

## Poverty Discrimination in Europe

### 1. Introduction

Poor families are often left side-lined, rejected and discredited because they live in poverty. One of the responses to this in Europe has been to stage campaigns to fight against misconceptions surrounding the subject (in France and Belgium) or the *The Role We Play* (in Great Britain). Another response has been to take steps to ensure that the laws against poverty discrimination are established (France, Netherlands...)

#### **Definition of extreme poverty and populations concerned:**

*“Insecurity can be defined as a lack of basic security, especially job security, allowing individuals and families to meet their professional, family and social responsibilities, and to enjoy their fundamental rights. The resulting insecurity may be more or less extensive and have more or less serious and broader consequences. It leads to serious poverty when it affects several aspects of people’s lives, when it is prolonged and when it severely compromises people’s chances of reassuming their responsibilities and regaining their rights in the foreseeable future.”*

*“One type of insecurity is not the only determining factor of serious poverty, no more than one type of insecurity can be identified as the cause of all other forms of insecurity.”* The opinion and report develop the concept of *social exclusion*. (unofficial translation)

<http://www.atd-quartmonde.org/rapport-wresinski-grande-pauvrete-et-precarite-economique-et-sociale/> (CES France, 1987)

### 2. Overview of the situation in Europe at the beginning of 2018:

#### A. European Union:

The **Treaty of Lisbon** came into effect in December 2009. It provides a valuable basis for a better response to the link between poverty and discrimination.

Article 6 of the **Treaty of the European Union** recognises the rights, freedoms and the principles set out in the **Charter of Fundamental Rights of the European Union** and ensures the same juristic value as the treaties. The Treaty declares that the Charter does not grant new powers to the European Union.

**Article 21 of the Charter** (CoE – [JO](#) 2016) represents a very progressive approach to discrimination, covering a considerably wider scope than those existing within the European Treaties. It states that *“Discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited »*. This non-exhaustive approach to discrimination and the reference to social origin reflects an understanding of discrimination that meaningfully links poverty to discrimination.

**Article 9 of the Treaty on the Functioning of the European Union** introduces a requirement for the integration of social inclusion, stating that *“In defining and implementing its policies and activities, the Union shall take into account requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and protection of human health.”* This means that, like other policies, the European Union’s policies on equality and non-discrimination should be assessed from their inception regarding their impact on social exclusion.

**Article 10 of the Treaty on the Functioning of the European Union** introduces a requirement for integration and non-discrimination, stating that *“In defining and implementing its policies and activities, the Union shall aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.”* This means that, amongst other policies, the European Union’s social inclusion policies should be assessed from their inception regarding their impact on equality and non-discrimination.

Article 19 of the Treaty on the Functioning of the European Union (ex Article 13 TEC) limits the possibility of the Council in the field of anti-discrimination regulations, to a restricted number of grounds, not including social origin, property, fortune or social precariousness. Some experts are of the opinion that this article 19 should be amended, to make the inclusion of this kind of grounds in the EU non-discrimination directives possible.

Content of article 19:

1. *Without prejudice to the other provisions of the Treaties and within the limits of the powers conferred by them upon the Union, the Council, acting unanimously in accordance with a special legislative procedure and after obtaining the consent of the European Parliament, may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.*
2. *By way of derogation from paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may adopt the basic principles of Union incentive measures, excluding any harmonisation of the laws and regulations of the Member States, to support action taken by the Member States in order to contribute to the achievement of the objectives referred to in paragraph 1*

The **Treaty of Nice** (2003) allows incentive measures.

The **strategy “Europe 2020, a strategy for smart, sustainable and inclusive growth”**, adopted by the European Council in June 2010, also offers an interesting approach for a more tailored response to the question on the link between poverty and discrimination. Under this strategy, member states will have to prepare national reform programmes. The guidelines for designing these programmes include one of these programmes, entitled ‘Promoting inclusion and reducing poverty’. It highlights that ‘Member states’ efforts to reduce poverty should be aimed at promoting full participation in society and the economy and that ‘Member States should put in place effective anti-discrimination measures’. <http://www.equineteurope.org/Addressing-Poverty-and>

The European Union (**Parliament**) has not yet adopted a specific criterion of poverty discrimination, but is making progress:  
[http://www.europarl.europa.eu/atyourservice/en/displayFtu.html?ftuId=FTU\\_2.3.9.html](http://www.europarl.europa.eu/atyourservice/en/displayFtu.html?ftuId=FTU_2.3.9.html) (10/2017)

However, the “concept” seems to exist (motion for a European Parliament resolution, 2015): Emphasises that equal opportunities and non-discrimination are embodied in the ESIF (ESIF = European Structural Investment Funds) funding rules for the purpose of eradicating the systemic causes of inequality, whether economic, social or based on gender, as well as concerning the access to culture and education; highlights that understanding, and raising awareness about, systemic xenophobia and racism should be a focal point when analysing the roots of exclusion;  
<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A8-2015-0314+0+DOC+XML+V0//EN>

### **The EU Non-discrimination directives.**

The different Directives elaborate legislation concerning the grounds mentioned in Article 19 of the Treaty on the Functioning of the European Union that mandates the Council to combat discrimination. The grounds are: *sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.*

Poverty or social origin is not mentioned in article 19. It seems that the Council does not have a mandate to act in this field.

However, two directives are worth mentioning:

- Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin  
<https://eur-lex.europa.eu/legal-content/EN-FR/TXT/?uri=CELEX:32000L0043&from=FR>
  - Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation  
<https://eur-lex.europa.eu/legal-content/EN-FR/TXT/?uri=CELEX:32000L0078&from=FR>
- Neither directly addresses discrimination on the grounds of poverty. However, on the one hand, the fundamental rights principles recalled in the first articles of each directive also concern discrimination on grounds of poverty.
- On the other hand,
- Articles 8 and 9 of the Equal Treatment Directive cite race and ethnic origin as one of the elements of discrimination which more broadly concerns poverty:
    - (8) The Employment Guidelines 2000 agreed by the European Council in Helsinki, on 10 and 11 December 1999, stress the need to foster conditions for a socially inclusive labour market by formulating a coherent set of policies aimed at combating discrimination against groups such as ethnic minorities.
    - (9) Discrimination based on racial or ethnic origin may undermine the achievement of the objectives of the EC Treaty, in particular the attainment of a high level of employment and of social protection, the raising of the standard of living and quality of life, economic and social cohesion and solidarity. It may also undermine the objective of developing the European Union as an area of freedom, security and justice.  
<https://eur-lex.europa.eu/legal-content/EN-FR/TXT/?uri=CELEX:32000L0043&from=FR>
  - Articles 9 to 11 of the Employment Equality Directive place the various forms of discrimination in a more general context, which also concerns poor people:
    - (9) Employment and occupation are key elements in guaranteeing equal opportunities for all and contribute strongly to the full participation of citizens in economic, cultural and social life and to realising their potential.
    - (10) On 29 June 2000 the Council adopted Directive 2000/43/EC(6) implementing the principle of equal treatment between persons irrespective of racial or ethnic origin. That Directive already provides protection against such discrimination in the field of employment and occupation.
    - (11) Discrimination based on religion or belief, disability, age or sexual orientation may undermine the achievement of the objectives of the EC Treaty, in particular the attainment of a high level of employment and social protection, raising the standard of living and the quality of life, economic and social cohesion and solidarity, and the free movement of persons.  
<https://eur-lex.europa.eu/legal-content/EN-FR/TXT/?uri=CELEX:32000L0078&from=FR>
- All EU Member-States have implemented these Directives.

### European Union Agency for Fundamental Rights, (FRA) Vienna:

Despite lack of progress at the EU level, individual Member States continued to introduce changes in national law relevant to equality and non-discrimination. Such efforts are in line with FRA's opinion, expressed in its Fundamental Rights Report 2016, that Member States should consider extending protection against discrimination to different areas of social life to ensure more equal protection against discrimination.

Some Member States added grounds of protection against discrimination to their legislation in 2016, including as regards a person's socio-economic status. This was the case in **France**, where being in a socially precarious situation and vulnerability due to a person's economic situation became protected characteristics. Similarly, in **Ireland**, individuals who receive housing assistance benefit from protection against discrimination in the provision of accommodation since 1 January 2016. (...) Protection against discrimination in **Greece** was extended in December – to include the grounds of chronic disease, family or social status, sexual orientation, gender identity and sex characteristics in the fields of labour and employment; and the grounds of colour, descent and national origin in the field of labour and employment, social protection, education and provision of goods and services. Furthermore, the denial of reasonable accommodation is considered discrimination under the new law.

Fundamental Rights report 2017, page 64

<http://fra.europa.eu/en/publication/2017/fundamental-rights-report-2017>

## B. Council of Europe

The **European Convention on Human Rights** (revised in 2010) (ECHR) prohibits discrimination on the ground of social origin and property.

[https://www.echr.coe.int/Documents/Convention\\_ENG.pdf](https://www.echr.coe.int/Documents/Convention_ENG.pdf)

### **Article 14** Prohibition of Discrimination

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

### **Protocol No 12 to the ECHR, Rome, 4 XL 2000**

This Protocol introduced a general prohibition of discrimination.

#### Article 1 – General prohibition of discrimination

1/ The enjoyment of any right set forth by law shall be secured without discrimination on any ground such as sex, race, colour, language, religion political or other opinion, national or social origin, association with a national majority, property, birth or other status.

2/ No one shall be discriminated against by any public authority on any ground such as those mentioned in paragraph 1.

20 countries ratified already the Protocol no 12, 10 among them are EU-Member-States, namely: Croatia, Cyprus, Finland, Luxembourg, Malta, Netherlands, Portugal, Romania, Slovenia and Spain.

Normally this implies that these Member-States can not adopt legislation that discriminates on the mentioned grounds. And citizens can address themselves to the Courts, and to the European Court of human Rights in Strasbourg. Citizens. After a ratification by the EU of the European Convention on Human Rights, even the Court of Justice of the Eu should take these into account.

At the level of the **European Court of Human Rights**, Judge Paulo Pinto de Albuquerque (Portugal), (joined by Judge Faris Vehabović, (Bosnia and Herzegovina)), in a dissenting opinion on the Grand Chamber judgment in the case of Garib v. the Netherlands (application no. 43494/09) gives an overview of the legal doctrine on discrimination on social grounds:

<http://hudoc.echr.coe.int/eng?i=001-177406> (dissenting opinion: Discrimination on grounds of social precariousness).

See also: <http://blogs.atd-quartmonde.org/humanrights/2017/11/21/discrimination-fondee-sur-la-precarite-economique-et-sociale-cedh/>

## C. Member States:

**At least 21 Member States have legislative points of reference for poverty discrimination, including 4 Members States having already a specific legislation on this.**

The Equinet Project (2010), with its network of Equality Bodies, demonstrates that discrimination based on socio-economic reasons has support in Europe, but is not easily understood by the public. Legislation on “Poverty discrimination” would have the advantage of being more publicly “understandable” and “visible” to the public.

### **C1 States with spécific legislation**

In **France** had such a law (26/06/2016): <http://www.vie-publique.fr/actualite/panorama/texte-vote/proposition-loi-visant-lutter-contre-discrimination-raison-precarite-sociale.html> which the Movement ATD Fourth World stood up for. There was also comparative work in the Senate (2014) : [http://www.senat.fr/lc/lc251/lc251\\_mono.html](http://www.senat.fr/lc/lc251/lc251_mono.html)

In **Belgium**, Article 10 of the Belgian Constitution and Article 3 of the Law of 10 May 2007 <http://www.ejustice.just.fgov.be/eli/loi/2007/05/10/2007002099/justel>, guarantees non-discrimination based on “wealth” and “social origin”.

The Belgian criminal code includes the concept of “social vulnerability” in its legislation with sanctions for “slum landlords” (multiple bed renters in tiny rooms), who abuse the ‘particularly vulnerable situation of the victim ‘.

In 2015, the Court of 1st Instance of Namur ruled on a case of discrimination on the basis of “wealth” [http://www.luttepauvrete.be/jur\\_trib\\_namu\\_20150505.htm](http://www.luttepauvrete.be/jur_trib_namu_20150505.htm) .

See also: <http://www.luttepauvrete.be/sujetdiscrimination.htm>

There is an organisation in charge of dealing with all type of discrimination: <https://www.unia.be/en>

In **Italy** (extract from the study by the French Senate 2014 – confirmed by ECHR

<http://hudoc.echr.coe.int/eng?i=001-177406> )

The general system that applies to the prohibition of discrimination is derived from article 3 of the Constitution of the Italian Republic:

Article 3 of the Constitution of the Italian Republic

This article states that “*All citizens have equal social dignity and are equal before the law, without distinction of sex, race, language, religion, political opinion, personal and social conditions. It is the duty of the Republic to remove those obstacles of an economic or social nature which constrain the freedom and equality of citizens, thereby impeding the full development of the human person and the effective participation of all workers in the political, economic and social organisation of the country.* »

[https://www.senato.it/documenti/repository/istituzione/costituzione\\_inglese.pdf](https://www.senato.it/documenti/repository/istituzione/costituzione_inglese.pdf)

-Several texts which specify their scope in certain fields

A 2006 law specifies discrimination against people with disabilities

<http://www.parlamento.it/parlam/leggi/060671.htm> but it seems that it is in particular situations, including work, that there are opportunities for discrimination on the grounds of social conditions.

- In March 2016, **the Piedmont region** adopted a regional regulation against all forms of discrimination (including social origin, wealth, etc.) which has the interest of setting up a network against discrimination, a consultation with the organisations concerned and competent and an annual report on certain points.

<http://www.regione.piemonte.it/pinforma/diritti/258-dopo-10-anni-una-legge-contro-tutte-le-discriminazioni.html>

<http://www.regione.piemonte.it/diritti/web/contro-le-discriminazioni>

<http://arianna.consiglioregionale.piemonte.it/iterlegcoordweb/dettaglioLegge.do?urnLegge=urn:nir:regione.piemonte:legge:2016;5@2018-4-19>

An national organisation is responsible for discrimination: <http://www.unar.it/unar/portal/?lang=it>

In **Ireland**, a bill is currently being considered by the Irish Parliament (but is not yet published)

<http://oireachtasdebates.oireachtas.ie/Debates>

[%20Authoring/DebatesWebPack.nsf/takes/dail2017062700018#N2](http://oireachtasdebates.oireachtas.ie/DebatesWebPack.nsf/takes/dail2017062700018#N2)

Debates in the lower house (Dáil Éireann) reached a new milestone (November 2017)

<https://beta.oireachtas.ie/en/debates/debate/dail/2017-11-08/33/>

A conference (22 March 2018) makes the link between poverty and discrimination

<http://www.equineteurope.org/Conference-on-Poverty-and-Discrimination>

"Conference on Poverty and Discrimination: Two sides of the same coin"

## **C2 The following countries are moving closer towards incorporating poverty discrimination into their legislation:**

Depending on the country, the following criteria appear, alone or with others, which seem to us to be linked to discrimination on the grounds of poverty: social origin, social status, vulnerable groups, marginalized groups, disadvantaged categories, property status, education, (economic and) social environment to which health and housing could be associated (insofar as severely degraded situations in these fields give rise to discrimination, e.g., discrimination based on where you live, such as a slum or "bad neighbourhood")

In **Germany**, the approach is particular and based on human dignity and equal treatment.



The Constitution, or Basic Law (Grundgesetz, GG), is of central importance for understanding the German legal framework on discrimination. The German Constitution is, unlike some other constitutions, directly binding on all public authorities. Legislation is passed subject to the constitutional order, and the executive and the judiciary are bound by law and justice. Fundamental rights are part of this directly effective constitutional order. (...)

There are several constitutional provisions that protect human equality. Most important is the guarantee of human dignity. The core of this guarantee is the respect of any human being as an end in itself, simply by virtue of his or her humanity, irrespective of other characteristics. In accordance with this view, case law of the Federal German Constitutional Court (Bundesverfassungsgericht) consistently states that each person should be treated not only as an object of state action, but as an end in itself. He or she is, in addition, protected against degrading or humiliating treatment. The guarantee of human dignity is the central decision about values of German law, its most important and supreme norm. In consequence, it is an important reference point for anti-discrimination law in Germany, especially as it guides interpretation of the constitutional guarantee of equality and provides normative yardsticks for other areas of law.

It is important to note that through the guarantee of human dignity German law authoritatively states that no distinctions are to be made as to the worth of a human being, irrespective of any characteristic, be it presumed race, ethnic origin, religion or belief, disability, age, or sexual orientation, to name just the socially and historically pertinent grounds of discrimination under consideration in this report.

<http://www.refworld.org/cgi-bin/telex/vtx/rwmain?page=search&docid=541abdb14&skip=0&query=discrimination&coi=DEU>

And indeed, one finds in the constitution <http://www.gesetze-im-internet.de/gg/GG.pdf> :

Art 1

- (1) Human dignity is inviolable. Respecting and protecting them is the duty of all state authorities.
- (2) The German people are therefore committed to inviolable and inalienable human rights as the basis of every human community, peace and justice in the world.
- (3) The following fundamental rights bind legislation, executive authority and jurisdiction as directly applicable law.

Art 3

- (1) All men are equal under the law.
- (2) Men and women have equal rights. The State shall promote the effective implementation of equality between women and men and work to eliminate existing disadvantages.
- (3) No one may be discriminated against or preferred on the grounds of gender, lineage, race, language, homeland and origin, faith, religious or political beliefs. No one shall be discriminated against because of their disability. (unofficial translation – original : deutsch)

As in Austria, the Allgemeines Gleichbehandlungsgesetz declines concrete areas where discrimination is prohibited. Some of these cover situations of poverty:

2 Scope

- (1) For the purposes of this Act, any discrimination within the meaning of Section 1 shall be inadmissible in relation to:
  1. conditions for access to dependent employment and self-employment, including selection criteria and recruitment conditions, whatever the branch of activity and at all levels of professional hierarchy, including promotion;
  2. employment conditions and working conditions, including pay and reasons for dismissal, in particular in contracts between individuals, collective bargaining agreements and measures to implement and terminate an employment relationship, as well as for promotion;
  3. access to all types and to all levels of vocational guidance, vocational training, advanced vocational training and retraining, including practical work experience;
  4. membership of and involvement in an organisation of workers or employers or any organisation whose members carry on a particular profession, including all benefits provided for by such organisations;
  5. social protection, including social security and health care;
  6. social advantages;
  7. education;
  8. access to and supply of goods and services which are available to the public, including housing.

[https://www.gesetze-im-internet.de/englisch\\_agg/englisch\\_agg.pdf](https://www.gesetze-im-internet.de/englisch_agg/englisch_agg.pdf)

[https://www.gesetze-im-internet.de/englisch\\_agg/index.html](https://www.gesetze-im-internet.de/englisch_agg/index.html)

Some Lander go further, like Brandenburg:

With the definition of the Antidiskriminierungsverband Deutschland (advd), the Antidiskriminierungsberatung Brandenburg describes discrimination as "differentiation, exclusion, restriction or preference which has as its goal or consequence that the equal recognition, enjoyment or exercise of human rights and fundamental freedoms in political, economic, social, cultural or any other area of public life are thwarted or impaired. Discrimination affects people on the basis of their (ascribed) ethnic origin, nationality, language, residence status, skin colour or appearance, gender, religion or belief, social status, marital status, disability, age or sexual identity. People can also be affected by discrimination because several of these characteristics combine in one and the same person (multidimensional discrimination)" (advd 2010: 5). This definition and the work approach of Antidiskriminierungsberatung Brandenburg deliberately go beyond the legal provisions of the EU Equal Treatment Directives and the German General Equal Treatment Act (AGG). (unofficial translation – original : deutsch)

<http://www.antidiskriminierungsberatung-brandenburg.de/content/was-ist-rassismus-was-ist-diskriminierung>

In **Austria** has a different and pragmatic approach. The following angle is linked to poverty discrimination:

IT IS PROHIBITED TO DISCRIMINATE AGAINST ANYONE:

- in social protection (e.g. access to and services provided by public health insurance, public pension insurance and work accident insurance, such as diverse health services, sickness benefit, confinement benefit, childcare benefit, unemployment benefit, family allowance, social assistance provided by the states, long-term care benefit)
- with respect to means-tested social benefits (e.g. housing assistance, exemption from prescription charges for pharmaceuticals)
- in education and training (e.g. access to schools and scholarships)
- with respect to publicly offered goods and services (e.g. in shops, restaurants, discotheques, recreational facilities) Not included are services provided by the government without economic consideration in fulfilment of its public functions, e.g. public administration
- with respect to housing: This refers both to purchasing and renting of apartments. Once the offer to let or sell an apartment has been made known to the wider public (e.g. by advertising in a newspaper or on a notice board in a department store, university etc.), no one must be discriminated against on grounds of ethnicity. The note „no foreigners“ in advertisements may also be considered discrimination on grounds of ethnicity.

<https://broschuerenservice.sozialministerium.at/Home/Download?publicationId=46>

In **Bulgaria**, an official document on the **Protection Against Discrimination Act** (11<sup>th</sup> April 2006) <http://www.refworld.org/docid/44ae58d62d5.html> reports of discrimination on the basis of origin, education, personal or social status, or property status (or any other reason set out in law).

There is a Commission: КОМИСИЯ за защита от дискриминация (Commission for protection against discrimination) <http://www.equineteurope.org/Commission-for-Protection-Against-36>

Article 4 (1) (Amended SG No. 70/2004 - effective 1.01.2005) *Any direct or indirect discrimination on grounds of gender, race, nationality, ethnicity, human genome, citizenship, origin, religion or belief, education, convictions, political affiliation, personal or social status, disability, age, sexual orientation, marital status, property status, or on any other grounds established by law or by an international treaty to which the Republic of Bulgaria is a party, shall be banned.*

(2) *Direct discrimination shall be any less favourable treatment of a person on the grounds referred to in Paragraph (1), than the treatment another person is receiving, received, or would receive in comparable similar circumstances.*

<http://www.refworld.org/docid/44ae58d62d5.html>

In **Croatia**, the Anti-Discrimination Act (01/01/2009) anticipates discriminations *on the grounds of race or ethnic affiliation or colour, gender, language, religion, political or other belief, national or social origin, property status, trade union membership, education, social status, marital or family status, age, health status, disability, genetic heritage, gender identity and expression or sexual orientation.*

<http://www.equineteurope.org/Office-of-the-Ombudsman>

<http://www.legislationline.org/topics/country/37/topic/84>

In **Spain**, Article 14 of the Constitution states: " Spanish people are equal under the law, without discrimination on the basis of birth, race, sex, religion, opinion or any other personal or social

condition or circumstance. (unofficial translation; original : Español)

<http://www.derechoshumanos.net/constitucion/articulo14CE.htm>

- Spain has legislation and a national agency against ethnic or racial discrimination

<http://www.equineteurope.org/-Spain->

- And studies (2016) say that "98% of Spanish gypsies live in poverty"

<https://www.efe.com/efe/espana/sociedad/un-98-de-los-gitanos-espanoles-vive-en-la-pobreza-segun-informe-ue/10004-3110902#>

- On a recurrent basis, the official studies (2009) on public opinion say that "Poverty and race [are] the main causes of discrimination in Spain" <http://www.publico.es/actualidad/pobreza-y-raza-principales-motivos.html>

- The latest study to date (2018): [http://www.cis.es/cis/opencm/ES/1\\_encuestas/estudios/ver.jsp?estudio=14115](http://www.cis.es/cis/opencm/ES/1_encuestas/estudios/ver.jsp?estudio=14115)

- A more complete synthesis (2014):

[https://www.msssi.gob.es/ssi/igualdadOportunidades/noDiscriminacion/documentos/Perfiles\\_discriminacion.pdf](https://www.msssi.gob.es/ssi/igualdadOportunidades/noDiscriminacion/documentos/Perfiles_discriminacion.pdf)

As can also be seen from the action, the important place held by the gypsies with regard to poverty prevents to see that of Spanish people being just as discriminated against.

In **Great Britain**, there is an "Equality and Human Rights Commission"

*It has a statutory remit to promote and monitor human rights; and to protect, enforce and promote equality across the nine "protected" grounds – age, disability, gender, race, religion and belief, pregnancy and maternity, marriage and civil partnership, sexual orientation and gender reassignment.*

<http://www.equineteurope.org/Great-Britain-Equality-and-Human>

The Equality Act is currently (2018) being revised

<http://www.legislation.gov.uk/ukpga/2010/15/contents> and a debate is taking place on the British law on human rights <https://www.equalityhumanrights.com/en/human-rights/current-human-rights-debates> .

In the chapter on socio-economic inequalities, it aims to "*reduce the inequalities of outcome which result from socio-economic disadvantage.*"

<http://www.legislation.gov.uk/ukpga/2010/15/section/1>

There is no law regarding poverty discrimination, but the Foundation Joseph Rowtree is calling in favour of this

<https://www.jrf.org.uk/report/poverty-uk-denial-peoples-human-rights> ("discrimination on the grounds of poverty").

Since October 2007, there is an Equality and Human Rights Commission (EHRC), but it is not responsible for poverty discrimination (nor of "location") <https://www.equalityhumanrights.com/en> .

In **Greece** the notion of "family / ancestry and social status" appears. "The most recent amendment of the national legal framework for equal treatment, with Law 4443/2016, gave the Greek Ombudsman global competence against discrimination, extending his competence to the public and private sectors in the field of employment for all grounds of discrimination.

<http://www.equineteurope.org/Greek-Ombudsman>

"The Ombudsman acts as a guardian of rights in the public and private sectors, with particular emphasis on monitoring and promoting the implementation of the principle of equal treatment, the rights of children and vulnerable groups. (unofficial translation; original : ελληνική)

<https://www.synigoros.gr/>

Law 4443/2016 - Article1

The provisions of Part A aim to promote the principle of equal treatment and the fight against discrimination:

a) because of race, colour, national or ethnic origin, ancestry in accordance with Directive 2000/43/EC of 29 June 2000,

b) because of religious or other beliefs, disability or chronic illness, age, marital or social status, sexual orientation, identity or gender characteristics in employment and occupation in accordance with Directive 2000/78/EC of 27 November 2000, (...) (unofficial translation; original : ελληνική)

<https://www.taxheaven.gr/laws/law/index/law/791>

Greek Ombudsman pays special attention to Roma people <https://www.synigoros.gr/?i=maps.en>



In **Hungary**, since 2012, The Commissioner for Fundamental Rights is now responsible for the protection of all fundamental rights and all vulnerable groups.

<http://www.equineteurope.org/Office-of-the-Commissioner-for-Fundamental-Rights>

In **Luxembourg**, a Caritas study (2012?), relayed by the Ministry of Health

<http://www.sante.public.lu/fr/publications//lutter-discriminations-gestion-diversite/lutter-discriminations-gestion-diversite.pdf> reviews discrimination.

Luxembourg has an equal treatment law that does not contain poverty-related criteria.

EQUAL TREATMENT LAW OF 28 NOVEMBER 2006

Art. 1

(1) Any direct or indirect discrimination based on religion or belief, disability, age, sexual orientation, membership or non-membership, real or perceived, of a race or ethnic group is prohibited.

(unofficial translation ; original: french)

<http://data.legilux.public.lu/eli/etat/leg/loi/2006/11/28/n1/jo>

The document (from Caritas) says that Luxembourg has been slow to translate European directives into its legislation.

But, in this same document, a passage makes the link with poverty, in the field of education.

"By the Act of 28 July 1969, Luxembourg approved the Convention against Discrimination in Education. In view of the binding force of this Convention and its transposition into the respective national legislations, the signatory States are required to prohibit all forms of discrimination in education." (unofficial translation ; original: french)

<http://data.legilux.public.lu/eli/etat/leg/loi/1969/07/28/n3/jo>

THE CONVENTION AGAINST DISCRIMINATION IN EDUCATION OF UNESCO [1960]

Article 1

1. For the purposes of the present Convention, the term "discrimination" shall include any distinction, exclusion, limitation or preference which, being based on race, colour, sex, language, religion, political or other opinion, national or social origin, economic condition or birth, has the purpose or effect of nullifying or impairing equality of treatment in education and, in particular:

(a) to exclude any person or group from access to the various types or levels of education;

(b) limit the education of a person or group to a lower level;

(c) subject to the provisions of Article 2 of this Convention, to establish or maintain separate educational systems or institutions for persons or groups; or

(d) to place a person or group in a situation incompatible with human dignity.

2. For the purposes of this Convention, the word "education" refers to the various types and levels of education and covers access to education, its level and quality, as well as the conditions under which it is provided.

[http://portal.unesco.org/fr/ev.php-URL\\_ID=12949&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/fr/ev.php-URL_ID=12949&URL_DO=DO_TOPIC&URL_SECTION=201.html)

However, the Act of 16 December 2008 on assistance to children and the family, which includes in its principles (article 2) criteria of discrimination, clearly shows "the family situation, the social affiliation and the property situation":

Art. 2. Principles

The State, the municipalities and the managers of the services involved in child welfare are obliged to ensure respect for the principles of the dignity and worth of the human person, non-discrimination and equal rights, particularly with regard to sex, race, physical, psychic and mental resources, national or ethnic origin, language, family situation, social affiliation, property, philosophical and religious convictions.

(unofficial translation ; original: french)

<http://data.legilux.public.lu/eli/etat/leg/loi/2008/12/16/n4/jo>

European studies show that there is a link between poverty and "inferior" educational pathways (including special education). See for example: France

<http://www.cafepedagogique.net/lexpresso/Pages/2018/04/10042018Article636589410231669571.aspx> (10/04/2018) – Belgique <https://orbi.uliege.be/handle/2268/179576> (2015),...

The Act of 29 March 2007, revising paragraphs of article 11 of the Constitution, explicitly refers to the fight against poverty, in a context (article 11) in which the rights, freedoms and equality guaranteed by the State (although not directly linked to discrimination) are mentioned:

(5) The law determines the principles of social security, health protection, workers' rights, the fight against poverty and the social integration of citizens with disabilities.

(unofficial translation ; original: french)

<http://data.legilux.public.lu/eli/etat/leg/loi/2007/03/29/n1/jo> (loi 29 mars 2007)

<http://data.legilux.public.lu/file/eli-etat-leg-recueil-constitution-20161020-fr-pdf.pdf> (Constitution [2016])

Furthermore, on 17/10/2017, Luxembourg Minister Romain Schneider declared:

"We all know that poverty is not just about insufficient income and resources for sustainable livelihoods. People living in extreme poverty have limited access to education and other basic services, and face discrimination and social exclusion that increase their vulnerability."

(unofficial translation ; original: french)

[https://gouvernement.lu/fr/gouvernement/romain-schneider/actualites/gouvernement%2Bfr%2Bactualites%2Btoutes\\_actualites%2Bcommuniqués%2B2017%2B10-octobre%2B16-journee-elimination-pauvrete.html](https://gouvernement.lu/fr/gouvernement/romain-schneider/actualites/gouvernement%2Bfr%2Bactualites%2Btoutes_actualites%2Bcommuniqués%2B2017%2B10-octobre%2B16-journee-elimination-pauvrete.html)

In **Netherlands**, the 'College voor de Rechten van de Mens' is the Netherlands Humans Rights Institute.

*The purpose of the Institute is to protect human rights in the Netherlands and promote the observance of those rights. (...) The Institute will also consult the responsible parties in civil service and political circles. It will promote respect for human dignity, and translate human rights into specific guidelines for putting that principle into practice.*

<http://www.equineteurope.org/Netherlands-Institute-for-Human-Rights-57>

The Dutch legislation follows narrowly the EU non-discrimination Directives, concerning the definition of the different grounds (see article 19 **of the Treaty on the Functioning of the European Union**) and also the different domains, or fields defined in the EU- directives. As the case may be, *the Institute can examine complaints regarding discrimination in the field of work (for example: job applications, redundancy, work conditions (remuneration), promotion, work conditions (location), concerning goods and services (for example: housing, social assistance, health care, culture, education, financial services, insurance services).* (Unofficial translation)

<https://www.mensenrechten.nl/wat-zijn-mensenrechten/discriminatie>

The Institute its 2016 annual report to the subject of "poverty, social exclusion and human rights". According to the report, poverty can lead to a violation of human rights, as well as vice versa (ref. UN policy guidelines) <https://mensenrechten.nl/publicaties/detail/38213>

In the conclusion, the report argues for a human rights-based approach in the fight against poverty. These include measures to ensure the right to a dignified existence, the right to health, education, work (especially against discrimination at work), and housing. It advocates for the participation of organisations and those living in poverty.

The strategic plan (2016-2019)

<http://zoekservice.mensenrechten.nl/StippWebDLL/Resources/Handlers/DownloadBestand.ashx?id=3241> highlights the concepts of vulnerability and social exclusion.

In **Poland**, article 32 of the Constitution establishes equal treatment and the prohibition of discrimination in social and economic life.

Article 32

All persons shall be equal before the law. All persons shall have the right to equal treatment by public authorities.

No one shall be discriminated against in political, social or economic life for any reason whatsoever.

<http://www.sejm.gov.pl/prawo/konst/angielski/kon1.htm>

According to the Constitution of the Republic of Poland, everyone is equal before the law. All persons shall have the right to equal treatment by public authorities. No one shall be discriminated against in political, social or economic life on any ground whatsoever. Equal treatment and non-discrimination are fundamental concepts and, at the same time, principles of human rights. They mean that two people in a comparable situation cannot be treated differently without a very important reason.

Unjustified differentiation of one's situation or rights, in particular on the basis of sex, race, ethnic origin, nationality, religion or belief, world view, political opinion, disability, age, sexual orientation, marital status and family status, is defined as discrimination.

(unofficial translation ; original: polish)

<https://www.spoleczenstwoobywatelskie.gov.pl/dyskryminacja-i-mobbing>

A Commissioner for Human Rights is established by the law of 15 July 1987

<https://www.rpo.gov.pl/en/content/act-commissioner-human-rights>

Its mandate concerns inhuman and degrading treatment (art 1), its oath commits it to be guided by social justice (art 4), its activities concern equal treatment of all citizens and work on discrimination (art 17b). The Act of 3 December 2010 on equal treatment specifies the areas concerned:

Art. 4. The Act shall be applicable in the scope of:

- 1) professional education, including continuation of education, improvement, change of profession and professional practices;
- 2) conditions for taking and conducting business or professional activity, including, but not limited to the employment relationship or work under a civil-law contract;
- 3) joining and acting in trade unions, employers' organizations and professional selfgoverning associations, and also exercising rights to which members of these organisations are entitled;
- 4) access to and use of:
  - a) labour market instruments and labour market services specified in the act of 20th April 2004 on the promotion of employment and labour market institutions (Journal of Laws of 2008, No. 69, item 415, as amended4)), offered by labour market institutions and labour market instruments and labour market services offered by other entities acting for the employment, development of human resources and prevention of unemployment,
  - b) social security,
  - c) health care,
  - d) education and higher education,
  - e) services, including residential services, objects and procurement of rights and energy, provided they are publicly offered.

<https://www.rpo.gov.pl/en/content/act-3rd-december-2010-implementation-some-regulations-european-union-regarding-equal>

There are here areas (education, work, health, social security,...) where the poor are discriminated for.

In practice, a Commission of Experts to the Commissioner for Human Rights works on homelessness <https://www.rpo.gov.pl/en/content/homelessness> Among its tasks, it studies discriminating homeless people with regard to housing assistance.

<https://www.rpo.gov.pl/en/content/map-problems-related-homelessness>

In addition, there are several mediators<sup>1</sup> (Ombudsmen) established by law. One of them, the Defender of the Rights of the Child (Act of 6 January 2000; <http://brpd.gov.pl/> ), has the following mission:

2. The Ombudsman acts for the rights of the child, in particular:

- 1) the right to life and health protection,
- 2) the right to be raised in a family,
- 3) the right to decent social conditions,
- 4) the right to education.

[http://brpd.gov.pl/sites/default/files/ustawa\\_o\\_rzeczniku\\_praw\\_dziecka\\_eng.pdf](http://brpd.gov.pl/sites/default/files/ustawa_o_rzeczniku_praw_dziecka_eng.pdf)

Despite the brevity of the analysis, it can be seen here that people affected by poverty are addressed in different areas.

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1 <https://www.collectiveredress.org/collective-redress/alternative-ombudsman-poland>

In **Romania**, a *Consiliul Național pentru Combaterea Discriminării* (National Council for Combating Discrimination) is a specific institute. <http://cncd.org.ro/>

*The National Council for Combating Discrimination (NCCD) is the autonomous state authority, under parliamentary control, which performs its activity in the field of discrimination.*

*Amongst the types of discrimination: social category, (...) being part of a disfavoured category, as well as any other criterion aiming to or resulting in impairing or nullifying the recognition, enjoyment or exercise, in conditions of equality, of human rights and fundamental freedoms or of rights granted by law in the political, economic, social, cultural or any other field of public life.*

Ordinance n° 137 (2000):

[http://api.components.ro/uploads/1d3a0bf8b95391b825aa56853282d5da/2017/02/Ordinance\\_No\\_137\\_of\\_2000.pdf](http://api.components.ro/uploads/1d3a0bf8b95391b825aa56853282d5da/2017/02/Ordinance_No_137_of_2000.pdf)

In **Slovakia**, the Anti-Discrimination Act (2004 rev 2014) states:

Adherence to the principle of equal treatment shall lay in the prohibition of discrimination on grounds of sex, religion or belief, race, nationality or ethnic origin, disability, age, sexual orientation, marital or family status, colour, language, political affiliation or other conviction, national or social origin, property, lineage or any other status or on grounds of reporting of crime or any other wrongdoing. (art2 § 1)

<http://www.legislationline.org/topics/country/4/topic/84>

In **Slovenia**, the **Protection against Discrimination Act** (2016),

[http://www.mdds.gov.si/en/areas\\_of\\_work/equal\\_opportunities/advocate\\_of\\_the\\_principle\\_of\\_equality/protection\\_against\\_discrimination/](http://www.mdds.gov.si/en/areas_of_work/equal_opportunities/advocate_of_the_principle_of_equality/protection_against_discrimination/)

is less clear but it appears to leave the door open to poverty discrimination (parental and other family status, social status).

New Protection from Discrimination Act adopted (2016)

<https://www.equalitylaw.eu/downloads/3836-slovenia-new-protection-from-discrimination-act-adopted-pdf-66-kb> and <https://www.equalitylaw.eu/country/slovenia>

The law in Slovenian : <https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina/2016-01-1427?sop=2016-01-1427>

The Equinet study <http://www.equineteurope.org/Advocate-of-the-Principle-of> appears to add the term 'property status'.

### **C3 Discrimination on the grounds of socio-economic status**

A document by Equinet (2010 - <http://www.equineteurope.org/Addressing-Poverty-and>), also highlights three countries (Czech Republic, Latvia and Lithuania) that have an Equality Body whose legal basis is responsible for promoting equality and combatting discrimination based on socio-economic status.

#### **Czech Republic:**

Poverty discrimination does not appear in the general presentation of the Public Defender of Rights: <https://www.ochrance.cz/en/discrimination/>

The provision of sec. 21b of Act on the Public Defender of Rights stipulates: *The Defender shall contribute to promotion of the right to equal treatment of all persons regardless of their race or ethnic origin, nationality, sex, sexual orientation, age, disability, religion, belief or opinions.*

But in the Anti-discrimination Act <https://www.ochrance.cz/en/discrimination/legal-regulations/> reasons related to poverty discrimination are included:

- a) the right to employment and access to employment, including advice services afforded by employment offices
- b) access to an occupation, business or other self-employment, including inclusion into professional life
- c) employment contract, service and other paid employment, including remuneration,

- d) membership of, and involvement in, trade unions, workers' councils or employers' associations, including the benefits such associations provide to their members,
  - e) membership of, and involvement in, professional associations, including the benefits such legal persons governed by public law provide to their members,
  - f) social security,
  - g) the granting and provision of social advantages,
  - h) access to and provision of healthcare,
  - i) access to and provision of education, including training
  - j) access to goods and services, including housing, to the extent as they are offered to the public, or in their supply,
- Section 8 of the Anti-discrimination Act outlines the objective criteria of discrimination in the field of social benefits.

[https://www.ochrance.cz/fileadmin/user\\_upload/DISKRIMINACE/pravni\\_predpisy/Anti-discrimination-Act.pdf](https://www.ochrance.cz/fileadmin/user_upload/DISKRIMINACE/pravni_predpisy/Anti-discrimination-Act.pdf)

## Latvia

One law defines the creation of an Ombudsman. <http://www.tiesibsargs.lv/en/pages/civil-acts/tiesibsarga-likums>

In section 11, its role is widely defined: 2) *to promote the compliance with the principles of equal treatment and prevention of any kind of discrimination;*

The final chapter, Informative Reference to European Union Directives, gives directives inscribed in national legislation.

In the "non-discrimination" section of the quoted website, reference is made to "vulnerable populations": *"Positive discrimination in the form of various positive measures aimed at protection of the rights of a vulnerable group of individuals also should not be treated as discrimination."*

<http://www.tiesibsargs.lv/en/pages/human-rights/diskriminacijas-noversana>

The section, "Economic and social rights", <http://www.tiesibsargs.lv/en/pages/human-rights/socialas-un-ekonomiskas-tiesibas> explicitly includes quite a few fundamental rights: right to housing, social security, health care, employment, education, to live in a safe environment and civil and political rights <http://www.tiesibsargs.lv/en/pages/human-rights/pilsoniskas-un-politiskas-tiesibas> to list a few, including the right to private and family life. Inhuman and degrading treatment (linked to poverty at the level of the CEDH) and citizenship (issue of ghost citizens) could also appear here. There is no restriction to these rights for people living in poverty.

In **Lithuania**, the "Office of the Equal Opportunities Ombudsperson"

At present, the Law on Equal Treatment establishes 13 prohibited grounds of discrimination: gender, race, nationality, language, origin, social status, belief, convictions or views, age, sexual orientation, disability, ethnic origin or religion.

<http://www.equineteurope.org/Office-of-the-Equal-Opportunities>

The "legal basis" section <http://www.lygybe.lt/en/legal-acts/439> of this office provides the national and international list, including, for example, the Universal Declaration of Human Rights (see Guiding Principles on Extreme Poverty and Human Rights

<http://www.ohchr.org/EN/Issues/Poverty/Pages/DGPIntroduction.aspx> ).

The Equal Treatment Act [http://www.lygybe.lt/data/public/uploads/2016/10/law-on-equal-treatment\\_no.-ix-1826.pdf](http://www.lygybe.lt/data/public/uploads/2016/10/law-on-equal-treatment_no.-ix-1826.pdf) clarifies 'social status':

Social status means education or qualification acquired by a natural person or his studies at research and education establishments, his property, income, need for state support provided for in legal acts and/or other factors related to the financial/economic situation of the person.

## D. Countries outside EU

Some countries near EU have also anti-discrimination laws like:

**Georgia** : the Law of 2014 on the Elimination of All Forms of Discrimination prescribe:  
Article 1 - Purpose of the Law



This Law is intended to eliminate every form of discrimination and to ensure equal rights of every natural and legal persons under the legislation of Georgia, irrespective of race, skin colour, language, sex, age, citizenship, origin, place of birth or residence, property or social status, religion or belief, national, ethnic or social origin, profession, marital status, health, disability, sexual orientation, gender identity and expression, political or other opinions, or other characteristics.

#### Article 2

- Notion and prohibition of discrimination

1. All forms of discrimination shall be prohibited in Georgia.

<http://www.ombudsman.ge/uploads/other/1/1662.pdf> and also see <https://hr.blr.com/find.aspx?topic=0&category=3&juris=155&type=0>

In **Serbia**, the Law on the Prohibition of Discrimination (2010) anticipates: the terms “discrimination” and “discriminatory treatment” shall be used to designate any unwarranted discrimination or unequal treatment, that is to say, omission (exclusion, limitation or preferential treatment) in relation to individuals or groups, as well as members of their families or persons close to them, be it overt or covert, on the grounds of race, skin colour, ancestors, citizenship, national affiliation or ethnic origin, language, religious or political beliefs, gender, gender identity, sexual orientation, financial position, birth, genetic characteristics, health, disability, marital and family status, previous convictions, age, appearance, membership in political, trade union and other organisations and other real or presumed personal characteristics (hereinafter referred to as: personal characteristics)

[http://www.ilo.org/wcmsp5/groups/public/---ed\\_protect/---protrav/---ilo\\_aids/documents/legaldocument/wcms\\_128034.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/legaldocument/wcms_128034.pdf)

**The former Yugoslav Republic of Macedonia:** Law on Prevention of and Protection Against Discrimination (As Amended in 2015)

<http://www.refworld.org/publisher,NATLEGBOD,,,5aa12ad47,0.html> with an interesting description :

Grounds of discrimination - Article 3

Any direct or indirect discrimination, call for and incitement to discrimination, and assistance in discriminatory treatment on the basis of sex, race, color, gender, belonging to a marginalized group, ethnic origin, language, nationality, social background, religion or religious beliefs, other types of beliefs, education, political affiliation, personal or social status, mental and physical impediment, age, family or marital status, property status, health condition or any other basis anticipated by a law or ratified international agreement (hereinafter: discriminatory ground) shall be prohibited.