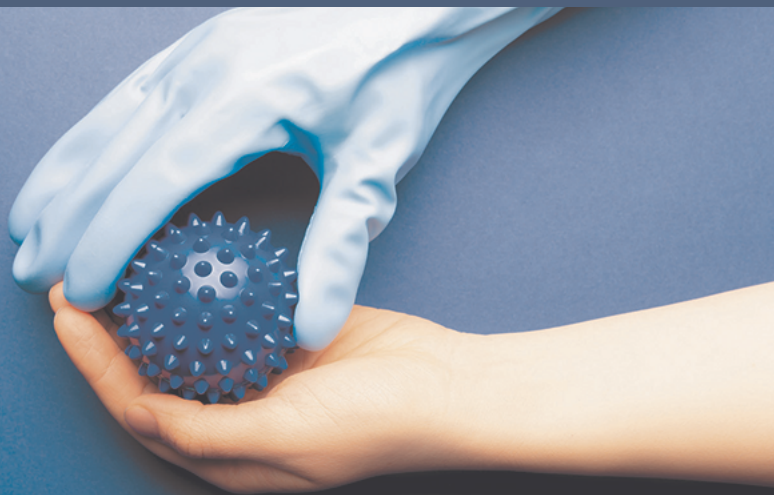


COVID-19: an analysis of the anti-discrimination, diversity and inclusion dimensions in Council of Europe member States



STEERING COMMITTEE
ON ANTI-DISCRIMINATION,
DIVERSITY AND INCLUSION (CDADI)



COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

COVID-19: an analysis of the anti-discrimination, diversity and inclusion dimensions in Council of Europe member States

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COVID-19

1. INTRODUCTION

1.1. The Covid-19 crisis and diverse and inclusive societies

Crisis times are times of uncertainty and fear. The Covid-19 outbreak brought back such times. Faced with unprecedented risks to public health and the safety of their populations, States have taken extraordinary measures to contain the pandemic, including in some cases formally derogating from their obligations under the European Convention on Human Rights. People had to drastically change their way of living and adapt to new circumstances. Maintaining physical distance, job uncertainty, telecommuting for work or school (for those who could), not being able to cross borders: these new ways of living would have been unthinkable at the beginning of 2020.

Still today it is not known when this pandemic will end or how it will end. What is evident so far is that Covid-19 has had wide-ranging effects on our societies. And these effects go well beyond the health crisis it provoked. The economy is facing a historic recession. Alerts have been raised about unprecedented democratic setbacks in some cases. Human rights concerns have been reported over some States' responses. Covid-19's implications for the economy, democracy and human rights continue to be thoroughly discussed in national and international fora. Perhaps less explored is the question of dealing with diversity in responding to Covid-19. And, in particular, how the distinct impact of the crisis on different communities has been dealt with by States.

Times of major international change are usually prone to the flourishing of nationalistic rhetoric and the scapegoating of 'others'. The Covid-19 crisis is no exception: persons belonging to national minorities, migrant or LGBTI communities have been reported to be exposed to stigma, linking the virus to their (perceived) belonging to their community. At a more structural level, the crisis has also magnified both societies' weaknesses and their strengths, in creating conditions for equality and inclusion for all and enhancing diverse societies' resilience to such crises.

Such questions are directly related to the mandate of the Steering Committee on Anti-Discrimination, Diversity and Inclusion (CDADI), which is to 'steer the

Council of Europe's intergovernmental work to promote equality for all and build more inclusive societies, offering effective protection from discrimination and hate and where diversity is respected'. Societal diversity is broad and multi-layered. The mandate of the CDADI focuses on the groups or communities that are most at risk of racism or intolerance leading to discrimination, namely persons belonging to national or ethnic minorities, Roma and Travellers, religious or linguistic minorities, migrants and LGBTI people.

This report reflects on the various Council of Europe member States' experiences in dealing with these challenges when responding to the crisis. It draws on the Council of Europe's work on anti-discrimination, equality and inclusion, including at local level with the Intercultural Cities network. It is also informed by the work of the European Court of Human Rights (ECtHR), which has delineated States' positive obligations in this area, as well as Council of Europe monitoring bodies, notably the European Commission against Racism and Intolerance (ECRI), the Advisory Committee on the Framework Convention for the Protection of National Minorities, and the Committee of Experts of the European Charter for Regional or Minority Languages. In many respects, the Covid-19 pandemic has emphasised the relevance of these bodies' findings and recommendations. They may prove to be useful tools for both crisis and post-crisis responses.

1.2. Key challenges and opportunities

The work engaged by the CDADI on Covid-19 takes stock of a number of challenges and offers opportunities. One of the main challenges in dealing with this unprecedented crisis is the fast pace of change in circumstances and information on Covid-19.

Opportunities are there however: the scale of the crisis compels us to be future-oriented and to think big. As has been said, the magnitude of the response must match the scale of the crisis. The crisis has shown us how interconnected the world is and how the response needs co-ordination and exchange of expertise and experience. Multilateralism is offering multiple possibilities. The Council of Europe and its intergovernmental fora, such as the CDADI, are well placed to engage Council of Europe member states in co-operation on this subject.

Covid-19 is also an opportunity for States to unequivocally commit to equality and inclusion and to acknowledge once more the interconnectedness of all human rights – political, economic, social, civil and cultural. The duties to safeguard liberties, on the one hand, and to protect against pandemic events, on the other, are in both cases a human rights matter and not an issue of either/or.

1.3. Report process

The preparation of this report is based on the replies to a questionnaire sent to the members of the CDADI and members of related Council of Europe intergovernmental and monitoring bodies, as well as to partners in national Equality Bodies and other networks and civil society organisations (see questionnaire in appendix). The replies have offered a wealth of information and views. The process also involved the consultation of a wide range of sources, both national and international. The numerous reports provided by non-governmental organisations have greatly helped to obtain a better insight into the challenges faced by disadvantaged and vulnerable group. Their important work in following developments has continued despite exceptionally difficult circumstances, given the restrictions imposed by Covid-19. In reviewing the documentation, one should keep in mind that the level of reporting of instances of discrimination by minorities and other vulnerable groups is usually low. The circumstances created by Covid-19 are likely to have accentuated under-reporting.

The current report takes into account issues that have emerged so far, from emergency measures such as lockdowns to measures easing restrictions as adopted by many Council of Europe member States from May 2020. Due to the timeframe set for the preparation of this report, the latter set of measures have only been alluded to but have not been substantially explored. However, future challenges arising from this new phase of the Covid-19 crisis have been pointed out, where relevant. As such this report may be considered as an initial contribution on the subject of Covid-19 and diversity, offering a human rights-based framework for discussion. That discussion will surely further evolve and assessments crystallize alongside States' continued responses to the crisis.

References to state interventions provided in this report are not exhaustive. Their purpose is to illustrate, through national and local experiences, the plurality of responses and human rights issues that may raise from an anti-discrimination, diversity and inclusion perspective.

The report is structured in three chapters: the first chapter is meant to provide a conceptual framework for addressing the anti-discrimination, diversity and inclusion dimensions of States' responses to the Covid-19 crisis. It builds upon the three Council of Europe pillars of human rights, democracy and the rule of law. The second chapter reviews some of the most salient issues that have arisen during this Covid-19 crisis in the following main areas: non-discrimination, hate speech, violence against LGBTI, access to health, housing, education and other public services, socio-economic participation and security and law enforcement. Both chapters have informed the identification of some recommendations to Council of Europe member States. These are set out in chapter three.

2. ANTI-DISCRIMINATION, DIVERSITY AND INCLUSION IN THE RESPONSE TO COVID-19: SOME STRUCTURAL ELEMENTS

The unprecedented challenges presented by the Covid-19 pandemic have led many Council of Europe member States to resort to exceptional measures deemed necessary to protect their population from the pandemic. The situation is at great variance among Council of Europe member States: some have formally introduced states of emergency under their domestic legal order; others have done so by submitting their derogation under Article 15 of the ECHR¹, thereby explicitly signaling that the normal functioning of the State could not be maintained to tackle the Covid-19 crisis. In some other states, extraordinary measures have been adopted under existing legal rules, albeit not referring to a state of emergency as such.

Whether a legal or *de facto* state of emergency approach was chosen, the response to the crisis ‘reintroduced government in a big way’: on one side, a trend towards the concentration of power in the executive has emerged and, on the other side, citizens have generally turned to their government to ‘organise a collective defence against the pandemic’ and to take measures to rescue the economy².

The following discusses the core international human rights obligations in responding to the crisis and ensuring that all sections of the population, including the needs of its most vulnerable groups, are equally addressed (section A). With increased attention paid to States’ responses, issues of good governance and in particular inclusive decision-making have come under greater scrutiny and with that the question of trust in government responses (Section B). They also have highlighted questions of social trust between citizens and their civic engagement across community lines (section C).

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- 1 See Albania, Armenia, Estonia, Georgia, Latvia, North Macedonia, Romania, San Marino, Serbia. See: <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/005/declarations>.
 2. See Ivan Krastev, Seven lessons from the Coronavirus, European Council on Foreign Relations, https://www.ecfr.eu/article/commentary_seven_early_lessons_from_the_coronavirus.

2.1. States of emergency, human rights, democracy and the rule of law

2.1.1. States' core international law obligations

With many governments declaring a state of emergency or equivalent initiatives, far-reaching measures have been adopted with the purpose of curbing the spread of the virus. These include mandatory quarantines, suspensions of mass gatherings, isolation of individuals, travel bans and cordoning-off of regions or cities with sanctions in case of non-compliance. A broad spectrum of restrictions on individual and collective human rights and freedoms have been enforced based on the protection of public health.

Experience has shown that states of emergency or similar measures can be used for other purposes than addressing the danger at hand³. As stated by the Venice Commission, it is 'during emergencies that the abuse of human rights is the greatest'⁴. Certain groups including persons belonging to national minorities or other vulnerable groups may be more subject to human rights abuse or face increased risks of rolling back their protection. For example, the adoption of legislation not related to the public-health crisis during the pandemic, making it impossible for transgender people to obtain legal gender recognition, has raised concern⁵.

A central question has therefore arisen: how does international human rights law apply to such an unprecedented situation? And, connected to it, how does international law provide protection against possible threats to non-discrimination, diversity and inclusion?

The Venice Commission has contributed to this debate: it has pointed out that there is convergence in international and national law towards considering a state of emergency as a legal institution, which is subject to legal regulations. Therefore, even in a state of public emergency, the fundamental principle of the rule of law must prevail, as also in its various constitutive elements. These include *inter alia* the legality principle, the separation of powers, human rights,

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3. For example, for an assessment of the risk and opportunities of the crisis in the Western Balkan region: <https://biepag.eu/wp-content/uploads/2020/04/BiEPAG-Policy-Brief-The-Western-Balkans-in-Times-of-the-Global-Pandemic.pdf>.
 4. Venice Commission, Respect for democracy, human rights and the rule of law during states of emergency – reflections, CDL-PI(2020)005rev, 26 May 2020, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-PI\(2020\)005rev-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-PI(2020)005rev-e).
 5. See international reactions here on the Hungarian Omnibus Bill T/9934. The law was eventually adopted on 19 May 2020. <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25844&LangID=E>, <https://ilga-europe.org/resources/news/latest-news/hungary-rolls-back-legal-protections-puts-trans-and-intersex-people-risk>.

including minority rights, democratic participation in and supervision of public decision-making and transparency of government⁶.

In its toolkit to member states, the Council of Europe provides some general guiding principles on ensuring that measures taken during states of emergency uphold democracy, the rule of law and human rights⁷. Measures must be taken in accordance with the law, have clear time-limits and be proportionate to the evaluated risk. Regularly reviewing the conditions of necessity, proportionality and temporariness is particularly needed in rapidly changing situations such as the Covid-19 pandemic to ensure an adequate response.

Derogation measures must not be inconsistent with other obligations arising under international law, e.g. obligations under international refugee law. States' sovereignty on border control and migration was already intensely debated in the European context prior to the Covid-19 crisis. With the closing of borders being part of the response of States to contain the spread of Covid-19, heightened challenges and questions have arisen on addressing possible health risks while upholding States' obligations under international law. In particular, the question of the proportionality of the measures taken have arisen with reports of pushbacks of boats of refugees, temporary suspension of asylum in certain countries and irregular migrants in immigration detention⁸. UNHCR has pointed out that 'a blanket measure to preclude the admission of refugees or asylum-seekers, or of those of a particular nationality or nationalities, without evidence of a health risk and without measures to protect against refoulement, would be discriminatory and would not meet international standards, in particular as linked to the principle of non-refoulement'⁹.

Recommendation 1: Measures taken during a state of emergency should be in accordance with the law, be non-discriminatory, have clear time-limits and be proportionate to the evaluated risk. States should refrain from taking general measures which restrict the rights of specific groups without strong evidence of the benefits of such actions for the public health and safety.

6. Ibid.

7. See Council of Europe, Respecting democracy, rule of law and human rights in the framework of the COVID-19 sanitary crisis: A toolkit for member states, SG/Inf(2020)117 April 2020, <https://rm.coe.int/sg-inf-2020-11-respecting-democracy-rule-of-law-and-human-rights-in-th/16809e1f40>.

8. See Council of Europe Commissioner for Human Rights, <https://www.coe.int/en/web/portal/-/pushbacks-and-border-violence-against-refugees-must-endhttps://www.coe.int/en/web/commissioner/-/commissioner-urges-malta-to-meet-its-obligations-to-save-lives-at-sea-ensure-prompt-and-safe-disembarkation-and-investigate-allegations-of-delay-or-no>, see also <https://www.coe.int/en/web/commissioner/-/commissioner-calls-for-release-of-immigration-detainees-while-covid-19-crisis-continues>.

9. See UNHCR, Key Legal Considerations on access to territory for persons in need of international protection in the context of the COVID-19 response, <https://www.refworld.org/docid/5e7132834.html>.

2.1.2. Human rights in times of crisis and their oversight

Non-discrimination: the need for a differentiated approach

Measures as drastic as mandatory isolation or quarantine have been adopted to manage the crisis and avoid a situation whereby the healthcare system would not be able to cope with the overwhelming pressure. In a non-emergency setting, human rights would require a specific risk assessment for every person when deciding whether to impose such measures. Emergency situations require one to act swiftly with general measures. Such measures may also pose high risks of unequal treatment.

As mentioned above, the test of legality, legitimacy and necessity is used to determine the proportionality of the measures. The prohibition of discrimination is an essential element of it. Establishing whether there is unjustifiable discrimination between different categories of persons is part of the assessment of whether the measures derogating from Article 15 ECHR 'were strictly required by the exigencies of the situation'¹⁰.

Equal treatment does not mean identical treatment. The measures taken by governments may have disproportionately negative effects on certain groups who are already in a disadvantaged socio-economic position due to past or systematic discrimination. In other words, there is a real risk that the crisis may further accentuate existing patterns of discrimination. Taking into account the specific needs of persons belonging to a disadvantaged group through targeted measures may therefore be necessary, if proportionate, in order to ensure that no one is left behind in the management of the crisis. Failing to do so may in fact result in discrimination.

Oversight

Given the serious implication of states of emergency or their equivalent for human rights, democracy and the rule of law, oversight, whether parliamentary or judicial depending on the measure at stake, is vital. Some reports indicate that parliamentary oversight has continued in some countries¹¹, despite restrictions placed on parliament meetings, and some courts have also reviewed laws enacted under a state of emergency. This is for example the case in Slovenia, where the Constitutional Court assessed the constitutionality of a government ordinance restricting freedom of movement and assembly of people in public places and banning the movement of residents

10. ECtHR, *A. and Others v. the United Kingdom* (GC), 3455/05, 19 February 2009, §§ 182-190.

11. [https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/651914/EPRS_BRI\(2020\)651914_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/651914/EPRS_BRI(2020)651914_EN.pdf).

outside their municipalities¹². In Germany, the Federal Constitutional Court granted interim measures in three cases involving local authorities' decisions restricting freedom of assembly. These rulings have been seen to 'force local authorities to make contextualized assessments, and take responsibility for their decisions, ensuring a minimum level of protection of fundamental rights in areas that are particularly sensitive'¹³. In Romania, upon the initiative of the Ombudsman, the Constitutional Court ruled that the emergency ordinance which increased fines for not observing state-of-emergency measures was unconstitutional, because the norm lacked precision in defining the behavior which would lead to sanctions.

National Human Rights Institutions (NHRI) and Equality Bodies (EB) have a great role to play through their mandate to review human rights concerns in times of crisis. As far as oversight is concerned, NHRIs in some states have critically assessed the weakened control by parliament and the courts and limited consultation, among other issues concerning the state of emergency (Belgium, France, Germany, Kosovo*, Poland, Romania and Slovenia)¹⁴.

NHRIs also act as an interface between government, civil society and citizens. In this respect, most NHRIs have reported enhanced information and accessibility to all sections of the population during the crisis, with a Covid-19 dedicated webpage on their site, call centres and hotlines to receive calls and complaints or to give advice to the public and refer specific complaints¹⁵.

They have taken an active role in monitoring the discrimination dimension of States' responses to Covid-19, among other issues falling under their mandate. According to the European Network of Equality Bodies (EQUINET), trends indicate an increase in complaints linked to the Covid-19 outbreak, with grounds of disability and age appearing often and issues evolving according to the phase of the crisis. Overall, increases in xenophobia and racism, particularly towards people perceived as Asian or Italian, have been flagged. Increases in

12. Slovenia, Constitutional Court of the Republic of Slovenia (2020), Opravilna št. U-I-83/20, 16 April 2020.

13. <http://constitutionnet.org/news/coronavirus-lockdown-measures-german-constitutional-court>.

14. See the European Network of NHRI, COVID-19, Human rights and Rule of Law: NHRI Responses. See page 6: these include ENNHRI members in Belgium, France, Germany, Kosovo*, Poland, Romania, and Slovenia, which variously raise concern over the use of accelerated legislative procedures, the weakened control by parliament and courts and limited consultation.

* All reference to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

15. For further information, see <https://www.ohchr.org/EN/Countries/NHRI/Pages/NHRIS-and-Covid-19.aspx>.

hate speech, discrimination and stigmatization against minority groups, especially Roma communities, also continue to be reported throughout the crisis.

RESOURCES

EQUINET created an online database including data collected from its National Equality Body (NEB) members on their responses to the Covid-19 crisis: it helps to trace some of the equality concerns deriving from the Covid-19 crisis. The data may be searched by country, type of information and ground of discrimination: <https://equineteurope.org/covid-19-response/#data>.

The European Network of National Human Rights Institutions (ENNHRI) provided examples of NHRIs' responses to Covid-19: http://ennhri.org/covid-19/#here_is_how

Another important role of non-judicial human rights or Equality Bodies is advising government and parliament on the compliance of Covid-19 related measures with international human rights norms. In the Netherlands for example, the Institute for Human Rights was called upon to assess the government's proposals on the Covid app and provided guidance to ensure that the app was not discriminatory or in breach of human rights¹⁶.

While the management of the Covid-19 crisis has brought human rights, including minority rights, to the forefront, some have also noted that human rights issues have often been raised only by those who are dealing professionally with them. If the need for a differentiated approach in dealing with certain groups or the principle of indirect discrimination is well understood among human rights institutions or experts, it may not be so among other layers of society, including those dealing with health emergencies¹⁷.

Times of crisis are particularly challenging times for citizens to exercise judgement. With the fear provoked by the spread (and now possible resurgence) of infections, citizens are more inclined to look for authorities' guidance, enabling politicians to call for obedience rather than awareness or reflection on the human rights implications of their measures¹⁸. Warfare rhetoric used by high-level politicians or international personalities in the context of the Covid-19 crisis may also have contributed to reinforcing fear and anxiety.

16. See <https://mensenrechten.nl/nl/nieuws/college-voor-de-rechten-van-de-mens-adviseert-over-randvoorwaarden-corona-apps> (in Dutch).

17. For an example, see <https://menneskeret.dk/nyheder/debat-etniske-minoriteter-boer-sikres-bedre-corona> (in Danish).

18. <https://theconversation.com/war-metaphors-used-for-covid-19-are-compelling-but-also-dangerous-135406>.

In many respects, the Covid-19 crisis can be seen as a test of the level of vigilance against and human rights resilience to far-reaching measures that may abuse people's fundamental rights. While that awareness during Covid-19 may be further evaluated, there is also scope to bridge the gap in knowledge about human rights between different layers of society and, in the current circumstances of a health crisis, between health professionals and human rights professionals in particular.

Recommendation 2: In times of crisis, Equality Bodies and National Human Rights Institutions have a specific role to play as guarantors of respect for human rights and of maintaining a human rights culture. Such institutions must be fully independent and provided with sufficient staff and budget (as set out in [ECRI General Policy Recommendation No. 2 \(revised\) on Equality Bodies to combat racism and intolerance at national level](#)).

2.2. Good governance

The crisis has placed governments at the forefront of crisis management and has put governance capabilities to the test, at all levels of government. Local and regional authorities often have competences that are critical for the management of the crisis and are also important actors in the contextualization and implementation of the lockdown measures. Since responsibilities are shared among levels of government, co-operation between national and subnational levels of government is key to ensure that the right balance is struck in addressing the health, economic and social challenges raised by the pandemic.

As inequalities amplify the challenge of managing the rapid spread of Covid-19, governments have to ensure that the situation of the entire population is addressed, including more vulnerable groups. They have to do so under immense pressure to act swiftly and in a context of high uncertainty, with ever-changing information about the virus. They have also to maintain the trust of their population in their response in order to ensure compliance without resorting to unnecessary and socially damaging or costly coercion. Trust within the government and between different layers of governance is therefore important in ensuring an effective response and implementation¹⁹.

Participatory forms of decision-making that proactively reach out to communities are a key component of good governance. They are also key in times of crisis:

19. See OECD, Trust in government, policy effectiveness and the governance agenda (2013) https://www.oecd-ilibrary.org/docserver/gov_glance-2013-6-en.pdf?expires=1593163600&id=id&accname=guest&checksum=50789C7060E5F173139AB143A1D77EBC.

how far have governments gone in reaching out to all sections of the population, irrespective of the cultural, social, linguistic, ethnic and religious differences and background? What role have consultation mechanisms and minorities' cultural autonomies played? Given the strong territorial dimension of the crisis, how did national and subnational levels of government co-ordinate the crisis response in a way that takes into account minority groups and other vulnerable communities? And finally, how did the crisis affect intercultural dialogue with its emphasis on cross-cultural contacts, mutual understanding, and inter-communal solidarity? The following provides some insight into these questions.

The Covid-19 crisis has underlined the importance of being able to rely on genuinely representative institutions or mechanisms to have an understanding of the specific challenges faced by communities, and reaching out to them on measures. While some States have indicated relying principally on State structures, with information being channeled to a centralized authority at national level, many have tried to reach out to communities and civil society. A variety of approaches for doing so are listed below:

2.2.1. Reaching out to the communities: consultation and participation

Use of existing consultation mechanisms and role of mediators

Many of the States' replies referred to existing consultation mechanisms or interfaces in place. These usually involve the dedicated government office or sector dealing with minority communities and representatives of these communities.

Consultative councils attached to governmental bodies where they exist have been called to identify the needs and concerns of their communities, whether these be access to water, education or other socio-economic issues. This is frequently referred to with regard to minorities and Roma communities in particular (see for example Czech Republic, Slovakia, Serbia). In Romania, for example, the engagement of Roma representatives allowed for an early warning/reporting mechanism to be set up by the National Roma Agency. Such mechanisms were also mentioned with regard to the LGBTI community (for example, Malta with its LGBTI Consultative Council, an advisory body to the government). In Iceland, where a task force exists to maintain services for vulnerable groups, the Ministry of Social Affairs is now working towards establishing a specific advisory body for migrants and refugees in order to consolidate advice and information on these groups.

In some States, *bodies of non-territorial or cultural autonomy* have been delegated substantial competences in the field of education and media. State authorities have reported being in liaison with them (for example, in Hungary

with the National Roma Self-Government). In Serbia, national minority councils have provided support with regard to the delivery of education in minority languages (see Chapter III.4).

Further, *the role of Roma mediators*, where they exist, has often been underscored as being key resource persons. Often Roma themselves and speaking Romani, they have ensured continuous and effective communication and helped greatly in the delivery of social and educational services (for example in Greece, Latvia, North Macedonia, Romania).

Co-operation with civil society

Overall, the importance of co-operation with civil society in the response to Covid-19 has been formally underscored by many States in their replies, as providing real-time feedback on the issues faced on the ground by vulnerable communities.

Some countries reported having dedicated additional resources for NGOs to help disseminate information to the targeted communities (Norway, for example, with regard to migrant communities), or to get information on the impact of Covid-19 on specific communities (Belgium on LGBTI communities, Ireland) or provide support to these communities (France and Sweden on LGBTI communities). Other countries have been reported to have increased funding for NGOs more generally (for example North Macedonia with no reference to communities²⁰), although in some other cases the opposite was observed²¹.

NGOs may provide guidance and expertise for decision-makers: for example, the municipality of Oslo was reported to organise weekly digital meetings with minority-based NGOs to understand the needs and actions to address minorities' situations. Some examples were reported of certain health services seeking LGBTI NGOs' guidance (Portugal).

While a positive approach to civil society was noted in some countries, LGBTI NGOs in other countries have alerted that this crisis has resulted in 'decreased access to policy-makers'. Engagement on LGBTI human rights has been paused, which is seen as worrying in view of the already high vulnerability of these communities in the countries in question²². As was pointed out by the Conference of INGOs of the Council of Europe, civil society organisations have at times expressed dissatisfaction with the responsiveness of government and

20. See ILGA report.

21. See ENNHRI report (Croatia, UK).

22. See ILGA report, COVID-19 impacts on LGBTI communities in Europe and Central Asia: A rapid assessment report 19 June 2020, <https://www.ilga-europe.org/sites/default/files/covid19-lgbti-assessment-2020.pdf>.

deplored the fact that they became themselves service providers, relying on their already limited resources.

Investigation measures on the impact of Covid-19 on specific communities

Proactive approaches have been undertaken in order to get information on the impact of Covid-19 among specific communities.

At national level, some States have reported that surveys or research have been launched in order to identify communities at risk: for example, in Latvia, Romania or in Spain with regard to the Roma community) and in the United Kingdom with regard to ethnic minority communities²³. In Germany, a study is currently being conducted on the changed healthcare situation of trans people during the Covid-19 pandemic²⁴. At local levels, some municipalities referred to the launch of specific local enquiries in addition to participating in nationwide research (see for example the city of Bradford study²⁵).

Some States have established specific government subgroups as part of their 'task force' or Covid-19 advisory group to monitor and advise on the impact of the pandemic on 'vulnerable groups' (Belgium on migrants and refugees, Ireland on Traveller and Roma communities).

Pragmatic use of existing opportunities

Some ongoing projects and policy frameworks have been used to bridge information and communication gaps in times of crisis. For example, in Latvia, an internationally funded project has been adjusted with a view to seeking information on migrant communities; in Italy, an anti-trafficking project run by the city of Reggio Emilia was reshaped to reach out to the trans community. Interactions with communities have also taken place as part of implementation of national (integration) strategies concerning specific groups, such as in Ireland *vis-à-vis* LGBTI, Roma and migrant communities.

Recommendation 3: Flexibility should be ensured in project funding that would enable reorientation of activities towards support for disadvantaged groups during emergencies and mitigation of the impact.

23. <https://www.gov.uk/government/publications/covid-19-understanding-the-impact-on-bame-communities>.

24. See the survey conducted under the direction of the University Medical Center Hamburg-Eppendorf: <https://transcarecovid-19.com/english/>.

25. See Born in Bradford (BiB) study investigating the impacts of Covid-19 among Bradford's population. As with other cities in the UK, Bradford also participated in the Public Health England report on Disparities in the risk and outcome of Covid-19: <https://borninbradford.nhs.uk/news-events/news/bib-covid-19-study/>.

Engaging reflection on effectiveness

The above is limited to providing some insight into the mechanisms used to ensure consultation and participation. Where such mechanisms exist, they have reportedly been mobilised in the response to the crisis. As such the use of existing consultation mechanisms is a first step but it cannot be taken as an indicator as to whether vulnerable communities' voices have been heard. Issues of effectiveness may best be assessed jointly with the communities concerned: to what extent has the information conveyed triggered an adequate response? To what extent have governmental task forces dealing with the Covid-19 crisis incorporated civil-society and communities' concerns?

Some NGOs and preliminary research have been critical in this respect²⁶. A more in-depth analysis of how civil society and communities had effective access to decision-making on Covid-19 task forces (and more generally on crisis task forces) could bring more information in this regard.

On a positive note, the crisis also helped some States to reach out to groups whose situation had not been brought to the attention of governmental authorities under normal circumstances (Switzerland with regard to some groups among the Traveller community).

Recommendation 4: In order to promote trust and legitimacy in their decision-making during a crisis, governments should reinforce dynamic dialogue with minority communities and civil society organisations. This includes soliciting information and ensuring effective and active participatory mechanisms concerning vulnerable and disadvantaged groups.

Accessible information: language and dissemination

Overall, a large number of States have reported substantial efforts to translate information and advice on Covid-19 into the minority and migrant languages of persons present on their territories. In some countries, such efforts have been stimulated by the activism of minority communities themselves or helped by the NHRI and EB (see *inter alia* in Armenia, Croatia, Georgia, Serbia, Slovakia). Concern was raised in one instance on the lack of translation into a second official language²⁷.

From a minority perspective, a survey by the Federal Union of European Nationalities (FUEN) indicated that key general information and health-related information on Covid-19 was available in the language of minority communities

26. https://www.researchgate.net/publication/341165033_Governance_of_the_Covid-19_response_a_call_for_more_inclusive_and_transparent_decision-making.

27. See ENNHRI report: in Kosovo*, information on the crisis and measures adopted were only published in one of the country's official languages. See page 6.

and language groups in slightly more than half of the cases (52%), provided most often by regional governments, minority organisations and the minority press²⁸.

Some States acknowledged that reaching out to communities in minority and migrant languages may have been initially slow (Denmark, Sweden and Netherlands, for example). In some cases, the lack of translation into regional languages reinforced a sense of alienation and neglect and was compensated by the community's own efforts²⁹. It is however positive that adjustments were made over time, including with regard to finding ways to effectively reach out to the communities concerned.

In this regard, the role of local authorities has been key in efforts to reach out to communities³⁰. Some local administrations have been developing proactive ways to inform, reassure and communicate with the public also in languages other than the official language(s). Some have launched campaign activities with the help of civil society (see for example Paris, France³¹), in an effort to support existing information made available at central level. Proactive efforts to engage leaders of the communities or cultural mediators have also been made in guiding their communities on Covid-19 safety measures, as in Ravenna, Italy³².

Overall, Covid-19 has reinforced digital communication. In some instances, specific measures have been taken to ensure that this does not exclude vulnerable populations. In Finland, for example, municipalities have been entrusted with the task of providing support to communities with inadequate language skills and familiarity with web services. In Georgia, information was provided through TV broadcasting, the most used source of information, while critical information was shared through SMS messages.

In some States, religious leaders of minority communities have also had an important role in guiding their communities on safe religious practices, especially at times of important religious celebration such as Ramadan.

28. [https://www.fuen.org/assets/upload/editor/docs/doc_yetX52iY_DO%20you%20speak%20COVID-19%20\(final\).pdf](https://www.fuen.org/assets/upload/editor/docs/doc_yetX52iY_DO%20you%20speak%20COVID-19%20(final).pdf).

29. See the submission by Kontseilua (Council of Social Organisations of the Basque Language) on Basque Language Discrimination Cases submitted to the Committee of Experts of the European Language Charter.

30. The FUEN survey notes that in the case of health-related information, local and regional governments are more active.

31. The City of Paris and the French Department of Seine-Saint-Denis have launched, in partnership with local associations, an inclusive and multilingual communication campaign targeting the communities which do not easily have access to official sources of information. It will be available in 25 different languages: <https://www.paris.fr/pages/covid-19-paris-et-le-departement-de-la-seine-saint-denis-lancent-une-campagne-d-information-multilingue-et-inclusive-7736>.

32. <http://www.integrazionemigranti.gov.it/Attualita/Notizie/Pagine/Emergenza-Nuovo-Coronavirus-.aspx>.

2.2.2. Territorial dimension

As noted by the OECD, the global Covid-19 crisis has a strong territorial dimension³³. Its impact differs substantially from country to country but also across regions and municipalities. Within cities themselves, some neighborhoods are more affected than others: some data indicate that these are often areas with lower incomes and higher population density, such as Northern Stockholm or Seine-Saint-Denis in the Paris region. The following review highlights some aspects of local government involvement as well as aspects of co-ordination between the different levels of government.

Recommendation 5: Information material regarding crisis-related measures should target the whole population. Consequently, it should be made available in minority languages and languages used by migrants, and by means that will reach also those who are not fully literate or do not have on-line access. Community leaders should be consulted and involved in the development of safety measures and strategies.

Local authorities' role

Local and regional authorities are responsible for critical aspects of containment measures, healthcare and social services, as well as economic development. They are also closer to citizens' needs and may be better placed to make a contextual evaluation of the adequacy of the lockdown measures as well as to evaluate and remedy gaps in pandemic protection, especially regarding vulnerable communities.

Large urban cities and regions in particular have been put at the frontline of Covid-19 crisis management in its multiple dimensions. This includes taking account of vulnerable communities. Data from the OECD show that nearly two-thirds of migrants settle in mostly metropolitan, densely populated regions. Reaching out to migrant communities, including in their languages, has therefore been key (see above). Beyond disseminating information on Covid-19, cities have been confronted with very practical issues of mitigating the impact of the crisis on vulnerable communities. These range across mobilizing social and community services for disadvantaged groups, ensuring that the most vulnerable are not left behind in employment compensation measures or return to employment programmes, adjusting housing services to protect those living in at-risk conditions and maintaining access to education (see Chapter II for more details on selected areas).

33. See OECD, https://read.oecd-ilibrary.org/view/?ref=128_128287-5agkkojaaa&title=The-territorial-impact-of-covid-19-managing-the-crisis-across-levels-of-government.

Initiatives by municipalities taking part in the Council of Europe's Intercultural Cities programme (ICC)³⁴ offer a range of examples of positive engagement of municipal authorities in tackling the crisis in relation to vulnerable groups. These initiatives come against a background of strong commitment to the multicultural character of their city. For example, in Lublin, Poland, the municipal authorities reacted quickly to ensure that migrants could obtain a social-security number, the lack of which would have excluded them from social services delivered at State or local level. This includes basic services such as purchasing medication in a pharmacy³⁵. In Leeds, United Kingdom, the municipal authorities set up a network to monitor the impact of Covid-19 on communities, including refugees, asylum-seekers and LGBT communities, and identify their practical and financial needs.

Measures were also taken at local level to create extra space for Traveller communities in order to maintain regulations on social distancing (France, Ireland, Switzerland, for example). In this respect, the crisis has accelerated the adoption of much-needed measures. These remain however emergency measures taken in times of crisis. The extent to which positive intervention in improving communities' housing and other circumstances will be maintained in post-Covid times remains to be seen.

Recommendation 6: Local and municipal authorities should take active measures for crisis-related social services, such as housing, health and employment benefits, and ensure that they reach members of vulnerable groups. The adoption of measures known to be needed before the crisis, such as additional space and halting sites for Travellers, should be maintained and not rolled back once the crisis is over.

Multi-level and multi-stakeholder governance

As highlighted above, some local and regional authorities have taken an active role in dealing with the diversity and inclusion dimensions of the Covid-19 crisis. In some other circumstances, States' response to Covid-19 led the central government to recentralize power and withdraw certain resources from local administrations. Discussions have been held and comparisons have been made as to whether a centralized or decentralized mode of government has been more efficient in dealing with the crisis but these have been inconclusive. In

34. See special webpage on ICC and Covid-19: [https://www.coe.int/en/web/interculturalcities/covid-19-special-page#{%2262433518%22:\[0\]}](https://www.coe.int/en/web/interculturalcities/covid-19-special-page#{%2262433518%22:[0]}).

35. See the experience of Lublin in supporting migrants during the pandemic https://www.themayor.eu/en/how-to-support-foreigners-in-a-pandemic-lessons-from-lublin?fbclid=IwAR1aP25ZhyXQW4cgQ9tx_LgXf1ySfZH_0XEPFs6132FgvATximXmB1YzoZ0.

delivering a quality response, co-ordination mechanisms between different levels of government have proven essential. Robust co-ordination between all actors responsible at central and regional levels is not only important during the crisis but also for the recovery phase. Some States have mechanisms in place (see examples below). It will be important to see how issues of anti-discrimination, diversity and inclusion will be addressed by such mechanisms as part of future regional or local recovery plans.

Examples:

- ▶ Lithuania: a mechanism of co-operation between national and local institutions was established with a focus on equal opportunities;
- ▶ Norway established a working group with members from central government ministries and the Norwegian Association of Local and Regional Authorities (KS) to consider the impact of Covid-19 on local-government revenues and expenditure;
- ▶ In Portugal, the government established a contact line for municipalities to answer questions from other municipalities;
- ▶ In Spain, the Conference of Presidents bringing together government and the respective governments of the Autonomous Communities harmonises communication on containment measures and co-ordinates resources based on territorial needs.

Cross-border co-operation and national minorities

Hasty moves by some States to shut their borders to non-citizens in order to contain the spread of the virus not only challenged globalization and its reliance on free movement of services, people and goods. They also had a negative impact on minorities living in cross-border regions in their ability to maintain contacts and cultural and linguistic activities with their kin-states³⁶. As States are now gradually reopening their borders, however, some positive co-operation was noted: regional associations in Southern Schleswig together with representatives of the German minority in Denmark are now working towards ensuring a special arrangement for those living in the Danish-German border region³⁷.

36. See the relevant provisions of the FCNM: Article 17 para 1: The Parties undertake not to interfere with the right of persons belonging to national minorities to establish and maintain free and peaceful contacts across frontiers with persons lawfully staying in other States, in particular those with whom they share an ethnic, cultural, linguistic or religious identity, or a common cultural heritage' and Article 18 para. 2: 'Where relevant, the Parties shall take measures to encourage trans-frontier co-operation'.

37. See FUEN statement: <https://www.fuen.org/en/article/Do-You-Speak-Corona-Border-closures-were-a-major-concern-of-the-Danish-minority-in-Germany>.



3. MAIN CHALLENGES IN KEY AREAS FOR STATE INTERVENTION

// Covid-19 poses great challenges to the whole society: it may affect everyone and does not distinguish between people". Commentaries on the crisis often refer to the fact that the virus does not discriminate. But are we really 'all in it together', as it is sometimes rhetorically emphasised? Preliminary reports and some data in selected countries suggest that this may well be far from reality, at least for the vulnerable communities covered in this report.

If the virus does not discriminate among people, it has a devastating impact on some sections of the population, such as older persons and those with underlying medical conditions. The crisis also aggravates the vulnerability of certain sections of the population with lower socio-economic status, which often intersects with minority status in many countries³⁸.

In fact, the crisis did expose the weaknesses in States' delivery of public services and the structural inequalities that impede access to them. Such inequalities raise human rights issues and highlight States' obligations to address them.

In line with the CDADI mandate, this chapter discusses the anti-discrimination challenges posed by the Covid-19 crisis for persons belonging to national minorities, migrants and LGBTI communities. It also reviews the measures taken by States to mitigate such challenges in some key areas.

3.1. Anti-discrimination and equality

A picture has slowly been emerging about the disproportionate impact of Covid-19 on certain vulnerable or minority groups. The situation varies according to each context as well as within the community concerned. The crisis has not affected all minority groups in the same way but rather has had an asymmetric impact, with groups that were already marginalised before the crisis becoming even more disenfranchised.

38. See for example, as far as the LGBTI community is concerned, research undertaken under the auspices of the OECD on the socio-economic gap between LGBTI and non-LGBTI. <https://www.oecd.org/els/soc/LGBTI-in-OECD-Countries-A-Review-Valfort-2017.pdf>.

A series of issues arise when addressing the anti-discrimination dimension of States' responses to the Covid-19 pandemic.

The first dimension concerns measures that could constitute direct discrimination: this would be the case for measures intentionally targeting certain sections of the population under the justification that they are necessary for the protection of public health or due to a public emergency 'threatening the life of the nation'³⁹. They would however not satisfy the tests of legality and proportionality, as required not to be considered discriminatory. Concerns in this respect have been raised with regard to some measures targeting the Roma community (see also Chapter III.5, security and law enforcement).

The second question relates to the extent to which the measures taken, although targeting the population at large, have had a disproportionate impact on certain sections of the population. In other words, do the measures taken indirectly discriminate against certain communities in practice and have measures been taken to redress such a situation?

The third issue concerns cases of multiple or intersectional discrimination. The Covid-19 crisis has shed light on how different diversities may be interconnected. It has also emphasised the need to move beyond thinking about any one group as a homogeneous group or any one factor as a single factor but to take into account multiple and intersecting forms of discrimination and inequalities when designing policy measures. For example, minority women in particular may face intersecting challenges due to gender discrimination and inequality; they may be disproportionately affected by job insecurity as they tend to be highly represented in the informal job sector and face disproportionate childcare responsibilities due to school closures.

The fourth issue relates to the availability of disaggregated data to design targeted measures to address situations of inequality. The Council of Europe's monitoring bodies have long called on States to inform and base their equality and inclusion policies on reliable disaggregated data relating to the number and situation of persons belonging to national minorities⁴⁰ and other disad-

39. For example, Bulgaria's National Operational Headquarters, in managing the national response to the pandemic, declared Roma settlements as Covid-19 hotspots and started increased testing of residents living in them, using drones with thermal sensors to remotely take the temperature of residents in Roma settlements and monitor their movements.

40. See, in addition to specific opinions or reports on individual States, the Advisory Committee Fourth Commentary: the FCNM, a Key Tool to Managing Diversity through Minority Rights (2016), <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806a4811> or ECRI General Policy Recommendation No. 14 on Combating racism and racial discrimination in employment (2012) <https://rm.coe.int/ecri-general-policy-recommendation-no-14-on-combating-racism-and-racia/16808b5afc>.

vantaged groups. They have highlighted that such data gathering should be made in full compliance with data-protection rules and consistent with the principles of confidentiality, informed consent and individuals' voluntary self-identification. Most States are however reluctant to acknowledge the need to collect disaggregated data and this was repeated in the replies to the questionnaire (see also under Chapter III.6).

Disaggregated data on the impact of Covid-19 on certain groups have however been an asset for those States that collect such data to establish and understand the disproportionate impact of Covid-19 on certain groups and take appropriate measures to mitigate the situation. In the United Kingdom in particular, emerging evidence of an association between ethnicity and adverse Covid-19 health outcomes prompted inquiries to be launched. Public Health England (PHE) found that while age, occupation, region or sex were risk factors, so was belonging to a minority ethnic group. The PHE report highlighted that members of black ethnic groups were most likely to be diagnosed with Covid-19; the risk of death among people of Bangladeshi ethnicity was twice that of people of white British ethnicity, while people of Chinese, Indian, Pakistani, other Asian, Caribbean and other black ethnicity had a 10-50% higher risk of death than white British people⁴¹. The evidence gathered through this process prompted the National Health Service to develop a plan with individualized risk assessment for each ethnic-minority health worker employee, to determine whether they could continue frontline work. Furthermore, the PHE findings are to form the basis of future policies to be endorsed by the Equalities Minister⁴².

Other States have indicated that information on the situation of specific groups such as migrants or ethnic minorities derives from interpretation of socio-demographic and geographic data.

- ▶ Norway, for example, explained that authorities relied on registrations of place of living and country of birth, which was then combined with data on the share of immigrants/minorities in municipalities/districts and on reported observations from hospitals and primary health clinics.
- ▶ In France, the Inter-Ministerial Delegation for Accommodation and Access to Housing has drawn up statistics comparing the number of cases of Covid-19 in settlements/camps and the number in the general population.

41. see the PHE findings released on 2 June 2020: <https://www.gov.uk/government/publications/covid-19-review-of-disparities-in-risks-and-outcomes>.

42. <https://www.gov.uk/government/publications/covid-19-review-of-disparities-in-risks-and-outcomes> and <https://www.gov.uk/government/news/next-steps-for-work-on-covid-19-disparities-announced>.

- ▶ In the Netherlands, research was carried out on the impact of Covid-19 including on specific groups or communities referred to as ‘people with a non-western migration background’⁴³.

It is also positive that some countries have indicated their intention to further assess the differential impacts of Covid-19 on certain groups. Such data will be needed to feed into an intersectionality-informed analysis and policy response for those who are most at risk and disproportionately affected by this pandemic. For example, in Malta, consideration is being given to including specific questions in the upcoming 2020 national census to determine more clearly the impact of Covid-19 on migrant communities. In Ireland, the government tasked an NGO to provide research on the impact of the pandemic and of public-health measures on the wellbeing of LGBTI individuals and young people.

Recommendation 7: In order to provide a basis for establishing the impact of the pandemic regarding anti-discrimination and equality, it is essential that governments collect disaggregated data relating to the number and situation of persons belonging to various minority and disadvantaged groups.

3.2. Hate speech

3.2.1. The ethnicization of the pandemic and homophobic discourse

History has shown that, in times of crisis, minority communities are often turned into scapegoats and are subjected to racist, exclusionary and often violent discourses and practices. The crisis caused by the Covid-19 pandemic is no different.

The blaming of some groups for the spread of the virus – the ‘other’, whether a minority or a foreigner – has been noted as a worldwide phenomenon⁴⁴. Discriminatory attacks targeting persons perceived as of Chinese origin have been widely reported, especially during the first phase of the outbreak. They have spilled over to some other minority groups, with the groups being targeted varying according to the national context, including pre-Covid-19 patterns of intolerance. The Roma community in particular has been targeted by hate

43. See research from the Dutch Central Bureau for Statistics (CBS): https://www.cbs.nl/?sc_itemid=7dfe75ea-e638-4752-992e-3573e77c2227&sc_lang=nl-nl (in Dutch).

44. See UNESCO, COVID-19-related discrimination and stigma: a global phenomenon? 25 May 2020, <https://en.unesco.org/news/covid-19-related-discrimination-and-stigma-global-phenomenon>.

speech in many different places across the Council of Europe area, exposing the deeply rooted anti-Roma sentiments existing in society: such cases have been reported to Equality Bodies⁴⁵ and NGOs⁴⁶ and noted with concern by international human rights bodies⁴⁷. In other contexts, some minority groups living compactly in areas which have been subject to a strict lockdown have been reported to be the target of hateful on-line comments⁴⁸.

Certain political and religious leaders have been particularly active in encouraging intolerance, racism or xenophobia. Extreme-right political parties and groups in Europe have been reported to exploit the Covid-19 crisis for political purposes and advance their anti-immigrant, ultra-nationalist agendas, using at times antisemitic and xenophobic conspiracy theories to this end⁴⁹. In some countries, anti-Roma sentiments have been frequently stoked by politicians⁵⁰, including politicians belonging to parties in the governmental coalition⁵¹. Cases

45. See for examples of hate speech complaints received by Equality Bodies: <https://equine-turope.org/covid-19-response/#data>.

46. See the European Roma Grassroots Organisations Network (ERGO), http://ergonetw.org/wp-content/uploads/2020/04/ERGO-input_impact-section-in-specific-MS.pdf. See also the ENAR map and its section on hate speech https://www.enar-eu.org/IMG/pdf/key_findings_of_the_map.pdf.

47. See for example, the Council of Europe Commissioner for Human Rights: <https://www.coe.int/en/web/commissioner/-/governments-must-ensure-equal-protection-and-care-for-roma-and-travellers-during-the-covid-19-crisis>.

48. See the statement of the Public Defender of Georgia: The Public Defender of Georgia and the Councils of National Minorities and Religions of the Public Defender show support to the residents of Marneuli and Bolnisi municipalities and express concern about the xenophobic attitude of the certain part of the public towards ethnically Azerbaijani citizens following the imposition of a lockdown on aforementioned territories in connection with the spread of coronavirus. <http://ombudsman.ge/eng/akhali-ambebi/gantskhadebamarneulis-da-bolnisis-munitsipalitetebshi-mtskhovrebi-adamianebis-mkhardasacherad>

49. There are numerous sources reporting on political leaders statements in the Covid-19 contexts: see for example: Human Rights Watch, Covid-19 Fueling Anti-Asian Racism and Xenophobia Worldwide: <https://www.hrw.org/news/2020/05/12/covid-19-fueling-anti-asian-racism-and-xenophobia-worldwide>; see also for some international reactions to hate speech: United Nations Special Rapporteur on Contemporary Forms of Racism and United Nations Special Rapporteur on Minorities, 'Stop hate speech and racial discrimination against the Roma minority', 13 May 2020, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25881&LangID=E>. See also Council of Europe Commissioner for Human Rights statement <https://www.coe.int/en/web/commissioner/-/governments-must-ensure-equal-protection-and-care-for-roma-and-travellers-during-the-covid-19-crisis>. See also for a briefing on disinformation and conspiracy theories: <https://www.isdglobal.org/wp-content/uploads/2020/06/COVID-19-Briefing-01-Institute-for-Strategic-Dialogue-27th-March-2020.pdf>.

50. See for example in Slovakia: <https://www.facebook.com/jozef.simko.125/posts/1418257628335103> (in Slovak).

51. See Amnesty International report: <https://www.amnesty.org/en/latest/news/2020/06/europe-covid19-lockdowns-expose-racial-bias-and-discrimination-within-police/>.

of hate speech in relation to the diaspora have been routinely noted in some polarized national contexts, with officials in press briefings stigmatizing the ‘foreign’ cases of Covid-19 as opposed to the ‘internal’ ones⁵².

Covid-19 has also been used by some religious leaders to spread hateful comments about LGBTI people, sometimes backed by the highest public official of the country⁵³. Such statements have been strongly condemned by the international community⁵⁴.

3.2.2. The role of social media

On-line hate speech has been very much in focus during the Covid-19 crisis, with some describing it as a rampant phenomenon. While some efforts have been made by social-media companies to address disinformation on Covid-19, many conspiracy theories have been hosted on social-media platforms. Anti-migrant and far-right networks have been exploiting the Covid-19 crisis to spread disinformation targeting migrants, refugees and other vulnerable populations on-line (as well as off-line). Covid-19 has brought to the fore concerns, raised in recent reports by the UN Special Rapporteur on Freedom of Expression and Access to Information, that these social-media companies deal with issues such as hate speech almost entirely without reference to the human rights implications⁵⁵.

3.2.3. Countering hate speech

Even though statements taking a stand against blaming minorities for the spread of the pandemic may not have been frequent in certain national contexts, it is important to mention those that have been reported: for example, in Bulgaria, the head of Bulgaria’s national emergency agency repeatedly stated that ethnicity was not a factor when he made decisions about patients and public health measures. In the Italian city of Turin, a joint press conference between the Mayor and the Chinese community leaders was held as early as February 2020 to counter Covid-19 related stereotypes and discrimination against the Chinese community.

52. See for example, <https://promolex.md/17599-pandemic-fires-hate-speech-in-moldova-2/?lang=en>.

53. See the ILGA report abovementioned, p.5: ILGA-Europe received reports of religious leaders blaming LGBTI communities for the pandemic from Bulgaria, Germany, Georgia, Italy, Moldova, Montenegro, North Macedonia, Poland, Russia, Turkey and Ukraine.

54. <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25884&LangID=E>; see also the Council of Europe Commissioner for Human Rights Statement on LGBTI and Covid-19 here: <https://www.coe.int/en/web/commissioner/-/covid-19-the-suffering-and-resilience-of-lgbt-persons-must-be-visible-and-inform-the-actions-of-states>.

55. See <https://www.ohchr.org/EN/Issues/FreedomOpinion/Pages/Annual.aspx>.

To counter what has been described by the UN Secretary General as a ‘tsunami of hate and xenophobia, scapegoating and scare-mongering’⁵⁶ in relation to the Covid-19 pandemic, member States have relied on existing legal frameworks for combating hate speech and hate crime. Equality Bodies have been in the frontline of receiving complaints. In Romania, for example, the National Agency on Roma filed a complaint with the National Council for Combating Discrimination against a public official from the Prefecture of Timis County for ‘prejudicial public speech’ stigmatizing the Roma community as spreading contamination. In Spain, the Council for the Elimination of Ethnic or Racial Discrimination has used its position as a trusted informant on social media to report many instances of anti-Roma hate speech related to the Covid-19 crisis. It has also worked with verification platforms to counter the Covid-19 related misinformation spread by WhatsApp groups about the Roma community (see, for other examples of specific monitoring on this issue, Belgium, Croatia, Germany, Malta, Slovakia).

Civil society has also taken an active role: for example, the Dutch anti-discrimination organisation Art.1 Midden Nederland has launched the campaign “#Jijtelmee” (You Matter), calling on society to support those who face insults, discrimination and unequal opportunities during the Covid-19 pandemic⁵⁷.

Overall, Covid-related hate speech comes against a background of increased hate speech in recent years in Council of Europe member States. It has also highlighted the need for States to bolster their national strategies and implement long-term actions based on human rights principles to prevent hate speech, in co-operation with media, independent human rights institutions and civil society.

Recommendation 8: In order to combat hate speech in general, and the upsurge caused by the pandemic in particular, governments should take guidance from [ECRI’s General Policy Recommendation No. 15 on Combating Hate Speech](#) and [UN guidance on addressing and countering Covid-19 related hate speech](#). Political leaders at all levels should set an example in publicly countering misinformation and promoting a culture of non-discrimination and tolerance.

56. <https://www.un.org/press/en/2020/sgsm20076.doc.htm>.

57. See the website of Art.1 Midden Nederland: <https://art1middenederland.nl/nieuws/212/campagne-jijtelmee-deel-ervaringen-en-blijf-discriminatie-melden-ook-nu>.

3.3. Violence against LGBTI persons

For a number of persons belonging to LGBTI communities, especially young persons, compliance with lockdown regulations meant returning home and potentially being confined in a hostile environment with family members who are unsupportive or do not accept their gender identity or sexual orientation. For background, the 2019 Eurobarometer⁵⁸ indicated that only 55% of Europeans would feel totally comfortable if their child was in a relationship with a person of the same sex, dropping to 44% for an intersex person and 43% for a trans person.

Risks of domestic violence, physical and emotional abuse, as well as concerns for mental health, have therefore increased during the Covid-19 crisis. Reporting on situations of abuse or requesting help has been complicated by the lockdown situation since the victims could be living in proximity to their abusers. This has left many LGBTI persons with an increased sense of isolation. Multiple reports of increased LGBTI exposure to violence in the context of the Covid-19 lockdown have been signaled across Council of Europe member States. In some countries, calls to emergency hotlines, including support services for suicide prevention, have been reported as dramatically surging (see for example Belgium, Cyprus, France, Italy, Montenegro, Serbia, with a particular increase during curfew in the latter case⁵⁹, United Kingdom⁶⁰).

LGBTI NGOs have been working intensively to provide support and basic help to persons from the LGBTI community in need, with psycho-social support services moved to on-line platforms. While the support of NGOs has been essential during this period, more structured engagement by the State to ensure the continuity of the work has been sought by some. This includes examining issues of LGBTI communities' inclusion within the scope of measures designed to address gender-based violence.

Recommendation 9: The pandemic has demonstrated a need in a number of States for better protection of the LGBTI populations against discrimination and violence. Inter alia, LGBTI persons should be included or reinforced within the scope of domestic violence protection policies.

58. https://ec.europa.eu/info/sites/info/files/ebs_493_data_fact_lgbti_eu_en-1.pdf.

59. See for some more details: <https://www.ilga-europe.org/sites/default/files/covid19-lgbti-assessment-2020.pdf>.

60. See for example, in the UK: <https://www.bbc.com/news/health-53223765>.

3.4. Access to public services: health, housing, education

In most cases, the Covid-19 crisis has magnified already existing deficits in access to health, housing, education and other public services among vulnerable groups.

3.4.1. Health

Health insurance for vulnerable groups (Roma and migrant communities): Persons belonging to vulnerable groups with no health insurance cover, such as Roma or migrant communities, have been put in an extremely vulnerable situation during the Covid-19 crisis. This is especially so as many of these communities are exposed to poor health conditions. In some countries, testing for Covid-19 is conditional upon health insurance coverage, *de facto* excluding a significant proportion of these communities.

This risk has been addressed in some cases: the city of Milan, for example, implemented large-scale Covid-19 and oxygen-saturation testing in the Roma camps on its territory, regardless of insurance coverage. In some countries, such as Serbia, health mediators assisted by international agencies have been active in providing ventilators and protective equipment for medical professionals, as well as monitoring the impact of the health crisis on families with children in Roma settlements. In Greece, measures were announced to issue temporary insurance and healthcare numbers to asylum-seekers, granting them free access to healthcare and medicines as from mid-April⁶¹. In Portugal, the decision was made to treat all foreigners with pending residence applications as permanent residents until at least 1 July, to ensure their access to public services during the coronavirus outbreak.

Access to health information and communication with health professionals: Substantial efforts to translate health information about Covid-19 into many languages have been made, utilizing a range of formats and engaging NGOs to help with communication (for instance, Belgium, Denmark, Ireland, Switzerland). A preliminary survey by FUEN found however that only about half of minority groups consulted had access to any information, including health information, about Covid-19 in their mother tongue.

In some cases, the adoption of positive measures for addressing the situation of vulnerable communities has been coupled with additional guidance

61. <https://help.unhcr.org/greece/coronavirus/>.

or recommendations to social services and health services, as in Spain⁶². In France, collaborative on-line platforms have been used to share experience and meet challenges faced by social workers in addressing the situation of Roma and Travellers in times of Covid-19⁶³ or to provide tools to overcome language barriers for the delivery of adequate medical treatment⁶⁴.

Deprioritization of treatments for LGBTI: The considerable pressure put on health services to deal with Covid-19 has often led to a prioritization of those with the most urgent care needs. In practice, this has negatively affected LGBTI persons in need of treatment, such as, hormonal treatment and gender-affirming treatments. These have reportedly been postponed, sometimes *sine die*. While such postponements may not as such be carried out on a discriminatory basis, Covid-19 has heightened the risk of discrimination against LGBTI patients, especially in places where healthcare discrimination on the basis of gender identity and sexual orientation is deeply rooted. On a positive note, consultation with LGBTI communities has helped to identify needs and remedy them: for example, Malta reported that consultation established that access to HIV treatment for non-Maltese citizens was a main issue, as they were not entitled to free healthcare and yet had to extend their stay in Malta due to travel restrictions.

Recommendation 10: Roma and other vulnerable groups with no health insurance should be given access to regular health services, both for their own benefit and in order to better control the spread of the virus.

3.4.2. Housing

Many Roma in Council of Europe member States continue to live in conditions which fall far below the minimum standards for adequate housing, with no access to tap water and overcrowded housing among other issues⁶⁵. In addition, many Travellers still face forced sedentarization policies or lack halting sites. During the pandemic, such conditions have posed direct health threats for these communities. Challenges were reported for the Traveller community to find proper halting sites following the Covid-19 restrictions. On a positive note, some countries have issued specific instructions or guidance for local

62. <http://www.fnmc.es/2020/03/31/documento-tecnico-de-recomendaciones-de-actuacion-de-los-servicios-sociales-ante-la-crisis-por-covid-19-en-asentamientos-segregados-y-barrios-altamente-vulnerables/>.

63. <https://www.idealco.fr/formation/temps-d-echanges-covid-19-gens-voyage-13-11515>.

64. See <http://www.traducmed.fr>.

65. See https://fra.europa.eu/sites/default/files/fra_uploads/fra-2018-anti-gypsyism-barrier-roma-inclusion_en.pdf, page 14.

authorities to ensure that additional sites were made available for Roma and Travellers (Ireland⁶⁶, Switzerland, France, the United Kingdom⁶⁷) in sanitary conditions and allowing for self-isolation. This report did not review information on how such guidance was implemented in practice.

Some municipalities have also reported measures adopted to protect local Roma populations by cleaning the facilities in and around Roma camps and providing free gloves, sanitizers, soaps and bottled water (Croatia, Greece, Italy,). Some countries were reported to provide some support for housing (Italy, Romania and Spain), including by suspending rent payments in halting sites (France). Evictions have been suspended in some countries, such as Germany, Hungary, Italy, Romania, Spain, United Kingdom⁶⁸. At local level, some municipalities across Europe have also taken a range of initiatives to provide housing solidarity⁶⁹.

While some of these measures may have alleviated the immediate sanitary concerns regarding vulnerable groups (and in some cases accelerated the adoption of measures that were long overdue), they also highlight the need to address the structural lack of proper housing and adequate housing conditions for vulnerable groups.

Recommendation 11: Sanitary conditions in and around Roma camps should be improved in order to help prevent the spread of the virus, including by ensuring fresh running water and waste disposal facilities. Evictions during any health pandemic or crisis should be suspended.

3.4.3. Education

With a few exceptions, most Council of Europe member States decided to close schools in order to contain the spread of the virus. As a result, many schools have switched to distance-learning tools during the time of lockdown, to maintain continuity in education. While such measures to adapt to new circumstances are laudable, they have posed additional challenges for children, especially

66. See the circular adopted issued by the Department of Housing asking local authorities to make arrangements to make Traveller' sites safer:

<https://www.paveepoint.ie/wp-content/uploads/2015/04/Screenshot-89.png>.

67. See the Guidance adopted on 30 April 2020: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/882564/COVID-19_-_mitigating_impacts_on_gypsy__traveller_communities.pdf.

68. See Roma in the Covid-19 Crisis: An Early Warning from Six EU Member States, Open society Roma Initiatives Office, <https://www.opensocietyfoundations.org/publications/roma-in-the-covid-19-crisis>.

69. <https://covidnews.euocities.eu/?s=housing&orderby=relevance&order=DESC>.

from socio-economically vulnerable families such as Roma and children from migrant families. They have also raised the issue of availability of education in minority languages.

The Covid-19 crisis has exacerbated the inequality in access to technology that already existed between communities according to their socio-economic status. There are also great variations between Council of Europe member States with regard to access to technology as well as between regions, with schools in remote rural areas or poor urban neighborhoods areas facing more challenging circumstances.

Research in some countries has shown that Roma households have significantly worse access to computers and technology needed for distance learning than non-Roma households⁷⁰. In Croatia, a survey among 65 elementary schools, conducted by the NGO REYN in co-operation with the Ministry of Science and Education between 31 March and 3 April 2020, found that in 30% of the schools around a third of Roma children did not regularly participate in distance education under the current Covid-19 circumstances⁷¹. This survey provides just one quantified example of the likely increase of the already high dropout rate among the Roma population.

Migrant and displaced learners regularly encounter obstacles in gaining access to education. Schools and migrant learning centres are also a crucial line of communication with some students and their families and their closure has further weakened this link.

Efforts have been made to mitigate such negative consequences for the most vulnerable sections of the population. These range from practical measures such as donation of computers (Estonia), prepaid smartphones and Ipads with pedagogical programmes in some Roma settlements (France) to having broadcasters televise lessons or on-line distance learning platforms (Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Croatia, Estonia, , Montenegro, North Macedonia, Romania, Serbia, Turkey). Efforts have also been made to maintain communications with migrant and refugee children, including

70. See, for example, the figures provided by a UNDP regional survey (2017) for the Western Balkans quoted by Balkan Insight: <https://balkaninsight.com/2020/04/01/roma-europes-neglected-coronavirus-victims/>. In Slovakia, according to the Slovak Institute of Education Policy, 60% of Roma children were reported as having no access to the internet. In Spain, about half of Roma children have no access to the technology needed for distance learning. It is expected that the situation is similar or worse in a number of countries across the Council of Europe area.

71. See the results of the survey by Reyn Croatia <http://www.reyn-hrvatska.net/index.php/2020/04/23/djeca-romi-koja-su-nastavom-na-daljiniu-ostala-na-obrazovnoj-distanci/> (in Croatian).

through conducting lessons via WhatsApp groups, radio broadcasts and even audio recordings (Serbia). Language barriers were however reported in some cases as hindering access to educational programmes (see below on minority languages).

The support of Roma assistants or mediators in some countries has also been underscored as providing key assistance to both Roma families and primary-school staff to organise distance learning for these communities. Their positively evaluated intervention highlights the importance of taking into account the differences in circumstances at home, with overcrowding and lack of literacy of both children and parents (for example, Austria and Czech Republic).

The Covid-19 crisis points to the complexity of addressing the digital divide in the long-run. As was highlighted in an OECD study, 'the digital divide in formal schooling is not simply an equipment differential'. Selective investments in hardware, software and networking may fall short in bridging it⁷². School circumstances, home differences and learning standards, as well as existing support, are all factors contributing to such a divide. Besides, at an individual level, students' ability for independent learning also matters. In this respect, the Covid-19 crisis has highlighted the urgency of looking at longstanding inequalities in education⁷³ and measures to address these, including the availability of staff prepared to teach in a diverse classroom, the engagement of communities at school level and additional and tailored support to members of disadvantaged and minority communities.

The second challenge concerns the continuity of education in *minority languages* for children belonging to national minority groups. Comprehensive information on this subject is lacking. Some examples of measures taken were however provided by some States in their replies to the questionnaire. These include TV broadcasts in minority languages (Estonia or North Macedonia national platform for e-learning, available in both Macedonian and Albanian languages but not encompassing the languages of numerically smaller minorities)⁷⁴. In some contexts, co-operation with national minorities' autonomies and regional authorities was highlighted as an asset. This was the case in Serbia, where co-operation with the National Minority Councils was described as important to ensure quality on-line resources in the eight languages of national minorities.

72. <https://www.oecd.org/site/schoolingfortomorrowknowledgebase/themes/ict/41284382.pdf>.

73. See also the call by the European Education Fund to guarantee the right to education of Roma children during and after the pandemic by elaborating sustainable and comprehensive national policies aiming to effectively reduce the educational gap between Roma and non-Roma, including ethnic segregation in schools, <https://www.romaeducationfund.org/wp-content/uploads/2020/04/Roma-Education-Fund-Statement-on-COVID-19-pandemic.pdf>.

74. www.eduino.gov.mk.

A survey by FUEN of 29 minority groups in 18 European countries indicates that in 55% of all cases analysed on-line education was organised in the mother tongue during the coronavirus outbreak. In 14% of cases, on-line education in the mother tongue was at least partially available, while in 21% no access to on-line education was provided. The countries in which on-line mother tongue education was reportedly set up are: Austria, Estonia, France, Germany, Hungary, Italy, Romania, Russia, Slovakia, Spain and Ukraine. As highlighted in the survey itself, the interpretation of such data comes with limitations (not all minorities are covered, for example). It nevertheless offers some initial insight into an issue that has at this stage not been researched yet.

In many respects, the Covid-19 crisis has accelerated the switch to on-line solutions for the sake of continuity in education (and other services) and mobilized the digital community to this end. For example, within the EU, a 'Digital Skills and Jobs Coalition', bringing together member States, companies, social partners, non-profit organisations and education providers, has taken initiatives to tackle the lack of digital skills in Europe. A series of inspiring practices has already been shared⁷⁵. While efforts are ongoing, it will be interesting to examine to what extent these solutions include minority-language speakers.

Recommendation 12: Education strategies for continued learning for all children should include consultations with members of vulnerable communities, minorities and migrant and displaced children and their families. Measures to bridge the digital divide in the switch to on-line solutions for continuity in education should also be put in place, such as additional and tailored support to pupils from disadvantaged and minority communities.

3.5. Socio-economic participation

The Covid-19 pandemic is more than a health crisis: our entire societies and economies are deeply affected. It is said to have triggered the most severe economic recession in nearly a century. At global level, it is expected that 40-60 million people will be pushed into extreme poverty because of the economic shocks from the Covid-19 crisis⁷⁶. While the impact of the pandemic varies from one Council of Europe member State to another, massive redundancies have

75. <https://ec.europa.eu/digital-single-market/en/news/digital-skills-and-jobs-coalition-compiles-digital-skills-resources-and-best-practices>.

76. <https://www.undp.org/content/undp/en/home/coronavirus/socio-economic-impact-of-covid-19.html>.

made unemployment surge⁷⁷ and extreme restrictions on work have prevented people from earning an income. This has rendered the socio-economic situation of vulnerable communities even more challenging, with the threat of further growth of inequalities.

Many international and national reports have documented the poor socio-economic situation of Roma in recent decades. Unemployment in Roma communities is known to be very high. Many Roma persons are active in the informal sector and with the Covid-19 outbreak their only source of income stopped. Many were reported to face deeper poverty in the wake of employment loss or bankruptcy.

In these circumstances, social assistance has become vital and it is positive that some countries have adjusted their social coverage to the situation. In Hungary, for example, recipients of social assistance and energy benefits will also receive food packages. In Slovakia, the government is paying social assistance in weekly installments instead of monthly ones⁷⁸.

A number of Council of Europe member States have taken remedial economic measures, including for the self-employed. While these measures offer helpful relief, support is often concentrated on people losing formalized and regular jobs. This in practice leaves many Roma people and persons belonging to other vulnerable communities excluded from these exceptional social-protection measures⁷⁹. In addition, for those who could benefit from such measures, difficulty of access was reported as knowledge among Roma families on how to apply was lacking. On a positive note, in Switzerland, an advisory service was set up in co-operation with some NGOs to support Travellers in their applications for social assistance. Such assistance might take the form of vouchers and, in the case of precarious economic situations, rent or insurance bills could be included.

Migrants and refugees represent another disadvantaged group in the labour market as they often have less secure jobs, low wages, short-term contracts and limited prospects for development. Their work is often not covered by social welfare and, as with Roma people, many are working in the informal

77. "More than one-quarter of respondents across the EU at this stage report losing their job either temporarily (23%) or permanently (5%)" <https://www.eurofound.europa.eu/publications/report/2020/living-working-and-covid-19-first-findings-april-2020>.

78. <https://www.opensocietyfoundations.org/publications/roma-in-the-covid-19-crisis>.

79. For example, in Spain, the Foundation Secretariado Gitano reported that the measures approved by the Government for the self-employed helped to alleviate partially the situation of Roma street vendors, but the criteria for their application excluded a number of them due to the requirement of being up to date with the payment of social-security contributions.

economy which makes them ineligible for social assistance. With the Covid-19 outbreak, their situation is reported to have worsened.

Special measures to facilitate extension of work visas or residence permit renewals have helped ensure access to essential services for migrants and some States have taken exceptional measures to ease access to jobs. In Belgium, for example, measures have been taken to facilitate access of asylum-seekers to the labour market by permitting those who had already applied to work during the asylum procedure, in order to compensate for the potential lack of seasonal workers. In Italy, consideration is being given to regularizing the status of about 200,000 migrants because of the shortage of labour as a result of the closure of the country's borders. Covid-19 has also prompted a more long-term approach to the issue, with Norway reporting that a package of supporting and skills-enhancing measures for refugees and immigrants has been proposed in order to increase their participation and inclusion in the labour market.

LGBTI individuals are reported as more likely to be unemployed and to live in poverty than the general population⁸⁰. Many in the LGBTI community work in the informal sector and lack access to paid sick leave, unemployment compensation and coverage. As a result of this increased vulnerability, LGBTI organisations have reported focusing their activities on addressing humanitarian aid gaps. As some States are now preparing for a new set of measures to provide better protection, some observers have criticized the measures proposed for not taking into account the specific needs of persons belonging to the LGBTI community⁸¹.

The gradual reopening of most sectors of the economy in May 2020 in many Council of Europe member States brought up a new set of issues regarding health-and-safety conditions and protection against unjust dismissal. People in precarious work, already among the most vulnerable members of the workforce, are especially affected. Many migrant and seasonal workers have been disproportionately exposed to Covid infection due to inadequate working and sanitary conditions.

Reports in several countries highlighted the particular risk of contracting Covid-19 in meat-processing plants, where there is a concentration of migrant workers with temporary contracts (Germany, Ireland, Netherlands). Germany announced measures to improve the situation: besides increased fines for

80. <https://www.ilga-europe.org/sites/default/files/covid19-lgbti-assessment-2020.pdf>.

81. ILGA LGBTI organisations in Spain reported concern with the lack of LGBTI-specific measures in the context of this crisis, including that the new minimum-income measures do not specifically address the needs of LGBTI people.

non-respect of occupational health-and-safety standards and excluding temporary workers, measures also include informing migrant workers of rights and regulations in their own language⁸².

Recommendation 13: Unemployment benefits should be available to cover also those who work in the informal economy and seasonal workers. Assistance should be provided to vulnerable groups on how to apply for benefits. Migrants whose residence applications are pending should be permitted temporary access to the labour market and informed of their rights in their own language. Sanctions for non-respect of occupational health-and-safety standards should be imposed to prevent exploitation of workers from vulnerable groups.

3.6. Security and law enforcement

The adoption of lockdown rules in the vast majority of Council of Europe member States means that measures to restrict some fundamental freedoms, especially the right to liberty and security (Article 5 ECHR) are in force, with police and sometimes military forces in charge of ensuring compliance with them. Lockdown measures vary in intensity and scope among Council of Europe member States. Some have opted for more stringent and intrusive restrictions to fundamental rights than others.

In general, lockdown measures have been adopted with the stated aim of protecting the population from threats to public health. While this is a legitimate aim, two main issues will be reviewed here as far as law enforcement in a diverse society is concerned: first, measures that selectively target ethnic minority groups or refugees, asylum seekers and migrants under the rationale of public-health protection and, secondly, the adequacy of police control of lockdown compliance by these groups.

3.6.1. Implementation of mandatory quarantine for selected groups

In some countries, police have been supplemented by armed forces in order to enforce specific measures such as militarized quarantines of certain categories of the population.

This is the case for the Roma population: militarized quarantines of Roma settlements have been reported in Bulgaria and Slovakia. In Bulgaria, the Sofia District Prosecutor's Office issued specific instructions to the city's

82. See FRA Bulletin No. 3, https://fra.europa.eu/sites/default/files/fra_uploads/fra-2020-coronavirus-pandemic-eu-bulletin-june_en.pdf.

mayors and police to install checkpoints ‘in neighborhoods of Sofia that are inhabited by people of different ethnicities who clearly demonstrate their unwillingness to comply with restrictions’⁸³. This is also the case for asylum-seekers and migrants, with mandatory quarantines for migrants, asylum-seekers and refugees reported notably in Cyprus, Greece and Serbia, the latter being also under military supervision. In Georgia, special quarantine measures were imposed on three municipalities of the Kvemo Kartli region which are densely populated by ethnic minorities. The Georgian Defence Forces were tasked with ensuring control of the quarantine at checkpoints. While the measures targeted an area rather than a group, in practice they mostly affected the Azeri community.

Quarantine measures for selected groups have raised questions regarding the existence of concrete evidence of a threat to public health or security such as to justify such measures. Civil society⁸⁴ as well as Equality Bodies have been challenging the justification of targeting specifically Roma populations (see in Slovakia⁸⁵). As far as migrants are concerned, overcrowded collective reception facilities with poor hygiene conditions may indeed pose specific challenges for ensuring the required physical distancing and enforcement of sanitary requirements. The situation is especially critical in those EU member States that have received large numbers of migrants and asylum-seekers in need of protection, as in Greece.

Some States, such as Italy and Spain, have issued specific instructions or made plans to ensure that reception centres for migrants and asylum-seekers would be adequate. Realities may however differ on the ground and civil society organisations and ombudspersons have raised alerts about some risky health

83. See reply to the questionnaire by Bulgaria.

84. See Roma in the Covid-19 Crisis: An Early Warning from Six EU member states, Open society Roma Initiatives Office, <https://www.opensocietyfoundations.org/publications/roma-in-the-covid-19-crisis>

‘In Bulgaria, for example, police checkpoints for monitoring the movement of inhabitants were set up in several Roma settlements although proportionally the number of infected people was no higher than in the rest of the country. The security measures were not followed by health support, except for 165 tests done in the Fakulteta and Filipovtsi neighborhoods – the largest Roma neighborhoods where more than 50,000 people live. It is also worrisome that some municipalities used drones for monitoring and control of people’s movement. In Slovakia, Roma settlements with a COVID-19 case rate of 1 percent are under quarantine by the military, yet government rules stipulate a 10 percent threshold for introducing a quarantine’. See also the report by Amnesty International: <https://www.amnesty.org/en/latest/news/2020/06/europe-covid19-lockdowns-expose-racial-bias-and-discrimination-within-police/>.

85. See the statement of the Slovak National Centre for Human Rights: <http://snslp.sk/#page=3059> (in Slovak).

conditions⁸⁶. As for the quarantine of Roma settlements or migrant camps, the proportionality of the measures taken has been questioned. In Greece, the extension of the quarantine of closed migrant camps beyond the set end-date of 7 June 2020 was challenged in light of the absence of cases of Covid-19 in the camps⁸⁷. In Cyprus, a coalition of NGOs criticized the poor health conditions of detained asylum-seekers in Pournara camp, together with the reported legal basis for depriving them of their liberty. The camp is reported to be still operating as a closed facility⁸⁸. In Georgia, the Public Defender expressed concern about the stigmatizing effect on the ethnic Azeri minority of living in the quarantined area (see above).

Recommendation 14: Mandatory quarantine for selected groups should only be implemented where there is concrete evidence of a threat to public health. Such measures must always be in accordance with the law, be non-discriminatory, have clear time-limits and be proportionate to the evaluated risk.

3.6.2. Stop and search and ill-treatment by the police

Enforcing lockdown rules has meant increased population *interactions with law-enforcement officials*. It has also put some vulnerable communities at risk in those States where trust between the police and vulnerable communities has been eroded by a record of police abuse and discriminatory practices. As in other fields of life, the Covid-19 pandemic has exposed already existing human rights concerns with regard to possible racial bias in law enforcement. Relations between minorities and the police have been scrutinized over the years by Council of Europe monitoring bodies, such as the Advisory Committee on the Framework Convention for the Protection of National Minorities and the European Commission against Racism and Intolerance (ECRI)⁸⁹. Instances

86. See <https://www.rescue.org/sites/default/files/document/4693/covid-19-doubleemergency-april2020.pdf>; see also the Ombudsman in Cyprus has issued regular reports on his visits to evaluate the measures taken to prevent the spread of Covid-19 coronavirus at the Reception and Accommodation Centres in Kokkinotrimithia and Kofino, [http://www.ombudsman.gov.cy/ombudsman/ombudsman.nsf/All/3272298602DAD186C225855900445997/\\$file/Report%20on%20NPM%20Visit.pdf?OpenElement](http://www.ombudsman.gov.cy/ombudsman/ombudsman.nsf/All/3272298602DAD186C225855900445997/$file/Report%20on%20NPM%20Visit.pdf?OpenElement).

87. <https://www.hrw.org/news/2020/06/12/greece-again-extends-covid-19-lockdown-refugee-camps>.

88. <https://cyrefugeecouncil.org/cyprus-refugee-council-and-caritas-cyprus-inhumane-conditions-in-kokkinotrimithia-for-asylum-seekers/>.

89. Besides its country monitoring work, ECRI has also issued a detailed recommendation on this subject: see General Policy Recommendation No. 11 on combating racism and racial discrimination in policing (2007) <https://rm.coe.int/ecri-general-policy-recommendation-no-11-on-combating-racism-and-racia/16808b5adf>. More recently, ECRI issued a press release warning against racial profiling in policing (6 July 2020): <https://www.coe.int/en/web/portal/-/council-of-europe-s-anti-racism-commission-warns-against-racial-profiling-in-policing>.

of discriminatory bias in law enforcement have been brought to the ECtHR⁹⁰. The EU Fundamental Rights Agency in its annual reports has also highlighted discriminatory ethnic or racial profiling by the police as a serious concern across the EU⁹¹.

Establishing the disproportionate impact of the implementation of some of these measures on the groups covered by this study is hampered by the lack of data disaggregated by “race”, ethnicity, religion or migration status: the vast majority of Council of Europe member States do not collect data on stop-and-search checks. States’ reticence on the issue of ethnic data collection has also transpired in the replies to the questionnaire, with ethical, ideological and legal obstacles being raised to collecting such data. As stressed above, however, there is a discrepancy here between the suggestion that all individuals should be treated identically by the State and the presumption that this guarantees equality. On the contrary, positive action to ensure that members of minority or disadvantaged communities are indeed treated equally often requires a discrete, targeted approach – which only the availability of disaggregated data can enable.

As mentioned in the non-discrimination section above, the United Kingdom is one of the few European countries that collects disaggregated data. This includes data on law enforcement published by the Metropolitan Police in London. These indicate that a 22% rise was registered in stop and search in London between March and April 2020. In particular, the number of black people who were searched increased significantly: in March 2020, 7.2 out of 1,000 black people were subjected to stop and search, rising in April to 9.3 out of 1,000⁹².

In France, where such disaggregated statistics are not available, civil society has pointed to the higher rate of police control and fines of citizens living in certain areas. For example, reports indicated a 17% fine rate in Seine-Saint-Denis (a department of the Greater Paris area), which is almost three times the national average⁹³. While the young and densely populated character of the area has been offered as one of the explanations for the high rate of police checks, the question of their proportionality has nevertheless been raised in this ethnically diverse department and, furthermore, one of the most affected by Covid-19.

90. See, for example, *Nachova and Others v. Bulgaria*, 2005; *B.S. v. Spain*, 2012; *Stoica v. Romania*, 2008; *Bekos and Koutropoulos v. Greece*, 2005; *Turan Cakir v. Belgium*, 2009, *Lingurar v. Romania* (2019).

91. See https://fra.europa.eu/sites/default/files/fra_uploads/fra-2019-fundamental-rights-report-2019_en.pdf.

92. <https://www.met.police.uk/sd/stats-and-data/met/stop-and-search-dashboard/>.

93. https://www.liberation.fr/france/2020/04/26/la-seine-saint-denis-surverbalisee_1786502.

Civil-society associations have denounced ‘abusive’ police checks and remarks of a ‘xenophobic or homophobic nature’ associated with the additional police controls due to confinement (see for example in France⁹⁴). Cases of discrimination on sexual orientation or gender identity grounds have also arisen when police officers are using their authority to make judgements as to who lives in a household, disrespecting same-sex partnerships (a case reported in Greece, for example). Instances of law-enforcement officials resorting to the use of force to impose lockdown measures on people who did not offer any resistance or constitute a significant threat have also been reported (Belgium, Italy, Netherlands, Romania, Serbia, Spain⁹⁵, Ukraine⁹⁶). In some cases, tensions with the police or even the army when enforcing restrictions or imposing sanctions on Roma settlements have arisen (for example in the Yevlakh region of Azerbaijan). Ombudsmen and Equality Bodies have been most active in raising and reviewing cases of ethnic profiling (see for example France, Greece, Slovakia⁹⁷).

The Covid-19 crisis has not only exposed but also exacerbated the longstanding difficult relations between the police and certain communities in a number of places across the Council of Europe area. At the same time, in some cases, police have had a positive role in reaching out to communities and maintaining dialogue with them. In Romania, police patrolling units disseminated audio-recorded prevention messages in settlements where the majority of the population speaks Romani and Hungarian. In Belgium, mediation teams within the local police services of the city of Antwerp were reported to have been trained on how to deal with lockdown measures in an ethnically diverse environment. In the city of Charleroi, local police have maintained regular contact with representatives of Roma and Muslims, among other communities, to ensure that precautionary health advice on Covid-19 was understood, especially among those lacking sufficient proficiency in the official language(s).

As the health situation in many Council of Europe member States continues to improve, lockdown measures have been eased in many countries. A number of

94. <http://odci.fr/2020/03/27/mesures-de-confinement-les-controles-de-police/> and <http://odci.fr/knowledge-base/demande-de-mesures-concretes-pour-faire-cesser-les-controles-et-les-verbalisations-discriminatoires-realisees-par-les-forces-de-lordre/> and, <https://www.hrw.org/node/375416/printable/print>.

95. <http://rightsinternationalspain.org/uploads/publicacion/1feee36ba56ffc10aa328d7a342f78affdfab3d.pdf>.

96. In Ukraine, forced evictions by police were reported; see the submission by the European Grassroots Organisations Network (ERGO).

97. See the Slovak National Centre for Human Rights statement <http://snslp.sk/#page=3059>, Greek Ombudsman investigating possible discriminatory treatment by police in three cases concerning respectively a Syrian asylum-seeker, a Pakistani migrant and a Roma person (reply to questionnaire).

restrictions are however still in place, such as the continued respect of physical distancing regulations, and in some countries new ones have been introduced, such as the wearing of face masks. Human rights concerns regarding enforcement of Covid-19 measures continue. With the sense of emergency diminishing, debates have started to unfold in some States on the impact and effectiveness of wide-ranging lockdown rules and related sanctions. The proportionality of the coercion measures taken is expected to be a central element of these debates and, with that, the legal basis for enforcing penalties (see for example Netherlands⁹⁸, Poland) and the recourse to military force to enforce lockdown measures. Further, the accountability of law enforcement for excessive use of force and discriminatory treatment may also be reviewed as concerns have been raised about the lack of prompt, impartial and thorough investigations into allegations of unlawful use of force in some States.

It is expected that further analysis and data will feed into these debates, as some States have indicated that further information on sanctions and legal proceedings will be gathered and/or consolidated at a later stage, as in Belgium.

Recommendation 15: States should take guidance from [ECRI General Policy Recommendation No. 11 on Combating racism and racial discrimination in policing](#) and the [Intercultural Cities' manual on community policing](#). Information should be gathered on the impact of enforcement measures on vulnerable groups and the proportionality of measures taken should be reviewed.

98. <https://www.nationaleombudsman.nl/nieuws/2020/zorgen-over-tijdelijke-wet-maatregelen-covid-19>.

4. CONCLUDING REMARKS

When addressing the recovery from the Covid-19 crisis, saving the economy seems to command much attention. While the economic consequences of Covid-19 are major, the ability of our diverse societies to resist such crises in the future is also linked to how integrated and inclusive our societies are. Perhaps one of the main lessons of this pandemic is that weaknesses in dealing with diversity make States more vulnerable in responding effectively to a pandemic such as Covid-19. These weaknesses do not come with the existence of diversity: diversity is a fact. Rather they come as a result of political choices made in dealing with the diversity existing in society. For example, denial of basic rights and the systematic exclusion of certain communities is not only contrary to human rights; it contains the risk of fragmenting society and creating tensions between communities. States polarized along ethnic, linguistic or religious lines may face greater challenges in dealing with the crisis effectively. Anti-discrimination, equality and inclusion are therefore key strategic priorities for States to obtain better health and crisis-management outcomes.

Issues of national minorities and migrants have sometimes been addressed with a security rather than human rights focus during this crisis. Cases of securitization of minority and migrant issues on the basis of protection of public health have been reported, with allegedly low compliance by some communities being used as a reason to respond with severe security measures. Ultimately, if more attention is placed on sending in soldiers, police personnel and drones than having nurses, doctors and medical supplies present in these communities, questions may legitimately be raised as to the motives behind these actions as well as to their effectiveness.

The crisis, as devastating as it may be for many, also opens up some hope for the future: it has helped us to recognise that the existential threats we face are of a global nature. It has underscored our interdependence and interconnectedness. Our security and peace depend on how much we co-operate

with each other and are prepared to work for the global common good. Many initiatives of solidarity have emerged during the crisis and shown communities coming together in a sense of shared responsibility. These are inspiring examples for the post-Covid-19 world.

Recommendation 16: Weaknesses in dealing with diversity make States more vulnerable in responding effectively to a pandemic such as Covid-19. Anti-discrimination, diversity and inclusion should be key strategic priorities for better crisis-management outcomes.



5. RECOMMENDATIONS

Recommendation 1: Measures taken during a state of emergency should be in accordance with the law, be non-discriminatory, have clear time-limits and be proportionate to the evaluated risk. States should refrain from taking general measures which restrict the rights of specific groups without strong evidence of the benefits of such actions for the public health and safety.

Recommendation 2: In times of crisis, Equality Bodies and National Human Rights Institutions have a specific role to play as guarantors of respect for human rights and of maintaining a human rights culture. Such institutions must be fully independent and provided with sufficient staff and budget (as set out in [ECRI General Policy Recommendation No. 2 \(revised\) on Equality Bodies to combat racism and intolerance at national level](#)).

Recommendation 3: Flexibility should be ensured in project funding that would enable reorientation of activities towards support for disadvantaged groups during emergencies and mitigation of the impact.

Recommendation 4: In order to promote trust and legitimacy in their decision-making during a crisis, governments should reinforce dynamic dialogue with minority communities and civil society organisations. This includes soliciting information and ensuring effective and active participatory mechanisms concerning vulnerable and disadvantaged groups.

Recommendation 5: Information material regarding crisis-related measures should target the whole population. Consequently, it should be made available in minority languages and languages used by migrants, and by means that will reach also those who are not fully literate or do not have on-line access. Community leaders should be consulted and involved in the development of safety measures and strategies.

Recommendation 6: Local and municipal authorities should take active measures for crisis-related social services, such as housing, health and employment benefits, and ensure that they reach members of vulnerable groups. The adoption of measures known to be needed before the crisis, such as additional space and halting sites for Travellers, should be maintained and not rolled back once the crisis is over.

Recommendation 7: In order to provide a basis for establishing the impact of the pandemic regarding anti-discrimination and equality, it is essential that governments collect disaggregated data relating to the number and situation of persons belonging to various minority and disadvantaged groups.

Recommendation 8: In order to combat hate speech in general, and the upsurge caused by the pandemic in particular, governments should take guidance from [ECRI's General Policy Recommendation No. 15 on Combating Hate Speech](#) and [UN guidance on addressing and countering Covid-19 related hate speech](#). Political leaders at all levels should set an example in publicly countering misinformation and promoting a culture of non-discrimination and tolerance.

Recommendation 9: The pandemic has demonstrated a need in a number of States for better protection of the LGBTI populations against discrimination and violence. Inter alia, LGBTI persons should be included or reinforced within the scope of domestic violence protection policies.

Recommendation 10: Roma and other vulnerable groups with no health insurance should be given access to regular health services, both for their own benefit and in order to better control the spread of the virus.

Recommendation 11: Sanitary conditions in and around Roma camps should be improved in order to help prevent the spread of the virus, including by ensuring fresh running water and waste disposal facilities. Evictions during any health pandemic or crisis should be suspended.

Recommendation 12: Education strategies for continued learning for all children should include consultations with members of vulnerable communities, minorities and migrant and displaced children and their families. Measures to bridge the digital divide in the switch to on-line solutions for continuity in

education should also be put in place, such as additional and tailored support to pupils from disadvantaged and minority communities.

Recommendation 13: Unemployment benefits should be available to cover also those who work in the informal economy and seasonal workers. Assistance should be provided to vulnerable groups on how to apply for benefits. Migrants whose residence applications are pending should be permitted temporary access to the labour market and informed of their rights in their own language. Sanctions for non-respect of occupational health-and-safety standards should be imposed to prevent exploitation of workers from vulnerable groups.

Recommendation 14: Mandatory quarantine for selected groups should only be implemented where there is concrete evidence of a threat to public health. Such measures must always be in accordance with the law, be non-discriminatory, have clear time-limits and be proportionate to the evaluated risk.

Recommendation 15: States should take guidance from [ECRI General Policy Recommendation No. 11 on Combating racism and racial discrimination in policing](#) and the [Intercultural Cities' manual on community policing](#). Information should be gathered on the impact of enforcement measures on vulnerable groups and the proportionality of measures taken should be reviewed.

Recommendation 16: Weaknesses in dealing with diversity make States more vulnerable in responding effectively to a pandemic such as Covid-19. Anti-discrimination, diversity and inclusion should be key strategic priorities for better crisis-management outcomes.



APPENDIX

The anti-discrimination, diversity and inclusion dimensions of the response to the Covid-19 pandemic

Questionnaire

With a view to providing an analysis of Council of Europe member states' responses to the COVID-19 pandemic and disease from the point of view of anti-discrimination, diversity and inclusion, the Secretariat of the Steering Committee on Anti-discrimination, Diversity and Inclusion (CDADI) is seeking input from the members of the CDADI, as well as participants and observers and other relevant stakeholders.⁹⁹

In line with the mandate of the CDADI, the analysis will focus on the impact of the COVID-19 crisis on **specific groups or communities**, namely persons belonging to national or ethnic minorities, Roma and Travellers, religious or linguistic minorities, migrants and LGBTI people.

In the context of this crisis, it is understood that member states' responses cover measures (legislation, policy, practice, judicial decisions) taken both at national and subnational levels.

The replies will feed into a study to be presented at the first meeting of the CDADI.

Please send your replies in English or French to cdadi@coe.int, marked CDADI/COVID-19, by 15 June 2020.

99. These include but are not limited to the following: the Committee of Experts on Roma and Traveller Issues (ADI-ROM), the European Commission against Racism and Intolerance (ECRI), the Advisory Committee on the Framework Convention for the Protection of National Minorities, the Committee of Experts of the European Charter for Regional or Minority Languages, the European SOGI Governmental Expert Network, and the Intercultural Cities Network.

1. Please provide information on any steps taken to establish whether the COVID-19 pandemic has had a different impact on the specific groups or communities mentioned above as compared to the general population, or on any available reports, research or statistical data to this effect.

2. Please provide information on measures taken to mitigate any differentiated impact on the above-mentioned groups or communities.

Includes information on measures to remove possible barriers and/or facilitate access to health care, to emergency or on-going medical treatment, to social benefits, to food, clean water and electricity; to overcome specific challenges in the field of employment, training and education; and to resolving possible challenges to respecting containment regulations in certain contexts and/or living conditions.

3. Please describe the measures taken, if any, to reach out to the above-mentioned groups or communities, to involve (or consult) their representatives in communicating the government response to the COVID-19 crisis, and to enable community leaders to provide feedback on the challenges faced by their communities.

Includes information on the consultation, participation, involvement of representatives of persons belonging to national or ethnic minorities, religious leaders, LGBTI representatives, human rights groups, and on accessibility of COVID-19-related information in other languages than the state language(s).

4. Please provide information on the impact of measures taken by law enforcement officials regarding compliance with containment regulations by the above-mentioned communities.

Includes available information on possible sanctions or criminal proceedings initiated against persons from certain communities for non-compliance with containment regulations, as well as information about possible cases of racial profiling or other abuse of power by law enforcement officials.

5. Please provide information on media and other public statements stigmatising or inciting hatred towards certain communities in connection with COVID-19. Please describe actions taken to counter this phenomenon.

Includes information on hate speech, including on-line, racist statements by political leaders, scapegoating, reporting on such cases, sanctions, and counter speech.

6. Please highlight any positive experience and/or examples of measures taken to promote an equality and inclusion-based response to the crisis and to foster positive inter-group relations (if not already provided under question 2).

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The Council of Europe is the continent's leading human rights organisation. It comprises 47 member states, including all members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.

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