistická strana Čech a Moravy 11.27%, Věci veřejné 10.88%. (data

moreover is in the centre-right schema referred to as a conservative right-wing party which stands between ODS and the extreme-right. As extremist parties (in this case the extreme-right) are considered Sovereignty – Jana Bobošíková's Bloc (obtained 3.67% of votes in 2010 elections) and Workers' party of Social Justice (obtained 1.14% of votes in 2010 elections), nevertheless they can be considered as legitimate extreme-right parties as they possess the legal status of a political party and generally better other parties on the extreme-right of the political spectrum.

2.1 Civic Democratic Party (ODS)

The strongest right-wing party in the country was established in 1991 after the decay of the Civic Forum (OF) movement, which contained many opinion and political streams tied together by an aversion to the communist regime. The leader of the OF and a supporter of conservative-liberal right-wing politics, Václav Klaus established ODS, held the position of a prime minister between years 1992 and 1997 and served his presidential mandate between 2003 and 2013. ODS is generally the strongest subject on the Czech right-wing political scene⁴ and thus should be the most relevant subject which will face the extreme-right bodies. The personnel and program weakening after the collapse of the coalition government in March 2009 during the Czech presidency of the Council of the European Union led to a growth of the rival conservative right-wing subject, TOP 09, which gained part of the ODS electorate (53% of all TOP 09 voters in 2010 voted for ODS in 2006 (SC&C a SPSS CR 2010)) and eventually in the elections to the lower chamber of the Parliament in May 2010 ODS received 20.22% and TOP 09 16.70% of votes. It can be noted that ODS had had a dominant role on the right wing of the Czech political scene ever since its establishment in 1991 up until the 2010 elections, when they were forced to alter their program and adapt their mindset to their partner with whom (along with one other subject) they formed the current coalition in 2010.

available at Czech Statistical Office website: <http://volby.cz/pls/ps2010/ps2?xjazyk=CZ> (8.5.2013))

4 ODS election first-order results (in Czech environment to the lower chamber of the Parliament) 1992–2010: 1992: 29.73%, 1996: 29.6%, 1998: 27.74%, 2002: 24.47%, 2006: 35.8%, 2010: 20.22 (data by Czech Statistical Office website: <http://volby.cz> (8.5.2013))

2.2 Czech Social Democratic Party (ČSSD)

The Czech Social Democratic Party has a long tradition: it was the first Czech political party, originally formed in 1878, yet in the modern sense was established in 1990, similar to ODS, as a successor subject of the left-wing and socially thinking stream in the revolutionary Civic Forum movement. Despite the strong leader of the left-wing Czech post-revolutionary Miloš Zeman (Prime Minister between 1998 and 2002) the party did not receive massive support of former voters of the communist party from the 1990s. It was mainly because of the liberal left-wing president Václav Havel, who did not favour ČSSD publicly or opinion-wise. ČSSD was at the apex of the political scene between 1998 and 2006, in which time they formed a government and their leader served as Prime Minister. The party has been in the opposition since 2006. It is also due to the existence of the Communist party of Bohemia and Moravia, which was not banned during the 1989 revolution, that ČSSD is not the only party on the left side of the Czech political scene. Although in the 2010 election ČSSD received the largest amount of votes, they did not manage to form a government because of their low coalition potential caused by the tense campaign of the party leader Jiří Paroubek. The key factor for the following study is the fact that all 14 regions of the Czech Republic (except the capital city of Prague – the traditional stronghold of the right-wing) have been continuously influenced by ČSSD governors since 2008. ČSSD uses the unpopularity of the reformist right-wing governments to win in local, second-order elections by using national issues in their local campaigns⁵. This gives the party an enormous opportunity to influence politics at the local level, while at the same time avoiding responsibility for the national government, which it uses when dealing with unpopular topics.

2.3 TOP 09 (Tradition Responsibility Prosperity)

The party was established in 2009 from the initiative of the former chairman of the Christian-democratic Union (KDU-ČSL), Miroslav Kalousek, who took advantage of the decline of ODS and the political potential of the

5 In 2008 it was the '30 Crowns regulation fee,' put through by the right-wing government; it was a common frustration and disagreement with the central politics of the right-wing government which brought the left-wing success in regional elections in 2012.

Green party minister of foreign affairs Karel Schwarzenberg. TOP 09 signed a three-year (2009–2012) partnership agreement with a strong regional movement, Mayors. TOP 09 built their program on a conservative right-wing ideology, with a strong emphasis on budgetary responsibility and consolidation of public budgets, and used the positively-viewed figure Karel Schwarzenberg. Moreover, a modern campaign based on social networks with a target group of first-time voters and voters younger than 30 (68% of their voters), has led, according to estimates, to the final amount of votes composed of 57% former ODS voters (SC&C a SPSS CR 2010). The outcome was the third biggest electorate, a gain of 16.7% votes in 2010 elections and the position of the second strongest coalition party in the government. TOP 09 acquired the key departments for their ministers – finances, labour and social affairs, foreign affairs, health, and culture and put through a majority of their program agenda when forming the policy statement of the government. The party had to bear the main topics that were raised during the campaign, such as debt relief and the lowering of the state budget which voters considered the main topic of the May 2010 elections. The party is perceived as the main player in the realisation of the unpopular reforms which contain the consolidation of public finances, the reduction of the state budget deficit and especially the increase of various taxes and lowering state expenditures.

2.4 Sovereignty – Jana Bobošíková's Bloc

A political party named Sovereignty, formed as a nationalist formation around formerly popular television host Jana Bobošíková, was registered in 2002. The party has never been represented in either the lower chamber of the Parliament or the Senate, and it was unsuccessful in the struggle for mandates in regional assemblies. Their primary target groups are seniors⁶ and citizens from socially weakened regions (Northern Bohemia, where the party has been successful for a longer period of time). The party received 3.67% of votes in the 2000 elections and thus did not meet the 5% threshold necessary in order to receive any mandates in the lower chamber. Their program is considered to be populist, euro sceptic and built on nationalistic tendencies. Judging by the partnership during elections (2008) with the Czech

6 59% of the party's voters in 2010 elections were older than 45 (SC&C a SPSS CR 2010).

National Socialist party Sovereignty can be referred to as an extreme-right party. In the European Parliament election, the party received the largest amount of votes out of all non-parliamentary parties (4.26% votes, overall 100,514 votes). Their leader, Jana Bobošíková, was a Member of the European Parliament (2004–2009), a presidential candidate in the indirect elections in 2008 (nominated by the Communist party of Bohemia and Moravia) and is due to run for the presidency in January 2013. She has already fulfilled the requirements of collecting 50,000 signatures necessary for candidacy and therefore she became one of the nine candidates to become the President of the Czech Republic. Nevertheless, she ended up last in the first round of the elections. Concerning Bobošíková's success in media and the significant amount of space in media available for all official presidential candidates during the campaign (January 2013) a steady growth in popularity of her party can be expected. In the 2010 elections 32% of Sovereignty's votes came from former ČSSD voters, 19% from ODS and 15% came from voters that had not voted in the previous elections. Thus, the party had convinced them to come to the polls (SC&C a SPSS CR 2010).

2.5 Workers' Party of Social Justice (DSSS)

DSSS is a non-parliamentary successor body of the Workers' Party that was banned by the Supreme Administrative Court in February 2010 for its, "imminent risk of danger to democracy due to its ideological connection to national socialism and neo-Nazism and the support of violence." DSSS was established under a different name in 2004. However, following the ban of DS, it adopted the role of successor body (Mareš 2012) a party similar in personnel to the Republican Party which was successful in the 1990s. Their ideology is based on National Socialism, and political scientists refer to it as a far-right extremist party (Fiala, Mareš 1998) and '*the protectors of common people*' (Mareš et al. 2011). There is information about a connection between DSSS (Mareš 2012) with the neo-nazist scene, especially in the north of Bohemia where social conflicts with Roma minority often take place. DSSS is taking up a pose of a conveyor of 'the truth about gypsy criminality.' In the parliamentary elections in 2010 the party achieved its best result – 1.14% of votes, but still did not overcome the 5% threshold. In the long-term the party is unlikely to be successful in the Parliamentary or local elections to regional

assemblies. As Miroslav Mareš (Mareš 2000) explains, “*the problematic position of Czech extreme-right parties is not caused only by its internal fragmentation but also by its outside appearance. It did not manage to address a broader voter groups in the long-term, which was due to its thought and strategic misery...*” and points out that the predecessor of DSSS – “*the success of SPR-RSČ in 1992 and 1996 elections was due to the ability of Republicans to differ from other political parties, or simply from the rest of the political party-system.*” The current (2013) situation favours DSSS (there is a strong frustration from the present right-wing government, whose public support remains around 10%). However, the inability of the party to take the lead in the protest movement against the government is helping the growth of other initiatives (platform STOP the Government, Czech-Moravian Confederation of Trade Unions, the Holešov Proclamation, Public Affairs) which leads to the disintegration of the dissatisfied electorate between multiple players.

Methodological Note

Our overall research question is asking *what is the position in the policy field of integration of immigrants (esp. Muslims) and minorities (esp. Roma) of the mainstream political parties in comparison with the far right parties?* The analysis will focus on the period from the last national election campaign until April 2012, which starts chronologically in April 2009. The following study will focus on three major mainstream political parties in the country's party system and two most relevant far right parties. Positions of the parties will be analyzed on the bases of the following sources: party manifestos, election manifestos and articles in the major national printed newspaper (Mladá fronta DNES). In order to identify relevant statements the following keywords will be searched: citizenship, integration, migration, discrimination, Roma / Muslims. A homogenous coding scheme will be adopted – statements will be found using keywords, i.e., party/leader + citizenship/immigration/integration) and these statements will be coded on a scale, from -2 to +2. In addition, it will be taken into account whether and how is each position justified (justification can be (i) pragmatic, (ii) identity-based or (iii) in moral-universal terms).⁷

7 For more details on the methodology, refer to the Introduction.

3. PARTIES' POLICY STANDS

ODS as a mainstream political party in the Czech Republic treats the issues of minorities and integration from the general societal point of view. In their official manifesto, the party does not call for an early naturalization of immigrants. However, a good knowledge of the Czech language, respect for cultural values and acceptance of local legal system is seen as necessary for the whole society to function. ODS does not build its political ideas on the concept of citizenship, but on the peaceful coexistence of the majority population with minorities. The latter are generally understood as a potential benefit for the Czech scene. That is why the Czech Republic, according to ODS, isn't open to everybody, but only to those who are willing to work and lead a mutually beneficial life. When it comes to immigration, ODS sees the priority in an effective national administrative system with no need for European unification. ODS has no respect for discrimination, in its negative, but also positive sense. Any kind of inequality, racism or extremism based on the citizenship of skin colour represents a threat for the Czech Republic itself. The official statements and manifestoes of ODS are mostly neutral, but based on a very pragmatic framework and universal values of respect, equality and shared values.

ČSSD finds the causes of the exclusion of the minorities from the society in the ineffective system of integration or in its absolute absence. The main obstacles are represented by nationalism and extremism, which don't allow the members of minorities to participate in the democratic functioning of the community. That is why the integration of immigrants into the society and its daily life is necessary. The country should welcome immigrants who are ready to work and not only enjoy the generous social system. ČSSD states in its manifesto that the creation of an effective control system should be a natural response to the entry of the Czech Republic into the Schengen system. That is why the country should prevent the illegal immigrants and the organized crime from causing additional issues on the territory of the Czech Republic. It also stresses the importance of prevention in the countries of origin. ČSSD builds its political ideas and values on the concept of equality, freedom and respect, which is why any kind of discrimination is sternly rejected. It means a great responsibility in domestic policy, but also zero respect for right-wing extremism. ČSSD focuses on the question of Roma in

the Czech Republic and sees a possible improvement of this situation in an effective system of education. Mutual respect is seen as the key to peaceful coexistence between the majority and the minorities.

TOP 09 in its manifesto calls for an integration that includes the knowledge of the language, respect for the values and ideas and certain openness towards the culture of the majority. However, it also emphasizes the need for the awareness of the majority population that needs to be ready to accept minorities and their values as well. TOP 09 believes that the current economic crisis has created a very good environment for extremism, and therefore the Czech Republic needs to put a lot more effort into the fight against these extremist opinions that represent a real threat to the whole society, not only to the minorities. TOP 09 tries to solve the issues connected to Roma citizens before dealing with immigration, which is still very low compared to the other European countries. Its main priority is to prevent the growth of organized crime amongst minorities.

Suvernita – Blok Jany Bobošíkové builds its official manifesto on the notion of citizenship, nationality and sovereignty. Its priority is to protect national interests. The integration policy, according to Suvernita- Blok Jany Bobošíkové, needs to be very consistent and has to respect Christian values, cultural and historical legacy and the Czech legal system. Rampant immigration needs to be stopped; otherwise the Czech Republic will be facing a serious threat from multiculturalism and openness of the Schengen system. Any form of positive discrimination is understood as a fundamental obstacle to democracy. Islam represents a threat for the Czech Republic and its citizens and the wave of immigration from Islamic countries should therefore be stopped.

DSSS states that the issues of “inadaptable people” (meaning mainly Roma people) who show no respect for the shared values in the Czech Republic need to be solved at the national level because the partial solutions contribute to the fragmentation of the system and don’t treat the issues effectively. DSSS calls for an open public discussion on the topic of immigration and integration, with no need for politically correct statements. Immigration is seen as an undesirable phenomenon and political asylum should only be given to those who are willing to respect national traditions and lead a decent life. People with high education and expertise are highly

preferred. Immigration is not understood as an alternative solution to low birth rates. DSSS demands business owners to hire Czech citizens, and therefore stimulates a certain form of discrimination. However, in its official manifesto, DSSS calls for no respect for discrimination based on skin colour, nationality, age, gender, etc. Christian tradition is crucial and other cultures represent a threat to the roots of Czech values. A return to conservatism and moral principles ensures the protection of domestic interests.

Table 1. *Summary of policy statements on selected issues*

	Citizenship	Integration	Immigration	Discrimination	Roma	Muslims / Islam
ODS	No early naturalization. Respect for every ethnic group, but acceptance of Czech values and laws is necessary; peaceful coexistence of the majority population with the minorities is more important than the concept of citizenship	Support for better integration through an effective education system. It should lead to a tolerant coexistence of the majority with ethnic and national minorities; No need for early naturalization of immigrants. However, a good knowledge of the Czech language, respect for cultural values and acceptance of local legal system are seen as necessary	-	Need for equal opportunities for every ethnic group. It is necessary to eliminate any legal barriers that prevent discrimination from disappearing completely from the Czech environment.	Neutral position towards Roma minority; supports the process of integration leading to tolerant coexistence of majority population with Roma ethnic group.	-

	Citizenship	Integration	Immigration	Discrimination	Roma	Muslims / Islam
ČSSD	No early naturalization; protection of all minorities in the Czech Republic; acceptance of the legislative principles is necessary	Criticizing the governing political parties and their ineffective policy towards the integration process. Attention to the fact that the current tools of integration can lead to escalation of tension between majority and minorities	The country should welcome the immigrants who are ready to work and not only enjoy the generous social system	Necessary to fight against “the inadapt-able” in the Czech Republic in order to resolve the issue of discrimination. The acceptance of the legislative principles by every member of the Czech society is necessary. ČSSD builds its political ideas and values on the concept of equality, freedom and respect and that is the reason why any kind of discrimination is sternly rejected	Protects every minority and Roma as well, but warned against the “war between the Czech citizens and the Roma ethnic group” in 2011; fight against organized crime groups within Roma ethnic group; possible improvement of this situation is in an effective system of education	-

	Citizenship	Integration	Immigration	Discrimination	Roma	Muslims / Islam
TOP 09	Very moderate position; no early naturalization	<p>It is essential to first dampen extremist ideas from both sides from the majority and the minority. Integration is the second tool to be applied in the Czech Republic.</p> <p>Integration should include knowledge of language, respect for the values and ideas and openness towards the culture of majority.</p>	-	<p>Warns against the legitimization of the far right and extremist movements. Asks for the same rights and conditions for everybody, including minorities, but also professional groups.</p> <p>The current economic crisis has created a very good environment for any kind of extremism and therefore the Czech Republic needs to put a lot more effort into the fight against these extremist opinions that represent a real threat for the whole society</p>	Party puts focus on equal chances of every social group, including Roma. It stresses out responsibility of all social groups towards society and fulfilling their obligations in case of social cohesion.	-

	Citizenship	Integration	Immigration	Discrimination	Roma	Muslims / Islam
SBJB	The interests of the Czech citizens are crucial and early naturalization is requested. Notion of citizenship, nationality and sovereignty. Its priority is to protect the national interests	Preservation of Christian traditions is necessary, and integration should follow this direction. The integration policy needs to be very consistent and has to respect Christian values, cultural and historical legacy and legal system of the Czech Republic.	Rampant immigration needs to be stopped, otherwise the Czech Republic will be facing a serious threat from multiculturalism and the openness of the Schengen system	Warns against the positive discrimination of minorities that harms the majority population in the Czech Republic.	Warns against the positive discrimination of Roma minority.	Czech Christian tradition is in conflict with Islam; Islam represents a threat to the Czech Republic and its citizens and the wave of immigration from Islamic countries should therefore be stopped

	Citizenship	Integration	Immigration	Discrimination	Roma	Muslims / Islam
DSSS	Early naturalization requested, DSSS fights against the “inadaptable” members of the society	Calls for the intolerance of minorities; problem of ghettos that needs to be resolved DSSS calls for an open public discussion on the topic of integration. Immigration is seen as an undesirable phenomenon and political asylum should only be given to those who are willing to respect national traditions and lead a decent life. People with high education and expertise are highly preferred. Immigration is not understood as an alternative solution to low birth rates	Warns the Czech nation against immigration and its consequences	Calls for the intolerance of minorities and stands up for the interests of the Czech citizens. DSSS motivates business owners to preferably hire Czech citizens, therefore stimulating a form of discrimination.	Calls for the intolerance of the Roma minority; plans to move the Roma minority into bigger cities	Christian tradition is crucial and other cultures represent a threat to the roots of the Czech values.

Table 2. *Summary of policy statements on scale*

Party statements	ODS	ČSSD	TOP 09	S-BJB	DSSS
Citizenship	-	-	-	-0.8	-1.33
Integration	-0.17	0.2	0.25	0	-1.2
Immigration	0	0.14	-0.66	-1	-0.88
Discrimination	-0.14	0.8	1.3	-0.5	-1.11
Minorities	-0.25	0.38	-2	-1.66	-1.2
(n)	32	37	11	17	39
Frames (%)					
Pragmatic	53.84	43.75	44.44	18.75	16.66
Identity-based	38.46	43.75	0	62.5	43.33
Moral-universal	7.69	12.5	55.55	18.75	40
(n)	26	32	9	16	30

Table 3. *Political justification*

Party statements	ODS	ČSSD	TOP 09	S-BJB	DSSS
Rate of justification %	81.25	86.48	81.81	94.11	76.92
Statements (n)	32	37	11	17	39
Frames (n)	26	32	9	16	30

4. PARTIES AND SELECTED ISSUES

4.1 Citizenship

The issue of citizenship is treated very differently across the political scene in the Czech Republic, and its concept has been gaining more importance recently. The Czech Republic has an ethnicity-based model of citizenship, which is also known under the term of “*ius sanguinis*.” Therefore, citizenship is granted to a person whose parents are Czech. Looking at the specific political parties and their public statements in the mainstream media, we see that this discrepancy between the political players on the Czech political scene when it comes to the citizenship is essential.

ODS, as a mainstream right-wing political party, doesn't build its political philosophy on the idea of citizenship or permanent residence. Its public statements on this topic are limited to situations when it is necessary to discuss a current issue connected to citizenship. Even in these cases, its public statements are more or less neutral.

Similarly, TOP 09, a very young political party existing only since 2009, comments on the issues connected to the concept of citizenship very moderately. However, there have been several political scandals associated with the public statements of TOP 09 members on the topic of citizenship, which were believed to harm the positive image of the Czech Republic.

On the other hand, ČSSD, the Czech social democracy, has put itself into the position of the political party protecting all of the minorities in the Czech Republic. In many cases, the poorest layer of the population is represented by the minorities and the non-citizens and therefore ČSSD has become the moderator of the public discussion on this topic, even though its public statements are also mostly neutral.

Suverenita-Blok Jany Bobošíkové defines itself as the only political party in the Czech Republic that defends the real interest of the Czech citizens. These interests are their first and only priority. Suverenita builds its ideas and concepts on the Christian tradition and believes that the sovereign state with its citizens is the main actor on the international scene.

DSSS believes that it is its duty to stand up for Czech citizens who very often have to face the "inadaptable" members of the society. They mostly base their public statements on the concept of criminality caused by the Roma minority. Protecting the national interests and "decent" Czech citizens is believed to be their priority.

4.2 Integration

Integration of minorities is the issue that most divides the political spectrum in the Czech Republic, especially when it comes to the Roma minority. ODS believes that the integration of minorities is a necessary process and that a well structured education system is the most effective tool. They consider the lack of highly educated members of minorities in the Czech Republic, especially the Roma minority, to be the underlying

cause of other issues connected to the integration. In the cases of Šluknov, Břeclav and other regions, ODS representatives have adopted the rhetoric of extremist parties and played the “nationalist card.” However, according to the public statements of ODS members, the party supports the process of integration leading towards the tolerant coexistence of the majority population with ethnic and national minorities.

ČSSD stands in the position of the political party willing to protect the interests of every minority in the Czech Republic. Therefore, it has criticised the governing political parties because of their ineffective policy towards the integration process. ČSSD often draws attention to the fact that the current tools of integration adopted by ODS can lead to the escalation of tension between the majority population and minorities.

TOP 09 has been commenting on the cases of 2011 that have divided the Czech society. TOP 09 members believe that it is essential to first dampen extremist ideas from both sides – from the majority and the minority. Integration is the second tool to be applied. Suverenita- Blok Jany Bobošíkové sees itself as the only political party that defends the real interests of the Czech nation and the topic of integration of the minorities in the Czech Republic is centred around preservation of the Christian traditions. DSSS very often calls for the intolerance of the minorities, especially of the Roma minority. Their integration strategy includes the plans to move the Roma minority into the bigger cities. DSSS focuses on the area of North Bohemia where the Roma minority creates its own “ghettos,” and the issues of integration are very often discussed.

4.3 Migration / Immigration

The issue of immigration in the Czech Republic is discussed at the political level very little, as the Czech Republic is still, by European standards, ethnically fairly homogeneous. The only political party that has released public statements concerning this topic is DSSS. Its chairman, Tomáš Vandas, warned the Czech nation in 2011 against immigration and its consequences. The other members of DSSS subsequently criticized the immigration of the Vietnamese minority and the organized crime of this community.

4.4 Discrimination

The concept of discrimination is mostly connected to gender and only occasionally to an ethnic group. However, this topic has gained importance recently, especially in accordance to the open borders and the potential openness of the job market for other ethnic groups. The mainstream political parties, such as ODS, constantly point to the need for equal opportunities for every ethnic group. ODS, in the position of the governing party, is supposed to eliminate any legal barriers that would prevent discrimination from disappearing completely from the Czech environment.

ČSSD stands in the position of the political party willing to protect the interests of every minority in the Czech Republic. However, according to its members, it is necessary to fight against inadapted people and groups in order to resolve the issue of discrimination. The acceptance of legislative principles by every member of the Czech society is the key strategy, in accordance with the political strategy of ČSSD.

TOP 09 defines itself as a political party of equal opportunities. Therefore, its main goal is to not allow any form of discrimination (connected to gender, ethnic group, etc.). According to the public statements of its members, the same rights and conditions for all the inhabitants of the Czech Republic are necessary. This concerns not only minorities, but also professional groups. TOP 09 warns against the legitimization of the far right and extremist movements. On the other hand, Suverenita-Blok Jany Bobošíkové and DSSS both warn against the positive discrimination of minorities, especially the Roma minority and claims that it leads to lower opportunities for members of the Czech nation and represent a danger to the national interests that need to be protected.

4.5 Roma

The issues connected to the topic of Roma citizens have provoked a major public debate for many years. They are also one of the main reasons for the competition between the mainstream political parties and the extreme right. ODS usually tries to keep its mainstream position and therefore stays politically correct. However, there have been several public statements when the members of ODS designated members of Roma ethnic groups as culprits of many all-societal problems, even though it is one

of the main aims of this political party to support the process of integration leading towards the tolerant coexistence of the majority population with the Roma ethnic group.

Conversely, ČSSD, a political party willing to protect the interests of every minority in the country, has reacted very stridently to the events of 2011, when its members warned against the, “war between the Czech citizens and the Roma ethnic group.” The main strategy of ČSSD connected to the issue of Roma citizens is centred around the fight against the organized crime within the Roma ethnic group. TOP 09, especially its chairman, Karel Schwarzenberg, has been criticized for its public statement when he expressed the idea of possible creation of a Roma state.

DSSS very often uses the concept of fear that has been felt towards the Roma ethnic group by the majority population. The demonstrations organized by DSSS point to the increased criminal activities among the Roma ethnic group. They often use slogans such as “Roma terror on the majority population.” Generally, DSSS is the political party that mentions the issues of the Roma citizens the most. Their openly critical attitude towards this has brought a lot of attention not only from the public, but also from the mainstream political parties such as ODS or TOP 09, which have trouble dealing with this issue effectively while still staying politically correct.

4.6 Islam

The only political party in the Czech Republic that openly deals with Islam is Suverenita- Blok Jany Bobošíkové. This political party claims to defend the real interest of the Czech citizens. These interests are their first and only priority. Suverenita- Blok Jany Bobošíkové builds its ideas and concepts on the Christian tradition, which is, without any doubt, in conflict with Islam. Jana Bobošíková, chairman of the party, often states that the Czech Republic is the territory of cathedrals and universities and not mosques. She believes that Islam represents a real threat for the Czech Republic. Although, the danger is not immediate, as a member state of the European Union the Czech Republic has to deal with immigration that includes Muslims. The Muslim community in the Czech Republic accuses Suverenita-Blok Jany Bobošíkové of “*Islamophobia*.”

5. CONCLUSION

As the findings suggest, the most visible difference in political argumentation and its justification stands between Suverenita – Blok Jany Bobošíkové (S-BJB) and other parties. S-BJB dominates in justifying its arguments related to selected fields (issues) by identity-related frames. Another remark show that parties chosen as extremist (DSSS and S-BJB) do have tougher and more restrictive stands on selected issues in all covered areas than the three parties identified as mainstream (ODS, ČSSD, TOP 09), both found in party manifestos and media coverage.

We might also argue that DSSS, generally labelled as a typical far-right (extremist) party, receives more media coverage (see in tables – variable *n*) on selected issues than other established and non-extremist parties (ODS, ČSSD, TOP 09). What some call a ‚single-issue party‘ can be also explained as one party focusing on the issues in the majority of its media coverage. While interpreting findings based on media coverage, the relatively low number of identity-based arguments among mainstream and extremist parties remains an issue which would require more research in explaining such differences.

Bibliography

SC&C a SPSS CR. 2010. “Závěrečná zpráva – EXIT POLL pro Českou televizi, zpracováno k volbám do Poslanecké sněmovny v květnu 2010.” Praha: SC&C a SPSS CR.

Balvín, Jaroslav et al. 1999. “Romové a etika multikulturní výchovy.” Ústí nad Labem: Hnutí R.

Česká strana sociálně demokratická. 2010. “Velký volební program ČSSD pro volby 2010.” *Česká strana sociálně demokratická*. <http://www.cssd.cz/ke-stazeni/volebni-programy/velky-volebni-program-cssd-pro-volby-2010/> (February 2, 2013).

Česká strana sociálně demokratická. 2010. “Malý volební program ČSSD

pro volby 2010.” *Česká strana sociálně demokratická*. <http://www.cssd.cz/ke-stazeni/volebni-programy/maly-volebni-program-cssd-pro-volby-2010/> (February 2, 2013).

Česká strana sociálně demokratická. 2010. “Oranžové knihy ČSSD pro volby 2010.” *Česká strana sociálně demokratická*. <http://www.cssd.cz/ke-stazeni/volebni-programy/oranzove-knihy-cssd-pro-volby-2010/> (February 2, 2013).

Česká strana sociálně demokratická. 2011. “Spravedlivé reformy podle ČSSD- Politika bezpečnosti – Programové teze pro veřejnou debatu (ČSSD).” *Česká strana sociálně demokratická*. http://www.cssd.cz/data/files/politika-bezpecnosti_sestava-1.pdf (February 2, 2013).

Charvát, Jan. 2007. *Současný politický extremismus a radikalismus*. Praha: Portál.

Czech Statistical Office website for 2010 Elections, available at: <http://volby.cz/pls/ps2010/ps2?xjazyk=CZ> (8.5.2013)

Dělnická strana sociální spravedlnosti. 2012. “Strategie proti nepřizpůsobivým (DSSS).” *Dělnická strana sociální spravedlnosti*. <http://neprizpusobivi.dsss.cz/> (February 2, 2013).

Dělnická strana sociální stravedlnosti. 2011. “Program DSSS 2011.” *Dělnická strana sociální spravedlnosti*. <http://www.dsss.cz/program> (February 2, 2013).

Fiala, Mareš. 1998. “Programová analýza SPR-RSČ a KSČM z hlediska politického extremismu.” In *Politický extremismus a radikalismus v České republice*, ed. Fiala Petr. 1. vyd. Brno: Masarykova univerzita.

Gabal, Ivan. 2004. *Analýza postavení cizinců dlouhodobě žijících v ČR a návrh optimalizačních kroků*. Praha: Gabal A & C, MENT, UNHCR Praha

<http://www.cizinci.cz/files/clanky/16/analyza.pdf> (3. 4. 2013).

Holomek, Karel 2000. "Postavení Romů v současnosti." In *Černobílý život*, eds. Jařabová, Zdeňka and Davidová, Eva Praha: Gallery.

Janda, Jakub. 2012. "Shrnutí diskuze o nastavení imigrační, azylové a integrační politiky České republiky v evropském kontextu." published for the international conference *Immigration, integration and social cohesion in Europe*, Prague: European Values Think-Tank (16. února 2012). [http://www.evropskehodnoty.cz/docs/Shrnuti_problematiky_16.2.2012\(1\).pdf](http://www.evropskehodnoty.cz/docs/Shrnuti_problematiky_16.2.2012(1).pdf) (September 1, 2012).

Kopeček, Lubomír. 2010. *Éra nevinnosti. Česká politika 1989–1997*. Brno: Barrister & Principal.

Kušniráková, Tereza, and Pavel Čížinský. 2011. "Dvacet let české migrační politiky: liberální, restriktivní, anebo ještě jiná?" *Geografie*, 116, No. 4, pp. 497–517. http://geography.cz/sbornik/wp-content/uploads/2012/01/g11-4-7kusnirakova_cizinsky.pdf (August 22, 2012).

Mareš, Miroslav et al. 2011. "České militantní neonacistické hnutí (aktuální trendy)." *Ministerstvo vnitra České republiky*. <http://www.mvcr.cz/clanek/studie-ceske-militantni-neonacisticke-hnuti-aktualni-trendy.aspx> (September 22, 2012).

Mareš, Miroslav. 2000. "Problematika menšin jako profilové téma pravicového extremismu v České republice." *Central European Political Studies Review* vol. 3/2000, available at <http://www.cepsr.com/clanek.php?ID=112> (February 2, 2013).

Mareš, Miroslav. 2000. "Současné trendy ve vývoji pravicového extremismu v České republice. Analýzy a studie." *Bulletin Ústavu strategických studií Masarykovy univerzity Brno*, year 2, vol. 2

Mareš, Miroslav. 2012. "Right-Wing Extremism in the Czech Republic." *Fridrich Ebert Stiftung*, 2012. Available at <http://library.fes.de/pdf-files/id-moe/09347.pdf> (September 22, 2012).

Mareš, Miroslav. 2003. *Pravicový extremismus a radikalismus v ČR*. Brno: Barrister & Principal.

Mladá fronta DNES daily newspaper between 1 April 2009 and 30 April 2012, NEWTON MEDIA SEARCH database reached through Library of Faculty of Social Sciences of the Charles University in Prague.

NEWTON MEDIA, 2009. "Mediální obraz cizinců v ČR." *Newton Media*. Available at: http://aa.ecn.cz/img_upload/224c0704b7b7746e8a07df9a8b20c098/NMedia_MedialniObrazCizincuVCR_3.pdf (October 10, 2012).

Novák, Miroslav. 1999. "Utváření stranického systému v českých zemích." *Politologický časopis* roč. VI., vol. 2, s. 133–145.

Občanská demokratická strana. 2009. "Řešení pro budoucnost, Volební program (ODS) pro nevolby do Poslanecké sněmovny 2009." *Občanská demokratická strana*. <http://www.ods.cz/docs/programy/volebni-program2009.pdf> (February 2, 2013).

Občanská demokratická strana. 2010. "Řešení, která pomáhají: Bezpečnost občanů." *Občanská demokratická strana*. <http://www.ods.cz/docs/programy/volebni-program2010.pdf> (February 2, 2013).

Občanská demokratická strana, 2012. "Šance pro zodpovědné, Volební program (ODS) pro krajské a senátní volby 2012." *Občanská demokratická strana*. <http://www.ods.cz/docs/programy/sance-pro-zodpovedne.pdf>, (February 2, 2013).

Občanská demokratická strana. 2010. "Řešení, která pomáhají: Sociální systém (Volební program pro volby do Poslanecké sněmovny 2010)."

Občanská demokratická strana. <http://www.ods.cz/docs/programy/volebni-program2010.pdf> (February 2, 2013).

Rozsudek o zrušení Dělnické strany. 2009. Nejvyšší správní soud České republiky. http://www.nssoud.cz/docs/Delnicka_strana_original.pdf (October 20, 2012).

Suverenita – Blok Jany Bobošíkové. 2010. “Program Suverenity – Bloku Jany Bobošíkové při volbách 2010 do Poslanecké sněmovny a do Evropského parlamentu.” *Suverenita – Blok Jany Bobošíkové*. <http://historie.suverenita.cz/kdo-jsme/program> (February 2, 2013).

Suverenita – Blok Jany Bobošíkové. 2012. “Program Suverenity – Bloku Jany Bobošíkové.” *Suverenita – Blok Jany Bobošíkové*. <http://www.suverenita.cz/politicky-program> (February 2, 2013).

Suverenita – Blok Jany Bobošíkové. 2012. “Programové teze pro krajské volby 2012 Suverenity – Bloku Jany Bobošíkové.” *Suverenita – Blok Jany Bobošíkové*. <http://www.suverenita.cz/programove-desatero--178.html> (February 2, 2013).

TOP 09. 2010. “Volební program pro volby 2010.” *TOP 09*. <http://www.top09.cz/proc-nas-volit/volebni-program/volebni-program-2010/> (February 2, 2013).

TOP 09. 2012. “Program TOP 09 pro menšiny.” *TOP 09*. <http://www.top09.cz/hledani/?search=menšiny> (February 2, 2013).

TOP 09. 2012. “Program TOP 09 pro sociální oblast.” *TOP 09*. <http://www.top09.cz/proc-nas-volit/politika/socialni-politika/> (February 2, 2013).

Vláda České republiky. 2010. *Programové prohlášení Vlády České republiky 2010–2014*. available at: http://www.vlada.cz/assets/media-centrum/dulezite-dokumenty/Programove_prohlaseni_vlady.pdf (February 2, 2013).

Vláda České republiky. 2012. *Usnesení vlády číslo 6/2012 – Postup při realizaci aktualizované Koncepce integrace cizinců – Společné soužití 2012*. [http://www.czso.cz/csu/cizinci.nsf/t/0E0030F05E/\\$File/USNESEN%C3%8D_VL%C3%81DY_%C4%8CR_ze_dne_4.1.2012_%C4%8D._6_k_Postupu_p%C5%99i_realizac.pdf](http://www.czso.cz/csu/cizinci.nsf/t/0E0030F05E/$File/USNESEN%C3%8D_VL%C3%81DY_%C4%8CR_ze_dne_4.1.2012_%C4%8D._6_k_Postupu_p%C5%99i_realizac.pdf) (7. 5. 2013)

DENMARK

Brian Arly Jacobsen

1. BACKGROUND

Immigration to Denmark is not a new occurrence. However, until the 1960s, immigration movements were moderate and most immigrants came from other Nordic countries. This changed in the 1960s, when an increasing number of immigrants primarily from ex-Yugoslavia, Morocco, Turkey and Pakistan, came to Denmark to work. In 1973 the government tried to put a stop to immigration from non-Western countries, but immigrants have continued to arrive, mainly as a result of reunion of families and asylum for refugees. Moreover, regional conflicts, the change of the political landscape in the Eastern part of Europe, and conflicts in the Middle East led to the arrival of several new groups of refugees during the 1980s, 1990s and 2000s (Hedetoft 2006). Today, immigrants and their descendants constitute 10.4 per cent of the Danish population, 6.8 per cent of the immigrants and descendants are of non-Western origin (Danmarks Statistik 2012).

Within four decades of immigration, Islam has become the largest minority-religion in Denmark (Jacobsen 2011). This has resulted in a need for Muslim institutions in Denmark such as burial places, educational institutions and places for prayer. The need for these religious institutions has been disputed since they were first established. Muslim religious institutions are

often seen as symbols of unwanted immigration, oppression or the cause of cultural conflict in Danish society. One of the main reasons why Islam has become a steady part of the agenda of national political debates in Denmark is because of the articulation of Muslims as a threat of an imagined Danish way of life. However, it is not immigration *per se*, but the battle for symbols and the political construction of issues relating to refugees, immigrants and Islam that seems to be decisive for the political development in this domain (Madsen 2000). The American professor of politics Roger Karapin concluded that the radical right parties in Europe, “did not begin to succeed in the 1980s until they discovered that concerns about immigration could benefit them at the polls. The immigration issue did not become important because of ethnic diversity or immigrant influxes; rather it arose and benefited far-right parties only if they could dominate the construction of the issue” (Karapin 1998:224). With the success of the nationalist Islam-critical party, the Danish People’s Party, and its increasing influence on Danish parliamentary politics during the past decade, Muslims and Islam are frequently articulated as threats, whether cultural, ideological, physical, or economic.

Today, these conflicts are reflected in the way the media describes the migrants, in the native populations’ attitudes and practices toward groups of migrants, and in political debates in the national parliaments. These debates are particularly important, as they reflect a general public articulation and construction of alterity in a particular society, but these constructions and relations are condensed in sources such as printed oral debates, acts, Bills, Proposal for Parliamentary Resolutions, reports, questions, committee work, etc. This assumption is connected with the conception of the state as an accumulation of sedimented social institutions and as a sedimented system in which political struggles take place (Torfing 1999: 71). Therefore, this is why this paper is mainly based on sources found in the Danish parliamentary archives, which means parliamentary debates on Bills, accounts etc. from the years 2001 to 2011. Supplementary, this analysis will follow the standardized methodology used in all country reports on this project, the paper will rely on key party documents (i.e., party manifestos and most recent election manifestos), and news coverage on Muslims, immigration and integration issues in connection with each of the parties in question in newspapers.

From 2001 to 2011, Denmark was governed by a centre-right-wing coalition consisting of the Liberal Party (*Venstre*) and the Conservative People's Party. They took office in 2001, and won second and third terms in February 2005 and in November 2007. This government relied on the populist Danish People's Party for support, in keeping with the Danish tradition for minority government. This government enacted tough measures designed to limit the number of immigrants coming to Denmark, specifically as asylum seekers or through arranged marriages. The parliamentary election of September 2011 led to the fall of the centre-right coalition led by *Venstre*, which lost its power to a centre-left coalition led by the Social Democrats, making Helle Thorning-Schmidt the country's first female Prime Minister. The Social Liberal Party (*Det radikale Venstre*) and the Socialist People's Party (*Socialistisk Folkeparti*) became part of the three-party government.

Questions about the Muslim presence in Denmark are frequently and hotly debated in the Danish public. A series of studies show a Danish population that is very sceptical about the prospects of peaceful coexistence with Muslims. One opinion poll from 2010 showed that only 39% of Danes would have a positive attitude towards their children marrying Muslims, while 47% of Muslim parents would welcome their children marrying Danes. A report published in January 2008 by the World Economic Forum (WEF) showed that 79% of Danes see greater interaction with the Muslim world as a threat. The Danes are the most sceptical of the nations surveyed. However, the year of 2011 has shown a decrease in public attention on Muslim affairs in Denmark. But despite this minor decrease, the public debate is still dominated by a discourse on Islam and Muslims according to which Islam constitutes a threat to traditional and well-known Danish values.

This analysis will focus on the following cases, which will show how public articulation regarding immigrants and Muslims has led to extreme rhetoric on Muslims and immigrants and tougher legislation to control and limit migrants and Muslims in Denmark:

The politics on Immigration, asylum seekers and arranged marriages. Analyses of political positions in the debate on the issue from 2001–2012 – changes in the politics among centre-left.

Headscarves debates (debates on discrimination): Debates on headscarves/hijab/niqab/burqa in Parliament. These include the Danish People's Party's proposal to ban headscarves in parliament 2007 and the act passed in 2009 that banned judges and jurors from wearing religious or political symbols in court. The law has come to be called the 'headscarves act,' because its real purpose, according to the Danish People's Party, was to ban Muslim women from wearing headscarves when acting as judges or jurors.

2. DESCRIPTION OF THE PARTIES

The Danish electoral system is a system of proportional representation and parties must either pass the threshold- 2 per cent of the national vote – or gain a district seat to gain any additional seats.

As parties need only two per cent of the vote to get a seat, several parties win seats, making it all but impossible for one party to win the 90 seats required for a majority. Since 1901, Danish governments have been coalitions or one-party minority governments. One of the consequences of this governing system is, that unlike most other parliamentary systems, a cabinet must usually piece together a majority for each piece of legislation.

Since 2001 has the following parties been elected to the Folketing (in order of size):

The Liberals (*Venstre* (V)), or "Left, Liberal Party of Denmark." *Venstre* is a liberal party within the Nordic agrarian tradition, but has during the leadership of Anders Fogh Rasmussen turned further to the right than its sister parties in the Nordic countries. In particular, the policy on immigration and asylum seekers has changed since Anders Fogh Rasmussen became the leader of the party. The former leader, Uffe Ellemann-Jensen, has on several occasions criticised the previous centre-right government's policy on this issue. *Venstre* has been the leading party in the centre-right coalition from 2001–2011. In the 2011 election, *Venstre* received 26.7% of the vote.

The Social Democrats (*Socialdemokraterne* (A)) are committed to the political ideology of social democracy. From 1993 to 2001 the Social Democrats led the centre-left coalition governments (the Cabinets of Poul

Nyrup Rasmussen I, II, III and IV). After being defeated by *Venstre* in the 2001 election, the party chairmanship went to former finance and foreign minister Mogens Lykketoft. Following another defeat in the January 2005 election, Lykketoft announced his resignation as party leader, and the present Prime Minister, Helle Thorning-Schmidt, was elected as the new leader. Helle Thorning-Schmidt is viewed as representing a centrist position in the party, which has adopted large parts of the former government's policy on immigration and asylum seekers. In the 2011 election the Social Democrats received 24.8% of the vote.

The Danish People's Party (*Dansk Folkeparti* (O)) is described by most political scientists and commentators as a right-wing populist party (Meret 2009: 98). The party was until recently (August 2012) led by Pia Kjaersgaard, one of the four founders. The present leader is Kristian Thulesen Dahl. From 2001 to 2011 the party supported the centre-right government consisting of the Liberal and Conservative parties. While not being a part of the cabinet, the Danish People's Party maintained close cooperation with the 2001–2011 government parties on most issues. In return for their parliamentary cooperation, the party especially required support for their political stances on a more tough policy on immigrants and refugees. The party sought to drastically reduce non-Western immigration, oppose 'Islamisation,' and favour cultural assimilation of immigrants. The party received 12.3% of the vote in 2011.

The Social Liberal Party (*Det Radikale Venstre*, literally: "The Radical Left" (B) is a social liberal party. They have been in strong opposition to the strict immigration policies of the former centre-right-wing government, particularly the 24-year rule (a measure that prevents foreign spouses of Danish citizens from gaining residence permits if either is under the age of 24, enacted to avoid forced marriages). Since the 2011 election they have been part of the centre-left-wing government. The party received 9.5% of the vote in 2011.

Socialist People's Party (*Socialistisk Folkeparti* (F)) is a green and democratic socialist party. The party became part of Helle Thorning-Schmidt's cabinet after the 2011 election, their first participation in a cabinet. They have traditionally opposed the tough policy on immigrants and refugees but up to the 2011 election in cooperation with the Social Democrats ac-

cepted large parts of the former government's policy on immigration and asylum seekers. The party received 9.2% of the vote in 2011.

Red-Green Alliance (*Enhedslisten*, literally: "The Unity List" (Ø)) is a socialistic party. They have been in strong opposition to the Danish immigration policies during the last decade. They support the present centre-left government. The party received 6.7% of the vote in 2011.

Liberal Alliance (*Liberal Alliance*, LA (I)) is a liberal party founded in 2007. They have been in opposition to the former centre-right-wing governments immigration policy and suggested implementing a five-year excludability from social services. In political jargon this is dubbed "open borders, closed kitties" (Liberal Alliance 2010), but is today more in line with the former government's policy. LA has now embarked upon a less moderate path in the immigration debate. The party received 5.0% of the vote in 2011.

The Conservative People's Party (*Det Konservative Folkeparti* (C)) are committed to the political ideology of conservatism with elements of liberalism and nationalism. The Conservative People's Party was the junior partner in the centre-right-wing coalition from 2001–2011. The party has supported the tough policy on immigration and asylum seekers from 2001–2011. The party received 4.9% of the vote in 2011.

3. CITIZENSHIP

Danish nationality law is ruled by the Constitutional act of Denmark (of 1953) and the Consolidated Act of Danish Nationality (of 2003, amended in 2004). Danish nationality can be acquired in one of the following ways:

- Automatically at birth, if the parents or one of the parent is a Danish citizen and is born in Denmark.
- By marriage after birth
- Automatically if a person is adopted as a child under 12 years of age
- By declaration for nationals of another Nordic country
- By naturalisation, that is, by statute

Implicitly, it's an understanding of citizenship inspired by the German concept of *Blut und Boden* (Blood and Soil); the ideology that focuses on ethnicity based on two factors, descent (Blood) and homeland (Soil).

This implicit ideology imbues Danish legislation on citizenship characterized by the principle of *Jus sanguinis*, which describes citizenship tradition based on descent/blood relations such as the German understanding of *Volk* (Sejersen 2008: 529; Togeby 2004: 138–139).

The majority in Parliament has not challenged the understanding of the abovementioned concept of naturalization. Naturalization is viewed by a majority as a reward for striving to incorporate into society and becoming “Danish,” although there are contesting ideas as to what this notion connotes.

The understanding of Danish citizenship was explicitly articulated during the debate on the basic legislative changes on naturalization in 2002, and the Danish People’s Party was especially active in the debate. The debate is illustrative to the changes in the political climate that Denmark has experienced “during” the last decade. Parliament was discussing the latest addition to the series of bills that would meet the government’s promises of a tougher immigration policy, which was to change the criteria for granting or refusing citizenship. Hitherto, broad agreements in parliament had been the practice on this topic, but it was in the summer of 2002 changed when the government entered into an agreement only with the Danish People’s Party on this issue. In the first reading of the bill there was an interesting discussion on how the concept of integration should be understood, where citizenship was linked to a cultural identity: the acquiring of citizenship was not only a question of law, but also of traditions, national values and religion – you took a national identity when you acquired citizenship. Some researchers describe this policy as a trend towards a culturalisation of citizenship (Moors 2009: 394).

Søren Krarup of The Danish People’s Party defined integration first: “The name of the ministry is The Ministry of Integration, and to integrate means “to merge;” to integrate means “complete” or “whole” in Latin. And it is clear that if there is to be any hope of realism when speaking of integration, the differences must not be too big.” (L33, 11. 1. 2002, folketinget.dk). After this, he made it quite clear that it was only natural to differentiate [between the various applicants] when granting citizenship. It was simply a question of cultural differences:

It should not be difficult to understand that Arabs and Africans are so foreign to Danish culture and tradition and language, that it would be

much more difficult for them than for others to be integrated in Denmark. It is ludicrous that I, in all seriousness, in this place, am compelled to say something so basic and obvious, which a crazy, abstract problemization renders meaningless. It is clear that Arabs and Africans are so foreign to Danish tradition and culture, that they naturally have much more difficulty integrating, and of course the country has a duty to take that into consideration (*idem*).

The Socialist People's Party's Kamal Qureshi would like to know if Krarup position of differentiation should be transformed into, "a bill or other [...] concrete initiatives that differentiates applicants by country of origin when granting citizenship?" (*idem*). Krarup replied that there was, "no concrete policy, but I articulate an opinion, which is so obvious that Mr. Kamal Qureshi too should be able to understand it" (*idem*) – the tone of debate was undeniably tougher now. Krarup made his "opinion" clear later in the debate:

It's clear that when we grant citizenship it plays a major role, whether it is for example Christian Asians. Of course I think that a Christian Asian has a much greater chance of being integrated in Denmark than a Muslim Asian. I would also say that a Nazi German is so very foreign to Danish culture, which is based on Christianity that it's naturally something, which we in a naturalization committee must take into account when evaluating the application. It is obvious (*idem*).

The threat against the essence of "Danishness" was primarily defined by Islam and then geographically to the exclusion of people from Africa and the Arab countries. Krarup represented an essentialist view of cultural, national and religious identity. They were absolute entities, and especially Christianity and Islam were not possible to integrate in the same society.

The Socialist People's Party's spokesperson Kamal Qureshi, along with The Red-Green Alliance, disagreed with Krarup's claims that naturalization criteria should be based on particular Danish norms and values:

We consider values such as equality, equal opportunity, tolerance and democracy as more important characteristics of our new fellow citizens than their religious background and their country of origin. I will always prefer a democratic and humanistic minded Iranian nurse as a citizen rather than a fundamentalist, religious anti-abortionist from the United States. There can be no doubt about that (*idem*).

According to Qureshi there are certain universal principles that should be tied to citizenship and not any particular cultural and religious values that The Danish People's Party sets out.

A much-discussed part of the law is that non-Danish citizens must be at least 24 years old to marry. This rule is intended to counter forced marriages. Furthermore, the resident spouse must show economic capability to support both persons of the couple, and suitable accommodation is also demanded (§9 in the Danish Law of Immigration). The Social Democrats supported the new Law of Immigration, whereas The Social Liberal Party, The Socialist People's Party and The Red-Green Alliance voted against. The law has been much discussed in the last decade, but there seems to be an acceptance of the law in the new centre-left-wing government (although The Social Liberal Party and part of the Socialist People's Party wish to abolish the 24-year rule).

In 2006 the former centre-right-wing government and its key ally, the Danish People's Party, managed to push through a law requiring that applicants for citizenship should be tested on their knowledge of Danish society and history. This citizenship test has been a part of the naturalization process for foreigners since then. In 2008 the test was made even more difficult when applicants were given less time to answer the questions, the possible questions were not public anymore and more correct answers were required to pass. The opposition at that time argued that the test was so difficult that many ethnically Danish citizens couldn't even pass it and because of that, they would replace it with a new test. A survey by the weekly publication *A4* in 2010 showed that every fifth Dane would fail the citizenship test if they had to take it. The new government has announced that they will present a proposal in January 2013 that will create a more modern version of the citizenship test. According to the government's spokesperson the new citizenship test will focus on aspects of daily life and politics rather than history. In the newspaper *Berlingske*, the Danish People's Party's spokesperson, Christian Langballe, called it a "sad day." Langballe told *Berlingske* that, "Danish People's Party will do everything it can to reinstate the test in its current form." Langballe couldn't, "believe that they [the government] would want to scrap the citizenship test. We Danes are a product of our own history, and it's essential that people

who come here know that history.” Up until now the new government has proposed abolishing the points-based immigration system and the Danish language exam that the previous centre-right-wing government had brought in, even for immigrants with wives or husbands already residing in Denmark: “Years of frequent rule changes have led to unnecessary requirements that have hindered the integration of foreigners in Danish society,” the government said in its proposal to change the law. “The Government considers that a point system under which an immigrant must demonstrate business experience, education or language skills prior to a family reunification creates an unnecessary barrier for residents, who have the right to bring a foreign spouse to this country.” The new centre-left-wing government abolished the point system May 2012. The Minister of Justice, Morten Bødskov (Social Democrat), argued that the change in the Act of Family reunification was necessary because of the former government’s extreme policy: “With this proposal we want to abolish the point system for family reunification, which is an example of the previous governments’ foreign policy that had gone too far” (Justitsministeriet.dk; Folketingstidende 2011-12, L 104). However, the present government wanted to keep the former governments policy on the 24-year rule and the aggregate ties. The Minister of Justice argued that: “The Government believes that the 24-year rule and the aggregate ties should continue to be the robust core of Danish immigration policy.” (Justitsministeriet.dk 2012)

4. INTEGRATION

Integration as a specific subject has been an accepted objective in Danish policy since 1979, and in 1983 a new foreigners’ law was introduced along with a report on Migration policy (Jacobsen 2009: 206-12). However, an explicit integration law was not formulated before 1997, being the first of its kind in a Western country (*ibid.*: 234-54). The law led to some modifications in the implementation of the integration policy. The municipalities were assigned the main responsibility for carrying out the objectives of the integration policy. The *Integrations Act* was part of a so-called “foreign package” adopted by the government (Social Democrats and the Social Liberal Party) and The Centrum Democrats in the summer

of 1998. *Venstre* and the Conservatives abstained, and The Red-Green Alliance, The Socialist People's Party, The Danish People's Party, The Christian People's Party and The Progress party voted against for various reasons.

With the adoption of the first official integration law in 1998 the majority of the Parliament agreed on the need for strong state involvement in the relatively high numbers of immigrants receiving welfare benefits. One controversial issue which has divided Parliament on the issue of integration ever since is the policy to reduce welfare benefits for newcomers as a financial incentive to find a job. The centre-left wing parties (Social Democrats, the Social Liberal Party, the Red-Green Alliance and The Socialist People's Party) were strongly against this line of thinking and instead argued for upgrading new arrivals' qualifications as a means of securing regular employment. The center-right wing parties (*Venstre*, The Conservatives and The Danish People's Party), on the other hand, regarded the high welfare benefits as a pretext for immigrants for not doing enough to become financially self-supportive (Jacobsen 2009: 234-54). This policy led to the adoption of an "introduction allowance" (*introduktionsydelse*) in the *Integration Act* from 2002, which in the period 2002–2012 was granted to refugees and newly arrived immigrants for a period of up to three years if they couldn't support themselves (*Integration Act*, 2002, §25-31). The introduction allowance was lower than the normal social welfare benefits and was introduced as a financial incentive towards a faster inclusion in the labour market. At the same time, a "start allowance" (*starthjælp*) was introduced, valid to both Danes and foreigners who had not been living in Denmark for seven out of the last eight years. Since most Danes who have been out of the Denmark for the above-mentioned period do not need it, the provision has been accused for indirect discrimination against ethnic minorities. Human rights activists as well as researchers have criticized the "start allowance" for causing further marginalization and for increasing poverty among certain immigrant in Denmark (Ejr  s, 2001, ECRI, 2006).

The centre-left-wing government abolished the "start allowance" on January 1st 2012 as part of their promise to change the integration policy. The largest party in parliament, *Venstre* was against giving up the "start allowance" and has formulated an integration policy that will provide, "firm, fair and sound immigration and integration policy." (folketinget.dk). The

party's intention is to work towards, "immigrants in jobs and education to the same extent as other Danes." (*ibid.*). One of the policies mentioned by *Venstre* is the "start allowance." At the same time the party will, "prioritize integration in terms of value and combat all religious extremism, focusing on cohesion and respect for the democratic view of human nature." (*ibid.*).

Until August 2010, the *Integration Act* addressed only refugees and family reunification of refugees and immigrants, but a recent law reform has expanded the target group to include labor immigrants and their families.

Active participation in society, including participation in the political process, is a central theme in the Danish integration policies. Since 1977 immigrants from Nordic countries have had the right to vote and run for election on municipal and regional level after two years of legal residence. In 1981 the right to vote was extended to all immigrants with at least two years of permanent residence in Denmark, which later turned into three years (four years since August 2010 due to changes in the *Integration Act* and other related laws). EU citizens have a special position as they automatically have the right to vote in local elections in all EU countries. The Danish People's Party is the only party in Parliament against suffrage for immigrants.

In 1999 the government established the Council for Ethnic Minorities (*Rådet for etniske minoriteter*). With predecessors back to 1983, the council was established as a result of the *Integration Act* aimed at promoting participation of ethnic minorities in all areas of society and advising the Minister of Social Affairs and Integration. The Integration Councils have no legal competence.

The aim of the *Integration Act* of 2012 (§1) is to make sure that newly arrived migrants are given the possibility of using their capabilities and resources to become included as contributing citizens on equal footing with other citizens of Danish society. This is done on the basis of an policy of integration which:

- 1) is based on the individual resident's responsibility for his/her own integration
- 2) helps to ensure that newly arrived foreigners can participate in society in terms of politics, economy, employment and social, religious and cultural activities on an equal footing with other citizens

- 3) contributes in making newly arrived foreigner become self-supporting as soon as possible through employment, and
- 4) provides the individual foreigner with an understanding of the fundamental values and norms of Danish society (*Integration Act*, §1, section 2).

The concept of equality is essential to the *Integration Act* and in the integration policy as such. At the same time, the concept of equality is closely related to an understanding of equality that requires a certain degree of sameness. The more alike we are, the easier it is to uphold the idea of equality. Thus, equality in Danish society tends to imply that one must be similar (Jöhncke, 2007). Some politicians are openly against integration, such as the former Minister of Integration Søren Pind (*Venstre*) who has publicly called for replacing integration with assimilation. He said, “I do not want to hear all this talk of integration. I want to be free in this word. For me, it is assimilation that counts. If someone wants to practice one’s culture, there are many other countries he/she can go and practice it.” The Minister also demanded that when people come to Denmark, they should be ready to eat pork and accept nudity and Christian hymns in the institutions and in society. However, his own government refused his understanding of integration. The Danish idea of equality is closely related to the understanding of Denmark as a culturally homogeneous country, and to the perception of social equal opportunity and universalism as constitutive elements of Danish society (Jensen *et al.* 2010).

5. IMMIGRATION

As mentioned earlier, the government put a stop to guest workers from non-EU countries in 1973. A growing labour shortage in Denmark has in recent years been discussed again. The question has been what can be done to attract new workers from abroad. One of the key issues in this debate has been what rights immigrants should have in Danish society. The previous government’s solution was to establish a green card system in 2006, which allowed non-EU nationals who fulfilled certain educational and work experience requirements to come to Denmark to find work. The green card scheme has been criticized for focusing too much on

applicants with a high level of education and not on skilled workers, but the basic idea is agreed on by most parties in Parliament. *Venstre* believes that Denmark must “become better at attracting foreign labour. Denmark should be an open country for anyone who can and will.” (folketinget.dk). According to *Venstre*, this must be done within the framework of the extended green card scheme. The Social Democrats believe that there should be a balance between available jobs and foreign labour: “The current green card scheme is a very important tool to provide a reasonable balance between importing labour while ensuring Danish employees.” (*ibid.*). For The Danish People’s Party, it is evident that it is precisely *guest workers* who are allowed residence in Denmark for a period: “The Danish People’s Party also supports the 2006 welfare agreement with the green card system that provides highly qualified foreigners without a concrete job offer, but with good possibilities of employment, to obtain a residence permit for a limited period in order to seek work in Denmark.” (*ibid.*). This means that there is a broad consensus in Parliament that the state should continue to control immigration to Denmark from a regard to the need for labour. Furthermore, every year Denmark receives approximately 500 quota refugees according to an agreement from 1989 with the United Nations High Commissioner for Refugees (UNHCR). According to a newspaper inquiry from 2011 among the parties in Parliament only The Social Liberal Party and The Red-Green Alliance wished to receive more quota refugees than Denmark receives today. The basic argument is, that Denmark receives more refugees than international conventions require. The then spokesperson of the Social Democrats, Henrik Dam Kristensen, said for instance that: “For many years Denmark has taken in more refugees than the Refugee Convention asks of us. It is reasonable that other countries also take more responsibility.” The present government has no plans to change this policy.

Finally, every year a number of spontaneous asylum seekers enter Denmark. Figures released by the UN refugee agency, UNHCR, showed that in 2011 only 3,810 individuals applied for asylum in Denmark, compared to 4,970 in 2010. The number of applications had been steadily rising over the previous four years: 1,850 in 2007; 2,360 in 2008; and 3,820 in 2009. According to the Danish Refugee Council (DRC), the drop in ap-

plications may be attributed to Denmark's reputation as a difficult place to be granted asylum. The liberal party, *Venstre* believe that refugees must not become immigrants: "Refugees and war victims must not become immigrants but should only be granted temporary residence in order to return to their home-country as soon as the situation permits." (Venstre.dk). The Danish People's Party is in line with this position whereas the present government believe that it should be possible to obtain a permanent residence permit for refugees.

6. DISCRIMINATION

Danish legislation against discrimination and racism has five central acts: 1. *The Act against Racism* (§266 b in the Danish criminal code). 2. *The Law against Hate Crimes*. 3. *The Act on Prohibition of Discrimination in the Labour Market*. 4. *The Act on Ethnic Equal Treatment*. 5. *The Act about probation of discrimination on account of race etc.* After the Cartoon affair in Denmark (in 2005 and 2008) another law (introduced into law in 1866, then §156) has become relevant in discussions of discrimination on religious grounds, and that is the so-called *Blasphemy Act* (§140 of the criminal code). The *Act against Racism* was the first Danish legal regulation of public expressions of racism or discrimination. The clause was introduced into the criminal code in 1938, with the purpose of protecting Jews in Denmark against right-extremism. It was reformulated in 1971 in accordance with UN conventions on questions of anti-racism, expanded in 1987 to include sexual orientation, and strengthened in 1995 taking into account of acts of propaganda. During the 2000s, as a national response to the establishment of both EU-directives and UN conventions, Denmark has passed a number of laws about anti-racism and tolerance (mentioned above). These laws are situated both within the criminal code, in the labour market and in public services legislation (Hansen 2000). Today the main governmental institutions involved in securing and trying the national laws against discrimination and racism are the Danish Institute for Human Rights and the Board for Equal Treatment.

Denmark has been criticized by the Council of Europe's anti-discrimination organisation (ECRI). In several reports ECRI has claimed that immi-

grants in Denmark suffer racism and discrimination (ECRI 2006, 2012). The 2012 report argued that the criteria for obtaining Danish citizenship, family reunification and permanent residence are very difficult for non-ethnic Danes to meet. Another important question in the reports include concerns about the difficulty of raising complaints against individuals and politicians for making disparaging remarks about immigrant groups, particularly Muslims.

According to the European Network Against Racism (ENAR) racism and discriminatory practices take place every day in Denmark, as cited in its 2008 Shadow Report, “Racism and related discriminatory practices in Denmark” (ENAR 2012). “For years MediaWatch have witnessed and documented the rising tide of Islamophobia in Denmark and how the media misuses the concept of freedom of expression to insult and degrade, not only the Muslim Communities, but to a larger degree the religion of Islam.” ENAR says in its report. The conclusion of the report is that, “With the erosion of the legal protection of ethnic minorities and other victims of racism and discrimination, both directly and indirectly, racial violence and other physical attacks, even racially motivated murders, which were very rare until recently, have risen steadily.” (*ibid.*)

Officially all Danish parties are proponents of equality, but there are some Danish institutions that should be excepted from the general principle of equality in Danish society. The debate about separation of church and state emerges occasionally in Denmark. Most political parties support the country’s state-church relationship. It has been challenged for decades by the left wing parties (The Socialist People’s Party and The Red-Green Alliance) and by atheists; more recently also by some liberals, especially in the Liberal Alliance party and some members of free churches.

According to most parties (Social Democrats, The Social Liberal Party, The Conservatives, *Venstre* and The Danish People’s Party) the state church (The Evangelical Lutheran Church in Denmark) should be excepted from the principle of equality of religions. Critics of the Danish state-church arrangement argue that the state church violates equality of religions and the principle of the secular state. Proponents for the current system argue that membership is voluntary, that the Evangelical Lutheran Church has ancient historical roots, and that the Church fulfills certain administrative tasks for the state.

According to a poll conducted by the newspaper *MetroXpress* in April 2007, 52% wished to split church and state, 30% were against, and 18% undecided. The Minister for Ecclesiastical Affairs at that time Bertel Haarder (*Venstre*), spoke out against a split: “Church and state will be separated when more than half of the population are no longer members. N.F.S. Grundtvig said so, and I support that.” (*ibid.*) The Social Democrats also argued against a split, but said there should be more equality between denominations, possibly by a state subsidiary paid to other approved religious communities as well (*ibid.*).

7. MUSLIMS IN DENMARK

As of January 2012 the number of Muslims in Denmark was estimated at approximately 236,300, 4.2% of the total population (Jacobsen 2011). The number has increased significantly since 1980 (from approx. 29,300, 0.6% of the population) due to immigration (cf. the introduction in this chapter). The Danish authorities do not register individuals’ religious beliefs, so it is generally difficult to gather reliable information on individual religious affiliation.

The largest ethnic group is Turks (23.3% of all Muslims), followed by Iraqis (10.6%), Lebanese (9.8%), Pakistanis (8.7%), Somalis (7.1%) and the fastest growing ethnic group in the last decade, the Afghanis (5.9%). This estimate does not take account of internal religious differences within Islam and includes groups such as Alevis, Shi’is and Sunnis. A survey from 2008 distributes eight different ethnic groups from predominantly Muslim countries as follows: 45% Sunnis, 11% Shi’is, and 23% ‘Islam, other,’ which may include Ahmadis, Alevis and heterodox Sufis (most Sufis consider themselves to be Sunnis). It is estimated that 20%–25% of Muslims in Denmark (roughly 47,300–59,100 people) are associated with a mosque association, although formal membership numbers are much lower.

Danish politicians’ articulation of Muslims has changed from 1980 to 2012. From being a marginalised issue in the beginning of the 1980s, where Muslims were parts of a wider discussion on the legal position of religious communities in Denmark, the debate on Muslims changed character in the 1990s (Jacobsen 2009: 179-235). Especially The Danish

People's Party have since their foundation in 1995 been successful in putting Islam on the political agenda. Hereafter Muslim has rapidly become the otherness of Danish identity. This way of thinking can be illustrated by the following example: In a parliamentary debate on the 13th January 2000, entitled "Which information can the Government give about Denmark's cultural development seen in the perspective of the growing islamization?," Pia Kjærsgaard, the former leader of *The Danish People's Party*, talks about Danishness and Danish culture as being threatened by Muslims and Islam:

As Folketinget determines that Islam's progress in Denmark neither is in accordance with the wishes the Danish people have in regard to the nation's cultural development, or in accordance with the Constitution's [*Grundloven*] §4, stating that: 'The Evangelical-Lutheran Church is the Danish national church [*Folkekirken*] and is supported as such by the state,' the Government is imposed to implement initiatives which ensure the continuation of Denmark as a Christian nation (Folketingstidende 1999/2000: 2941).

Hereby she constructs Islam as the otherness of Danish identity. Islam is what makes Danish identity both possible and impossible. Possible, because Islam understood as a relation of difference is what gives identity to the notions "Danish" and "nation's cultural development." Impossible, because Islam is what prevents 'the Danishness' from becoming complete. In these types of statements, it is made to appear as if Danish culture is potentially under pressure from the Muslims. Since there seems to be an idea that Christianity is fundamental for Danish culture and represents core values in Danish society, the threat to these values calls for a serious counter-attack from the defenders of this position. This might explain why it appears legitimate to harshly criticize Muslims if they appear to be challenging what is conceived as the symbols of Danish culture, for instance the building of a mosque, the establishing of burial places, *halal* slaughtering, the Muslim women's headscarves etc. (Kühle 2011: 81-94; Jacobsen 2009: 202-226; Jacobsen 2012: 175-192). Along this line, the Danish People's Party has for years criticized Muslim women's headscarves and veils (*Hijab* and the like). They have, for instance, put forward a parliamentary proposal to prohibit headscarves among all public employees (see below).

The background for this proposal was, according to the former member of Parliament for the Danish People's Party and spokesperson on integration issues, Louise Frevert: "Headscarves are a sign of gendered force which does not belong in a modern society like the Danish... A headscarf is a person who is against Danish norms and values in Denmark and in our culture." The party's Søren Krarup (member of Parliament until 2011) has argued even more harshly against headscarves: "Islam is a totalitarian regime, which has thousands of human lives on its conscience. The headscarf is the symbol of this regime and the Qur'an can easily be compared to Hitler's *Mein Kampf*." The other parties in Parliament distanced themselves from the statements, although not unambiguously, and other debates and political initiatives actually show a broader political support to The Danish Peoples Party's political line. For instance *Venstre*'s members of Parliament, Birthe Rønn Hornbech and former member Inge Dahl Sørensen has articulated a civilizing decisive difference between Islam and Christianity and/or the West. This is demonstrated in various comments, political statements and initiatives such as: "internment of fundamental Muslims," "expulsion of Palestinians," "expulsion of all Muslims," "Islam cannot be democratic," "Islam equals unliberty," etc. The Danish People's Party's negative position on headscarves has allowed for a harsh critique of Muslims in general. This critique is not simply about gender equality; rather the Danish People's Party uses gender equality as a tool to criticize Muslims and Islam in general.

8. MUSLIMS – THE CASE OF HEADSCARVES

Headscarves are permitted in public schools and services in Denmark. However, the Supreme Court, in a verdict in January 2005, upheld the right of retailers and others to insist on uniform codes that included uniforms without the female headscarves for employees dealing with the public (*Højesterets dom* [Supreme Court verdict], January 21st 2005, case 22/2004). The Danish People's Party tried to ban the wearing of the headscarves in Parliament in the spring of 2007, but failed. The Prime Minister at that time, Anders Fogh Rasmussen, said in a speech on Constitution Day in June 2007 that:

All Danish citizens have rights and duties, regardless of their religious views, but on the other hand, the state should not concern itself with things like religious clothing or meal traditions. That is a personal matter – even when it crosses over into the public sphere.

Wearing headscarves was, in this perspective, part and parcel of the principles of religious freedom and therefore an including discourse towards Muslims in Denmark.

In the spring of 2008, there was a major political debate about whether female Muslim judges and other public authority figures should be allowed to wear the headscarves with judicial attire. In December 2008, the government proposed legislation that would ban judges from wearing religious or political symbols in court. The law has come to be called the “headscarves act,” because its real purpose is to ban Muslim women from wearing headscarves when acting as judges or jurors. The government, the Danish People’s Party and the Social Democrat’s passed the act in May 2009, although the proposal has been met with strong opposition from judges’ and lawyers’ associations.

The Conservative Party proposed a burqa ban in August 2009, but the justice ministry ruled it unconstitutional. Officials and scholars were asked to draft a report on the burqa and niqab issue in Denmark, which was completed in late 2009, but the government did not first publish the report until January 2010 after a version was leaked to the press. Scholars at University of Copenhagen wrote the report and their conclusion regarding the number of women wearing niqab or burqa in Denmark was 100–200 (60 of them were converts) and 0–3 respectively (Warburg 2009). The publication of the report led to a major debate in Denmark on Islam in Denmark, Muslim veiling and research of Islam. Following the publication of the report, the former Prime Minister Lars Løkke Rasmussen (*Venstre*) said that the full Islamic dress and niqab is not appropriate in Danish schools. The outcome of the report – besides another round of debating Islam and veiling – was a government plan on banning the burqa for witnesses in courtrooms. In a survey commissioned for *Denmarks Radio* on Danes’ view on burqa and niqab, 53% answered yes to a ban, while 38% thought niqab and burqa should be allowed in public places. The Conservatives have since revoked their own call for a ban on the burqa. The committee report was published in early 2010 and had no legal effect.

9. DISCUSSION AND CONCLUSION

The analysis in this chapter considered relevant Danish parties in debates concerning citizenship, integration, immigration, discrimination and Muslims in Denmark. In this discussion we focus mainly on four parties, namely *Venstre* (The Liberal Party), The Social Democrats, The Danish People's Party and *Det radikale Venstre* (The Social Liberal Party). The parties' positions are summarized in Table 1.

Table 1. *Parties' key policy commitments.*

	Citizenship	Integration	Immigration	Discrimination	Islam
V	Naturalization after seven years of unbroken residence. Applicants must meet a variety of requirements in a points-based immigration system to become naturalized, including pass a citizenship test. Acceptance of Danish values and laws. Supporter of 24-year rule.	Enforce linguistic integration. A2-level knowledge of Danish after six months of residence. Support for better integration of existing migrants. Acceptance of Danish values and laws. Mandatory kindergarten (from 3 years of age) for immigrants for language learning. Penalties for absents from school. Deprivation of welfare benefits as incentive for integration.	Commitment to immigration. Support for high-skilled labour immigration. Targeted criteria-based immigration. No work permit for asylum seekers	Against discrimination as a principle but support the state-church exception from the principle of equality of religions. Support start allowance valid to both Danes and foreigners (indirect discrimination of immigrants, according to ECRI)	Against burka ban but support the "headscarves act." Support for expanded legal means to punish religious extremism and terrorist activities. Prayer rooms allowed. The building of Mosques and Muslim burial places allowed.

	Citizenship	Integration	Immigration	Discrimination	Islam
A	Naturalization after seven years of unbroken residence. Possibility of dual citizenship. Reject the points-based immigration system. Supporter of 24-year rule.	Linguistic integration. A1-level knowledge of Danish after six month of stay. Support for better integration of existing migrants. Acceptance of Danish democratic values and laws. Mandatory kindergarten (from 3 years of age) for immigrants for language learning. Lower immigrant quota in school classes.	Commitment to immigration. Support for high-skilled labour immigration. Targeted criteria-based immigration. Work permit for asylum seekers	Against discrimination as a principle but support the state-church exception from the principle of equality of religions	Against burka ban but support the "headscarves act." Acceptance of Danish democratic values. Prayer rooms allowed. The building of Mosques and Muslim burial places allowed.
O	Naturalization after seven years of unbroken residence. Applicants must meet a variety of requirements in a points-based immigration system to become naturalized, including pass a citizenship test. Acceptance of Danish (Christian) values and laws. Supporter of 24-year rule.	Enforce linguistic and cultural integration. A2-level knowledge of Danish after six months of residence. Acceptance of Danish Christian values and laws. Deprivation of welfare benefits as incentive for integration. Against suffrage for immigrants. Lower immigrant quota in school classes.	Immediate stop of "mass immigration" (especially from third-world-countries). Consistent deportation of foreign criminals. Limited support for necessary labour migration. No work permit for asylum seekers.	Against discrimination as a principle but support the state-church exception from the principle of equality of religions. Support start allowance valid to both Danes and foreigners (indirect discrimination of immigrants, according to ECRI)	Support burka ban and the "headscarves act." Immediate end to immigration from Islamic countries. Referendum required for building mosques. Minaret ban. Punish radical Islamist statements with deportation.

	Citizenship	Integration	Immigration	Discrimination	Islam
B	Possibility of dual citizenship. Reject the points-based immigration system. Reject the 24-year rule.	Linguistic integration. A1-level knowledge of Danish after six months of residence. Support for better integration of migrants.	Commitment to immigration. Support for high-skilled labour immigration. Targeted criteria-based immigration. Work permit for asylum seekers.	Against discrimination as a principle but support the state-church exception from the principle of equality of religions	Against burka ban and the "headscarves act." Acceptance of Danish democratic values. Prayer rooms allowed. The building of Mosques and Muslim burial places allowed.

Source: Political statements coded in most recent (i) party manifestos, (ii) parliamentary debates, and (iii) the media. The letter V = *Venstre* – The Liberal Party, A = Social Democrats, O = Danish People's Party and B = *Det radikale Venstre* – The Social Liberal Party.

When summarizing the findings it is possible to detect three discourses: One that tends to be restrictive on immigration and integration policy and harsh in its critique of Muslims (especially represented by The Danish People's Party). Another which is less restrictive on immigration and integration policy than the first discourse, but which focuses more on (successful) integration of immigrants (one of the key elements in the integration policy is the immigrants' acceptance of specific core Western values (e.g. *Venstre* and the Social Democrats)). The last and third discourse is more liberal on immigration and integration policy and also focuses on (successful) integration of immigrants.

The policy of The Danish People's Party is clear: the party has a strong negative position on the restrictiveness scale (see Table 2). By contrast The Social Liberal Party has a strong positive position in most of the analysed policy issues (see Table 2). The Social Democrats and *Venstre* take an intermediary position between the aforementioned parties, close to neutral in most immigration and integration policy issues (see Table 2).

Table 2. Quantitative variables: issues-restrictiveness and frames of justification

	O	V	A	B
Issue-restrictiveness (mean)				
Citizenship	-1.4	-1.0	1.2	1.5
Integration	-1.1	-0.6	0.9	1.2
Immigration	-1.9	-0.7	-0.2	1.3
Discrimination	-0.5	-0.5	0.0	0.0
Islam	-1.9	-0.4	-0.2	1.3
(n)	(41)	(56)	(51)	(33)
Frames (%)				
Pragmatic	33	56	67	66
Identity-based	46	17	11	9
Moral-universal	21	27	22	25
(n)	(28)	(35)	(34)	(21)
Rate of justification (%)	68.3	62.5	66.7	63.6

Note: Issue-restrictiveness measures follow the coding of partisan positions between -2 (very restrictive) and 2 (very open). The more statements coded, the more precise the measure. Fields where n=0 have been left blank. The letter V = *Venstre* – The Liberal Party, A = Social Democrats, O = Danish People's Party and B = *Det radikale Venstre* – The Social Liberal Party.

It was in the debates on Islam in Denmark, the points-based immigration system, the 24-year rule and the deprivation of welfare benefits as incentive for integration that the most profound discursive antagonisms appeared during the examined period. The other debates – on integration and naturalization – were rather characterized by parties drawing on different discourses but ones that were ideologically similar (the idea of *Jus sanguinis*). It is clear that there is broad consensus on some key issues among all parties under examination. The first is the position on citizenship as mentioned above. The other is the political tools in use for the purpose of

integration; firstly, the importance of linguistic integration – knowledge of Danish is held to be vital for successful integration. The linguistic process of integration should, according to the parties, begin in kindergarten or be a prerequisite for a residence permit; secondly, the importance of cultural integration – knowledge (and acceptance) of Danish values, in particular equality of women and democratic rights, which is presented as a source of tension between two fundamentally different value systems. It is characteristic of the debate that Danishness and difference in the shape of the building of mosques, articulations of Islam etc. are framed with point of departure in freezing the relationship between *us* and *them*. The national discourse tends to colonize the world understood as the universal. The discourse appears to outdo the substance, understood as the way in which the hierarchical modes of categorizing *them* in relation to *us*, or reversed *us* in relation to *them*, become generally accepted, regardless of the content of the message. Thus, on one level, we notice the disagreement between politicians on the substance of categories – you may oppose or support the “headscarves act” or “start allowance;” on another level, we sense a wider agreement on the basic discourse denoting a cultural differentiation between *us* (the Danes) and *them* (the Muslims). It is this culturalistic relational thinking which became fixed in Danish political consciousness in the 1990s. Finally, there is a broad tendency to request a more restrictive immigration policy. Immigration should be more selective and controlled according to labour market needs, especially to satisfy the market’s need for high-skilled labour.

This means that there are only minor significant differences among mainstream and extreme right positions. The extreme right takes advantage of its possibility of clear articulated political messages. The consequence is that parties trying to find a less restrictive policy on integration and immigration have few means to contest the extreme right. At the same time the extreme right becomes a necessary strategic partner for the centre-right parties in the battle for governmental power and therefore the latter tends to compromise with the former’s extreme position on immigration and integration. The consequence is a normalization of the extreme positions’ policy on Islam, immigration and integration policy.

Bibliography

Baumann, Gerd. 1999. *The multicultural riddle. Rethinking national, ethnic, and religious identities*. New York: Routledge (Zones of religion).

Danmarks Statistik. 2012. Indvandrere og efterkommere samt udenlandske statsborgere 1. januar 2012 [Immigrants and descendants and foreign citizens 1 January 2012], *Nyt fra Danmarks Statistik nr. 62*

ECRI 2006, *Third report on Denmark*. European Commission against Racism and Intolerance. Strasbourg.

ECRI 2012, *Fourth report on Denmark*. European Commission against Racism and Intolerance. Strasbourg.

Ejrnæs, Morten. 2001. *Integrationsloven – en case, der illustrerer etniske minoriteters usikre medborgerstatus*. AMID Working Paper Series 1/2001.

ENAR 2012, *Racism and related discriminatory practices in Denmark*, European Network Against Racism, Brussels.

folketinget.dk 2012, *Partiernes politik* [The politics of the parties], <http://www.ft.dk/Demokrati/Partier/partiernesPolitik.aspx>

Hansen, Niels-Erik. 2000. “Retlig beskyttelse mod racediskrimination på det danske arbejdsmarked. Dansk National rapport efter oplæg fra ILO,” *Papers, migration nr. 22*. Dansk Center for Migration og Etniske Studier, Sydjysk Universitetsforlag.

Hedetolf, Ulf. 2006. *Denmark: Integrating Immigrants into a Homogeneous Welfare State*. Migration Information Source. Webpage: <http://www.migrationinformation.org/Profiles/display.cfm?ID=485>

Jacobsen, BA. 2012. “Denmark.” JS Nielsen, S Akgönül, A Alibasic & E

Racius (eds), in: *Yearbook of Muslims in Europe*. 1 udg, vol. 4, Leiden, pp. 175-192.

Jacobsen, BA. 2011. "Muslims in Denmark – a critical evaluation of the number of adherents," in: *Islam in Denmark: The Challenge of Diversity* Jørgen S. Nielsen (ed.), 31-56. Lexington.

Jacobsen, BA. 2009. *Religion som fremmedhed i dansk politik: En sammenligning af italesættelser af jøder i Rigsdagstidende 1903–45 og muslimer i Folketingstidende 1967–2005* [The Construction of Otherness in the Danish Parliament. A Comparison of the Articulation of Jews and Muslims in the Parliamentary Records from 1903–45 and from 1967–2005 Respectively], Ph.d.-thesis, Copenhagen University.

Jensen, Tina G., Garbi Schmidt, Mette Kirstine Tørslev, Kathrine Vitus and Kristina Weibel. 2010. "Analysis of Integration Policies and Public State-Endorsed Institutions at National and Regional Levels in Denmark," *The Danish National Centre for Social Research*.

Jöhncke, Steffen. 2007. "Velfærdsstaten som integrationsprojekt" in Fog Olwig, Karen. & Pærregaard, Karsten. (Eds.), *Integration. Antropologiske perspektiver*. Copenhagen: Museum Tusculanums Forlag.

Justitsministeriet.dk. 2012. "Nyt lovforslag afskaffer pointsystem for familiesammenføring," www.justitsministeriet.dk/nyt-og-presse/pressemeddelelser/2012/nyt-lovforslag-afskaffer-pointsystem-familiesammenfoering (September 12, 2012).

Karapin, Roger. 1998. "Radical Right and Neo-Fascist Political Parties in Western Europe". *Comparative Politics*, January.

Klausen, Jytte. 2005. *The islamic challenge. Politics and religion in Western Europe*. Oxford: Oxford University Press.

Kühle, Lene. 2011. "Mosques and Organizations" in: *Islam in Denmark: The Challenge of Diversity* Jørgen S. Nielsen (ed.), pp. 81-94. Lexington.

Liberal Alliance. 2010. "Åbne grænser, lukkede kasser" [Open borders, closed kitties]. Retrieved November 27, 2010, from Liberal Alliance: www.liberalalliance.dk/aabne_graenser_lukkede_kasser.pdf

Madsen, Jacob Gaarde. 2000. *Mediernes konstruktion af flygtninge og indvandrerspørgsmålet*. [The construction of the refugee and immigrant issue in the media] Århus: Magtudredningen.

Meret, Susi. 2010. *The Danish People's Party, the Italian Northern League and the Austrian Freedom Party in a Comparative Perspective: Party Ideology and Electoral Support* (PhD thesis). SPIRIT PhD Series. 25. University of Aalborg.

Moors, Annelies. 2009. "The Dutch and the face-veil: The politics of discomfort," *Social Anthropology/Anthropologie Sociale* (2009) 17, 4, 393–408.

Sejersen, Tanja Brøndsted. 2008. "I Vow to Thee My Countries" – The Expansion of Dual Citizenship in the 21st Century." In: *International Migration Review*, Volume 42, Issue 3, p. 523–549.

Togeby, Lise. 2004. "Et demokrati, som omfatter alle, der bor i Danmark?." In: Jørgen Goul Andersen, Peter Munk Christiansen, Torben Beck Jørgensen, Lise Togeby and Signild Vallgård (eds.) *Den demokratiske udfordring*. Hans Reitzels Forlag. Pp. 133-153.

van Dijk, Teun A. 1997. "Political discourse and racism. Describing Others in Western Parliaments." In: *The Language and Politics of Exclusion. Others in Discourse*. Stephen Harold Riggins (ed.), 31–64. Thousand Oaks, CA: Sage.

Vellenga, Sipco J. 2008. "Huntington in Holland. The public debate on

Muslim immigrants in the Netherlands.” *Nordic Journal of Religion and Society* 21(1): 21–42.

venstre.dk 2012, “Forpligtende internationalt fællesskab,” www.venstre.dk/partiet/politik/principprogram/internationalt-faellesskab/ [October 12, 2012].

Warburg, Margit *et. al.* 2009. *Rapport om brugen af niqab og burka* [Report on the use of niqab and burqa], Department of Cross-Cultural and Regional Studies, University of Copenhagen www.e-pages.dk/ku/322/.

EUROPEAN UNION LEVEL

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1. BACKGROUND

The EU has been one of the most attractive immigration territories in the world. Eurostat (2013) data show that a total of 33.3 million people living in the EU-27 in 2011 are non-nationals (people who are not citizens of their country of residence). Considering that the EU-27 had the population of 505.2 million in 2011, the proportion of non-nationals makes almost 7%. More than one third (a total of 12.8 million persons) of all non-nationals living in the EU-27 on 1 January 2011 were citizens of another EU Member State. This means that EU faces both internal immigration from one member state to another, and immigration from external countries which concerns especially those in the close neighbourhood. In the former case the major recent issue has been integration of Roma minority, whereas in the latter case immigrants from Muslim countries are the major focus. Further, Eurostat (2013) data show that in absolute terms the largest numbers of non-nationals residing in the EU in 2011 were found in Germany (7.2 million persons), Spain (5.6 million), Italy (4.6 million), the United Kingdom (4.5 million) and France (3.8 million), and thus these five countries incorporated 77.3% of them.

The very first idea to take common measures to integration of immigrants dates back to 1974, when the Commission launched its 'Action

Plan in Favour of Migrant Workers and their Families.’ Immigration into the EU was growing rapidly that time and there was a need for solution of immigrants’ problems such as housing shortage or education. However in upcoming years the Commission had to deal with issues of higher priority connected to economic crisis in the 1970’s and 1980’s and no other initiatives were established and the governments did not really care about integrating immigrants on the EU scale, and migrants were still concerned to be temporary workers who will return home. The biggest milestone in the EU integration policy became the Treaty of Amsterdam in 1997 covering both immigration and integration measures with a clear schedule for concrete measures on immigration and asylum that should have been taken at EU level. A large power in this regard was given to the Commission which had the legislative right and became new opportunities to foster common EU immigration policy.

Since 1999, the EU has been developing a common immigration policy, and the EU countries have agreed that the EU should have common immigration and visa rules that will be valid in all the 27 EU countries, but only after September 11, 2001 immigration policy got to the top of the EU agenda. (Goeman 2009, 10) A number of MS showed interest in promoting integration measures at the European level, and some countries even proved willing to use their Council Presidency for this purpose. Since then integration of immigrants has become one of EU priorities. However, some political parties, especially those on the far-right promote an end to the EU common immigration policy. It is also important to stress out, that member states still keep many of their powers. In this part some political groups and europarties of the European Parliament will be researched, so we should very briefly point out that the Parliament has no right of legislative initiation, but it plays a role in creating laws, when it examines the Commission’s annual programme of work and says which laws it would like to see introduced, and last but not least it plays an important role in adopting new legislature, since together with the Council of the EU, it adopts or amends proposals from the European Commission.

Direct elections to the European Parliaments are a fine opportunity for parties and groups to promote their policy preferences. “Elections have enabled far-right parties to attract varying levels of support, often break-

ing out beyond the stereotypes of ‘far-right voters.’” (Wilson and Hainsworth 2012, 3) After the elections to the European Parliament in 2009 three far-right parties and one far-right group have become anchored in the Parliament’s infrastructure, and apart from euro-scepticism which is the most significant topic in their agenda, the main issue for the far-right actors in the Parliament is the threat of immigration and their compatibility with the EU life-style. Important components of their immigration discourse are attitudes on Muslims, anti-Semitism and the Roma-issue. The literature identifies three key features of far-right discourse: “1) populism, i.e. plain speaking, anti-elitist and anti-establishment; 2) authoritarianism; and 3) ‘nativism,’ i.e. the combination of nationalism and xenophobia.” (Wilson and Hainsworth 2012, 3) Mainstream parties need to know how to react to such kind of discourse and promote their more moderate strategies on fighting immigration.

2. GROUPS AND PARTIES IN THE EUROPEAN PARLIAMENT

At this point it is necessary to outline main political architecture of the European Parliament, which is the only directly elected body of the EU. After elections, members of the Parliament (MEPs) form political groups to better defend their positions. These groups are established along political lines and represent specific values and policy preferences. Since the last election in 2009 the European Parliament has comprised of seven political groups out of which three were chosen for our research to represent major mainstream groups, European People’s Party Group (EPP) and Progressive Alliance of Socialists and Democrats (S&D), as well as the group which gathers far-right-minded MEPs, Europe of Freedom and Democracy (EFD). The majority of MEPs are members of one of these groups however no group in the Parliament has a majority of votes, so amendments in the Parliament must be supported by more than one group to get through. Groups receive funding based on their size and must fulfil certain criteria to be recognized by the Parliament.

Apart from political groups, EU also recognizes European political parties, shortened as europarties, which are political organizations operating transnationally within the EU, and provides them with funding. Their

major goal is to promote an understanding of European affairs in the whole EU and to express will of EU citizens across all the member states. For our study, five europarties were chosen: European People's Party (EPP), Party of European Socialists (PES), European Alliance for Freedom (EAF), Movement for a Europe of Liberties and Democracy (MELD) and Alliance of European National Movements (EANM). Again, EPP and PES are the mainstream europarties representing different sides of political spectrum, whereas EAF, MELD and EANM are so-called far-right parties with extreme view on European integration and other key policy issues including immigration.

Even though there are differences between political groups and europarties, MEPs can be members of both a group and a party, and they often cooperate. Hence, in this study statements of a group and an affiliated europarty are analysed together, because their policies correspond with each other within the scope of a certain political stream. In general, political groups in the Parliament can be composed of one or more europarties or independent MEPs, and this is especially the case of far-right group EFD, whose members often belong to one of three far-right europarties. In the following section, chosen political subjects and their ideologies will be introduced. As already stated they were selected to represent the mainstream groups and affiliated europarties, which are in the case of the European Parliament EPP and socialists, as well as the far-right groups and affiliated europarties political stream.

2.1 EPP

This political stream is represented both by the EPP Group and by the EPP Europarty. EPP is the largest political group in the European Parliament earning 270 seats in the last elections and boasts with a long tradition. It was founded as the Christian-Democratic Group in 1953 as a political fraction in the Common Assembly of the European Coal and Steel Community. In connection to the First elections into the European Parliament the group changed its name to the Group of the European People's Party July 1979. The group has always been one of the strongest actors within the Parliament and gathers centre and centre-right pro-European political forces from the MS of the EU. (EPP Group 2013) According to its official web page proclamation, the

EPP europarty, founded in 1976 as a first transnational political party at the European level, “strives for a democratic, transparent and efficient Europe that is close to its citizens.” (EPP Party 2013) Like the EPP group, the party is the largest political organization of Europe with 74 member-parties, and the majority of group’s members also belong to EPP Party. EPP ideology is focused on preserving European values and human-oriented stressing our freedom, equality of rights and opportunities. The EU should remain as close to the citizen as possible, ensure social cohesion and solidarity, and promote pluralistic democracies. (EPP Party 2012, 1-2) The latest EPP Group Manifesto from June 2009 stresses the need to fight against economic crisis in the EU, to combat terrorism and organized crime, ensure food safety and security and last but not least to develop a joint immigration and energy policy. (EPP Group 2009, 3) Thus, from the main documents we can expect that immigration will be of major focus and that rather migrant-friendly policies will be preferred.

2.2 Socialists

Socialists group S&D is the second largest group in the European Parliament, since its MEPs won 184 seats in 2009 elections, and its affiliated europarty is PES. The Socialists group was established in 1953 within the ECSC Common Assembly. The group has had a strong position in the European Parliament even since the first direct elections in 1979, when it won one quarter of seats and it has widely cooperated with EPP. Its current name was given to the group in 2009 after the last elections. (S&D Group 2013) S&D are affiliated with the socialist PES europarty functioning since 1974, which attempts to create common social democratic policies on such issues as EU enlargement and the development of a common security and foreign policy. (Britannica 2013) S&D Group names its top ten priorities for EU in the area of economic integration, decent conditions for work and life, green and competitive Europe, better budgeting and improvement of EU’s world position. The latest election manifesto of PES stresses out the role of a human in the society: “The Party of European Socialists is committed to creating a fairer, safer society, tackling the challenges we all face by putting people first... We need more active cooperation in Europe to tackle our common challenges and improve people’s lives.” (Party of European Socialists 2009, 9)

It is obvious that strong EU cooperation will play an important role in socialist policies, but it will also serve as a tool for improving quality of life of all EU citizens including migrants and minorities and creating respect for dignity of all EU citizens.

2.3 Far-right parties

In general, far-right europarties EAF, MELD and EANM are affiliated with the EDF group, even though not all of their members belong to EFD, and some of them are non-attached. EFD is a euro-sceptic political group formed after the European elections in 2009, and stems from the Independence/Democracy group, which was founded after the 2004 European elections. The group includes eleven far-right parties from MS, which strongly oppose EU integration and immigration policies, such as Slovak National Party, Danish People's Party, True Finns, United Kingdom Independence Party or Polish Solidarity. Group is chaired by Francesco Speroni and Nigel Farage who are famous for euro-sceptic speeches in the European Parliament and the group itself favours as small involvement of the EU in MS affairs as possible.

As mentioned above, many of the members are involved in three far-right europarties which are currently represented in the European Parliament. The first one is MELD, which has been founded in 2011 and received its first funding from the European Parliament only in 2012 (European Parliament 2012). On the website, the party describes itself as "a European political alliance committed to the principles of democracy, freedom and cooperation among sovereign states in an effort to impede the complete bureaucratization of Europe." Its main ideological pillars are "freedom and cooperation among people of different states; more democracy and respect of the people's will; respecting Europe's history, traditions and cultural values; respecting national differences and interests through freedom of votes." (Movement for a Europe of Liberties and Democracy 2012a)

Secondly, EAF is a bit older europarty which received its first funding from the Parliament in 2011, one year earlier than MELD. (European Parliament 2012) The party calls for "for national freedom and democracy in opposition to centralised, supranational control, "and their main mission is "to inform the EU publics of the importance of national and

regional parliamentary democracy... and to make the peoples of Europe aware of the dangers of supranational power to the freedom of nations and their constitutional democracies.” (European Alliance for Freedom 2010) Like MELD, EAF opposes increasing the powers of Brussels’ bureaucrats and calls for an end of supranational control and respecting the traditional sovereignty of MS.

The last party which received first funding from the European Parliament in 2012 as well is EANM. (European Parliament 2012) There is no official website of this party so it is rather difficult to find exact information about it however BBC first reported on EANM in 2009. EANM advocates “a humane and peaceful solution to the problem of immigration” through co-operation to raise living standards in developing countries, “as well as “effective protection of Europe against the new threats of terrorism... It calls for “strong pro-family policies to reverse Europe’s population decline and to promote traditional values in society,” (BBC News 2009) which thus corresponds to the ideology of two previous groups by criticizing any efforts to strengthen the powers of the EU. In its manifesto immigration is explicitly mentioned, but it is impossible to compare it with manifestos of other two far-right parties, because their manifestos have not been published.

Formally these parties express respect for freedom and cultural values, some of their opinions and policies can be regarded as opposing to the principle of freedom of movement within the EU. This was visible when the members of the EFD group stood for French decision to repatriate some of Roma into Romania. Large similarities in ideologies of the far-right group and the far-right parties enabled us to include them in the same category in this study. Since the number of their members is smaller and they all have much shorter history than EPP or the socialists, they have not published detailed manifestos like the traditional groups, but we believe that we managed to gather a sufficient number of statements to provide the research in the following chapter with necessary relevance.

3. ANALYSIS

After the necessary introduction of the European Parliament architecture and the subject chosen for the study, an analysis of five selected

subjects will follow in this chapter. These are (1) citizenship, (2) integration, (3) immigration, (4) discrimination, (5) Roma issue. It is important to stress out, that the focus was not on policy-making, but on positions which are articulated by the parties and groups in relevant documents and the differences among each other. Since far-right parties and group are relatively new organizations, they have not produced official manifestos yet, so apart from policy proclamations on their official websites, speeches of their MEPs in the Parliament plenary were taken into account. The analysis focuses on three main features. The first one is the policy of the actors in selected areas, and their key policy commitments included in researched documents. Secondly, identified statements are coded on the scale from (-2) to (+2) according to their restrictiveness, where (-2) is the most restrictive statement. This quantitative analysis enables us to compare restrictiveness of selected actors and also the differences of stances they take on researched issues however due to lack of relevant statements of the citizenship issue, we have removed it from quantitative analysis. Thirdly, we classify political justification of statements which can be pragmatic, identity-based, or moral-universal. The most relevant policy commitments are summarized in Table 1.

Table 1. *Parties key policy commitments*

	Citizenship	Integration	Immigration	Discrimination	Roma
EPP		Integration of legal migrants	Respect for human dignity of migrants	Equal treatment of all EU citizens	Better integration of Roma
		Improvement of integration of migrants and Roma into labour market	Fight against illegal immigration at the EU level	Equall benefit from EU single market for all EU citizens	Guarantee of freedom of movement for all and pursuit of its violations
		Introduction of integration programs to support active participation of migrants	Reevaluation of Frontex mandate and enhancement of its capabilities	Avoidance of discriminatory rhetoric on Roma	Fulfilment of fundamental rights of Romas

	Citizenship	Integration	Immigration	Discrimination	Roma
EPP (continued)		Interpreneurial incentives for migrants	Establishment of a fair and firm return policy of illegal immigrants to home countries		
		Language courses, mentoring programs, life-long learning and enhanced job placement for immigrants	Protection of EU coast		
		Fair working conditions for migrants	Development of a common asylum and migration policy		
			Development of migration policy reflecting EU values		
			Targeted economic migration		
			Stronger EU external borders		

	Citizenship	Integration	Immigration	Discrimination	Roma
Socialists		Integration of migrants and other vulnerable groups into society, especially into local communities, on the basis of equal rights and responsibilities	Reform of current framework and establishment of common standards for migration	Ban of all forms of discrimination and stronger anti-discrimination legislature	Special attention on integrating Roma population
		Establishment of the EU Charter for Integration of Migrants	Fight against illegal immigration	Full free movement right without discrimination	Stronger EU Roma strategy
		Promotion of inclusion in education and on the labour market	Response to immigration on the basis of democracy, solidarity and human rights		Improvement of Roma living conditions and elimination of their segregation
		Cultural training for immigrants	Stronger external border control		End to all Roma expulsions
			Cooperation with third countries		
			Respect for dignity of migrants equal treatment with nationals		
			Penalties for employers exploiting migrants		
			Establishment of EU Charter for Integration of Migrants		

	Citizenship	Integration	Immigration	Discrimination	Roma
Far-right		Integration of existing migrants	Improvement of living standards in developing countries	Commitment to non-discrimination	No EU resolution on Roma
			Strict control of immigration and end to multiculturalism		Roma must contribute to integration
			Strict control of borders		Forced marriage as a criminal act
			No common immigration policy		
			Strict criteria for joint residence and work permits		
			Residence permits linked to specific job opportunities		
			Stronger Frontex mandate		

3.1 Citizenship

The citizenship issue is not a major one within the EU, therefore only a small percentage of identified statements referred to it. Even though it has been removed from the quantitative analysis, we can still make some interesting point on selected actors' positions. EU citizenship is automatically acknowledged to everyone who is a national of EU MS. According to EU, "EU citizenship is additional to and does not replace national citizenship. It is for each EU country to lay down the conditions for the acquisition and loss of nationality of that country." (European Commission 2012) According to key EU values, all the EU citizens should be treated equally

within the scope of rights attached to it, such as electing MEPs, moving and residing freely within the territory of MS or the right to diplomatic and consular protection. As for our actors, EPP takes a mild stance on the issue stressing out equality of rights within the EU, and the need to make the EU citizenship effective and more visible (EPP Group 2011, 15). The socialists take a similar position, but their statements may be even stronger towards the need to ensure realization of full citizenship rights. On the other side, far-right parties absolutely reject the existence of anything else than national citizenship, and in line with euro-scepticism call for limitation of EU powers.

3.2 Integration

The issue of integration is in our case the second most debated one by the parties and groups. Key problems connected to the issue of integration are to avoid social exclusion of immigrants, to find a suitable position for them in the labour market to the benefit of both immigrants and host countries, and to prevent relevant security threats such as human trafficking or increase in criminality.

EPP party and group both stress the need to integrate legal migrants into society and especially into labour markets (the importance of the word ‘legal’ will be explained in the following chapter). In its 2009 Manifesto, the EPP party states that “integration programs should support legal immigrants to actively participate, rather than being passive beneficiaries. In this sense, the EPP favours access to entrepreneurial incentive schemes for legal immigrants. Language courses, vocational training, mentoring programs, life-long learning and enhanced job placement attempts are needed to assist those immigrants disadvantaged in the labour market.” (EPP Party 2009c, 25) There EPP suggests several measures how to work on integration of legal migrants on the basis of active participation, fair working conditions and also tight cooperation with EU MS. EPP recognizes the need to integrate immigrant to prevent discrimination and to benefit from the new labour force coming to the EU. In this regard a slight change in discourse can be seen within the years towards promoting more specific actions on integration. In the declaration on EPP Values from 2001, the party talks about the need to employ a coordinated approach to immigra-

tion (EPP Party 2001, 3), while in 1997 congress declaration, integration is considered to be an important part of immigration policy, but any specific commitments are missing. (EPP Party 1997, 15) To sum up, we can expect an increase in EPP's attention to integration policies.

Socialists also offer some solutions to integration however the first appearance of integration specifically tightened to the immigration issue was in 2007. (Party of European Socialists 2007) Before 2007 integration was rather used in connection with 'social integration' which could have included immigrants as well, but the connection is not that obvious like in the EPP case. Nevertheless, the tendency to include integration strategies in to key political documents is growing stronger too. The S&D Group calls for using Europe's Structural and Cohesion Funds as a weapon against poverty, and to fund the programmes needed for successful integration of immigrants among others. Socialists call for the establishment of the European Charter for Integration of Immigrants which would oblige all the MS to provide access to language learning for immigrants and to respect key EU values and cultural diversity. Throughout all the documents the main emphasis is made on integration into labour markets.

As for the far-right actors, integration is not an important topic. At first, they stress out that if we speak about integration of immigrants, it should only concern the existing ones, not new incoming immigrants, whose number should be strictly limited in the future. Far-right MEPs believe that also immigrants are responsible for their integration, so the effort must be made from their side as well. The key question which appears in their statements is who will pay for immigrant integration, but they offer no further solutions. From the discourse it can be concluded that integration of immigrants is considered to be a necessary obligation, and the best scenario would be if it was not even needed.

3.3 Immigration

As stated above, the EU is one of the most prominent territories of immigration, and the Union has to react to challenges connected to it, so on the EU level immigration is undoubtedly the most widely used topic within the scope of our five topics. To begin with, socialists' statements will be analyzed, because they take the mildest position on the phenomenon of

immigration. According to the Stockholm Programme “an EU immigration policy with a strategy for integrating migrants, banning all forms of discrimination and a European asylum system” (S&D 2009, 1) is one of the key priorities of S&D. PES in its 2009 Manifesto stipulates: “We propose to establish a European Charter for the Integration of Migrants, based on equal rights and responsibilities and mutual respect, which should be coordinated closely with policies governing the admission of migrants.” (Party of European Socialists 2009, 43) Socialists call for fight against illegal immigration and stronger external borders control, but those are their most restrictive policy commitments which appear in the key documents. Their program also includes policies connected to the respect for dignity of immigrants, human rights, equal treatment and advocacy of penalties for employers exploiting migrants. Looking back to strategic documents before 2009 reveals that policy of socialists develops towards emphasis on the humane side of immigration. In their 2004 manifesto PES concluded on immigration only: “We want active, firm and just management of migration and integration. We recognise the positive contribution of legal migrants and support a multicultural and tolerant society. At the same time, we must tackle illegal immigration and crack down on human trafficking and exploitation.” (Party of European Socialists 2004, 6)

EPP also promotes rather liberal policy on immigration, but when reading their key documents, it is obvious that EPP makes an important distinction between legal and illegal immigration. While legal migrants should be treated equally and integrated into labour market, and thus there is not a bigger difference between policies of EPP and socialists, illegal immigrants constitute an issue where EPP policy takes a much firmer tone. EPP Party (2009, 13) in their 2009 Manifesto say that “however, mismanaged immigration – especially uncontrolled illegal immigration – brings about tensions in the host country and inevitably leaves illegal immigrants in difficulties.” The EPP’s key policy commitments in the area of illegal immigration are stronger external border control, Establishment of a fair and firm return policy of illegal immigrants to home countries, protection of EU coast, and re-evaluation of Frontex mandate and enhancement of its capabilities. Looking at the results of our quantitative analysis (Table 2) EPP has a significantly more restrictive policy on immigration than the so-

cialists. This difference is most probably given by stronger EPP's emphasis on illegal immigration which is a negative phenomenon, while the socialists do not emphasize the difference between legal and illegal migrants so strongly. Throughout the key documents since 2000, EPP has been fairly consistent in their statements.

Table 2. *Quantitative variables: issues-restrictiveness and frames of justification*

	EPP	Socialists	Far-right
Issue-restrictiveness			
Citizenship	-	-	-
Integration	1.13	1.00	-0.50
Immigration	-0.02	0.47	-1.07
Discrimination	1.00	1.13	2.00
Roma/Muslims	1.14	1.00	-1.21
(n)	85	71	50
Frames (%)			
Pragmatic	68.6%	35.9%	67.6%
Moral-universal	23.5%	64.1%	17.6%
Identity-based	7.8%	0.0%	14.7%
(n)	51	39	34

Table 3. *Political Justification*

	EPP	Socialists	Far-right
Rate of justification	60.0%	54.9%	68.0%
Statements (n)	85	71	50
Frames (n)	51	39	34

The policies of far-right parties are unsurprisingly highly restrictive. In general, they advocate for a strict control of immigration and for an end to multiculturalism, which should be achieved by strict control of borders, strengthening Frontex and by setting strict criteria for joint residence and work permits. Their way how to fight against illegal immigration is

through development in third countries which are source of immigrants. There might be an accordance of all three actor's policies in the area of border control and Frontex mandate, but otherwise far-right parties' positions are very specific. It is interesting to point out at this moment that far-right parties do not use identity-based justifications for their statements to such extend which is for example in the case of Austria, where FPÖ used identity based justifications for almost 31% of statements. The majority of justifications in this case were made on the basis of pragmatic reasons, such as economic reasons or security reasons.

3.4 Discrimination

In general, all the analyzed actors are committed to non-discrimination. Non-discrimination is one of the key EU values and it is also connected to equal exercise of EU citizenship. Both EPP and socialists call for equal treatment of EU citizens. In the Stockholm Programme of 2009 S&D stipulates that their priority is "realisation of full citizenship rights including consular protection and full free movement and residence without discrimination – including based on sexual orientation – in the Union with family members." (S&D 2009, 2) Both EPP and socialists emphasize that especially Roma minority are often subject to discrimination. S&D further promotes "full respect of fundamental rights and dignity for migrants in immigration policy and integration and equal treatment with nationals." (S&D 2009, 2) EPP speaks about benefits from EU single market for everyone, including migrants, which will contribute to the improvement of both the economic situation of immigrants, and EU market. The discrimination issue also shows differences in justifications of statements between EPP and socialists. While EPP often uses pragmatic justification, especially economic reasons, socialists mostly refer to key European values which justify their positions. Frames of justification are summarized in Table 2. Similarly like in the case of integration non-discrimination is not a widely discussed issue. For example MELD programme includes the statement: "The party rejects xenophobia, anti-Semitism and any other form of discrimination," (Movement for a Europe of Liberties and Democracy 2012a) and precisely the same statement is also included in the charter of the EFD group (Europe of Freedom and Democracy 2011). In other statements far-

right MEPs do not refer to the problem of discrimination, even in the case of Roma expulsions from France, which other parties saw as a discriminatory policy, far-right MEPs stood on the side of president Sarkozy. Due to lack of statements the value (+2) on the issues-restrictiveness scale in Table 2 cannot be considered relevant.

3.5 Roma

Roma and Muslims have been the most in media discussed minorities in the EU during last few years. Nevertheless, the statements on Roma took up the majority of all the statements on EU minorities, so our research at the EU level focused mostly on the Roma issue. Relevant statements were frequent especially in 2010 when the situation of Roma expulsion from France broke out, and got wide attention from the media. Owing to this, the Roma issue has recently earned wider popularity than the Muslim community, and has been tightly connected with the integration and discrimination issues.

Both the EPP and socialists call for better integration of Roma, even though their approaches differ slightly. EPP concentrate mostly on the defence of the free movement principle in the EU, and any of its violations (like in the case of France) should be handled by the European Commission. EPP acknowledges the strategic importance of Roma inclusion and their Roma people are entitlement to solidarity, help and support, but at the same time Roma minority should act in compliance with certain rights, norms and obligations like all EU citizens. The socialists on the other hand concentrate more on rights of Roma rather than their obligations. They call for an improvement of Roma living conditions, an elimination of their segregation, and an end to all expulsions of Roma. According to socialists EU strategy might be the way to improve the situation of Roma in the EU, and welcomed for example the initiative of the European Commission from 2011, which calls for development of national strategies to improve living standards of Roma. Thus the main difference between socialists and EPP is that the socialists' stance is less critical than that of EPP. The approach of far-right parties is closer to EPP, because they also emphasize the necessity of Roma contributing to their integration on the other hand they reject EU resolutions on Roma,

which can be rather explained by their euro-sceptic ideology rather than by some specific aversion towards Roma.

Even though the Muslim issue was excluded from the Table 1 on key policy commitments and it rarely appears in the statements (in the case of socialist even not at all), let us summarize main statements of EPP and the far-right to demonstrate the difference in their attitude. In 2009 manifesto the EPP Party states (2009c, 12): “We need to recognise the contribution made to our society by the vast majority of Muslim communities in Europe... We should not be blind to cases of social exclusion of youth from the Muslim communities in our countries, making them vulnerable targets for those who want to turn their hearts and minds against Europe.” Here the justification is clearly pragmatic, also it is the only statement on Muslim community found in EPP key documents even before 2009, further it acknowledges the necessity of Muslim inclusion, and avoids any radical judgements on Muslim culture. On the other hand, statements made by far-right MEPs suggest inapplicability of some parts of Islamic culture to European values, and use thus identity-based justification. The Dutch MEP Franz Obermayr stated that we should “take some first concrete legal steps by introducing an EU-wide ban on the burkha and making forced marriage a criminal act in all the Member States,” and added: “Let us stand up for our enlightened Western values!” (Obermayr 2010) Unlike the EPP’s attitude, they do not appreciate any contribution of Muslims to the EU, but on contrary, they suggest it should be perceived as a threat.

4. CONCLUSION

Let us summarize the findings of this chapter, which focuses on five key policy issues and on three political actors at the EU level, EPP, socialists and far-right parties. The EU is a specific case due to its unique supranational character and the statements of researched actors tend to be biased by their overall EU ideology, which is especially the case of far-right parties. At this point, we will proceed to comments on the results of the quantitative analysis, which consisted of determining of the issues-restrictiveness of selected actors and on political justification of identified statements. To begin with, from Table 3 it is obvious that a major part of

all the political statements is justified. The highest rate achieved far-right parties and group with 68%, and their prevailing justifications were pragmatic justifications. Identity-based and universal justifications received far smaller ration, and were used for a similar percentage of statements. The EPP relied on pragmatic justifications from a large part, which are in general most popular justifications among all examined actors, and managed to explain 60% of all EPP's statements. The socialist actors often advocated for universal values referring mostly to fundamental EU values, but did not justify more than 55% of all their statements. However, there are no significant differences in justification rates among EPP, socialists and far-right parties.

Secondly, let us interpret analysis results on issue-restrictiveness within the scope of four topics (Table 2), because citizenship issue has been left out in this part of the analysis due to its lowered applicability to the EU level. The most restrictive actors turned out to be the far-right parties, which in average took a mildly restrictive policy stance or higher on the half of all the issues – immigration and Roma. In the light of these results a very positive value of the far-right on the issue of discrimination might seem very surprising. However, this value cannot be considered relevant due to lack of statements. Rather, the implication of this inappropriately high value should be that this issue is completely marginalized by far-right groups and parties. On the other hand, the least restrictive actors are socialists, who took a mildly open policy stance or higher on three issues – integration, discrimination and Roma. The EPP can be certainly regarded as an actor with mildly open policy stances, because only the immigration value is slightly restrictive, but this was caused by the distinction into legal and illegal immigrants, which enabled the EPP to take more restrictive stances on some immigration policies.

The case of the EU does not show any considerable advantage of far-right parties in selected policy areas. Their statements did not prove to be well justified in comparison to the EPP or to the socialists, and furthermore their policy manifestations are not easily accessible, when they are the reader finds very brief declaration without and real content. This might be attributed to two reasons: (1) the far-right group and parties are new or-

ganizations, and thus socialists and EPP have a comparative advantage in policy formulation; (2) selected far-right actors are composed of political organizations with their own policy issues at home countries, thus the EU level loses necessary importance.

Still, a few policy recommendations for mainstream parties can be made on the basis of the EU case:

1. *Distinction between legal and illegal immigration* is a good strategy. This strategy was used in the EPP case and it enabled the EPP to defend key European values such as equal treatment or non-discrimination connected to legal immigration, and to take more restrictive policies on illegal immigration which can be justifiably regarded as a threat. The result of this strategy was almost a neutral stance (-0.02) on a very controversial issue of immigration, which might suggest a balanced ratio between statements on legal and illegal immigration.
2. On the EU level the mainstream parties did not manage to react to specific issues connected with Roma or also Muslim minority such as ban of burkha or forced marriages. These topics are important and will be discussed in the future, but mainstream parties failed to take clear position towards them in their documents.

Bibliography

Batten, Gerard. 2011. "EU open door policy: Selling memory at the scrapyards." November 14. *Europe of Freedom and Democracy*. <http://www.efd-group.eu/medias/videos/item/gerard-batten-eu-open-door-policy-selling-memory-at-the-scrapyards.html> (February 6, 2013)

BBC News. 2009. "BNP in alliance with nationalists." November 12. <http://news.bbc.co.uk/2/hi/europe/8356284.stm> (February 10, 2013)

Britannica. 2013. *Party of European Socialists (PES)*. <http://www.britannica.com/EBchecked/topic/765562/Party-of-European-Socialists-PES> (February 9, 2013)

EPP Group. 2009. Ten priorities of the EPP Group for 2009-2014. <http://stream.eppgroup.eu/Activities/docs/year2009/2009-2014group-priorities-en1.pdf> (February 5, 2013)

EPP Group. 2011a. Legal and home affairs: EPP Group's priorities for 2011. <http://stream.eppgroup.eu/Activities/docs/year2011/justice-en.pdf> (February 5, 2013)

EPP Group. 2011b. Promoting Growth and Jobs: EPP Group's EU 2020 Priorities. <http://stream.eppgroup.eu/Activities/docs/year2011/epp-eu2020.pdf> (February 5, 2013)

EPP Group. 2013. *Our History*. <http://www.eppgroup.eu/group/en/ourhistory.asp> (February 10, 2013)

EPP Party. 1997. We are all part of one world. <http://www.32462857769.net/EPP/Comtool6.0/e-PressRelease/PDF/09-11-1997%20We%20are%20all%20part%20of%20one%20world.pdf> (February 5, 2013)

EPP Party. 2001. Union of Values: Final text agreed at the XIV EPP Congress. <http://www.eppgroup.eu/group/en/unionofvalues-final.asp> (February 5, 2013)

EPP Party. 2009a. Draft EPP Election Document 2009. <http://www.eurodiaconia.org/files/2009%20EU%20Elections/EPP%20Long%20Manifesto.pdf> (February 5, 2013)

EPP Party. 2009b. Resolution adopted by the EPP Congress, Bonn, 9-10 December 2009. http://www.32462857769.net/EPP/Comtool6.0/e-PressRelease/PDF/17-12-2009%20EN-CONGRESS-2009-BONN-RESOL-MIGRATION-FINAL_copy_1.pdf (February 5, 2013)

EPP Party. 2009c. Strong for the People: EPP Manifesto – European Elections 2009. http://www.aer.eu/fileadmin/user_upload/Commissions/Institu

tionalAffairs/EventsAndMeetings/2009/Regions_cross_examine_Europe/en-epp-manifesto-european-elections-final_copy_3.pdf (February 5, 2013)

EPP Party. 2011. Moving Europe forward: A Stronger Europe to stand for our Values and defend our Interests. <http://www.32462857769.net/EPP/Comtool6.0/e-PressRelease/PDF/EN%20Congress%20Document.pdf> (February 5, 2013)

EPP Party. 2012. Manifesto: EPP Statutory Congress, 17-18 October 2012. http://www.32462857769.net/EPP/Comtool6.0/e-PressRelease/PDF/1.%20EPP%20Manifesto,%20EN001_.pdf (February 5, 2013)

EPP Party. 2013. History. <http://www.epp.eu/party.asp?z=5B> (February 10, 2013)

EurActiv. 2013. "European Political Parties & Groups in the European Parliament." <http://www.euractiv.com/parties> (February 6, 2013).

EurActiv. 2010. "France handed ultimatum in Roma row." September 30. <http://www.euractiv.com/future-eu/france-handed-ultimatum-roma-row-news-498287> (February 6, 2013).

EurActiv. 2011. "Parliament calls for EU strategy on Roma inclusion." March 2011. <http://www.euractiv.com/socialeurope/parliament-calls-eu-strategy-rom-news-502937> (February 6, 2013).

EurActiv. 2010. "Parliament split in two over Roma expulsions." September 9. <http://www.euractiv.com/socialeurope/parliament-split-roma-expulsions-news-497611> (February 6, 2013).

EurActiv. 2011. "France-Italy border row divides EU parties." May 5. <http://www.euractiv.com/future-eu/france-italy-border-row-divides-news-504546> (February 6, 2013).

EurActiv. 2011. "Poland exposes Dutch plans to expel EU citizens." May

2. <http://www.euractiv.com/future-eu/poland-exposes-dutch-plans-expel-news-504464> (February 6, 2013).

EurActiv. 2009. "German MEP slams Slovak language law." July 10. <http://www.euractiv.com/culture/german-mep-slams-slovak-language-news-222177> (February 6, 2013).

EurActiv. 2010. "European far-right defends Sarkozy's Roma policy." September 3. <http://www.euractiv.com/future-eu/european-far-right-defends-sarko-news-497414> (February 6, 2013).

EurActiv. 2011. "Parliament backs single permit for foreign workers." December 14. <http://www.euractiv.com/social-europe/parliament-backs-single-permit-f-news-509693> (February 6, 2013).

EurActiv. 2010. "Commission buys time on Roma controversy." September 8. <http://www.euractiv.com/social-europe/commission-buys-time-roma-contro-news-497555> (February 6, 2013).

EurActiv. 2011. "Commission wants Roma kids at school." April 6. <http://www.euractiv.com/social-europe/commission-wants-roma-kids-school-news-503798> (February 6, 2013).

EurActiv. 2009. "EU plans 'charter flights' to deport illegal immigrants." November 4. <http://www.euractiv.com/social-europe/eu-plans-charter-flights-deport-news-223094> (February 6, 2013).

EurActiv. 2010. "Reding criticises France, Italy over Roma treatment." August 26. <http://www.euractiv.com/justice/reding-criticises-france-italy-r-news-497163> (February 6, 2013).

EurActiv. 2010. "Sarkozy, EPP lose Parliament vote on Roma." September 9. <http://www.euractiv.com/social-europe/sarkozy-epp-lose-parliament-vote-news-497646> (February 6, 2013).

EurActiv. 2012. "EU slams Dutch website for instigating intolerance." February 13. <http://www.euractiv.com/justice/eu-slams-dutch-website-instigati-news-510749> (February 6, 2013).

EurActiv. 2009. "Far-right MEPs form group in European Parliament." July 2. <http://www.euractiv.com/eu-elections/far-right-meps-form-group-europe-news-222083> (February 6, 2013).

Europe of Freedom and Democracy. 2012. "Schengen policy: The only place where the Democracy works is in the Member States." June 12. <http://www.efdgroup.eu/newsroom/item/schengen-policy-the-only-place-where-the-democracy-works-is-in-the-member-states.html> (February 6, 2013)

Europe of Freedom and Democracy. 2011. "Our Charter." <http://www.efdgroup.eu/about-us/who-we-are/charter.html> (February 6, 2013)

European Alliance for Freedom. 2010. "About EAF." <http://www.eurallfree.org/?q=node/65> (February 6, 2013)

European Commission. 2012. *EU citizenship*. September 3. http://ec.europa.eu/justice/citizen/index_en.htm (February 8, 2013)

European Parliament. 2012. *Grants from the European Parliament to political parties at European level 2004-2012*. http://www.europarl.europa.eu/pdf/grants/grant_amounts_parties_01-03-2012.pdf (February 9, 2013)

European Parliament. 2013. *MEPs*. <http://www.europarl.europa.eu/meps/en/performsearch.html> (February 8, 2013)

European Parliament. 2013. *Political groups*. <http://www.europarl.europa.eu/aboutparliament/en/007f2537e0/Political-groups.html> (February 7, 2013).

Eurostat. 2013. *Migration and migrant population statistics*. <http://epp.eu->

rostat.ec.europa.eu/statistics_explained/index.php/Migration_and_migrant_population_statistics (February 8, 2013)

Goeman, Hannelore. 2009. *Migrant integration policy at European level: past, present and future*. VUB: Institute for European Studies. <http://www.jhubc.it/ecpr-riga/virtualpaperroom/127.pdf> (February 14, 2013)

Helmer, Roger. 2012. "I never asked for European citizenship and I reject it." *Europe of Freedom and Democracy*. <http://www.efdgroupp.eu/medias/videos/item/roger-helmer-i-never-asked-for-european-citizenship-and-i-reject-it.html> (February 6, 2013)

Movement for a Europe of Liberties and Democracy. 2012a. "Home." http://www.meldeuropa.com/?page_id=4 (February 6, 2013)

Movement for a Europe of Liberties and Democracy. 2012b. "About us." <http://www.meldeuropa.com/> (February 6, 2013)

Obermayr, Franz. 2010. Social integration of women belonging to ethnic minority groups (short presentation). *European Parliament*. September 6. <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+CRE+20100906+ITEM-023+DOC+XML+V0//EN&language=EN&query=INTERV&detail=1-337> (February 6, 2013)

Party of European Socialists. 2007. PES Priorities for the EU policy agenda 2008. http://www.pes.org/system/files/images/downloads/PES_Priorities_EUagenda_2008_leaders.pdf (February 5, 2013)

Party of European Socialists. 2009. PES Manifesto: European elections June 2009. http://www.pes.org/system/files/images/ManifestoBook_EN_Online.pdf (February 5, 2013)

Party of European Socialists. 2010. PES Strategy 2010-2014: A Mandate for Change. http://www.pes.org/en/system/files/PES_Strategy_for_2010-

2014_adopted_040210_EN.pdf (February 5, 2013)

Party of European Socialists. 2012. PES statutes. http://www.pes.eu/sites/www.pes.org/files/pes_statutes_2012_en.pdf (February 5, 2013)

Pop, Valentina. 2010. EU drops charges against France on Roma. *Euobserver.com*. October 10. <http://euobserver.com/foreign/31074> (February 6, 2013)

Pop, Valentina. 2011. Barroso warns of extremism in immigration debate. *Euobserver.com*. April 14. <http://euobserver.com/justice/32181> (February 6, 2013)

S&D. 2008. Inclusive Europe, Europe for all. http://www.socialistsanddemocrats.eu/gpes/public/polidetail.htm?topicid=17358§ion=POL&category=POLI&request_locale=EN (February 5, 2013)

S&D. 2009. Stockholm Programme – for democracy, human rights and integration. http://www.socialistsanddemocrats.eu/gpes/media3/documents/3235_EN_stockholm_programme_en_090110_1.pdf (February 5, 2013)

S&D. 2010. For a democratic Europe 2010. http://www.socialistsanddemocrats.eu/gpes/public/polidetail.htm?topicid=17297§ion=POL&category=POLI&request_locale=EN (February 5, 2013)

S&D Group. 2013. *Timeline*. http://www.socialistsanddemocrats.eu/gpes/public/sectionstatic.htm?section=LIB&category=TILI&request_locale=EN (February 10, 2013)

Wilson, Robin and Hainsworth, Paul. 2012. Far-right Parties and discourse in Europe: A challenge for our times. Brussels: *European Network against Racism*. http://cms.horus.be/files/99935/MediaArchive/publications/20060_Publication_Far_right_EN_LR.pdf (February 13, 2013)

HATE SPEECH A TOOL TO FIGHT EXTREMISM OR A CENSOR OF A POLITICAL DISCOURSE?

David Zahumenský

1. INTRODUCTION

In recent years, we have witnessed a rise in influence of extremist and populist parties and their leaders in Europe. Barbara Rosenkranz, a representative of FPÖ (Freedom Party of Austria), was a runner-up in 2010 presidential election. In the same year, a Hungarian party Jobbik (The Movement for a Better Hungary) finished third in parliamentary election with 17% of the votes. In February 2010 the Supreme Administrative Court (hereinafter referred to as NSS) of the Czech Republic banned¹ Dělnická strana (Worker's Party).

The actual program of this party, speeches of its leaders and members as well as speeches which are given at the party's rallies and its newspaper may cause, according to the NSS, racial, ethnic and social hatred which may ultimately lead to an infringement of human rights and freedoms of some citizens of the Czech Republic based on their ethnicity or sexual ori-

¹ This was already the second attempt of the Czech Government, first being in November 2008. It was the first instance of banning a party for its ideology, not on a technicality such as failure to produce balance sheets. The first petition of the Czech government was dismissed on 4th March 2009 as the government did not provide sufficient evidence for a dissolution of a political party.

entation. The values held by the Worker's Party are according to the decision incompatible with the Czech legal system. In order to ban this political party, the NSS had to voice its opinion that the Worker's Party presents, owing to its abilities and efforts to destabilize situation (albeit at a local level) and escalate violence, an immediate threat to democracy.

One may or may not agree with this decision. However, we cannot deny the meticulous work of the NSS which on 110 pages analyzes all the requirements which must be met to ban a political party. The decision is based on the concept of self-protecting democracy, which is generally accepted by the European Court of Human Rights (ECtHR). In *Refah Partisi v. Turkey* 2003, §102, the ECtHR ruled that states do not have to stand idly by while a subject executes its policies which are incompatible with democratic principles.

Nevertheless, the NSS also admits that "some of the issues which were raised by the Worker's Party mirror actual and deep problems of the society. These problems, their solutions as well as discussions about them are often diverted from the public debate and veiled by the political correctness language until the outlines are lost." (*Worker's Party* 2010, §633). Therefore, the NSS emphasizes that it is the right of any individual and political party to name these pressing and intractable problems of the society. The line cannot be set by the use of politically correct language either which may only be the difference between a socially acceptable and socially unacceptable but may not be a criterion for lawfulness.

The line between a socially unacceptable speech, which may contribute considerably to the discussion within a society, and an illegal action, punishable by law, is very difficult to determine, especially with hate speech. Criminal punishment is undoubtedly a useful tool in the fight with extremism. However, unless a clear line is set between a politically incorrect way of voicing our concerns about coexistence with the Roma or Muslims and between what might be classified as a defamation of nation, ethnic or other groups², we might find ourselves in a situation where some issues are sidetracked which will lead to failure to deal with these issues. The aim of this text is to provide an overview of the use of the concept of hate speech in European countries and propose certain measures in order to foster free political discussion.

2 See §355 of the Czech Criminal Code 2009 (Defamation of Nation, Race, Ethnic or other Groups of People). See the reading of this provision further in the text.

2. FROM INTERNATIONAL DEFINITIONS OF HATE SPEECH TO NATIONAL LEGISLATION

A former Czech ECtHR judge Repík (2004) indicates that the European experience with totalitarian regimes, particularly with the Second World War, showed that the faith in the strength of unlimited freedom of speech is only an illusion. This is also one of the reasons why freedom of speech is subject to limitations and Article 10, par. 2 of the Convention for the Protection of Human Rights (the Convention) offers possibility for restrictions of this freedom. The key concept which currently allows to penalize expression with political content is hate speech.

New legislation has been passed since the 1960s and 1970s in Europe to counter the promotion of racism (Bleich 2011). The term “hate speech” cannot be found in any international agreement, in legal terminology (Jäger, Petr and Pavel Molek 2007, 22) it is used as a short for a speech which is meant to offend, humiliate, discriminate, create hatred or incite violence against an individual or a group based on their personal characteristics such as race, skin color, sex, religion, etc.

The afore-mentioned definition is related to Article 1 of International Convention on the Elimination of All Forms of Racial Discrimination from 1965, according to which 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.” Article 4 contains an appeal addressed to all states to declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination.

We believe that what is fundamental is the Council of Europe Recommendation No. R (97) 20, which defines hate speech “as covering all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance, including: intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility against minorities, migrants and people of immigrant origin.”

Framework Decision of the Council of the EU from 2008 requires that EU member states criminally punish any action manifests itself in “publicly inciting to violence or hatred directed against a group of persons or a member of such a group defined by reference to race, colour, religion, descent or national or ethnic origin,” as well as publicly condoning, denying or grossly trivialising crimes of genocide, crimes against humanity and war crimes (...) directed against a group of persons or a member of such a group defined by reference to race, colour, religion, descent or national or ethnic origin when the conduct is carried out in a manner likely to incite to violence or hatred against such a group or a member of such a group.”

However apparent the tendencies of Council of Europe, UN, and EU to a joint action are, professor Christians’s analysis shows that the legislation of states is still rather complicated and the provisions concerning hate speech are different in each country. Christians (2011, 2) also points out that “Legislation has, for the most part, remained relatively vague in the concepts that it uses. Only a few countries specify criteria for identifying prohibited forms of incitement to hatred. There is, in any case, a strong tendency not to restrict the criteria simply to incitement involving ‘clear and present danger,’ but also to take account of more indirect and more implicit incitement. This extension of the concept actually gives rise to further uncertainty and complexity.” These words are confirmed when we look more closely at the relevant provisions of Criminal Codes of Austria, the Czech Republic, Denmark and Hungary (see table no. 1).

Table 1. *Examples of hate speech laws in Austria, the Czech Republic, Denmark and Hungary*³

Austria	
Section 115(1), Criminal Code	Any person who publicly, or in front of several people, insults, mocks, physically abuses or threatens with physical abuse is punishable, if not punishable under any other provision with a more severe penalty, with of a prison sentence of up to three months or a fine of up to 180 daily rates.

3 English version of provisions used according to Coleman 2012.

Austria (continued)	
Section 188, Criminal Code	Whoever, in circumstances where his behaviour is likely to arouse justified indignation, disparages or insults a person who, or an object which, is an object of veneration of a church or religious community established within the country, or a dogma, a lawful custom or a lawful institution of such a church or religious community, shall be liable to a prison sentence of up to six months or a fine of up to 360 daily rates.
Section 283, Criminal Code	<ol style="list-style-type: none"> (1) Whoever publicly, in a manner qualified to jeopardize public order or perceivable to the broad public, solicits or excites violence against a church, a religious society, another group of people defined by criteria of race, skin colour, language, religion or ideology, nationality, descent or national or ethnic origin, sex, disability, age or sexual orientation, or a member of such a group explicitly because of his/her membership to that group, shall be punished by a maximum of two years imprisonment. (2) By the same token, a person shall be punished who in a manner perceivable to the broad public agitates against a group referred to in paragraph (1) or verbally harasses such a group in a manner that infringes human dignity and thereby tries to disparage it.
Czech Republic	
Section 355, Criminal Code	<ol style="list-style-type: none"> (1) Whoever publicly defames <ol style="list-style-type: none"> (a) a nation, its language, a race or ethnic group, or (b) a group of people for their actual or assumed race, ethnicity, nationality, political belief, religion or atheism, shall be sentenced to up to two years of imprisonment. (2) A perpetrator shall be sentenced to up to three years of imprisonment if he/she commits the criminal act specified in (1) <ol style="list-style-type: none"> (a) with at least two persons, or (b) in the press, film, on the radio or TV, in a publicly accessible computer network or in any other way of a similar efficiency.
Section 356, Criminal Code	<ol style="list-style-type: none"> (1) Whoever publicly instigates hate against a nation, race, ethnic group, religion, class or any other group of people or derogation from the rights and freedoms of their members shall be sentenced to up to two years of imprisonment. (2) The same sentence shall apply to anyone who conspires or colludes to commit the criminal act specified in (1). (3) A perpetrator shall be sentenced to six months to three years of imprisonment <ol style="list-style-type: none"> (a) if he/she participates by this act in the activities specified in (1) in the press, in film, on the radio or TV, in a publicly accessible computer network or in any other way of a similar efficiency, or (b) if he/she participates actively through this act in the activities of a group, organization or association that proclaims discrimination, violence or racial, ethnic, class-related, religious or any other hate.

Czech Republic <i>(continued)</i>	
Section 403, Criminal Code	<p>(1) Whoever establishes, supports or promotes a movement which demonstrably strives to suppress human rights and freedoms or promulgates racial, ethnic, national, religious or class-related hate or hate against any other group of people shall be sentenced to one to five years of imprisonment.</p> <p>(2) A perpetrator shall be sentenced to three to ten years of imprisonment</p> <p>(a) if he/she commits the crime specified in (1) in the press, film, on the radio or TV, in a publicly accessible computer network or in any other way of a similar efficiency,</p> <p>(b) if he/she commits the crime as a member of an organized group, (...)</p>
Section 404, Criminal Code	Whoever publicly expresses sympathy for a movement referred to in §403, paragraph 1, shall be punished by imprisonment from six months to three years.
Denmark	
Section 140, Criminal Code	Any person who, in public, mocks or scorns the religious doctrines or acts of worship of any lawfully existing religious community in this country shall be liable to imprisonment for any term not exceeding four months
Section 266(b), Criminal Code	<p>(1) Any person who publicly, or with the intention of wider dissemination, makes a statement or imparts other information by which a group of people are threatened, insulted or degraded on account of their race, colour, national or ethnic origin, religion, or sexual orientation, shall be liable to a fine or to imprisonment for a term not exceeding two years.</p> <p>(2) When handing down the punishment, it is to be considered as an aggravating circumstance that the statement is in the nature of propaganda.</p>
Hungary	
Section 269, Criminal Code	A person who incites to hatred before the general public against (a) the Hungarian nation; (b) any national, ethnic, racial group or certain groups of the population, shall be punishable for a felony offence with imprisonment up to three years.

If we look closer at these provisions, we will find considerable differences in speeches which may be punishable. Danish Criminal Code, for instance, punishes such speeches “by which a group of people are threatened, insulted or degraded on account of their race, colour, national or ethnic origin, religion, or sexual orientation.” The actual existence of a victim is not required for prosecution (a confirmation that a group of people was threatened or degraded is sufficient) and the proof that a statement was true does not constitute immunity from prosecution.

Lars Hedegaard, a Danish journalist and activist, was found guilty by an appellate court on the grounds of the aforementioned provision (Coleman 2012, 27). In December 2009 he said in a taped interview that there was a high incidence of child rape and domestic violence in areas dominated by Muslim culture. Hedegaard was fined \$1,000 for the crime of having denigrated male Muslims all over the world. The Supreme Court (*Hedegaard* 2012), however, acquitted Hedegaard on the grounds that the speech was not public. The very fact that the trial court acquitted Hedegaard, the appellate court found him guilty and the Supreme Court acquitted him again tells us that to apply Section 266(b) may not be easy in similar cases.

The prosecution of the author of 12 editorial cartoons of Islamic prophet Mohammed in the Danish broadsheet daily newspaper, *Jyllands-Posten* in September 2005 was discontinued early by the Regional Public Prosecutor because there was not a reasonable suspicion that a criminal offense had been committed (Coleman 2012, 21).

The Brno City Court, the Czech Republic, punished Tomáš Vandas, the leader of the dissolved Worker's Party, in 2011 for the following statements: "Our beautiful Czech country has been flooded by a destructive immigrant tsunami which destroys everything that is beautiful and dear to us (...) Furthermore, we keep guard over decent people in Janov residence area in Litvínov who have been terrorized by the unadaptable ethnic group and who refused to suffer violence any longer..." (*Vandas* 2011). Vandas was found guilty pursuant to Paragraph 198a of the Criminal Code effective as of 2010⁴ of "incitement to hatred" with a suspended sentence of 4 months and a probation period of 20 months and a fine.⁵

The Hungarian Constitutional Court takes a very different stance on the prosecution of expressed opinions, this court goes so far as to amend statutes. In its case law the court holds that incitement to hatred may be grounds for prosecution only when it presents "clear and present danger"

4 Act no. 140/1961 Coll., Criminal Code, Section 198a(1): "Whoever publicly incites hatred of another nation or race or calls for restriction of the rights and freedoms of other nationals or members of a particular race shall be sentenced to a term of imprisonment of up to two years."

5 The judgment of the trial court was confirmed by Brno Regional Court on 5 January 2012. However, due to the presidential amnesty the punishment was pardoned. See http://zpravy.idnes.cz/amnestie-a-seznam-odsouzenych-dej-domaci.aspx?c=A130102_094503_domaci_jw.

(which means that hate speech may be prosecuted only when someone calls for a forcible act, or the commission of such conduct or act, or if the danger is not merely a presumed one, the endangered rights are concrete, and the threat of the forcible act is direct. The expression must also “endanger subjective rights” i.e. there must be an actual victim. Due to the failure to meet this condition the court, as early as 1992, declared the prosecution of “using abusive language” unconstitutional. (Decision 30/1992).⁶

In 2004 decision the court (judgment 18/2004) also strictly refused to grant the prosecution of “provoking hatred.”⁷ While the constitutionally acceptable “incitement to hatred,” according to the constitutional court, manipulates with instincts and emotions of an individual,⁸ “provoking hatred” addresses (only) one’s mind⁹ and is a type of expression which fails to present the most dangerous action for a democracy. “Provoking hatred’

6 The Constitutional Court effectively rescinded Section 269 (2) stating “Anyone who in front of a large public gathering uses an offensive or denigrating expression against the Hungarian nation, any other nationality, people, religion or race, or commits other similar acts, is to be punished for misdemeanour by imprisonment for up to one year, corrective training or a fine.”

7 The Constitutional Court declared unconstitutional the statutes which were meant to extend the prosecution of defamatory speeches. This concerned the new Section 269 (1) stating “Anyone who in front of a large public gathering provokes hatred or calls for committing a forcible act against any nation or any national, ethnic, racial or religious group, or against any group among the population, commits a felony and is to be punished by imprisonment for a period of up to three years.” and (2) “Anyone who hurts human dignity in front of a large public gathering by disparaging or humiliating others on the basis of national, ethnic, racial or religious identity commits a misdemeanour and is to be punished by imprisonment for a period of up to two years.”

8 According to the case law of the Supreme Court “Incitement targets not the mind but the primary instincts as it aims at affecting the emotions of others by whipping up passions, taking into account the possibility that the hostile feelings so raised may erupt and become unstoppable.” (Legf.Bír.Bf. IV.2211/1997.; BH1998. 521.) Cited according to the judgment of the Constitutional Court 18/2004.

9 “Provocation is the public expression of a thought which can form other people’s views and emotions with regard to certain phenomena, and consequently, in some cases, it can generate impetuous effects in the psyche of others. However, while provocation may manifest itself in persuasion based on presenting reasonable arguments, and it can be aimed at phenomena considered harmful according to the general value judgement of society, in most cases, such criteria cannot be found in the case of incitement, the synonyms of which are arousal, instigation, excitation, encouraging, or whipping up.” (Legf. Bír. Bfv. X.1105/1997.). Cited according to the judgment of the Constitutional Court 18/2004.

is an act that may include both reasonable arguments and persuasion, and raising instant negative emotions without any reasonable judgment. This is caused by the twofold nature of hatred: it can be an abrupt and passionate emotion but it can be a lasting attitude as well.”¹⁰

However, the decisions of the Hungarian Supreme Court, which has apparently been inspired by the US Supreme Court, are, in Europe, quite isolated and have often been criticized. For instance, according to the European Commission against Racism and Intolerance (ECRI) the very high level of constitutional protection afforded to the freedom of expression has made it impossible for the authorities to legislate effectively against racist expression: “under Hungarian law, only the most extreme forms of racist expression, i.e. incitement liable to provoke immediate violent acts, appear to be prohibited, a standard so high that it is almost never invoked in the first place. While it is true that legislation alone cannot turn racist attitudes around, the almost total absence of limits on free speech in Hungary complicates the task of promoting a society that is more open and tolerant towards its own members.”

Christians (2011, 8) shows, on the other hand, that by abandoning punishments which are based on “clear and present danger” the European countries will not avoid an uneasy task of an ad hoc analysis of discourse and its consequences to identify the detriments: “How, without bringing in incitement to violence, can a line of demarcation be drawn between discourse containing ideas that may be shocking but that can stimulate informed debate with a view to transforming society (whether through the free play of ideas in civil society or through various forms of institutionalized democracies) and discourse driven not by reason but by the release of an emotional reflex of hostility?”

Leaving Europe, one may find an approach which emphasizes free political discourse with the Supreme Court of Canada. This court, in a decision of *R. v. Keegstra* 1990 upheld a hate speech ban under the condition that it was limited to the public, intentional promotion of hatred. In order to prevent the fact that the issue in question “promotes hatred against any identifiable group” too broadly target political expression, the Supreme

10 Cited according to the judgment of the Constitutional Court 18/2004.

Court advocates a restrictive interpretation. Word “promotes” indicates active support or instigation and term “hatred” does not denote a wide range of diverse emotions, but is circumscribed so as to cover only the most intense form of dislike.

A detailed comparison of individual discourses which are held by the courts of European countries is, for language reasons, virtually impossible. In Europe, the ECtHR is essential in deciding issues concerning freedom of expression as it sets the “minimal standard” of the protection of freedom of expressions when deciding applications on violation of Article 10 of the Convention. Therefore, in the latter part of this text, we will focus on how the Strasbourg court determines the prosecution of hate speech in its case law.

3. THE CASE LAW OF THE EUROPEAN COURT FOR HUMAN RIGHTS

In its decisions, the ECtHR repeatedly states that freedom of expression constitutes one of the essential foundations of a democratic society, one of the basic conditions for its progress and for the development of every man (*Handyside v. the United Kingdom* 1976). The ECtHR also emphasizes that freedom of expression is vital for democracy and that there is no democracy without pluralism. “One of the essential conditions of democracy is (...) the possibility to discuss (...) issues raised by various groups even when they shock or disturb.” (*Herri Batasuna and Batasuna v. Spain* 2009).

On one level the ECtHR emphasizes that the freedom of political discourse is “the key concept in a democratic society which permeates the whole Convention.” On another level, however, hate speech was categorized as a type of expression which cannot be protected by the Convention which the ECtHR held as early as 1994 in *Jersild v. Denmark*. In this case, the ECtHR protected a Danish journalist convicted pursuant to section 266(b) of the Criminal Code of making a documentary containing interview he had conducted with members of a group of young people calling themselves “the Greenjackets,” who made abusive and derogatory remarks about immigrants and ethnic groups in Denmark. The journalist was convicted of aiding and abetting the dissemination of racist remarks.

The ECtHR considered that the applicant decided to include the offensive statements in programme, not with the intention of disseminating racist opinions, but in order to counter them through exposure (*Jersild v. Denmark* 1994, §28). The Court also reiterated the importance of the media as the guard-dog of democracy: “The punishment of a journalist for assisting in the dissemination of statements made by another person in an interview would seriously hamper the contribution of the press to discussion of matters of public interest and should not be envisaged unless there are particularly strong reasons for doing so.” (*Jersild v. Denmark* 1994, §35).

Nevertheless, the Court also held that the actual expressions of Green-jackets did not enjoy the protection of Article 10. The ECtHR has developed its stance that some types of expressions are not compatible with the Convention as they are “contrary to the text and spirit of the Convention” mainly by both directly and indirectly applying Article 17 (prohibition of abuse of rights).¹¹

According to the most recent ECtHR factsheet published by the Council of Europe (2012, 1) “there is no universally accepted definition of hate speech.” The factsheet also states that the ECtHR case law set clear criteria which may be used to characterize hate speech and thus rescind the protection which is offered to freedom of expression as well as freedom of assembly and association. However, the aforementioned cases do not comprise an exhaustive list and the promised “clear difference” between “genuine and serious incitement to extremism” and the right of individuals (including journalists and politicians) to openly express their opinions, including those which “offend, shock or disturb” is not set.

Due to this, many authors openly challenge the existence of a clear line which demarcates the protected expressions, which “only” offend or shock, from hate speech.¹² For instance Sottiaux and Rummens (2012, 107) argue that in Article 10 of the Convention, the interests are still often decided in a purely ad hoc manner and reproach the ECtHR for “failing to provide a clear and predictable standard for the assessment of hate speech regulations.” Sottiaux and Rummens (2012, 112). While it is possible to

11 However, Cannie and Voorhoof (2011) believe that this application of Article 17 threatens the fundamental principles of democracy.

12 E.g. Kiska 2012, Sottiaux and Rummens 2012 or Coleman 2012.

trace some rules, principles and examples in the ECtHR case law, every case has its intricacies, mainly the purpose which is to be achieved by the person speaking, the intended recipient of the speech as well as the overall context and impact which a particular speech might have in a society.

Another examples of ECtHR offering protection include an individual who call the police “beasts in uniforms” and “individuals reduced to mental age of a new-born child as a result of strangle-holds that policemen and bouncers learn and use with brutal spontaneity” (*Thorgeir Thorgeirson v Iceland* 1992) and a member of a religious sect who, in a TV programme openly called for the introduction of *Sharia* (*Gündüz v Turkey* 2003).¹³ On another level, the ECtHR refuses applications in cases of Holocaust denial (*Garaudy v. France* 2003), distribution of flyers attacking homosexuality in a school (*Vejdeland v. Sweden* 2012) or when prosecuting the authors of *The Colonisation of Europe: Truthful remarks about immigration and Islam* which contained incitement to hatred against Arab nationals (*Soulas and others v. France* 2008).

When dealing with political discourse, it is interesting consider principles which the ECtHR applied in *Castells v. Spain* 1992 in contradiction to the judgment in *Féret v. Belgium* 2009. The former concerned an application of Miguel Castells, a Spanish senator, who published an article with insults against the government for violence against Basque activists who support independence of their province. His parliamentary immunity was withdrawn and he was charged with having proffered insults against the government. His defense lawyers offered to establish the truth of the information by hearing dozens of witnesses but the courts refused to admit the evidence and Castells was sentenced to imprisonment. The sentence was shortened but in the appeal the court confirmed its decision and suspended the sentence until the question is resolved in its entirety. The Constitutional Court dismissed his application.

The ECtHR held that there was a violation of freedom of expression. Although this interference was “prescribed by law” and, considering the circumstances in Spain at the time, it pursued a legitimate aim – not only “protection of the reputation and rights of others,” but also “prevention of

13 This happened despite the fact that the ECtHR called *Sharia* a doctrine incompatible with certain fundamental democratic values.

disorder,” the issue was whether an interference with freedom of expression was “necessary in a democratic society.” The ECtHR decline the argument of the government that the senator’s statements are to be regarded as value judgments and stated that the applicant should not have been denied to demonstrate his good faith.

The ECtHR also emphasized that the limits of permissible criticism must be wider with regard to the government than in relation to an individual and that the applicant was a representative when he published the article. “While freedom of expression is important for everybody, it is especially so for an elected representative of the people. He represents his electorate, draws attention to their preoccupations and defends their interests. Accordingly, interferences with the freedom of expression of an opposition member of parliament, (...) call for the closest scrutiny on the part of the Court.” (*Féret v. Belgium* 2009, §42).

In a different case, the ECtHR held that the conviction of Daniel Féret, a leader of a Belgian far-right party with a radical program against foreign nationals, is in accordance with the Convention. Mr. Féret in his election campaign distributed leaflets which contained controversial passages against foreign nationals and which were found illegal on grounds of incitement to hatred, discrimination and violence.¹⁴ Féret was sentenced to 250 hours’ community service related to the integration of immigrants, together with a 10-month suspended prison sentence and he was declared ineligible for 10 years.

In his application to ECtHR Féret stated that Belgian courts interfered with his freedom of expression. However, the ECtHR declined his arguments and found no violation of his freedoms as there were legitimate aims

14 E.g. a leaflet entitled “Program of the National Front” advocated the repatriation of immigrants and said he wanted to “oppose the Islamization of Belgium,” “stop the policy of pseudo-integration,” “return the unemployed non-European,” “reserve the Belgians and Europeans priority of social assistance,” “cease to fertilize the socio-cultural associations support the integration of immigrants,” “reserve the right to asylum (...) to people of European descent actually prosecuted for reasons policies “and” include the expulsion of illegal immigrants as a simple application of the law.” In addition, the program advocated to regulate more strictly the assumption of ownership of property in Belgium, prevent the establishment of sustainable non-European families and the formation of ethnic ghettos on the territory and “save our people from the risk posed Islam conquering.”

to protect the rights of immigrants against his hatred. The ECtHR did not allow for wider protection of the applicant on the grounds of his being a representative, it stated that it is the duty of politicians to defend democracy and its principles when expressing themselves in public:

“The Court believes that hate speech does not necessarily require the call to a particular act of violence or other criminal act. The violations committed by people insulting, ridiculing or defaming parts of the population and specific groups thereof or incitement to discrimination (...) are sufficient for the authorities emphasize the fight against racist speech against freedom of expression irresponsible and detrimental to the dignity or the safety of these parties or groups of people. Political speeches inciting hatred based on religious prejudice, ethnic or cultural pose a danger to social peace and political stability in democratic states.” (*Féret v. Belgium* 2009, §42).

The aforementioned cases have more in common than the fact that both applicants were active politicians. They both were sentenced for extremely shocking and politically incorrect statements which according to respective governments threatened the stability of countries but they were not addressed to any particular person and thus had no “specific victim.” Worth noting is that while in Miguel Castells’s case the decision of the ECtHR was unanimous, in the Belgian case the application was declined by a narrow majority of four votes to three. A lengthy dissenting opinion of Hungarian judge Andras Sajo was appended to the judgment which judges Vladimiro Zagrebelsky (Italy) and Nona Tsotsoria (Georgia) joined.

The dissenting minority of judges pointed out that the most controversial statements, for which Féret was convicted, are taken from the Program of the National Front distributed during an election campaign in 1999. This program clearly reflects the interest of the party to illegal immigration. The party has never been banned. Other statements are vague policy proposals to the government which do not call for actions on the part of the population.

According to the dissenting opinion, the majority made a rather rash decision. This rashness stems from the fear that hate speech may interfere with public order in such a way that it causes reactions of the public incompatible with a peaceful social climate and could undermine confidence in democratic institutions. “This scenario appears Apocalypse simply by

force of circumstances (...) Who will do what and why? So many questions unanswered. One thing is certain: whatever happens in this climate is unclear to the account of the politician and his speech. Suddenly, the words of politicians, the centerpiece of freedom of expression at one time (even for the decision itself, see paragraph 63), become the *bete noire* and must be selfcensored due to the responsibilities politicians in this regard.”

Sottiaux and Rummens also fear that the absence of efforts to structure inquiry in hate speech cases and to limit the reach of the concept, may lead to a very wide concept which may allow that legitimate instances of political expressions will be caught by it. They propose that the ECtHR, when hearing cases relating to Article 10 of the Convention, applies its own test of considering how appropriate the dissolution of a political party would be.

When hearing cases concerning Article 11 (freedom of association) the ECtHR requires sufficient evidence that the programme of any given party interpreted by actions and expressions of leader of this party interferes with the concept of “democratic society,” that actions and expressions of its leaders which are considered in the matter at hand may be attributed to the political party concerned and last, but not least, that it presents sufficiently imminent risk.

The mentioned authors also argue that the application of a “sufficiently imminent risk” criterion in the case law concerning Article 11 does not allow democratic countries to take action against any antidemocratic party which leaves room for smaller antidemocratic movements operating in the informal periphery of the democratic system. The ECtHR held that dissolution of a political party was legitimate in few cases. (Kosař, 2009). One may then ask this: Why this rule fails to be applied to expressions which are in violation of the Convention? One may assume that an antidemocratic association or a political party constitute bigger threat to democratic values than an individual who expresses hate speech and considering the concept of defending democracy there is no reason to allow more protection to a party than to an individual.

4. CONCLUSION

As stated in the introduction of this chapter, criminal prosecution has its place among the tolls used to fight extremism and no state can afford

to stand idly while extremists interfere with democratic institutions. However, judge Sajo, in his quoted dissenting opinion in *Féret v. Belgium*, warns us not to succumb to our emotions. Is it true that offensive words have so much power? If we do not punish certain expressions, are we putting our freedom and values at risk?

It is obvious that the choice between the protection of minorities against hate speech and freedom of expression and political discourse is perhaps a choice of the lesser of two evils. Hate speech is a tool to fight extremism as well as a censor of a political discourse. To strike a balance is a delicate process, without a perfect solutions which would satisfy all involved. However, as Sandra Coliver (1992, 374) put it more than a decade ago, concluding the examination of hate speech laws by over thirty experts from around the world, “the rise of racism and xenophobia throughout Europe, despite a variety of laws restricting racist speech, calls into question the effectiveness of such laws in the promotion of tolerance and non-discrimination.”

There are plenty of hate speech interpretations in the observed countries. A detailed analysis would present a complicated issue due to language intricacies and would be beyond the scope of this text. Besides the wording of statutes, there is also the issue of interpretation of these statutes. The aim of this survey of different approaches to hate speech in Europe was to indicate the threat which this amorphous concept of hate speech may pose for free political discourse as it may imply that some topics “should not be spoken about.”

I believe that a certain restraint should be exercised and that criminal proceedings should be employed as a last resort. As an example of a restraint approach Sottiaux and Rummens (2012) offer the test which the ECtHR applies when deciding whether to dissolve a political party. According to this test, in order to ban a political party, it is not sufficient that activities of this party are antidemocratic, but evidence must also be presented that the threat to democracy is imminent. In hate speech context, one should not examine only the content of the expression but also the degree of probability and the seriousness of consequences for the democratic system.

It should be emphasized that criminal proceedings is only one of the tools which are at the disposal of the states. Focus on education to-

wards a democratic citizenship, collection of relevant data concerning extremism and discrimination and higher involvement of communities and the society as a whole in the creation of anti-extremism policies are some recommendations from Council of Europe Parliamentary Assembly Resolution 1754 (2010).

The Czech NSS, in the conclusion of its decision to dissolve the Worker's Party, points out that branding this party as the enemy of democracy may bring relief to the public conscience. "However, the society must realize that the cause of existence of this party lies within the society itself. The Worker's Party is no external enemy, it is only one of the facets to this society. The issues of this society, which the party, in some instances, legitimately pointed out, used and abused, will not disappear with the dissolution of this party." (*Worker's Party Judgment 2010*, §656)

Some authors (Sottiaux and Rummens 2012, 120) observe that silencing of the issues connected with an increasingly multicultural Europe under the guise of political correctness, only increases the electoral support of populist and extremist parties. The existence of hate speech should be taken seriously as well as the electoral support of the parties which express them. It is necessary to openly start discussing the issues which the populists and extremists will otherwise raise and to accept political solutions, based on a rational analysis of the issues, which will take into account our fundamental democratic values including the protection of our rights and freedoms.

Bibliography

Bleich, Erik. 2011. "The Rise of Hate Speech nad Hate Crime Laws in Liberal Democracies." *Journal of Ethnic and Migration Studies* 37 (6): 917-934.

Cannie, Hannes and Dirl Voorhoof. 2011. "The Abuse Clause and Freedom of Expression in the European Human Rights Convention: An Added Value for Democracy and Human Rights Protection?" *Netherlands quarterly of human rights* 29 (1): 54-83.

Castells v. Spain 1992. Judgment of the ECtHR of April 23, 1992, no. 11798/85.

Christians, Louis-Léon. 2011. *Expert workshop on the prohibition of incitement to national, racial or religious hatred – study for the workshop* http://www.ohchr.org/Documents/Issues/Expression/ICCPR/Vienna/Vienna-Workshop_BackgroundStudy_en.pdf (January 16, 2013).

Council of Europe. 2012. *Factsheet – Hate Speech*. http://www.echr.coe.int/nr/rdonlyres/d5d909de-cdab-4392-a8a0-867a77699169/0/fiches_dis-cours_de_haine_en.pdf (December 12, 2012).

Council of Europe Parliamentary Assembly Resolution 1754 (2010). *Fight against extremism: achievements, deficiencies and failures*. <http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta10/ERES1754.htm> (January 16, 2013).

Coleman, Paul B. 2012. “Censored.” Wien: Kairos Publications.

Coliver, Sandra. 1992. “Hate Speech Laws: Do They Work?” In: *Striking a Balance: Hate Speech, Freedom of Expression and Non-discrimination*, ed. Coliver, Sandra, Kevin Boyle and Frances D’Souza. London, Article 19. <http://www.article19.org/data/files/pdfs/publications/striking-a-balance.pdf> (January 16, 2013).

Decision 30/1992 (V. 26.) AB. Hungarian Constitutional Court. http://hunmedialaw.org/dokumentum/154/01_301992_Abh_final.pdf (February 10, 2013).

ECRI. 2009. *ECRI Report on Hungary (fourth monitoring cycle)*. Strasbourg: ECRI. <http://www.coe.int/t/dghl/monitoring/ecri/country-by-country/hungary/HUN-CbC-IV-2009-003-ENG.pdf> (February 10, 2013)

Féret v. Belgium 2009. Judgment of the ECtHR July 16, 2009, no. 15615/07.

Framework Decision 2008/913/JHA on combating certain forms and expressions of racism and xenophobia by means of criminal law.

Garaudy v. France 2003. Decision of the ECtHR of June 24, 2003, no. 65831/01.

Gündüz v Turkey 2003, Decision of the ECtHR of November 13, 2003, no. 59745/00.

Handyside v. United Kingdom 1976. Judgment of the ECtHR of December 7, 1976, no. 5493/72.

Hedegaard 2012. Judgment of the Danish Supreme Court of April 20, 2012, no. 228/2011.

Herri Batasuna and Batasuna v. Spain 2009, Judgment of the ECtHR of June 30, 2009, no. 25803/04, 25817/04.

Jäger, Petr and Molek, Pavel. 2007. "Svoboda projevu. Demokracie, rovnost a svoboda slova." [Freedom of expression. Democracy, equity and freedom of speech] Prague: Auditorium.

Jersild v. Denmark 1994, Judgment of the ECtHR of September 23, 1994, no. 15890/89.

Kiska, Roger. 2012. "'Hate' Speech Laws in the European Union: Implications for Freedom of Speech and Expression." 19 April. Lecture presented at the 5th Fundamental Rights Platform, Vienna.

Kosař, David. 2009. "Judikatura ESLP v oblasti rozpouštění politických stran" [ECtHR case law on dissolution of political parties] *Jurisprudence* 18 (7): 29-42.

R. v. Keegstra 1990. Decision of the Supreme Court of Canada of 13 December 1990, no. 21118. <http://scc.lexum.org/decisia-scc-csc/scc-csc/scc-csc/en/item/695/index.do> (February 8, 2013).

Recommendation No. R (97) 20 of the Council of Europe Committee of Ministers to member states on “hate speech,” adopted on 30 October 1997. [http://www.coe.int/t/dghl/standardsetting/media/doc/cm/rec\(1997\)020&expmem_EN.asp](http://www.coe.int/t/dghl/standardsetting/media/doc/cm/rec(1997)020&expmem_EN.asp) (February 8, 2013).

Refah Partisi v. Turkey 2003. Judgment of the ECtHR of February 13, 2003, nos. 41340/98, 41342/98, 41343/98 and 41344/98.

Repík, Bohumil. 2004. “Svoboda projevu versus rasismus ve štrasburské judikatuře.” [Freedom of expression versus racism in Strasbourg case law] *Trestněprávní revue* 3 (2): 47-52.

Sottiaux, Stefan and Stefan Rummens. 2012. “Concentric democracy: Resolving the incoherence in the European Court of Human Rights’ case law on freedom of expression and freedom of association.” *International Journal of Constitutional Law* 10 (1): 106-126.

Soulas and others v. France 2008. Judgment of the ECtHR of July 10, 2008, no. 15948/03.

Thorgeir Thorgeirson v. Iceland 1992. Judgment of the ECtHR of June 25, 1992, no. 13778/88.

Vandas 2010. Judgment of the Brno City Court of 10 May 2011, no. 9 T 57/2010.

Vejdeland v. Sweden. Judgment of the ECtHR of February 9, 2012, no. 1813/07.

Worker’s Party 2010. Judgment of the NSS of February 17, 2010, no. Pst 1/2009. http://www.nssoud.cz/docs/Delnicka_strana_original.pdf (December 12, 2012).

PART II

Policies of Integration of Immigrants and Minorities

INTRODUCTION

Jiří Kopal

Are there any meaningful policies which can be enforced by mainstream politicians in the delicate process of Muslim and Roma integration in Europe? When taken from different EU-wide anti-discrimination surveys, problems concerning the Roma and Muslims seem similar – they are simply, in many areas of life, discriminated-against minorities that should be protected from majorities. Many politicians, including the mainstream ones, take the opposing position that the majority of society has to be better protected from these minorities, which often resonates with their electorate. The issue is very complex. When looking from a local level at particular situations concerning different Roma and Muslim communities in Europe, not to speak of the many differences among these groups and their respective origins, their problems are in many ways different. Muslim immigration and integration can be described as still a relatively new phenomenon, at least in comparison to the Roma, who have lived in Europe for hundreds of years. In their case, however, as their waste majority predominantly lived in countries of the Eastern bloc, the change from living under communism to participating in democracy has brought challenges for which neither they nor the societies that surround them have been really prepared. At the same time bad paternalistic habits of both state and regional social institutions towards them prevailed, which has made the situation even worse.

To be honest, it is quite normal that not many successful examples of good practice or comprehensive solutions can be found in either case. We do not have many successful examples, and many important parts of the process to policies bringing results are missing. Such as lack of data, qualitative research and indicators that would allow us to properly monitor the way money for thousands of projects has been spent, and what kind of result it produced for the life of both minorities and the majority. Thus, the plan to intervene with a common view on integration and anti-discrimination policies in one package looks like one of the most difficult. The comparison of policies from the countries of the new and old EU member states makes it even more complicated. Almost all the older EU member states have been witnessing sensitive public debate on policies regarding the integration of Muslim minorities throughout the years. They face both extremist political views on the one hand and cautious political correctness on the other. The majority of the new member states focus on the lack of successful policies regarding Roma integration, a problem that no country or regional authority has thus far been able to solve in an inspiring way that could serve as a good example for other countries.

There is also a rationale for comparing four middle-sized EU countries. Numerous studies already exist which have concentrated on the integration of foreigners in countries such as Germany, France, the UK, Spain or the Netherlands. Insight into the practices of new EU members together with old members and their policies not only to immigrants, but also to Roma is almost non-existent and more complicated. A comparison of the problems and policies of two new EU members with those of two older EU members seemed quite interesting to us. Especially interesting was that we opted for three countries of the less open and more inwardly oriented former Austria-Hungary region, where, as a matter of fact, several contrastive nations, and the various islands of minority populations within them, have been able to live in quite a civilized way for centuries. This includes the culturally and intellectually prominent Jews, as well as the less visible culture of the travelling Roma, although various hostilities have been ongoing. We decided to put these heirs of “Mitteleuropean legacy” and the western element of Denmark together in order to construct an interesting reference frame. Denmark is known, at least from the Central

European perspective, for its more robust public debate, as well as quite sophisticated research on what both immigrants from non-western countries, including those of Muslim origin, and the majority of society face.

There have been similarities, including a common general framework, for studies submitted to national researchers. The ways in which precise data about minorities are collected, how not only integration, but also anti-discrimination policies function and what kind of problems in the area of education can be found in each chapter. However, we have also intentionally left space for them to consider what is the most important element from their side in the area of integration, as well as the focus on Muslims in Denmark and Austria, and Roma in Hungary and Czechia. Thus, researchers from Denmark logically focused on the Muslim minority, and mentioned Roma in just one quote due to their small number and lesser relevance to integration policies, whereas Hungarians concentrated solely on the Roma. The Austrian part has besides the main view on immigration policies in general, and the integration of Muslims in particular, also mentions about the Roma minority. This minority has always been tiny in Austria, but it has increased slightly due to the migration of Roma from the area of former Yugoslavia and other countries. The Czech author decided for a balanced and detailed perspective on both Roma and foreign national integration policies, as the amount of foreigners has been increasing over the past years, however it remains clear that it is the integration of Roma which forms the major issue in the country.

National chapters

In this section we highlight some interesting facts from the country chapters, with the main focus on ethnical data collection, overview of integration policies and their development in each of the countries as well as focus on minorities and foreigners education.

The chapter on integration in **Austria** clearly states that ethnic data are not collected in Austria. However, the central administrative statistical office of Austria (Statistik Austria) regularly publishes reliable data on the composition of the population with regard to nationality, place of birth and migration. In official statistical data, provided both at national level and by other public authorities, including provincial governments,

the main distinction is drawn between foreigners and Austrian citizens. At the same time the author points at the problems with the confusion of data collection on national and regional levels which sometimes leads to huge differences in numbers. In 2009 Statistik Austria estimated the number of Muslims in Austria at around 516,000 persons. Among the 263,000 Muslims holding foreign nationality, Turkish citizens and citizens of Bosnia-Herzegovina are the largest groups. There are no quantitative data available describing the living conditions of Roma in Austria, and as they do not declare themselves Roma they constitute an ‘invisible’ minority. This is partly similar to the Czech Republic and Hungary, in that although the numbers of Roma are tiny in comparison, they have been predominantly living below the poverty level and with a significantly lower level of education than the overall population.

The author interestingly describes the difficulties with changes in policies and the meaning of integration over the years in Austria. Gradual tightening of immigration policies and requirements, including those involving language, as one of the duties to fulfill integration conditions led MIPEX to the conclusion that the Austrian naturalisation regime belongs to the most restrictive in Europe¹. The Interior Ministry presented, in 2010, a National Action Plan on Integration. In the light of the criticism concerning the restrictive policies, it is interesting to quote how the ideal result of integration is envisaged, at the same time using quite modern anti-discrimination language: *“An integrated society is characterized by openness and social permeability. It allows the individual to lead one’s life with his or her own responsibility without being discriminated against because of his or her origins, language or skin colour.”*

In the area of education, Austrian school authorities do not collect data on the migration status of pupils, but on nationality and on “first language other than German.” Thus, it is difficult to analyse this issue using school statistics. There is a major problem that students with language deficiencies can be moved to “special needs school.” This happens, for example, to Turkish and Ex-Yugoslavian children who have almost no chance to re-enter the normal educational system. The challenge to the Austrian educa-

1 See also very recent article in the Austrian press: http://www.wienerzeitung.at/themen_channel/wz_integration/politik_und_recht/543844_Der-vorgetauschte-Fremde.html

tion system is posed by a combination of linguistic and socio-economic disadvantages.

Legislation in the Anti-discrimination area is rather fragmented. However, in all provinces, specialised bodies for the implementation of anti-discrimination law do exist. Similarly to the Czech Republic, when the EU anti-discrimination directives were transposed, the few public debates discussed the issue of freedom of contract. The main criticism is aimed at deficiencies in the enforcement and limited compensation for immaterial damages for discrimination victims.

Researchers from the Policy Research & Consulting Institute based in Budapest provide details on the problems with Roma integration in **Hungary**. The focus on ethnical data collection shows that the demand to mark the column of “Roma nationality” in overall censuses is something that cannot be regarded as a tool that would ever provide sufficient data on the Roma population. Thus, certain researchers and sociologists have decided to collect data on Roma populations with the help of the Roma themselves in order to ensure more precise numbers as to their number. The method consists of registering as Roma those who are considered to be Roma by their social peers.

According to the surveys in Hungary, 97% of the adult Hungarian population feels tension between the Roma and the non-Roma, which clearly demonstrates the intensity of the problem with Roma integration in the country. Other surveys have shown that Hungarians incorrectly estimate the number of Roma in society to be 14%, although qualified estimates show a number closer to 8%. This shows once again how the lack of precise data leads to miscommunications and exaggeration.

Hungarian authors point out the issue of tackling Roma problem as social problem. It must be noted that similar discussion has taken place in the Czech Republic. The issue is difficult to address if there are so many discriminatory aspects that prevent practical use of social policies. Looking at Roma problems through social lens alone has proved to be unsuccessful not only in the years of impractical social engineering under communism, but also in the nineties and in the first years of the new millennium.

Despite ongoing economic and social research in this area, governmental policies have been superficial, and have even produced negative

side effects, such as increased segregation in education. The missing functional link between funding and goals, as well as missing indicators due to a lack of prior data which precluded comparisons, were part of the problems Hungarian governmental policies faced. In addition, the National Social Inclusion Strategy took into account both Roma and other underprivileged demographics, failing to explicitly distinguish them. The other problem Hungarian researchers mention is the underrepresentation of the Roma in national politics.

They come to the conclusion that the Roma minority have been caught in a vicious socio-economic circle resulting from discrimination and segregation in the sectors of housing, education and, frequently, employment. Discrimination is seen as both the cause and the consequence of this situation.

The Czech chapter deals both with the integration of Roma and policies of foreigners integration. Although being relatively new to immigration, **Czechia** hosts some 400,000 immigrants. Unlike Austria and Hungary, in addition to Slovaks, the largest percentage of foreigners have been Ukrainians, who came mostly for economic reasons, and Vietnamese, who have had strong ties with Czechia since the times of cooperation between socialist states.

Roma are the main targets of integration policies, as the great majority of them has experienced both social and spatial exclusion. The lack of ethnic data has led to a situation where out of some 200,000 estimated Roma only 13,000 claim to be of Roma ethnicity. The author then distinguishes between four levels of the integration of ethnic minorities: political-legal, social-economic, cultural, and majority social acceptance.

Both the widespread problem of the segregation of Roma children in education and security problems based on the example of social tension in Northern Bohemia in 2011 have been described with the help of detailed case studies, which describe the problems in a complex way. The comparison of Roma populations with foreigners is interesting as the children of foreign nationals are given better education in schools of the main educational stream than those of the Roma, who are discriminated against by placement in practical schools. One of the problems is the access to justice, not just in the area of children education, where civil society organisations play – as in other areas of discrimination – a significant role.

Czechia was the last country to pass this anti-discrimination measure, doing so in 2009. The then Czech president Václav Klaus vetoed the bill and protested strongly against the concept of anti-discrimination. According to his opinion “freedom of choice is compromised by the anti-discrimination law,” and he also entered a protest against establishing the divided burden of proof when the defendant has to prove that he/she did not discriminate.

What has been identified by the author as a frequent cause of the exclusion of Roma and foreigners from mainstream society is the inequality of opportunity.

The chapter on **Denmark** starts with different categorisation of migrants and the particular techniques which have been used for data collection both by Statistic Denmark and other publicly financed institutions focused on providing comprehensive research and data on migrants and their integration. The number of 230,000 Muslims in Denmark coming from reliable statistics in 2012 is usually based on the country of origin. Immigrants and descendants from countries like Turkey, Pakistan, Somalia, Iran, Afghanistan and Arab countries (Iraq, Morocco, Lebanon, and Tunisia) are considered as Muslims.

One of the discussion point stems in the inclusion of migrants in local and national politics. What is interesting is that the descendants of immigrants are even more passive than immigrants in local elections. Those who are able to actively contribute to politics have to contribute to the reproduction of the informally established framework, that is, the discussions on Islam. However, according to the authors, this situation leaves ground open for non-democratic forces. At the same time, after years of increasing participation in elections with immigrant candidates, the amount of them decreased.

When focusing on history of integration efforts, they come up with the fact that the measurement of integration is also difficult because it is fraught with subjective feelings regarding identity, belonging and language. However, more substantial integration criteria has become popular in the last 10 years.

When considering existing discrimination policies, the authors conclude that 79% of individuals with an Islamic background do not report cases of discrimination mainly due to the lack of trust towards police,

even though there are established channels to deal with those matters. Regarding security dangers, the authors quote their older study to identify 5 groups of Muslims alongside axes of religious sentiment and politicisation: Fundamentalists/Orthodox, Seculars, Rebellions, Islamists and Radical Muslims.

European Context

The chapter on **integration policies on EU level** shows that these policies are far less developed in comparison to national policies. This seems logical as the cooperation on foreigners integration has been strengthened only a few years ago and coherent EU policies on Roma are rather in the phase of slow preparation. As this domain should stay predominantly national, it wouldn't be wise to increase the powers of the EU before couple of years of reasonable practice would be thoroughly evaluated. Integration policies and their administration should stay as close to people as possible. When further developing these policies and building trust at the same time at the national levels, measurability of successes and accountability of governance of different funds support stemming from them to concrete projects have to be scrutinised regularly and subjected to open public debate.

Landmark European Court of Justice (ECJ) and European Court for Human Rights (ECtHR) cases delimiting the rights of foreigners as well as freedom of religion and segregation of Roma children in the area of education were focus of the last chapter. ECJ and ECtHR cases of threatened expulsion and family reunification lead the author to the conclusion that the rights of foreigners are observed carefully by these courts. At the same time there are gaps between the views of national authorities, the societies which elected them into decision making positions, and international judges. It is true that some of the judgments of these courts lead to fears of an influx of immigrants at national levels, after some of the most important cases.

In the section dedicated to the most interesting cases in education, for which only the ECtHR (unlike ECJ) has the competence to solve, cases concerning the tolerance of religious symbols at schools and cases of mi-

nority segregation in primary education have been analysed. The ECtHR allows the display of religious symbols at schools, but it objects to proselytizing behaviour of the teachers who at the same time exercise their authority. It may be deduced from the case-law that the teachers are not required to renounce their religious symbols, but rather to be discreet about them.

In the area of segregation withing special schools, the case law of the ECtHR is continually expanding. The Court has ruled already in four cases (in the Czechia, Greece, Croatia and Hungary) that there has been discrimination against Roma children in education, based on the overall situation in a given state. These four consistent judgments show, according to the author, that the states must be careful that particular measures do not have a disproportionate effect on a certain ethnic group.

Conclusions

a) No precise data, no accountability?

One of the problems which has not been discussed properly not only in the countries we have focused on, but also within the EU as a whole is the lack of efficient measures of the success of integration and anti-discrimination policies. This is very difficult in a situation wherein ethnical data are missing. Despite years of debate as to the use of ethnic data as a tool to measure discrimination at the EU level, it is very difficult to introduce such policies in most countries. Without measurable data there is no accountability, and billions of Euros could be wasted over the years. The importance of privacy and secure data use is a condition of security that stems also from the ramifications of data abuse under Nazi rule in most countries of Europe. We have to bear in mind, also, the concern of the members of minority groups that their data would be collected, even if mechanisms for their security were in place. However, when looking from the angle of good governance, this cannot lead in the end to irresponsible management or complete immeasurability of policies financed by the EU, state and regional budgets. Rational decision makers have to opt for one of the variations, and watch carefully over the flow of public money.

All four countries have decided not to collect data. They replaced it just with different techniques of quantitative and partly also qualitative re-

search from the state, as well as from other publicly financed and non-profit institutions and organisations. Let's take aside the well-known common understanding that in Czechia and Hungary, where in each census the vast majority of Roma opt not to consider themselves officially as Roma, leading to very rough estimates as to how many really are in each particular country. What is even more interesting is that researchers from Denmark claim that the Roma, who are only 10,000 according to estimates in this country, do not want to be attached to the social label of "Roma," and thus do not want to, and cannot, be counted. Likewise, in the case of Roma from Austria, it is not easy to find any concrete data on them. As the Austrian report describes, in research done for the EU Fundamental Rights Agency there have not been any data found for the housing conditions of immigrant Roma, and thus an overview of the housing conditions of all immigrants was presented instead. This again makes attempts to measure results, which stem from the policies implemented in order to integrate minorities successfully, rather imprecise. When considering foreigners and their ethnicity, socio-economic data are collected mostly on the basis of nationality, which is also not ideal as it does not allow for the counting of naturalized immigrants (see, for example, the Austrian chapter).

b) Security and education

The other areas of concern for us, when examining integration besides overview of general policies, have been those of security and education, the former especially, because it is not so often mentioned in this context. It has to be taken seriously that strengthened security measures, resulting either from responsible policing or just from different fears, impact upon the day to day relationships of minority and majority populations in tense situations. It could also be linked with the increase in the activities of security services, police and other agencies, and thus very often leads also to demand on the state budget, as well as limitation of the privacy and freedoms of citizens. All security measures have to be seen as a means of last resort. However, a case study from Czechia examining a tense social and security situation in the Northern Bohemian region in 2011, as well as the statistics relating to attacks against the Roma in recent years, shows that preventive measures have not been in many ways sufficient. The Austrian

researcher has concentrated his research on the security of immigrants, which is a delicate question in Austria, whereas Danish researchers have presented data from an interesting study of Muslim youth, and the security concerns prompted by their attitude towards important values for majority society. We have also carefully focused on the issue of immigration influx and security fears stemming from the landmark case law in the cases of foreign migrants before both the European Court for Human Rights and the European Court of Justice.

Much more practical emphasis has to be put on the issue of **education**, which could ideally serve as a strong starting point for successful integration strategies. The tremendous importance of integration through meaningful and inclusive education might be helpful at least for future generations. Could educational policies be more inspiring in the future? The segregation of Roma children within special schools, for children with different handicaps, both in Czechia and Hungary, remains – despite overwhelming and unambiguous ECtHR judgments towards both countries – a very troublesome example. The Austrian-Hungarian legacy, and similarities in this regard, may be seen also in the Austrian chapter, where the system of special needs schools in Austria is used for the placement mostly of Turkish children with language difficulties. The tradition of formality in the education system prevails over the rights of the child, as we can see. Easy solutions for particular teachers and school principals can have long lasting negative impacts on society as a whole. In the long term, schools are one of the keys to more successful integration methods, including increased social competence for the children of the majority demographic, who can meet and compare naturally their attitudes and values with foreigners and minority children in day to day situations. In cases of bad society adjustment, these can serve as springboards for parallel societies, wherein a lack of inclusion can lead to both segregated, undignified school settings unable to offer anything for the future of their pupils, or private schools with curricular differences in values to those based on respect for human rights, as happened in some Muslim private schools in Western Europe, which have not been properly looked upon. In practice, the educational system is one of the toughest to reform in most countries. When considering Roma and migrant children, it seems to be even more difficult than in other areas of education in need of reform.

c) Relations between anti-discrimination and integration

Currently, we see the overall role of anti-discrimination as confusing when taken into account as part of integration policies. EU Directives and accompanying anti-discrimination laws have generally allowed for strengthened legal protection. But the anti-discrimination cases submitted to the courts have been far from numerous, despite the fears of many politicians, for many good reasons. Some supporters of discrimination policies claim that there is no real “rights culture” in Europe. However, this culture can hardly be established in society in the strict language of directives, a handful of official institutions with vague competences (anti-discrimination bodies), and a couple of lawyers and NGOs interested in intellectually demanding disputes. For example, those proving indirect discrimination, using statistical data that are difficult to collect, namely in cases of ethnic minorities, and test cases that seem to be too artificial still for many judges. Although the idealistic role of civil society actors and their achievements have to be praised, there needs to be many years more of both open debate of politicians, judges and intellectual elites as well as day to day grass root activities, and a lot of patience, before something like a rights culture in the anti-discrimination area can develop. This will only happen if the larger part of society is able to see real benefits at least in some parts of this agenda, and the intellectual or practical contradictions in the debate between freedom and equality can be solved.

What then is the role of anti-discrimination measures in the integration of ethnic minorities? Let's start to think about it idealistically. If there were no discrimination in either the public or private sphere, many integration policies might not be needed at all. While anti-discrimination has to ensure above all equal opportunity, integration policies often seek equality of results through affirmative action. But, in fact, if the first was achieved these policies would not be needed so much in many cases. Unless there was a discriminating placement of pupils into special and practical schools, policies for their integration into the main educational stream would not be needed. If there was no discrimination in the letting of both public and private apartments, Roma and foreign nationals would not be living in lodging houses, and many integration policies would be redundant. The anti-discrimination law might help facilitate the integration

of minorities, but this has not been proven comprehensively in practice. Nevertheless, the interconnection of anti-discrimination and integration policies has started to be confirmed even by international research, albeit partly, as by MIPEX, which is trying to monitor anti-discrimination as one of the seven indicators of the integrative level.

However, what is also to be considered is the question of an adequate level of integration policies – do we need further regularization of equal opportunity in the private sector, or rather positive campaigns in the style of the *ethnic friendly employer* or *fair schools* (examples taken from Czechia), which is an incentive for the future? The anti-discrimination law is a choice for more strict adaptations and so, logically, it seems more effective. The reproaches of right-wing representatives and freedom v. equality fighters, who see it as a serious abuse of the freedom of agreement, are, however, worthy of continuous debate, not only when thinking about proposing new directives at the EU level. We must still carefully submit to public discussion that which particular societies of EU members prefer, in order to preserve the legitimacy of the proposed measures.

The analysis of the equal access of foreign nationals shows that the current anti-discrimination laws do not cover all cases in all countries. Especially for foreign nationals, it gives space for a policy regulating residence conditions for foreign nationals on state territory, and does not grant them the same rights as other citizens. For national minorities whose members are citizens, it is out of the question that they should experience no discrimination in the public sector, and so in their case the state should allow no space for a different policy. It remains to be seen if to rid the private sector of this possibility is a step which may threaten freedom to an extent that would be really harmful, or whether these fears should be regarded rather as excessive ideological exaggeration than something coming from real life experience.

AUSTRIA

Bernhard Perchinig

1. DEMOGRAPHIC BACKGROUND

1.1 Categories used

The main categories used with regard to immigration in Austria differ. In legislation, the term “alien” (Fremder) is applied as the key term in all relevant legal acts. The category is based on nationality, and the legal term depicts all persons who do not hold Austrian nationality. The law furthermore uses the term “third country national” for foreign citizens who do not hold the nationality of a member country of the European Economic Area (EEA) or Switzerland, “Union citizen” for citizens of a member state of the European Union, and EEA-citizens for citizens of a member state of the European Economic Area.

In asylum legislation, the term “person entitled to be granted asylum” (Asylberechtigter) is used for recognised refugees, and the term “person entitled to subsidiary protection” for persons entitled to subsidiary protection. Persons applying for asylum are called “asylum seekers” (Asylwerber).

The legislation does not speak about “legal” or “illegal” migrants, but about lawful and unlawful entry and residence of aliens.

The terms “ethnic group” (Volksgruppe) is exclusively applied to the groups covered by the Ethnic Groups Act (Volksgruppengesetz), According to the Act, an ethnic group (Volksgruppe) is defined as those groups

of Austrian citizens traditionally residing (*wohnhaft und beheimatet*) in parts of the Austrian state territory who speak a non-German mother tongue and have distinct national characteristics (*Volkstum*). Currently, the Slovenes in Carinthia and Styria, the Croats in the Burgenland, the Hungarians in the Burgenland and in Vienna, the Czechs and Slovaks and the Austrian Roma and Sinti are recognised as “ethnic groups,” according to the Ethnic Groups Act.

The Ethnic Groups Act guarantees the preservation of the ethnic groups (*Volksgruppen*) and stipulates that their language and national characteristics (*Volkstum*) should be respected. Members of the ethnic groups have the right to use their mother tongue before the authorities in the areas where they live. In addition, education in their mother tongue – bilingual schooling – is granted in certain areas, as are bilingual road signs. For each ethnic group, an Advisory Committee (*Volksgruppenbeirat*) based at the Office of the Federal Chancellery is installed, and associations recognised by the Federal Chancellery as representative for the ethnic groups receive subsidies (*Volksgruppenförderung*). There are no comparable provisions for immigrant groups. Only in two cases have associations representing immigrants been granted a seat in the respective Advisory Committee: the case of the Hungarians in Vienna an association mainly representing Hungarians who fled from Hungary to Austria in the 1950s were given a seat in the Advisory Council for Hungarians in 1992; and in 1998 an organisation representing mainly immigrant Roma (*Romano Centro*) was recognised as also representing Austrian Roma and thus was given a seat in the respective Advisory Council.

In official statistical data provided by Statistic Austria, the statistical offices of the provincial governments, and other public authorities, the main distinction is drawn between “foreigners” (*Ausländer*) and Austrian citizens (*Inländer*). In the last few years, a growing number of statistical data have also been presented according to place of birth (birth in Austria and outside of Austria), which is used as a proxy for migration. Only the annual migration figures are based on first registration and deregistration in Austria and thus present a real picture of migration. A few data are also presented according to “migration background,” a category combining birth abroad and foreign parentage (at the federal level: foreign parentage

of both parents, at the level of some provincial governments; foreign parentage of at least one parent).

In the field of education, data about pupils are broken down by nationality, and, in the case of primary and secondary schools, also by the linguistic criterion, “first language other than German.”

In the media, the term “foreigner” is still most often used to depict immigrants, but the terms “migrant,” “immigrant,” and “person with migration background” are gaining prominence. For both asylum seekers and recognised refugees many tabloid newspapers use the colloquial term “Asylant,” which is not used in legislation and has a negative connotation. The traditional broadsheet press uses the terms “asylum seeker” and “refugee.”

1.2 Data overview and data collection

Statistik Austria, the central administrative statistical office of Austria, regularly publishes data on migration and the composition of the population with regard to nationality, place of birth and migration. Comparable data are also published by the statistical offices of the provincial governments.

Most demographical data are derived from the population register, which collects information provided in the registration slips to be filled out whenever registering an address with the municipal authorities. Registration with the authorities is compulsory, and because proof of registration is needed for most administrative procedures such as registering for health insurance or for a school, but also for opening a bank account, registration rates are high. As the municipalities do not control the residence status, also percentage of persons with an irregular residence status may be registered. For statistical purposes, all persons resident in Austria longer than three months are counted as “resident population” and presented in the tables published by Statistik Austria.

The data given with registration include name and address, gender, date and country of birth, nationality and also contain a box for religion. Whereas it is compulsory to give information on country of birth and nationality, information on religious affiliation is given on a voluntary base.

Until 2001, a census was held every ten years. The census also contained, *inter alia*, questions on religion, place of birth and colloquial lan-

guage spoken at home. From 2011, the census was replaced by a “register census” combining data available in public data repositories. As there are no public data repositories on religion and filling the box about religion when registering with the authorities is not obligatory, no precise information about the religious affiliation of the population is available. There will also be no precise information of language usage in the household available in the future, but it has been announced that these data should be collected by representative surveys. Until 2012, no such survey had been conducted.

The regular microcensus, which feeds into the European Household Panel and other European statistics, used to under sample immigrants. In 2008, a microcensus on working conditions of immigrants was held. Since then, immigrants have been over sampled in all microcensuses to allow in-depth analysis.

Population data are reviewed annually and are accessible on the webpage of Statistik Austria. Currently, the following data-sets related with migration are available:

Population stocks

- Population by nationality
- Population by country of birth
- Population by religion 1951-2001
- Population with Austrian nationality by colloquial language 1971-2001
- Population by migration background according to the microcensus 2008

Populations flows

- Population change by nationality
- Immigration from and emigration abroad by nationality
- Immigration from and emigration by selected source and target countries
- Naturalisation statistics
- Asylum statistics

Social statistics

- Microcensus ad-hoc module 2008: Working conditions of immigrants

The Ministry of the Interior regularly publishes data on residence permits, asylum decisions and deportation orders on its webpage. The data are revised monthly and annually respectively. The main categories used are nationality, asylum status, and the different types of residence permits. Furthermore, the annual expertise of the Austrian Institute for Economic Research on immigration to Austria is published on the webpage of the Ministry. The Austrian Funds for Integration, which is closely related to the Ministry of the Interior, together with Statistik Austria annually publishes a statistical compendium on migration in Austria based on publicly available datasets.

Several other institutions, such as the Chamber of Labour and the City of Vienna, organise surveys amongst immigrants on different topics from time to time. The Chamber of Labour Vienna recently published an in-depth survey on the employment conditions of immigrants in Vienna.

A further major data source for demographic information are the data of the labour market authorities, which until 2011 were only broken down by nationality. From 2012/2013, migration status will be reported too.

School authorities regularly publish data about the composition of the pupils based on nationality and, with regard to pupils attending compulsory schools, the linguistic criterion “first language other than German.”

1.3 Data reliability

In general, data published by Statistik Austria are regarded as highly reliable. Their collection and presentation follow the regulations for data collection laid down by the UN and Eurostat. Data published by provincial statistical offices sometimes use different categories as Statistik Austria and thus are often not comparable. Usually the research-community prefers to use data of Statistik Austria to the usage of data provided by the statistical offices of the provinces. For example, the concept “migration background” is defined by Statistik Austria as “persons born abroad and/or with foreign parentage of both parents,” whereas the Statistical Office of the City of Vienna defines the concept as, “persons born abroad and/or with at least one parent born abroad,” which leads to huge differences in numbers.

The regular microcensus has improved considerably in recent years due to strategic over-sampling among immigrants. Nevertheless, data have

to be used with caution when analysed regionally due to a low number of respondents in certain regions.

Data of the Ministry of the Interior are based on administrative needs and thus often do not comply with concepts used in migration research. They thus are rarely used for scientific purposes. The main categories used in these data sets are nationality and the different types of resident permits.

The data collection of the labour market authorities has recently been reformed: in future, labour market data will be available not only by nationality, but also by country of birth and foreign parentage.

Data collected by school authorities on linguistic criteria are usually met with caution among the research community, as the teachers, and not the pupils, fill in the information, and the funding structure of the school system produces unintended incentives to register a certain percentage of the pupils as having a first language other than German, irrespective of actual language competence in German.

Ethnic data are not collected in Austria. Until 2001, the census included a question about the colloquial language spoken in the household. This information was regularly used by politicians and scientists as a proxy to calculate the number of the members of the ethnic groups covered by the Ethnic Groups Act. However, the figures on language usage among immigrants have never been published. In addition, school statistics employ a linguistic criterion- the first language – of the pupil and not an ethnic criterion.

There have not been any discussions about the collection of ethnic data in recent years. There was some protest against the switch from the census to a registry census by the organisations of the ethnic groups covered by the Ethnic Groups Act, as in future no data on language usage will be available and thus it will not be possible to calculate the size of the groups.

1.4 Stocks and flows statistics

According to data provided by Statistik Austria, 1,349,006 persons living in Austria were born abroad (15.98% of the total population). Among them, persons born in Germany are the largest group (203,846), followed by persons born in Serbia, Montenegro and the Kosovo (188,082) and persons born in Turkey (160,145). Taken together, persons born in the successor states of the former Yugoslavia are the largest group (392,262). As the

table shows, 42.42% of all immigrants living in Austria have been born in the territory of the European Economic Area. Among them, 51% originate from the “old” EU member states and the EEA. Among the old member states, Germany is the most common country of origin, while among the new member states Romania and Poland have the lead. Among persons born in a third country, persons born in the two Austrian “guest worker” recruitment areas, the former SFR Yugoslavia and Turkey, together hold a share of 69.13%.

The following table shows the foreign born population in Austria by country of birth (country groups and countries with more than 10,000 persons resident in Austria).

A breakdown by nationality gives a similar picture. As the table shows, 11.50% of the resident population hold a foreign nationality. Among them, citizens of the European Economic Area and Switzerland hold a share of 41.13%, which is a similar share to the statistics based on the place of birth. Again German citizens are by far the largest group (153,491), followed by citizens of Serbia, Montenegro and the Kosovo (136,081) and Turkey (114,011). Taken together, the successor states of the former Yugoslavia and Turkey together count for 71.80% of all Third Country Nationals and for 42.38% of the resident foreign population.

Since 2008, Statistik Austria has regularly published an estimate of the migrant population and the population with foreign parentage based on the annual microcensus. These two groups are categorised under “migration background” (Persons born abroad (first generation) and persons born in Austria with both parents born abroad (second generation)). According to the data of 2011, a total of 1,586,600 persons with “migration background” reside in Austria, 415,400 of which have been born in Austria to parents born abroad. As the table shows, Vienna has the highest share of persons with migration background (33.8%), followed by the province of Vorarlberg (23%) and Salzburg (18.3%).

Migration patterns to Austria have changed dramatically in the first decade of the new millennium. Whereas until the late 1980s and early 1990s the successor states of the former Yugoslavia and Turkey were the main areas of origin, in the 1990s migration from Germany and from the new member states of the European Union rose considerably. From the

late 1990s onward, immigration from the former Yugoslavia and Turkey declined massively, whereas immigration from Germany and also the new EU member states increased significantly. Currently, Germans are the largest group of immigrants. The decline of migration from third countries is often attributed by the government and academics to be at least partly an effect of immigration restrictions imposed in the early 2010s.

Whereas in 2002, out of the 92,567 foreign citizens registering their residence for the first time in Austria 48,119 (52%) held the nationality of a third country (excluding the new EU Member States since 2004 and 2007) and out of the net-migration figure of 53,790, 60% held a Third Country passport (excluding the new EU Member States since 2004 and 2007), in 2011 out of the 114,936 foreign nationals migrating for the first time to Austria only 37.5% held a third country passport.

Since 2006, immigrants from Germany have been by far the largest immigrant group (2011: 17,977), followed by immigrants from Romania (2011: 13,713) and Serbia (2011: 7,483). Immigration from Turkey has declined massively and remains around 4,000 people per year.

Prior to 1990, immigration was male dominated, with a share of males of the foreign resident population at around 60%. Since 1990 there has been a clear trend of an increasing female foreign population. This seems to be related mainly to rising immigration from EU countries, above all the recent EU member states (see Fassmann/Reeger 2008: 13). This may ultimately be a consequence of an increased specific demand for female workers, above all in the fields of old-age and health care, tourism and domestic services.

As registration of religion is not compulsory, there are only estimates available about the religious affiliation of the population. Due to migration patterns in Austria and other European countries, the composition of the Muslim community has changed over the last decades. In 1971 only 0.3% of the Austrian population were registered officially as Muslim. In 1991, 158,776 residents (2% of the population) declared themselves of Muslim faith. There was almost a duplication of Muslims in Austria from 1991 to 2001, when Muslims were registered as the largest religious minority in Austria with 4.22% of the population in the 2001 census (IGGiÖ 2002); after Catholics (73.6%), atheist (12%), and Protestants (4.7%). According to

the Census 2001 there were 338,988 Muslims officially resident in Austria (resident population: 8,032,926) (Strobl 2006).

According to a study of the Austrian Funds for Integration (Marik-Lebeck 2010, 5f.), Statistik Austria estimates the number of Muslims in Austria at around 515,914 persons for the year 2009. Due to naturalizations, in 2009, about half of the Muslim population holds Austrian nationality (252,845), compared to 28% in 2001. Among Muslims with foreign nationality (263,069), Turkish citizens (109,290) and citizens of Bosnia-Herzegovina (52,059) are the largest groups (Marik-Lebeck 2010, 7). In the last few decades, Arabs and Pakistanis have become a considerable part of the Muslim population in Austria too, the former mostly from Egypt. The growth of the Muslim population since 2001 can be mainly be attributed to natural growth (+105,757), and migration (+64,251). 53% of the natural growth of Austria's population since 2001 can be attributed to the natural growth of its Muslim population. (Marik-Lebeck 2010, 8).

In 2001 (latest data available), the western federal province of Vorarlberg with its former industrial dominated towns had the highest share of Muslims in Austria (8.36%; 29,334 persons) Vorarlberg is followed by Vienna with 7.82% (121,149 persons). The provinces of Salzburg (4.5%, 23,137 persons), Upper Austria (4.0%, 55,581 persons), Tyrol (4.0%, 27,117 persons) and Lower Austria (3.2%, 48,730 persons) follow with shares of Muslims around the average (IGGiÖ 2005).

There are no official data available on the Roma population residing in Austria. According to the National Strategy for Roma Inclusion (until 2020 published by the Office of the Federal Chancellery (Bundeskanzleramt 2011)), the autochthonous Roma population as defined by the Ethnic Groups Act is estimated at 3,000-5,000 persons (Bundeskanzleramt 2011, 6). The Association "Romano Centro" estimates the number of Roma living in Austria between 50,000 and 80,000, of whom the majority are immigrants (Romano Centro 2011).

1.5 Usage of data in public discourses

In policy discourses, the usage of data has shifted from migration to integration issues. Whereas in the late 1980s and the 1990s mainly annual immigration figures and figures about the stock of the immigrant popu-

lation were used by right-wing populist parties to demand a restriction of migration, the focus now lies on debates about asylum figures and the educational situation of the “Second Generation.” In this context, mainly data of the OECD-PISA studies showing the low educational success rates of (in particular) children from Turkish families are most often cited. Furthermore, figures on religious affiliation have gained prominence in public discourses, mainly with regard to the number of Muslims and the demographic projections of their growth.

Naturalisations have declined significantly in the last ten years, which can at least partly be explained by heightened income and language requirements. Despite these great changes, there have been few debates on naturalisation.

2. MINORITY AND INTEGRATION POLICY WITH A FOCUS ON THE PRACTICE

2.1 Development of minority/integration policies to 2000

In Austria, the term “minority policies” is exclusively used with regard to policies targeting ethnic groups with Austrian nationality defined by the Ethnic Groups Act; and the term “integration policies” only applies to the integration of immigrants. Only with regard to Roma is there a slight overlap in practice, as an association focusing mainly on the integration of immigrated Roma (Romano Centro) is represented in the Advisory Council (Volksgruppenbeirat) for the Austrian Roma at the Office of the Federal Chancellery and is receiving some funding from the Funds for the Advancement of the Ethnic Groups (Volksgruppenförderung).

In the area of minority policies, most developments touched the rights of Carinthian Slovenes and Croats and Hungarians in the Burgenland, which are not debated here. The most important developments with regard to Roma and Sinti was the recognition of the Austrian Roma and Sinti as ethnic groups, according to the Ethnic Groups Act, and the implementation of an Advisory Committee (Volksgruppenbeirat) for Roma and Sinti at the Office of the Federal Chancellery in 1993. In February 1995 a racist bomb attack committed by the right-wing extremist Franz Fuchs in a district inhabited by local Roma in the town of Oberwart in the Burgenland

killed four local Roma. This bomb attack was condemned unanimously by the federal and by the provincial government. The victims were buried in a state funeral attended by the Austrian President and the complete Austrian and provincial government and the highest representatives of all religious communities. Indirectly, the bomb attack raised the conscience of the public about the situation of the Roma in the Burgenland and led to the implementation of school support programmes and the establishment of an adult education centre for Roma funded by the Ministry of Education and a programme to improve their housing conditions funded by the federal and the provincial government (Baumgartner/Perchinig 2006, 697).

In the field of immigration, the 1990s were characterized by migration restriction and a growing focus on integration. The term ‘integration’ had gained prominence in Austria’s migration policies only since the late 1980s and early 1990s. In 1992, the City of Vienna set up the “Viennese Integration Fund” (Wiener Integrationsfonds), the first municipal organisations for the inclusion of immigrants in Austria (Koller 1998). Within civil society, organisations active in supporting immigrants and refugees and humanitarian organisations joined forces and founded “SOS-Mitmensch” as an umbrella organisation. In January 1993 it organised the “sea of light,” which attracted 300,000 people, the largest political demonstration since 1945 against xenophobia and the politics of the far right Freedom Party (*Freiheitliche Partei Österreichs, FPÖ*). (König/Perchinig 2003:2f.)

In this political atmosphere, the Social Democratic Party, which at that time was in coalition with the Conservatives and held the position of Minister of the Interior, embraced a reform of the existing migration law. Under the heading “integration package” the then Minister of the Interior, Caspar Einem (Social Democrats, SPÖ), announced a complete reform of the existing Aliens Law and the Residence Act, intending to strengthen the residence rights of immigrants and ease their access into the labour market. These reform moves were connected to the idea of reducing immigration in exchange for improved integration. “Integration before new immigration” (Integration vor Neuzuwanderung) became the key phrase of the reform. (König/ Perchinig 2003:3.). The new Aliens Act of 1997 referred to ‘integration’ in two different ways. On the one hand, “integration support” was now defined as measures for recognised refugees, while on

the other hand, the Act associated integration with long-term residence and claimed that family members of long-term resident third-country nationals should gain privileged access to a residence permit due to their “advanced integration.”

After a coalition between the Conservatives (Österreichische Volkspartei, ÖVP) and the FPÖ had come into power in 1999, the governmental programme for 2000 for the first time announced the introduction of compulsory German language training for immigrants under the heading of “comprehensive integration.” (König/Perchinig 2003:4). Immigrants would now be obliged to sign an “integration contract,” including the obligation to attend a language and integration course as a precondition for a permanent residence permit and the rights associated therewith. (Rohsman 2003: 68-72). Thus, since the end of 1990s the meaning of “integration” has changed. Its previous association with an improvement of the legal situation of migrants and migrants’ rights was replaced by understanding integration as a duty of immigrants to fulfill integration conditions, in particular learning German, as a condition for access to stable residence and equal treatment.

2.2 Current situation and turning points since 2000

2.2.1 Policy developments

In 2000, the newly formed coalition government between the Austrian People’s Party (ÖVP) and Freedom Party (FPÖ) published its governmental program, which included a chapter on ‘comprehensive integration.’ It called for measures to facilitate the integration of immigrants, with a focus on language acquisition, and also foresaw a mandatory ‘integration package’ for newcomers, consisting of the duty to attend a 100 hours of language training or to prove knowledge of German at the level A1 of the Common European Framework of Reference for Languages as a condition for access to a permanent residence permit. According to the then head of the parliamentary faction of the FPÖ, Peter Westenthaler, the tests were primarily aimed at selecting those who were “ready to integrate” (Perchinig 2012, 231).

These suggestions were met with harsh criticism from NGOs and academics, which pointed to the fact that there would be a huge demand for language training and a limited number of courses, and criticised the linkage of language acquisition and access to residence. When the Residence Act was amended in 2003, the legislation contained a wide variety of exceptions to the obligation. Thus, in practice the integration agreement did not play a big role. According to a report in the daily “Die Presse,” by June 2004 only about 10% of the envisaged target group of some 118,000 immigrants had had to attend the courses (Die Presse, 17 March 2005:3).

In the debate following the revelation of the high numbers of exemptions, NGOs, academics and language teachers pointed out that 100 hours were by no means sufficient to really acquire a basic knowledge of German. When, in 2005, the government decided to pass a complete reform of Austria’s migration law in order to implement the EU *acquis* on long-term residents and family reunification, it also included a reform of the integration agreement. Now the fulfillment of the integration contract within five years of residence had to be proven as a precondition to be granted access to the status of a long-term resident as defined in the EU *acquis*. Knowledge of German at the level A2 of the Common European Framework of Reference for Languages was made the cornerstone of the agreement. Fulfillment of the contract could be proven either by an examination at a recognised training and testing centre or the successful attendance and examination of an integration course of 300 hours. Depending on the time used for fulfillment of the contract, up to 50% of the costs for the tuition were refunded. Furthermore, the income thresholds to be met for a permanent residence permit were raised considerably. The “Austrian Funds for Integration,” which had been set up in the 1960s by the Austrian Ministry of the Interior and the UNHCR with the task to support the integration of refugees was assigned the duty to organise these language trainings (Perchinig 2012, 2032f).

In the following years, integration became a hotly debated issue in public. In 2008, the government announced a plan to develop a National Action Plan on Integration (NAPI) in order to enhance the cooperation for successful integration measures in Austria. Between April and July 2009 the Ministry of Interior organised monthly steering group meetings that

brought together representatives from the Federal Chancellery, all Austrian ministries, federal state governments, social partners, the Austrian Association of Cities and Towns, the Austrian Association of Municipalities, the Federation of Austrian Industries and the five most important Austrian NGOs in the field of migration and integration (Caritas, Diakonie, Hilfswerk, Red Cross and Volkshilfe). In addition, several expert meetings on different topics were organised. On 18 January 2010 the National Action Plan on Integration (NAPI) was published by the Ministry of Interior. In the document, integration is defined as:

“(...) a reciprocal process, characterized by mutual appreciation and respect, in which clear rules ensure societal cohesion and social peace. One can speak of successful integration when there are sufficient German skills for the participation in working life, training, further education and for communication with public administrations and the person concerned can fund his/her life, and the Austrian and European legal order and values are accepted and recognised. An integrated society is characterised by openness and social permeability. It allows the individual to lead one’s life on his or her own responsibility without being discriminated because of his or her origins, language or skin colour. Integration aims to ensure the participation in economic, social, political and cultural processes and the compliance with duties associated to these processes.” (BMI 2010a, 2)

In April 2011, a State Secretariat on Integration within the Ministry of Interior was established with the task of coordination and development of integration policies. The newly appointed State Secretary defined his programme under the heading ‘Integration based on Merit’ (“Integration durch Leistung”): migrants should not be judged on the grounds of their origin but according to their effort and achievements, while the state should also demand effort and achievement from them.

In 2010, another major revision to the Austrian Aliens Law and the Aliens Employment Law was discussed and approved by parliament in April 2011. The amendment raised the level of knowledge of German to be proven for access to permanent residence to B1. Moreover, the amendment introduced pre-entry language tests for immigrants from third countries (‘German before immigration’) at the A1 level. Non-compliance with the Integration Agreement leads to gradually increasing penalties, ranging

from administrative fines to the possibility of having residence in Austria terminated (Perchinig 2012, 234).

Furthermore, the system of labour migration was overhauled and replaced by a points-based system aimed at attracting qualified immigrants – the Red-White-Red Card. The qualifications and skills of potential immigrants are identified on the basis of a credit system, similar to systems of immigration in Canada or Australia, or the Blue Card of the EU. Immigration for the purpose of work was thus facilitated also for certain in-demand professions who could hitherto not fulfill the income requirements under the regulation for key personnel.

2.2.2 De-facto integration

As most socio-economic data are collected on the basis of nationality, it is not easy to draw a clear picture of the living conditions of immigrants, as naturalised immigrants are not included. As stable income is one of the main conditions for naturalisations, the naturalisation process in Austria is highly selective in socioeconomic terms, “creaming off” the better established strata of the immigrant population (Stern 2012, 63). Thus, socio-economic data based on nationality tend to paint a picture not including the better established strata of the immigrant population.

Focusing on the main socio-economic indicators for living conditions, immigrants in general have to face worse living conditions than non-immigrants.

Compared to the resident population, foreign nationals have been more affected by unemployment. While overall unemployment rates have risen since 1990, that of non-nationals shows a more significant increase, reaching a peak of 9.8% in 2006. A slight decrease is noticeable since then.

According to data provided by Statistik Austria (Statistik Austria 2012, 50), in 2010 the employment quota of persons with a migration background was at 65% as compared to 73% of the non-immigrant population. The difference can mainly be attributed to the lower employment quota of women (59% vs. 68%), but also men show a slightly lower employment quota (73% vs. 78%).

Analysing these data one has to be aware of the heterogeneity of the immigrant population: whereas the employment quota of EU-citizens (70%)

and immigrants of the successor states of the former Yugoslavia (68%) is close to the non-immigrant population, the employment quotas for Turkish immigrants (57%) and immigrants from outside of Europe (61%) are considerably lower. Whereas the female labour market participation rate of the non-immigrant population (68%) and of the EU-immigrants (65%) and immigrants from the former Yugoslavia (62%) is similar, only 41% of the Turkish women and 56% of women from outside of Europe participate in the labour-market. The lower labour market participation rates are influenced mainly by the labour market participation of the First Generation. In the Second Generation aged 35–54 there is no significant difference to the non immigrant population (Statistik Austria 2012, 50).

Whereas 61% of the non-immigrant employed population are employees and 23% workers, 66% of the employed population with Turkish migration background and 64% of the employed population with an Ex-Yugoslav migration background are workers. Again, the occupational position of the Second Generation is similar to the occupational position of the non-immigrant population (Statistik Austria 2012, 52). Immigrants are concentrated in the sectors of production (17%), trade (15%), tourism (12%) and construction (10%). In the Second Generation, trade (20%) is the most important sector of employment, followed by tourism (9%).

On average, immigrant workers and employees are less qualified than natives. Whereas 57% of all non-immigrant employees and workers held a vocational schooling or vocational training certificate in 2010, only 33% of immigrant members of the workforce had a comparable qualification. On the other hand, only 30% of the immigrant workforce had finished compulsory schooling, compared to 14% of natives. Among Turkish immigrants, 70%, and among Ex-Yugoslav immigrants 43% of the workers and employees had no further training beyond compulsory schooling. Only 3% and 4% of the Turkish and Ex-Yugoslav workforce held an academic degree, as compared to 14% of Austrian citizens. On the other hand, among workers and employees from the EU and other third country nationals the share of academically trained persons is much higher than among Austrians (30% and 42% resp.). Due to complicated and cumbersome recognition-procedures, the qualification of immigrants often is wasted: in 2008, 28% of all immigrant workers and employees reported to work below their

level of qualification, compared to 10% among the workforce born in Austria (Statistik Austria 2012, 56).

Consequently, the average income of immigrants is lower than the average income of natives. In 2009, the annual net median income of all foreign citizens (Euro 18,357.-) was 84% of the median income of all persons employed in Austria (Euro 21,865.-), and 82.3% of the annual median net income of Austrian citizens (Euro 22,303.-). Among the immigrant groups, Turkish and Ex-Yugoslav citizens earned approximately 80% of the median income of all workers and employees, and citizens of other third countries earned only 75%. In 2009, 16% of Turkish and 19% of citizens from other countries were in the lowest 10% of the income distribution, compared to 10% of Austrian citizens. With 24%, the poverty risk (income less than 60% of median income) among foreign citizens was much higher than among Austrians (11%). It was highest among Turkish citizens (36%) and citizens from other third countries (40%). Extreme poverty was found among 15% of the resident foreign population (Austrians: 5%). Without welfare support payments (e.g., family subsidies, unemployment benefits, pensions, etc.) the poverty rate among persons from the former Yugoslavia would have reached 43%, and 69% for Turkish citizens.

The housing conditions of immigrants are worse than that of the native population. In 2010, housing size was on average 43 m² per person, and 31 m² per person for immigrants and their descendants. Again, persons with a Turkish immigration background (21 m²), and those with Ex-Yugoslav migration background (26 m²) fared worst, whereas Union citizens (47 m²) on average lived in larger flats. Again, with 39 m² per person the Second Generation had improved its housing conditions considerably compared to the First Generation (30 m²), except for Turkish immigrants, where there was only very limited improvement (21 m² for the First Generation, 24 m² for the Second Generation). Whereas 56% of all households headed by an Austrian citizen owned their house or flat, only 26% of all households headed by a person with migration background lived in owner-occupied housing. Only 16% of the households headed by a person with Turkish and only 17% of those headed by a person with Ex-Yugoslav origin lived in an owner-occupied dwelling (Statistik Austria 2012, 74).

In Austria, only Austrian citizens hold the franchise at all levels of parliamentary representation, Union Citizens may vote at the local level, but not at provincial and federal elections. Thus the political representation of immigrants is severely limited and only extends to those who have been naturalised. In the federal parliament, only one MP of the First Chamber and one representative of the Second Chamber are immigrants from Turkey (both from the Green Party), while in the provincial parliaments there are very few immigrants. With the noticeable exception of Vienna, where the Vice Mayor (Green Party) is a Greek immigrant, no governmental offices are held by immigrants.

According to the Migrant Integration Policy Index (MIPEX), the Austrian naturalisation regime is the most restrictive in Europe. "Becoming an Austrian is one of the riskiest gambles, because the path to citizenship is long, burdensome, discretionary and expensive. Since 2009, applicants need even higher incomes and pay the highest national/länder fees across the EU. (...) Compared to Austria, only the Baltics made less progress to encourage common citizenship among nationals and long-settled residents," the MIPEX authors state. Due to restrictions in access to naturalisation imposed in 2006, naturalisation dropped significantly to 6,754 persons in 2011 (2003: 45,112). Naturalisation rates are down to the values of the early 1970s – just 0.7%. Reducing naturalisations was a political intention of the ÖVP-FPÖ government, which in 2005 had sharply increased income and language proficiency conditions necessary for naturalisation.

Employment, income or housing data are not broken down according to religion, and thus it is not possible to give clear information about the living conditions of Muslims in Austria. As the majority of the Muslim population resident in Austria originates from Turkey and Bosnia-Herzegovina, and the vast majority of Turkish immigrants are Muslims, the social conditions of Turkish immigrants presented above by and large also characterise the living conditions of the Muslim population, or at least those originating from Turkey. As immigrants from Bosnia-Herzegovina on average have earned more advanced education qualifications than Turkish immigrants their situation may be different, but there are no available breakdowns of socioeconomic statistics for the population originating in Bosnia-Herzegovina.

Islam is one of six publicly recognised religions in Austria. Thus, Muslims have the right to practice their religion. This includes the right to build places of worship (mosques), and an obligation from the state to protect their religious institutions and freedom of practice. Muslims are entitled to religious education in public schools, whereby the Islamic community has the right to select the teachers, who are then paid by the state. Furthermore, the Islamic community is entitled to set up private schools and kindergartens and is exempt from paying taxes for their institutions. The IGGÖ (Islamische Glaubensgemeinschaft Österreich – Islamic Faith Community of Austria) is the official representative of all Muslims in Austria and enjoys the same privileges as other religious organisations. Religious affairs are overseen by a separate division of the Ministry of Education and Culture. In recent years there have been regular meetings of representatives of all officially recognised religions. In Vienna, since the early 2000s the mayor has regularly invited representatives of the Muslim community for the Eid ul Fitr as a symbolic gesture of recognition.

Roma are among the most stigmatised and discriminated groups both within the ethnic groups recognised by the Ethnic Groups Act and among migrants. Immigrant Roma most often do not declare themselves as Roma in public and thus constitute an ‘invisible’ minority, predominantly living below the poverty level and with a significantly lower education level than the overall population. The attitude towards Roma has been influenced by an increasing number of Roma from Eastern European countries begging in the streets and in public transport in Austria.

There are no quantitative data available on the living conditions of Roma in Austria. In 2009, a study of the Ludwig Boltzmann Institute of Human Rights for the Fundamental Rights Agency of the European Union aimed at analysing the housing conditions of Roma and Travellers in Austria could not find any data for immigrant Roma and thus presented an overview of the housing conditions of immigrants instead (Ludwig Boltzmann Institute 2009).

2.3 Stakeholders

Historically, migration regulation has been a domain of the “social partners.”

Migration policies in Austria were until the 1980s mainly dealt within the peculiar Austrian corporatist arrangement of “Social Partnership” (Sozialpartnerschaft), which brings together employers’ organisations (Chamber of Commerce, Association of Austrian Industrialists), the Chamber of Labour, the Trade Union Federation and the Chamber of Agriculture. The social partners have autonomous rights to negotiate collective contracts regulating working conditions and payment, and have a strong influence on labour market and social policies. They are traditionally well connected to both the Conservative Party (Chamber of Commerce, Chamber of Agriculture, Association of Austrian Industrialists) and the Social Democrats (Chamber of Labour, Trade Unions). This peculiar system of nesting of political elites has led to functionaries of the social partners regularly holding seats in parliament, and, until end of the 1990s, also being regularly appointed as ministers. Formally, the social partners are invited to comment on nearly all draft bills that deal with migration issues during the “assessment procedure.” Before being passed by parliament, draft bills introduced by the government have to undergo an assessment of all relevant organisations concerned with the discussed matter, and the social partners are regularly asked to assess all bills that deal with economic and social policy (Talos 2006). In this arrangement, the annual number of employment permits for immigrants was decided by the Social Partners until the 1980s.

Since the late 1980s, however, the Ministry of the Interior has become the main player responsible for coordinating the relative legislative processes (Davy/Gächter 1993, 16 pp.). Nevertheless, the social partners continue to be strongly involved with policy-making on the parliamentary and governmental levels, which they can influence through direct involvement in the negotiation and drafting procedure. Thus, for example, the new immigration regulation “Red-White-Red” card was largely based on a draft of the Austrian Association of Industrialists, and the restrictions imposed compared to the first draft were largely demands of the Austrian Trade Union Federation.

The Ministry of the Interior is at the same time responsible for national security issues and the police, as well as immigration and integration issues. In 2011, the post of State Secretary for Integration at the Ministry of

the Interior was created, with the task of coordinating and further developing the integration policies of the government.

Within the Ministry of the Interior, a separate integration department was only established in the beginning of 2011. Another important player, the Austrian Integration Fund, which is funded by the Ministry of the Interior, is responsible for the implementation of federal integration policies. The Austrian Integration Funds was founded 50 years ago by the UN High Commissioner for Refugees and the Austrian Ministry of the Interior and was the main Austrian body responsible for delivering state support to refugees. In 2002 the Austrian Integration Fund was charged with the responsibility of implementing the Integration Agreement, particularly with regard to the organization of language training and testing. Additionally, the Fund has established in Vienna a vocational training centre for immigrants, and regularly publishes information on immigration and the situation of immigrant groups on its website. In 2008, the AIF established three regional branches which represent the AIF in the federal states. The funds also administers the European Integration Fund in Austria and supports integration projects run by local administrations and NGOs.

In addition, an Expert Council on Integration (Expertenrat für Integration) was established in January 2011 by the Ministry of Interior. The main task of this council is both to support the implementation process of the National Action Plan on Integration and to prepare recommendations. The Ministry of the Interior is, though, not bound in any way by the recommendations put forward by the council.

Asylum policies fall solely into the realm of the Ministry of the Interior; the Federal Asylum Office (Bundesasylamt) is the specialised entity within the Federal Ministry of the Interior directly responsible to the minister.

Given the broad implications of integration, the Federal Ministry of Labour, Social Affairs and Consumer Protection and the Ministry of Education, Science and Culture have also become important political stakeholders. For example, the Austrian Employment Service, under the auspices of the Labour Ministry, implements large scale programmes supporting the labour market integration of all persons in Austria with legal access to the labour market, and focuses specifically on the integration of third country nationals.

Being a federal state, Austria's provincial governments are also important stakeholders in the field of integration. In particular, they are responsible for pre-primary and primary education, youth policies, urban and regional planning, and housing which all affect the field of integration. The provincial governments of Upper Austria, Styria, the Tyrol and Vorarlberg have passed "mission statements on integration" (Integration-sleitbilder) and set up integration departments within administration. In Vienna, which is both a city and a province, a Governing City Councillor for Integration holds the political responsibility for the Department for Integration and Diversity, with a staff of approximately 100 employees. These provincial governments also fund integration projects implemented by NGOs or local administrations (Perchinig 2010, 31).

There exist a variety of NGOs in the field of migration and integration. The Catholic and the Protestant Church and their humanitarian associations such as the Caritas or the "Evangelische Diakonie" play an important role in the field of the implementation of integration measures, but also act as lobbying organisations on behalf of immigrants. Furthermore, they fund or organise advice centres and language training courses; and provide shelter to asylum-seekers, refugees and immigrants in need. Another important association in the field of humanitarian work with immigrants is the humanitarian organisation "Volkshilfe" (Peoples' Aid Organisation), which has close connections to the Social democratic party.

In the 1990s, several humanitarian associations engaged in the field of immigration policies were created. The most important is the umbrella organisation "SOS Mitmensch," which is composed of some 20 smaller humanitarian NGOs that focus on migration and integration policies. Other important NGOs in the field are "helping hands," which concentrates on giving free legal advice to immigrants and refugees; "ZARA," an anti-discrimination watchdog NGO, which gives legal advice, collects incidents of discrimination and publishes an annual "racism-report;" and the "Austrian Asylum Coordination," an umbrella group of NGOs working in the field of asylum.

Despite not being an NGO but rather a government-funded, labour – market-related advice centre for immigrants, the "Beratungszentrum für MIgrantInnen" (advice centre for immigrants, www.migrant.at).

at) has also gained a reputation as an expert organisation with regard to the inclusion of immigrants in the labour market, and also acts as a lobbying group. It is regularly consulted by academics, journalists and policy makers.

The most important migrants' organisations are the Association for Austrian-Turkish Friendship, the Serbian Association of Austria, the Croatian Association and the umbrella group of Kurdish Associations. Their political influence is minimal.

In recent years, the Austrian Association of Industrialists in particular has become a proactive policy maker that favours a more liberal immigration policy and a more pro-active integration policy. The association has published a migration and integration programme on its website and drafted suggestions for a points-based immigration management system (which largely followed similar suggestions of the Green Party and was the blueprint for the "Red-White-Red" card programme which came into existence in 2011). The association has also organised a platform of companies that support integration measures ("Wirtschaft für Integration" – business for integration).

Despite a generally high degree of trade union membership in Austria – in particular among immigrants – there are only very few immigrants in the ranks and files of the trade union federation and the Chamber of Labour. Trade unions usually recruit their functionaries among the shop stewards in the companies, and as in Austria until 2006 the right to be elected to the staff association was restricted to Austrian citizens and citizens of the European Economic Area, these recruitment channels remained closed for third country nationals. In response to the limited representation of immigrants in the Chamber of Labour since the 1990s, immigrants lists have sprung up at elections for the Chamber of Labour, but they only gained a few seats at the regional level.

There are no Roma associations active in the field of business or employment policies. In the late 1990s, however, an association of Turkish entrepreneurs was organised, which included Muslim entrepreneurs. They represent the interests of the Turkish business community vis-à-vis the Chamber of Commerce and the relevant authorities, and actively support training and education activities aimed at the Turkish Second Generation.

Most NGOs in the field of migration and integration rely heavily on public project funding and subsidies. In this context, the European Funds for Integration and the European Refugee Funds have become important sources of support. As both funds are administered by the Austrian Ministry of the Interior, there is constant criticism that the Ministry would deny project funding to associations that publicly criticise Austria's immigration and integration policies. Other sources of funding include mainly the Austrian Funds for Integration, the Ministry of Labour and Social Affairs (which administers the "Progress" programme of the European Union) and the provincial governments (which in Vienna is particularly in the municipal department on integration and diversity).

2.4 Discourses and paradigms

Following the creation of the ÖVP/FPÖ coalition government in 1999, migration issues became strongly linked with security. In the governmental programmes of both 2000 and 2003 migration issues were dealt with under the heading "internal security and integration" and "internal affairs, asylum and integration" respectively.

In both governmental programmes the term "integration" was used to describe immigration policy as opposed to asylum policy. The first chapter of this part of the governmental programme 2000 started with the slogan, "Integration of legally resident immigrants has to have priority over new immigration," and announced that Austrians and already legally resident immigrants should enjoy privileged treatment in the area of employment. It further announced an active integration programme for newly arrived immigrants and an improvement of German language tuition in kindergartens and schools. Naturalisation was described as the completion of the integration process; therefore, it would be necessary to introduce language and knowledge tests about Austria and the European Union as precondition for the granting of Austrian citizenship.

The relationship between security issues and immigration is even clearer in the governmental programme of 2003. Under the heading, "Internal Affairs, Asylum and Integration" the 2003 governmental programme in the first paragraphs outlined measures regarding the fight against organised crime, international terrorism and the internal reorgan-

isation of the police. These points were followed by several announcements in the field of migration and integration, namely restrictions in the field of naturalisation and family reunification.

In political debates, the dominant players on the government side were the two ruling parties at that time, the ÖVP and FPÖ. The public and media discourse was clearly determined by the FPÖ, who had originally come up with the idea to introduce integration tests. The clear aim of both parties was to make learning the language a mandatory condition for stable residence. To back this measure they referred to positive experiences with similar integration measures in the Netherlands, arguing that ‘gentle pressure’ was necessary to achieve integration. Overall, integration was defined as a duty to be fulfilled by immigrants. The principal responsibility for integration would not rest with the Austrian state, but with immigrants.

Opposing this, the SPÖ (which did not figure very prominently in the media debates) and the Austrian Green Party were the dominant players. Both parties along with major civil society organisations, such as the “Evangelische Diakonie” and Caritas, rejected the sanction-based approach of the integration agreement. In sharp contrast to the FPÖ, the Green Party emphasised that immigration is a requirement to maintain the current level of welfare in Austria. The NGOs particularly criticised the one-dimensionality of the Integration Agreement which would reduce integration to language acquisition. Among other things, political opposition and civil society players demanded to offer: positive incentives for immigrant integration (e.g., the passive voting right for foreigners or a more innovative concept for the German language courses), in particular for those persons who managed to fulfill the IA; the establishment of a governmental body responsible for integration matters; and a revision of the aliens law (e.g., abolish quotas for family reunion, harmonise work and residence rights).

When the integration agreement was revised in 2005, the discussions were again dominated by the ruling parties, ÖVP and FPÖ (which later transformed into BZÖ – Alliance for the Future of Austria) and much less by the opposition parties (SPÖ/Greens Party). The main positions did not change much in comparison to the previous debates. Civil society players did not feature strongly in media debates.

When in 2007 a coalition government of the Social democrats and the Conservatives was formed, the directions of the debate did not change significantly. The governmental programme announced the development of a comprehensive integration strategy and the development of a National Action Plan on Integration, both parties agreed on the importance of the Integration Contract.

Between April and July 2009 the Ministry of Interior organised monthly steering group meetings that brought together representatives from the Federal Chancellery, all Austrian ministries, federal state governments, social partners, the Austrian Association of Cities and Towns, the Austrian Association of Municipalities, the Federation of Austrian Industries and the five most important Austrian NGOs in the field of migration and integration (Caritas, Evangelische Diakonie, Hilfswerk, Red Cross and Volkshilfe). In addition, several expert meetings on different topics were organised.

On 18 January 2010, the National Action Plan on Integration (NAPI) was published by the Ministry of Interior. The document defined seven core areas of integration: language and education, work and vocation, rule of law and values, health and social affairs, intercultural dialogue, sports and leisure and housing and regional integration. The success of the NAPI would then be measured based on these areas. As a result, the concept of integration applied at national level became much broader.

Conversely, the debate on migration policies also changed: recruiting well qualified immigrants now became an important task and was depicted as necessary for the economic development. In particular, the Association of Austrian Industrialists painted a positive picture of immigration as necessary for the demography and the advancement of Austrian society and suggested the development of a points-based system. In summer 2010 the Minister of Economics presented its plans to introduce a criteria-based immigration system (Red-White-Red Card). In this period, the public and political debate on integration focused strongly on labour market needs, and thus the integration capacities of skilled versus unskilled immigrants. Regarding the latter group, learning the national language was still considered the primary precondition for successful integration.

The dominant player in this period was the Ministry of the Interior, under the Minister Maria Fekter (ÖVP). Security concerns and the call for stringent regulations remained core to the Minister's migration policy. The coalition partner SPÖ, providing the Federal Chancellor, was not dominant in the discussions, but in fact kept silent. With regard to the discussions on the Red White Red card, other players such as the Austrian Social Partners or the former Minister of Economics, featured prominently in the related debates.

With regard to the problem definition, the Ministry of the Interior, backed by various experts, took the view that poor German language skills, a low qualification profile of immigrants, as well as high unemployment rates would aggravate immigrants' integration into the labour market and society. As a result, the obligation to pass a German language exam before emigrating was considered a way to facilitate and accelerate integration in the society of residence. Women especially would benefit from this 'emancipatory' approach, as it would allow them to access the education system. Women from Muslim countries, from rural areas and with a low educational background ('the woman from the Anatolian mountain village') were specific targets of this policy. Inspired by the obligation to learn German before emigrating, women would come to know, 'what human rights and human dignity mean after all.' In this discourse, gendered ideas of 'the other' coincided with ethnic and social categories and depict certain immigrant groups as more problematic than others. Austrian society was defined as 'open,' and 'liberal,' in contrast to some backward patriarchal and rural traditions.

Generally, the debate increasingly shifted towards unskilled immigrants as a burden for Austrian economy and a differentiation between 'wanted' and 'unwanted immigration.' Skilled migrants were depicted as necessary for the advancement of the economy and society, while family migration – in particular (female) spouse migration – from Turkey and the Arab world was increasingly discussed as a burden to society.

2.5 The educational dimension

School authorities do not collect data on the migration status of pupils but on nationality and on "first language other than German." Thus

it is difficult to analyse the educational situation of pupils from migrant families using school statistics. In Vienna almost half of the pupils with Turkish as their mother tongue are no longer Turkish citizens. If this number is extrapolated to all of Austria, it can be stated that half of all Turkish children whose parents migrated to Austria are not included in the official statistics representing foreign pupils (Herzog-Punzenberger 2003, 1128). This may lead to a systematic underestimation of the educational attainment of youths with a migration background as it can be assumed that naturalized students are better grounded within the Austrian society in regard to language competency, acculturation, subsistence, etc. (Weiss/Unterwurzacher 2007, 232).

However, the Austrian Ministry of Education, Arts and Culture (bm:ukk) reports different results: according to an international achievement study, the second generation of migrants surprisingly attained even weaker performance outcomes than first generation migrants in Austria (bm:ukk 2008).

In Austria, compulsory education lasts from age six to age 15. At the age of 10, after four years of compulsory education, an important selection takes place. Either a child enrolls in an academic secondary school or he/she goes to lower secondary school (Hauptschule) that lasts for four years. Choosing the first option the child can either do the A-levels at the age of 18 or he/she can proceed to a technical college at the age of 14. If a teacher has the opinion that a child cannot fully follow the instruction for other reasons than not understanding German, the student can be moved to a "special needs school." These schools are education cul-de-sacs, as the child has almost no chance to return to the normal educational system, and a leaving certificate from such a school gives no access to any further education. Studies show that Turkish students are clearly over-represented in special needs schools. (Herzog-Punzenberger 2003, 1132).

During the school-year of 2007/2008 (latest data available), approximately 9% of all students held foreign nationality. In special needs schools, the proportion of foreign students was twice as high (18%), of whom the majority held Turkish or ex-Yugoslavian citizenship. The percentage of foreign students attending academic secondary schools was clearly below average (about 6%). Moreover, most of them were citizens of the European

Union, whereas the proportion of students from the former Yugoslavia and Turkey in higher education was even lower. In addition, high drop-out rates exist, which is especially true for vocational schools.

As already mentioned, language is an important factor in this context. Although the legal regulations demand other reasons than lack of competence in German for transferal to a special needs school, the data hint at a massive bias against children from families where another language than German is spoken: more than a quarter of all students who attend Austrian special needs schools descend from families who don't speak German at home. In primary and lower secondary schools about one fifth of students grew up in foreign-language families. However, this proportion diminishes in higher education: one eighth of all students don't have German as their mother tongue in academic secondary schools and higher vocational schools. The combination of linguistic difference and socio-economic disadvantages poses a challenge to the Austrian education system.

However, in this context it must be stated that the level of education of immigrants with foreign citizenship differs from the educational profile of the Austrian native population in two ways: foreigners are overrepresented among the highest and the lowest educational stratum, whereas Austrian citizens are mostly situated within mid-level education. In 2007 only one quarter of Austrians completed A-levels or acquired an academic degree, compared to one third of all foreigners of the same age. However, only a low percentage of people from the former Yugoslavia (3%) and Turkey (2%) obtained an academic certificate. A very high proportion of foreigners completed only compulsory school. In 2007, 34% of foreign citizens aged between 15 and 64 graduated from compulsory school without proceeding to higher education, compared to 16% of the Austrian population. But there is a significant performance advantage for pupils with both parents born in Austria. Pupils with neither parent born in Austria perform well below international averages in mathematics and science. It is noteworthy, however, that in reading, students with neither parent born in Austria perform at the international average of all students. Particularly Turkish immigrants (76%) and people from ex-Yugoslavia (48%) attained very low educational levels (Steinmayr 2009, 14).

According to results from PISA 2006, the reading, mathematics and science performance of students in Austria towards the end of compulsory education is around the OECD average, but first- and second-generation immigrants reach much lower scores. The reading performance disadvantage of second-generation immigrants compared to their native counterparts is one of the largest among OECD countries. While 25% of immigrant students performed around or above the OECD average in the PISA 2006 reading assessment, this was the case for at least 50% of their native counterparts. Notably, among both the top and bottom performers, second-generation immigrant students have a comparatively lower performance than other students (Nusche et al 2009).

In recent years, migrant education has received increased attention at the policy level. In 2008, the BMUKK created a Department for Migration, Intercultural Education and Language Policy to bring together and co-ordinate all the factors that matter for the educational success of immigrants. The department aims to engage governmental and non-governmental stakeholders to build a coalition to improve the education outcomes of immigrant students.

Austria has a well-established tradition of providing remedial German language support and mother tongue instruction to immigrant children, beginning with the early years of the 1970s guest-worker programmes. However, the original goal for mother-tongue instruction was to adequately prepare children to return to their countries of origin.

In the early 1990s the policy focus in compulsory education shifted more towards acknowledging diversity as a permanent and positive feature of the Austrian education system. Mother tongue and German language support were formalised in Austrian law and complemented by a third strategy to provide intercultural education to all students. Together, these provisions constitute the three basic pillars of the Austrian migrant education strategy. They have been expanded over the past two decades and now apply to all school types in compulsory education. Nevertheless, the below-average educational results of immigrant pupils show that these measures are not sufficient and need revision. Recently, the existing system of mother tongue support has been questioned by the State Secretary for Integration, who suggested German training prior to schooling in extra

classes. This suggestion was sharply rejected by the Ministry of Education as leading to separation instead of integration.

2.6 The security dimension

The dominant model of political participation in Austria is party-centred. Political participation is clearly focused on the electoral arena, direct forms of decision-making – e.g., popular initiatives – are available, but comparatively weak and most often initiated by the political elite (Müller 2006, 109). Party membership rates are particularly high: in the late 1990s about 17.7% of the electorate held membership (Germany: 2.9%) (Mair/Van Biezen 2001, 9). In general, unconventional forms of political participation (e.g., demonstrations, strikes, illegal activities) are rare (Dolezal/Hutter 2007), although since 1975 issues of migration, integration and racism rank third-highest with regard to the number of participants (Dolezal/Hutter 2007, 345).

Since the early 1990s mobilization against immigration became an important agenda of the Freedom party. In 1992/93 the FPÖ organized a popular initiative under the slogan “Austria first,” calling for a restriction on immigration and tighter border and internal controls. In response, a wide range of NGOs, public figures, church organisations and others, organised a mass-demonstration for tolerance and against xenophobia, dubbed “Sea of Lights” (Lichtermeer), in which some 300,000 people participated, making it the third-largest demonstration of the post-war period (Bauböck/Perchinig 2006, 733). Since the 1990s, campaigning against immigration has become a major issue of the election campaigns of the FPÖ, and since the early years of the new millennium, anti-Islamic positions have gained prominence. In the election campaign for the general elections of 2006 the FPÖ widely published advertisements and posters stating “Daham statt Islam” (“At home instead of Islam”) and “Pummerin statt Muezzin” (“The bell of St. Stephan’s cathedral, (Pummerin) instead of a Muezzin”). In the campaign for the general elections of 2008, the head of the FPÖ, Hans Christian Strache, argued that in Austria there should be no place for mosques and minarets and complained about fully veiled women in Vienna’s streets. In January 2008 Susanne Winter, the head of the FPÖ of the Styrian capital, Graz, stated that, “Islam should be thrown

back where it came from, beyond the Mediterranean Sea” and that Mohammed today would be regarded as a child molester. These statements provoked sharp criticism from the Catholic and Protestant Churches and some parliamentary parties. President Heinz Fischer distanced himself from this statement.

According to a report from the Fundamental Rights Agency (FRA 2008), the number of officially reported and recorded incidents of racist violence and crime fluctuated between 322 and 528 between 200 and 2005 (FRA 2008, 123). Austria was one of three EU Member States to experience a downward trend in racist crime during the period 2000–2005 and 2005–2006 (FRA 2008, 124). The data provided by the report of the FRA are not broken down according to region or province.

The annual Racism reports published by the NGO “ZARA” since 2000 give the impression that discrimination based on ethnic or religious background is a widespread phenomenon and may also include acts of physical violence by discriminating individuals. Although most reported cases concern discrimination with regard to access to bars and clubs, flat- or job-hunting, a number of racial insults and harassment by neighbours or strangers, which often include an element of physical violence, were reported, but there are no signs of organised violence mentioned. The data concern the whole of Austria and are not broken down by province (ZARA 2011).

The Annual Report of the Federal Office for the Protection of the Constitution and the Fight against Terrorism reports the existence of, “some Islamistic circles beyond the registered Mosques” (BVT 2012, 35) and four apprehensions of suspects because of suspicion of support of terrorism associated with the Salafist movements for 2011. Furthermore, some members of the Chechen diaspora would support the “Caucasus Emirate” movement of Doku Umarov. The report also discusses anti-Muslim violence and reports four cases of anti-Muslim incitement (BVT 2012, 54).

There is very little literature about religious radicalism in Austria. According to a study on political Islam in Austria, only a very small number of people are involved in radical jihadist activities. Even among Islamic groups with an Arabic background, which represent a political understanding of the Islam, reformist orientations dominate (Schmidinger/Larise 2008, 103).

3. THE ANTIDISCRIMINATION FRAMEWORK

3.1 Institutions, laws and practices

The Austrian Constitution grants the right to equal treatment to Austrian nationals (Article 7 B-VG). The Constitution also provides that privileges according to birth, sex, social status, class and religion are excluded and that no one may be disadvantaged on the basis of a disability. The list is merely demonstrative and does not exclude other grounds, such as ethnicity or race, which have been judicated several times. According to the jurisdiction of the Constitutional Court, foreigners may be treated differently than Austrians in any areas permitted by law, but unequal treatment of different groups of foreigners is unconstitutional, except where explicitly permitted (e.g., different treatment of EU citizens compared to third country nationals). The constitution's equal treatment clause is only binding for the state and cannot be enforced against private players, including i.a. private hospitals. The Equal Treatment Act (*Gleichbehandlungsgesetz*) is the relevant provision prohibiting discrimination.

Since 2007, the EU antidiscrimination acquis has been fully implemented into national law. The implementation is characterised by the basic legal structure of Austria. Austria is a federal state with nine provinces. Legislative powers are divided between the federal parliament and provincial parliaments. Legislative powers are defined by the Constitution, which explicitly lists all matters to be regulated by the federal parliament. With regard to these matters, provincial parliaments do not have legislative power. Matters not explicitly defined by the Constitution as federal matters are to be regulated by the provincial parliaments.

The federation may implement antidiscrimination clauses only if the areas concerned are linked to matters falling into the legislative powers of the federation (e.g., most areas of labour law, public transport law, civil law and consumer protection). Antidiscrimination legislation with regard to the employees and civil servants of the nine provinces and the local authorities (except of teachers at public schools and at certain agricultural schools, which are covered by federal legislation), falls exclusively into the legislative powers of the provinces. With regard to the area of labour law and labour protection of agricultural workers and employees legislative

powers are divided between the federation (legislation of principles) and the provinces (implementing legislation).

In other areas, e.g., self-employment, education/training and occupational organisations, legislative powers are divided between the provinces and the federation according to level of organisation or historical development. So the provinces hold, for example, legislative powers for kindergartens and juvenile educational institutions, hospitals or nursing homes, ambulance services, funeral-services, fire-brigades and chambers of agricultural workers/employers (Art. 10–15 B-VG).

This basic and yet very complex constitutional framework does not allow the implementation of a single antidiscrimination act, but separate federal and provincial acts have to be implemented to cover all areas of relevance. In particular, all areas under legislative competence of the provinces have to be covered by respective provincial legislation. As the Constitution covers discrimination due to disability and already before the entrance into force of the EU antidiscrimination-acquis a federal act regarding disability issues and specific enforcement structures existed, the parliament decided to draft a separate bill regarding disability. This decision had also been the wish of the major NGOs active in the area of disability.

The federal legal framework consists of:

- Equal Treatment Act (Gleichbehandlungsgesetz, Federal Law Gazette I Nr. 82/2005 last amended by BGBl. I Nr. 98/2008) containing federal equal treatment provisions binding private entities and fiscal activities
- Federal-Equal Treatment Act – (Bundes-Gleichbehandlungsgesetz], BGBl. I Nr. 65/2004), Federal Law Gazette I Nr. 65/2004) containing federal equal treatment provisions binding the federal administration
- Act on the Equal Treatment Commission and the Equal Treatment Office (Bundesgesetz über die Gleichbehandlungskommission und die Gleichbehandlungsanwaltschaft), BGBl. I Nr. 66/2004), both Federal Law Gazette I Nr. 66/2004 last amended by BGBl. I Nr. 82/2005, which installs and regulates the functions of the Equal Treatment Commission and the National Equality Body (for grounds of sexual identity and gender, ethnic affiliation, religion and belief, sexual orientation and age)

- Act on the Employment of People with Disabilities, (Behinderteneinstellungsgesetz, BGBl. Nr. 22/1970, last amended by Federal Law Gazette I Nr. 82/2005), which inter alia protects against discrimination on the grounds of disability in employment and occupation, including the concept of reasonable accommodation.
- Federal Disability Equality Act, (Behindertengleichstellungsgesetz], BGBl I Nr. 82/2005, Federal Law Gazette I Nr 82/2005), which regulates the non-employment part of protection against discrimination on the ground of disability, including access to and supply of goods and services, which are available to the public, including housing.
- Federal Disability Act, (Bundesbehindertengesetz], BGBl Nr. 283/1990, last amended by Federal Law Gazette I Nr. 82/2005), installing the Ombud for persons with disabilities.

In all provinces implementing legislation does exist. As stipulated in the federal constitution, agriculture and forestry are the remit of the provincial governments. Thus, in all provinces there are specific legal acts on equal treatment with regard to the labour market for agricultural and forestry workers.

In Lower Austria, the Tyrol and Vienna separate equality bills with regard to the employment with the provincial and the municipal workforce (civil servants and contracted workers for the public authorities) do exist. In these provinces, the non-employment scope of the directives is covered by specific legal acts.

In the Burgenland, Carinthia, Salzburg, Styria, Upper Austria and Vorarlberg the employment and the non-employment scope of the directives are covered in a single provincial legal act.

In all provinces, specialised bodies for the implementation of anti-discrimination regulations in the areas covered by provincial legislation do exist. They vary widely with regard to organisational structure, level of activity, visibility and accessibility.

Both the Equal Treatment Act and the Federal Equal Treatment Act cover age, ethnic affiliation (the term “race” is not used), gender, religion or belief and sexual orientation (all grounds except for disability with regard to the non-employment scope, ethnic affiliation and gender with regard to the employment scope). Disability is covered by the Act on the Employment of People with Disabilities, the Federal Disability Equality Act and

the Federal Disability Act. Constitutional provisions cover class, birth and social standing, and the labour law covers part time employment.

With the exception of the Antidiscrimination Act of Lower Austria, all provincial regulations transcend Directive 2000/43 EG and include at least religion or belief, disability, age and sexual orientation. The Viennese Antidiscrimination Act also includes pregnancy and maternity as protected grounds.

Neither the federal legislation nor six of nine provincial equality acts make use of the term “race.” “Race and ethnic origin” are represented by the term “ethnic affiliation” (“ethnische Zugehörigkeit”). “Race and ethnic origin” is used in the provincial legislation of Styria, Vienna and Upper Austria, but the wording seems to be congruent in its scope. The choice of the term was motivated by the strong linguistic and historical association of the term “Rasse” by the national-socialist dictatorship, and was strongly supported by most NGOs.

At the federal level, the material scope of legislation covers all areas mentioned in the respective EU-directives. With the exception of Lower Austria, all provinces have chosen to guarantee the same level of protection in the employment and non-employment fields, and have extended the grounds protected in the employment field to the non-employment field. Only Lower Austria does not go beyond the minimum standards of protection of the Directive 43/2000, covering only gender and ethnic affiliation in the non-employment field.

As well as direct and indirect discrimination, harassment and victimisation are covered by both federal and provincial legislation. The definitions given follow the definitions of the respective directives.

Although specialised bodies exist at both federal and provincial level, due to the constitutional principle of the right to a legal judge, compensation for damages may only be awarded by court decisions and not by either the federal or the provincial specialised bodies.

Federal and provincial specialised equality bodies do exist. At the federal level, the Equal Treatment Commission (Gleichbehandlungskommission) has been set up at the Federal Ministry for Health and Women. The Commission is entitled to deal with all cases of alleged discrimination, with the exception of disability. At the provincial level, the structure, size and institutional powers of the specialised bodies vary widely. As in the

Equal Treatment Commission at the federal level, they are not entitled to decide cases or award damages.

For the grounds of disability a separate structure has been set up. The Ombud for Persons with Disabilities (Behindertenanwalt) is appointed by the Minister of Social Security, Generations and Consumer Protection and is responsible for advice for and support of people with disabilities. For Disability, there is no body equivalent to the Equal Treatment Commission but a compulsory attempt to settle individual cases in a joint dispute resolution process before the Federal Social Service. As all cases involving disability have to follow the provisions of the Federal Disability Equality Act or the Act on the Employment of People with Disabilities, cases of multiple discrimination involving the aspect of discrimination have to be dealt with at the Federal Social Service before they can be decided by a court.

In principle the victim of discrimination can choose between undoing the act of discrimination or compensation of pecuniary damage. In cases of harassment, a minimum compensation of €720 must be awarded. There are no specific regulations regarding multiple discrimination.

3.2 Discourses

When the EU antidiscrimination acquis was implemented, the few public debates that it provoked centred around the issue of freedom of contract. In particular the Chamber of Commerce, but also several lawyers argued that anti-discrimination legislation would violate the freedom of the entrepreneur to choose with whom he/she would enter into a contract. These debates soon abated following the implementation of the legislation. Nevertheless, the issue arises from time to time in media debates.

In general, there are few public discourses on antidiscrimination. In the antidiscrimination field, two NGOs are the main players in civil society: the antiracism watchdog association ZARA (Zivilcourage und Antirassismus Arbeit) and the Litigation Association for Victims of Discrimination, an umbrella organisation that represents victims before the Equal Treatment Commission. ZARA regularly raises public awareness, organises antiracism training for schools and other public organisations and publishes an annual report on racism in Austria, which receives some attention in the press.

In recent years, in particular the different levels of protection for the different grounds of discrimination have been problematised by NGOs. Following a reform bill initiated by the Green Party and the Social Democrats had failed to gain a majority in parliament in 2008, the government sent out a draft amendment to bring the protection of different grounds in line for comments.

3.3 Evaluation

The implementation of the EU antidiscrimination acquis is regularly evaluated by the European Network of Legal Experts in the Non-Discrimination Field. In its latest country report on Austria, the network reiterated its standing criticism on the deficient enforcement, which was due to both the scattered and complex legal framework with more than 40 relevant legal acts and the fragmented structure of specialised bodies with nine provincial offices, special structures for the public services, limited resources and severe understaffing of the Federal Equality Bodies (Schindlauer 2012, 5). This situation would lead to a lack of relevant case law, as victims filing suit would have to bear the full risks and costs of the proceedings. Furthermore, only limited compensation would be awarded for immaterial damages.

At the political level, initiatives to promote equal treatment and antidiscrimination would be missing, and no awareness-raising activities have been initiated since the implementation of the EU's antidiscrimination acquis.

Criticism of the fragmented structure of the antidiscrimination framework has also been shared by the Council of Europe. The report of the Commissioner of Human Rights, following his visit in Austria from June 4-6, 2012, states:

“The legal and institutional framework against discrimination is characterised by considerable fragmentation, and the Commissioner calls on the Austrian authorities to keep it closely under review. Affording the same level of protection across the different grounds of discrimination should be a priority. An effort towards harmonisation and streamlining would also be highly desirable with respect to the many institutions involved in the implementation of anti-discrimination and equality legislation in Austria.” (Council of Europe 2012. 2)

3.4 Role of EU policies and funding

Also present in this field is EU funding, which plays an important role. Training activities and workshops on antidiscrimination have been funded by the EU PROGRESS programme and the European Integration Funds. With the exception of the City of Vienna, which also funds the watchdog-organisation ZARA, there is no other public funding available for antidiscrimination activities.

4. FINAL SUMMARY

As data on the living conditions of Muslims and Roma is unavailable, the following conclusions are based on a review of the living conditions of immigrants from predominantly Muslim countries and countries with a high percentage of Roma population.

Austria's minority policy framework draws a sharp distinction between immigrant and "autochthonous" groups. Whereas the latter enjoy a specific legal status with regard to minority-protection and cultural rights (right of language use before the courts and administration, bilingual schooling, bilingual road signs in certain areas, financial support for cultural activities, representation in advisory councils to the Federal Chancellery), the former do not enjoy any protection of their cultural heritage. Privileging the "autochthonous" groups has raised some conflicts among the Roma organisations; in the 1990s no Roma organisation representing immigrant Roma held a seat in the Advisory Council. Meanwhile, the Romano Centro, which represents both "autochthonous" and immigrant Roma has been granted a seat in the Council, though most funding goes to associations of "autochthonous" Roma.

As explained, immigrants have on average a lower rate of labour market participation, higher rates of unemployment and earn less than the native population. In particular, the labour market integration and income conditions of Turkish immigrants and immigrants from the former Yugoslavia are worse than among the native population, although in the "Second Generation" there have been improvements. Turkish and ex-Yugoslav immigrants face both a high risk of poverty and housing conditions that are much worse than average, which in turn negatively impacts on the edu-

cational success of their children. There is a need to overcome this structural discrimination. This can come through focused support and training measures aimed at improved labour market integration and easier access to social housing, which most often is only accessible for immigrants who hold a permanent residence permit.

Children from Turkish immigrant families show significantly worse educational success rates than not just the average population, but also children from other immigrant families. The number of male pupils of Turkish background who leave compulsory education without a certificate is three times greater than among the native population. The low success rates of immigrant children, in particular from Turkish families, is most often attributed to the high social selectivity of the Austrian school system, which massively reproduces the educational status of the parents – in most Turkish families, the parents are not educated beyond compulsory schooling and thus do not have the necessary cultural capital to support their children. As the Austrian school system fill the cultural capital gaps of the family, Turkish children achieve low educational success rates. Furthermore, the Austrian school system selects children at the age of ten, which negatively impacts on children from immigrant families. Furthermore, a lack of knowledge of German is often used as an argument to transfer immigrant children to “special needs schools,” which do not allow any further qualification.

What is needed to improve the educational success of immigrant children is a reform of the Austrian school system, including a common school up to the age of 15, whole day schooling and improved individual support of children. There is a need to close down “special needs schools,” which in practice do not allow for further education, and to prevent schools transferring pupils to such schools because of lack of knowledge of German. Furthermore, there is a need to improve the cooperation of schools and parents of immigrant families, who often do not fully understand the school system and are not well prepared to support their children.

Only Austrian citizens (and Union citizens at local level) hold the right to vote in Austria. Thus, a majority of immigrants are excluded from political participation. As naturalisation conditions are strict and have been made stricter in recent years, only those immigrants with stable finances

can naturalise. To improve the political improvement of immigrants it is necessary to ease naturalisation and orient the conditions to the European average (which would involve a waiting period of not more than five years, acceptance of dual nationality, income conditions not exceeding minimum income, *ius soli* for children born in Austria) and to grant voting rights at local level for foreigners resident in Austria for at least three years.

Racist and religious discrimination are a growing phenomenon, and target mainly Muslim immigrants and Roma. Despite the recent implementation of the EU antidiscrimination acquis, the structural weaknesses of the institutional implementations – in particular the extremely fragmented structure with different bills at the federal and local level and for different reasons of discrimination, different levels of protection for the different grounds for discrimination, limited powers for the Equal Treatment Commission, limited compensation and lack of the possibility of class action – has largely negated the positive effects of the legislation on the situation of immigrants.

Also at the political level, the role of antidiscrimination in integration policies is played down. Although the National Action Plan for Integration defines measures against discrimination as part of Austrian integration policies (BMI 2010a, 9), the list of planned measures features only one training workshop for the police and the development of a non-binding charta for equal treatment in business (BMI 2010b, 33, 132). Discrimination is not included as an issue in the list of indicators for integration for the National Action Plan on Integration (BMI 2010c).

An improvement of the protection against discrimination would need an overhaul of the legal and institutional setting. In particular the fragmented nature of the antidiscrimination system should be brought together in a single bill offering the same level of protection for all grounds of discrimination. Furthermore, implementation should be improved by the establishment of a common specialised body for all grounds of discrimination at all administrative levels, and compensation should be increased. Finally, there is a need for regular awareness campaigns and the inclusion of antidiscrimination measures as a core element into the Austrian National Action Plan for Integration.

Bibliography

Bauböck R., Perchinig B. 2006: Migrations- und Integrationspolitik. In: Dachs H. et. al. (eds.): Politik in Österreich. Das Handbuch. Vienna (Manz), 726-743.

Baumgartner, G., Perchinig, B. 2006: Minderheitenpolitik. In: Dachs H. et. al. (eds.): Politik in Österreich. Das Handbuch. Vienna (Manz), 686-701.

BKA (Bundeskanzleramt) 2011: Roma in Österreich. EU-Rahmen für nationale Strategien zur Integration der Roma bis 2020. Vienna (BKA)

BMI (Bundesministerium für Inneres) 2010a: Nationaler Aktionsplan Integration. Available at http://www.integration.at/integration_in_oesterreich/nationaler_aktionsplan/.

BMI (Bundesministerium für Inneres) 2010b: Nationaler Aktionsplan Integration. Massnahmen Available at http://www.integration.at/fileadmin/Staatssekretariat/4-Download/NAP_Massnahmenkatalog.pdf

BMI (Bundesministerium für Inneres) 2010c: Integrationsindikatoren des Nationalen Aktionsplan Integration. Available at http://www.integration.at/fileadmin/Staatssekretariat/4-Download/NAP__indikatoren.pdf

BMUKK (Bundesministerium für Unterricht, Kunst und Kultur) 2008: SchülerInnen mit anderen Erstsprachen als Deutsch. Statistische Übersicht Schuljahre 1999/2000 bis 2006/07. Informationsblätter des Referats für Migration und Schule Nr. 2/2008. Vienna (BMUKK).

BVT (Bundesamt für Verfassungsschutz und Terrorismusbekämpfung) 2012: Verfassungsschutzbericht 2012. Available at http://www.bmi.gv.at/cms/bmi_verfassungsschutz/.

Council of Europe 2012: Report by Nils Muižnieks, Commissioner for Hu-

man Rights of the Council of Europe, following his visit to Austria from 4 to 6 June 2012, CommDH(2012)28, Strasbourg

Davy, U., Gächter, A. 1993: Zuwanderungsrecht und Zuwanderungspolitik in Österreich; *Journal für Rechtspolitik* 1/3:155-174, 1/4:257-281.

Dolezal, M., Hutter, S. 2007: Konsensdemokratie unter Druck? Politischer Protest in Österreich 1975–2005. In: *Österreichische Zeitschrift für Politikwissenschaft (ÖZP)* 36/3, 338–352.

FRA (Fundamental Rights Agency) 2008: Assessing Trends in Officially Recorded Racist Violence and Crime. (Available at infoportal.fra.europa.eu/InfoPortal/infobaseDownloadFile.do?id=101689, last accessed 09/04/2009).

GfK 2009: Integration in Österreich. Einstellungen, Orientierungen, und Erfahrungen von MigrantInnen und Angehörigen der Mehrheitsbevölkerung. Vienna (GfK)

Herzog-Punzenberger, B. 2003: Ethnic Segmentation in School and Labor Market – 40 Year Legacy of Austrian “Guestworker” Policy. In: *International Migration Review* 37 (4), S. 1120–1144.

IGGiÖ (Islamische Glaubensgemeinschaft in Österreich, Austrian Association of Islamic Faith) (ed.), 2005: *Der Islam in Österreich: Eine Chronologie*. Vienna (<http://www.derislam.at/islam.php?name=Themen&pa=showpage&pid=152>). Strobl 2006 clip

Koller, J. 1998: Kommunale Integrationspolitik. Eine Analyse des Wiener Integrationsfonds im Kontext sozialdemokratischer Interessenspolitik. Diploma Thesis, University of Vienna.

König, K., Perchinig B. 2003: Austria. In: Niessen, J., Schibel Y. (eds.): *EU and US ap-proaches to the management of immigration. Comparative perspectives*. Brussels (Migration Policy Group), 13-47.

Ludwig Boltzmann Institut für Menschenrechte 2009: Austria Raxen National Focal Point: Thematic Study: Housing Conditions of Roam and Travellers. Vienna (Ludwig Boltzmann Institut für Menschenrechte). Available at <http://bim.lbg.ac.at/en/raxen-focal-point/fra-report-roma-and-housing>.

Mair, P., Van Biezen, I. 2001: Party Membership in Twenty European Democracies 1980–2000. In: *Party Politics*, 7/1, 5–21.

Marik-Lebeck, St. 2010: Die islamische Bevölkerung Österreichs: Bestand und Veränderung 2001–2009. In: *Österreichischer Integrationsfonds (Hg.): Islam in Österreich*. Vienna (ÖIF).

Müller, Wolfgang C. 2006: Das Regierungssystem. In: Dachs, H. et. al. (eds.): *Politik in Österreich. Das Handbuch*. Vienna (Manz), 105–118.

Nusche, D., Shewbridge, C., Rasmussen, Ch.L. 2009: *OECD Reviews of Migrant Education: Austria*. Paris (OECD).

Perchinig, B. 2010: Ein langsamer Weg nach Europa. Österreichische (Arbeits)migrations- und Integrationspolitik seit 1945. In: *Leibnitz-Institut für Sozialwissenschaften (ed.): Sozialwissenschaftlicher Fach- und Informationsdienst 2010/1: Migration und ethnische Minderheiten*. Nürnberg, 11–33.

Perchinig, B. 2012: The Integration Agreement in Austria – From Symbolic Policy to Restrictive Practice. In: Pascouau Y., Strik T. (eds.): *Which Integration Policies for Migrants? Interaction between the EU and its Member States*. Nijmegen (Wolf Legal Publishers), 229–255.

Rohsman, K. 2003: Die “Integrationsvereinbarung” der Fremden-gesetz-novelle 2002. Integra tionsförderung durch Sprach(kurs)zwang? Diploma Thesis, University of Vienna, Vienna.

Romano Centro 2011: Positionspapier zur nationalen Strategie zur Inte-

gration der Roma 2012-2020. Vienna. Available at <http://www.romano-centro.org>.

Schmidinger, T., Larise, D. 2009: Zwischen Gottesstaat und Demokratie. Handbuch des politischen Islam. Vienna (Zsolnay).

Statistik Austria 2012: Migration & Integration 2011. Zahlen. Daten. Indikatoren 2011. Vienna (Statistik Austria).

Steinamyr, A. 2009: Die Bildungssituation der Zweiten Zuwanderungsgeneration in Wien. Vienna (ÖIF), Available at http://www.integrationsfonds.at/oeif_dossiers/die_bildungssituation_der_zweiten_zuwanderergeneration_in_wien/.

Stern, J. 2012: Ius Pecuniae – Staatsbürgerschaft zwischen ausreichendem Lebensunterhalt, Mindestsicherung und Menschenwürde. In: Dahlvik J., Fassmann, H. Sievers W. (eds.), Migration und Integration – wissenschaftliche Perspektiven aus Österreich. Jahrbuch 1/2011, Vienna – Göttingen (v&v unipress), 55-74.

Tálos, E. 2006: Sozialpartnerschaft. Austrokorporatismus am Ende? In: Dachs H. et. al. (eds.): Politik in Österreich. Das Handbuch. Vienna (Manz), 425–443.

Weiss, H., Unterwurzacher, A., Strodl R, 2007: SchülerInnen mit Migrationshintergrund an österreichische Schulen: Probleme aus der Sicht der Lehrkräfte. Ergebnisse einer empirischen Untersuchung. Unpublished Research Report. Vienna (University Vienna, Dept. Of Sociology).

ZARA (Zivilcourage und Antirassismus-Arbeit) 2012: Rassismus Report 2011. Available at <http://www.zara.or.at>.

HUNGARY

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1. DEMOGRAPHIC BACKGROUND: DATA, DEMOGRAPHIC CHARACTERISTICS, ATTITUDES

The Roma form the most populous minority group in Hungary. In this study, we will consistently refer to the group as the Roma, even though the term ‘*cigány*,’ meaning ‘Gypsy’ is the most common reference to the Roma population in Hungary. Debate as to whether political correctness should be strictly applied when referring to this minority is ongoing in the minority and the majority population as well; our choice is merely for the sake of consistency.

1.1 Data collection

The most recent official data available on the Roma population was collected in 2003, as the dataset from the 2011 national census is not expected to be fully processed before March 2013. The issue of data collection on ethnic information however remained sensitive and debated ahead of the 2011 census as well. Ultimately, one item in the questionnaire left the door open for data collection on minorities, i.e. the item enquiring about the “nationality” of respondents. The law requires that data on ethnic allegiance only be collected anonymously and with the full consent of the respondent to disclose information about his ethnic background. Accord-

ingly, the question on the respondents “nationality” was a voluntary question in the 2011 census, with the criterion of anonymity applying to the entire questionnaire. Notably, civic organizations were engaged in activities trying to persuade Roma citizens to disclose their ethnic background freely, while others made efforts to persuade local governmental notaries to hire as many Roma interviewers as possible in places where the Roma are numerous. Both activities were motivated by the same goal- to discover the size of the Roma population in various parts of Hungary, thereby providing present and future integration strategies with a better statistical footing. The motivation for a precise count is unsurprising if we look at the difference between the count produced by the 2001 census (190,046) and the parallel estimates of sociologists and researchers, who subsequent to the 2003 representative survey and study project estimated the number of the Roma to be between 520,000 and 650,000. It is an important methodological difference to mention that while in the census respondents voluntarily choose whether to disclose their nationality, sociologists applied the method of registering those as Roma who are considered to be Roma by their social environment. Some earlier approaches considered the use of a Roma language as the most relevant way to determine whether someone is Roma. These have, however, faded with time.

1.2 Demographic characteristics

The Roma population has been continuously growing from 3% of the population in 1971 to 5% in 1993, and to 6% in 2003. Currently, the size of the Roma in Hungary is estimated around 8%. The 2003 study stated that the ratio of children among the Roma was significantly higher than in the majority population. However, the mortality rate also exceeded that of the majority (Kemény, 2003). As a combined result of these two tendencies, the ratio of the Roma aged younger than 15 years was 37% among the Roma compared with 16% in the majority population. The proportion of those aged older than 60 was in contrast five times more plentiful in the majority population than among the Roma, with 21% in the former, and just 4% in the latter.

As to the marital status of the Roma, the ratio of bachelors and maidens was significantly higher than in the majority population (37.3%), with

the ratio of those married being significantly lower than in the majority (51.6%). Nevertheless, the proportion of those living in actual marriages was higher than 51.6%, as many Roma couples still wedded according to the traditional norms of the Roma community. There are further differences within the Roma community with regard to their attitudes toward marriage (Szuhay, 1999). Roma couples with a more secure existential background and a higher social status that converge toward the majority of society tend to accept the majority norms of marriage and engage in civic or church marriages. Conversely, Roma couples with poor backgrounds and lower social status prefer to maintain the traditional Roma forms of marriage.

As to the number of children raised by married women, 7.5% were without a child in the majority population compared to 6% among the Roma, 25% in the majority raised a single child compared to 11% among the Roma, 49% raised two children compared to 23% among the Roma, 14% raised three children compared to 27 among the Roma, and just 5% raised more than three children compared to 33% among the Roma.

The employment rate of the Roma population is under 20%. The 10% employment rate of Roma women is especially alarming. The average level of education of the Roma minority is also much lower than that of the majority population; only 20% of the Roma finish secondary education.

With regard to settlement types, the Roma show significant differences compared to the majority population. While 20% of the entire population lives in Budapest, only 10% of the Roma live in the capital city. In contrast, 38% of the entire population lives in villages, compared to between 58 and 64% of the Roma (Hablicsek, 1999). The Roma are also more plentiful in the Eastern parts of the country, especially in Borsod-Abaúj Zemplén county and Szabolcs-Szatmár-Bereg county, and fewer in the western territories, especially in Vas, Komárom-Esztergom, Győr-Moson-Sopron, Zala and Veszprém counties. However, trends of migration from villages to cities, and from east to west are discernable. Disproportionalities in small settlements are often even greater, as the Roma now form the majority population in certain villages. There are about a hundred settlements in the country – mostly in the northeastern and southwestern regions – which are in such extreme poverty that they are best described as

slums or ghettos, populated by pauperised groups of Roma ethnicity. The number of further settlements on the decline toward this state of extreme poverty and destitution is estimated around two hundred. Overall, around 70% of the Roma population is considered to live in poverty.

1.3 Attitudes toward the Roma minority

The Roma are not only the group that finds itself in the most difficult socio-economic status in Hungary, but also the group that is hit by the most negative, discriminatory and prejudiced attitudes. Even though immigrant groups – such as Africans, Arabs and the Chinese – are also the subject of hostile attitudes in society, negative attitudes towards them are not unanimous, with settlement, age and education proving to be distinctive factors. Negative attitudes toward the Roma are not only the strongest, but the most universal as well.

This notion is underscored by various surveys. For instance, in measuring the attitudes toward the Roma on a classical Bogardus scale, by asking “Would you accept the member of the following ethnic or national group as a neighbour, a colleague, a member of your family or a friend of your child?” the social distance is large towards the Roma, as almost 1 out of 2 Hungarians (49%) would not accept them in any of the relationships listed above, while only 1 out of 5 would accept the Roma in all the relationships listed above. Negative attitudes are not only strong, but universal as well: the ratio of those who would not accept a Roma in any kind of relationship is identical among those with primary and tertiary education, and the group’s acceptance is almost the same in all types of settlements from large cities to villages. (Szalai-Simonovits 2011, 51-58). Furthermore, in 2011 a survey showed that the level of ethnic tension in society is extremely high as 97% of the adult Hungarian population feels tension between the Roma and the non-Roma.

Researchers have produced another remarkable finding with regard to attitudes toward the Roma minority. In a sample of 3000 adults in a survey conducted by TÁRKI, respondents were asked to provide estimates as to the number of the Roma minority present in Hungary. The results showed that Hungarians greatly overestimate the number of the Roma minority, as they on average estimated the proportion of the Roma minority to be 14%.

25% of respondents believed that the ratio of the Roma population was above 25%. The research produced similar results with regard to Jews, Arabs, the Chinese and Africans.

2. INTEGRATION POLICIES

2.1 Brief historical overview

The Roma peoples, known for centuries as a wandering population, have been arriving in Hungary in gradual influxes since the 14th century. The “Roma issue” as a matter of social policy was, however, not explicitly raised until the 18th century, when social tensions began to arise due to the rising number of Roma population failing to secure a “traditional” existence, i.e., mostly by providing various services related to the tools used for everyday living and production on the outskirts of settlements (Nagy, 2004). The dominant aim of integration policies between the 18th and 20th century was to motivate, make and even force the Roma minority to give up their original lifestyles and settle in a fixed abode. The most well-known sources of executive policies – until as late as the late 20th century (Dupcsik, 2009) – explicitly addressing Roma issues were those established by Queen Maria Theresa and her son, Joseph II. These policies had the bold aim of assimilating the Roma to the majority of the population to the extent where, “even the name of these peoples shall gradually perish” (Mezey, 1986). Even though the connections between the Roma and the majority intensified from the 19th century onwards, both politics and society began to regard the issue as a problem to be solved, emphasising differences rather than similarities (Dupcsik, 2009). Contrary to common misconceptions, the majority of the Roma population had settled down by the 19th century. By this time, a dual system of attitudes toward the Roma had developed, which to some extent has endured to the present age: on the one hand, the image of the “neat gypsy” emerged, oftentimes referred to as “settled down” or “musician gypsies,” held in good faith, in stark contrast to “the wandering gypsy,” often associated with criminality. The first comprehensive Roma study was conducted in 1893, a commendable result of ethnographic research projects gathering momentum in the country. This discipline remained at the forefront of Roma-related

research until the last third of the 20th century. During the first half of the 20th century, the Roma suffered from the results of economic disintegration and structural change in the country, while the results of new political ideologies – including the Roma Holocaust – also worsened their situation dramatically. 1945 brought relief in this sense. During transition however, the Roma issue, along with most issues of social policy, was off the table. The first national Roma organisation was created in 1957. It wasn't until 1961 that the socialist government addressed the issue of the Roma minority. The decree issued following the 1961 negotiations made it clear that the Roma were not to be considered as a “nationality”: this indicates the socialist political practice which preferred handling the Roma issue as a “social” and not an “ethnic” matter. The political leadership of the socialist regime believed that the assimilation of the Roma was feasible through, “labor, housing and school,” and that this way, “the Roma issue would cease to exist.” The socialist industry indeed provided employment for predominantly unskilled Roma labourers, leading to their employment rate equaling that of the majority population by 1971. This year also marked the second comprehensive Roma study, and the first since 1893. The 1970s also marked the emergence of the term “gypsy crime,” a concept created by scholars in criminology, while the Ministry of Internal Affairs began its practice of registering the ethnicity of offenders.

The fall of the socialist regime and the bitter economic transition that followed changed the situation of the Roma minority fundamentally, just as the industrialisation had done in the 1960s, only to a reverse effect, pushing the minority to a state of pauperism from which it has thus far been unable to escape.

3. THE INTEGRATION LEVEL OF THE ROMA IN HUNGARY: POLICY EFFORTS AND A DIMENSIONAL OVERVIEW

3.1 An introduction of concepts

In government policies and action plans following the fall of the socialist regime, the issue of Roma integration was approached from different theoretical standpoints. The main dilemma of integration policies was whether to address the Roma issue as a matter of human rights and mi-

norities, or as a matter of employment and social policy. The latter choice still entails the question whether the state should commit itself to a united approach when it comes to poverty, or should it rather deal with the Roma minority separately, i.e., formulate a separate Roma policy when attempting to tackle poverty, leading to a number of programmes, tools and support available to the Roma minority only. Those in favour of a united poverty policy argued that the issues concerning the employment, health and economic status of those living poverty were essentially the same in the case of the Roma and the non-Roma, thus separating policies and funding according to ethnicity would only fuel contempt in both the majority and the minority population. In turn, the proponent of independent Roma policies argued that the underprivileged social status of the Roma was to be handled as a separate matter as it was a result of separate reasons and required different policy approaches. This latter approach could only prevail during the term of the first freely elected government between 1990 and 1994. Since the 1995 government decree, however, – which was the first comprehensive action plan aimed at enhancing the situation of the Roma – integration policies have incorporated both the minority policy approach and the social policy approach. Different phrasing, such as, “disadvantaged citizens, among them Roma” used between 1998 and 2005 in government decrees, and, later, “Roma and disadvantaged” nonetheless show the shifting emphasis in this dilemma.

In presenting the laying out the integration policies of the past decade we will rely on the reports of the State Audit Office.

3.2 Roma integration policies: focus and turning points

3.2.1 Short- and medium term governmental strategies

The Fidesz-led government elected in 1998 issued a decree in 1999 entitled, “a governmental decree on medium-term measures for the enhancement of the living conditions and the social status of the Roma.” The decree assigned tasks rather broadly, yet responsibility was delegated to a number of ministries. The emphasis of action outlined by the decree was to increase the number of scholars in secondary and higher education, to create jobs and provide training, to encourage and foster Roma cultural roots

and to create Roma cultural institutions. The decree – just like most Roma integration programs – also includes assignments concerning the development of further plans, concept, methodology and research.

In 2001, following the evaluation of the activities realised according to the 1999 decree, the government identified a number of new goals, as if to make up for the shortcomings of the previous plan's realisation. As a result, the number of Roma scholars increased significantly, the first Roma secondary school in the country was opened (in Pécs), and the Anti-discrimination Service Network (Anti-diszkriminációs Ügyfélszolgálati Hálózat) was launched.

In 2002, the decree on the organisational framework and the principles of governmental cooperation for the social integration of the Roma focused on programs and activities which were able to launch as quickly as possible. This included communications activities aimed at tackling prejudiced attitudes and the creation of positions at ministries for Roma university graduates. The principles included suggestions that the social, health- and employment related difficulties of the Roma be addressed in medium term governmental programs, such as the National Development Plan, the Memorandum against Social Discrimination and the National Program for a Nation of Good Health. The decree identified the European Union as an important co-financer and highlighted the necessity of programs to be developed locally as well, focusing on the special needs of local communities based on the principle of subsidiarity. The decree also noted that in the development of Roma integration programs, Roma minority governments and civic organizations should be consulted, along with the Roma Council and the Interministerial Committee for Roma Affairs.

By 2004, it had become clear from the 2002 report of the ministries involved in the implementation of Roma integration policies that the results had so far proved insufficient to produce palpable results in the lives of Roma communities. Analyses indicated that there was a basic lack of coordination in the planning, implementation, control and monitoring of integration programmes. A new medium term strategy was created as an annex to the decree, which included a genuinely comprehensive set of policy goals. The six topics covered by this plan were (1) equality before the law, (2) the enhancement of living conditions, (3) education and training, (4)

employment, (5) IT knowledge and facilities and (6) culture, communication and identity. According to these broad topics, a total of 62 assignments were set. Importantly, principles of coordination between ministries was also included in the document, though annual planning and funding was delegated to ministries. Ministries were urged to cooperate, with the Inter-ministerial Committee for Roma Affairs identified as a forum for exchange between the departments. In the same year, the difficulties of coordination and reaching efficiency when it came to a programme of such comprehensiveness became evident. Efforts were made in 2005 to develop a new administrative regime, but the complicated data sheets which emerged as a result failed to solve the issue.

3.2.2 An evaluation of short and medium term governmental strategies

Medium term governmental strategies had the common shortcoming of not being based on appropriate situation analyses: they failed to identify and address the factors that led to the dramatic setbacks in the living standards of Roma communities since the fall of the socialist regime. Although ongoing research produced results on the social and economic dynamics of the Roma, these were never appropriately coordinated with the targets of governmental policy. This led to political action plans that mostly addressed only the surface of social difficulties, while producing a number of damaging side effects, such as an increased level of segregation in education. Goals were set in overly general ways, while neither the assignment of tasks, nor the system of financing was organized in a manner that would have rendered action genuinely functional. And, quite importantly, control mechanisms – with a view to determining the efficiency of activities – were mostly missing. The need for long term strategies, better coordination and targeting, along with feedback mechanisms became evident.

3.2.3 Long term governmental strategies

The approach of the country to the European Union enabled governmental decision-makers to begin considering resources available from the European Development Fund (EDF) while designing long term development strategies. Framework strategies were to be formulated, and this provided an opportunity to address the issue of Roma integration as well.

However, programmes which would have explicitly addressed the matter of minority integration were not supported by the development policy of the EDF, hence goals were to be drawn up in a way that would benefit the cause implicitly, though in a broader framework.

The New Hungary Development Plan therefore drew up goals regarding the integration of the Roma on the same page as other social integration target groups and goals, such as disabled persons and gender equality. In order for the programmes and the funding to effectively reach the Roma, it was believed that means facilitating access – such as networks – were to be developed, and the general system of tendering was to be dropped. Negative experience from previous integration policies was also included in the document, as it highlighted the necessity of avoiding an increase in segregation and the requirement to not fuel prejudiced attitudes in any possible way. However, the principal issues were known: a need to develop indicators for feedback mechanisms, better targeting and better coordination. The fundamental shortcoming of the plan was also related to these same issues: funding and goals were not arranged in a functional system, and indicators were never going to be informative enough in the lack of prior data collection that would have enabled comparisons.

Following a regional conference in 2003, nine participating countries, the World Bank and Open Society Institute decided to pronounce the period between 2005 and 2015 as the “Decade of Roma Integration.” The prime ministers of the participating countries – including those of Czech Republic and Hungary – signed a declaration about the programme in early 2005. The three broad goals were social and economic integration, along with the fight against discrimination and prejudiced attitudes. Participating countries pledged to coordinate their national social- and economic policies with these goals, while also developing a common action plan. The Hungarian Parliament passed the Decade of Roma Integration Program Strategic Plan in June 2007. The plan identified (1) education, (2) housing, (3) health care, and (4) employment as priority fields, along with (5) equal treatment, (6) culture, (7) media and (8) sport. Particular tasks are also given in line with broader strategic goals. Indicators related to the goals were also in place. The document pledged to increase the level of integrated education in the country as opposed to segregation, the integration of the

Roma in the labor market, to decrease the level of segregation of the Roma and the non-Roma in settlements, to enhance the access of the Roma to health care and public utilities, and to fight discrimination. Interestingly, the document recommends that tasks be carried out according to social and territorial features in the priorities (1) to (4), with explicitly ethnic targeting only suggested with regard to discrimination and culture. Nonetheless, the plan also introduces recommendations that facilitate equal access to the funding involved, and urges those carrying out the tasks to involve Roma citizens in both the planning and the execution period. Constant monitoring and data collection was ordered as well by the plan to allow for legitimate feedback on the results achieved. This, however, failed to materialise in the practice, leaving observers and researchers with little information about the outreach and the efficiency of the programmes, with special regard to how many from the Roma community were actually reached.

The next turning point only came after the 2010 elections. Fidesz, governing with a two-thirds majority, had begun a massive overhaul in the legal and institutional framework of the country, and had the rotating presidency of the European Union during the first half of 2011. Launching the EU Framework for National Roma Integration Strategies was the flagship policy achievement of the Hungarian Presidency, and a the Hungarian national strategy entitled National Social Inclusion Strategy – Deep Poverty, Child Poverty, the Roma (2013-2020) was developed by the end of 2011 (note that the dual approach introduced under 2.1. has so far endured). The document offers a thorough and detailed analysis on the social and economic situation of the Roma, with special focus on the situation of children and women. Goals are identified in relation to both the ethnically undifferentiated group of underprivileged and impoverished, and regarding the Roma explicitly. The strategy names traditional goals with regard to health, housing, education, and employment. However, a number of specific proposals are also included, such as the targeted funding of enterprises which may offer employment to the underprivileged, support for community labour, atypical forms of employment or redesigning the system of social benefits so that they have increased motivational power. The strategy adopted a number of aspects from previous national strategies; some provisions of the Decade of Roma Integration Program

Strategic Plan are explicitly named as such. Just as in previous strategies, mechanisms for tracking the results and the impact of the strategy are also discussed in the document. Evidently, it would be impossible to offer a judgment on the practical impact of the new national strategy, but concerns regarding the coordination between this strategy and the overall government policy are nonetheless visible. This notion is especially true with regard to the education policy line of the government, along with the efforts to tackle unemployment: the discrepancies between these policies and the goals outlined in the national strategy indicate that the latter may fall behind in relevance when it comes to decisions on the government level, despite apparent similarities, such as the encouragement of part-time employment or communal labor.

4. THE INTEGRATION LEVEL OF THE ROMA IN THE POLITICAL AND THE ECONOMIC DIMENSION

4.1 The political dimension

The vast majority of the Roma living in Hungary are Hungarian citizens, their citizenship granted by the principle known as *ius sanguinis*, i.e., based on a parent or both parents being Hungarian citizens. Consequently, they enjoy the full spectrum of political rights and other rights bound to citizenship *de iure*. In terms of *de facto* political integration, however, the facts of political participation are to be examined as well. On the one hand, the low percentage of elected Roma politicians is a fact of life in Hungary: there are only four MPs of Roma ethnicity in the current parliament, which accounts for slightly more than 1% of the total count of the assembly members. This clearly indicates that the Roma, estimated at around 7% of the population, are underrepresented in national politics. On the other hand, as to the participation of Roma citizens in practicing their active right to vote, no information is available as no ethnic data is collected in electoral districts. Nevertheless, data is available on the elections for local minority governments, on which only members of the given ethnic community are entitled to vote.

The institutional framework for the representation of the Roma minority is meant to be provided by these minority governments: of which

the members of communities elect their representatives at the local level, whereas these elected bodies further elect county-level minority governments along with a national one. The right for minorities to elect minority governments is provided by the Law on the rights of national minorities passed in 2011. These rights were formerly regulated by the law on the rights of national and ethnic minorities, which quite interestingly granted minorities with the right for parliamentary representation as well – this, however, would have required further legislation to actually happen, and this legislation failed to materialise in the lack of a political consensus. Nevertheless, the system of minority governments could be interpreted as a success story, as the number of elected Roma minority governments rose continuously between 1998 and 2006. Roma politicians were also elected at national municipal elections, for local assemblies and mayoral positions, in settlements with a Roma majority population.

There are two major concerns with the system of local minority governments. Firstly, although their creation was mainly an effort to provide minorities with special political and cultural representation, in the case of the Roma minority, minority governments are overwhelmed with a plethora of social policy issues, necessarily pushing the two former functions to the background. Secondly, the impact of national party politics has deeply infiltrated the national level of Roma politics, creating Roma representatives allied with one of the two dominant political forces in the ranks of Roma minority governments on all three levels of the system. The current term is no different: Lungo Drom, the organization that emerged victorious at the minority governmental elections in 2011, is a close ally of governing Fidesz. This role of national party politics, wherein the incumbent political force has implicit control over the representation of a national minority raises the question of whether a system of minority representation enabling an ethnic Roma party to enter Parliament would not serve the interests of the minority better as the role of the National Roma Minority Government has clearly been submissive with regard to governments. The current system of political representation, legally derived from the Fundamental Law and the provisions of the Law on the Rights of National Minorities, seemingly provides political representation to the Roma *de iure*, the actual, *de facto* interpretation of this representation – taking

into account the leverage and the room for political action the national Roma minority government disposes of – remains questionable.

4.2 The economic dimension: the socio-economic “vicious circle”

We have previously touched on basic data regarding the educational and employment status of the Roma population (see 1.2.). Social exclusion as a result of discrimination, consequent segregation in both housing, education, and frequent discrimination in employment have created a socio-economic vicious circle for the Roma minority, hence the attempts at complex and comprehensive policy solutions by national politics, that simultaneously emphasise the need for comprehensive and simultaneous action addressing the dimensions of housing, education, employment and social attitudes. We have also mentioned that the majority of the Roma population live in small settlements. This in the majority of cases refers to genuinely poor living surroundings or even segregated “Roma ghettos,” with a low level of access to public utilities, and access to employment, education and health care being further impeded by a total lack of public transport connections to urban or developed areas and public facilities. Again, it is necessary to emphasise the significance of causal interconnections between these socio-economic characteristics: for instance, poor housing conditions affect health conditions, which in turn will affect employment and education. This entails a tendency of ultimate segregation which today concerns around a hundred settlements inhabited by Roma communities, with a further two hundred on the decline toward this state of conditions. As a consequence of genuinely desperate socio-economic status, the rate of criminality is also higher among these communities, further fueling negative attitudes and discrimination by the majority population.

Thus, the strikingly low level of economic integration of the Roma can only be explained with a multi-dimensional state of social exclusion, where discrimination is both the cause and the consequence. State policies introduced above all have the aim of addressing this state of affairs, yet have fared very poorly due to a lack of precise and controlled implementation. The low level of success in turn gives the impression to many in the majority society that the state spends billions of tax money on the social and economic inclusion of the Roma with no visible results. This further reinforces

negative and discriminatory attitudes, which dramatically reinforces the notion of discrimination being at the very center of the vicious circle that hamstrings Roma integration efforts. Efforts to fight discrimination are, however, not only manifested by state policies that aim to change attitudes, but in the legal framework protecting citizens and in the activity of civic organizations as well.

5. THE LEGAL FRAMEWORK AGAINST DISCRIMINATION: THE LAW ON EQUAL TREATMENT AND ON FURTHERING EQUAL OPPORTUNITY (EBKTV.)

In the previous section, we discussed the interconnecting socio-economic factors which render the situation and the opportunities of most Roma communities desperately difficult. Beforehand, we introduced the main state policies which have attempted to address this social phenomenon.

As well as state integration policies with a broad community focus, legal institutions aimed at providing citizens belonging to ethnic minorities with the same opportunities are also in place. We named the law intended to grant political representation to minorities in the section dealing with political integration, and we regard the Ebktv. as the most relevant concerning economic integration in individual terms. Ebktv. is a universal antidiscrimination law (Sik and Simonovits, 2012), originally based on the provisions of the former Constitution at the time of its creation. The Law draws the list of “protected characteristics” from the Constitution, i.e., “race, colour, gender, language, religion, political or other opinion, national or social origins and situations arising from financial, family or any other status.” The Ebktv. draws up an even broader list of protected characteristics. In addition to interactions in the public sector, a wide range of public sphere interactions fall within the scope of the anti-discrimination law. Other laws – addressing employment stimulus and public education – also include anti-discrimination rules. These, however, must be applied in accordance with the provisions of Ebktv. Procedures are conducted by the Equal Treatment Authority. Actions constituting a violation to the principle of equal treatment are the following: (1) direct negative discrimination, (2) indirect negative discrimination, (3) harassment, (4) (unlawful)

segregation and (5) retribution. As individuals who are most probably subject to these violations do not usually possess the means for providing proof of the violations during legal procedures, two EU directives – the Racial Equality Directive and the Employment Equality Framework Directive – ordained that Member States create regulations which reverse the burden of proof. It is important to note that not only offended individuals can initiate a procedure, as the public interest procedure may be launched by interest groups and civic organizations as well. The Equal Treatment Authority may use the following methods during the procedures: negotiations (sit-downs between the offender and the offended individual), statistical proof (with a view to rule out the possibility that the offense suffered was is no causal relation with the protected characteristic of the offended individual), and testing (a practice in which a situation is simulated and the result qualifies as proof afterwards). With a view to the practical approach of this publication, we will turn to a number of case studies that illustrate anti-discrimination legal procedures in Hungary in which individuals of Roma ethnicity were involved.

Direct negative discrimination. A civic organisation initiated a public interest procedure against a tavern following complaints from members of ethnic minorities about not being served. The Authority applied testing, and the person they used was not served either, with the bartender referring to an order from his superior. During the procedure, the legal representative of the tavern argued that the manager merely ordered the bartenders to not serve guests who had previously caused trouble. The manager himself argued that he had given personal descriptions to bartenders which they in turn may have confused. The Authority did not question the right of the manager to ensure the safety of his customers, but did note that the procedures applied not only concerned persons who had previously misbehaved but also others who had not, thereby constituting direct discrimination and violating the Ebkvt. As to the sanctions, he was banned from the practice and fined HUF 500,000 (approximately EUR 1,750).

Harassment. Again, a public interest procedure was initiated in a school where two teachers intimidated misbehaving Roma children by threatening to summon the Hungarian Guard, the paramilitary organisation of the far-right Jobbik party. The Authority ruled that the teachers had

created a hostile and intimidating environment, and thereby had violated the children's right to human dignity, fulfilling the statutory definition of harassment. The assessment of the Authority was also heavily influenced by the fact that the incident had occurred in a settlement where the Hungarian Guard had previously organised marches which intimidated the Roma community. In its sanction, the Authority only banned the teachers from their intimidating practice, as the Authority concluded that the intention of the action was not to humiliate pupils but to discipline them.

Harassment (and segregation). The parents of a Roma child initiated a procedure as they claimed that their child was harassed because of both his ethnic background and his medical condition, attention deficit hyperactivity disorder. Grounds for the claim were that the child was assaulted, tied to a chair and barred from after-school activities because of his misbehaviour. The child was also banned from attending other school activities organised, the reason provided by the school was again the behavior of the child and the danger posed by it. The parents filed charges for both harassment and segregation. The Authority ruled that the right of the child for equal treatment was violated both by the decision to put him in private pupil status in a way that breached the standard procedure (i.e., the parent should have requested that the child be classified as a private pupil in the first place). The Authority ruled however that whether the child was excluded from school activities because of his condition or his ethnicity was indeterminable, and more importantly, the causal relation between the decision and either of the two protected characteristics was not in place, as the exclusion was down to rational, disciplinary reasons. As to the incidents suffered by the child, the necessity of a penal procedure and an internal disciplinary procedure was established against the teacher charged.

Harassment. A procedure was initiated by a Roma ethnic citizen against a mayor, as the citizen claimed that the mayor had on multiple occasions acted in a discriminatory manner toward him, which offended his civil rights. The complainant also mentioned a manual that was allegedly written to the members of the municipal assembly and contained offensive remarks about him. The Authority suspended its procedure until the decision of the county court, where the Bureau for the Legal Protection of National and Ethnic Minorities, a civic organisation, had pressed charges

after the complainant had contacted them. The court ruled that the remarks included in the manual were capable of, “offending the man in his person, human dignity and ethnic identity.” Subsequently, the Authority assumed the court decision as a basis for its own ruling, and judged that the conduct of the mayor constituted the statutory definition of harassment according to Ebktv. The Authority banned the offender from such conduct as a sanction.

Segregation. An endowment for underprivileged children filed a complaint to the Authority as they claimed that a local government and a school practiced segregation against approximately 350 children. There were three schools involved, one attended by non-Roma pupils only, the second by Roma children only, while the third school had a split structure with one building used by the Roma and the other by the non-Roma. In their defense, the board of the school claimed that they had no ethnic registry, whereas they claimed that they believed parents chose schools according to the locations they preferred, that is, they sent their children to the schools which were closest to their homes. The Authority ruled that the unlawful nature of segregation is not a cause of the school leadership’s intentions or policy, and that the complainant would have had the opportunity to advertently avoid or cease the state of segregation. The Authority however ordered the school board to design an equal opportunity plan, and gradually implement it by 2012.

Other means of legal protection: the (Deputy) Parliamentary Commissioner for National and Ethnic Minority Rights and the activity of civic organizations

Until January 1, 2012, the Parliamentary Commissioner for National and Ethnic Minorities was one of four Parliamentary Commissioners, with the other three being responsible for civil rights, data protection and future generations. The overhaul of state institutions initiated by Fidesz concerned these offices as well, as in the new system there is a single Commissioner for Fundamental Rights, whereas the three other Commissioners are special commissioners subordinated to the one and only Commissioner. The restructuring of the system has been criticised as the power of not only the three downgraded former commissioners has been curbed,

but those of the Commissioner for Fundamental Rights as well. The former Commissioner for Future Generations went as far as to ironically label the overhaul unconstitutional – (note that Parliament passed the novel Fundamental Law in the same calendar year when the system of commissioners was restructured).

Civic organizations are non-governmental organisations present in almost all fields – the fight against discrimination; unemployment; and furthering education and culture to name a few – funded by private individuals, corporations, the government, endowments and the European Union. As we have seen in the case descriptions included in the previous section, legal protection is a field where on-the-field civic organisations may have a significant impact by channelling the requests of Roma citizens who would otherwise have neither the financial means nor the know-how and often the courage and determination to act on their own. Large organisations with extensive national outreach are the Chance for Children Foundation (Esélyt a Hátrányos Helyzetű Gyerekeknek Alapítvány), the Helsinki Committee (Magyar Helsinki Bizottság), the previously mentioned Bureau for the Legal Protection of National and Ethnic Minorities (Nemzeti és Etnikai Kisebbségi Jogvédő Iroda), and the Hungarian Civil Liberties Union (Társaság a Szabadságjogokért). Naturally, there are several other organisations dedicated to the cause on the local and even the national level, oftentimes in association with each other or larger organisations. These are on the field and in connection with the practical reality and challenges posed by Roma integration. They have a legal focus: for instance, the Roma program of the Hungarian Civil Liberties Union now concentrates on municipal government policies that violate fundamental laws, has a focus especially to aid the victims of hate crimes, and monitors discriminatory practices in legal procedures. For the sake of facilitated access for the Roma, they have established stations in communal spaces in settlements called TASZPONTs, where complainants can contact the lawyers of the union to get legal counsel free of charge via Skype phones.

Civic organizations are not only effective in providing legal aid. They also contribute to the case by on-field investigation, community development, the projection of issues and finding in the media and on conferences,

and lobbying. For instance, they successfully persuaded the Ministry of Internal Affairs to drop their plan to draw up a programme that would have supported and facilitated the “law-abiding conduct” of Roma children and youth.

6. EDUCATION AND THE ROMA MINORITY

In theory, education is often considered as the universal remedy for social problems, as the tool that can bring about essential and genuine change in the long term. Alarming data on the education of the Roma is in turn coupled with data on the ratio of Roma citizens among those aged 30 and under. Data also indicates that the higher the education level, the lower the birth rate amongst Roma mothers. Many believe that a causal relationship is in place between the two factors. Importantly, secondary education is certainly only available to those with more stable financial backgrounds, and the decision on whether or not to continue education beyond primary school is also determined by the motivation for social inclusion and integration (Kemény, 2006). By 2003, 82.5% of the Roma aged between 20 and 24 had finished primary school, though graduation oftentimes came at many years older than the recommended 14 to 15. Since the mid-1990s, more Roma children attending secondary education have nonetheless improved to a certain extent, though the ratio of dropouts is still high. Overall, around 80% of Roma families are unable to afford secondary education for their children, while this data is of the very inverse of the wider society, where 20% cannot fund a high school for their children. This means that 80% of the Roma youth will find it increasingly difficult to enter the labour market because of their education level, discrimination notwithstanding. The ratio of those participating in higher education is below 2%, compared to 40% among the non-Roma. Segregation and the high rate of classification of Roma children as special needs students is another major concern. According to the 2003 comprehensive research, 14.5% of Roma children were classified as having special needs. We mentioned earlier the difficulties of transportation from the housing facilities of many Roma to schools. Evidently, low education level is the main reason behind the low employment rate of the Roma minority. Among employed

Roma, around 70% are employed in unskilled labour, 22% in some sort of skilled labour, and 8% in intellectual or uniformed labourers.

The characteristics presented above offer statistical proof as to the desperate state of Roma participation in all levels of education. We have seen improving tendencies since the mid-1990s, and policy efforts have now achieved that discourse about education with regard to the Roma is dominated by arguments against segregation, and yet equal opportunity and desegregation policies have brought no tangible results: the ratio of Roma children in segregated education is still on the rise, as is the ratio of Roma children classified as having special needs (Neumann and Zolnay, 2008). In practice, local governments have often found ways to circumvent desegregation policy requirements by interpreting their duties according to their own preferences and intentions, hindering the efficiency of strategies to a considerable extent. Just as in other fields of integration policies, responsibility and financing is not yet specified to an extent that would be sufficient for more palpable results: in brief, policies are not enforced.

7. SUMMARY AND REMARKS

The Roma minority finds itself in an increasingly poor socio-economic status, with dire statistical indicators in terms of education, housing, employment and health. These conditions are not only desperate on their own, but relate to each other and potentially reinforce the negative consequences of each other, creating a trap from which the Roma do not possess the resources or the strength to escape on their own. As a result of this notion, and also with regard to the constant rise in the population, ambitious state policies urge action that addresses all the major fields of concern comprehensively and simultaneously. However, a general lack of creditable results indicates shortcomings in assigning tasks, implementing measures and controlling the efficiency of policy efforts. The lack of results after integration policies threaten with a counterproductive effect as the majority, that already takes highly negative attitudes toward the Roma, will only reinforce those seeing no considerable improvement despite an abundance of tax funds being spent. It is no wonder that as well as criminality, parasitism is among the most common stereotypes toward the Roma. The social exclusion and

the discrimination related to these attitudes is at the core of the problem: it hinders the efficiency of integration efforts at almost every level. The political representation of the Roma, which could successfully combat these attitudes, is missing, whereas a political party exploiting the negative climate of attitudes has established itself in the Hungarian party system. A legal framework for anti-discrimination efforts is in place, but has little or no effect on majority attitudes toward the Roma, as its main goal is to remedy violations to the rights of the Roma, while prevention is merely a hopeful collateral. Civic organisations, with their on-field efforts, contribute to the cause greatly, most notably in legal representation and protection, but in various other fields, such as education and culture as well.

Finally, however sensitive the issue, we deem it important to raise the question of whether a paradigm shift in the question introduced under 2.1. is necessary, i.e., whether state policies should address the issue of Roma integration by explicitly targeting Roma communities and Roma citizens, instead of groups identified according to broader characteristics such as “multiply underprivileged” or “living in deep poverty.” Naturally, the question is not to be fully decided on this page, as it involves ideological and principal issues that may not be overlooked or sidelined. The heavy discriminatory attitudes directed toward the Roma and penetrating almost every aspect of their lives cast serious doubts over whether their integration can ever be successful if it is addressed as a non-ethnic social issue.

Bibliography

Állami Számvevőszék, Fejlesztési és Módszertani Intézet. 2008. *A magyarországi cigányság helyzetének javítására és felemelkedésére a rendszerváltás óta fordított támogatások mértéke és hatékonysága*. Budapest.

Dupcsik Cs. 2009. *A magyarországi cigányság története*. Budapest, Osiris Kiadó

Hablicsek L. 1998. *Demográfiai forgatókönyvek 1997–2050. KSH Népeségtudományi Kutató Intézet*, Budapest.

Kállai E. *Cigányok/romák Magyarországon. Társadalomtörténeti vázlat.* In: Kállai E. and Kovács L. 2009. *Megismerés és elfogadás.* Nyitott Könyvműhely, Budapest.

Kemény I. 2003. *A magyarországi cigány népesség demográfiája.* Demográfia 2004/3-4. Budapest.

Kemény I. A romák/cigányok és az iskola. In: Kállai E. and Kovács L. 2009. *Megismerés és elfogadás.* Nyitott Könyvműhely, Budapest.

KIM Társadalmi Felzárkózásért Felelős Államtitkárság. 2011. *Nemzeti Társadalmi Felzárkózási Stratégia.* Budapest.

Nagy P. 2008. *Cigány csoportok és együttélési modellek változásai a Kárpát-medencében a 15-20. században.* In: *Romák a történelemtanításban. Történelemtanárok 17. országos konferenciája.* Történelemtanárok Egylete, Budapest.

Neumann E. and Zolnay J. 2008. *Esélyegyenlőség, szegregáció és oktatáspolitikai stratégiák Kaposváron, Pécsen és Mohácson.* Európai Összehasonlító Kisebbség kutatások Közalapítvány.

Sik E. and Simonovits B. 2012. *A diszkrimináció mérése.* TÁRKI, Budapest.

Sik E. and Simonovits B. 2012. *Abena, Sára, Chen és Ali esélyei Magyarországon. Migráns esélyek és tapasztalatok.* TÁRKI, Budapest.

Szuhay P. 1999. *A magyarországi cigányok kultúrája: etnikus kultúra vagy a szegénység kultúrája.* Panoráma, Budapest.

CZECHIA

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1. INTRODUCTION

In a modern nation state, integration is a key topic of political discussion because deciding on whom to exclude and whom in turn to accept is acknowledging the existence of the borders of state, as of nation. For it is the integration concept alone which presumes the existence of a unified, majority core distinguished from outsiders who are the objects of integration. (Alexander 2006, Favell 2001) The first section of this chapter will therefore introduce minority groups, whom are perceived as standing out of this core in the Czech Republic and thus being the subject of integration policies, which will be dealt with later in the next section. Their principal players, various discourses, and case studies from the education and security field will be presented. The final part deals with the anti-discrimination law and its position in integration.

2. THE DEMOGRAPHICS OF MINORITY GROUPS

All citizens with Czech nationality are considered as a majority core of the Czech nation state. Apart from them, there are two main categories of the minority groups that have different rights and duties by law: national minorities, whose members have the Czech citizenship, and foreign nationals.

In Czechia, the title “foreign national” is being used much more frequently than ‘immigrant’; this use of the term ‘immigrant’ can mean an effort to keep these individuals completely outside symbolically – they are not coming to our group, they are not newly incoming immigrants, they are foreign and will stay foreign. Other such groups that fall into this category are asylum applicants, asylum-seekers, foreign nationals coming from EU, or Third Country Nationals (outside EU). Both these groups, national minorities and foreign nationals, are the objective of integration policies.

2.1 National minorities

National minorities are defined by the Act No. 273/2001 Coll. as minority groups of citizens, which differ by their ethnic origin, language, culture, and traditions and whose members show a will to be considered as a national minority for the purpose of development of their own distinctiveness and protection of interests of their historically formed fellowship. The criterion for the membership of a national minority is wilful joining; no form of outer attribution of this identity is admissible by law. In total the following twelve national minorities have been acknowledged in the Czech Republic: Bulgarians, Croats, Hungarians, Germans, Poles, Roma, Ruthenians, Russians, Greeks, Slovaks, Serbians, and Ukrainians. Their members represent their interests in the Government National Minorities Council.

The Council together with the government decides on the recognition of new minorities. Currently invitations of Belarusians and Vietnamese (Government 2012a) are being discussed; with the Vietnamese having been invited as special guests to Council proceedings since 2007 (Council 2012). However, the majority of Belarusians and Vietnamese living in the Czech Republic don’t have Czech citizenship. Often this is because they don’t wish to sacrifice their original citizenship and dual citizenship is not permitted, with few exceptions. That is why their applications have not been satisfied and both Vietnamese and Belarusians continue being put in the category of foreign nationals. However, there might be a change after the publication of definitive results of the 2011 Population census.

The biggest national minority in Czechia are Slovaks, which is the natural consequence of our common state between 1918 and 1992 with vast work migration of labouring professions into the borderland and in-

dustrial areas mainly after the World War 2. Due to their close language and cultural ties, as well as their mutual sympathy with Czechs, Slovaks are the example of an integrated minority. (Ezzedine-Lukšíková 2005) In past ten years the number of Ukrainians in Czech Republic doubled; thus they replaced Poles, as the the second biggest national minority based in the Czech Republic in the 2011 population census. Its historical core is being extended by a new immigration wave; more than a third of Czech citizenships were granted to foreign nationals coming from Ukraine, according to recent data of 2010. Due to its geographical location and close language ties, Ukrainian migration into Czech lands has a long tradition. In early 1900s economic immigrants, students, and intelligentsia had been came to the Czech Republic, later followed by refugees. The first Ukrainian association occurred in 1902 and in inter-war period there were Ukrainian schools and Ukrainian books and textbooks were published. (Zilynskyj 2002) Today Ukrainians don't have any group-based exceptions, minority schools, or bilingual labels in the Czech Republic, unlike Poles who are the third most numerous national minority. About 80% of Poles live on the territory of Těšín Silesia which lies on the Polish border and where Polish kindergartens, elementary schools and secondary schools can be found.

The target group of the majority of integration policies in Czech Republic is the Roma minority, although only 13,150 individuals have registered as part of this minority in the 2011 census and more than a half of them stated as having two nationalities. However, the group of people being considered as Roma and experiencing social exclusion is far bigger. The Council (2012) estimates the number of Roma currently residing in the Czech Republic as being anywhere from 150,000 to 200,000. As a result of the imbalance between the attributed and declared ethnicity, one cannot use the data resulting from the population census as a predictor for the whole Roma minority and instead less representative sociological studies need to be relied upon. Roma are the target group of integration policies because their exclusion from Czech society has led to formation of about 300 ghettos where the combination of Roma ethnicity, social disadvantage, and spatial segregation result in fatal social-spatial exclusion. The majority of Roma ghettos can be found in the poor industrial regions of northern Moravia and northern Bohemia. (Gabal, Víšek 2010)

Historically, Roma are an old national minority in the Czech Republic – having been living there since the 14th century. However, the majority of contemporary Roma came from Slovakia in the period following World War 2; as a huge majority of Czech Roma died in Auschwitz during the holocaust. They usually come from Slovakia in search of employment and after 1965 were forced to relocate by the communist government so that their aggregate number in any locality would not exceed 5%. (Nečas, Miklušáková 2012) After the division of Czechoslovakia, migration goes on having a family chain character when immigrants are inviting other family members whom they provide with necessary facilities – boarding and lodging, less often even mediation of a job. (Uherek 2007) For this reason a considerable part of Roma have Slovak citizenship.

Table 1 shows the data of national minorities' country of origin. Big groups of the population claim to belong among the Moravian and Silesian nationality, however, they have never shown a will to be considered as national minorities, the term is instead only an expression of their regional identity. Until World War 2 there was a numerous German minority in the borderland, whom later relocated as a result of the Benes's decrees. The number of citizens who claim to belong among the German nationality halved between 2001 and 2011. The following text about practical problems is dealing mostly with Roma; only occasionally Ukrainians and Poles are mentioned.

Table 1. *Czech population structure by nationalities*

Nationality	2001 census	2011 census
Czech	9,249,777	6,711,624
Moravian	380,474	521,801
Silesian	10,878	12,214
Slovak	193,190	147,152
Polish	51,968	39,096
German	39,106	18,658
Ukrainian	22,112	53,253

Table 2. *Numbers of foreign nationals in C. R. by their country of origin*

Country of origin	Number
Total	406,211
Ukraine	106,040
Slovakia	80,967
Vietnam	55,585
Russia	27,321
Poland	19,048
Germany	15,702

Table 1. Czech population structure by nationalities

Nationality	2001 census	2011 census
Vietnamese	17,462	29,660
Hungarian	14,672	9,049
Russian	12,369	18,021
Roma	11,746	5,135
Bulgarian	4,363	5,071
Greek	3,219	missing data
Serbian	1,801	missing data
Croatian	1,585	missing data
Ruthenian	1,106	missing data
Other	41,405	missing data
Not stated	172,827	2 742 669
<i>Source: ČSÚ</i>		

Table 2. Numbers of foreign nationals in C. R. by their country of origin

Country of origin	Number
Bulgaria	7,387
Moldova	6,732
United States	6,385
China	5,040
United Kingdom	4,898
Mongolia	4,882
Romania	4,805
Belarus	4,072
Kazakhstan	3,727
Austria	3,256
Other	50,364
<i>Source: ČSÚ</i>	

2.2 Foreign nationals

The second minority group are foreign nationals who are not state citizens, yet live on its territory, either legally within the frame of different residence regimes or illegally. After 40 years of socialism, when over-border migration was made practically impossible, with mostly emigration to Western Europe or USA, Czech Republic has become an immigration country for the first time in 1993. In comparison to Western European countries Czech Republic does not have a colonial history, nor did it experience a wave of labour migration in the 1950s. Between 1993 and 2011, however, the number of foreign nationals legally residing on the territory of Czech Republic has become six times higher, reaching 422 thousand. 84% of them are in a productive age, 13% are children and 3% are seniors. There are 42% of women. Most of foreign nationals have a job; out of total 406 thousand registered in 2011 310 thousand were employed and 93 thousand self-employed. The majority of foreign nationals live in north-west of the Czech Republic; with the exception of the second biggest city of Brno,

the number of foreign nationals is decreasing from the west of the country towards the east.

However, foreign nationals in Czech Republic cannot be taken as one group; they differ in characteristics as well as problems by their country of origin. The most numerous group are Ukrainians. Whereas the national minority of Ukrainians in the Czech Republic is formed by those who had come in the pre-war period, the new immigration wave is considerably distinct and does not constitute a uniform community together with the “old timers.” They come in search of work mainly from western Ukraine where there is higher unemployment. The second most numerous group are Slovaks – their migration concerns mainly students, for whom the same conditions as for Czech students have applied since 1999, i. e. exemption from school fees and a possibility to study in Slovak language. Next it is young, educated Slovaks migrating into bigger cities in search of job opportunities and better earnings. (Ezzedine-Lukšíková 2005) The third most numerous group are Vietnamese who had been invited into the communist Czechoslovakia based on political connections in the 1950s with the view of working in the borderland, getting educated and bringing the acquired know-how back to Vietnam. The biggest migration wave happened between 1979 and 1985; during this period up to 35 thousand Vietnamese arrived based on a bilateral agreement between the states. (Kocourek, 2005) The pre-existing social network of the Vietnamese community makes the Czech Republic an ideal target country for outgoing migration from Vietnam.

Because of its completely different history Czech Republic is thus not dominated by the immigration flow from Africa and Near East but rather from Eastern Europe and East Asia, former republics of USSR or from the East communist bloc. The following text about practical integration problems is focused on Ukrainians and Vietnamese as these form the most numerous foreign communities today. To compare data, especially with Denmark and Austria, within the framework of this study we mention some details about the Muslim minority. This minority is defined on the basis of its membership of religion instead of nation. About two thousand individuals claim to be Muslim; with the exception of Czech converts, these are again immigrants from the East rather than South: Bosnia and

Herzegovina, Albania, former Soviet Union, and Afghanistan. They usually come as asylum applicants or students.

The Muslim community in Czech Republic is characterized by disputes between Czech converts and immigrants who are subdivided between educated elite of students and asylum-seekers. While originally the Czech Muslim community consisted of converts who professed the tradition of Bosnian Islam (Bosnia and Herzegovina along with the Czech lands was a part of the Austrian-Hungarian Empire between 1908 and 1918); already in 1998 only a tenth of its members had Czech nationality. Leading positions in Muslim societies were gradually taken over by foreign nationals – Iraqi, Sudanese, and Bosnians. (Děkanovská 2011) Muslim immigrants who graduated in Czech Republic and have a residence permit under authority of their occupation integrate better than asylum-seekers who often have no job. The worst off are women who came here following their husbands, stay in the household, don't speak Czech and thus are not integrated in whatever direction. (Topinka 2007) The project of the integration guidance centre called 'Support of employment and self-employment for women coming from traditional Moslem communities living in Czech Republic; has been focusing on these women since 2012.

3. ETHNIC DATA COLLECTION AND USAGE

Characteristics of national minorities and foreign nationals groups as well as the degree of their integration can only be obtained from so-called ethnic data which observes nationality or ethnicity as one of its variables. Collection of this data faces two major problems. The first is the identification of ethnicity, race, or nationality which should always be left to self-identification by the individual and should not be attributed from outside. The right of free decision of one's own nationality is guaranteed by the Charter of Fundamental Rights and Basic Freedoms. The second problem is fears of the data misuse based on historical experience with a holocaust of Jews and Roma during the World War 2. However, when introducing anti-discrimination policies, a need for this data collection arises. The data gives power to whomever is disposing of them and at the same time it can be misused for discrimination and it can also serve as a means for fighting

it. It is obvious that the way to abandon ethnicity as a practical category towards equal treatment of individuals regardless their race or ethnicity (as has been introduced by the Directive EU 200/43) is not to abandon it as an analytic category as is required by Loveman (1999), Brubaker (2002, 2004), or Jakoubek (2005). On the contrary, the ethnic data collection is essential for successful introduction of anti-discrimination practices (Bonilla-Silva 1997, 1999, League of Human Rights 2007 and Varvařovský 2012) as we can also see in concrete cases, especially those of Czech Roma.

3.1 Possibilities and practice of ethnic data collection

According to Czech legal order (personal data protection law), ethnic data belongs among sensitive data, furthermore it is a subject to international right of privacy (European Convention on Human Rights, International Covenant on Civil and Political Rights). The National Minority Member Protection Act (No. 273/2001 l.c.), §4, states that civil service bodies do not keep files of national minorities members and that recognition data gathered by the population census may not be used for a different purpose and it must be disposed of after the statistical processing. In its system recommendation, the League of Human Rights (2007) is interpreting legal measures in Czech Republic in such a way that the collection of statistical and anonymized data is always allowed. Also the personalized ethnic data may be collected under the rule of law, when it is appropriate as part of a legitimate purpose and with the approval of the subject, especially if this data is not to be kept on file by civil service bodies. Therefore the League proposed for the ethnic data to be collected by ombudsman under control of the Office for Personal Data Protection. By the way, the public defender of rights has the trust of 77% people belonging among the most trusted institutions in the Czech Republic (STEM 2012b).

In practice, national minority data are being collected primarily once every ten years during the population census, which is protected by the state-established Czech Bureau of Statistics (ČSÚ). Ethnicity is being identified by two questions: compulsory is a half-open question of mother tongue with the following options: Czech, Slovak, Roma, Polish, German, sign language, or specification of a different language. The open question of “nationality” is optional and like for language it can have two answers.

Thus while nationality depends on self-identification; mother tongue should be an objective indicator of ethnicity. Population census data is the only publicly accessible ethnic data and therefore it is used in the political and public discourse. For example, the number of individuals who have identified their nationality rules the establishment of national minority committees in municipalities and regions and the right on bilingual signs, names of municipalities and streets.

Other available data is statistical but does not have a census character. It is mainly sociological studies of various research institutions, for example GAC, whose studies are usually used by the Government of Czech Republic to prepare integration policies for Roma. No complete or personalized ethnic data concerning national minorities is collected. It is, however, different for foreign nationals; public databases of ČSÚ include details of the residence type, employment, health state as well as demographic events of legally residing foreign nationals by their country of origin (although this can sometimes differ from ethnicity). The records of foreign nationals are also kept by the Ministry of the Interior (Registry Office information System) and by the Foreign Police.

3.2 Incomplete data in the Czech Republic: Roma and illegal migrants

As previously discussed while introducing the Roma minority, considerably less individuals claim to be Roma in census than are generally considered as the members of this minority. Although the population census data is highly reliable there are serious doubts as to its validity. Most of those experiencing discrimination on the basis of their membership of Roma ethnicity do not identify themselves as Roma in the census or other questionnaires and so their situation is becoming invisible and irresolvable. We do not have data of their distribution in educational, medical, or other institutions and we do not know how many of them are taking part in voting or how many are unemployed. Therefore, since 2007, non-profit organizations headed by the League of Human Rights have been demanding the extension of the ethnic data collection method even out of the population census as the only possible way of fighting discrimination. Why Roma don't identify their Roma ethnicity is usually explained in different ways – besides fears of the data misuse also as their membership of fam-

ily rather than nationality (Jakoubek 2005). Based on experience from the EDUMIGROM project it is rather a fear of completing forms because in focus groups respondents were commonly working with their Roma ethnicity in contrast to questionnaires.

After the Czech Republic was convicted of discrimination of Roma in education in 2007 research was carried out tracing the ethnic data of Roma children where both the ministry and ombudsman used external judges, teachers, and inspectors to identify ethnicity. The reasons they gave explained that what led to discrimination is an attributed ethnicity, not one chosen freely. In spite of that the methodology was criticized mainly by teachers, who refused to identify their pupils as Roma, in addition to parents as well as non-profit organizations. It was criticized from the position of the social-constructivist discourse which requires abandoning ethnicity as a practical as well as analytical category. Nevertheless, the data collected by the research is now leading the Department of Education towards changes that should prevent discrimination of Roma pupils. The question of education of Roma pupils is discussed in a special chapter, but for this specific point it is only used as a proof that a wider collection of ethnic data which would use adequate indicators of Roma ethnicity is necessary for the preparation of anti-discrimination and integration policies.

Background information of foreign nationals is also not as complete as it might seem. The population census in 2001 covered less than two thirds of foreign nationals, the reason was that it was based on the Ministry of the Interior's records which, have proved as less complete than the Alien Police's records in previous years. That explains why a high number of census papers for foreign nationals were most likely not delivered to correct addresses. (Volynsky 2011) Another problem is a lack of information of illegal foreign nationals – we only know the numbers of those who were captured, however, the Ministry of the Interior does not know whether the Czech Republic hosts 40 thousand of non-captured foreign nationals or 400 thousand. When foreign nationals lose their residence permit they drop from the official national statistics and become untraceable. The fact is however that they often remain residing in Czech Republic in a much marginalized position with no right to health care

or to education of their children. Such a lack of data leads to an inability to control the illegal migration while the number of illegal migrants is growing as a result of the economic crisis. More than 60 thousand foreign nationals lost their job in 2009 and 2010, i. e. their residence permit. However, only few thousand out of them took advantage of the voluntary returns.

4. INTEGRATION OF NATIONAL MINORITIES AND FOREIGN NATIONALS

4.1 Levels, indicators, and partakers of integration

Having described the existence of national minorities and immigrant groups in the Czech Republic discussion will focus on the levels of their integration *de iure* and also *de facto* to the extent allowed for by the (non-)availability of ethnic data. Their integration *de facto* usually exceeds the scope of legal integration but in some cases, regarding mainly fighting discrimination, it is in turn insufficient. Integration must be perceived as a multi-dimensional concept with many indicators – nobody is fully integrated in the society in general terms but to a different extent in different respects. So integration is being operationalized on four levels: based on benchmarking, carried out by Entzinger and Biezeveld (2003) for immigrants. For national minorities whose members are citizens of the Czech Republic we added an indicator of group-based rights.

Table 3. Operationalization of Integration according to Entzinger and Biezeveld (2003)

Political-legal level	Foreign nationals: Naturalization Dual citizenship Participation in politics Participation in civil society	National minorities: Group-based rights Dual citizenship Participation in politics Participation in civil society
Social-economic level	Employment, typical occupations and income level Education and qualification Housing (residential segregation)	

Cultural level	Attitude towards basic rules and norms of the host country Contact with the country of origin Contact with the majority society (weddings) Knowledge of the majority society language Delinquency (as a sign of not accepting basic rules and norms of the majority society)
Attitudes of the majority society	<ul style="list-style-type: none"> • Racism and hostile attitudes • Cases of open discrimination • Structural discrimination by institutions • Media image

The individual levels of integration are often interconnected – cultural integration can be defended by public attitudes, social-economic integration can be inhibited by structural discrimination by institutions. After identifying the levels of integration of national minorities and foreign nationals we will focus on efforts of individual stakeholders for change – on integration policies. The stakeholders represent three basic elements of society: state element (EU, government, regions, and municipalities), commercial element (employers and employees), and civil element (non-profit organizations and associations, academics).

4.2 Roma and other national minorities

4.2.1 Political-legal integration

The members of national minorities are politically-legally integrated as citizens. They may hold dual citizenship only exceptionally, which still keeps many foreign nationals who don't want to abandon their origin citizenship (especially Vietnamese) out of the national minorities category. Slovaks may have both Czech and Slovak citizenship in consequence of the tradition of their former common state, and the same goes for Czechoslovak Roma. However, after the division of the state many Roma did not manage to choose their citizenship on time and they have remained stateless; some of them have not managed to obtain the citizenship of the Czech Republic until today. (Nečas, Miklušáková 2002, Šiklová 2009) In October 2012 the government passed an amendment to the law, which from 2014 will allow citizens to obtain the citizenship of a different state without losing that of Czech Republic. But when applying for Czech citizenship one

still must abandon his or her original citizenship. Dual citizenship is only allowed for those whose husband or wife has foreign citizenship.

As citizens are then the national minorities members *de iure* fully integrated, they have the same rights and duties as those who have identified themselves as Czech, Moravian, or Silesian. Moreover, equal treatment irrespective of race or ethnic origin is set out by the anti-discrimination law and Council Directive 2000/43/ES (see chapter 4). The national minorities members also have group-based rights set out by Act No. 273/2001 Coll.: right to education, extension and acceptance of information, as well as contact with authorities, voting information and dealing in courts in their mother tongue. Other group-based rights depend on how many citizens will identify the given nationality in the census – wherever their number exceeds 10% in the municipality and 5% in the region committees for national minorities shall be established and the right to bilingual signs, names of municipalities and streets given. In 2011 there were 63 municipalities which established the committee (a further three established a commission even though they were not obliged to) and three regions – Karlovarský, Ústecký, and Moravskoslezský. The most committees and subsidies are associated with the existence of the Polish minority in the Moravskoslezský region (Council 2012), which uses the right to bilingual signs and communication, too. Ukrainians don't exercise this right anywhere; the first place which issued ordinances in Vietnamese was Louny in 2012. The operation of the committees considerably concerns the Roma minority which is "invisible" in regard to the census results.

The Government Council for National Minorities and local committees provide political representation to minorities. The Roma minority is represented by Drahoslava Pawlitová and Štefan Tišer. Otherwise, the participation of national minorities in political life is marginal. In the Těšín area a Polish party called "Coexistencia-Soužití" has become active. The Roma currently have a year-old party, Strana rovných příležitostí (Party of new opportunities), with its chairman, Tišer. A Roma party has won seats only once, in 1990 after the revolution when Romská občanská iniciativa (Roma civic initiative) gained seven seats. It had enforced recognition of the Roma national minority. However, its success did not last, and in 1990s the political representation of Roma began to fall apart. The Roma repre-

sensation prefers other interests than an identity policy and that is why it is not uniform. It is rather Roma politicians on tickets of majority parties who are successful. For example in the 1990s it was Ladislav Body for Levý blok (Left Block) or Monika Horáková for Unie svobody (Union of Freedom). Ethnic data regarding voting attendance is not available, though in public discourse Roma are considered a minority with a very low voting attendance. (Pečínka 2007)

4.2.2 Social-economic integration

While members of other national minorities have a similar living standard as majority Czechs, Roma are experiencing so-called social-spatial exclusion. Typical for them is a higher birth rate, which was formerly controlled under the socialist government using forced sterilisations of Roma women and which occurred unlawfully even after the fall of communism. Since 2004, 80 women have appealed to ombudsman in the matter of sterilization without informed consent. In 2009 the government apologized for this practice. However, the reimbursement that was recommended by the Government Council for Human Rights has not yet been given. Roma children are more often placed under institutional care – 30% of children under three years of age in infant institutes and an estimated 40% of children in children's homes are Roma. The reasons usually are poor housing or poor social-economic situation – when multiple-generation families often live in unsatisfactory conditions – or insufficient school attendance. Roma children often remain in institutions – there is only a small number of cases when their situation improved and they returned to their families; they also move into foster care less frequently. (European centre... 2011)

Discrimination of Roma children in education, of which Czech Republic was convicted by the European Court of Human Rights in 2007, is discussed in chapter 3.4.1. As a result of discrimination, the majority of Roma have insufficient qualification with respect to market demands; they only have primary education or a certificate of apprenticeship. (Gabal, Víšek 2010, Government 2011b) According to estimates from the World Bank (2010), Roma in Czech Republic have a 39% employment rate in productive age and their wages are 58% lower than those of the majority population. All household members are unemployed repeatedly and often for

many years; the unemployment rate in socially excluded localities reaches 70% to 100%. The result is the dependability of Roma on the social benefits system, a growing rate of grey, illegal, or criminal income and activities, indebtedness, and loan-sharking. The circle is being closed by spatial segregation in unfurnished apartments for non-payers, overcharged lodging houses, or buildings in an unsatisfactory technical and hygienic condition. Poor housing conditions were the cause of a higher occurrence of hepatitis-A in 2010. Another health problem is a more frequent use of addictive substances: alcohol, cigarettes, and hard drugs and often also toluene. (Government 2011b) Among examples of the unfavourable situation of Roma are migration to United Kingdom and numerous asylum applications, most notably to Canada in 2009 and 2010. (Government 2011b)

4.2.3 Cultural integration

Of course, social-spatial exclusion and insufficient political representation go hand in hand with cultural differences of the Roma minority. Whereas Roma, unlike other national minorities, don't have their own country of origin, a nation state, their culture does not have a typically national character and its nature is a subject of disputes. More and more frequently they speak the Roma ethnolect of Czech; the use of the Roma language is decreasing with each next generation (Government 2011b). According to the National Minorities Council, Roma have their own tradition in fields of art such as music, dance, literature, and fine arts, which are presented in the Museum of Romany Culture and in Romany periodicals. Their values and norms are different from those of the majority population in many respects.

Integration is a process of convergence of the minority group towards the majority and thus it is always necessary to pay attention to their attitudes as well. While, for example, Slovaks have been accepted positively in Czech Republic, Roma are regarded as worse than foreign nationals. It can be seen in annual measurements of the social distance carried out by the STEM agency (2010, 2012a). 75% citizens expressed a negative relationship to Roma in 2012.

Another indicator of attitudes of the majority society is the media image of an integrated group. The attributions “cigán” or “cikán” have been rarely used to identify Roma in Czech media (more likely in cul-

ture or by Roma themselves), 74% of texts use the name Roma usually in context of minor crimes, a police discourse, or difficult behaviour. The term “inadaptable” has recently been spreading through Czech media (8% of cases), which is evaluative and excludes a positive context. (Jüptner 2012)

4.2.4 History of integration policies

The history of integration policies focused on Roma goes back to 1958 when Parliament passed Act No. 74 on ‘Permanent settling of strolling persons with the punishment for the continuance in strolling way of living being imprisonment for six months to three years.’ Resolution No. 502 in 1965 then established a policy of “scattering the inhabitants of Romany origin,” while their number in any municipality could not exceed 5%. Demolitions of settlements and forcible moving to industrial areas have brought Roma from the Slovak countryside to Czech towns. After the abrogation of this law in 1970 the first social-cultural integration concept had been passed. Many practices from which Roma in Czech Republic suffer today have their origin in socialism – forced sterilizations, refusal of institutionalization of children from families, their placement in special schools, etc. (Nečas, Miklušáková 2002).

Integration of Roma receives little attention in the early years of a democratic state. Romská občanská iniciativa (Roma civic initiative) forced the recognition of the Roma national minority in 1989. However, the present national minorities law did not appear before 2001. Since the separation of Czechoslovakia in 1993, Roma have faced the already described problems of citizenship, which started to be solved by the left-wing government only in 1998. The first complex report of the state of the Roma minority in Czech Republic appeared in 1997 as the so-called Bratinka’s report, which described most problems with Roma integration as well as insufficient concern of the state. In response to that an inter-resort commission and a function of the Roma pedagogical assistant were established. The first left-wing government after 1998 declared that civil principles must include affirmative action that would synchronize the Roma situation with the majority population. The first Roma Integration Concept was then passed in 2000.

Since the year 2000 pressure from the EU and the Council of Europe to fulfil the European standards for the protection of human rights and rights of national minorities has been increasing and it became a condition for the entry of the Czech Republic into EU, which was realized in 2004. (Blahoutová 2011) Since 2000 the social integration agenda has gone from academic discourse into European and Czech politics and it is within the framework of the so-called Lisbon strategy. (Mareš, Rákoczyová, Sirovátka 2006) The Roma integration policy is thus becoming a part of the wider discourse, also reflected by subsidy programs. Newly, the social-economical definition of Roma communities instead of the ethnic definition of the Roma national minority started to be accentuated. The development of the Roma identity, culture, and language has become secondary.

In 2005 Czech Republic, together with eleven other European countries, entered what was called the Decade of Roma inclusion, the aim of which is the solution to the group's poverty and social exclusion. The Principles of long-term Roma Integration Concept before 2025 set out by the government were formulated in this spirit, too. (Blahoutová 2011) Between 2007 and 2010 a position of the Minister for human rights and national minorities was established and was given first to Džamila Stehlíková. A significant legislative act was the passing of an anti-discrimination law in 2009 (see Chapter 4). Czech Republic then presided over the Roma Decade in 2010 and the outlined priority areas were inclusive education; life situations and rights of children and women; implementation of integration policies on a local level with the focus on self-administrations; and media and image of Roma.

4.3 Integration policies

Currently, the main valid government documents are the Roma Integration Concept for the period of 2010 to 2013 (Government 2009) and the Report of the state of Roma minority in Czech Republic as of 2010. In 2011 the government spent 86.7 million Czech crowns on Roma integration, which is a lower figure than in 2009 (156 million) and in 2008 (118 million). (Government 2011b) The main governmental agency is the Inter-ministerial Commission for Roma Community Affairs chaired by the Prime Minister from 2011, then the governmental commissioner for hu-

man rights, and the Government National Minorities Council. Other significant players are regions and municipalities, specialized committees are established in many of them and in every region there is a regional coordinator for Roma affairs who manages Roma consultants in municipalities. However, the scope of their employment is as yet systematically unclear and often complicated by discharging cumulated functions; the position of Roma consultants is especially under-institutionalized (Government 2011b). The members of the Inter-ministerial Commission for Roma Community Affairs are representatives of the Association of Regions and the Union of Towns and Municipalities. The municipalities are then supported by the Government Agency for Social Inclusion, which has been working in its pilot stage in 13 localities since 2009. In general the strategy of the Government of the Czech Republic is inclusive in the social-economical area (the main partaker being the Inter-ministerial Commission for Roma Community Affairs) and multicultural in the cultural area (subsidies for the support of distinctiveness of the Roma culture being decided by the Council for National Minorities).

The current integration policies entrenched in the Concept (Government 2011a) are built first on affirmative action, which is designed to help the integration of Roma on a social-economic level (mainly in education, employment, housing), and then on seeking a peaceful coexistence, which should be the consequence of security and the multicultural attitude to Roma culture. The assimilation affirmative action does not follow quotas but builds upon the targeted assistance: individual plans (in unemployment), field workers in the communities (in improvement of health condition, prevention of crime), or assistants in mainstream institutions (in education). The strategy of the government is to integrate the Roma in a way where they first receive help from the field workers, then get used to attending social care institutions and finally are independent and self-reliant. Next strategy is to move the integration policies from national to regional level. The regions and municipalities are supposed to develop medium-term strategies on their own. Achieving this, the peaceful coexistence is supposed to be the consequence of giving space to the identity policy in the spirit of multiculturalism and supporting the development of the distinct Roma culture.

The state integration concept is elaborated in detail but in practice it faces several essential problems. The network of workers in each region has not yet been fully established. The main problem, however, is a lack of know-how – even where the targets have been set the methodology for their attainment is often missing. The government is trying to solve this by sharing good and bad practices that can serve as inspiration. Yet the roles of some workers remain unclear, the example being the Roma consultants in municipalities. Integration is also obstructed by insufficient qualification of workers of the majority institutions, into which Roma are to be included (teachers, doctors, policemen) and system or individual discrimination (by landlords and employers).

4.3.1 Integration activities of civil society and interests of commercial sector

Since 1997 when the so-called Bratinka's report was published the integration of Roma has been strongly supported by the activity of almost 500 civic associations. The government (2011b) relies on them as important players and partially funds and monitors their activities. Roma are not integrated in the majority civil society – they don't have a strong voice in media nor are represented in important associations. However, there is a segment of civil society which does focus on their integration, as well as a cultural segment that supports their group identity.

Although the World Bank (2010) realised that the Czech Republic loses nine billion Czech crowns a year as a result of high unemployment of Roma, employers themselves show little interest in hiring the Roma. The main reason, apart from discrimination, is insufficient qualification; most Roma have only primary education or apprenticeship. So the way to enhance the interest of the commercial sector is by supporting education, while Roma themselves should stay in education beyond primary school. Most Roma are otherwise reliant on the secondary job market, known for its low status and wages, high fluctuation (i. e., insecurity), and again on social undertaking, public services and/or illegal employment. This may be mutually advantageous if the employers misuse the situation of Roma employees who are often in debt or want to continue to receive social benefits.

4.4 Ukrainians, Vietnamese and other foreign nationals

4.4.1 Political-legal integration

The long-term residence permit is the first criterion of the political-legal integration of foreign nationals; when they don't obtain it they are excluded into the position of illegal migrants or expelled. Its conditions are ruled by Act No. 326/1999 Coll. on the residence of foreign nationals; many procedures are, however, left to the free consideration of authorities, which is a problem throughout Central Europe. (MIPEX 2011) The criteria for obtaining a legal residence permit are the country of origin, education, employment, and family relations. The widest rights of abode are granted to the EU citizens who can live in the Czech Republic without any limits, citizens of selected countries are favoured in giving residence permit within the framework of the Green Card program (Australia, Montenegro, Croatia, Japan, Canada, South Korea, New Zealand, Bosnia and Herzegovina, Macedonia, Serbia, Ukraine, and USA). Due to their qualification, students and scientists of the Blue Card program, adopted under authority of the Directive 2009/50/ES, can obtain better residence conditions. The most common reasons for the long-term residence permit are work permit (11.3 thousand in 2009), right of family reunification (set out by the Council Directive 2003/86/ES (9.2 thousand)), studies (4.1 thousand) and humanitarian reasons (2.3 thousand). (MIPEX 2011) Under international protection laws, citizens of some countries have the right of asylum. In 2011, individuals who were granted asylum most often came from Burma, Russia, Uzbekistan, Belarus, and Afghanistan, but the most applications were from the citizens of Ukraine. The asylum applicants pass the procedure detached in integration centres; they can be granted additional protection or asylum – in such a case they obtain the right to the full extension of permanent residence.

A foreign national can obtain permanent residence after five years of residence in the territory of Czech Republic. Whoever has a member of the family in EU will obtain the permit after two years. Since 2009 a condition of completion of a Czech language test on the A1 level has been in effect (the Ministry of the Interior plans to increase this to A2 level and add a social-cultural integration test – these modifications have

been already embedded in the updated Concept (2011)). If we look at the residence regime of the most numerous groups then the majority of Vietnamese have permanent residence, which is the highest proportion in this category among migrants. Most Vietnamese live legally in Czech Republic on authority of their employment; about a half hold a trading certificate. The illegal migrants' number data is unavailable, but it is assumed that Ukrainians are the most numerous even in this group. They constitute the majority among persons caught in violation of the residence regime. (Hofírek, Nekorjak 2010)

Other criteria of the political-legal integration are the conditions of naturalization and the right to dual citizenship. In Czech Republic citizenship is granted under authority of *jus sanguinis*, thus based on the citizenship of one's parents because Czech Republic is an ethnically defined nation state. Both children and grandchildren are considered as foreign nationals after their birth, Czech Republic is thus among the strictest European countries. Foreign nationals obtain the right to citizenship after 10 years of their residence (five years of the long-term and five years of the permanent residence) and many of them must give up their previous citizenship. (MIPEX 2011) The applicants must approve their impunity and knowledge of the Czech language. Since 2004 the number of citizenships granted has been decreasing, with 1,495 citizenships in 2010. Ukrainians make up the most numerous group among successful applicants (26%), with Slovaks second (16%). By contrast, Vietnamese rarely apply for citizenship. Similarly, Russians and Poles make up only 5% of persons who obtain citizenship. (ČSÚ 2010) In October 2012 the Czech Government passed a new citizenship law, due to come into effect in 2014. This law cuts short the term for EU citizens, who will henceforth be able to apply after three years of their permanent residence. It also allows dual citizenship for Czechs, but does not make obtaining Czech citizenship easier for foreign nationals – the conditions were amended with a property declaration, non-receiving of social benefits, and acquaintance with the Czech Constitution or obligation to bring forward DNA paternity tests for children from mixed families. The term for resolution was doubled and the right to judicial review was restrained. However, the new law improves the position of certain second generation immigrants while awarding them the title to citizenship. (Čižinský 2012)

Czech Republic is criticized for a low level of political participation among foreign nationals, which has been introduced by MIPEX as a significant norm of integration. All foreign nationals have basic political rights – freedom of expression, right to information, right to petition, and freedom to assemble. Foreign nationals from the EU with permanent residence in the Czech Republic can take part in municipal elections and elections to the European Parliament, but cannot be elected or become members of political parties. Third Country Nationals have no right to vote until they obtain citizenship.

4.4.2 Social-economic integration

The social-economic situation of foreign nationals depends mainly on their residence regime – if they have been resident in Czech Republic legally and for a long time they have similar chances as Czech citizens. However, if their residence is illegal or they are in danger of expulsion they have practically no rights except human rights resulting from the Charter of Fundamental Rights and Basic Freedoms and international treaties. Their vulnerable situation is often exploited by mafia groups. With respect to laws, foreign nationals can rent and from 2011 also buy real estate. However, the great majority live in lodging houses with inflated rent because Czech landlords refuse to accommodate them. The health condition of foreign nationals is in danger mainly due to the reluctance of commercial insurance companies to insure foreign nationals (and of some doctors to treat them), while only those who have permanent residence or who are employed by a domestic organisation are entitled to public insurance. (Government 2011a)

Ukrainians and Russians don't establish families in Czech Republic as often as Vietnamese, who in turn remain for the long term. Thus, it is mainly the latter who have children most often among all foreign groups. The second generation of Vietnamese living in Czech Republic is called "banana children": yellow outside and white inside – Vietnamese at sight and Czech in upbringing, education, and culture (see chapter 3.4.1.). Although the right of family reunification exists, some foreign nationals may remain detached from their families for up to five years. When they obtain the right to application the family will receive a year-long renew-

able permit and equal access to education and occupation. However, each family can lose its status for many reasons, for example if family guarantors lose their job (MIPEX 2011). In the school year 2010/2011 Czech nurseries, primary and secondary schools were attended by 27,362 foreign nationals, out of them most were Vietnamese (6,513), a comparable number of Ukrainians (6,397), somewhat fewer Slovaks (5,365) and Russians (2,316) and the remaining foreign national groups did not reach a thousand pupils. (ČSÚ 2011)

According to MIPEX (2011) the employment rate of the Third Country Nationals reached 66.9% in 2009, while unemployment was 6.8%. Foreign nationals' access to the Czech job market is qualified as satisfactory – they have access to all sectors and a right to start a business. Their labour legislation is not notably disadvantageous (MIPEX 2011). The labour legislation became stricter during the economic crisis – in 2011 the state restricted the right of foreign nationals to conduct business; employees could become businessmen not sooner than two years after having worked in Czech Republic. In 2012, the state banned agency employment of foreign nationals and recommended to employ only foreign nationals with secondary school education.

4.4.3 Cultural integration

While social-economic integration of foreign nationals, at least in terms of employment, living, and minimum income is required when granting a long-term residence permit, a certain level of cultural integration is necessary to obtain the permanent residence – as we have seen, the applicant must pass a Czech language test at the A1 level (Concept 2011). So far the statutory obligation of cultural integration of foreign nationals living in Czech Republic is relatively low compared to, for example, Netherlands, where long-term residence applicants must pass a Dutch language social-cultural integration test in their country of origin. State integration policies.

Lacking historical experience with immigration and also due to application for EU membership, Czech Republic has long responded to trends in Western Europe rather than modelling the immigration policy on knowledge of the specific Czech situation. Monitoring and evaluating the position

and situation of foreign nationals in Czech Republic has only recently been addressed. (Government 2011a) The majority of integration programmes are intended for Third Country Nationals; very few of them can be used by EU citizens. Asylum-seekers have a special integration program, their integration being entrenched in Act No. 325/1999 Coll. on asylum. It sets out the right to the offer of housing paid by the funds of regional authorities and the right to a free 400-hour Czech language course. When staying in asylum integration centres in Jaroměř, Ústí nad Labem, Česká Lípa, and Brno the asylum-seekers receive help in searching for housing (dwelling allowance) and employment (retraining courses).

Barša and Baršová (2005a) write about several stages of foreign national policies in the Czech Republic. The “laissez-faire” approach without major regulations was typical during the early 1990s, when large groups of former emigrants and fellow countrymen were returning to Czech Republic. After the application to accede to the EU in 1996 Czech Republic was already in the wake of European standards and policies and so had no time to develop its own policy. In 1999 the first strategic document, Principles of Integration of Foreign Nationals (Government 1999), appeared with a sensible multicultural discourse then taking place in Western Europe. There is discourse about immigration communities, creating a multicultural society and maintaining the immigrants’ own cultural and religious identity. After 2001 Western and thus also Czech policies changed following the September 11 attacks. Security became more important than recognition of distinction and therefore multicultural discourse was abandoned in favour of individual integration, where each individual is to accept the political culture of the receiving society. Foreign Nationals Integration Concept as of 2000 was updated in 2006 and 2011, when the current valid concept came into effect.

So the existing foreign nationals’ integration policy differs from the policy of integration of national minorities, especially Roma, which has assimilative character in the social-economical area and multicultural character in culture. The integration of foreign nationals is based on individual responsibility – whoever does not integrate well on a social-economical level will not obtain a residence permit (in case of the loss of employment or housing) or will have to pay the costs themselves (in case of medical insurance). This “survival of the fittest” style often leads

foreign nationals into the dependence on the client system because they do not always have easy access to non-profit organizations that can aid them. Only the foreign nationals who integrate in a social-economic way then become the target of cultural integration policies, where an identity policy or multiculturalism have no support. In fact on the contrary, their goal is to familiarize foreign nationals with the Czech language and culture and familiarise them with their rights and duties, the Czech language, as well as where to find assistance.

If foreign nationals become oriented guests, they should know the current conditions of legal residence in the Czech Republic and should be ready to respond flexibly to their change. The state in its policies counts on the fact that foreign nationals will function as “gastarbeiters” who come in times of prosperity and leave in times of crisis; they will not stay on our territory like Roma or other national minorities. However, foreign nationals do often stay, even despite the loss of legal employment or a residence permit. Soon after economic crisis began, when many foreign nationals lost their jobs, only a few thousand individuals took part in the voluntary returns program; as a result of tightening of working conditions for foreign nationals many of them fell into illegality instead. For some it was a result of their poor orientation in the Czech legal environment and ignorance of the language. However, many also have reasons to remain in the Czech Republic other than opportunities for legal work. Even experiences from Western Europe show that foreign nationals will rarely go back having once arrived. Therefore it seems to be more deliberate to learn a lesson from the imperfect models of our Western partners and even in time of economic prosperity invite only those whom the state will be able to integrate when they decide to stay and to bar entry to those who will prove impossible to integrate. Those who already on the territory should in turn be allowed to remain legally through domestic policies because only then is the state aware and able to control their conditions.

4.5 Case studies

4.5.1 Education

Education of children from ethnic minorities is the most discussed topic of integration in Czech Republic because the country was convicted

of discrimination of Roma children by the European Court of Human Rights in 2007. In the case “D. H. and Others v. the Czech Republic” the court discovered that in 1996 and 1999 the right to education of 18 Roma children from Ostrava was infringed as these children were deliberately placed in a school for mentally handicapped children on the ground of their Roma origin, not mental health. This case is not sporadic but is a result of systemic discrimination of Roma children within the educational system. Already in the socialist era, Roma children were placed in special schools with the mentally handicapped where they received an inferior education than in general schools. In 2005 former special schools changed into practical and special schools but it was a formal change rather than reformation. Special schools are intended for pupils with serious mental handicaps, while practical schools should be attended by pupils with IQ between 50 and 70 points. Placements are decided by pedagogical-psychological counselling centres. Parents always sign a form of informed consent. Upon completing these schools, pupils often do not have sufficient education to be able to follow to further education, and they end up with primary education as unemployed or on poorly paid positions.

The League of Human Rights (Kopal 2007) and other non-profit organizations (Roma Education Fund 2007, Amnesty International 2009) have called attention to segregation when placing children in practical schools. However, it is not a charge that is easy to prove due to the absence of ethnic data of pupils in practical schools. After 2007 it was revealed that ethnic data would be necessary to fight discrimination. The Department of Education had initiated the research on educational channels and chances of Roma pupils (GAC 2009) where teachers judged who Roma is and who not. It was discovered that 30% of all Roma children attend the practical schools, which is a lower number than non-profit organizations expected, yet it still shows systemic discrimination. 70% of Roma children are in schools of the main educational stream,. However, they often leave with only primary education. The Czech School Inspection (2009) then discovered that in some regions more than a half of Roma children have been diagnosed as slightly mentally retarded (53.1% in Ústecký, 48.5 in Karlovarský, and 41.8 in Liberecký regions). Ombudsman had carried out the third research on the ethnic structure of pupils of practical schools; he

used teachers and his own inquirers as external judges. 35% of practical school pupils are Roma, which does not match their estimated 3% representation in Czech population. (Varvařovský 2012) Investigations met with an aversion from the part of the non-profit sector, teachers as well as parents of pupils who objected to ethnic data collection and other ethnicity identification other than self-identification. (Lovriš 2008, Pilař 2012, Švancar 2012) Nevertheless, this methodology is understandable with regard to the population census issues.

Apart from the segregation of Roma pupils in practical schools, another phenomenon which is in conflict with the principles of inclusive education appeared after the year 2002. Elementary schools of the main educational stream in the neighbourhood of excluded localities became “Roma schools,” which also provide worse education than non-Roma schools. Nekorjak, Suralová, and Vomastková (2011) describe it as a consequence of so-called marketization of education where schools compete for pupils and thus also for money by offering different educational programs by which they react to the demand of parents from the neighbourhood. Roma families act as customers – they can freely choose a school regardless of former sub-regions. According to their advocates this liberalization of education was to result in overcoming the segregation of children from ethnic minorities. However, in practice the contrary is true.

The choice is not the same relevant option for everybody; it depends on resources and motivation. While parents of non-Roma children are ready to change the school as soon as more Roma pupils start to attend it the strategies of Roma families are influenced by their position in the society: they have low economic and cultural capital and limited social capital. They usually have no money for teaching aids or commutation; the children don't speak Czech well; the parents don't have appropriate education to be able to help their children with homework; and additionally, they don't have high ambitions. Strong connections inside the Roma community and fear of discrimination or experience with bullying on the part of the majority children then lead them to schools attended by other Roma. The result is the informal dividing of schools near excluded localities on majority and Roma schools with Roma schools modifying educational plans in order to comply with the needs of Roma children –

they emphasize responsiveness towards children, freer classes, options of access years and catch-up classes. By contrast, majority schools discourage applicants with foreign language classes or other more intensive profiling.

Thus, the Roma schools adjust their educational programmes to demand for low standards. The Roma pupils manage to complete primary education in these schools, however, they are often not ready to continue to secondary school. That way Nekorjak, Souralová, and Vomastková (2011) consider the coexistence of inclusive and liberal-market educational policies as objectionable and non-functional. If the problem was only in discriminating institutions the possibility of a free choice would lead to inclusion. However, as it appears to be a result of parents' strategies it cannot be eliminated by inclusive laws alone. While strategies of Roma families are the reflection of their social status which they are reproducing in this way, strategies of non-Roma families are based on negative attitudes and the dissociation from the Roma minority.

And what is the status of children of foreign nationals in this system? In 2010 they constituted less than 2% of pupils of Czech schools, mainly Ukrainian, Vietnamese, Slovak, and Russian. (ČSÚ 2012) Segregation into special foreign-national schools does not occur; these children attend schools of the main educational stream. The problem is language, instead of a recommended individual synchronizing plan they are often placed in classes several years below the normal age level. Free Czech classes are provided only to children from the European Union, not Third Country Nationals. (Government 2011a) However, the teachers declare a much more positive attitude to foreign nationals than to Roma; foreigners – mainly Vietnamese – are more ambitious and diligent, often even more so than Czech children. This overcomes some of the barriers which they have in common with Roma children (ignorance of the language, a missing support of the family which lacks the adequate cultural capital to help their children with their homework or tutoring). (Faculty of social studies... 2012). Help with the integration of foreign-national pupils into classes should come from the projects of non-profit organizations, which have established practical information sites www.inkluzivniskola.cz (Association for Opportunities of Young Migrants) and www.ferovaskola.cz (League of Human Rights).

4.5.2 Security

Security, combined with the coexistence of ethnic minorities with the Czech majority, is another frequently discussed topic. The case studied here is the Šluknovský výběžek area on the Czech north border with Germany, where riots have been going on for more than a year. The story began in August 2011 in a bar in Nový Bor where three Roma men wanted to play on gambling machines. When the bartender asked them to show their ID cards first there was a battle of words and then one of the customers hit one of the Roma men. The Roma came back in a larger number and attacked the bar customers with machetes. At the end of that same month a group of 20 Roma attacked six youngsters in nearby Rumburk. In September there were demonstrations in both towns, as well as in nearby Varnsdorf, where the demonstration was attended by around 500 people. Representatives of the far right together with local inhabitants met at the demonstrations and marched towards the quarters occupied by Roma. In Varnsdorf the police rode down the mob using water guns, horses, and tear gas.

The deteriorating security situation in the Šluknov region, where both Roma and local people feared to let their children go to school, can be explained in several ways. The local people complain mainly of the migration of Roma to the Šluknov area and the fact that criminality has allegedly doubled in recent years. The local municipalities sold old blocks of flats to private owners who then moved Roma into them. However, the migration allegedly occurred mainly between individual places inside the region; in the past three years there has been in turn a decrease in the number of inhabitants in the Šluknov region. The guesswork of media that the migration of Roma is being organized by estate agencies have been similarly disconfirmed – the motive for migration is often a poor housing standard, where Roma live in unsatisfactory conditions in lodging houses, often pay higher rents than in private flats as well as high indebtedness. Czech people in the region also protested against higher criminality, which has risen by 25% in the past three years and is above average in the region even though not as high as the media claimed (some mentioned a 250% increase). (Kafková 2012) Between August and October 2011 there was a police intervention in the Šluknov area, where even policemen in heavy armour were deployed. The police intervention cost approximately 71 million Czech crowns and a

total of 3,524 policemen were deployed (Idnes 2012). As a result of the riots the “Dawn” police project has expanded to the Šluknov region which is to increase security in socially excluded localities and which combines the activity of Roma mentors – crime prevention assistants – with education of children and organizing of their leisure time, prevention of falling into debt etc. The Agency for Social Inclusion, which strives for the solution to social problems, has been in operation at the location for a long time.

There are always more sides to security problems involving Roma – it is the criminality of Roma, then crimes associated with taking advantage of their poor situation (loan sharks, drug dealers) and finally expressions of racial intolerance on the part of the majority. The criminality of Roma does not have a character of organized crime; on the contrary, it is typical for a culture of poverty (Jakoubek 2005), so it is a result of the poor social situation of Roma and an accompanying symptom of the excluded localities. It means the problem already begins with discrimination in education because of which Roma often cannot obtain sufficient qualifications that would qualify them to get a job. For example, only a half of the children from the Varnsdorf lodging house attend the mainstream local school. Unemployment connected with unavailability of social housing leads them to illegal ways of seeking money – illegal work, theft, gambling, or indebtedness. Drug addictions and truancy are frequent as well. There have also been cases of Roma women trafficked by Roma men for the purpose of prostitution (La Strada 2004). This unfavourable situation is then used by loan sharks, drug dealers and illegal employers, who also take part in criminal activities that put Roma in the position of victims instead. These people exploit the low knowledge and insufficient legal awareness of the Roma. (Government 2011b)

A stand-alone chapter includes crimes associated with racial or national intolerance on the part of the majority. According to the Ministry of the Interior (2012a) most such crimes were committed in 2008 (75) and 2009 (77), and in 2010 the total decreased to 65 and last was 69. The best known is the case referred to as the “Incendiary attack in Vítkov” when in 2009 four Czech neo-Nazis threw frangible grenades into a house occupied by Roma, injuring three people. Two-year-old Natálka suffered life-threatening third and fourth degree burns on more than 80% of her body.

The culprits were convicted of attempted murder and sentenced to 20 and 22 years in prison respectively. In the Šluknov region, there had been no similar individual attack in the last year, but an assembly in Varnsdorf had grown into an assault of a 500 -strongcrowd against “Sport” lodging house, which had to be defended by policemen in heavy armour and a carriage barrier. Neo-Nazis stood up for the local people in the crowd and attacked the policemen with stones. So the goal of integration policies in this region is above all to assure the security of Roma (Government 2011b).

Again, foreign nationals are in a different position than Roma. Coexistence with foreign nationals does not cause any conflicts with the majority population; attacks associated with racial intolerance are rare. Instead, it is typically multiple-level criminality where one group profits from the weak position of another group. One part of the spectrum includes illegal migrants who commit a crime already by their illegal residence and their weak position leads them to other crimes – illegal work, theft, etc. These people, like many legal immigrants, have their agents (“clients”) who provide them with a job and at the same time hold them in a subordinate position. The top of the imaginary pyramid is occupied by organized crime groups. Among the most active groups on the territory of Czech Republic are Vietnamese, Albanian (mainly from Kosovo and Macedonia), and Ukrainian, Russian, Georgian, Armenian, Nigerian, Bulgarian, Romanian as well as Arabic groups. The most profitable activities include economic crime, illegal migration and human trafficking, production and distribution of narcotic and psychotropic substances, and car crime. As for terrorism, Czech Republic has not yet become a stage for any terrorist attack. (Ministry 2012b)

5. ANTI-DISCRIMINATION

One of the most common practical problems with integration is discrimination – Roma and foreign nationals are discriminated by majority individuals who hold racist views, or systemically in institutions which developed in the socialist era. The law defines direct discrimination – an individual is treated in a less appropriate way than others based on his or her actual or perceived membership in a certain group – and indirect discrimination – a certain group of individuals is given preference in consequence

of a seemingly neutral rule applicable for everybody without exception. It is not discrimination when unequal treatment has a justifiable purpose. Anti-discrimination laws and treaties valid in Czech Republic, EU, and UNO differ depending on what rights or chances they refer to and in connection to what characteristics discrimination is illegal. The foundation is the Charter of Fundamental Human Rights, which is equally available for all persons. Equal access to other laws, also in civil service, is set out in the International Treaty on Elimination of All Forms of Racial Discrimination (UNO 1965) as well as by the equality principle set out in the Council of Europe's recommendation for good administration. (Čižinský 2006a)

5.1 Enactment of anti-discrimination directives in Czech Republic

Apart from the public sector, where it is about equality before the law and state, there is also discrimination in the private sector, i. e., mutual discrimination between citizens in their approach to employment, accommodation, goods, and services. However, here some see it as a violation of the freedom of agreement and assembly. (Joch 2006) This sphere is covered by the EU's Anti-Discrimination directive: 76/207/EHS and 2002/73/ES on equal treatment for men and women in employment, education, and working conditions, 2000/78/ES setting out the framework for equal treatment in employment. In the context of the integration of ethnic minorities it is then especially 2000/43/ES which establishes a wide principle of equal treatment irrespective of the race or ethnic origin also in education, accommodation, social security, or an access to goods and services that are offered to the public (irrespective of sex: 2004/113/ES).

Czech Republic has implemented these directives not by amending existing regulations but by passing what is known as the Anti-discrimination law. Czech Republic was the last country to pass this anti-discrimination measure, doing so in 2009. The bill was first refused by the senate in 2006 and later in 2008 it was vetoed by the then-president, Václav Klaus. It was especially some right-wing think tanks and parties who opposed the law in Czech Republic, regarding equal treatment in the private sector (which includes letting of flats or employing in private companies) as a serious threat to freedom. The president criticised the implementation of directives by a new law instead of amendment of the existing ones and extension

of competence of ombudsman. In the first place, however, in justifying his veto he declared that Czech Republic does not discriminate anybody, which is, for objective reasons, surprising with respect to the cases mentioned headed by the case “D. H. and others.” He then appointed the same approach in decision-making as a “politically correct utopia.” Like Joch (2006) and others, he claims that freedom of choice is put into the position of an exception by the anti-discrimination law and he also entered a protest against establishing the divided burden of proof when the defendant has to prove that he/she did not discriminate (Klaus 2008). The president’s veto was overturned in the parliament in 2009, and the law then came into force. After it was passed the senate issued a disapproving declaration to the form of the law. It was, however, considered necessary with respect to imminent sanctions on the part of the EU.

5.2 Public defender of rights and enforcement of equal treatment

Even though the anti-discrimination law exists, its enforcement depends on the practice of responsible authorities and resolutions of courts. The anti-discrimination law in Czech Republic does not impose any sanctions for breaching the duty of equal treatment; these are regulated by special regulations (offence law or consumer protection law). Nevertheless, the discriminated person is entitled to apply to the relevant control authority or governing body with a complaint (cases of consumer discrimination are resolved by the Czech Trade Inspection Authority, which initiates its own inspections), make an attempt for reconciliation in the form of a “mediation,” or lay claim to discontinue the discrimination, to remove possible consequences and to give adequate satisfaction. The discriminated person may find help at the public defender of rights (ombudsman) who, according to the new law, is to provide the victims of discrimination with methodical assistance in suggesting the opening of a case on the grounds of discrimination. Thus, the ombudsman’s power has been extended from the original resolution of relations between citizens and public administration in the private sector as well. Since 2009 a special equal treatment department with six workers has been in operation in ombudsmans’ bureaus. The ombudsmans’ discrimination prevention agenda comprised a total of 210 entries in the first three quarters of 2012 (in 2011 it was 278).

5.3 Discrimination of foreign nationals in the nation state

The above mentioned anti-discrimination measures are, to the full extent, effective for Roma and other national minorities whose members are citizens of Czech Republic. However, to what extent are they effective for foreign nationals who clearly don't have the same rights as citizens and as such they are treated unequally in many respects? The ombudsman has addressed equal treatment of foreign nationals in one of his recommendations as well. (Seitlová 2011) Foreign nationals from EU countries have all rights secured by the anti-discrimination directives. Third Country Nationals, however, have only the fundamental rights and basic freedoms secured by international law, to which they must have an equal access (the 'minimum foreign national standard'). The anti-discrimination law clearly states that it does not cover legal relations connected with the regulation of conditions for entry and residence of Third Country Nationals or individuals without nationality in the territory of Czech Republic. (Seitlová 2011) According to Čížinský (2006b) here the anti-discrimination principle would oppose the natural right of the state to disadvantage foreign nationals because members of certain communities must always have higher rights than non-members.

So when judging the discrimination of foreign nationals it always depends on what basis they are treated unequally (because, for example, the residence regime is seen as a rightful reason for discrimination on the part of state), and also compared to whom they are treated unequally. While they may be discriminated in comparison with citizens, unless it is illegal under the Charter, they may not be compared to other foreigners. Also, without a rightful reason, discrimination is not admissible in the private sector, only in public. In particular, the ombudsman addressed several cases where there was a suspicion of discrimination of foreign nationals. First, it was the exclusion of unemployed Third Country Nationals (husbands, wives and children residing in the territory based on the family reunification) from the public insurance system. However, as insurance is not among the rights assured by the Charter and discrimination is on the basis of residence regime it is not an offence. Yet private insurance companies sometimes refuse to insure foreign nationals over 70 years of age: a commitment of direct discrimination by age. Another case was providing free

Czech classes only to children of foreign EU nationals, not Third Country Nationals. But even free education is not secured by the Charter as a fundamental right and so it is legal when EU citizens have different conditions regarding the residence regime. The Charter does not even assure the right to vote for foreign nationals. However, in all three cases (public insurance, free Czech classes and the right to vote) the ombudsman claimed that although the state did not discriminate, it did not act in accordance with the Updated Foreign Nationals Integration Concept. At the same time, the ombudsman criticises the Law on the Association of Citizens which does not grant foreigners the right to free association even though it is protected by the Charter. (Seitlová 2011)

6. CONCLUSION

The previous chapter dealt with some practical problems of the integration of ethnic minorities in Czech Republic. Czech Republic was described as a relatively homogeneous nation state with few large minorities. Citizens who claim an ethnicity that is not Czech constitute *ex lege* national minorities, and wherever their number exceeds a set limit they have a right to establish committees and use their mother tongue. The largest of these minorities are Slovaks, Ukrainians, Poles, and finally Roma, the latter being the target of most integration policies because the great majority of them experience social-spatial exclusion. Foreign nationals come predominantly from the countries of the former Soviet Union, mostly Ukrainians, Vietnamese, Russians and citizens of neighbouring countries; Muslims are a smaller minority. Although the Czech Republic is relatively new to immigration, it currently hosts more than 400,000 foreign nationals.

The first part of the study is dedicated to the ethnic data collection as that is the link between the actual situation of ethnic minorities and integration policies. Ethnic data collection is not widespread in the Czech Republic, with the national minorities' data from the population census and the foreign nationals' data from the records of the Ministry of the Interior and Alien Police. Data of Roma is missing completely – out of the estimated 200,000 only 13,000 claim to belong to Roma ethnicity – as well as the data of illegal foreign nationals. The main obstacles of a more

intense data collection are fears of their misuse, the self-identification principle in ethnicity identification, and conviction that it is necessary to abandon ethnicity as a category on the practical as well as theoretical level. However, recent data collection of the number of Roma pupils in practical schools has shown that this data is necessary to combat discrimination and exclusion and has finally resulted in important changes towards inclusive education.

The rate of integration of ethnic minorities is then viewed on four levels: political-legal, social-economic, cultural, and the level of the majority society attitudes. While foreign nationals are in many respects excluded *de iure*, Roma are excluded *de facto* on all levels. Foreign nationals cannot take part in politics until they obtain citizenship – they don't have the right to vote nor to be elected, and cannot establish political parties or civic associations. Roma have these rights. However, they mostly use only the latter. While foreign nationals usually have a job because it is a condition of their legal residence there is high unemployment among Roma and they depend on social benefits. Both groups resort to criminality – illegal work, minor crimes, and gambling. However, foreign nationals are more often exploited by organized crime through the client system while Roma are victims of loan sharks and individual illegal employers. The children of foreign nationals are given better education in schools of the main educational stream than Roma, who are discriminated by placement to practical schools. Both groups struggle with poor quality of housing, while having no access to council flats, and live in overcharged lodging houses. Both groups struggle to learn the Czech language and suffer from poor awareness of the legal environment; societal attitudes are more forthcoming towards foreign nationals than Roma, while the media image of both groups is poor. Illegal foreign nationals who have no rights beyond fundamental human rights are the least integrated at all.

There are major differences between the integration policy for Roma and foreign nationals. While Roma policies have a 50-year-long history and are gradually becoming inclusive – as a result of a pressure from the EU, among others – the foreign nationals' policies of Czech Republic as a young immigration country are based on the experience of Western countries rather than data collection. Government concepts imply that Roma

are to be fully assimilated through affirmative action based on targeted assistance, while on the cultural level, their distinctness should in turn be respected in the spirit of multiculturalism. There are so far no policies that would lead to their political integration. On the contrary, foreign nationals are to be legally residing guests who will stay only as long as they are socially-economically integrated, as long as they bring benefit. They are individually responsible for their integration. They are not to be involved in politics but should be oriented in legal and cultural environment and able to react to state policies. Integration of both foreign nationals and Roma should take place on the regional level – in regions and municipalities – and individually by virtue of the targeted assistance and field work.

Realization of the Roma Integration Concept faces above all a lack of know-how, insufficient qualifications or part-time jobs and unsuitable skills of workers in newly established regional positions. Another problem is a lack of funds. 86 million Czech crowns were allocated for Roma integration in 2011, which is less than in previous years but still four times more than the funds for integration of foreign nationals. And as for foreign nationals, the laws passed which have been rather restrictive recently due to the economic crisis have not always complied with government concepts. The last problem for both groups is enforcement of justice and equal treatment – for example, the illegally sterilized Roma women have not yet been compensated, discrimination in education has not been eliminated, and the illegal work of foreign nationals in Czech forests has not been investigated by the police. The civil sector, which is developing significant activities for the support of integration and which is in many cases a practical implementer of governmental policies, plays an irreplaceable role in the case of Roma as well. Private employers are not interested in the Roma integration while employment of foreign nationals is more beneficial for them in some aspects than employment of Czechs, which is why they enforce the granting of work permits.

The final part of the study is dedicated to anti-discrimination because we consider the equal treatment policies as an important basis for the integration of both Roma and foreign nationals. In 2009 Czech Republic became the last EU country to implement anti-discrimination directives, and their enforcement lies mainly in the public defender of rights. They

guarantee the equality of opportunity for nationals of different races and nationalities in both the public and private sector. It is the inequality of opportunity that we have identified as a frequent cause of exclusion of Roma or foreign nationals from the majority core. If this were to be eliminated then no affirmative action, striving for the equality of results that make a part of today's integration policies, would be needed. Thus, in the future the integration of ethnic minorities in Czech Republic could be based on the equality of opportunity instead of results.

Bibliography

Alexander, Jeffrey C. 2006. "Ústřední solidarita, etnická okrajová skupina a sociální diferenciacie." Pp. 16 – 48 in Radim Marada (ed.). *Etnická různost a občanská jednota*. Brno: Centrum pro studium demokracie a kultury (CDK).

Amnesty International. 2009. *Nedokončený úkol. Romští žáci v České republice stále čelí překážkám ve vzdělání*. London: Amnesty International.

Babická, Karolína. 2011. "Cizinci v České republice." In Harald Christian Scheu (ed.). *Migrace a kulturní konflikty*. Praha: Auditorium.

Badáňová, Adéla. 2010. *Proměny mediální reprezentace Romů v českém tisku*. Magisterská diplomová práce. Brno: Masarykova univerzita.

Barša, Pavel, Andrea Baršová. 2005a. *Přistěhovalectví a liberální stát*. Brno: Masarykova univerzita.

Barša, Pavel, Andrea Baršová. 2005b. "Od multikulturalismu k občanské integraci. Změny v západoevropských politikách integrace přistěhovalců." *Sociální studia*. 1. Fakulta sociálních studií Masarykovy univerzity v Brně.

Barša, Pavel. 2005. "Konec Romů v Čechách? Mladí antropologové z Plzně

kladou kacířské otázky” Lidové Noviny (příloha Orientace).

Blahoutová, Tereza. 2011. “Nástroje překonávání sociálního vyloučení Romů v ČR.” Diplomová práce. Brno: Masarykova univerzita.

Bobysudová, Lída, Blanka Tollarová, Martin Rozumek. 2011. Připomínky OPU k Aktualizované Koncepci integrace cizinců. Organizace pro pomoc uprchlíkům, o.s. Online: <http://www.opu.cz/cz/article/42> (September 3, 2012)

Bonilla-Silva, Eduardo. 1997. “Rethinking Racism: Toward a Structural Interpretation.” *American Sociological Review* 62 (3) : 465–480.

Bonilla-Silva, Eduardo. 1999. “The Essential Social Fact of Race.” *American Sociological Review* 64 (6)

Brubaker, Rogers, Mara Loveman, Peter Stamatov. 2004. “Ethnicity as cognition.” *Theory and Society* 33: 31–64.

Brubaker, Rogers. 2001. “The return of assimilation? Changing perspectives on immigration and its sequels in France, Germany, and the United States.” *Ethnic and Racial Studies* 24 (4): 531–548.

Brubaker, Rogers. 2002. “Ethnicity Without Groups” *Archives Européennes de Sociologie* XLIII.2: 163–189.

Centrum pro výzkum veřejného mínění. 2012. Postoje české veřejnosti k cizincům – březen 2012. Tisková zpráva. Sociologický ústav AV ČR, v.v.i.

http://cvvm.soc.cas.cz/media/com_form2content/documents/c1/a6809/f3/ov120416.pdf (September 3, 2012)

Council of Europe. 2010. High Level Meeting on Roma Strasbourg, 20 October 2010. “The Strasbourg Declaration on Roma.”

http://www.coe.int/t/dc/files/source/2010_cm_roma_final_en.doc (September 3, 2012)

Čaněk, Marek. 2011. "Když se sází les, létají třísky. O zaměstnávání pracovních migrantů ve státních lesích." *Migraceonline.cz*. <http://www.migraceonline.cz/e-knihovna/?x=2279186>. (September 3, 2012)

Česká školní inspekce. 2010. Souhrnné poznatky z tematické kontrolní činnosti v bývalých zvláštních školách. Tematická zpráva. Online: <http://spolecnedoskoly.cz/wp-content/uploads/tematicka-zprava-csi.pdf> (June 18, 2012)

Český statistický úřad. 2012. Statistika Cizinci v ČR. http://notes.czso.cz/csu/cizinci.nsf/kapitola/cizinci_uvod (October 14, 2012)

Čížinský, Pavel. 2006a. Proč je diskriminace ve veřejné správě zakázána. Multikulturní centrum Praha. http://www.mkc.cz/uploaded/antidiskriminace/Proc_je_diskriminace_ve_veřejne_sprave_zakazana.pdf (October 9, 2012)

Čížinský, Pavel. 2006b. Otázka diskriminace cizinců. Multikulturní centrum Praha. http://www.mkc.cz/uploaded/antidiskriminace/Otazka_diskriminace_cizincu.pdf (October 9, 2012)

Čížinský, Pavel. 2012. Stručná analýza některých problémů návrhu zákona o státním občanství ČR. <http://www.migraceonline.cz/e-knihovna/?x=234188> (October 9, 2012)

Člověk v tísni. 2009. Média a migranti. <http://www.clovekvtsni.cz/download/pdf/212.pdf> (October 9, 2012)

D.H. and Others v. the Czech Republic, Application no. 57325/00, Judgment 7 February 2006.

Děkanovská, Kateřina. 2011. "Kulturní specifika muslimů v České republice." In Harald Christian Scheu (ed.). *Migrace a kulturní konflikty*. Praha: Auditorium.

Entzinger, Han, Renske Biezeveld. 2003. "Benchmarking in Immigrant Integration." *European Commission Report*. Rotterdam: European Research Centre on Migration and Ethnic Relations. http://ec.europa.eu/home-affairs/doc_centre/immigration/docs/studies/benchmarking_final_en.pdf (October 7, 2012)

Evropské centrum pro práva Romů. 2011. Doživotní trest. Romské děti v ústavní péči v České republice. <http://www.errc.org/cms/upload/file/do-zivotni-trest-romske-deti-v-ustavni-peci-v-ceske-republice-20-june-2011.pdf> (October 5, 2012)

Ezzedine-Lukšíková, Petra. 2005. "Slováci v ČR." *Socioweb*.

<http://www.socioweb.cz/index.php?disp=temata&shw=197&lst=117> (October 5, 2012)

Fakulta sociálních studií. 2012. Vzdělávání dětí z vybraných etnických skupin na základních školách v ČR. Výzkumná zpráva z šetření. Masarykova univerzita.

Favell, Adrian. 2001. "Integration policy and integration research in Europe: a review and critique." Pp. 349–399 in Alexander Aleinikoff, Doug Klusmeyer (eds.). *Citizenship Today: Global Perspectives and Practice*. Washington: Brookings Institute. <http://www.sscnet.ucla.edu/soc/faculty/favell/CARN-PUB.htm>

Gabal, Ivan, Petr Víšek. 2010. Východiska pro formulaci a implementaci politiky začleňování obyvatel vyloučených lokalit do české společnosti a její sociální a ekonomické struktury. Praha: GAC. http://www.gac.cz/userfiles/File/nase_prace_vystupy/GAC_Strategie_soc_vyloucení.pdf (October 6, 2012)

GAC. 2009. "Vzdělanostní dráhy a vzdělanostní šance romských žákyň a žáků základních škol v okolí vyloučených romských lokalit." Ministry of Education, Youth and Sports. Online: www.msmt.cz/file/1627_1_1/ (June 18, 2012)

Hofírek, Ondřej, Michal Nekorjak. 2010. "Od pásu ke stánku – a zpět? Proměny ekonomických aktivit Vietnamců v České republice." In *Vybrané aspekty života cizinců v české republice*. Praha: Výzkumný ústav práce a sociálních věcí.

Idnes. 2012. Násilných činů je na Šluknovsku víc než před loňskými demonstracemi. http://zpravy.idnes.cz/kriminalita-na-sluknovsku-d0z-/krimi.aspx?c=A120925_152642_usti-zpravy_alh&setver=full. (October 5, 2012)

Jakoubek, Marek. 2005. "Multikulturalizmus vs. kultura (na příkladu tzv. Romů a jejich "kultury")." *Soudobé spory o multikulturalismus a politiku identit*. Plzeň: Vydavatelství a nakladatelství Aleš Čeněk.

Joch, Roman. 2006. "Antidiskriminační zákon = útok proti tradičním svobodám." Občanský institut. <http://www.obcinst.cz/cs/Antidiskriminacni-zakon-utok-proti-tradicnim-svobodam-c887/> (October 5, 2012)

Jüptner, Jan. 2012. "Mediální obraz Romů v ČR aneb Síla slova." <http://www.romea.cz/cz/zpravodajstvi/domaci/medialni-obraz-romu-v-cr-aneb-sila-slova>. (October 13, 2012)

Kafková, Jiřina, Linda Sokačová, Edit Szénássy. 2012. Analýza migračních trendů na Šluknovsku. Agentura pro sociální začleňování. <http://www.socialni-zaclenovani.cz/dokumenty/dokumenty-pro-lokalitu-sluknovsko/analyza-migracnich-trendu-na-sluknovsku-kafkova-j-sokacova-l-szenassy-e-2012/download> (October 5, 2012)

Kašparová, Irena. 2007. *Politika romství – romská politika*. Dizertace. Brno: Masarykova univerzita.

Klaus, Václav. 2008. Klaus vysvětluje veto antidiskriminačního zákona. <http://zpravy.ihned.cz/cesko/c1-24772510-dokument-klaus-vysvetluje-ve-to-antidiskriminacniho-zakona> (October 5, 2012)

Kocourek, J. (2005), 'Vietnamci v ČR,' in Socioweb, vol. 3, no. 5. <http://www.socioweb.cz/index.php?disp=temata&shw=199&lst=108> (May 24, 2012)

Kopal, Jiří, (ed.) 2007. *Stigmata, segregovaná výuka Romů ve školách střední a východní Evropy*. Brno: Liga lidských práv.

La Strada. 2004. Obchod se ženami v romských komunitách. http://aa.ecn.cz/img_upload/9e9f2072be82f3d69e3265f41fe9f28e/osl_v_romsk_ch_komunit_ch.pdf (October 5, 2012)

Leontiyeva, Yana, Blanka Tollarová. 2011. "Results from a Survey of Foreigners' Incomes, Expenditures and Remittances. Main Findings Concerning Remittances." Praha: Sociologický ústav AV ČR, v.v.i. http://aa.ecn.cz/img_upload/224c0704b7b7746e8a07df9a8b20c098/leontiyeva_tollarova_remittances_2010.pdf (October 5, 2012)

Liga lidských práv. 2007. "Sběr dat určujících etnickou příslušnost jako nástroj pro zjištění rozměru diskriminace romských dětí." *Systémové doporučení Ligy lidských práv č. 4*. <http://llp.cz/publikace/sber-dat-urcujicich-etnickou-prislusnost-jako-nastroj-pro-zjisteni-rozmeru-diskriminace-romskych-deti/> (October 6, 2012)

Listina základních práv a svobod (ústavní zákon č. 23/1991 Sb.)

Loveman, Mara. 1999. "Is 'Race' Essential?" *American Sociological Review* 64(6): 891-898.

Lovriš, Veronika. 2008. "Proč a jak (ne)sbírat etnická data ve školství." *Učitelké noviny č. 37*. <http://www.ucitelskenoviny.cz/?archiv&clanek=1432&PHPSESSID=0f25f5ca140cecb2f5e2a53fa17d088d> (October 5, 2012)

Mareš, Petr, Miroslava Rákoczyová, Tomáš Sirovátka. 2006. Sociální vyloučení a sociální začleňování v České republice jako veřejně politická agenda. Praha: CESES FSV UK.

Ministerstvo vnitra. 2012a. Trestné činy motivované nenávistí proti Romům v letech 2007-2011. <http://www.mvcr.cz/soubor/romove-xlsx.aspx> (October 5, 2012)

Ministerstvo vnitra. 2012b. Bezpečnostní hrozby. <http://www.mvcr.cz/clanek/bezpecnostni-hrozby-337414.aspx?q=Y2hudW09Mg%3d%3d> (October 5, 2012)

Mipex. 2011. Migrant Integration Policy Index III. Czech republic. http://www.mipex.eu/sites/default/files/downloads/ceska_republika_abridged_migrant_integration_policy_index_mipexiii_2011_bybcczechrepublic_cz.pdf (October 13, 2012)

Motejl, Otakar. 2005. Závěrečné stanovisko ve věci sterilizací prováděných v rozporu s právem a návrhy opatření k nápravě. <http://www.ochrance.cz/stiznosti-na-urady/pripady-a-stanoviska-ochrance/stanoviska-2005-2007/stanovisko-ve-veci-provadeni-sterilizaci-23122005/> (October 5, 2012)

Nečas, Ctibor, Marta Miklušáková. 2002. Historie Romů na území České republiky. Český rozhlas. <http://romove.radio.cz/cz/clanek/18785> (October 6, 2012)

Nekorjak, Michal, Adéla Souralová, Klára Vomastková. 2011. "Uváznutí v marginalitě: vzdělávací trh, "romské školy" a reprodukce sociálně prostorových nerovností." *Sociologický časopis* 47 (4): 657–680.

Nekorjak, Michal. 2006. "Klientský systém a ukrajinská pracovní migrace do České republiky." *Sociální studia* 1. Brno: Fakulta sociálních studií.

OSN. 1965. Mezinárodní úmluva o odstranění všech forem rasové diskri-

minace. New York, 21. 12. 1965. <http://www.osn.cz/dokumenty-osn/soubory/umluva-ras.diskriminace.pdf> (October 5, 2012)

Pečínka, Pavel. 2007. Politické strany Romů na evropské scéně: Přírůstek do rodiny etnicko-regionálních stran? Teorie efektivit romské reprezentace. Dizertační práce. Brno: Masarykova univerzita.

Petr, Miroslav. 2012. “Stát chce pro Čechy víc práce, odnesou to cizinci.” Hospodářské noviny. 29. 3. 2012.

Pilař, Jiří. 2012. “Asociace speciálních pedagogů ČR k závěrům výzkumu úřadu veřejného ochránce práv.” <http://www.aspcr.cz/asociace-specialnich-pedagogu-cr/2012-06-12-asp-cr-k-zaverum-vyzkumu-ombudsmana.html> (October 5, 2012)

Rada Evropské unie. 2011. Rámec EU pro vnitrostátní strategie integrace Romů do roku 2020. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2011:258:0006:0009:CS:PDF> (October 5, 2012)

Rada vlády pro národnostní menšiny. 2012. *Zpráva o situaci národnostních menšin v České republice v r. 2011*. http://www.vlada.cz/assets/ppov/rnm/aktuality/zprava_2011_web.pdf (October 5, 2012)

Roma Education Fund. 2007. Rozvoj vzdělávání Romů v České republice. Hodnocení situace v České republice a strategické směrnice Romského vzdělávacího fondu. Budapešť: Roma Education Fund.

Seitlová, Jitka. 2010. Doporučení veřejného ochránce práv k naplňování práva na rovné zacházení s cizinci. http://www.ochrance.cz/fileadmin/user_upload/DISKRIMINACE/Doporuceni/Zachazeni_s_cizinci.pdf (October 5, 2012)

Směrnice Evropského parlamentu a Rady 2002/73/es ze dne 23. září 2002.

Směrnice Evropského parlamentu a Rady 2006/54/ED ze dne 5. července 2006 o zavedení zásady rovných příležitostí a rovného zacházení pro muže a ženy v oblasti zaměstnání a povolání.

Směrnice Rady 2000/43/ES ze dne 29. června 2000, kterou se zavádí zásada rovného zacházení s osobami bez ohledu na jejich rasu nebo etnický původ

Směrnice Rady 2000/78/ES ze dne 27. listopadu 2000, kterou se stanoví obecný rámec pro rovné zacházení v zaměstnání a povolání.

Směrnice Rady 2003/86/ES ze dne 22. září 2003 o právu na sloučení rodiny.

Směrnice Rady 2004/113/ES ze dne 13. prosince 2004, kterou se zavádí zásada rovného zacházení s muži a ženami v přístupu ke zboží a službám a jejich poskytování.

Směrnice Rady 2009/50/ES ze dne 25. května 2009 o podmínkách pro vstup a pobyt státních příslušníků třetích zemí za účelem výkonu zaměstnání vyžadujícího vysokou kvalifikaci.

Směrnice Rady 76/207/EHS ze dne 9. února 1976 o zavedení zásady rovného zacházení pro muže a ženy, pokud jde o přístup k zaměstnání, odbornému vzdělávání a postupu v zaměstnání a o pracovní podmínky.

STEM. 2010. "Zmapování postojů veřejnosti v České republice k pravicově extremistickým, rasistickým a xenofobním myšlenkám a jejich šířitelům s ohledem na integraci menšin a cizinců." Zpráva z výzkumu. <http://www.mvcr.cz/soubor/zaverecna-zprava-z-vyzkumu.aspx> (October 13, 2012)

STEM. 2012a. "Negativní názory na Romy od loňska posílily, klesá tolerance k životu menšin podle vlastních zvyků." Trendy 4/2012. <http://www.stem.cz/clanek/2454> (October 13, 2012)

STEM. 2012b. “Důvěra veřejnosti v nejvyšší kontrolní úřad výrazně posílila.” Informace z výzkumu STEM Trendy 9/2012. <http://www.stem.cz/clanek/2572> (October 5, 2012)

Světová banka. 2010. Ekonomické náklady vyloučení Romů z trhu práce. <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/ECAEXT/EXTROMA/0,,contentMDK:22526807~pagePK:64168445~piPK:64168309~theSitePK:615987,00.html> (October 5, 2012)

Šiklová, Jiřina. 2009. “Anketa Romano Hangos: Jak se rozdělení Československa podepsalo na životě Romů?” *Romano Hangos* 29. <http://www.romea.cz/cz/zpravy/anketa-romano-hangos-jak-se-rozdeleni-ceskoslovenska-podepsalo-na-zivote-romu> (October 13, 2012)

Švancar, Radmil. 2012. “Ty jsi Čech a ty jsi Rom, myslí si lidé od ombudsmana o žácích.” *Učitelské noviny* č. 07. <http://www.ucitelskenoviny.cz/?archiv&clanek=6455>.

The situation of Roma in 11 EU Member States. 2012. European Union Agency for Fundamental Rights. http://fra.europa.eu/sites/default/files/fra_uploads/2099-FRA-2012-Roma-at-a-glance_EN.pdf (October 6, 2012)

Tollarová, Blanka. 2006. “Integrace cizinců v Česku: pluralita, nebo asimilace?” *Biograf* (39): 107 odst. Online: <http://www.biograf.org/clanky/clanek.php?clanek=v3902>

Topinka, Daniel. 2007. Integrační proces muslimů v České republice. *Dokumenty Ministerstva vnitra ČR*. http://aplikace.mvcr.cz/archiv2008/dokument/2007/integrace_muslimu.pdf (October 14, 2012)

Uherek, Zdeněk. 2007. “Romské migrace ze Slovenska v kontextu evropských migračních trendů.” *Sociologický časopis* 43 (4): 747–774.

Uhl, Petr, Anna Šabatová. 2011. “Podnět k zahájení správního řízení.” <http://>

www.romea.cz/dokumenty/podnet-uhl-sabatova.pdf (October 5, 2012)

Varvařovský, Pavel. 2011. Výzkum veřejného ochránce práv – projevy diskriminace v pracovní inzerci. http://www.ochrance.cz/fileadmin/user_upload/DISKRIMINACE/Doporuceni/Doporuceni-Inzerce.pdf (October 5, 2012)

Varvařovský, Pavel. 2012. Popis metody a výsledky výzkumu etnického složení žáků bývalých zvláštních škol v ČR v r. 2011/2012. http://www.ochrance.cz/fileadmin/user_upload/DISKRIMINACE/Vyzkum/Vyzkum_skoly-metoda.pdf (June 18, 2012)

Vláda České republiky. 1999. “Zásady koncepce integrace cizinců na území České republiky.” Online: http://www.cizinci.cz/files/clanky/77/Zasady_vlady_integrace.pdf (October 5, 2012)

Vláda České republiky. 2008. “Strategie pro práci policie České republiky ve vztahu k menšinám (pro období let 2008–2012).” <http://aplikace.mvcr.cz/archiv2008/dokument/2008/strategie-minority.pdf> (October 13, 2012)

Vláda České republiky. 2009. “Koncepce romské integrace na období 2010–2013.” <http://www.vlada.cz/assets/ppov/zalezitosti-romske-komunity/dokumenty/Koncepce-romske-integrace-2010---2013.pdf> (October 13, 2012)

Vláda České republiky. 2011a. “Aktualizovaná Koncepce integrace cizinců.” *Usnesení vlády České republiky* ze dne 9. února 2011 č. 99.

Vláda České republiky. 2011b. “Zpráva o stavu romské menšiny v České republice za rok 2010.” <http://www.vlada.cz/cz/ppov/zalezitosti-romske-komunity/dokumenty/zprava-o-stavu-romske-mensiny-v-ceske-republice-za-rok-2010-88326/> (October 6, 2012)

Vláda České republiky. 2012a. “Zmocněnkyně vlády pro lidská práva se zúčastnila jednání Rady vlády pro národnostní menšiny dne 28.5.2012.”

Aktuality zmocněnkyně vlády pro lidská práva. <http://www.vlada.cz/cz/ppov/zmocnenec-vlady-pro-lidska-prava/aktuality/zmocnenkyne-vlady-pro-lidska-prava-se-zucastnila-jednani-rady-vlady-pro-narodnostni-mensiny-dne-28-5-2012-96065/> (August 19, 2012)

Vláda České republiky. 2012b. “Zpráva o situaci migrace a integrace cizinců na území České republiky v roce 2011.” <http://www.mvcr.cz/soubor/zprava-o-migraci-a-integraci-cizincu-2011-pdf.aspx>

Volynsky, Masha. 2011. “Migranti nejspíš opět nebudou sčítáni přesně.” Bulletin Konsorcia nevládních organizací pracujících s migranty v ČR 3. http://www.konsorcium-nno.cz/dokumenty/bulletin_3_2011_201107251418060.pdf

Zákon (návrh novely) o státním občanství České republiky a o změně některých zákonů (zákon o státním občanství České republiky).

Zákon 198/2009 Sb. ze dne 23. dubna 2008 o rovném zacházení a o právních prostředcích ochrany před diskriminací a o změně některých zákonů (antidiskriminační zákon).

Zákon č. 273/2001 Sb., o právech příslušníků národnostních menšin a o změně některých zákonů. (Parlament České republiky schválil zákon dne 10. července 2001, vyhlášen byl ve Sbírce zákonů dne 2. srpna 2001)

Zákon č. 326/1999 Sb., o pobytu cizinců na území České republiky a o změně některých zákonů, (neoficiální znění se stavem ke dni 1.5.2011)

Zákon ze dne 11. listopadu 1999 o azylu a o změně zákona č. 283/1991 Sb., o Policii České republiky, ve znění pozdějších předpisů, (zákon o azylu).

Zilynskyy, Bohdan. 2002. *Ukrajinci v Čechách a na Moravě: stručný nástin dějin*. Praha: Sdružení Čechů z Volyně a jejich přátel.

DENMARK

Marco Goli, Shahamak Rezaei

1. CATEGORIES OF IMMIGRANTS

Due to the long history of providing reliable data, made possible by linking the individual Social Security Number to public registers and therefore a wide range of variables in Denmark there are, both at the aggregated and individual level, precise statistical data on almost every quantifiable aspect of the life of all residents, including immigrants, descendants etc. from cradle to grave. The following table shows all resident permits, etc. distributed by different categories in Denmark in the period 2006-2011 (Statistical Overview Migration and Asylum 2011, Ministry of Justice, 2012):

Table 1. *Table on Immigration categories 2006-2011*

Overview of all residence permits, etc. granted in Denmark 2006–2011							
Category	2006	2007	2008	2009	2010*	2011	% in 2011
Work (A)	15,396	21,440	12,638	9,168	10,851	9,389	16%
- of which Schemes under the Job Plan etc.	900	1,745	2,624	3,616	5,395	4,280	7%
- of which other wage-earners and self-employed	1,849	3,464	3,109	2,897	2,575	2,050	4%

Overview of all residence permits, etc. granted in Denmark 2006–2011							
Category	2006	2007	2008	2009	2010*	2011	% in 2011
Study, etc. (B)	13,052	16,083	20,235	16,837	15,273	15,358	27%
- of which education	5,043	6,031	7,358	6,145	5,751	5,756	10%
- of which au pair	1,793	2,207	2,937	2,773	2,649	2,409	4%
- of which interns	2,620	3,221	3,142	2,160	1,647	1,466	3%
EU, EEA (C)	12,802	14,620	30,544	24,305	25,361	27,395	47%
- of which wage-earners	3,684	4,532	17,837	11,019	10,560	11,673	20%
- of which education	5,753	5,996	6,817	7,974	8,954	9,034	16%
- of which to family members of an EU/EEA national	1,941	2,980	4,773	3,824	3,492	3,537	6%
Family reunification, etc. ** (D)	4,198	5,148	4,407	5,211	5,410	3,396	6%
Family reunification **	3,582	4,454	3,749	4,479	4,768	2,902	5%
- of which spouses and cohabitants	2,787	3,616	3,071	3,662	3,869	2,163	4%
Other residence cases	616	694	658	732	642	494	1%
Asylum, etc. *** (E)	1,095	1,278	1,453	1,376	2,124	2,249	4%
Refugee status ***	838	1,013	1,242	1,279	1,961	2,057	4%
- of which Geneva Convention status	201	70	311	414	797	957	2%
- of which B-status / De Facto status ***	107	403	367	413	669	584	1%
- of which quota refugees	530	472	564	452	494	516	1%
Other status	257	265	211	97	163	192	< 1%
- of which humanitarian residence permits	216	223	157	55	111	121	< 1%
Total (A+B+C+D+E)	46,543	58,569	69,277	56,897	59,019	57,787	100%
<p>* Including 18 permits in the asylum area in 2010 and 2 permits for family reunification to Danish citizens according to the EU rules in 2010 registered incorrectly in the Aliens Register. It is not technically possible to remove these permits from the register.</p> <p>** Including permits for family reunification to Danish citizens according to the EU rules.</p> <p>*** Including 308 permits (B-status) to Iraqi interpreters etc. in 2007 and 83 in 2008.</p> <p><i>Note: The overview above with all residence permits, etc. does not directly reflect the actual level of immigration to Denmark. Over time an individual can be stated several times in the statistics (double counting). There can also be cases where a residence permit is not used, because the person concerned never enters the country.</i></p>							

Statistical categories of this kind allow an overview at national and local plan and shed light on a variety of fields containing numerous variables such as demography, labour market participation, welfare distribution, professional categories, inclusion, records in educational system, drop-outs, gender, age, length and patterns of residence, etc. These data are descriptive, showing historical development and overall patterns, not explaining them. Data on immigrants and descendants is usually distributed by national origin, age, gender, etc. The data is used both at general and specific level as a framework and a point of reference in administration, education and public debate on different levels. Data produced by Statistic Denmark is usually considered valid and reliable because they are not attached to any specific political, ideological or scientific group.

Statistic Denmark is, however, not the only source of data on migration and integration in Denmark. A wide range of both public, semi-public and private political and societal players and think-tanks occasionally produce their own data with specific focuses in order to influence societal discourses, and even the decision-making process at national and local levels. Finally, there are statistical materials produced by the media. The only descriptive categories that are consistently and periodically provided in Denmark remains Statistic Denmark.

With regard to the division of Denmark's demographic composition, Statistic Denmark has established and in many years applied five major categories. These are: Danish origin; immigrants from western countries and their Descendants; immigrants from non-western countries and their descendants. The following table shows the distribution of the population in these categories:

Table 2. *The population in Denmark by origin, at 1 January 2010*

	Danish origin	Western countries		Non-Western countries		Total
		Immigrants	Descendants	Immigrants	Descendants	
Persons	4,992,000	162,410	16,971	252,012	111,345	5,534,738
Percentage of total population	90.2%	2.9%	0.3%	4.6%	2.0%	100%

Source: The Immigration Database of the Ministry of Integration, managed by Statistic Denmark, IMBEF02

Categories constructed by all other data providers are as mentioned more or less contextual: they reflect and reproduce certain discourses as well as fulfilling certain functional and strategic needs for local government institutions. The very open democratic process in Denmark and the free flow of information makes it possible for almost everybody at a relatively low cost to produce and distribute data as a means of influencing the political, societal and media agenda setting processes.

Dealing with the question of categories and social identities of migrants constructed and used in Denmark it is therefore quite useful to pay attention to whether we are dealing with the issue of *immigration*, the issue of *integration*, or we are elaborating on alternative options with regard to solving practical problems at different institutional levels in Denmark. None of these data uses religious identity as a point of reference.

With regard to *immigration* (Table 1 presented above), those who enter Denmark to stay in the country are divided into categories like family reunion, asylum, study and Work. The issue of *Integration* on the other hand is more complex. Depending on whether we are talking about data provided by Statistic Denmark or other data providers, categories such as immigrants, descendants, Danish citizens (with an immigrant background), ethnic minorities, new Danes, Danes with a non-Danish ethnic background, bilinguals, Muslim immigrants, etc. Because the majority of these categories are not value-neutral, they are normally not used in official statistics, but in public debate.

2. IMMIGRANTS IN DENMARK, NUMBER, ORIGIN AND THE MAIN CHARACTERISTICS

According to Statistic Denmark, in January 2012 immigrants and descendants comprised 10.4% of the total Danish population (580,461 persons) – of which about 7.9% are immigrants and 2.5% are descendants. 54% of all immigrants and descendants originate from a European country. However the single largest group originates from Turkey, namely 60,390 persons or 10.4% of all immigrants and their descendants. Poland (rising dramatically only very recently during the economic boom in the middle of the first decade of the new millennium) and Germany are number two

and three on the list, each with about 30,000 immigrants and descendants in Denmark. The table below (Statistic Denmark) shows the number of immigrants from different countries:

Table 3. *Immigrant population by country of origin. 2012*

		Immigrants			Descendants			Total		
1 January		Men	Women	Total	Men	Women	Total	Men	Women	Total
Total		215,358	226,180	441,538	70,964	67,959	138,923	286,322	294,139	580,461
Western countries		88,008	91,216	179,224	9,869	9,463	19,332	97,877	100,679	198,556
Non-western countries		127,350	134,964	262,314	61,095	58,496	119,591	188,445	193,460	381,905
EU countries		72,355	70,976	143,331	7,844	7,446	15,290	80,199	78,422	158,621
Of which:	Bulgaria	2,261	1,853	4,114	143	107	250	2,404	1,960	4,364
	Finland	914	2,258	3,172	263	210	473	1,177	2,468	3,645
	France	2,904	2,249	5,153	196	163	359	3,100	2,412	5,512
	Italy	3,237	1,520	4,757	133	122	255	3,370	1,642	5,012
	Latvia	1,668	2,087	3,755	147	155	302	1,815	2,242	4,057
	Lithuania	3,634	3,693	7,327	311	308	619	3,945	4,001	7,946
	Netherlands	3,263	2,378	5,641	546	504	1,050	3,809	2,882	6,691
	Poland	13,758	14,285	28,043	1,907	1,770	3,677	15,665	16,055	31,720
	Romania	5,429	4,706	10,135	388	339	727	5,817	5,045	10,862
	Spain	2,034	1,912	3,946	105	81	186	2,139	1,993	4,132
	United Kingdom	7,917	4,312	12,229	640	662	1,302	8,557	4,974	13,531
	Sweden	4,897	8,182	13,079	1,000	972	1,972	5,897	9,154	15,051
	Germany	13,756	14,828	28,584	1,441	1,450	2,891	15,197	16,278	31,475
	Hungary	1,359	1,526	2,885	179	166	345	1,538	1,692	3,230
Other Europe		50,153	56,335	106,488	23,816	23,003	46,819	73,969	79,338	153,307
Of which:	Bosnia Her- zegovina	8,793	8,787	17,580	2,456	2,309	4,765	11,249	11,096	22,345
	Iceland	3,548	4,002	7,550	593	582	1,175	4,141	4,584	8,725
	Yugoslavia (former)	5,236	5,265	10,501	3,046	3,002	6,048	8,282	8,267	16,549
	Macedonia	1,297	1,192	2,489	799	747	1,546	2,096	1,939	4,035
	Norway	5,224	9,658	14,882	718	720	1,438	5,942	10,378	16,320

		Immigrants			Descendents			Total		
1 January		Men	Women	Total	Men	Women	Total	Men	Women	Total
	Russian Federation	1,476	3,538	5,014	292	319	611	1,768	3,857	5,625
	Serbia and Montenegro	1,171	1,234	2,405	462	421	883	1,633	1,655	3,288
	Turkey	16,885	15,494	32,379	14,260	13,751	28,011	31,145	29,245	60,390
	Ukraine	3,158	2,981	6,139	340	316	656	3,498	3,297	6,795
Africa		17,768	15,819	33,587	8,818	8,453	17,271	26,586	24,272	50,858
Of which:	Egypt	1,012	498	1,510	300	279	579	1,312	777	2,089
	Ghana	969	733	1,702	196	197	393	1,165	930	2,095
	Morocco	2,706	2,516	5,222	2,552	2,395	4,947	5,258	4,911	10,169
	Somalia	5,270	4,681	9,951	3,607	3,554	7,161	8,877	8,235	17,112
North America		4,880	4,856	9,736	545	566	1,111	5,425	5,422	10,847
Of which:	Canada	967	1,074	2,041	157	125	282	1,124	1,199	2,323
	United States	3,913	3,782	7,695	388	441	829	4,301	4,223	8,524
South and Central America		3,915	6,104	10,019	489	466	955	4,404	6,570	10,974
Of which:	Brazil	784	1,773	2,557	92	92	184	876	1,865	2,741
Asia		64,428	70,630	135,058	29,148	27,801	56,949	93,576	98,431	192,007
Of which:	Afghanistan	6,183	4,951	11,134	1,622	1,577	3,199	7,805	6,528	14,333
	Philippines	1,251	8,113	9,364	513	535	1,048	1,764	8,648	10,412
	India	3,657	2,420	6,077	687	593	1,280	4,344	3,013	7,357
	Iraq	11,653	9,544	21,197	4,490	4,197	8,687	16,143	13,741	29,884
	Iran	7,534	5,349	12,883	1,732	1,595	3,327	9,266	6,944	16,210
	Jordan	587	463	1,050	516	505	1,021	1,103	968	2,071
	China	3,568	4,993	8,561	698	730	1,428	4,266	5,723	9,989
	Lebanon	6,556	5,456	12,012	6,287	5,980	12,267	12,843	11,436	24,279
	Pakistan	6,584	5,495	12,079	4,848	4,715	9,563	11,432	10,210	21,642
	Sri Lanka	3,358	3,404	6,762	2,175	2,174	4,349	5,533	5,578	11,111
	Syria	1,708	1,363	3,071	979	857	1,836	2,687	2,220	4,907
	Thailand	1,470	8,217	9,687	320	358	678	1,790	8,575	10,365
	Viet Nam	4,206	4,818	9,024	2,738	2,545	5,283	6,944	7,363	14,307
Oceania		1,317	1,058	2,375	82	72	154	1,399	1,130	2,529
Stateless and not known		542	402	944	222	152	374	764	554	1,318

Note: Most of the foreign nationals resident in Denmark are included in the total number of immigrants. www.statbank.dk/folk1

Due to difficulties with registration of religious and ethnic identity (e.g., whether it is defined by birth, profession, behaviour) it is not possible to provide exact number of Muslims in the country. Estimating the number of Roma people is almost impossible as some Roma disassociate themselves with that identity in order to avoid the negative consequences attached to it. (Roma are, however, estimated at approximately 10,000 individuals). Numbers of Muslim immigrants is usually based on the country of origin. Immigrants and descendants from countries such as Turkey, Pakistan, Somalia, Iran, Afghanistan and Arab countries (Iraq, Morocco, Lebanon, and Tunisia) are usually considered Muslim. Reliable statistics indicate that there were about 230,000 Muslims in Denmark in 2012. The Muslim communities are the second largest group of religious communities with approx. 21,000 members, surpassed only by the Christian communities. This estimation also indicates that there are about 66 Muslim congregations among the 22 Muslim communities in Denmark. Most congregations are among the three organizations: Danish Turkish Islamic Foundation (Diyanet), the Islamic Association of Bosniaks in Denmark and Minhaj-ul-Quran International.

The number of immigrants and descendants has increased steadily over the last 30 years, and is expected to increase further in the next 30 years. The number of immigrants, and in particular the number of descendants of working age (16-64 years) is also expected to increase in the coming years, while the number of persons of working age of Danish origin is expected to decline. In the school year 2008/2009, 10% of all pupils in primary and lower secondary school had a background as immigrants or descendants. The proportion of immigrants and descendants of non-western origin aged 16-19 enrolled in youth education is increasing, but is still lower than the corresponding proportion of young persons of Danish origin. A larger proportion of female descendants aged 20-24 of non-western origin are enrolled in higher education than of women in the same age group of Danish origin. The proportion of male descendants of non-western origin is on a level with that of men of the same age of Danish origin. The development in participation and employment rates among immigrants from non-western countries was positive in the period 2001-2008. However, the proportion of immigrants and descendants of non-western origin in employment is still lower than the proportion of persons of Danish origin.

More than two-thirds of all descendants of non-western origin are 0-15 years of age. The same applies to just over one in twenty immigrants from non-western countries. A smaller proportion of immigrant children from non-western countries attend daycare facilities than children of Danish origin. The use of daycare facilities depends on the age and nationality of the children and on the parents' participation in the labour market. Immigrant and descendant pupils of non-western origin generally do less well at the lower secondary school leaving examination (9th grade) than pupils of Danish origin. However, descendants do a little better than immigrants at the lower secondary school leaving examination. This particularly applies to the school leaving examination in written Danish.

As emphasized above we have to distinguish between two sets of data; one is quantitative data provided by Statistic Denmark as far as pure individual and aggregated quantitative data is concerned (which *excludes* data on opinions, behavior, preferences and priorities) and that produced by other public and private research institutes. The latter contain normally even analysis based on a combination of quantitative surveys and qualitative research, providing more in depth research. Specifically with regard to values and norms among immigrants and descendants we must (besides the opinion studies provided by a wide range of institutes such as Gallup) examine a survey on religious identity and values that was provided for the Integration Ministry (abolished by the new Social Democrat minority government in 2011, reorganised in other ministries, mostly the Ministry of Social Affairs). About religious belonging the Report, "Immigrants' Values and Norms (2007)" says: "Islam is by far the largest denomination among most immigrant groups. Among immigrants from Pakistan, Turkey, Iraq and the Western Balkans, the proportion of Muslims of 99%, 97%, 82% and 69%. Among the Iranians this proportion is 55%, while 36% have indicated that they are atheists or not religious. It is, among national origins in the sample, only among immigrants from Vietnam, that the majority of interviewees are not Muslims, with 43% of Vietnamese Buddhist, and 40% Christian." The focus of this significant representative survey (conducted among selected immigrants population with specific national background was to identify the extent to which immigrants and their descendants align themselves with fundamental values and norms in Denmark, what differ-

ences in values and norms between Danes and immigrants and descendants exists, what differences in values and norms between immigrants and descendants originating in different countries, what factors affect differences in values and standards between the above groups, and whether values of immigrants in Denmark are close to Danish values or close to the values in their home countries.

3. DATA – COLLECTION, ACCESSIBILITY, VALIDITY, COMPARABILITY AND DEBATE ON ETHNIC DATA

As mentioned above, Statistic Denmark is the major provider of nationwide quantitative data in Denmark, and all data provided by this public institution is annual, continuously reported and available for public. It is also possible for a researcher, by meeting certain requirements, to compose and buy different raw data material, as well as cross-tables by selecting preferred variables for further investigation and analysis. There are two other major and widely referred data providers in Denmark: AKF (Governmental Research) and The Danish National Centre for Social Research. Both are publicly financed. There is rarely any doubt about their reliability. With regard to validity of the data, however, the situation is different, and must be subjected to further scrutiny. These data are available, normally in final published reports. These institutions also provide comparative data, benchmarking, cost benefit, etc.

There has not been any significant discussion about ethnic registration because ethnicity is not, and should not, be registered in Denmark. In statistical data collection there is reliable registration of all individuals' *national* background. "Ethnic background," that is not registered is in Danish political and public discourse attached to individuals with certain national background, almost completely corresponding to the categorisation used by Statistic Denmark called "Immigrants and descendants from *Non-western* countries." The statistical category "Non-Western countries" does not refer exclusively to the geographic sense of the concept western countries, as both immigrants from Turkey and Bosnia Herzegovina are among "ethnics," while people from Thailand or Latin America are less so. Essentially, the social category "ethnic minor-

ity” refers in practice to Muslim immigrants and descendants. There has been some – though not in any way significant – debate on the usefulness of ethnic registration in relation to sickness and healthcare policies (DR, P1, Septemeber, 9), which is, in any case, prohibited by law. Conversely, and because registration and use of National Background (that in many cases correspond to the society’s perception of certain ethnic minorities), it has been possible for public institutions to collect and use such data, as far as they do not state publicly that the ethnic belonging is an explanatory factor. Recently the tax office in Denmark’s next largest city of Aarhus focused on tax evasion amongst Somali residents without provoking any debate on the prohibition on the collection and use of ethnic data. “Somalis taken in systematic cheating. The head of a special tax entity called Somali systematic tax evasion for undermining the welfare state.” (Jyllands Posten 26.05.2012). According to the newspaper, Thomas Jensen, the tax spokesman of the social democratic party- the leading part of the current government – expects that the office will now systematically examine Somalis throughout the country to check whether there is additional cheating. “We must first and foremost work to ensure that there are no parallel societies in Denmark. Now we can see that there are specific reports from certain groups. Therefore, we must get these people to understand that it is not a self service table and we are cracking down on people who cheat in taxes.” Danish National Television, May, 27. 2012)

4. USAGE OF DATA IN THE POLICY DISCOURSE

There are special rules for the collection, recording and transmission of personal data in the context of research and statistics. In connection with research and statistics, the personal data necessary for the projects must be processed. When these treatments include information about private matters, the data controller must notify the Data Protection Agency, who in turn must grant authorisation. The Data Protection Agency sets a number of conditions to protect the information. Data from the study – except for anonymous information – may only be disclosed if the DPA has given permission. Disclosure may then only be used for other scientific or statistical studies. The FSA will in such cases provide procedures for disclosure.

Data are used widely in Denmark by politicians, media, unions and employer organisations, organisations in the civic society, and any group that intends to influence the decision-making process in Denmark.

5. MINORITY/INTEGRATION POLICIES – HISTORICAL DEVELOPMENT OF MINORITY/INTEGRATION POLICIES IN THE 1990S AND SINCE 2000

The ‘new’ immigration to Denmark began around 1970 when ‘guest workers’ from Turkey, Yugoslavia and Pakistan came to the country to fill vacancies during the economic boom. According to data (Würtz Sørensen, 1988, Goli, 2002), all the parties involved (the government, the employer organisations, the unions and immigrants themselves) believed that they would return to their home countries as soon as they were no longer required. However, just a few years later, in 1973, due to the oil crisis and the subsequent recession an immigration cap was introduced. (Martens & Stenild 2009: 11). The rise in the number of immigrants in Denmark throughout the following years was due to the arrival and settling of reunified families and refugees. (Goli, 2002) Acknowledging that immigrants were here to stay provoked speculation on how to integrate them. The Aliens Act of 1983, however, was considered by many as one of the most liberal policies towards asylum seekers. During the period there was some focus on the immigration policy and challenges to integration, but in the 1990s the picture changed dramatically due to the influx of refugees from Arab Countries, particularly Lebanon, Iraq, the former Yugoslavia, Iran and Somalia and the growing number of family reunifications. The development focused on immigration as a concept. Nyrop Rasmussen’s government introduced the first national coordinated integration plan, introducing restrictions on family reunification and an opportunity to give immigrants lower welfare aid (introductory benefit) (Mikkelsen 2008: 12). This performance was criticized for being discriminatory, claims that led to a change of policy just one year later (Ejrnæs 2001: 13). The aim of the Act of 1998 was to coordinate efforts towards refugees’ and immigrants’ integration and included rules on so-called introduction program through which all newcomers were offered language training and education on

Danish society. The purpose of the Act was, “to make sure that newcomers could participate in equal footing with other citizens in all political, economic, labor, social, religious and cultural life; to help newcomers to quickly become self-supporting; and to provide each resident with an understanding of Danish society’s values and norms.

The 1990s also saw many immigrants mobilise themselves in often publicly supported immigrant organisations, as well as a major debate on the process and the consequences of social labelling in the media and in public. During this time immigrants changed the use of social labels, from “Alien Workers,” “Guest workers” and “Immigrants” to “Ethnic minorities,” “New Danes,” “Dash-Danes” (Turkish-Dane, Pakistani-Dane, etc.). In 1996 the Danish Parliament passed laws prohibiting employment discrimination, in order to effectively implement in Danish law the UN Racial Discrimination Convention and ILO Convention No. 111 on discrimination in employment and occupation. Following this effort the concept of “Ethnic” was formalised by an Act on establishment of a Board for Ethnic Equality in 1997 (Law no. 408 of 10. June, 1997: (Repealed 1/1 2003 [L.411](#).) The established board was intended to assist the governmental and other agencies in matters related to the implementation of the Law and improving ethnic equality in Denmark. (Øverst på formularen)

In connection with the Liberal-Conservative government’s victory in 2001, Danish People’s Party (the new governments’ parliamentary support) required a tightening of the migration and integration policies, and also wanted the new government to put an increased focus on the social consequences of the lack of integration. This resulted in the amendment Act 425 of 10 June 2003 “Towards a new integration policy.” The new policy was more concentrated on the effect with regard to labour market integration, containing: “1) Participation in the labour market as quickly as possible as a requirement for welfare; 2) Effective Danish lessons; 3) Better use of Skills; and 4) Integrating a common concern.” In addition, the number of foreigners entering Denmark specifically from non-western countries should be drastically reduced in order to make integration function optimally for the foreigners already in the country (Martens & Steinfeld 2009: 13). The new action plan introduced a number of controversial and contested restrictions, among them the Marriage Act (the so called

24-year Rule, and requirement on substantial attachment to Denmark if the couple wanted to settle in Denmark, which would limit forced marriage through family reunification. This was followed by a change of integration Act, which prescribed the following; §1 paragraph. 1: "Act aims to ensure that newcomers have the opportunity to utilize their skills and resources to become participating citizens on an equal footing with other citizens of society in accordance with fundamental norms and values in Danish society." The responsibility for realizing the objective of the new policy was put on both the individual and public institutions. There was not at this time a pronounced emphasis on cultural integration, though this soon changed again with the adoption of the Citizenship Declaration in 2006, when in the 'Welfare Agreement' the government, with the Danish People's Party, Social Democratic Party and the Social-Liberals, aimed to improve the employment of immigrants and their descendants, with the possibility of employment in firms with wage subsidies, etc. (Ejrnæs 2001: 13). With citizenship declaration points and tests and the amendment of the objects clause policy on integration was broadened to also address immigrants' duty to comply with certain values and norms. During this period (until a new election in which a social democrat-led government came to office) there was a continued tightening of deadlines, maintenance, requirements for participation, shaping the inclusion content of the contract alongside both integration and employment law. In addition, the rules governing permanent residence were steadily tightened and also depended on whether the rules for employment were met. These were small but substantial parts of a very large and complex set of rules and requirements that had to be met in order to apply for permanent residency and citizenship. (Think-Tank 2004: 4). The Act continued to focus on employment, but through tightening in relation to education and the Declaration on active citizenship, contributed to a cultural dimension to integration. The overall objectives were: "To ensure that newcomers integrate as quickly as possible and appropriately in Danish society by supporting newcomers in acquiring the linguistic, cultural, professional and other skills that enable immigrants to participate in society on an equal footing with other citizens." This integration programme – to be implemented within one month of the migrant's arrival in the country over a period of no more than three years.

The newcomers are obliged to participate in the programme: failing to do so is punishable by a reduction or cessation of the introduction allowance. In addition, a lack of participation in the rehabilitation program could have consequences for their chances of obtaining a permanent residence permit. Development of an integration contract was to be determined by the municipal council and the resident alien. The contract is concluded on the basis of an overall assessment of each resident's situation and needs in order for the alien to obtain employment as quickly as possible. The contract will include descriptions of the alien's employment or educational goals and define content of the activities to ensure that the objectives set out in the contract are fulfilled. The content of the alien integration programme must be stated in the contract. While preparing the integration contract, the alien must sign a declaration on inclusion and active citizenship in Danish society. The citizenship declaration contains 15 on a range of topics, from the right and duty to work to circumcision and terror. All these points are included in other legislation, but are included in the declaration as some primary statements about Danish norms and values (Guide to the Integration Act).

The new Social Democrat led government (in office since late 2011) introduced several turning points in the integration policy: parties in government and the parliamentary support-party decided in late December 2011 to eliminate Start Help, Introductory Aid, "Ceiling on social assistance," spouse reduction and minimum hour of work as requirement for social benefits. Those changes were in some respects a showdown against the former government's policy. The parties in the new government were labelled as hardliners, accused of creating poverty instead of jobs and socioeconomic mobility for immigrants. Another milestone of the Liberal Conservative migration and integration policy, the contested and controversial point system for family reunions, was also abolished in May 2012. The point system had complemented the 24-year rule. The liberal-Conservative government and the Danish People's Party had in 2010 made a new immigration agreement, where 24-year rule was supplemented by a points system, which made it significantly more difficult for unskilled and low-skilled people, as well as those on welfare to gain family reunification. To be eligible for family reunification applicants had to obtain a certain number of points through a system that

rewarded language proficiency, work experience and education. The 24-year Rule, or the Marriage Act, remains in place at the time of writing.

24-year rule or the 24-year requirement is a rule of the Aliens Act to prevent family reunification if one of the parties in a marriage is under 24 years of age. The rule includes marriage and registered partnerships between foreign and Danish nationals or others with Danish residence permit. It does not preclude the conclusion of the marriage, but only the right of residence in Denmark. The specific requirements associated with the 24-year rule can be found in the Aliens Act §9, paragraph. 1: [1] Age: Both parties must be over 24 years of age. Ties: the spouses' combined attachment to Denmark must be greater than their aggregate ties with another country. Economy: The resident party must provide certain amount of money and may not have received cash assistance for three years. Property: The common property must have at least 20 m² per person for a maximum occupancy of two persons per. room. Kitchen, hall, utility room and bathrooms are not counted as rooms.

Probably the major change in the political and societal discourse on migration and integration in Danish policy is, after being one of the top issues during decades, most pronounced in the first decade in the new millennium, that the issue since the new government takeover has been attempted to abolish it, and surprisingly with success, from the media, societal and political agenda.

6. HOW INTEGRATED ARE THEY?

Measuring integration is still regarded as very difficult because integration involves subjective feelings such as identity, belonging, language frequency, etc. Until very recently integration had been measured almost exclusively by immigrants' and descendants' participation in the labour market and education, because success in these fields has been considered as the main roads to socioeconomic mobility in Denmark. The new aspect that during the last 10 years have received more and more attention was cultural and normative integration as instances of substantial integration (as supplement to the formal integration usually measured by labour market participation, success in educational system, levels of income, housing

patterns, access to formal citizenship etc.). The following elaborate on both formal and substantial integration.

6.1 Labour market participation

Looking at the labour market participation among immigrants and descendants from non-western countries, there was positive development from 2001 to 2008. The employment rate for immigrants from non-western countries aged 16-64 rose from 51.6% in 2001 to 60.7%. Thus, in 2008 the difference in participation rates between immigrants from non-western countries and persons of Danish origin was reduced by almost ten percentage points. From 2001 to 2008, the employment rate among 16-64-year-old immigrants from non-Western countries rose by almost 12 percentage points (from 44.2% in 2001 to 55.9% in 2008). At the same time, unemployment rates declined tremendously. From 2004 to 2008 unemployment among 16-64-year-old immigrants from non-western countries fell from 15.6% in 2004 to 7.8% in 2008. In 2009, 56.9% of all immigrants from non-western countries in the working age were available for work, which represents seven percentage points less than among immigrants from western countries (64%) and 22 percentage points less than among persons with Danish origin (78.9%). At the same time, 54.1% of 16-64-year-old immigrants from non-western countries were in employment, almost nine percentage points less than among immigrants from western countries (62.9%) and approximately 24 percentage points lower than among those with Danish origin (77.8%). In 2009, unemployment among immigrants from non-Western countries was at an all-time low (4.8%). When looking at the 16-29 descendants, the participation and employment rates declined from 2001 to 2004 then rose again. From 2004 to 2008, the employment rate among descendants of non-western origin from 61.1% to 67.9% – an increase of almost seven percentage points. During the same period, the difference in participation rates among respectively descendants of non-western origin and young people of Danish origin went down by almost five percentage points. In 2009, 64.9% of all 16-29-year-old descendants of non-western origin were available for work. This is 1.5 percentage points more than the young people of western origin (63.4%) And about nine percentage points less than young people of Danish origin.

The differences between the individual countries of origin are particularly remarkable among non-western countries. Immigrants from Ukraine, Thailand, Vietnam and Sri Lanka are on the top, with employment rates between 60 and 67%. Immigrants from Iraq, Lebanon and Somalia have the lowest employment rates (between 31 and 36%). It is characteristic of immigrants from countries with the lowest employment rates that gender differences are very large. Among immigrants from Iraq, Lebanon and Somalia men have significantly higher employment rates than women. Among immigrants from Lebanon, for example, 43% of men are employed, compared to only 24% for women. Also among immigrants originating in Pakistan and Afghanistan there are large gender gaps in employment rates.

6.2 The self-employed immigrants

Employed immigrants are more often self-employed than persons of Danish origin. Among all native Dane employees only 6.7% were self-employed, while among immigrants of western and non-western origin, the corresponding proportions were respectively 7.4% and 9.9%. For the male non-western immigrants, the corresponding share was 13.6%. The proportion of self-employed also depends on immigrants' country of origin. Among immigrants from Ukraine, Bosnia-Herzegovina and Romania less than 3% were self-employed, but self-employed was 19% of employed people from Pakistan and Lebanon. Non-western male immigrants are typically employed in the trade, hotels and restaurants, transport, tourism, cleaning and other operational services. For example, 13.9% of non-western male immigrants worked in industry group hotels and restaurants, compared to 2.0% of men of Danish origin. The phenomenon has been addressed several times as Ethnic Business Enclaves (Rezaei & Goli, 2006) as reproduced by exclusive solidarity with reference to social capital discussion.

6.3 Citizenship and political participation

31.4% of immigrants and 69.8% of descendants are Danish nationals. About one in five immigrants from Western countries (20.4%) are Danish nationals. The same applies to almost two in five immigrants from non-Western countries (38.5%), whereas just under three in four descendants

of non-Western origin (72.8%) are Danish nationals. A total of 15,065 persons of Turkish origin took Danish citizenship between 2002-2010. The change from Somali to Danish citizenship amounted in the same period to 10,753, the second largest group. But the participation in national and local elections is not high. AlphaDescriptive analysis of voter turnout based on register data (Bhatti & Hansen, 2009) shows that 68% of native Danes participated in local elections while immigrants and descendants of Danish nationality had a turnout of only 47 and 36%. A surprising finding is that turnout for descendants is somewhat lower than for immigrants. In addition, it seems that being a national of Denmark (with an immigrant background) does not have any impact on the turnout. Descendants with Danish citizenship under 30 years had a turnout of 28%, that is almost half of the equivalent for natives (52%).

The very recent national election produced some surprises with regard to the participation of immigrants and descendants in the election: following several years of increase in the number of immigrant candidates on the ballots for the general election, the trend is now broken. At the general election in 1998 there were nine immigrants running for a seat in the national parliament (0.8%). In 2001 there were 14 immigrants (1.4%), in 2005 31 immigrants (3.4%) and in 2007, 28 immigrants (3.4%). But in 2011 the share of immigrants running for a seat decreased to 22 (2.7%).

Addressing the dilemmas and paradoxes of democracy and immigrants' participation in politics (Goli, 2007), Denmark illustrates a self-perpetuating consensus – almost as if laid down by law – among key players and institutions, such as the academic elites, governmental players and media, that participation in the social and civic spheres would lead to participation in politics at different levels, in turn leading to different representation and thus to a process of democratisation. (Goli, 2007) Variation of substantial participation and representation among different immigrant groups in Denmark indicates a strong connection between the way the position of players is defined by the discourse and how leaving becomes the most attractive alternative for immigrant populations who wish to disassociate themselves from religious identification and the respective social labelling of conflicts, that both politicians and media

profile themselves on in the political game. Most apparent is the negative relationship between participation in civic life and non-political and non-religious organisations on the one hand and participation in politics and public debate on the other: the most active immigrants in politics measured by participation and representation at local and national level and in media are individuals who can contribute, be it in constructive or polemic matters, to the reproduction of the informally established framework, that is, discussions on Islam. This game leaves the ground open for undemocratic forces. Explaining the pattern of participation in Denmark the following historical trends should be highlighted: the first years in the new immigrants' history (late 1960s and 70s) participation of immigrants in civic and societal life was extremely low. They were the unknowns – the strangers, who would leave the country as soon as the industrial hierarchy no longer needed them. Due to the changed definition of their status – from guest workers to immigrants – the following decade (1980s) became a period of political mobilisation, a process that was supported by public funds, left-wing parties and trade unions. In the 1990s, the immigrant elites successfully lobbied for recognition as “ethnic minorities” In Denmark, the identical terms of “Guest/Foreign workers,” “Immigrants & descendants,” “Foreigners,” “Ethnic Minorities” and alike are almost synonymous with socially constructed identities as Muslim, incompetent, un/undereducated, un/under-skilled, unfamiliar with/ hostile to democracy, oppressed (for women) and oppressors (for men), backward cultural identities, traditionalist, ignorant, irrational and other similar connotations. As a result those immigrants with the strongest religious affiliation and weakest degree of integration, who are attacked/feel offended by the dominant discourse, both receive attention and become more motivated to mobilise themselves along ethnic and religious lines. Other immigrant groups leave – in spite of a higher degree of adaptation of and integration into the democratic culture – the scene, partly because they refuse to accept the constructed social identities based on religious/ ethnic identification/disassociation and partly because they do not represent any value for either of the stakeholders in their mutual conflicts. They are not interesting for the media because they are not news, they do not contribute to the value conflicts by being neither pro nor con.

6.4 Immigrants on welfare

About 38% of all 16-64-year-old immigrants with a national origin in non-western countries are on welfare, which, compared to 24% for persons of Danish origin, is rather high. Within this population there are some interesting differences: more than half of 16-64-year-old male immigrants from Lebanon, Iraq and Somalia are on welfare. At the opposite end are immigrants from Ukraine, Lithuania, China, Romania, France and India, where the proportion of the respective populations is below 10%. Among women immigrants from Lebanon, Somalia, Yugoslavia, Iraq and Turkey the proportion on public support/welfare is also above 50%. The lowest percentages are found among immigrants from Italy, Lithuania, France and the Philippines, in all four cases between 11 and 12%. (Statistical overview of integration: 2010, 2011)

6.5 Cultural integration, values and norms

The Danish integration policy and discourse in the first decade of the new millennium was characterised by an explicit and rather expressive public focus on issues such as social cohesion and the concept of Danishness, requiring immigrants and descendants to integrate into Danish culture, values and norms. Mapping cultural integration among immigrants and descendants from non-western countries the governmental Think-Tank published the first and only comprehensive report on cultural integration. (2007) A survey was conducted among a total of 4,478 people, equivalent to approximately 500 native Danes and 500 people from each of the following groups: immigrants from Turkey, descendants from Turkey, immigration from Pakistan, descendants from Pakistan, immigrants from the western Balkans, immigrants from Iraq, immigrants from Iran, immigrants from Vietnam. The survey concluded the following:

Immigrants and descendants support democracy almost as much as Danes, with a broad acknowledgment of the right of all groups – even groups with extremist views – to hold meetings and defend them. Immigrants and descendants are more tolerant than Danes with regard to whether all should be free to practise their religious rituals and wear religious symbols. The survey found rather limited experiences of discrimination among immigrants and descendants, and almost no indication of the

widespread idea that Muslim imams play a crucial role as developers of the attitude of Muslims or as a representative for a large proportion of Muslims in Denmark. The survey shows that certain immigrant groups are very much attached to the basic values and norms in Denmark, specifically immigrants from Iran. Among other immigrant groups, especially Turkish, Pakistani and Iraqi immigrants, a considerable proportion of respondents display values and norms that are in contrast to those in Denmark. For example, many Turkish and Iraqi immigrants do not support equality between men and women, including female labor market participation, or that many of them wish to influence their children's choice of education and spouse. Additionally, the descendants' connection to a number of core values and standards in Denmark are still significantly less than the Danish. Another rather surprising finding was that Turkish and Pakistani descendants have become more religious in the last three years. Muslim populations in Denmark, the survey highlights, are far from a homogenous group, and there are major differences among them with regard to values and norms. For instance, a religious Muslim immigrant from Iran is far more against discrimination on grounds of sex in the labor market than a non-religious Muslim immigrant from Turkey.

7. STAKEHOLDERS

Immigrant organisations, specifically as cross religious/cross ethnic umbrella organisations, that (with some success) sought influence integration policy at the national level had their golden period in the 1990s, a period where they also enjoyed public recognition and (financial) support. The Liberal/Conservative government put an end to both recognition and public support. Today there is no immigrant umbrella organisation of this kind in Denmark. The major stakeholder in immigration and integration issues in Denmark consisting of individuals with an immigrant background remains The Council for Ethnic Minorities, which was established in 1999 by the Integration Act and aims to promote participation of ethnic minorities in all areas of society. The Council advises the Minister on issues of importance to immigrants and refugees, comments on new initiatives and has the right to comment on general issues. The council consists

of 14 members who are elected among representatives from the local integration councils in the municipalities. The Council also takes part in working groups set up by the Government to deal with problems of importance to immigrants and refugees. At a local level approximately 44 (out of 98) municipalities have established integration councils consisting partly of members representing local associations for ethnic minorities. The local integration councils advise municipalities on issues related to local integration policies and efforts and assist the local government to ensure an effective and coherent effort to integrate ethnic minorities in society.

In the absence of cross ethnic/cross religion umbrella organisations, and probably also due to certain political discourses and public events, there has been increased attention to religious /Islamic organization that have proven able to mobilise several thousands in support for or in demonstrations against policies. The Muslim Council (MFR) was formed in 2006. The council acts as an umbrella organisation, representing a broad cross-section of Muslims in Denmark and active citizenship and activities. The Council has, according to their records, about 35000 members from several member organisations (Danish-Turkish Islamic Foundation (DTIS), Danish Muslim Aid, Muslims in Dialogue, Muslim Cultural Institute, the Islamic Association, Islamic Forum, Dialogue Forum, Afghan Islamic Cultural Institute, Pakistan Welfare Society, Vestegnens Cultural Society, the Albanian Association, Danish Information Forum on Islam, Ahl-ul-Sunnah waljamaa. It cooperates, according to its own information, with governmental and other players at different levels, including the Integration Ministry, Municipality of Copenhagen Employment and Integration Management, Copenhagen's Children and Youth Administration, SSP, Police Intelligence Service, the Association of Young People With Disabilities (formerly DSI-Youth), Danish Refugee Council, Danish Churches Council, as well as with schools, cultural centers and libraries. During the same period more immigrants and descendants, specifically, or almost exclusively of Muslim background participated in general and local elections, and, regardless of the fact that measured by the proportion of immigrants and descendants among the population are still underrepresented, they have been and are both in the national parliament and local parliaments, as well as the national and local media. Apart from Muslim organisations, it

seems that immigrants and descendants are more likely to be elected in the mainstream policy, and are also eager to have other political issues (such as tax, finance, social policy, labour market, etc.) as their focus, than the pure integration policy.

At the national level it seems that, after 10 years in which the Danish migration and integration policy according to public opinion was dictated by the Danish People's Party (publicly perceived as far right), now is strongly influenced by the opposite opinion, represented traditionally by Social-Liberals, who are now in government.

Unions and Employer organisations at national, regional and local levels have from the beginning (late 1960s and early 1970s) been involved in both migration and integration issue, as both issues have been strongly linked to contribution to the labour market, and whether immigrants and descendants represent a gain or a loss for the welfare state, and for the Danish economy's competitiveness in the globalised world.

8. EDUCATION

In the school year 2009/2010, 50% of female immigrants and 48% of male immigrants aged 16-19 were enrolled in youth education. The proportion of female descendants aged 16-19 of non-western origin enrolled in youth education increased by three percentage points from the school year 2008/2009 to the school year 2009/2010. However, this proportion remains just below that of women aged 16-19 of Danish origin. The proportion of male descendants of non-Western origin enrolled in youth education is also lower than the corresponding proportion of young men aged 16-19 of Danish origin. In the school year 2009/2010, the proportion enrolled in youth education was larger for male immigrants aged 16-19 from non-western countries who came to Denmark at the age of 0-5 than for male descendants aged 16-19 of non-western origin. The proportion of female and male descendants aged 20-24 of non-western origin enrolled in higher education increased by three percentage points from the school year 2008/2009 to 2009/2010. The proportion enrolled in higher education also increased among immigrants from non-western countries and persons of Danish origin in the same age group, though not as much as among

male and female descendants aged 20-24. The school year 2009/2010 was the first year in which the proportion of female descendants aged 20-24 of non-western origin enrolled in higher education was higher than among women of Danish origin in the same age group. Also, for the first time, the proportion of male descendants aged 20-24 of non-Western origin enrolled in higher education is equal to the corresponding proportion of men of Danish origin. The proportion of descendants aged 25-39 with professionally qualifying education and training as the highest attained Danish education was considerably lower than the corresponding proportion of persons of Danish origin in 2009.

9. THE SECURITY DIMENSION

The following study on Muslim youth values and norms and affiliation with radical Islamic views also focuses on political preferences and participation among young muslims (Goli & Rezaei, 2010, *The divine deviance – towards a sociological theory of radical Islamism*)

Alongside axes of religiosity and politisation of religion, Goli & Rezaei identify five groups of Muslim youth:

TYPE	Field of relevance				
	Individual	Inter-personal	Civil society	National politics	Global politics
Fundamentalist	X	X	X		
Secular	?				
Rebellions				X	X
Islamist	?	?	?	X	
Radical muslim	X	X	X	X	X

Type 1 – Fundamentalists/Orthodox Consist of Muslims by birth, belief, and/or attitude. They associate themselves with an interpretation of Islam (though not necessarily radical Islamism) as a peaceful religion oriented towards changing the individual and civil society in an Islamic manner, not by any means, but through active disassociation. This is not the same as civil disobedience, which is an expression of protest, but rather an

expression of resignation from dominant western goals and certainly some means. This is also not a protest, but an expression of identity demarcation. They are conservatives and as such defensive in their attitude; their efforts are concentrated on preserving what they believe are Islamic values, that sometimes are, or are mixed in, the expression of national, local and tribal traditions. *Type 2 – Seculars* The seculars submit to the goals of the secular society and behave in accordance with normally accepted means to reach those goals. They are Muslims by birth and/or belief, though they do not practise Islam in their daily lives, and they do not think that Islamic identity – whatever that may mean – should be considered a socially relevant role. (Goli, 2002).

‘Secular’ in our categorisation does not necessarily mean integrated, as it is usually understood (as the precondition). In the Danish context they can be marginalised from different spheres of societal life, and at the same time integrated culturally, as well as being marginalised and even hostile to the values of the host society, and at the same time integrated in the major sphere of societal activities, e.g., labour market participation. Using Merton’s terminology (1938) they can even be those who resign from both the dominant goals and norms of the society, while at the same time not be inclined to Islamic goals and values. Here, the category ‘secular’ indicates only that they do not associate themselves with a (Islamic) religious identity. *Type 3 – Rebellions* are hostile to society’s goals and means (to put it in Merton’s categories) and use Islam as a channel rather than practising Islam at an individual level. They do not correspond with the category of Rebellion introduced by Merton in the literary sense of the word. Rebellions, in our typology, do not follow any goal; they are not even persistent in their attitudes. *Type 4 – Islamists* are persistent. They work for the establishment of an Islamic society and Islamic government by lawful means and do not submit to hostile attitudes toward society. They submit to a completely different (from that set up by the society) definition of ‘the good life,’ but they try to realise this through lawful means, e.g., parliamentary democracy. Islamists are not violent in their approaches. *Type 5 – Radical Muslims* Radical Muslims are hostile to the society’s goals and means, but, unlike the Rebellions, have a different programme and plan. Rebellions would not hesitate to take advantage of any means to reach their goals, which they

consider holy. They do not differentiate between legitimate and illegitimate means. Based on these typology and a rather comprehensive representative survey among young Muslims, the study constructs a continuum moving from Non (Islamic) Radical Tendencies to Most (Islamic) Radical Tendencies. With regard to participation in elections, the study finds among other surprising results, major differences: 39.7% of the respondents in the Most Radical Young Muslims do not/will not vote, compared to only 4.0% of the respondents in the Least Radical Young Muslims.

10. THE ANTIDISCRIMINATION FRAMEWORK

According to a FRA-study (2009) most individuals of Muslim background (79%) do not report discriminatory incidents and cases of racist crime to any organization, be it public institution, for example, Police or NGOs. Especially the young express a lack of trust and confidence in the police in those matters. 38% say, “It happens all the time” and that they therefore do not bother to report incidents. Following the surprising results of this study the Director of FRA Morten Kjaerum asks: “Is there a passive acceptance of discrimination as something that is just a part of life? How does this affect social integration and community cohesion? What can be done to improve the confidence in public authorities and the police? Public authorities have a duty to support the integration process. The must include done by making people more aware of their rights. All victims of racism must have access to justice – not only on paper but also in reality.” On average, 25% of Muslim respondents said that they had been stopped by police in the last 12 months. Of those who were stopped, 40% considered that it happened because of their ethnicity (“Ethnic profiling”). Ethnicity is the main reason for discrimination of Muslim respondents who had experienced discrimination in the last 12 months. Only 10% thought that the discrimination they had been exposed to had something to do with their religion. In fact, wearing traditional or religious clothing (e.g., a headscarf) does not increase the risk of discrimination. Morten Kjaerum: “Overall, the results suggest that Muslims are treated very differently depending on both their ethnic origin and their country of residence. Traditional dress hardly leads to further discrimination. People with citizenship and people

who have been in the country for a long time have fewer experiences of discrimination. For example, 41% of male Muslim respondents without citizenship said that they had experienced discrimination, while only 27% of the interviewed male Muslim citizens had the same experience.” It is necessary that the victims of racism have unrestricted access to mechanisms to ensure that they can report abuse confidentially.

11. EQUAL RIGHTS

With regard to equal rights and equality in Denmark, Emerek & Jørgensen (2011) have listed and described the relevant laws. At the top we have the equality act that protects all citizens with the right to equality, regardless of gender, and many other aspects. Also the act prohibiting discrimination in employment is one of the major acts. The latter is from 2008, and is also protective against direct or indirect discrimination in employment because of race, color, religion or belief, political opinion, sexual orientation, age, disability or national, social or ethnic origin. The act uses the same definitions of direct and indirect discrimination and harassment by the Equality Act (§1). It is the same as the equality law derived from EU directives. An employer may not discriminate against applicants for vacant jobs or employees to recruitment, dismissal, transfer, promotion, or in terms of pay and working conditions. An employer may not discriminate against employees with respect to access to vocational guidance, vocational training and retraining. The same prohibition applies to all operating guidance and training company or employment authorities. The prohibition of discrimination also applies to anyone who lays down the rules and chooses self-employment, or decides on membership of and participation in an employee or employer organization (§3). Finally, an employer either in connection with recruitment or employment of an employee request, obtain or make use of information on the race, color, religion or belief, political opinion, sexual orientation or national, social or ethnic origin (§4), nor by advertisement must indicate that the recruitment or training sought or preferred – or not desired – a person of a particular race, colour, religion or belief, political opinion, sexual orientation or national, social or ethnic origin or of a certain age or with disabilities (§4).

The Act on Ethnic Equal Treatment aims to prevent discrimination and to promote equal treatment, irrespective of racial or ethnic origin. It does not apply to areas that are comprised by the act prohibiting discrimination in employment, etc. The prohibition against discrimination applies to all public and private business, in terms of social protection, including social security and healthcare, social advantages, education and access to and supply of goods and services. The law is parallel to the Equality Act and similar sections in terms of direct or indirect discrimination and harassment (§3), and is also without prejudice to specific measures designed to prevent or compensate for disadvantages linked to racial or ethnic origin, maintained or adopted (§4). The law also mentions the Department of Human Rights, which, “has the task of promoting equal treatment of all persons, without discrimination on grounds of racial or ethnic origin, including by assisting victims of discrimination in pursuing their complaints about discrimination.” The act came into force in July 2003, three years after the EU Directive on implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

The implementation of gender equality and the anti-discrimination Board of Equal Treatment is the main institution dealing with gender and other forms of discrimination. The board is independent of the Ministry, and its decisions are final and binding. In certain situations, the board may decide that the claimant is entitled to compensation (e.g., in case of unfair dismissal). Anyone who is a victim of discrimination may appeal to the board. The Equal Treatment Board issued its first official annual report for 2009 at the end of 2010. In the Board’s first year it completed a total of 70 cases, of which 33 were closed because the complaint was too diffuse, the complainant did not respond to the Board’s letters, or the complainant did not wish to pursue the matter. Finally, 15 cases fell due to settlement, etc. As a National Human Rights Institution and specialised *ligebehandlingsinstans*⁶⁴ IMR, as mentioned earlier, is responsible for dealing with the obligations imposed by Article 13 of the EU 18 Directive 2000/43/EC. In implementing the principle of equal treatment between persons irrespective of racial or ethnic origin According to this Directive, Member States are required to establish an organisation that promotes equal treatment and provides independent assistance to victims of racial discrimination.

Another study, with a specific focus on young Muslims of age 15–30 (Goli & Rezaei, 2010) that measured the general, subjective, experience of discrimination followed by an incidence of the experiences of the “Danish Marriage Act” that has primarily been targeting immigrants who marry individuals under the age of 24, residing abroad, and who want to settle in Denmark as a couple, found that a great majority of the respondents had never or almost never experienced discrimination in relation to work. At the same time, a bigger share of the respondents in the most radical group has experienced discrimination in work-related situations. But there is no empirical indication that the experiences of discrimination related to work situations have any influence on attitudes towards radicalised Islam. That is also the case with regard to the specific experience of the Danish marriage act.

12. DISCOURSES, IMPLEMENTATION OF THE POLICY, AND THE ROLE OF EU POLICIES

Discursively, though, we have in Denmark been observing an overwhelming debate and struggle of the very construction of social identities of migrants as the product of certain discursive processes, not to forget that this development involves the very process in and by which the social identity (labels/categorisation) of immigrants have been and still are constructed. The core elements of this process are minority rights, immigrants’ struggle for recognition and formal and informal social status, equality, colour-blind/differentiated citizenship rights, etc.

It has to be kept in mind that mainstream Danish policy has through decades rather persistently shown a positive attitude towards integrating immigrants (that is, not necessarily more immigrants) who are in the country to stay. This political and social consensus was brought about already in the beginning of 1970s. The overall positive attitude has been continuously announced, legitimated and also supported widely by the public and the media due to the very political and social acknowledgment of the fact that integrated immigrants, both economically and socially, are preferred; economically because of the crises in the welfare state and the demographic deficit and socially because almost all players prefer to strengthen social coherence

and harmony. As a matter of pure cost-benefit analysis, almost everybody in Denmark will agree that society is better off by integrating immigrants.

13. SUMMARY

The Danish context, both with regard to migration and integration policies and discourses, is a very dynamic one. As well as Statistic Denmark, many other groups are involved in producing, debating, developing and analysing not only social categories but also their content and consequences, relevant to migration and integration.

During the last 30 years many discourses have been changed, mostly due to the struggles on recognition and the substantial affiliation with Danish society, specifically the concept of rights and duties and national and social status among immigrant populations. Both top-down and bottom-up factors influence these processes. Danish society seems, specifically in recent years, to develop a discourse of tolerance, probably different from most other countries that may sound like: “A healthy society and democracy is one that can handle extremism without marginalising and stigmatising the extremists.”

Under normal (not politicised) circumstances, the Muslim community, being progressively the only one left among immigrant umbrella organisation, seems to have chosen a constructive dialogue with public institutions. In the future these organisations, that already can mobilise considerable numbers of Muslims in different occasions, would be able to participate more formally in politics, probably with a more active role in elections and politics. The Danish parliamentary rules provide plenty of influence for organised interests. A small, publicly identified as extreme and anti-democratic Muslim organisation, Hizb-Ut-Tahrir, does also exist. But they are considered as hardliners who do not seek compromises but confrontation, and who do not wish to play by the rules.

Immigrants still have some experiences of discrimination, but there are established channels to deal with those matters. The subjective feeling of being discriminated is rather difficult to deal with.

Immigrants and descendants originating from non-western countries are still far behind the national average with regard to wide range of

socioeconomic variables such as labour market participation, education, wealth, housing, etc. But here has been a move forward in recent decades. Of course, the economic cycles means a lot, as many immigrants and descendants entered the labour market during the last economic boom that ended with the financial crises in 2008. On the other hand, the discourses and paradigm have been changed in a rather dramatic way, almost independent of economic cycles. The short period of almost 35 years since the first immigrants came to Denmark as guest workers taken into consideration, it is the paradigm and discourse changes that are rather astonishing. It is more and more observed that immigrants, and specifically descendants, who demonstrate not only very high skills and qualifications and competencies but also substantial adaptation of Danish language and culture, are, with great success, changing the very conception of Danishness, and reshaping it in a multicultural and multiethnic way. This kind of change is very difficult to measure, but it is never the less there.

Immigrants and descendants originating from non-western countries are still far behind the national average with regard to wide range of socioeconomic variables such as labour market participation, education, wealth, housing, etc. But here has been a move forward in recent decades. Of course, the economic cycles means a lot, as many immigrants and descendants entered the labour market during the last economic boom that ended with the financial crises in 2008. On the other hand, the discourses and paradigm have been changed in a rather dramatic way, almost independent of economic cycles. The short period of almost 35 years since the first immigrants came to Denmark as guest workers taken into consideration, it is the paradigm and discourse changes are rather astonishing. It is more and more observed that immigrants, and specifically descendants, who demonstrate not only very high skills and qualification and competencies, but also substantial adaptation of Danish language and culture, are changing the very conception of Danishness, and reshaping it in a multicultural and multiethnic way. This kind of change is very difficult to measure, but it is never the less there.

Compared to its predecessor, the new government seems to be much closer to international organisations (UN, EU) and their principles, declarations and directives with regard to human rights and recognition of

minority rights, on the one hand, while also more concerned with Denmark's image abroad, that according to them has been damaged mostly due to the former governments migration and integration policy and discourse. These macro factors seem to generate more positive tendencies, policies and discourses. It is at least what the Danish public seems to expect from the times to come.

Bibliography

Bhatti, Y. & Hansen, K. M. 2011. *Nydanskernes repræsentation i kommunalbestyrelserne*. i Elklit, J. & Kjær, U. (red.) *KV09: Kommunalvalg i Strukturreformens skygge?* Odense: Syddansk Universitetsforlag.

Ejrnæs, Morten. 2001. "Integrationsloven – en case, der illustrerer etniske minoriteters usikre medborgerstatus." AMID Working Paper Series Nordisk Ministerråd.

Emerek, R. & Jørgensen, M.B. (2011) *Lige rettigheder – Ligestilling i Danmark*, Aalborg University.

FRA (2009) *Pressemeddelelse*, Wien/Madrid, den 28. maj 2009

Goli, Mark. 2002. *En verden til forskel – Discursive Inconsistency and Institutional inefficiency*, Copenhagen: Institute of Political Science.

Goli, Mark. 2007. *The voice of Exit*, Journal of Social Science,, 3 (2): 60-68, 2007

Martens, Anne & Stenild, Katrine. *Integrationspolitikens historie og den integrationspolitiske dagsorden*, Samfundsøkonomen nr 1. Marts 2009.

Mikkelsen, Flemming. 2008. *Indvandring og Integration*, Copenhagen, Akademisk Forlag

Ministry of Justice. 2012. Statistical Overview – Migration and Asylum 2011

Ministry of Refugee, immigrants and Integration (2010, 2011) *Statistical overview of integration – Population, education, and employment*, Special chapter on children and youngsters, Copenhagen.

Rezaei, S & Goli, M. 2006. *Indvandrernes tætte netværk*, Roskilde University, 2006

Würtz Sørensen, Jørgen. 1988. *Der kom fremmede*, Aarhus, Aarhus University

DISCREPANCIES IN FINANCING AND POLICIES OF FOREIGNERS' AND ROMA INTEGRATION EFFORTS AT THE EU LEVEL

Jiří Kopal

When integrating Roma and foreigners, the financial instruments of the European Union play an important role. Especially the new member states who are net recipients when implementing integration policies rely on these funds more and more. EU funds (in particular the Structural Funds) could be a powerful tool to improve the socio-economic situation of disadvantaged groups, such as Roma, but too little of the €26.5 billion allocated to support Member States' efforts in the field of social inclusion for the 2007-2013 period benefits disadvantaged Roma communities.

There is a certain distinction between the focus of the European Union on foreigners' integration on the one hand and Roma integration and social policies on the other hand. Both can be regarded as rather new. Foreigners' integration became gradually more important in the 12 years after immigration became an EU competence following the Treaty of Amsterdam (1999). Although integration has remained a national competence, the majority of EU Member States fear the failure of integration policies in other member states and the implications for them. In addition, the issues of social cohesion and economic progress are at the heart of the EU efforts in this area.

The focus on Roma issue became important only after the accession of new EU member states as considerable numbers of Roma live in Hungary, Slovakia and Czechia, all of whom entered the EU in 2004, with many more in Romania and Bulgaria, who entered in 2007. This is why the policies of Roma are in the process of development, a move which began in 2011 when the *EU Framework for National Roma Integration Strategies up to 2020* was announced.

The whole process of foreigners' integration efforts and their development as part of EU immigration policies is precisely described in a publication introducing the concept of *Interculturalism* of Centre for European Policy Studies (CEPS).¹ The aim of this chapter is not to repeat the findings of the study and rather to point out at some practical recommendations in the area of management and financing, mainly due to the recent report of the European Court of Auditors. The focus on the accountability of foreigners' integration policies can help us to prevent mismanagement and lack of measurable data both when introducing new foreigners' integration proposals in the EU budgetary period of 2014–2020, as well as when implementing new Roma integration policies.

1. CASE STUDY: CRUSHING EVALUATION OF FOREIGNERS INTEGRATION POLICIES BY EUROPEAN COURT OF AUDITORS

The issue that is very difficult to grasp mainly from the side of right wing and accountability-oriented politicians is the question of efficiency and effectiveness of different integration funds and mechanisms. Let's start with a look at the SOLID programme implementation that could serve as a *prima facie* case for how the EU funds and integration mechanisms should *not* be managed in the next budgetary period. It should be added for the sake of objectivity that other EU mechanisms, including the money from structural funds distributed at national level, have been used for integration with sometimes better indicators and monitoring.

1 Carrera, Sergio and Joanna Parkin. 2011. *Towards a Common Policy on Integration in the EU?* In: *Interculturalism. Europe and its Muslims in search of sound societal models*, ed. Emerson, Michael. Brussels, CEPS.

The question of efficiency and effectiveness is at the core of a recent special report of the EU Court of Auditors.² This report is very important as it clearly pointed out at the problem of many integration policies financed and governed – because of overly complicated administrative systems and shared competences that tend to lead to a lack of accountability – both far from the people the funds should serve and even further from those who finance them. The European Court of Auditors had a clear task to respond to the question of whether the European Integration Fund and European Refugee Fund, forming part of the SOLID programme, contribute effectively to the integration of third-country nationals.

General Programme Solidarity and Management of Migration Flows (SOLID) was established for the EU budgetary period 2007-2013. This program is composed of four funds. Two of them are aimed at integration. The European Integration Fund (EIF) supports Member States in facilitating the social, civic and cultural integration of foreign immigrants (third-country nationals) into European societies. The Fund focuses primarily on the integration of newly-arrived foreigners. The European Refugee Fund (ERF) targets asylum policy support and aims to reinforce the efforts made by the Member States in receiving refugees and displaced persons, including integration measures.

Clear language of the critical report deserves several quotations that speak for themselves.

- As written in the Executive Summary: *'it was not possible for the Commission or Member States to assess the contribution of the SOLID funds to integration because audited Member States did not set proper targets or indicators for their annual programmes. The Commission's intermediate report on results achieved and on qualitative and quantitative aspects of the implementation, based on Member States' reports, did not provide enough information for the Funds to be evaluated or steered.'*
- The Court of Auditors continues as follows: *'effectiveness of the Funds has been hampered by the design of the SOLID programme, which is fragmented, burdensome and inadequately coordinated with other EU*

2 European Court of Auditors Special Report No 22. 2012. *Do the European Integration Fund and European Refugee Fund Contribute Effectively to the Integration of Third-Country Nationals?*

funds. The splitting of funding for target groups which have similar needs has created problems for authorities and beneficiaries. This, together with the combination of multiple funds and annual programming, plus a long chain of controls by three authorities, has led to excessive administration out of proportion to the size of the funds involved. Insufficient coherence and complementarity with other EU funds leads to overlaps, missed opportunities for synergy and a risk of double-funding.'

- *The Court of Auditors further stressed that 'delays continue to feature, both in Member States' submission of programmes and reports, and in the Commission reviewing and giving its approval. Furthermore, weaknesses in the setup of Member States' Management and Control Systems were not identified early enough by the Commission.'*

These conclusions stemming just from the summary of thorough evaluation shows how difficult it is to trust the results of the integration projects. The reader of the report is further informed about the weak spots of the whole SOLID establishment and implementation:

- *'Weaknesses such as the lack of indicators, programme annuality and the hierarchy between Member State authorities ... could have been avoided had the experiences from Structural Fund management been better taken into account in the design of the EIF and ERF. Neither the audited Member States nor the Commission capitalised on their previous experiences in the Structural Funds.'* (para 51)

On the basis of its findings the Court of Auditors issued a set of 15 simple recommendations that can serve as a model for accountable management in further financing period. Let's quote some of the most obvious and practical to look for a model for managing similar funds and programmes at the EU and Member States level in the future.

The EU Commission should:

- *define an obligatory minimum set of common indicators for the Member States to measure output and outcome of their programmes, building on the provisions set out in the Commission's proposal for 2014-2020 (Recommendation 1);*

- *require Member States before approving the programmes to set SMART indicators and set up IT systems to collect data from the start (Recommendation 2);*
- *carry out a comprehensive assessment of needs for integration, regardless of whether migrants have EU or third-country nationality (Recommendation 9); based on this assessment, an appropriate fund(s) structure should be designed which ends the separation of the target population on the basis of nationality and which is oriented towards the needs of the Final Beneficiaries. Setting an obligatory priority to fund third-country nationals would ensure that they receive the necessary specific attention (Recommendation 10);*
- *place greater importance on obtaining concrete details of Member States systems for ensuring coherence and complementarity in EU funding (Recommendation 11).*

Member States should:

- *set target values for objectives in order to be able to measure the achievement of programmes (Recommendation 3);*
- *provide the necessary human resources for the authorities so as to fulfill their legal obligations (Recommendation 15).*

The Commission and Member states:

- *before introducing new management and control requirements and when establishing the corresponding systems, should give due consideration to proportionality, the resource impact and take into consideration experience in the management of similar programmes (Recommendation 8).*

This set of practical recommendations for accountable management shows how underdeveloped the whole mechanism of EU integration funds was. Although the Commission immediately reacted and recognized certain faults in the response to the report, the good governance watchdogs, conscious members of the EU parliaments and journalists have to follow the implementation of the integration policies in the next budgetary period while keeping in mind the recommendations stemming from this valuable evaluation of the Court of Auditors.

2. DEVELOPMENT OF NEW ROMA INTEGRATION POLICIES

The European Council and European Commission have demanded over the last few years that more and more policies on interstate level should focus clearly and concretely on Roma. The representatives of European Union are of the opinion that successes in Roma integration would contribute to social cohesion, improvement of fundamental rights protection, including members of minorities, and would contribute to eliminating discrimination. This is why in April 2011 the European Commission published an *EU Framework for national Roma integration strategies up to 2020* (Roma Framework). This strategy set goals at the EU level that require Member States to improve the integration of Roma in employment, education, healthcare and housing.

It seems that it is exactly bad experience with integration programmes and policies both at the EU and national level which form a basis for recommendations of the Commission. That is why it called Member States in para 8 of the Roma Framework under the heading *Measuring progress: putting in place a robust monitoring system* to submit national Roma integration strategies specifying how they will contribute to achieving the overall EU level integration goals, including setting national targets and allowing sufficient funding to deliver them.

2.1 Difficult and demanding systems of data collection

Unlike when starting the SOLID programme for integrating foreigners in 2007, the EU Commission seems to be aware that for accountable monitoring reliable data are necessary. *'At present, it is difficult to obtain accurate, detailed and complete data on the situation of Roma in the Member States and to identify concrete measures put in place to tackle Roma exclusion and discrimination. It is not possible to assess whether such measures have given the expected results. It is therefore important to collect reliable data.'*

The difficulty to obtain data on Roma is further clearly demonstrated in the complicated system of its collection proposed by the Commission, which intends to cooperate with the United Nations Development Programme, the World Bank and set new demanding task on the Fundamental Rights Agency (FRA) and its network of national experts. FRA is

expected to expand its survey on Roma to all Member States and to run it regularly. This particular EU agency also has to work together with other relevant bodies, such as the European Foundation for the Improvement of Living and Working Conditions and collect data on the situation of Roma with respect to access to employment, education, healthcare and housing. Also specific researches funded by other programmes are envisioned. Additional sources of information for assessing progress should be national reform programmes, together with the monitoring and peer review process of the Europe 2020 strategy. In the long term, the Commission also plans to foster cooperation between national statistical offices and Eurostat so as to be able to identify methods to map the regions with the most marginalised groups (in particular Roma), as a first step. In addition, FRA should work with Member States to develop monitoring methods which can provide a comparative analysis across Europe.

The EU Commission demands clear benchmarks, which will ensure that:

- tangible results are measured,
- money directed to Roma integration has reached its final beneficiaries,
- there is progress towards the achievement of the EU Roma integration goals,
- national Roma integration strategies have been implemented.

However, measuring these benchmarks will be immensely difficult in the practice at this stage of affairs when ethnical data collection is a taboo both for Roma and political parties and institutions' representatives in many Member States, including the four that are analyzed in this study. This set of EU policies and complicated data collection systems, often not clearly defined and also not accepted both by national authorities and Roma themselves at the national and local levels are not a guarantee that this whole procedure can bring reliable data and results that can be regarded as efficient or measurable from the good governance point of view. Proposals of these policies should be more persuasively discussed with national and local partners. This might lead to waste of money and frustration not only side of often divergent, but growing extremists and people questioning lack of common sense in proposals coming from Brussels at national levels, but also on the side of accountability-oriented politicians and civil society.

2.2 Anti-discrimination and education

With respect to the previous chapters of this study, which have focused on the issues of reliable data collection and specifically on education and anti-discrimination, the EU Commission following Roma Framework brings at the time being some rather general points.

In its communication to other EU bodies called *National Roma Integration Strategies: a first step in the implementation of the EU Framework* the Commission mentions the issue of anti-discrimination briefly, although it considers this issue as one of the structural requirements.³

Member States should step up the fight against those forms of discrimination and racism that affect Roma people. Not only full compliance with EU laws and its effective enforcement is demanded, but also awareness raising of the societal interest of Roma integration.⁴ However, these general demands do not represent anything new.

In the area of education the Commission follows the strategy of integrated approach in which Member States should prioritise:

- eliminating school segregation and misuse of special needs education;
- enforcing full compulsory education and promoting vocational training;
- increasing enrolment in early childhood education and care;
- improving teacher training and school mediation;
- raising parents' awareness of the importance of education.⁵

As education remains one of four key priorities at the EU level where data are collected, it is possible to compare the policies of all four countries towards Roma and their preparedness in this area. As has been stated in national chapters, the population of Roma in Denmark and Austria is very tiny; however, the Commission demanded in its Roma Framework the submission of strategies on Roma from all 27 countries (only Malta has not submitted any materials as there are no Roma living in its territory). The following evaluation from the European Commission brings a general

3 European Commission. 2013. *National Roma Integration Strategies: a first step in the implementation of the EU Framework*, p. 4.

4 European Commission. 2013. *National Roma Integration Strategies: a first step in the implementation of the EU Framework*, p. 13

5 European Commission. 2013. *National Roma Integration Strategies: a first step in the implementation of the EU Framework*, p. 6.

overview in distinguishing what is considered a key element of good strategy in the area of education in particular countries and what is deemed as insufficient from Brussels.⁶ The biggest gaps have been seen again in lack of tools to measure impact and difficulties to take into account special needs of Roma.

Country (-estimated Roma population)	Key elements	Identified gaps
Austria <i>Government</i> <i>- appx. 50,000</i> <i>Council of Europe</i> <i>- appx. 25,000</i>	<ul style="list-style-type: none"> • Within a broad education strategy, some innovative, tailor-made measures for Roma pupils are supported at local level. • These include projects on Roma school assistants providing learning support for children and mediation, developed by Roma associations. • Counselling and training adults so as to enhance their employability. 	<i>More measures taking into account the specificities of the different Roma groups are needed.</i>
Hungary <i>Government</i> <i>- appx. 750,000</i> <i>Council of Europe</i> <i>- appx. 700,000</i>	<ul style="list-style-type: none"> • Compulsory pre-school participation from 3 years of age. • After-school programmes. • Second chance schools. • Mediators. • School meals. 	<i>More focus on desegregation, integrated education and ensuring that mainstream policies also respond to the specific needs of Roma could further improve this part of the strategy.</i>

6 Informations in the table has been taken from: Commission Staff Working Document. 2012. *National Roma Integration Strategies: a first step in the implementation of the EU Framework*.

Country (-estimated Roma population)	Key elements	Identified gaps
Czechia <i>Government</i> - 150,000-200,000 <i>Council of Europe</i> - appx. 250,000	<ul style="list-style-type: none"> • Increasing accessibility to pre-school education and early care services in socially excluded Roma localities. • Improving the process of diagnosing the special educational needs of Roma pupils. • Supporting teaching assistants. • Supporting Roma children from elementary schools when transferring to the secondary and tertiary education systems. • Full day schools. • Life-long-learning on key skills and literacy. • Developing models for inclusive education. 	<i>More concrete targets and corresponding measures are needed on how to tackle segregation of Roma children in the educational system. An integrated approach is also necessary. This means that already in its plans the Czech government fails to address the segregation of Roma children in education in an effective way.</i>
Denmark <i>Government</i> - appx. 2,000 <i>Council of Europe</i> - appx. 5,500	<ul style="list-style-type: none"> • In general terms, acknowledgement of the importance of education for the integration of disadvantaged groups, such as the Roma. • Identification of lower educational achievements and school drop-out as the main challenges for Roma people. • Recognition of lessons learnt from previous local experiences. 	<i>Key problems of school absenteeism, integration into mainstream classes and language barriers are well identified. Measuring the impact of the equal treatment approach on the situation of Roma people is necessary.</i>

3. CONCLUSIONS

The evaluation of direct support of integration efforts from the EU level of third country nationals through specialized funds has highlighted risks linked with this kind of financing. The case study stemming from the report of the European Court of Auditors on effectiveness of integration through SOLID programme funds has shown what should be avoided and which kind of policies should be pursued in the area of integration and inclusion of both third country nationals and Roma in the next budgetary period of 2014-2020. The strategies of improving living conditions of Roma which include both its integration and anti-discrimination into national

societies are very new at the remote EU level. In terms of accountability requirements, they can learn from both good and bad practices of third country nationals' integration financing, although the strategies of these different minorities integration cannot be regarded as identical.

It remains important that:

- EU money coming from Brussels directly on the issues such as integration or anti-discrimination should be more coherently coordinated with other funds, both at a European and national level. There should be simple overviews published online on all these funds and activities they can support both towards foreigners and Roma and their functions and goals.
- The issue of lack of measurable and comparable data over the years, including the sensitive issue of ethnical data collection or finding of another reliable instrument has to be solved systemically for all the countries demanding or opting for the EU financing of integration policies one day in order to start with accountable measurements of results.
- Administration and its control should be appropriate to the side of funds and to its distance from both the funder and the final recipients. The recommendations of the Court of Auditors and other auditing organs have to be thoroughly implemented.
- Both the EU institutions and national governments should learn how to implement measurable policies and their year-by-year evaluation that will lead to achieving goals that are accepted by mainstream local politicians. They should be in the end clearly visible both for people on grassroots level and media in Member States. Otherwise they won't be helpful in absorbing the frustrations of sometimes dangerously growing parts of populations and silence the extreme political proposals damaging humanistic values which have prevailed in Europe despite long periods of wars, pogroms and other hostilities.

Bibliography

Carrera, Sergio and Joanna Parkin. 2011. *Towards a Common Policy on Integration in the EU?* In: *Interculturalism. Europe and its Muslims in search of sound societal models*, ed. Emerson, Michael. Brussels, CEPS.

Commission Staff Working Document. 2012. *National Roma Integration Strategies: a first step in the implementation of the EU Framework*.

European Commission. 2013. *National Roma Integration Strategies: a first step in the implementation of the EU Framework*.

European Court of Auditors Special Report No 22. 2012. *Do the European Integration Fund and European Refugee Fund Contribute Effectively to the Integration of Third-Country Nationals?*

European Platform for Roma Inclusion. 2012. *Report – Extraordinary meeting on the national Roma integration strategies. A sustainable process for Roma inclusion*.

GHK. 2011. *Impact assessment study on the Multi-annual Financial Framework (MFF) in the area of Home Affairs – Final Report*.

Statewatch. 2013. *“Impossible” to assess whether integration funds benefit migrants and refugees, say Court of Auditors and European Parliament*, Press release.

EUROPEAN COURTS' CASE LAW ON FOREIGN NATIONALS' RESIDENCE AND EDUCATION

Michaela Kopalová

To determine the course of integration policies in Europe and the EU, a case law of both European Court of Justice and European Court of Human Rights is essential. This case law is also important for specialists in political science and social issues, as well as active politicians and civil servants, to understand the overall context. Therefore, this article is concerned, with regard to national issues, with limits on foreign nationals' residence and the most important judgments on education, including the issue of the segregation of Roma, as was pronounced in some cases by the most important courts in Europe. The impact of these judgments on the development of policies in individual countries, in addition to the determination of what is admissible in dealing with foreign nationals and minorities, is not negligible and it is necessary to include it in the debates of political scientists and researches focusing on integration and social policies of individual states.

1. REGULATION OF FOREIGN NATIONALS RESIDENCE IN THE CASE LAW OF COURT OF JUSTICE OF THE EUROPEAN UNION

1.1 Legislative framework

As the community and union legislation on immigration constitutes rather a complicated and complex system of directives, as opposed to, at first glance, straightforward European Convention on Human Rights. I would like to introduce the case law of the European Court of Justice, with a few words on legislation.

Free movement of persons constitutes one of the four fundamental freedoms of the EU internal market and it has its legal base in the primary community law. Regulations on the free movement of persons can be found particularly in Title III – Free movement of persons, services and capital of the Treaty establishing the European Community. Initially, free movement was granted to the economically active (i.e., Community workers). Then, in Title II Article 17 of the Maastricht Treaty, Citizenship of the Union was established, thereby giving every citizen of the Union the right to move freely within the EU. As a result, all citizens of the Union were given the right to move freely regardless of their economic activity. Eventually, the Amsterdam Treaty added a new title, Title IV – Visas, asylum, immigration and other policies related to free movement of persons to the Treaty establishing the European Community. This part of the Treaty forms a basis for the regulation of free movement of third-country nationals.

Citizens of the EU may move freely within the territory of the Member States, the movement of third-country nationals is regulated by the provisions on area of freedom, security and justice. Halfway between these regulations are third-country nationals who are family members of the EU citizens who may move freely. The third country nationals may move with their family members (citizens of the Union); however, their movement is subject to stricter regulations. In accordance with Paragraph 4 of Article 63 of the EC Treaty, which stipulates the basis for regulation of free movement of third-country nationals, a few significant secondary acts have been adopted recently whose effect is dependent on whether the per-

sons in question are (a) family members of citizens of the Union, (b) family members of the third-country nationals or (c) other foreign nationals.

- The Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States
- Council Directive 2003/86/EC of 22 September 2003 on the Right to Family Reunification (Denmark, Ireland and the United Kingdom did not participate in the adoption of this Directive) and
- Council Directive 2003/109/EC of 25 November 2003 Concerning the Status of Third-Country Nationals Who are Long-Term Residents

1.2 The position of the Court of Justice towards third-country nationals

1.2.1 The first entry of foreign nationals to the EU territory and their border checks

The aforementioned directives are also intriguing as they fail to regulate the first entry of a foreign national to a member state; they only define the status of the national and the rights of a certain group of people on its territory. The first entry of third-country nationals is mostly subject to national regulation of member states, as opposed to the migration of the citizens of the Union and third-country nationals between the member states. Despite endeavouring to harmonize the immigration policies of the member states⁵, the entry of third-country nationals to the territory of a member state remains in the jurisdiction of national legislation.⁶ The Court of Justice has had few opportunities to rule on this matter. Of interest is a judgment in the matter of **Azize Melki and Selim Abdeli**⁷, when the Court ruled on jurisdiction of member states of the EU to carry out border controls to prevent the illegal entry of foreign nationals. Aziz Melki and Selim Abdeli, Alge-

5 White, Robin. 2004. "Analysis and Reflections – Conflicting competences: Free movement rules and immigration laws. *European Law Review*. No. 3/2004: 385-396.

6 Marhanová, Věra. 2009. *Současné vývojové stadium svobody volného pohybu osob v EU*. Master thesis, Faculty of Law, Masaryk University: 39.

7 Judgment of the Court (Grand Chamber) of 22 June 2010, C-188/10 and C-189/10.

rian nationals unlawfully present in France, were subject to a police control, pursuant to Article 78-2, fourth paragraph, of the Code of Criminal Procedure, in the area between the land border of France with Belgium and a line drawn 20 kilometers inside that border. They were each made the subject of a deportation order from the Prefect. The attorneys claimed this procedure of the French authorities was contrary to the French Republic's commitments resulting from the Treaty of Lisbon (the absence of internal border controls for persons). The Court ruled that the exercise of police powers will not be in breach of *acquis* provided they are not equivalent to the exercise of border checks. When the police measures do not have border control as an objective and are based on general police information and experience regarding possible threats to public security and aim, in particular, to combat cross-border crime; are devised and executed in a manner clearly distinct from systematic checks on persons at the external borders; and, lastly, are carried out on the basis of spot-checks. The Court ruled that French legislation precluded free movement of persons as they granted to the police authorities of the Member State in question the power to check, solely within an area of 20 kilometers from the land border of that State with States party to the CISA, the identity of any person, irrespective of his/her behavior and of specific circumstances giving rise to a risk of breach of public order, in order to ascertain whether the obligations laid down by law to hold, carry and produce papers and documents are fulfilled, where that legislation does not provide the necessary framework for that power to guarantee that its practical exercise cannot have an effect equivalent to border checks.

Nevertheless, a distinction must be made between the citizens of the countries which have an agreement with the EU on free movement of persons (be it the EEA countries, (Switzerland, Turkey), the Maghreb countries, the ACP countries, or European agreements), and citizens of other countries. It was the Agreement establishing an Association between the European Economic Community and Turkey, the aim of which was to continuously secure free movement for workers between the EEC member states and Turkey, that was the subject-matter of a case between two Turkish nationals **Veli Tum and Mehmet Dari**⁸ and the *Secretary of State for the*

8 Judgment of the Court of September 20, 2007, C-16/05.

Home Department. This agreement contains the stand-still clause, which stipulates that the contracting parties shall refrain from introducing between themselves any new restrictions on the freedom of establishment and the freedom to provide services. However, the Secretary of State, due to increasing immigration to the territory of the United Kingdom, adopted more stringent regulations than those which existed at the time when the Additional Protocol was adopted and applied them on plaintiffs with a justification that the ‘standstill’ clause of the Additional Protocol applies only to the establishment of Turkish nationals while the issue of a first entry to the territory of a Member State of the European Union will fall within the exclusive competence of each Member State and may be amended. The United Kingdom Government required a Turkish national lawfully entering the UK to claim the benefits of the clause set out in the Additional Protocol. The court answered the preliminary question by ruling that the ‘standstill’ clause prohibits, as from the entry into force of that protocol, the introduction of any new restrictions on the exercise of freedom of establishment, including those relating to the first admission to the territory of said State by Turkish nationals intending to establish themselves in business there on their own account.

1.2.2 Migration for family reunification

An exercise of the right of the family members of the EU citizens and legal immigration from third-countries currently constitute the biggest share of legal immigration to the EU. Therefore, these issues present a highly sensitive matter which, despite efforts towards harmonization, still partly falls within the competence of national states. As a result, states may regulate family reunification of third-country nationals in the area not governed by the Community law. That was the case when a family reunited in the territory of a single state. However, when family members exercised their freedom of movement, less stringent Community laws applied.

The judgment on the **Akrich**⁹ matter was pronounced in a similar manner. Mr. Akrich, a Moroccan citizen, was deported from the United Kingdom after he was convicted of illegal residence and attempted theft.

9 Judgment of the Court of September 23, 2003, C-109/01.

He managed to return to the UK several times illegally, and whilst he was residing unlawfully, he married a British citizen, who exercised her freedom of movement within the Community and went to work in Ireland. Mr. Akrich was detained and deported, in accordance with his wishes, to Dublin where his spouse had been established. After six months, Mr. Akrich applied for revocation of the deportation order and, the following month, for entry clearance as the spouse of a person settled in the United Kingdom. As Ms. Akrich exercised her freedom of movement, the spouses claimed that the Community law should be applied instead of internal UK legislation. After many discussions, the Court ruled that the national of a non-Member state, who is the spouse of a citizen of the Union, must be lawfully resident in a Member state in order to benefit from the rights provided for in Article 10 of Regulation No 1612/68.¹⁰ Immediately, though, the Court moderated its decision by ruling that the competent authorities of the first-mentioned Member State, in assessing the spouse's application to enter and remain in that Member State, must nonetheless have regard to the right to respect for family life under Article 8 of the Convention, provided that the marriage is genuine. This judgment in effect confirmed the rule which says that Member States have the jurisdiction to accept third-country nationals from territories outside of the Community to the territory of a Member State, while the Community has the jurisdiction to regulate the movement of EU citizens and their family members within the EU. Some Member States, then, in the process of implementation of Directive 2004/38 laid down the condition of pre-existing lawful residence in their Immigration Laws (e.g., Ireland and Denmark).

When the "new" Directives 2004/38/ES and 2003/86/ES, which themselves are quite generous, were adopted the rules also changed in the case-law of the Court of Justice. One of the first judgments based on the Directive 2004/38 was a decision in **Metock**.¹¹ The Court of Justice ruled that Article 3(1) of Directive 2004/38 must be interpreted as meaning that a national of a non-member country who is the spouse of a Union citizen residing in a Member State whose nationality he/she does not possess and

10 Marhanová, Věra. 2009. *Současné vývojové stadium svobody volného pohybu osob v EU*. Master thesis, Faculty of Law, Masaryk University: 56.

11 Judgment of the Court (Grand Chamber) of July 25, 2008, C-127/08.

who accompanies or joins that Union citizen benefits from the provisions of that directive, irrespective of when and where their marriage took place and of how the national of a non-member country entered the host Member State. The Court rejected the concern of the Member States that this generous regulation will be abused by saying that Member States may refuse entry in accordance with Article 35 of Directive 2004/38 on grounds of public security, public health and in the case of abuse of rights. The plaintiffs in this case were four male Cameroon and Nigerian nationals who were denied asylum, but married EU citizens before they (the plaintiffs) could be deported. Immediately after the judgment was pronounced, many couples began to gather in Copenhagen and appealed their application for residence, which led to a wave of outrage (and criticism) by citizens of many Member States.¹²

The Court ruled on the national regulation of entry of third-country nationals and their residence in *Mouvement contre le racisme, l'antisémitisme et la xénophobie ASBL (hereafter "MRAX") vs. the Belgian State*. MRAX called for the annulment of the Circular of the Ministers for the Interior and for Justice claiming they were incompatible with the then valid Community directives on the movement and residence within the Community.¹³ The Court of Justice ruled on several aspects of granting visas to third-country family members of citizens of the Union. The Court ruled that: (1) Member States may require these family members to be in possession of visas, (2) pursuant to Article 8 of the ECHR a Member State is not permitted to issue an expulsion order against a family member of the citizen of the Union who has entered the territory of the Member State unlawfully, but may penalize him/her accordingly, (3) an expired visa is not grounds to refuse to issue a residence permit.

12 See <http://www.brusselsjournal.com/node/3457>.

13 Council Directive 68/360/EEC of 15 October 1968 on the abolition of restrictions on movement and residence within the Community for workers of Member States and their families, Council Directive 73/148/EEC of 21 May 1973 on the abolition of restrictions on movement and residence within the Community for nationals of Member States with regard to establishment and the provision of services and Council Directive 64/221/EEC of 25 February 1964 on the co-ordination of special measures concerning the movement and residence of foreign nationals which are justified on grounds of public policy, public security or public health.

1.2.3 Lawful limitations on the residence of third-country nationals

Admissible limitations of free movement may be divided into two groups. The first group is general exceptions. These are measures taken on grounds of public policy, public security and public health. The other group presents special exceptions which include temporary measures based on accession treaties which influence free movement of persons¹⁴. A unique measure of refusing entry is applied when a foreign national abuses the Community law. The case-law expanded on this exception when the rights of the Treaty are abused to unlawfully evade the obligations in the territory of the Member State concerned¹⁵.

1.2.3.1 Public policy and security

Limitations based on the protection of public policy and security are traditionally found in the Community law. In primary law, it is laid down in Article 39 (3 and 4) and Article 46 SES. At the secondary law level, it was laid down by Council Directive 64/221/EHS of 25 February 1964 on the coordination of special measures concerning the movement and residence of foreign nationals, which was later replaced by the Council Directive 2004/38/ES. The Court of Justice implemented the spirit of the law in the following way:

a) Measures taken on the grounds of public policy or public security shall be based exclusively on the personal conduct of the individual concerned.

What is considered such conduct was interpreted by the Court in the cases of Ms. **Van Duyn**¹⁶ and Mr. **Polat**¹⁷. In the former, the European Court of Justice ruled on what facts may be taken as matters of personal conduct. Ms. Van Duyn was a Dutch national who intended to enter the territory of the United Kingdom to take up employment as a secretary of the Church of Scientology, an organization that was (and still is) considered detrimental to the public good by the UK government, and it was prohibited to issue work

14 Tichý, Luboš et al. *Evropské právo*. 3. Issue. 2006. Praha: C. H. Beck, 2006, p. 472-473.

15 Judgment of the Court of March 9, 1999, C-212/97.

16 Judgment of the Court of December 4, 1974, 41/74.

17 Judgment of the Court of October 4, 2007, C-349/06.

permits to anyone in the employment of that organization. The question was whether an association with a Church may be considered conduct of an individual which may be contrary to the public policy or public security pursuant Article 3(1) of Directive 64/221/EEC. The Court ruled on preliminary question as follows: the fact that the individual is associated with an organization whose activities the Member State considers socially harmful but which are not unlawful, may be considered as a matter of personal conduct, provided it is a present association. A person's past association, however, cannot justify a reprisal. In a much more recent case, in the matter of **Polat**, the Court ruled that conviction does not automatically mean using the public policy and security clause. Criminal convictions may be grounds for taking measures, provided that the behavior constitutes a genuine and sufficiently serious threat to a fundamental interest of society. In the **Derin**¹⁸ judgment, the Court ruled that a measure may be taken if the personal conduct of the person concerned indicates a specific risk of new and serious prejudice to requirements of public policy. In the **Boucherau**¹⁹ judgment the Court ruled that the conduct of a convicted individual must be interpreted considering the lawful punishments, the extent of involvement, scope of damage and a propensity to act in the same way in the future.

b) Threat to public policy and security must affect the fundamental interests of society

The 'fundamental interests' were explained in the judgments of **Tsakouridis**²⁰ and **P. I.**²¹ The Court interpreted Article 28(3) of Directive 2004/38 to mean that by subjecting all expulsion measures in the cases referred to in Article 28(3) of that directive to the existence of imperative grounds of public security, a concept which is considerably stricter than that of serious grounds within the meaning of Article 28(2), the European Union legislature clearly intended to limit measures based on Article 28(3) to exceptional circumstances. The concept of 'imperative grounds' of public security presupposes not only the existence of a threat

18 Judgment of the Court of July 18, 2007, C-325/05.

19 Judgment of the Court of October 27, 1977, 30/77.

20 Judgment of the Court (Grand Chamber) of November 23, 2010, C-145/09.

21 Judgment of the Court (Grand Chamber) of May 22, 2012, C-348/09.

to public security, but also that such a threat is of a particularly serious, as is reflected by the use of 'imperative reasons'.²² The Court also held that a Member State may, in the interests of public policy, consider what constitutes imperative grounds of public security and justify special measures.²³ In the Tsakouridis judgment the Court also made a distinction between public security and public policy by stating that public security covers only a Member state's internal and external security, which is accordingly narrower than the concept of public policy, which also covers domestic criminal law. The Court also held that a threat to the functioning of the institutions and essential public services and the survival of the population, as well as the risk of a serious disturbance to foreign relations or to peaceful coexistence of nations, or a risk to military interests, may affect public security.²⁴ The Court ruled that fighting against narcotics-related crime may be included in the concept of "imperative grounds of public security," which may lead to a deportation of a citizen of the Union who had resided in a host Member State for 10 years. The Court held that trafficking in narcotics as part of an organized group could reach a level of intensity that might directly threaten the calm and physical security of the whole or part of a population. In P. I. the Court asked whether crimes of individuals unaffiliated to a group or criminal organization may be subject to imperative grounds of public security. The Court ruled that extremely serious criminal offences which affect individual interests benefiting from legal protection, such as sexual autonomy, life, freedom and physical integrity justify an expulsion measure under imperative grounds of public security provided the individual clearly intends to act in the same way in the future.

c) States must always take into account the personal situation of an applicant

Even when the first two requirements have been met, the institutions of Member States must, when deciding on measures based on

²² Tsakouridis judgment, para. 40.

²³ Article 28 Section 3 of the Directive 2004/38/EC.

²⁴ See for example Judgments of the Court of July 10, 1984, *Campus Oil Limited and others*, 72/83 and of October 17, 1995, *Werner*, C-70/94.

imperative grounds of public security take into account things such as how long the individual concerned has resided in its territory; his/her age, state of health, family and economic situation; social and cultural integration into that State and the extent of his/her links with the country of origin.

1.2.3.2 Ban on the abuse of the Community law

According to the established case-law, individuals may not commit fraud or abusive practice using the law of the Union, the courts of a Member State may, based on objective criteria, adopt appropriate measures to prevent individuals from evading their legal obligations.²⁵

Because the Union law is often less stringent towards foreign nationals than national legislation, some foreign nationals have tried to circumvent national legislation and benefit from the Union law, as in the above-mentioned **Akrich** judgment.²⁶ Mr. Akrich circumvented national regulations by exploiting the fact that his British wife had exercised her freedom of movement. National regulations require pre-existing lawful residence, and allow the claimant to benefit from the rights conferred by Community law. The Court ruled that this did not constitute fraud as the marriage is genuine and the couple intended to work in the United Kingdom. The fact that the spouses settled in another Member State in order to seek employment is not relevant to an assessment of their legal situation.

Another case of a migration for a specific purpose was the case of a Chinese national, Ms. Zhu, who came to Belfast to give birth to her second child, Catherine.²⁷ In Ireland, under *ius soli*, any person born on the island of Ireland is an Irish citizen if he or she is not entitled to citizenship of any other country. Under those rules, Catherine was issued an Irish passport and with that she acquired Union citizenship. However, Catherine is not entitled to UK nationality as she did not meet UK legislation. It was common ground that Ms. Chen took up residence in the island of Ireland in order to enable the child she was expecting to acquire Irish nationality and,

25 Especially judgments of the Court of March 9, 1999, *Centros*, C-212/97 and of February 21, 2006, *Halifax and others*, C-255/02.

26 Judgment of the Court of September 23, 2003, C-109/01.

27 Judgment of the Court of October 19, 2004, C-200/02.

consequently, to enable her to acquire the right to reside with her child in the United Kingdom. The Court ruled that under international law, it is for each Member State to lay down the conditions for the acquisition of nationality. When a Member State chooses *ius soli*, it is not permissible for a Member State to restrict the effects of the granting of the nationality of another Member State by imposing an additional condition for recognition of that nationality with a view to exercising of the fundamental freedoms provided for in the Treaty.

In the **Bozkurt** case²⁸ the Court enquired whether it was an abuse of rights when a Turkish national, Mr. Bozkurt, claimed legal status after acquiring said status from his former wife, who had enabled him to obtain said status, who he then raped and gravely injured, crimes for which he was sentenced to two years' imprisonment. The Court needed to determine whether Mr. Bozkurt's claim to legal status conflicts with committing offence against the very person who enabled him to obtain that status. The Court ruled that a Turkish national who enjoys the rights relating to the legal's status does not lose those rights on account of his divorce, which took place after said rights were acquired. It is not an abuse of rights for a Turkish national to rely on a legally-acquired right pursuant to the Agreement establishing an Association between the European Economic Community and Turkey. However, The Court also held that Mr. Bozkurt may be deported, provided that his personal conduct constitutes a present, genuine and sufficiently serious threat to a fundamental interest of society. In other words, once Mr. Bozkurt had legally acquired the right of residence, the Member State is not entitled to deport him, even though he abused and raped his wife, unless there is a high-risk he will commit similar offences.

1.2.3.3 Partial limitations on free movement

Possible limitations for third-country family members (in contrast to EU family members) may be found in Directive 2003/86/ES, which grants Member States the right to require an applicant to provide evidence of accommodation, sickness insurance for himself/herself and the members of his/her family and stable and regular resources sufficient to maintain

28 Judgment of the Court of December 22, 2010, C-303/08.

himself/herself and his/her family members without recourse to the social assistance system of the Member State concerned.²⁹ The way this right may be exercised was the subject-matter of the **Chakroun** case.³⁰ The wife of a Moroccan national, who holds a residence permit in the Netherlands, was denied by the Netherlands Embassy in Morocco a provisional residence permit in order to live with her husband. The reason for this denial was that Mr. Chakroun at that time received unemployment benefits of 1,322.73 net EUR per month, inclusive of holiday allowance a holiday benefit, and was therefore below the applicable income standard for family formation, which was EUR 1,441.44 per month. The Court heard two objections. First, the amount required by the Netherlands authorities for evaluation of the sufficiency of resources was the highest of all the Member States of the European Union and, second, if the family relationship between the Chakrouns had existed before Mr. Chakroun's entry into the territory of the Union, the amount of income taken into consideration for evaluation of the sufficiency of resources would have been lower. Mr. Chakroun had sufficient income to meet general subsistence costs for both spouses but given the level of such resources he will be entitled to claim special assistance. The Court ruled that this case did not constitute 'recourse to the social assistance system' pursuant Article 7 of the Directive and that this Directive precludes national legislation which draws a distinction according to whether the family relationship arose before or after the sponsor entered the territory of the host Member State.

Special exceptions for specific third-country states are laid down in various accession treaties and other agreements which may influence free movement of persons and national legislations. The Court has ruled many times on EEC – Turkey Association and its Additional Protocol. In the **Pehlivan** case³¹ the issue was a Dutch national regulation, which placed limitations on Additional Protocol, according to which the members of the family of a Turkish worker duly registered as belonging to the labor force of a Member State may claim residence permits of their own for continued residence after three years of legal residence with the legally resident and

29 Article 7 of the Directive 2003/86/EC.

30 Judgment of the Court of March 3, 2010, C-578/08.

31 Judgment of the Court of June 16, 2011, C-484/07.

working family member. The proceedings concerned a Turkish national, Ms. Pelivan, who lived in the Netherlands with her legally resident and working parents. However, before the expiry of three years, she married an unlawfully resident Turkish national but continued living with her parents. The Dutch authorities deemed that she ought to be expelled under national law, according to which the actual family link of a child who has obtained majority with its parents is deemed to have been broken when that child marries, as the child is no longer emotionally or financially dependent on his/her parents, with the result that, in such a case, the residence permit can no longer validly be based on family reunification. The Court ruled that Member States are not permitted to unilaterally modify the scope of the system of gradually integrating Turkish nationals in the host Member State, and do not, therefore, have the power to adopt measures which may undermine the legal status expressly conferred on those nationals by the law governing the EEC-Turkey Association. The marriage, entered into by the member of the family of a Turkish worker, is irrelevant with regard to the retention of the right of residence enjoyed by the holder of that right and the Member State cannot be justified in calling into question the right of residence which is derived from European Union law.

In the **Hakan Er**³² case the Court asked whether a Turkish national who had travelled to Berlin to join his father, duly registered as belonging to the labor force of the Federal Republic of Germany, and lived with him in Germany, may lose the right of residence only as a consequence of the fact that, for more than seven years after leaving school, apart from one alleged single day of work on a trial basis, he was at no time in employment, dropped out of all government support schemes designed to promote the taking-up of employment and did not himself make any serious efforts to take up employment, instead lived by turns on social security benefits, financial support from his mother living in Germany and other, unknown means. The Court has thus consistently held that there can be only two kinds of restrictions on the rights conferred by the Additional Protocol on lawfully residing members of a Turkish worker's family, namely, either that based on the presence of the Turkish migrant in the host Member State where he constitutes, on

32 Judgment of the Court of September 25, 2008, C-453/07.

account of his own conduct, a genuine and serious threat to public policy, public security or public health, or that relating to the fact that the person concerned has left the territory of that State for a significant length of time without legitimate reason. It follows that it is no longer open to Member States to adopt other measures relating to residence.

2. REGULATION OF IMMIGRATION BY ECtHR

2.1 Position of ECtHR to immigration policies of states

The European Court of Human Rights generally recognizes the right of a Member State to regulate the residence of foreign nationals on its territory. It may be claimed that the Court highly appreciates the right of a Member State to take measures in immigration matters. It has repeatedly ruled that the Convention does not guarantee the right of a foreign national to reside in a particular country,³³ and refused to rule on quite a few claims of foreign nationals that their private lives were violated by expulsions when the severity of circumstances were not superior to Member States' interest on immigration control.³⁴ The Court also recognized that the Member States' interest may be limited, on particular conditions, when this would constitute an infringement of an individual's rights pursuant to the Convention. However, the Convention, in contrast to most European Directives, lays down no statutory law which may be claimed by foreign nationals who attempt to enter the state's territory. The convention, via case-law, merely stipulates what states should do (positive commitment, e.g., uphold family life by granting the right of residence) or should not do (e.g., refrain from expulsion of a person concerned), in order to protect the rights of an individual pursuant to the Convention.

Two types of cases concerning immigration control have been established in the Court's case law. The former are cases in which foreign na-

33 For example *Üner v. Netherlands*. Judgment of the ECtHR (Grand Chamber) October 18, 2006, no. 46410/99, para. 54.

34 For example. *Nyanzi v. UK*. Judgment of the ECtHR April 8, 2008, no. 21878/06, where ECtHR refused to consider if a 10-years stay and study of complainant can be regarded as private life as in her case any private life would not prevail the interest of the state on migration control.

tionals claim rights set out in Article 2 and 3 of the Convention as their physical or moral integrity is in peril, the latter cases are those when an individual's right to family life (as laid down in Article 8 of the Convention) is interfered with.

2.2 Expulsions of persons for reasons of national security

Significant limitations on the rights of states are presented, when states, using their immigration policies, attempt to deport a dangerous foreign national who claims protection from persecution in his/her country of origin. The first such case was the judgment in **Chahal v. the United Kingdom**,³⁵ in which the Court ruled that Article 3 of the Convention prevents the expulsion of an individual to a country where this individual may be subject to persecution, even though this individual presents a threat to national security. The person concerned was involved in a conspiracy to assassinate the Indian Prime Minister during an official visit to the United Kingdom, as well as assaults and conspiracy to murder moderate Sikhs in the United Kingdom. On some of those offences he was released without charge. When a deportation order was issued the applicant applied for political asylum, claiming that if returned to India he had a well-founded fear of persecution within the terms of the United Nations 1951 Convention on the Status of Refugees, which he supported by various facts and evidence. As the Home Secretary refused the application the applicant complained that his deportation would be in violation of Article 3 of the Convention. The United Kingdom Government argued that the threat posed by an individual to the national security should be weighed against the threat of persecution in the country of origin so that the balance is struck between protecting the rights of the individual and the general interests of the community. The UK Government based this submission on the judgment in **Soering** case³⁶, and claimed that if there existed a substantial doubt with regard to the risk of ill-treatment, the threat to national security should justify his deportation. The Court held that the guarantees afforded by Article 3 were absolute in cases where a Contracting State proposed to remove any, albeit dangerous, individual from its territory which was confirmed

³⁵ Judgment of the ECtHR (Grand Chamber) of November 15, 1996, no. 22414/93.

³⁶ Judgment of the ECtHR of July 7, 1989, no. 14038/88.

in the **Vilvarajah** case³⁷ and the Soering case. However, the Court focused rather on the detainment of the person than on the government's argument. The Court also admitted that the assurances given by the receiving state may eliminate the risk of ill-treatment.

After the events of 9/11 terrorism became a global problem, real for all European countries, which led to an opportunity to redefine certain positions. In August 2005 British Prime Minister Tony Blair, in his statement on anti-terror measures, claimed that, "the rules of the game are changing,"³⁸ and also stated that France and Spain, which are subject to the Convention, have much more stringent deportation procedures than the UK and the assurances given by the receiving nation (that the deportees will not be subject to torture or ill treatment contrary to Article 3) are adequate for their courts. The UK Government, therefore, sought opportunities to amend, in view of the changed conditions, the interpretation of the Court. The first opportunity presented itself in the matter of **Saadi v. Italy**.³⁹ Mr. Saadi was a Tunisian national who entered Italy in 2002 for family reasons. After the attacks of 11 September, 2001 the Italian government, having been tipped off by intelligence services, uncovered an international network of militant Islamists, mainly composed of Tunisians, and placed it under surveillance. The Islamist cell to which the applicant belonged had embarked on a large-scale enterprise involving the production of false identity papers and their distribution to its members. In that context, in October 2002, a number of European police forces launched "Operation Bazar," as a result of which the applicant and three other persons were arrested in Italy. The prosecution was convinced of three things: (1) that the cell he belonged to was associated with al-Qaeda, (2) that it was preparing an attack against an unidentified target and that (3) it was receiving instructions from abroad. In a judgment of 9 May, 2005 the Milan Assize Court altered the legal classification of the first alleged offence. It took the view that the acts of which he stood accused did not constitute international terrorism but criminal conspiracy. It sentenced the applicant to four years and six months' imprisonment and ordered that after serv-

37 Judgment of the ECtHR of October 10, 1991, no. 13163/87.

38 <http://www.guardian.co.uk/politics/2005/aug/05/uksecurity.terrorism1>.

39 Judgment of the ECtHR (Grand Chamber) February 28, 2008, no. 37201/06.

ing his sentence he was to be deported. On 11 August, 2006 the applicant requested political asylum. He alleged that he had been sentenced in his absence in Tunisia for political reasons and that he feared he would be subjected to torture and political and religious reprisals. His application was supported by documents about systematic persecution of suspected persons pursuant to 2003 Italian-Tunisian agreement on crime prevention (particularly with regard to the activities of terrorist groups).

The UK government intervened, as a third party, in the proceedings and pointed out that the *Chahal* case caused many difficulties for the Contracting States in the light of an increasing threat of international terrorism. It continued to state that States could always use immigration legislation to protect themselves from external threats to their national security and that various agreements, including the 1951 Convention relating to the Status of Refugees, explicitly provided that there was no entitlement to asylum where there was a risk for national security or where the asylum seeker had been responsible for acts contrary to the principles of the United Nations. The UK Government proposed that the threat presented by the person to be deported must be a factor to be assessed in relation to the possibility and the nature of the potential ill-treatment. The Court did not accept the argument of the United Kingdom Government and ruled that protection against the treatment prohibited by Article 3 is absolute and that the conduct of the person concerned cannot be taken into account, nor it is possible to weigh the threat to national security against the risk of torture or ill-treatment in the receiving country. Although the Court admitted that the provisions of the Convention on the Status of Refugees allow the states to deny refugee asylum to a person who presents a threat to national security, it held that Article 3 of the Convention makes it clear that it is the duty of a State that intends to expel a person not to expose him or her to torture irrespective of his/her asylum status. This is in accord with the Guidelines of the Committee of Ministers of the Council of Europe on human rights and the fight against terrorism. The question of whether the applicant presents a serious threat to a State concerned is irrelevant if the expulsion of an applicant would expose him/her to torture. The fact the Italian Government obtained diplomatic assurances that the applicant will not be subjected to ill-treatment in the receiving country did

not provide, considering the acts of Tunisian authorities, sufficient guarantee for the Court.

Judge Zupančič in his concurring opinion reproached the UK Government that their intervention suggests that terrorists deserve less humane conduct precisely because they are less humane, which he termed “police logic” that is not “intellectually honest.” Judge Myrers showed more understanding towards the States which protect their populations against possible terrorist acts. However, States are not allowed to combat international terrorism at all costs; they must not resort to methods which undermine the very values they seek to protect. The Judge attempted to explain the practical impact of the Court’s approach. Upholding human rights in the fight against terrorism is first and foremost a matter of upholding our values, even with regard to those who may seek to destroy them. There is nothing more counterproductive than to fight fire with fire, to give terrorists the perfect pretext for martyrdom and for accusing democracies of using double standards. Such a course of action would only serve to create fertile breeding grounds for further radicalization and the recruitment of future terrorists.

The United Kingdom Government attempted to intervene yet again, and commented on **A. v. the Netherlands**⁴⁰; comments were submitted jointly by the Governments of Lithuania, Portugal, Slovakia and the United Kingdom. Governments claimed that because of the rigidity of the principle, it had caused many difficulties for the States. As had been shown, identical assurances could be interpreted differently and cannot be relied on. Furthermore, it was unlikely that any State would be prepared to receive into its territory a person suspected of terrorist activities. It could also prove difficult to establish a person’s involvement in terrorism beyond reasonable doubt, since it was frequently impossible to use confidential sources or information supplied by intelligence services. Even when conviction was achieved it provided only partial protection. The intervening Governments argued that the approach followed by the Court in the Chahal case contradicted the intentions of the original signatories of the Convention.

The Court admitted being conscious of the difficulties faced by States in protecting their populations from terrorist violence but it reiterated the

40 Judgment of the ECtHR of July 20, 2010, no. 4900/06.

absolute nature of the prohibition under Article 3 and held that the applicant's expulsion to Libya would breach Article 3 of the Convention.

The United Kingdom Government, acting with some other states, evaded the principle of *non refoulement* for several years by following the policy of diplomatic assurances with threatening countries such as Libya, Algeria and Jordan, contrary to the opinion of international NGOs⁴¹, inter-governmental organizations⁴² and experts⁴³. The fact that these diplomatic assurances were not an adequate safeguard came to light in **Agiza v. Sweden** case⁴⁴ before the UN Committee Against Torture in 2005, when Swedish diplomats failed to use diplomatic guarantees to prevent the applicant's torture in Egypt, to where he was expelled.

The European Court of Human Rights ruled on the controversial issue of diplomatic assurances and Article 3 of the Convention in *Othman (Abu Qatada) v. the United Kingdom* at the beginning of 2012. The Court held that diplomatic assurances are only one of three factors in assessing whether deportation was contrary to Article 3. Other factors were the particular characteristics of the applicant and the general human rights situation in that country, while noting that the latter situation in the receiving State may exclude accepting any assurances whatsoever. The Court then listed factors it considered important for assessing the reliability of assurances:

- (i) whether the terms of the assurances have been disclosed to the Court
- (ii) whether the assurances are specific, or are general and vague
- (iii) who has given the assurances and whether that person can bind the receiving State
- (iv) if the assurances have been issued by the central government of the receiving State, whether local authorities can be expected to abide by them

41 See Amnesty International report *Dangerous Deals: Europe's Reliance on Diplomatic Assurances Against Torture*.

42 See UNHCR Note on Diplomatic Assurances and International Refugee Protection <http://www.unhcr.org/refworld/pdfid/44dc81164.pdf>.

43 Former Special Rapporteur on Torture Manfred Nowak stressed in 2005 in his comment for the UN Human Rights Commission dangers posed by diplomatic assurances to the ban on torture.

44 Ahmed Hussein Mustafa Kamil Agiza v. Sweden. Decision of the Committee against Torture of May 20, 2005, no. 233/2003.

- (v) whether the assurances concerns treatment which is legal or illegal in the receiving State
- (vi) whether they have been given by a Contracting State of the Convention
- (vii) the length and strength of bilateral relations between the sending and receiving States, including the receiving State's record in abiding by similar assurances;
- (viii) whether compliance with the assurances can be objectively verified through diplomatic or other monitoring mechanisms, including providing unfettered access to the applicant's lawyers
- (ix) whether there is an effective system of protection against torture in the receiving State, including whether it is willing to cooperate with international monitoring mechanisms (including international human rights NGOs)
- (x) whether the applicant has previously been ill-treated in the receiving State
- (xi) whether the reliability of the assurances has been examined by the domestic courts of the sending/Contracting State.

In the judgment of **Babar Ahmad v. the United Kingdom**,⁴⁵ which concerned several men indicted on various charges of terrorism in the USA, the Court ruled that there are different forms of ill-treatment with different levels of severity. In other words, extradition of a foreign national to a receiving state where this national may be facing certain forms of ill-treatment may not constitute a violation of Article 3. However, similar behavior and negligence may violate Article 3. In expulsion and extradition cases a State will be in violation of Article 3 should the applicant be subject to torture, but not to other forms of ill-treatment, in the receiving state. The Court also specified when the imprisonment of the applicant in the receiving state may be in breach of Article 3 on the part of the deporting state. The case was referred to the Grand Chamber and the statements in this judgment are not final.

The above-mentioned case-law creates controversy in the Contracting States of the Convention and some states, such as France and Italy, openly ignore the Court's case-law on deportation of dangerous terror-

⁴⁵ Judgment of the ECtHR of April 10, 2012, no. 24027/07. This case was submitted to the Grand Chamber.

ists⁴⁶, while other states, namely the United Kingdom, attempt to reform the Court in such a way that would limit its jurisdiction in these sensitive matters⁴⁷.

2.3 The entry of foreign nationals and their residence for family reunification in the case-law of ECtHR

2.3.1 Cases concerning the entry of foreign nationals

In the Judgment in **Abdulaziz, Cabales and Balkandali**⁴⁸ the Court held that obligation to admit to its territory relatives of settled immigrants will vary according to the particular circumstances of the persons involved. As the applicants have not shown any obstacles to establishing family life in their own or their husbands' home countries, there is no general obligation on the part of a Contracting State to respect the choice by married couples of the country of their matrimonial residence and to accept the non-national spouses for settlement in that country. In addition, at the time of their marriage, the women must have been aware that their men would require leave to enter and that under the rules then in force this would be refused.

The Convention does not guarantee the choice where spouses establish their family life – if matrimonial residence is possible in at least one of their countries of origin they may not choose to live in the other and claim leave to entry. In other words, the Court will, when assessing the violation of Article 8, consider whether leave to entry for a family member of the settled immigrant to a state concerned was the only option they had of establishing family life.

The Court ruled similarly in the case of **Gül v. Switzerland**.⁴⁹ Family reunion of Turkish immigrants with their 6 year-old-son living in Turkey was not granted as the applicant did not have proper accommodation and

46 For example the extradition of Mahamed Mannai to Tunisia in 2010 or Ben Khemais in 2008, both by Italy which subsequently paid compensation to complainants. <http://www.albawaba.com/editorchoice/uk-terrorist-deportation-418980> (September 20, 2012).

47 <http://www.guardian.co.uk/law/2012/jan/25/david-cameron-reform-human-rights> (September 20, 2012).

48 Judgment of the ECtHR of May 28, 1985, no. 9214/80 or others.

49 Judgment of the ECtHR of February 2, 1996, no. 23218/94.

financial resources. ESLP found that Switzerland had not failed to fulfill the obligations arising under Article 8 as there had been no interference in the applicant's family life which he could establish in Turkey, where his son had always lived and had therefore grown up in the cultural and linguistic environment of his country.

Conversely, an obstacle preventing establishing family life in a country of origin of one of the spouses might, according to the Court, be the fact that a non-Muslim woman would have to follow her husband, after his deportation, to a Muslim country especially since she, at the time when they were married, legitimately expected to have matrimonial home in her country of origin.⁵⁰

2.3.2 The cases of expulsion of foreign nationals who committed an offence

The criteria which are used by the Court to assess whether an expulsion of an immigrant who committed criminal offence interferes with a right protected under Article 8 of the Convention were defined in the case of **Boultif v. Switzerland**⁵¹ and have been repeatedly used to assess such cases. The criteria are as follows:

- the nature and seriousness of the offence committed by the applicant,
- the duration of the applicant's stay in the country from which he is going to be expelled,
- the time which has elapsed since the commission of the offence and the applicant's conduct during that period,
- the nationalities of the various persons concerned,
- the applicant's family situation, such as the length of the marriage; other factors revealing whether the couple lead a real and genuine family life,
- whether the spouse knew about the offence at the time when he or she entered into a family relationship,
- whether there are children in the marriage and, if so, their age,
- the seriousness of the difficulties which the spouse would be likely to encounter in the applicant's country of origin.

50 *Beldjoudi v. France*. Judgment of the ECtHR of March, 26, 1972, no. 2083/86.

51 Judgment of the ECtHR of August 2, 2001, no. 54273/00.

In the Üner case the Court added two more criteria:

- the best interest of the child with special consideration to the seriousness of the issue some of the applicant's children may face in the country where the applicant is being deported, and
- the particular social, cultural and family ties which these immigrants have developed with the host country (where they will have spent most of their life) and the receiving country.

As regards the last two criteria, the following must be stated: the ties with the society of the host state are presumed especially for second generation immigrants. Nevertheless, if an exclusion order is imposed on the basis of a conviction for a serious violent crime or drug trafficking the Court will consider this more stringently. In the case of **Boughanemi v. France**⁵² the Court ascertained that the State's interest to prevent crime (the applicant had been convicted of several violent offences and of living on the earnings of prostitution) prevailed over the applicant's interest to stay in its territory. Although the applicant had lived in France since the age of eight, had a French partner, parents and ten siblings resident there, the Court held that due to the seriousness of the offence and the fact that the applicant never manifested a wish to become French and had rather retained links with Tunisia, it did not find that the applicant's deportation was disproportionate to the legitimate aims pursued.⁵³

The best interest of a child who is integrated in the host state and has no or minimal ties to the country of origin may outweigh the interest of a state to deport an applicant who committed a drug trafficking or violent offence.⁵⁴ Children play an important role in weighing the interests of a foreign national and the society, especially when they still attend school, have lived outside the country of origin for a long time and do not know the language

52 Judgment of the ECtHR of April 24, 1996, no. 22070/93.

53 Compare with *cases Nasri v. France, Moustaquim v. Belgium and Beldjoudi v. France* where ECtHR found the violation of Article 8. The reason for a different attitude was the fact, that the complainant did not committed so seirous crime or he was dependent as deaf-and-dumb person on his family members, who were integrated in the French society (the complainant himself was part of North African community where he committed crimes.

54 See e.g. *Amrollahi v. Denmark*, Judgment of the ECtHR of July 11, 2002, no. 56811/00.

of the country of origin.⁵⁵ This is how the Court ruled in **Amrollahi v. Denmark**⁵⁶, which concerned an Iranian national who was convicted of drug trafficking. The Court held that the implementation of the decision to expel the applicant to Iran would be a violation of Article 8 of the Convention as both his spouse and child are Danish nationals, do not know Farsi and refused to move to Iran.

The aforementioned criteria may be applied to an expulsion of a foreign national who violated immigration regulations which presents a less serious threat to society. However, the Court distinguishes between a situation when an applicant established his/her family life with expectations to continue living in the host state and a situation when an applicant knew that the prospect of obtaining legal residence was minimal. The Court, as a general rule, states that persons who violate regulations and confront the authorities of the host state with their presence as *fait accompli* are not justified in their expectations for legal residence.⁵⁷ The Court allows an exception to the rule, however, when Applicants' children under age of majority require their care. That is how the Court ruled in the case of **Rodrigues da Silva and Hoogkamer v. the Netherlands**⁵⁸. The applicant, a Brazilian national, had a three-year-old daughter of Dutch nationality and lived and worked illegally in the Netherlands. The Court held that the expulsion of the Applicant would have far-reaching consequences on her daughter and it was in the daughter's best interest for the Applicant to stay in the Netherlands.

3. CONCLUSION ON THE REGULATION OF FOREIGN NATIONALS' RESIDENCE FROM THE POINT OF VIEW OF ECJ AND ECTHR

Based on my research of the case-law of both Courts, I would like to claim that:

55 Rozumek, Martin et al. 2008. "Právo cizince bez pobytového oprávnění na respektování rodinného a soukromého života v hostitelské zemi": 13.

56 Judgment of the ECtHR of October 11, 2002, no. 56811/00.

57 Rozumek, Martin et al. 2008. 'Právo cizince bez pobytového oprávnění na respektování rodinného a soukromého života v hostitelské zemi', p. 12.

58 Judgment of the ECtHR of Januarz 31, 2006, no. 50435/99.

- EU regulations and the Court's decisions tend to favour foreign nationals and, simultaneously,
- the decisions are quite unkind to the authorities of Member States.

In EU law the display of humanity (and the development of) is quite apparent. While the original motivation for family reunification regulations was to simplify the exercising of fundamental rights, or not to dissuade the exercising thereof, gradually, the move towards humanity became more significant. It is obvious from the Court's frequent reference to Article 8 of the Convention in cases when foreign nationals were denied residence permit by a Member State (see e.g., *Akrich*), but also from the explicit statements of judges or advocate generals who speak about foreign nationals as, most importantly, human beings.⁵⁹ In Strasbourg, judge Martens in *Beljoudi* refers to the growing number of states which believe that expulsion severs all social ties between the deportee and the community he/she is living in.⁶⁰

At least for the last 20 years, family reunification has constituted one of the main sources of EU migration. The European Commission already in its proposal for the Directive in 1961 replied to Member States concerned about an enormous increase of migration of family members that however serious the issue of family migration might appear, the possible impact separation of family members would have.⁶¹ In 2003 a new favorable directive became effective on the preparation of which worked immigration law specialists, not European issues specialists.⁶²

The current situation is that while Member States are free to regulate the first entry of a foreign national, the possibilities of regulating family reunification are rather limited. In the past, the decisions of ECtHR were more favorable towards immigrants than the decisions of ECJ, which referred the applicants to ECtHR when it denied their application. Since the *Metock* judgment, however, the case-law of ECJ has also been favor-

59 E.g. Advocate General Tribucchi in case *F v. Belgium*.

60 *Beldjoudi v. France*. Rozumek, Martin et al. 2008. "Právo cizince bez pobytového oprávnění na respektování rodinného a soukromého života v hostitelské zemi": 15.

61 Groenendijk, Kees. 2006. "Family Reunification as a Right under Community Law." *European Journal of Migration and Law*, no. 2: 215-230.

62 Marhanová, Věra. 2009. *Současné vývojové stadium svobody volného pohybu osob v EU*. Master Thesis, Faculty of Law, Masaryk University: 36.

able towards foreign nationals. In order to obtain a residence permit in a state it is enough for a foreign national to have a spouse who holds citizenship of that state. The refusal may happen only on the grounds of public security, public policy and health. However, when foreign nationals present evidence that they would be subject to torture upon return to their country of origin they might be saved from expulsion pursuant to the case-law of ECtHR.

However noble and humane these decisions are, one cannot overlook an important fact – they are not in accordance with political and societal will. This appears to be the task of courts to state what is according to law without regard to interests of various parties.

Nevertheless, this issue remains problematic for two reasons. Law is not an independently existing phenomenon – its purpose and content is determined by people who create it based on what they believe is just. Some judges also attempted to explain why they believe their decision is just, i.e. in accordance with the law. This is what judge Myrer did when he explained the ban on the deportation of a dangerous terrorist to his (the terrorist's) country of origin. He speaks about protecting the rights of those who seek to destroy them. Otherwise, it would give terrorists the perfect pretext for martyrdom and for accusing democracies of using double standards, which would only lead to further radicalization. I believe this decision is just, as the reasons are political and societal. However, politicians and society are not interested in these reasons, and instead of attempting to find solutions they merely seek ways to evade the decisions. An example may be the policy of diplomatic assurances or favoring fines for failing to implement the judgment of ECtHR to actually implementing it.⁶³

EU law on family reunification faces similar issues. The ECJ ruled that even those family members who fail to meet national requirements and reside unlawfully are entitled to a residence permit, which obviously only fueled States' concerns about the influx of immigrants.

It appears that politicians and citizens are falling behind judges as far as openness towards foreign nationals is concerned. We may only wonder as to the development of this incongruity. Good communication and an

63 Mannai v. Italy or Ben Khemais v. Italy.

effort to find a suitable solution for all involved would certainly lead the public discussion in the right direction, whatever the result may be.

4. THE EUROPEAN COURT OF HUMAN RIGHTS AND DISCRIMINATION IN EDUCATION

While the European Court of Justice concerns, almost exclusively, discrimination in employment and social services, the European Court of Human Rights has dealt with discrimination in education since the beginning of its existence. As early as 1968, the ECtHR found discrimination in the Belgian school system when children living in some suburban parts of Brussels did not have access to education in the French language.⁶⁴ The right to education is granted by Article 2, Protocol no. 1 of the Convention and it includes the right of children to existing educational institutions, as well as the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.

As regards minorities and foreign nationals, the most interesting cases have come before the Court in the last 15 years. These cases may be divided into two groups: (1) cases concerning the tolerance of religious symbols at schools and (2) cases of minority segregation in primary education. This division is also geographic. While the former pertains to the western world with high immigration rates and diversification of religions related to it, the latter happened in poorer eastern countries which are, with the exception of Greece, also post-communist countries and which find it difficult to integrate the (very often) only different group – the Roma.

4.1. Religious symbols at schools – discrimination on the grounds of religious and philosophical convictions

The right to education granted by the Convention includes the right of children to access existing educational institutions, as well as the right of parents to ensure such education and teaching conforms with their own religious and philosophical convictions. It is the creation of such educational systems where these religious and philosophical convictions will not

⁶⁴ Judgment of the ECtHR of July 23, 1968, no. 1474/62 (*Belgian Linguistic case*) or other cases.

clash that presents a considerable challenge for western states with a high number of immigrants.

The Convention in its Article 9 protects freedom of thought, conscience and religion as well as the right to manifest one's religion or belief. While the former is absolute, the latter may be subject to limitations pursuant to paragraph 2 Article 2 of the Convention.⁶⁵ It was the manifestation of one's religion in public schools – its appropriateness and suitability – which was the subject of several applications to the ECtHR.

The Court was presented with the first such case in 2001 in **Dahlab v. Switzerland**⁶⁶. The applicant was a Swiss national who, after a period of "spiritual soul-searching," converted to Islam and married an Algerian national. To observe a precept laid down in the Koran, she began wearing an Islamic headscarf while teaching in a secular Swiss school. While the parents never commented on this, the school inspector informed the Canton of Geneva Directorate General for Primary Education. The Director General then issued a formal ruling which prohibited the applicant from wearing a headscarf on the grounds that such a practice contravened section 6 of the Public Education Act and constituted "an obvious means of identification imposed by a teacher on her pupils, especially in a public, secular education system." This decision was upheld both by the cantonal government and the Federal Court which held that wearing a scarf constitutes a powerful religious symbol – a sign that is immediately visible to others and provides a clear indication that the person concerned belongs to a particular religion. ECtHR confirmed the decision of Swiss authorities by ruling that the measure was stated by law and was proportionate to the stated aims. The justified aims were protecting young pupils aged between four and eight from the applicant's influence and equality of women. The Court held that the meaning of the scarf is in contradiction to the equality of the sexes and rejected both her applications – the interference with her freedom to manifest her religion and discrimination on the ground of sex.

Somewhat similar cases (in which religious symbols were worn by the student, not the teacher) have happened in a country known for its secu-

65 Rorive, Isabelle. 2009. "Religious Symbols in the Public Space: In Search of a European Answer." *Cordozzo Law Review* 6/2009: 2673.

66 Judgment of the ECtHR of February 15, 2001, no. 42393/98.

larism – France. The wearing of headscarves has been the subject of many debates in the French educational system since 1989, when the State Council (*Conseil d'Etat*) stated that both students and teachers may manifest their beliefs and religions in a way which does not interfere with teaching. The State Council determined that such interference is constituted by a situation when the content of the class, attendance and safety will be concerned. In the case of **Dogru v. France**⁶⁷ an 11-year-old Muslim girl was expelled from the secondary school when she repeatedly refused to take it off, which the school's committee assessed as a threat to her safety in physical education classes. The ECtHR confirmed the right of a State to expel a student who, by wearing a religious symbol, interferes with classes, and the Court did so again in **Kervanci v. France**.⁶⁸ In September 2004, the enactment of Law no. 2004-228 of 15 March, 2004 took place, which regulated the wearing of symbols of one's religious beliefs, such as Muslim scarves, prominent Christian crosses and Sikh turbans in state schools. Other applications have been rejected⁶⁹ and the Court ruled that the interference in question had been justified in terms of the principle and proportionate to the aim pursued.

The case of parents who wished that their children receive education in respect of their religious and philosophical beliefs was **Lautsi and Others v. Italy**.⁷⁰ While in the aforementioned case-law the religious symbols were placed on persons in a secular school, in the Lautsi case the mother stated that the presence of crucifixes in the classrooms infringed the principle of secularism according to which she sought to educate her children. The Court (the Chamber) first ruled in the Applicant's favor but then, at the government's request, the case was referred to the Grand Chamber which found no violation of the right to education according to parents' religious and philosophical beliefs, nor did the Court find any discrimination. The Grand Chamber stated that the cross is a passive symbol and not a powerful symbol, as in the case of Ms. Dahleband as Italy opened up

67 Judgment of the ECtHR of December 4, 2008, no. 27058/05.

68 Judgment of the ECtHR of April 12, 2008, no. 31645/04.

69 *Aktas v. France*, *Bayrak v. France*, *Gamaleddyn v. France*, *Ghazal v. France*, *Jasvir Singh v. France*, *Ranjit Singh v. France*.

70 Judgment of the ECtHR of March 18, 2011, no. 30814/06.

the school environment to other religions in parallel, there was no proselytizing of the children.⁷¹

4.2 Discrimination of the Roma in primary education

The existence of special schools or classes is quite widespread and is used to bring balance to the differences between pupils. It becomes suspicious, however, when a certain minority constitutes a majority in special schools or classes as the number of children which are actually challenged should not be higher in different ethnic groups. In spite of this, the system of segregated schools with a majority of the Roma has been upheld in the post-communist countries such as the Czech Republic, Slovakia and Hungary for a surprisingly very long time. The missing political will had to be pushed by the ECtHR, which has been criticized for interfering in the political sphere.⁷² The first judgment when the ECtHR held that the placement of the Roma children in special schools violates the right to education was in the case of **D.H. and Others v. the Czech Republic**.⁷³ As the first such case, it had to be referred to the Grand Chamber and four dissenting opinions are attached to the judgment. The Grand Chamber of the ECtHR was concerned with the situation as a form of indirect discrimination when it admitted that placing children in special schools was an effort that served a justifiable aim. At the same time, it accepted, as evidence, data according to which Roma represented 56% of pupils placed in special schools in Ostrava, while the Roma pupils represented only 2.26% of the total primary-school pupils in Ostrava. That was a situation the Government could not justify. However ill-prepared the Roma children may be for school attendance at Czech school, it is unacceptable to deal with this by placing them in segregated schools of inferior quality.

Another case in **Sampanis v. Greece**⁷⁴ was tried in the similar fashion and without dissenting opinions. The situation was similar – the Roma

71 Foukalová, Kristýna. Molek, Pavel. 2011. Věc Lautsi a další proti Itálii (Kříže v Italských školách). 2011. Přehled rozsudků Evropského soudu pro lidská práva no. 3/2011: 197.

72 <http://jinepravo.blogspot.cz/2007/11/ostravo-ostravo.html>.

73 Judgment of the ECtHR of November 13, 2007, no. 57325/00.

74 Judgment of the ECtHR of June 5, 2008, no. 32526/05.

children living in a Greek village, their somewhat absent-minded and uneducated parents and the representatives of the state schools ill-prepared to integrate the children into the education system. The Roma were denied at the enrollment as they did not have all the necessary documents and after missing one school year they were placed in preparatory classes which were, at the request of non-Roma parents, transferred to another building.

Another case was **Oršuš v. Croatia**⁷⁵, in which the Court found a violation of the right to education and non-discrimination of 14 Roma children who were for substantial periods of time, sometimes even during their entire primary schooling, placed in Roma-only classes. Although the Government claimed that the special classes were for children who could not follow language instruction in the Croatian language the Court found that this constituted discrimination on the grounds of race and led to the decrease in the quality of the curriculum and low self-esteem of the Roma children. The Court also stated that such conditions might lead to degrading treatment pursuant to Article 3 of the Conventions but the Court found no violation of this in this case.

On the ECtHR web site there is an 'Execution of Judgments' section where one can find the report of NGOs from December 2010 stating that in all the mentioned States, as of that date, the segregation continued and no specific steps had been identified to remedy this.

A few months ago, the Court issued yet another ruling confirming the discrimination against the Roma pupils, this time in Hungary.⁷⁶ Two young Roma, due to the inferior education they received in a special school for mentally challenged children, could not fulfill their ambitions. The Court admitted that Hungarian Government has since 2006 taken action to decrease the proportion of Roma children in special schools from 40 to 20%, when compared, however, with the 2% of non-Roma children, the Court found the decrease insufficient and called for an integration of pupils with mild mental disability and the socially-disadvantaged children in ordinary schools.

⁷⁵ Judgment of the ECtHR of March 16, 2010, no. 15766/03.

⁷⁶ Horváth and Kiss v. Hungary, judgment of January 29, 2013, no. 11146/11.

4.3 Conclusion on education

The violation of the right to education has not been dealt with in the case-law of the ECtHR. Between 1959 and 2011, the Court found a mere nine violations of this right and also dozens of cases when the right to education was violated in connection with the ban on discrimination. The aforementioned judgments, however, include the most painful and the most discussed ones in the case-law of this Court. The ECtHR grants the states the biggest margin of appreciation. In France, the Court confirmed the law which prohibits the wearing of religious symbols by the pupils and in Italy, the Court allowed the school to keep crosses in the classrooms. Both are, according to the ECtHR, in accordance with the state secularism, provided such measures are justified by specific circumstances of a given state. While the ECtHR allows keeping religious symbols at schools, it objects to proselytizing behaviour. The teacher presents the biggest proselytizing danger – he/she is not merely a passive object like a cross and he/she also exercises his/her authority. It may be deduced from the case-law that the teachers are not required to renounce their religious symbols but to be discreet about them; there is a difference between a teacher with a small cross on his/her neck and a teacher dressed in hijab.

Regarding the Roma children in special schools, these cases are revolutionary. The ECtHR did not examine the applicants' situation, i.e., whether they are mentally disabled or not. The Court ruled that there has been discrimination based on the overall situation in a given state. Based on these four consistent judgments, it may be recommended to the states to be careful when implementing any measures so that they do not have a disproportionate effect on a certain ethnic group.

Bibliography

A. v. the Netherlands. Judgment of the ECtHR of July 20, 2010, no. 4900/06.

Abdulaziz, Cabales and Balkandali. Judgment of the ECtHR of May 28, 1985, no. 9214/80.

Ahmed Hussein Mustafa Kamil Agiza v. Sweden. Decision of the Committee against Torture of May 20, 2005, no. 233/2003.

Akrich. Judgment of the Court of September 23, 2003, C-109/01.

Amrollahi v. Denmark. Judgment of the ECtHR of October 11, 2002, no. 56811/00.

Al-Shibeeb, Dina. 2012 UK Tries to Legally Remove 'Terrorists': Al Qaeda Still Has Strong European Presence. March 29, 2012. <http://www.albawaba.com/editorchoice/uk-terrorist-deportation-418980> (September 20, 2012).

Amnesty International. 2010. *Dangerous Deals: Europe's Reliance on Diplomatic Assurances Against Torture*. <http://www.amnesty.org/en/library/info/EUR01/012/2010> (September 17, 2012).

Amrollahi v. Denmark, Judgment of the ECtHR of July 11, 2002, no. 56811/00.

Azize Melki and Selim Abdeli. Judgment of the Court (Grand Chamber) of June 22, 2010, C188/10 and C189/10.

Babar Ahmad v. the United Kingdom. Judgment of the ECtHR of April 10, 2012, no. 24027/07.

Beldjoudi v. France. Judgment of the ECtHR of March, 26, 1972, no. 2083/86.

Belgian Linguistic case. Judgment of the ECtHR of July 23, 1968, no. 1474/62.

Boucherau. Judgment of the Court of October 27, 1977, 30/77.

Boughanemi v. France. Judgment of the ECtHR of April 24, 1996, no. 22070/93.

Boultif v. Switzerland. Judgment of the ECtHR of August 2, 2001, no. 54273/00.

Bozkurt. Judgment of the Court of December 22, 2010, C303/08.

Campus Oil Limited and others, Judgments of the Court of July 10, 1984, 72/83

Centros, Ltd. Judgment of the Court of March 9, 1999, C-212/97.

Chahal v. the United Kingdom. Judgment of the ECtHR (Grand Chamber) of November 15, 1996, no. 22414/93.

Chakroun. Judgment of the Court of March 3, 2010, C578/08.

Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification

Council Directive 64/221/EEC of 25 February 1964 on the co-ordination of special measures concerning the movement and residence of foreign nationals which are justified on grounds of public policy, public security or public health.

Council Directive 68/360/EEC of 15 October 1968 on the abolition of restrictions on movement and residence within the Community for workers of Member States and their families.

Council Directive 73/148/EEC of 21 May 1973 on the abolition of restrictions on movement and residence within the Community for nationals of Member States with regard to establishment and the provision of services.

D.H. and Others v. the Czech Republic. Judgment of the ECtHR of November 13, 2007, no. 57325/00.

Dahlab v. Switzerland. Judgment of the ECtHR of February 15, 2001, no. 42393/98.

Derin. Judgment of the Court of July 18, 2007, C-325/05.

Dogru v. France. Judgment of the ECtHR of December 4, 2008, no. 27058/05.

Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States.

Foukalová, Kristýna. Molek, Pavel. 2011. *Věc Lautsi a další proti Itálii (Kříže v Italských školách)*. 2011. Přehled rozsudků Evropského soudu pro lidská práva no. 3/2011: 197.

Groenendijk, Kees. 2006. "Family Reunification as a Right under Community Law." *European Journal of Migration and Law*, no. 2.

Gül v. Switzerland. Judgment of the ECtHR of February 2, 1996, no. 23218/94.

Hakan Er. Judgment of the Court of September 25, 2008, C453/07.

Halifax and others. Judgment of the Court of February 21, 2006, C255/02.

Horváth and Kiss v. Hungary. Judgment of the ECtHR of January 29, 2013, no. 11146/11.

Kervanci v. France. Judgment of the ECtHR of April 12, 2008, no. 31645/04.

Kunquian Catherine Zhu and Man Lavette Chen. Judgment of the Court of October 19, 2004, C-200/02.

Lautsi and Others v. Italy. Judgment of the ECtHR of March 18, 2011, no. 30814/06.

Marhanová, Věra. 2008/2009. Současné vývojové stádium svobody volné-

- ho pohybu osob v EU. Master thesis, Faculty of Law, Masaryk University.
- Metock*. Judgment of the Court (Grand Chamber) of July 25, 2008, C127/08.
- Nyanzi v. UK*. Judgment of the ECtHR April 8, 2008, no. 21878/06.
- Oršuš v. Croatia*. Judgment of the ECtHR of March 16, 2010, no. 15766/03.
- P. I.* Judgment of the Court (Grand Chamber) of May 22, 2012, C348/09.
- Polat*. Judgment of the Court of October 4, 2007, C-349/06.
- Rodrigues da Silva and Hoogkamer v. the Netherlands*. Judgment of the ECtHR of January 31, 2006, no. 50435/99.
- Rorive, Isabelle. 2009. 'Religious Symbols in the Public Space: In Search of a European Answer.' *Cordozzo Law Review* 6/2009: 2673.
- Rozumek, Martin et al. 2008. "Právo cizince bez pobytového oprávnění na respektování rodinného a soukromého života v hostitelské zemi."
- Saadi v. Italy*. Judgment of the ECtHR (Grand Chamber) February 28, 2008, no. 37201/06.
- Sampanis v. Greece*. Judgment of the ECtHR of June 5, 2008, no. 32526/05.
- Soering v. the United Kingdom*. Judgment of the ECtHR of July 7, 1989, no. 14038/88.
- The prime minister's statement on anti-terror measures. Full text. August 5, 2005. <http://www.guardian.co.uk/politics/2005/aug/05/uksecurity-terrorism1> (September 15, 2012).
- Tichý, Luboš et al. *Evropské právo*. 3. Issue. 2006. Praha: C. H. Beck: 472-473.

Tsakouridis. Judgment of the Court (Grand Chamber) of November 23, 2010, C145/09.

UNHCR Note on Diplomatic Assurances and International Refugee Protection. 2006. <http://www.unhcr.org/refworld/pdfid/44dc81164.pdf> (September 17, 2012).

Üner v. Netherlands. Judgment of the ECtHR (Grand Chamber) October 18, 2006, no. 46410/99.

Van Duyn. Judgment of the Court of December 4, 1974, 41/74.

Van Laenen, Filip. Metock Case Ruling: EU Brings Down Danish Immigration Law. November 8, 2008. <http://www.brusselsjournal.com/node/3457> (September 17, 2012).

Veli Tum and Mehmet Dari. Judgment of the Court of September 20, 2007, C16/05.

Vilvarajah. Judgment of the ECtHR of October 10, 1991, no. 13163/87.

Watt, Nicholas and Owen Bowcott. David Cameron calls for reform of European court of human rights. January 25, 2012. <http://www.guardian.co.uk/law/2012/jan/25/david-cameron-reform-human-rights> (September 20, 2012).

Werner. Judgment of the Court of October 17, 1995, C70/94.

White, Robin. 2004. "Analysis and Reflections – Conflicting competences: Free movement rules and immigration laws." *European Law Review*. No. 3/2004: 385-396.

FINAL RECOMMENDATIONS

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1. PRACTICAL RECOMMENDATIONS FOR POLITICAL PARTIES COMMUNICATION

In our study on the political discourse about integration of immigrants and minorities we have shown that the mainstream political parties are significantly less willing or able to justify and explain their policy positions on immigrants and minorities to the voters than the extreme parties. Our assumption is that this lack of sufficient political communication is the main reason why populists and extremists dominate the public debate about this issues and why they are even often perceived by the voters as more competent to solve the related problems. What should the mainstream parties do in order to regain control of the political agenda, recapture reluctant voters and push the extremists aside?

Here we offer four straightforward recommendations for the centre-left and centre-right parties that are applicable in both countries where strong extremist parties are already in the parliaments, as well as in those states where they are just knocking on the doors. Leaders of the mainstream parties should consider implementation of these recommendations already in preparation for the elections to the European Parliament in May 2014 unless they are willing to pass significant number of seats to the populists.

a) Politicise the issue

Leadership of the mainstream parties needs to change the way they think about integration policies. They should not remain a technical question over which mainstream parties try avoiding political debate. On the contrary, they should politicise the issue and make it a standard item on the political agenda. In countries such as Austria, Denmark or the Netherlands, where strong extremist parties have resided in the national parliaments for quite some time, the issue of immigration has already been politicised. But it has happened exclusively by the initiative of the far right, which thus has dominated the public debate and successfully pushed for changes in immigration policy. Now it should be the centre-right and centre-left who recapture the issue and make it a legitimate object of decent and constructive political contestation.

b) Prioritise on the political agenda

The mainstream should not only acknowledge the political nature of the issue, but must also put it high on the list of programme priorities. The issue of immigrants or minorities likely does not have the potential to win elections, but if the mainstream parties don't pay enough attention, it may cost them electoral victory. Integration of immigrants and minorities should come as second or third priority after reinvigoration of economic growth in case of the centre-right, and after reducing unemployment for the centre-left. These parties should clearly describe what is their precise policy position, and they should provide understandable and attractive arguments in favour of their position based on authentic values of the respective political party. Such programmatic equipment will enable them to move from the position of a passive observer who is just occasionally reacting to the demands of the far right, to the role of a decisive actor, who sets the agenda, leads the public debate and offers realistic solutions to the existing problems.

c) Appoint speakers and choose experts

Mainstream parties need not only sophisticated and detailed programmes on integration policy, but also faces, people who will represent it in the public and provide expertise in debates. Party leadership should

appoint speakers for the issue. Ideally, these should be younger, popular personalities with excellent communication skills, who would be ready to extend their expert knowledge and play a strong voice in the public debate. However, appointing a political speaker is not enough. Such a politician needs a team of experts in the field of immigration and integration policy, which will be continually consulting its policy drafts with civil service, think-tanks, academia and NGOs.

d) Compete within the mainstream

The final step is to relocate the political fight about immigrants and minorities to the mainstream arena. Today we see the extremists from the edges of the political spectrum attacking the centre over the future of integration policy. But what we need is to civilise this contest by moving it to the mainstream, between centre-left and centre-right. As those parties regain control over this policy agenda, they will be able to start decent, substantive, constructive, yet perhaps sharp debate about immigrants and minorities, which will be understandable to the voters who in turn will be allowed to choose between competing policy options. As a result, populists and extremists will lose their comparative advantage (based on the passivity of the mainstream) and will start losing votes. Secondly, the shift of political competition to the centre and its intensification will prompt creativity in looking for and formulating the most effective shape of immigration and integration policies. Ideally, such policies would be the result of a transparent public debate and would be backed by a majority of the society.

2. ...AND AFTER SUCCESSFUL COMMUNICATION... DON'T FORGET TO ENFORCE, IMPLEMENT AND EVALUATE MEASURABLE LONG-TERM POLICIES INTO PRACTICE

Although proactive and decisive political communication about sensitive issues of integration is a must for all the mainstream parties, without improvements and results stemming from practical day-to-day policies, we cannot expect long-term trust in the society and successful integration on a broader scale. We again focus on genuine measures that could be ideally employed by politicians of both sides of the mainstream.

a) Take a transparent decision on how to measure the policies over the years

Politicians from both the centre-right and centre-left part of the spectrum have to focus on good governance and accountability when financing and implementing projects of integration. The first issue is the ability to obtain measurable data about minorities, which European majority societies would like to integrate. As they have to finally see positive progress over the time after many years of unaccountable practices, lack of prioritisation and doubts about possibilities of success. The media expect quantitative data to measure integration success. However, these are hard to obtain, both in the case of Muslims and even more in case of Roma, and proved to be too superficial and unable to describe complex situations because ethnic data are missing. In addition, successes in integration should also not be seen through just *de iure* evaluation as the most international agencies with a lack of local experience are, and have to be more based on *de facto* experience.

Thus, we recommend in case the issue of ethnical data collection remains too sensitive, despite the privacy safeguards available and long-term advocacy of anti-discrimination NGOs, investments in methodology and standardised procedures of qualitative research of particular communities and their comparison both in time and between different communities and their progresses would be a possible solution. Another advantage of thorough and regular qualitative research in time relies on the fact that such a method can point out dangerous trends and new, unseen problems. These evaluation methods could be improved over the years through sharing results from national evaluations at the EU level.

b) Prioritise education

A priority policy should be education that is based on inclusion. The focus should be put firstly on pre-school institutions and elementary schools. All mainstream politicians have the chance to avoid negative impacts on state budgets and social policy if they are able to provide and enforce mainstream education to minorities in all districts of particular countries. They have to start at the local level. Inclusive education should be seen as a preventive measure against segregation and ghettoisation of

both Muslims and Roma, and also against the establishment of parallel societies. Social competencies to majority pupils who will be able to communicate with minorities in day-to-day situations and learn how to cope with them in a peaceful way is another added value of inclusive approach.

c) Continue the debate about anti-discrimination and follow its pros and cons into practice

Anti-discrimination policies have so far divided left and right much more than the policies mentioned above. They are still seen by many centre right, both liberal and conservative politicians, as a product of “socialist Europe.” Moreover, they were *de iure* successfully introduced in all the EU countries “from Brussels” through the help of legally binding directives just very recently, often with hesitation or even protests from local politicians and authorities. Until today, the vast majority of the population – at least in Central Europe – does not understand their added value, nor sometimes even the meaning, and remains suspicious of their benefits. These policies should be firstly followed closely over the years, including the case law of various court instances and evaluate what benefits and dangers they brought from the eyes of both right and left wing mainstream politicians and how they impacted the business and personal sphere. The balance between freedom and equality should be maintained in a manner that allows for successful integration as well as for preserving freedoms in the private sphere. Then, any new measures should be proposed, discussed and implemented in order to obtain the legitimacy needed at national and local level.

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Chapters on Austria

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