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ANTIRACIST LEGISLATION AND POLICIES IN EU AND THEIR IMPACT ON THE ACCESSION COUNTRIES

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Introduction

The accession countries from Central and Eastern Europe (CEE) are in the process of harmonising their legislations with the European Union in all sectors, including minority protection and human rights observance, as stipulated in the Copenhagen criteria and accession agreements. Due to different historical experience and lack of democratic tradition, the post-communist countries have not yet managed to adopt and implement anti-discrimination clauses and sufficient measures for protection of minorities. Both the international commitments, including those enacted before 1989, and the newly adopted legislation often seem to have a very low potential for enforcement and implementation (mainly due to previous neglect of minority policies, paternalism, and abuse of the equality and solidarity concepts under the communism; still prevailing ethnocentric and xenophobic public opinion; low awareness of minority issues among policy makers and public administration officers, inability of educational systems to cope with these negative phenomena, etc.).

One of the most discriminated groups in Europe are the Roma. The fall of the communist rule in CEE in 1989 brought the official recognition of the Roma as an ethnic minority group, but also lead to the growth of racism, racially motivated attacks against the Roma, and emergence of extreme right political parties which included anti-Roma measures in their political programs (as a solution of the "gypsy question" – sic). The Roma

have had to face high unemployment, inappropriate and ineffective education, hidden discrimination from the part of state and public administration, providers of public services and other institutions. Racism and discrimination have been among the main reasons behind the immigration of the Roma to the EU countries. The issues of "economic" migration have forced the EU countries to adjust their immigration policies; and consequently, the Roma have been blamed for blemishing countries' accession prospects and have faced increased discrimination despite the efforts to facilitate the process of their repatriation after the return.

Postmodernist thought has shown that eurocentrism, xenophobia, racism, superiority, prejudice are no longer "normal" and "natural" (neither is the division between us and them, as some socio-biology experts claim[1]) but all these have to be eliminated, or at least their impact minimized, if Europe wants to survive.

The recently held WCAR[2] in Durban in September 2001 reminded Europeans that racism is one of the most pernicious features of human society, and that Europe still owes a lot to the third world countries that used to be subject of European colonization and exploitation. On the other hand, EU has adopted concrete antiracist measures that (together with determination to enforce these) may serve as a positive example not only for the EU accession countries but also for other parts of the world[3]. One of the most problematic issues in our region is denial of racism and a myth of post communist exceptionalism, often expressed in phrases like: "there is no racism here, it is only xenophobia" and "what is applicable elsewhere has no relevance here because the situation here is really specific" etc.

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[1] Cf. van den Berghe, "Does race matter?", *Ethnicity*, John Hutchinson and Anthony Smith, eds. (Oxford: Oxford University Press, 1996); Ellis Cashmore, *Dictionary of Race and Ethnic Relations* (London: Routledge, 1996) entries on race, race relations, racism, socio-biology; Steven Rose, Richard Lewontin and Leon Kamin, *Not In Our Genes. Biology, ideology and human nature* (London: Penguin Books, 1990); Kenan Malik, *The Meaning of Race* (Macmillan, 1996).

[2] More details on the UN World Conference Against Racism, Xenophobia and Other Intolerance are available at: http//: www.un.org/WCAR or at http//: www.icare.to (go to search WCAR and "caucases pages").

[3] Promising are also recent developments in the field of EU immigration policies, details in European Commission: *Communication from the Commission to the Council and the European Parliament on a Community immigration policy*, Brussels, 22 Novemeber 2000, Com (2000) 757, and *Migration: an economic and social analysis* by Stephen Glover et al, UK Home office, RDS occasional paper No 67; www.homeoffice.gov.uk/rds/index.htm.

Mary Robinson, in her opening speech at the NGO Forum in Durban[4], said:

"Racism – as you all know – manifests itself in an extraordinary multiplicity of guises and mutations. It may have deeply entrenched and institutionalised structures so that anyone of a given complexion or ethnicity starts off in life with multiple strikes against them. ... Racism transmuted into xenophobia, means that 'the stranger', the refugee, the migrant worker, the so called 'undocumented alien' and their children – are treated with contempt or derision, are humiliated, and denied their basic human rights. Racism transformed into genocidal hatred, can mean that one's neighbour and erstwhile friend becomes a frenzied attacker, someone prepared to injure or even kill. One of the most positive aspects of the World Conference for me has been the clear evidence of an emerging alliance between governments and civil society on follow up to this Conference".

Especially the last sentence of Mary Robinson shows that the role of civil society in the struggle against racism and all its forms has become unquestionable and the current process of drafting the so called National Action plans, in accordance with the WCAR final documents, should not be left to fall into oblivion by nation state governments but should be widely promoted and supported by civil society.

It may be worth mentioning here several positive aspects that emerged from the WCAR in Durban:

1. The UN conference for the first time in history provided space for the Roma to raise their voice and formulate their demands.[5]
2. The conference acknowledged that institutional racism and other forms and transmutations of racism are still deeply imbedded in all societies and that they should be coped with by nation states governments and civil society.
3. A parallel conference on racism and public policy brought experts from all over the world who managed to provide expertise that can serve as a starting point for antiracist policy drafting and enforcement.[6]

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[4] Address of the UN High Commissioner for Human Rights, Mary Robinson, Durban, 28 August 2001.

[5] Details available at Caucases pages: Roma and Travellers http//: www.icare.to)

[6] Details are at http//: www.unrisd.org.

4. The Central and Eastern European NGO Caucus managed to articulate their requirements both in the preparatory stages (e.g. at the meeting in Warsaw in 2000) as well as at the official part of the WCAR in Durban.

In this paper I will present an overview of major antiracist/ antidiscrimination mechanisms and instruments that are relevant for the EU accession countries, mainly: the EU Race Equality directive, ECHR (Protocol No. 12 to the European Convention on Human Rights), CoE mechanisms, ICERD, etc. Also I will try to point out to the difficulties in their enforcement and implementation in PC Europe, and with your help we may see if these difficulties apply to all the post-communists countries and what are major differences and specifics in respective countries and regions. I will mention one example of a promising policy in the Czech Republic.

In order to understand the issue of racism and discrimination in its complexity, I will make an overview, in the end, of the main definitions and levels of racism.

Major antiracist instruments and policies in Europe

The end of the Cold War together with growing globalisation have had substantial impact on interethnic relations, including the "ethnic revival" trends, in the EU member countries that increasingly have had to face and address issues of racism, xenophobia, and related discrimination against minorities and immigrants. Consequently, Europe has adopted new policies to enhance minority protection and to facilitate anti-discrimination law enforcement. Non-governmental organisations (NGOs), active in the field of minority protection and human rights observance, as well as civil society generally, have played a positive role both in policy design as well as implementation. Involvement of civil society is not surprising in countries with democratic traditions and can serve as an effective inspiration for the CEE countries. NGOs have a high potential to positively influence and contribute to the establishment of coherent mechanisms that can survive electoral processes and populist policies in the region.

1. Race equality directive

On 29 June 2000, the Council of the European Union adopted Directive 2000/43/EC, "implementing the principle of equal treatment between

persons irrespective of racial or ethnic origin" (the "Race Equality Directive" or "Race Directive").[7] The directive is a product of a ten-year campaign by Starting Line Group, a broad network of non-governmental organisations coordinated by the Migration Policy Group, and presents Europe with an historic opportunity to make a lasting contribution to the struggle for racial equality.[8]

Within three years, all EU member states should conform their legislation to implement its principles. Also, the Directive is now part of the "acquis communautaire," the body of law which all states wishing to join the EU must adopt. Therefore, each of the EU candidate countries will have to enact legislation and educate their judges, prosecutors and other public officials about these new legal standards[9]. Among the Directive's most significant features are the following:[10]

- The scope of discrimination: The Directive expressly includes both "direct" and "indirect" discrimination within the scope of prohibited action. Indirect discrimination occurs "where an apparently neutral provision, criterion or practice would put persons of a racial or ethnic origin at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary." Some rules, though neutral on their face as to ethnicity, in fact may disproportionately disadvantage members of certain minority groups. By including "indirect" discrimination within its ambit, the Directive reaches a broad swath of discriminatory policies and actions which, though not motivated by overt and readily provable racial hatred, nonetheless "disadvantage" members of racial or ethnic minority groups. In so doing, it goes bey-

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[7] An important note must be made here that is relevant mainly to post communist countries where "race" has a strong biological connotation. As mentioned in the Directive preamble in point (6) "The European Union rejects theories which attempt to determine the existence of separate human races. The use of the term 'racial origin' in this Directive does not imply an acceptance of such theories."

[8] Details on this NGO coalition strategy are in "Uplifting standards" in *NGO News, A regional newsletter for CEE and NIS NGOs*, No 19, Autumn 2001, Freedom House, p. 8–9 (can be ordered at fh@freedomhouse.hu).

[9] The EU has explicitly stated that the Directive "is part of the acquis communautaire" (endnote 2) and that "adoption of the Community acquis in the area of equality is a sine qua non for accession since it is essentially a question of human rights . . ."

[10] More details also available in *Roma Rights*, Newsletter of the ERRC, No. 1, 2001, Access to Justice, p. 63–66.

ond the current, more limited conceptions contained in, for example, the case law of the European Court of Human Rights and the United States Supreme Court. The directive also prohibits harassment, instruction/incitement, and victimisation. Harassment occurs "when an unwanted conduct related to racial or ethnic origin takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment"; instruction or incitement to discrimination and violence; and victimisation (i.e., "adverse treatment or adverse consequence as a reaction to a complaint or to proceedings aimed at enforcing the principle" or non-discrimination).

- Public/private actors: The Directive applies to "both the public and private sectors, including public bodies". This distinguishes the Directive from the existing and proposed anti-discrimination provisions. Thus eliminating the "state action" hurdle which has hampered anti-discrimination law enforcement in other contexts, e.g. European Convention on Human Rights do not as clearly apply to discrimination by private parties.
- Positive action: The Directive leaves open the possibility for states to adopt "specific measures to prevent or compensate for disadvantages linked to racial or ethnic origin". Roma have historically suffered discrimination in housing, education, employment and other fields. This measure makes it possible for governments to employ a range of devices to achieve more adequate representation. These could include employment recruitment efforts targeted at historically underrepresented minority groups, as well as hiring codes and educational admissions criteria which make clear that diversity at the workplace is in itself a desired goal. While a rule guaranteeing "absolute and unconditional priority" for certain groups is not permissible, the European Court of Justice has approved an affirmative action policy providing that, where two applicants are equally qualified, historically underrepresented applicants should be given preference, unless reasons specific to another applicant tilt the balance.[11]
- Burden of proof/evidence: The Directive makes it practically feasible for many victims to prove the discrimination they have suffered

[11] *Roma Rights*, Newsletter of the ERRC, Number 1, 2001, Access to Justice, p. 68.

in two principal ways. First, the Directive shifts the burden of persuasion in civil cases by requiring that, once a prima facie case of discrimination has been established, "it shall be for the respondent to prove that there has been no breach of the principle of equal treatment". Second, the Directive provides that indirect discrimination may be "established by any means, including on the basis of statistical evidence". As a practical matter, statistical evidence may often be the best or only way of proving indirect discrimination – i.e., of showing that an apparently neutral provision puts members of a minority group at a particular disadvantage "compared with other persons".

- Enforcement bodies: By requiring that states designate a body capable of "providing independent assistance to victims or discrimination in pursuing their complaints," the Directive opens the way to the establishment of effective enforcement bodies capable of taking legal action to secure equal treatment. I would like to mention here also the "ECRI general policy recommendation No. 2: Specialised bodies to combat racism, xenophobia, anti-semitism and intolerance at national level"[12] (adopted by European Commission against Racism and Intolerance (ECRI), a Council of Europe body). The document provides seven basic principles on the establishment, the functioning and the execution of powers of specialised bodies in the field of equal treatment and non-discrimination. The recommendation has no legally binding force, but member states of the Council of Europe must consider the recommendations in good faith. The recommendation is likely to become the main point of reference for the establishment of specialised bodies in this field, including those bodies that will be set up under the EU Directive.

The role of NGOs will be vital in the enforcement process, let me quote from the Roma Rights newsletter: "Notwithstanding the major step forward the Directive represents, civil society actors must act to ensure its effective implementation both in the EU and in the candidate countries. While the EU will no doubt invest resources toward this end, it will need help from the non-governmental community in highlighting the significan-

[12] ECRI general policy recommendation No. 2: Specialised bodies to combat racism, xenophobia, anti-semitism and intolerance at national level, CRI (97) 36 of 13 June 1997.

ce of this development, and the nature of the legal and institutional changes required; as well as in capacitating lawyers, other advocates and government officials to make use of this new legal tool in their anti-discrimination work."[13] "... independent legal and advocacy expertise from the NGO sector will be needed to ensure that ambiguous and potentially broad-ranging provisions are applied in a manner most favourable and accessible to discrimination's victims. Questions are sure to arise concerning, inter alia, the effectiveness of the sanctions required, the independence and functions of the government enforcement bodies to be established, and the scope of 'disadvantage' needed to constitute a prima facie case of discrimination. Absent sustained NGO input, the Directive's potential to transform anti-discrimination law in Europe may not be fully realized".[14]

2. European Centre for Monitoring Racism and Xenophobia (EUMC), Vienna

The EUMC[15] was established on the bases of the EU Council Regulation No 1035/97 of 2 June 1997. In the regulation article 3.3 it is said that the EUMC shall be concerned with the extent, development, causes and effects of the phenomena of racism and xenophobia. The EUMC has the overall aim to provide the European Parliament, the European Commission and the 15 Member States with reliable and comparable data and statistics on racism, xenophobia and anti-Semitism. Also, EUMC has been working on an operational definition of the following four basic terms: racism, xenophobia, anti-semitism, islamophobia. The reason is that the member states, as well as the accession states, finally should end up with a more or less comparable understanding of the four terms, which for the moment is not the case. Nevertheless, the recent legal instruments, which have been adopted by the European Council, oblige the member states to adapt their internal legislation also. This will hopefully trigger a convergence process of understanding.

As a member of the EUMC Rapid Response Network (RAREN) in 2000-2001, I have tried to contribute to these efforts and provide a view from the CEE region[16].

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[13] *Roma Rights*, Newsletter of the ERRC, Number 1, 2001, Access to Justice, p. 64.
[14] Ibid p. 64.
[15] More details available at http//:www.eumc.at.
[16] Ibid.

3. Protocol No. 12 of the European Convention on Human Rights (ECHR)

Another significant development providing opportunities for enhanced action in the field of racism and discrimination was the adoption in June 2000 by the Committee of Ministers of the Council of Europe of Protocol No. 12 to the European Convention on Human Rights ("Protocol No. 12" or "the Protocol"), broadening the scope of the Convention's Article 14 on non-discrimination, which presently prohibits discrimination only in the enjoyment of the rights already enshrined in the Convention. Unlike the Race Directive, however, this Protocol enters into force only after ten states have ratified it.

There is another aspect that may hinder the ECHR's impact on the region that we are discussing here. Majority of postcommunist countries that aspire to enter EU are full members of the Council of Europe and UN. There is a marked tendency that mechanisms of Council of Europe and UN are being taken less seriously by the post communists country governments than the mechanisms and instruments of the EU. This kind of negative motivation (If you do not adopt EU legislation you will not be allowed to join us) seems to be more effective than appeal on human rights and justice. However, Article 6 of the Treaty of the European Union states that: "The Union shall respect fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms ... as general principles of Community law."

Similarly, a high EU official stated: "The EU is committed to the respect and the promotion of the universal principles set out in the Universal Declaration on Human Rights, complemented by the International Covenant on civil and political rights and economic, social and cultural rights. Its activities are also based on the commitments engendered by the main international and regional instruments for the protection of Human Rights. These instruments enshrine common values regarding fundamental freedoms and democratic principles which are universal, indivisible and interdependent"[17].

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[17] Quoted from: "The Respect of Human Rights and the Protection of Minorities in the context of the enlargement of the European Union", speech by Ramiro Cibrián, Head of Delegation of the European Commission to the Czech Republic, Prague, 9 May 2000, speech at the Panel Discussion on the Protection of Minorities in Europe.

4. International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)

The Race Discrimination Convention defines discrimination broadly to include both direct and indirect discrimination. Article 1(1) of ICERD defines "racial discrimination" to include "any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life".

Pursuant to Article 14, individuals or groups of individuals alleging violation of the Convention may file a communication with the Committee seeking redress, after first exhausting all domestic remedies. Communications must be filed within six months of the final domestic decision in the case. To date, the Committee procedure has been under-utilized.

5. Non governmental activities: Project to Implement European Anti-Discrimination Law

The Project to Implement European Anti-Discrimination Law, funded by the Open Society Institute, and administered by three NGOs[18] is a three-year initiative which started in January 2001. It covers the 15 EU member states and 11 candidate countries (Turkey and 10 in Central and Eastern Europe). In close cooperation with local NGOs and individuals, the Project aims to make the most of the historic opportunity for enhanced anti-discrimination litigation and advocacy created by the recently adopted EU Race Directive and Protocol No. 12 to the ECHR. The project has three principal prongs, each designed to promote the Directive's effective application and the Protocol's timely entry into force:[19]

- training/capacitation of judges, lawyers, NGO anti-discrimination advocates, government officials, members of parliament and representatives of specialised bodies to ensure that key actors throughout the continent are sufficiently informed about the legal obligations flowing from the Directive and the Protocol and know how to creatively make use of it;
- legislative advocacy before individual governments and relevant EU institutions to ensure that the requirements of the Directive – in a nut-shell, the adoption of comprehensive anti-discrimination legislation and the

establishment of effective enforcement bodies – are swiftly and adequately complied with, and that Protocol No. 12 to the ECHR is speedily ratified by at least the minimum ten states required for its entry into force;
– test litigation before selected constitutional and Supreme Courts, the European Court of Human Rights and the European Court of Justice, to ensure the adoption in judicial caselaw of the various elements of the Directive and the Protocol.

All three Project components aim to identify the principal legal and institutional needs in each country therefore a detailed analysis of existing legal provisions and relevant jurisprudence pertaining to racial and other forms of discrimination in the 26 countries covered by the Project is being undertaken.

6. Case study: support for race and ethnic equality programme in the Czech Republic.

Czech Republic is a typical example of a postcommunist country that does not share the colonial past, and related burden of guilt, with the more developed democracies. This may hinder antiracist efforts, namely identification, recognition, and minimizing impact of racism through effective legislation and policies. This fact does not preclude it from successful cooperation in policy drafting with countries that have had long experience with race relations issues, such as UK.

In April 2001 the governments of the Czech Republic and UK started a joint project aiming to promote race and ethnic equality in the Czech Republic. One of the project's main aims is be to prepare the way for the implementation of Council Directive 2000/43/EC of 29 June 2000 Implementing the Principle of Equal Treatment between Persons Irrespective of Racal or Ethnic Origin, which all member states of the European Union will be expected to incorporate into national law by 19 July 2003. The proposals in the format of report and recommendations, which will be submitted to the government and/or responsible state institution after 31 March 2002, will comprise[20]:

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[18] The European Roma Rights Center (ERRC), Migration Policy Group (MPG) and Interights.
[19] Quoted from the ERRC newsletter *Roma Rights*, No. 1, 2001; and the Freedom House Newsletter NGO News, No. 19, Autumn 2001.
[20] Quoted from the contract.

– "Definition of a comprehensive anti-discrimination policy in the Czech Republic: The relevant document (Report) will review domestic anti-discrimination legislation and its enforcement, including anti-discrimination policies in the private sector (if any). Further, it will look at anti-discrimination legislation in selected EU member states. The purpose of the report is to indicate whether and which amendments to the existing anti-discrimination laws, policies and measures are required.
– Definition of a strategy to strengthen capacity to combat discrimination: report and recommendations will focus on how to improve and foster the institutional and administrative capacity of the state to tackle discrimination and to promote equality. The study will consider the pros and cons of two basic options for improving the institutional and administrative capacity to tackle discrimination:

(i) setting up a specialised body at the national level (e.g. a national commission for racial equality, ombudsman against ethnic discrimination etc.) to combat discrimination and intolerance;

(ii) analyse institutional and operational arrangements within the framework of existing institutions (i.e. ministries, including the beneficiary) and formulate recommendations, in particular how to improve its co-ordination role with ministries.

On the basis of analysis and in line with the future policy proposals/decisions of the government, the report will focus in detail on the practicalities for adoption and implementation of one of the two options:

– Preparation of draft amendments to laws and/or new laws linked to strengthening the legal protection of minorities and to tackling all forms of discrimination (priority given to racial discrimination), on the basis of the studies above and with regard to government policies, and working with the government office (department of human rights) including measures to promote the institutional framework for such activities. ...
– Elaboration of an awareness raising campaign strategy to increase awareness of and understanding of the impacts of discrimination (setting immediate targets and an outline of delivery mechanisms/instruments, plus medium-term goals to be achieved) aimed at (a) public administrators and (b) the general public.
– Implementation of a series of regular consultative round-table discussions to assess the situation of the Roma community, the forms of disc-

rimination faced and the effectiveness of government measures to combat discrimination. The round-tables will serve both as workshops for the exchange of opinions among government officials, opinion-makers and representatives of the Roma community, as well as a means of disseminating information on government policies in this area."

A positive aspect of the above programme is that there is cooperation with NGO sector, namely the project mentioned in the above chapter and administered by ERRC and other European NGOs. A potential risk of the project is that its results may not be accepted by the general public nor politicians because the media and other public opinion formers seem to be more or less ignorant of these anti racist efforts.

Theoretical framework

Political theory, mainly in the field of theorising multiculturalism does not intersect with practical political and social solutions. A major task ahead of theorist of public policy is to account for and provide practical solutions for discrepancies between progressive normative prescriptions, formulated both in political philosophy as well as in the body of law, and insufficient mechanisms for their implementation. The gap is even more evident in international law that only offers general principles of conduct of states and sets minimum standards on the protection of minorities, thus leaving concrete measures to the goodwill of national governments (Thornberry 1991, 1998) or provides broad definitions on racial discrimination that are difficult to transcend into de facto racial equality (Tanaka and Nagamine, 2001).

Policy makers should be aware of and follow impact of the academic discourse, based on research in political science, law, and sociology, on the practical activities in the fields of policy-making, law-making, law enforcement and public administration, especially when targeting the Roma. For this purpose it is useful to analyse various models of interethnic relations focusing on theorising of multiculturalism. Charles Taylor (1992) argues that the politics of ethnic recognition can promote participatory citizenship and the search for common good, while Will Kymlicka (1998) maintains that, in some circumstances, group differentiated rights may be required in order to put into operation some basic liberal principles. Critique of the "false" liberal universalism is reflected in some poli-

tical theories of integration that analyse cultural, economic, and political domains of integration (Baubock: in Birch, A. H., 1989, Parekh, 1998).

The complex and contested concept of equal opportunities that assumes shared meaning but in further exploration often proves to be "superficial or erroneous" (Bagihole, 1997, Saunders, 1989) is being complemented by the debate over affirmative action, positive action or special differentiation according to the needs of the targeted groups.

Special focus should be placed on theories and definitions of racism. The critical race theory, one of the recent legal philosophies among US lawyers, understands racism broadly and shows its relation to law: "racism is viewed not only as a matter of individual prejudice and everyday practice, but as a phenomena that is deeply embedded in language and perception. Concepts such as justice, truth and reason are open to questions that reveal their complicity with power. This extraordinary pervasiveness of unconscious racism is often ignored by the legal systems" (Vago, 2000). The exploration of various mechanisms and forms of denial of racism may help to comprehend the complexity of the phenomena in terms of the need for recognition (Cohen, 1995). Recognition of denial and subsequent recognition of racism itself may offer valuable insights if complemented by multidisciplinary approaches to consequences of psychological, cognitive, social psychological, socio-economic, political, and sociological explanations of racism.

An important and complex issue is the interconnectedness between racism and economic interests. Racism should be defined as power relation where the skin colour (or religion, or culture) can play minor role, despite its strong stigmatizing effect, i.e. relation where mainly economic and power interests are at stake.

Definitions of racism range from biological determination to cultural essentialism and social pathology labelling and are abundant in dictionaries and sociology books[21]. I would like to point to the basic distinctions that have practical implications. Apart from the so called "scientific racism of the 19 century" that focuses on the natural hierarchy and can be still found in many academic writings[22], the most common form is so called

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[21] Eg. Ellis Cashmore, *Dictionary of Race and Ethnic Relations* (London: Routledge, 1996); Kenan Malik, *The Meaning of Race. Race, History and Culture in Western Society* (London: Macmillan, 1996); Mike O'Donnel, *Race and Ethnicity* (New York: Longman, 1991).

[22] E.g. R. Herrnestein, Ch. Murray (1994, 1995) *The Bell Curve* as analysed in Stephen Gould, *The Mismeasure of Man,* 1996.

"common-sense" or "popular" racism based on prejudice and stereotypes either targeted at physically or culturally different groups. The most pervasive and damaging form is that of institutionalised or structural racism. This can be found in most hidden forms: School authorities may believe that minority students who choose to come to mainstream school must adapt to school norms. There is no thought of the school adapting in any fundamental way to the students. Thus, for example well intended "multicultural" education can be perceived as assimilation, including the bridging and enrichment classes that produce coconuts (people with black skin and white insides).[23] Another example is hidden racism in textbooks stereotyping members of certain minority groups or insensitive language. Well researched is institutional racism in police work, housing and employment policies.

In coping with racism, xenophobia and other related forms of intolerance it is necessary to work with a variety of variables at many different levels. Being aware of the reasons and conditions of various forms of racism can help us to plan appropriate policies and work methods.

There are several levels of accounting for racism and its forms, namely:
– psychological,
– cognitive,
– social psychological – intergroup relations,
– structural and institutional.

It is important to note that the multiplicity of racism*s* is interconnected with other forms of inequalities, based on gender, class/social status, ability, age, sex orientation, etc.[24]

Conclusion

Design and enforcement of effective mechanisms and instruments against racial discrimination, racism, xenophobia and related forms of intolerance presuppose interdisciplinary analysis, encompassing aspects of interna-

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[23] This expression is very common in the South African context, however it is frequently used also by Roma in the Czech Republic, eg. by Ivan Veselý, president of the Dzeno association.

[24] For details see Thompson, Neil (1993) *Anti-discriminatotry Practice*, MacMillan, Thompson, Neil (1998) *Promoting Equality*, MacMillan, or May, Stephen, ed. (1999) Critical Multiculturalism, London: Falmer Press. More details also available at http//: www.tolerance.cz/kurzy

tional politics and international law, as well as analysis of policies preventing racial discrimination from a historical perspective. Local experience and public opinion are under impact of global tendencies and although there are many specifics to the post communist region, practical experience as well as recent research results have shown that racism takes universal forms and therefore the response to it should be more or less universal as well.