

# EQUALITY DATA COLLECTION: FACTS AND PRINCIPLES



european network against racism aisbl

## EQUALITY DATA COLLECTION: THE FACTS

### ✓ **EQUALITY DATA COLLECTION IS LEGAL**

Despite misconceptions among State officials and civil society organisations that data protection legislation prohibits the collection of 'sensitive' data revealing racial or ethnic origin or religion, it is not prohibited to collect equality data. EU law, and all Member States' laws, allow equality data collection as long as such data are provided voluntarily and according to data protection standards.

The EU Data Protection Directive stipulates exceptions to prohibition of processing sensitive personal data (such as data revealing ethnic or racial origin or religion):

- ➔ when express consent is given
- ➔ when the State has obligations in the field of employment law
- ➔ for protection of the rights of others, or
- ➔ for reasons of 'substantial public interest'

### ✓ **EQUALITY DATA COLLECTION IS NOT NECESSARILY COSTLY**

Collecting equality data does not require introducing new structures (which would entail additional costs), but rather revisions to categories that in any event undergo revisions for each census/data collection process, such as administrative registers or household surveys.

For example, the EU Labour Force Survey, which provides employment-related data from all EU Member States, already disaggregates the data by age and gender. Ethnicity and religion based variables could be added to identify and measure areas of progress for equality policies, without adding new indicators or questions.

### ✓ **EQUALITY DATA COLLECTION IS NOT RACIAL PROFILING**

In practice, all EU countries collect data that reveal racial or ethnic origin using alternative categories, such as citizenship, country of birth, country of birth of parents, language spoken at home, migration background and name. These data are often collected outside of necessary data protection safeguards and are not used for the benefit of discriminated groups. Discriminatory practices, such as racial profiling, and improper use of personal sensitive data by the police are common in

Europe and contribute to minorities' lack of trust in data collection.

Equality data collection, on the other hand, promotes equality by proving discrimination and helping evaluate and improve policies; it respects individuals' self-identification and privacy.

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***“We have to make sure there is always a dialogue between the affected communities and the institutions that will collect the data.”***

Black activist in Sweden

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### ✓ **EQUALITY DATA COLLECTION CAN HELP ENSURE EQUAL OPPORTUNITIES AND OUTCOMES**

Equality data are powerful tools against discrimination and exclusion, shedding light on the situation of groups that are at risk of discrimination but are invisible in general statistics or surveys. Reliable and comparable equality data are important to design effective legislation and policies – for instance anti-discrimination laws, monitor their effectiveness and put in place concrete solutions.

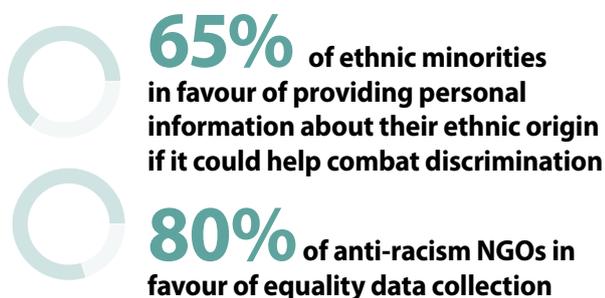
For example, if we do not know how many Roma children are enrolled in education, we cannot begin to address segregation of Roma children in schools. Likewise, it is very difficult for employers to put in place diversity management policies if they do not have any data on the diverse profiles of their workforce.

## MINORITY PERSPECTIVES ON EQUALITY DATA COLLECTION

In 2010, the EU Fundamental Rights Agency (FRA) conducted a survey of ethnic minorities and people with a migration background where over 65% of respondents stated they were in favour of providing, on an anonymous basis, personal information about their ethnic origin, as part of a census, if that could help to

combat discrimination their country. The question was also asked for information on religion.

A 2013 ENAR survey among anti-racism NGOs to assess attitudes towards equality data collection showed that over 80% of respondents would be in favour of equality data collection, if this was done on a voluntary basis and safeguards were in place to protect individuals. Nearly 70% believe those at risk of racism and discrimination would benefit from such data collection (an additional 17% believe 'maybe' these groups would benefit). Over 70% of respondents said it would benefit their own organisation's work to have such data (while 16% said it 'maybe' would benefit their work).



It is nevertheless important to keep in mind that even in the countries that provide for voluntary self-identification in the census, members of groups most at risk of racism and discrimination, for example Roma, prefer not to self-identify. In Germany, France and Sweden, some representatives of minority organisations and anti-racism NGOs are often among the most vocal against personal data collection. They fear misuse of such data, based on historical and current experience of data abuse. Over a third of respondents (36%) to the ENAR survey could see problems resulting from collection of disaggregated equality data in their countries, such as the use of data for

***“Reasons behind data collection need to be well explained to members of ethnic minorities. It is very difficult to separate concerns about data misuse from the troubled history of a country.”***

French activist and journalist

wrongful purposes, misinterpretation of data and use by racist or xenophobic parties.

It is therefore essential to build trust and ensure the active participation of minority groups in equality data collection processes, and to remember that data should be used as a tool to promote equality, not as an end in itself.

## **GOOD EQUALITY DATA COLLECTION PRACTICES**

### **UNITED KINGDOM: EQUALITY DATA COLLECTION AND POSITIVE EQUALITY DUTY**

One of the unique features of the UK legal framework is an explicit positive duty to ensure equality in practice. The **public sector equality duty** requires public bodies, and those carrying out public functions, to have due regard to the need to eliminate discrimination, to advance equality of opportunity and foster good relations between those who share a protected characteristic (e.g. race) and those who do not. The 2010 Equality Act includes an obligation for all public bodies to set themselves specific and measurable equality objectives in employment. It also includes an obligation to publish relevant and proportionate information demonstrating their compliance with this public sector equality duty. There are no set requirements on how or what information should be published, but it could include the make-up of the overall workforce and recruitment and retention rates for staff with different protected characteristics. Factors such as the pay gap and access to employment could be measured.

### **IRELAND: EQUALITY DATA COLLECTION ON IRISH TRAVELLERS**

Irish Travellers have been traditionally marginalised. Racism, discrimination and social exclusion are responsible for Travellers' disadvantage in virtually all socio-economic fields, as well as the reason for their reluctance to self-identify. The Irish NGO **Pavee Point Roma and Traveller Centre** worked with Traveller communities explaining the reasons for providing personal data, the uses for such data, and benefits such data collection may bring. Eventually, the NGO managed to involve and get positive support from Traveller leaders and organisations. The main takeaway from this exercise was the importance of minority stakeholders being aware of the purpose and process of equality data collection and mutual trust.

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## **“Stop racism, make discrimination count.”**

Anti-racism activist in France

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Pavee Point continues to work closely with the Central Statistics Office to support the collection of equality data in the census and the following Traveller-specific actions have been implemented in the most recent census:

- ➔ consultation with Pavee Point in the development of Census questionnaires;
- ➔ training provided by Pavee Point for Census Enumerator Managers;
- ➔ linkages to share information and knowledge;
- ➔ information DVDs (explaining to the communities what the Census forms are, how to complete them, and how the Census data benefit people);
- ➔ dedicated website when Census fieldwork is being carried out to share information;
- ➔ operation of a telephone hotline to trouble shoot where problems arise;
- ➔ dissemination of Census results.

### **ROMANIA: ROMA IN THE 2011 NATIONAL CENSUS**

Some Roma do not self-identify as Roma during the census for different reasons, including fear of negative consequences or the inability to take part in the census because of seasonal work. There has been a lack of trust among Roma in official institutions, manifesting itself in a refusal to self-identify in the census. Low numbers, in turn, provide an excuse for the Romanian authorities on different levels to withhold certain rights, underestimate the extent of Roma exclusion, or limit budgetary allocations for Roma programmes.

Ahead of the 2011 national census, **Romani CRISS** launched a campaign to encourage Roma to self-identify. The “I am Roma” project aimed at improving the accuracy of the census data regarding the Roma population and tackling discrimination against Roma in various fields of life. The 2011 Census included 19 categories of Roma-related groups.

Romani CRISS proposed to hire Roma enumerators who would play a mediating role and explain to Roma respondents the statistical language and procedures. A

total of 83 Roma enumerators, including Roma teaching assistants, Roma health mediators and other Roma working locally, were recommended to municipalities. Romani CRISS action teams were also set up to work among local Roma communities to encourage them to self-identify.

### **BELGIUM: SOCIO-ECONOMIC MONITORING PROJECT**

The Belgian equality body, in partnership with the Federal Ministry of Employment, Labour and Social Dialogue, embarked in 2006 on a long-term equality monitoring project in the field of employment. The monitoring used the concept of ‘origin’, as a proxy for ethnic or racial origin, using criteria such as nationality of parents and migration background up to the third generation. The **study**, published in 2013 and again in 2015, cross-referenced personal data from the population register with the ‘Data Warehouse Labour Market and Social Protection’. The data collection method was also authorised by the Belgian Data Protection Authority. The method allowed the uncovering of patterns of disadvantage not only among non-nationals but also among Belgian citizens whose parents are of foreign origin. The disadvantages could not be accounted for simply by language problems or lower qualifications, but revealed deeper patterns of structural discrimination.

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## **“They collect the data to abuse us anyway, they might as well collect the data to help us.”**

Roma activist in Germany

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### **GERMANY: CITIZENS FOR EUROPE'S "VIELFALT ENTSCHIEDET - DIVERSITY IN LEADERSHIP" PROJECT**

This **project** aims to bring the equality data discourse to Germany and advocate for equality data collection and necessary law changes in Germany. It also aims to consult with ethnic minority communities regarding their interest in equality data collection and the way it should be done. It has developed an extensive FAQ on equality data collection in Germany.

## CATEGORIES IN FOCUS

While equality data collection in one country might not be transferred or replicated in its entirety in another country, there are elements and models which could inform and guide similar processes elsewhere. Categories for equality data collection, including ethnic and racial categories, may depend on the historic and political context in every country, which may vary in time, and should be developed in accordance with the self-definition categories in use.

*“It is hard to believe, but just taking a few minutes to talk to people, explaining what the Census is about, can change 20-30 years of conviction that Roma should not self-identify.”*

Roma activist in Romania

### UNITED KINGDOM

In the 2001 UK census, several additional categories were added. The mixture of ethnic and racial categories, as well as write-in options, is innovative and results in comprehensive statistical data. The data collection takes place on the basis of voluntary self-identification.

#### England & Wales census categories

##### ➤ White

- 1 English / Welsh / Scottish / Northern Irish / British
- 2 Irish
- 3 Gypsy or Irish Traveller
- 4 Any other White background, please describe

##### ➤ Mixed / Multiple ethnic groups

- 5 White and Black Caribbean
- 6 White and Black African
- 7 White and Asian
- 8 Any other mixed / Multiple ethnic background, please describe

##### ➤ Asian / Asian British

- 9 Indian
- 10 Pakistani
- 11 Bangladeshi
- 12 Chinese
- 13 Any other Asian background, please describe

##### ➤ Black / African / Caribbean / Black British

- 14 African
- 15 Caribbean
- 16 Any other Black / African / Caribbean background, please describe

##### ➤ Other ethnic group

- 17 Arab
- 18 Any other ethnic group, please describe

Source: UK Office for National Statistics

### IRELAND

Thanks to the work of Pavee Point and other organisations, a question on 'Travellers' was first introduced in the National Census in 1996. Pavee Point subsequently worked together with other anti-racism NGOs and the National Consultative Committee on Racism and Inter-culturalism to advocate for the addition of a question on ethnicity in the 2001 Census. It is finally in the 2006 Census that a question of self-identification in the ethnicity category was introduced. The list, however, does not include the category 'Roma'.

#### What is your ethnic or cultural background?

##### ➤ White

- 1 Irish
- 2 Irish Traveller
- 3 Any other White background

##### ➤ Black or Black Irish

- 4 African
- 5 Any other Black background

##### ➤ Asian or Asian Irish

- 6 Chinese
- 7 Any other Asian background

##### ➤ Other, including mixed background

- 8 Other, write in description

#### What is your religion?

- 1 Roman Catholic
- 2 Church of Ireland
- 3 Islam
- 4 Presbyterian
- 5 Orthodox
- 6 Other, write in your religion
- 7 No religion

Source: Central Statistics Office Ireland

## KEY RECOMMENDATIONS

- ➔ The European Commission should issue specific **guidelines on inclusive and secure equality data collection** to be adopted as part of Council recommendations on equality data collection to ensure implementation of EU equality legislation.
- ➔ The European Commission should support the development of **standard EU-wide categories forequality data collection**, including ethnic and racial categories, in consultation with civil society organisations and other relevant stakeholders, including statisticians. These should then be adjusted in every Member State, in consultation with the groups at risk of discrimination.
- ➔ The EU Fundamental Rights Agency should **disseminate the disaggregated data** it collects as well as the methodology used for its surveys on discrimination experiences to encourage States to conduct similar exercises.
- ➔ EU Member States must work with civil society organisations to **include members of minorities throughout the whole process of equality data collection** and analysis, for instance by recruiting census enumerators from these groups.
- ➔ Equality data should be an **integral part of public policies including equality policies**. EU Member States should adopt a binding positive equality duty requiring public bodies to have due regard to the need to advance equality.

## SIX PRINCIPLES FOR THE COLLECTION OF EQUALITY DATA<sup>1</sup>

- 1 Self-identification:** Identification should be based on the individual data subject's perception of her/his ethnic or racial origin.
- 2 Voluntary participation:** Every individual has the right to opt into data collection (there is therefore no need to reach a consensus among all communities/individuals), and no one can be forced to provide sensitive data. Individuals will be informed that non-participation will not cause any negative consequences and that the provision of data will not be linked to social benefits or other services.
- 3 Confidentiality of personal data:** Sensitive data must always be treated confidentially; in addition secure data collection implies that early anonymisation must be provided for every piece of information linked to sensitive data.
- 4 Informed consent:** Every individual shall receive clear, transparent information regarding the exact purpose of the data collection and the benefits and risks of their participation. They will be ensured that the data will not be shared with third parties and will only be used for the specific purpose. They shall then be asked if they are willing to consent or not.
- 5 Community participation:** Groups at risk of discrimination should actively participate throughout the process, directly or through the intermediary of representative organisations, in particular for the definition of categories, the analysis and evaluation of the data collected, and the dissemination of the data.
- 6 Multiple grounds/identities:** Data subjects should have the right to choose multiple and intersectional identities and it should be possible to combine grounds when analysing the data.

[www.enar-eu.org](http://www.enar-eu.org)

<sup>1</sup> This list of principles is based on the outcomes of the Equality Data Initiative, a joint project of the Open Society Foundations, the Migration Policy Group and ENAR. See [http://www.enar-eu.org/IMG/pdf/edi\\_data\\_collection\\_initiative\\_-\\_backgrounder.pdf](http://www.enar-eu.org/IMG/pdf/edi_data_collection_initiative_-_backgrounder.pdf).

