

European Union  
Agency for Fundamental Rights (FRA)

---

Protecting fundamental rights during the  
economic crisis

Working paper

December 2010

## CONTENTS

Executive summary .....	3
Introduction .....	6
1. Historical overview .....	9
2. Examples of EU Member State responses to the crisis .....	17
3. Responses by EU institutions .....	34
4. Some fundamental rights considerations .....	47
References .....	51

## Executive summary

In 2009, the European Union Member States experienced the most severe economic downturn since the Great Depression of the 1930s. Since December 2008, following the outburst of the economic crisis in the autumn of 2008, the European Union Agency for Fundamental Rights (FRA) has monitored the development of the situation from the perspective of fundamental rights. The Agency's observations were based on a variety of sources and focused on phenomena of racism and xenophobia, as well as issues such as unemployment, the situation of vulnerable groups and, to a limited extent, measures taken that affect public spending on social protection. This working paper, based on data and information obtained mainly until May 2010, responds to the request of the FRA Management Board in June 2009 for an overview of fundamental rights concerns that EU institutions and Member States should be aware of when taking measures addressing the economic crisis.

Respect for fundamental rights is a core value held in common by all EU Member States. It is widely accepted that the economic crisis poses a serious challenge to the protection of fundamental rights, not only in the EU but around the world. The challenges include: rising unemployment, shrinking public spending, and possibly also rising xenophobia or racism. It is also widely recognised that the rights of already disadvantaged groups are particularly at risk from the crisis, including children, women, young adults, migrants, ethnic minorities, in particular the Roma, temporary agency workers and low-skilled people. In addition, the resources and capacity of redress mechanisms and human rights organisations are also affected.

EU Member States have experienced economic downturns in the past: for example, in the mid 1970s, the early 1980s and the early 1990s. These downturns were not as severe as the current economic crisis, but there were still significant social costs. Some important lessons were learned from these previous downturns; these are discussed in Section 1 of this working paper. One lesson is that it is difficult for governments during downturns to maintain the same levels of social protection. Another is that 'active' labour market policies can reduce long-term unemployment, and the loss of skills and self-esteem that this involves. A third is that already vulnerable or disadvantaged groups are more likely to suffer in a downturn. As historical experience has shown, certain basic principles should guide responses to a downturn in order

to respect and protect fundamental rights. In particular, responses should be non-discriminatory, justified and continue to provide effective support to those at risk of discrimination.

EU Member States have responded to the current crisis through measures that have affected fundamental rights in various ways. However, there is no evidence that Member States carry out systematic *ex ante* impact assessments of fiscal consolidation measures on different population groups. This is a concern since the impact of such consolidation measures is not always obvious at first sight: additional analysis is required to reveal how the overall burden is shared between different population groups. Section 2 drawing mainly from the examples of a small selection of EU Member States – Ireland, Greece, Lithuania, Spain and the United Kingdom (UK) – examines briefly some of their responses to the economic crisis. In some cases, such as in Spain and the UK, stimulus measures helped limit the rise in unemployment, while all of the EU Member States have tried, as far as possible, to protect the poorest and most vulnerable from the impact of fiscal consolidation measures. Measures, possibly unavoidable, that threatened to adversely affect vulnerable groups were often, but not always justified. This helped to a greater or lesser degree facilitate acceptance of such measures, by showing why they are unavoidable in the short term and under which conditions they could be reversed.

EU action, outlined in Section 3, has done much in terms of respecting and protecting fundamental rights during the crisis, in particular: allowing much higher levels of expenditure from the Structural and Cohesion Funds in 2009; providing balance of payments support to Latvia, Hungary and Romania; higher levels of lending from the European Investment Bank (EIB), and a substantial monetary stimulus provided by the European Central Bank (ECB). In addition, mainly through its Eurobarometer surveys, but also through the European Restructuring Monitor (ERM), the EU has provided a timely and up-to-date source of information on some of the social impacts of the crisis.

At the same time, some areas of concern remain as regards the EU's response from a fundamental rights perspective. First, there is a concern regarding how funds from the European Globalisation Adjustment Fund will be allocated equitably, if applications to the Fund for support to workers adversely affected by the crisis exceed the total amount available. Second, current EC regulations may prevent Member States from fully utilising Structural and Cohesion Funds to support vulnerable or disadvantaged groups. Third, there is a possibility that EC regulations made under the Excessive Deficit Procedure (EDP) of the EU

Stability and Growth Pact may sometimes pose a risk to the protection of fundamental rights, by requiring Member States to rapidly reduce levels of borrowing, or to make severe cuts in social security expenditures.

The European Union's Spring 2010 European Economic Forecast showed that the EU economy is slowly beginning to show some signs of recovery, although some of the most adverse social impacts of the crisis are only just beginning, partly as a result of the consolidation measures EU Member States are adopting in order to repair their public finances and avoid a debt crisis. May 2010 has seen one Member State, Greece, accept a very severe austerity package to avoid a debt default, and other Member States, such as Spain and Italy, have also adopted austerity measures to prevent a similar outcome.

The crisis has also forced EU leaders to fundamentally rethink the forms of 'economic governance' underlying the European Union, such as the Stability and Growth Pact: discussions in this area began in May 2010. As part of these discussions, some Member States have argued in favour of stronger rules and penalties to enforce fiscal discipline from each Member State. It is important that these discussions take fundamental rights into account. If not, measures designed to promote fiscal discipline could come at the expense of adequate protection for fundamental rights. This would go against the Charter for Fundamental Rights of the European Union and the principle that whenever "the EU proposes and implements laws it must respect the rights set down in the Charter". It is therefore vitally important that the continuing responses of the Member States and the EU to the economic crisis continue to be monitored and assessed from the perspective of fundamental rights.

## Introduction

In 2009, the European Union Member States experienced the most severe economic downturn since the 1930s. The crisis has led to a large rise in unemployment reversing gains made over previous decades. It has also provoked fears of a rise in xenophobia and discrimination against immigrants and persons belonging to minorities, in particular the Roma. Most recently, it has placed some EU Member States under severe pressure as they struggle to deal with the large rise in public debt which has accompanied the crisis.

At the outset of the crisis, many EU Member States introduced comprehensive anti-crisis packages, designed to boost economic activity and limit the rise in unemployment. Many also introduced specific measures designed to help those most affected by the crisis. Under the *European Economic Recovery Programme*,<sup>1</sup> the EU helped to coordinate these different measures and introduced further measures of its own. The European Central Bank, for example, gave an additional stimulus to economic activity by reducing interest rates to their lowest ever level.

At some stage, most EU Member States have had to adopt fiscal consolidation strategies, designed to reduce public borrowing and prevent an unsustainable build-up of public debt. This was done, at least in part, to reassure the financial markets. It has also been required by the EU's Stability and Growth Pact, which sets limits on the amount of public borrowing and debt that Member States are allowed to take on.

The economic recession came to an end in the EU in the third quarter of 2009, in large part thanks to the exceptional crisis measures put in place under the European Economic Recovery Plan and other temporary factors. However, as the European Commission notes in its Spring 2010 *European Economic Forecast*,<sup>2</sup> the speed of recovery is forecast to increasingly vary across the EU. Although the economic outlook for EU Member States over the next few years is more promising, the rate of recovery remains slow and the EU may be facing "a rather jobless recovery and (potentially persistent) high unemployment".

---

<sup>1</sup> European Commission, *A European Economic Recovery Plan, COM(2008) 800 final*, Brussels, 26 November 2008, available at [http://ec.europa.eu/employment\\_social/esf/docs/recovery\\_plan\\_en.pdf](http://ec.europa.eu/employment_social/esf/docs/recovery_plan_en.pdf).

<sup>2</sup> See European Commission, *European Economic Forecast Spring 2010*, Luxembourg: Publications Office of the European Union, available at [http://ec.europa.eu/economy\\_finance/publications/european\\_economy/2010/pdf/ee-2010-2\\_en.pdf](http://ec.europa.eu/economy_finance/publications/european_economy/2010/pdf/ee-2010-2_en.pdf). See also the European Restructuring Monitor, *ERM Quarterly*, Issue 2 – Summer 2010, published by Eurofound at: <http://www.eurofound.europa.eu/emcc/erm/templates/displaydoc.php?docID=56>.

Consequently, it is reasonable to assume that some of the most adverse social impacts of the crisis will continue and there is concern that the economic crisis will continue to pose a serious challenge to fundamental rights through rising unemployment, shrinking public spending, rising xenophobia or racism.<sup>3</sup>

It is also widely recognised that the rights of certain groups are particularly at risk from the crisis. Rising unemployment has been concentrated among already disadvantaged groups, such as young adults, immigrants, ethnic minorities, temporary agency workers and low-skilled people.<sup>4</sup> Declining public spending particularly affects those who rely on the state to support their standard of living, such as children, the elderly and persons with disabilities. Rising xenophobia or racism affects migrants and ethnic minorities.

The institutions and Member States of the EU have already taken several measures which protect people's fundamental human rights during the crisis, for example through stimulus measures to limit the rise in unemployment. Many EU Member States have also tried to 'ring fence' social spending from the impact of fiscal consolidation measures. Overtly discriminatory responses to the crisis have been avoided, not least because the EU's effective anti-discrimination legislation prevents this.

This working paper provides some material to examine how different responses to the crisis have adequately respected and protected people's fundamental rights, and in particular those of vulnerable and disadvantaged groups. Although the paper focuses only on the EU, it complements other recent studies with this same aim for the world as a whole.<sup>5</sup>

The present analysis was developed by a research team consisting of Edward Anderson and Elissaios Papyrakis of the University of East Anglia, and Marta Foresti and Pilar Domingo of the Overseas Development Institute, London,

---

<sup>3</sup> For example, the 10th special session of the United Nations (UN) Human Rights Council expressed "serious concern at the negative impacts of the global economic and financial crises on economic and social development and on the full enjoyment of all human rights in all countries" (OHCHR (2010) *Report of the OHCHR on the impact of the global economic and financial crises on the realisation of all human rights and on possible actions to alleviate it*, Human Rights Council, 13th Session, p. 5, available at:

<http://www2.ohchr.org/english/bodies/hrcouncil/13session/reports.htm>). According to the Center for Economic and Social Rights (CESR), the crisis "threatens the full range of human rights... not only economic, social and cultural rights ... but also civil and political rights" (see CESR (2009) *Human rights and the global economic crisis: consequences, causes and responses*, p. 2, available at: <http://www.cesr.org/article.php?id=389>).

<sup>4</sup> OECD (2009) *OECD Employment Outlook 2009: Tackling the Jobs Crisis*, Paris: OECD, p. 20.

<sup>5</sup> See, for example, Saiz, I. (2009) 'Rights in recession? Challenges for economic and social rights enforcement in times of crisis', *Journal of Human Rights Practice* 1(2), pp. 277-293; Caliri, A., Way, S-A., Raaber, N. (*et al*) (2010), *Bringing human rights to bear in times of crisis: a human rights analysis of government responses to the economic crisis*, Submission to the 13th Session of the UN Human Rights Council, ESCR-Net, available at: [http://www.escr-net.org/actions/actions\\_show.htm?doc\\_id=1178087](http://www.escr-net.org/actions/actions_show.htm?doc_id=1178087); and OHCHR (2010).

Colm McKeown, Alessia Pinna and Gytis Martinkus provided research assistance. The paper was prepared under service contract with the FRA. The views expressed herein are those of the authors and do not represent the official view of the FRA.



## 1. Historical overview

For western Europe, the period from the late 1940s to the early 1970s is often described as the “golden age”.<sup>6</sup> During this period, average living standards increased rapidly and levels of output and productivity caught up with those in the United States (US). The period was also one of remarkable economic stability: there was not one single serious recession during the 1950s or most of the 1960s.<sup>7</sup> This was in marked contrast to the 1920s and 1930s.

Since the early 1970s however, three significant economic downturns have occurred in western Europe: one in the mid 1970s, another in the early 1980s and a third in the early 1990s (see Figure 1). In each case, economic output either fell or came very close to falling. These downturns were not as severe as the Great Depression of the 1930s or the current economic crisis. Nevertheless, there were still significant social costs: in particular, large increases in unemployment (see Figure 2). In addition, following the downturns of the 1970s and 1980s, levels of unemployment failed to return to their prior levels once the economy had recovered.

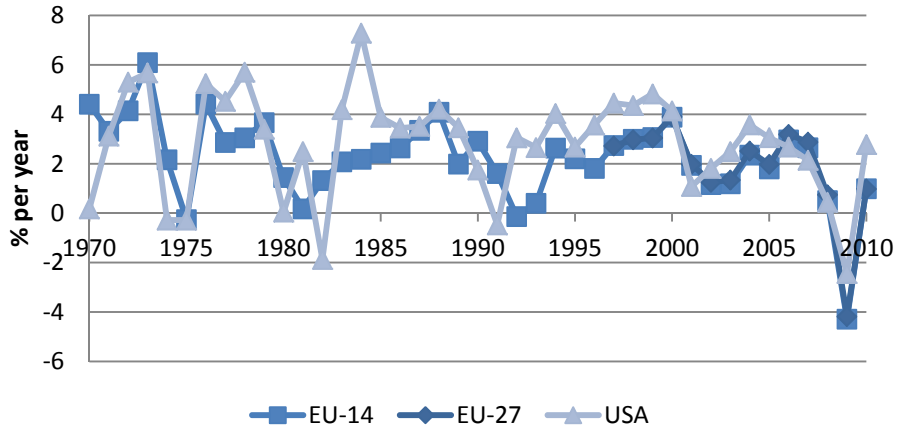
This section looks at the ways countries in western Europe responded to previous economic downturns in the post-World War II period, and the lessons that have been learned.

---

<sup>6</sup> Eichengreen, B. (2007) *The European Economy Since 1945*, Princeton: Princeton University Press, p. 2.

<sup>7</sup> *Ibid.*, p. 29.

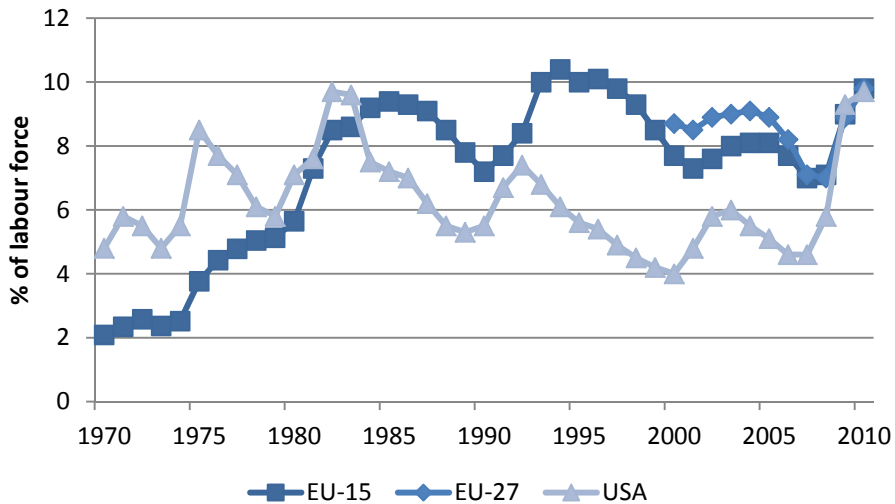
**Figure 1: Growth of gross domestic product (GDP) in the EU and the US, 1970-2010**



Notes: EU-14 includes Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Netherlands, Portugal, Spain, Sweden and the UK.

Source: (pre-1995) Maddison, A. (2003) *The World Economy: Historical Statistics*, Paris: OECD; (post-1995) Eurostat (2010), Statistical database, available at: [http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/search\\_database](http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/search_database).

**Figure 2: Unemployment in the EU and the US, 1970-2010**



Notes: EU-15 includes Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden, and the UK.

Source: OECD (various years) *Labour Force Statistics*, Paris: OECD; DG-Ecofin (2010) *European Economic Forecast – Spring 2010*. Luxembourg: Publications Office of the European Union, 2010, available at: [http://ec.europa.eu/economy\\_finance/eu/forecasts/2010\\_spring\\_forecast\\_en.htm](http://ec.europa.eu/economy_finance/eu/forecasts/2010_spring_forecast_en.htm)

## ***Social protection***

Economic downturns place social protection systems under considerable strain. First, rising unemployment implies a large increase in the numbers of people claiming unemployment benefit. Second, declining wage levels implies that more people become eligible for income supplements or tax credits. Third, voluntary systems of social protection (such as care for the elderly by family members, private donations to charity) may decline, placing greater burden on state welfare systems.

In the past, most governments have responded to these additional strains by raising total spending on social protection. Evidence on this point is provided by Darby and Melitz in 2008, who analyse social spending by OECD countries (including 13 EU countries) between 1983 and 2002.<sup>8</sup> Their statistical results confirm that social security spending tends to increase as a share of gross domestic product (GDP) when output is below its natural level.<sup>9</sup>

In some cases however, governments have reduced the level of social protection during and/or following a downturn. For example, during the recession of the early 1980s in the UK, unemployment benefits were reduced in real terms and made subject to taxation. This appears to have been done for two reasons. On the one hand, it supported the government's aim to reduce the fiscal deficit. On the other, it was part of the government's new strategy to reduce unemployment (see following section).

## ***Employment***

Even if social protection systems are working well, the rise in unemployment during a downturn is a serious concern. The historical experience clearly shows that unemployment is not only a loss of earnings: it can involve a loss of self-esteem and can also have long-term consequences, including ill-health, depression and an erosion of valuable skills.

Following the downturn of the mid 1970s, most governments tried to limit unemployment by stronger employment protection legislation, shorter working hours, subsidised early retirement, generally discouraging labour force

---

<sup>8</sup> Darby, J. and Melitz, J. (2008) 'Social spending and automatic stabilisers', in OECD, *Economic Policy*, October, pp. 717-756.

<sup>9</sup> In terms of magnitudes, the results of Darby and Melitz (2008) suggest that, for every one percentage point by which output is below its natural level, social spending as a share of GDP tends to rise by about 0.1%. The average share of social spending in GDP over the period examined was 14%. Interestingly, their results show that all types of social security spending tend to rise in downturns; health spending also tends to rise.

participation among women and the expansion of public sector employment.<sup>10</sup> To support people who had lost their jobs, many countries also increased the value of unemployment benefits.<sup>11</sup> During the 1980s, some EU Member States – the UK in particular – took a different approach to tackling unemployment, based on deregulation, with varied success. This involved a combination of less generous unemployment benefits, lower social security taxes, and weakening of employment protection legislation. The aim was to promote private sector job creation and encourage people to return to work as quickly as possible.

During the 1990s and 2000s, there has been a shift towards ‘active’ labour market programmes in the EU.<sup>12</sup> These provide more assistance to the unemployed and other groups not participating in the labour market (such as women and older workers) in returning to work or to participate in training, if work is not available, as well as reforms to the tax-benefit system to ‘make work pay’. Several EU Member States have been very successful since the 1990s in reducing levels of unemployment through the use of these policies, including for instance Denmark, Ireland, the Netherlands and the UK.<sup>13</sup>

Over the past three to four decades therefore, some important lessons were learned in terms of tackling unemployment. In the context of its European Employment Strategy, the EU adopts since 2005 “employment guidelines” for a three year period. According to the EU Employment Guidelines,<sup>14</sup> which are part of the Integrated Guidelines for 2008-2010, “...achieving full employment, and reducing unemployment and inactivity, by increasing the demand for and supply of labour, is vital to sustain economic growth and reinforce social cohesion. An integrated flexicurity approach is essential to achieve these goals. Flexicurity policies address simultaneously the flexibility of labour markets, work organisation and labour relations, reconciliation of work and private life, and employment security and social protection”. The EU has used the term ‘flexicurity’<sup>15</sup> to describe “an integrated strategy to enhance, at the same time,

---

<sup>10</sup> Eichengreen (2007), pp. 263-277; Woodward, N. (1999) ‘The search for economic stability: Western Europe since 1973’, Chapter 5, in Schulze, M.S. (ed.), *Western Europe: Economic and Social Change since 1945* Harlow: Addison Wesley Longman, pp. 67-71, 291.

<sup>11</sup> Virtually all European countries saw a significant increase in the 1970s of the average ‘replacement rate’: the share of a worker’s previous earnings replaced in the first year of an unemployment spell.

<sup>12</sup> The key elements of this new approach were set out in the OECD Jobs Strategy, 1994 and the European Employment Strategy, 1997

<sup>13</sup> OECD (2003) *Employment Outlook 2003: Towards more and better jobs*, Paris: OECD, available at: [http://www.oecd.org/document/43/0,2340,en\\_2649\\_201185\\_14554539\\_119660\\_1\\_1\\_1,00.html](http://www.oecd.org/document/43/0,2340,en_2649_201185_14554539_119660_1_1_1,00.html).

<sup>14</sup> European Council Decision on Guidelines for the Employment Policies of the Member States, SOC 361, Brussels, 7 July 2008, available at: <http://register.consilium.europa.eu/pdf/en/08/st10/st10614-re02.en08.pdf>.

<sup>15</sup> More information available at: <http://ec.europa.eu/social/main.jsp?catId=102&langId=en>.

flexibility and security in the labour market”.<sup>16</sup> Flexicurity is an attempt to unite two fundamental needs: the need for companies to remain competitive in a globalised market economy and the need for the workforce to maintain a secure income level. The flexicurity policy supports the implementation of the revised Lisbon Strategy promoting an active response to the challenge of globalisation aligning flexibility in the labour market and work organisation with employment and income security. Rather than protecting specific jobs, it promotes the employability of the workforce. For this reason, as the European Commission notes, “[...] the flexicurity model also includes a strong emphasis on active labour market policies, and motivating lifelong learning and training, improving customized support to jobseekers, supporting equal opportunities for all and equity between women and men”.<sup>17</sup>

### ***Discrimination and inequality***

#### *The labour market*

Historical experience has shown that rises in unemployment during economic downturns tend to be concentrated among particular population groups: young people, older workers, less-skilled persons, foreign nationals and ethnic minorities. The likely reasons for rising unemployment among these groups include:

- in a recession, employers “tend to make less use of formal recruitment channels, and more of the informal networks of their current employees”, which can make it harder for minority groups and foreign nationals to find employment;<sup>18</sup>
- older workers excluded from training programmes may be more likely to experience discouragement;
- less-skilled workers are more likely to have temporary, unprotected jobs in sectors which are particularly cyclical (such as construction);
- young people may find fewer jobs open to those without experience.

---

<sup>16</sup> European Commission (2007) *Towards Common Principles of Flexicurity: More and better jobs through flexibility and security*, COM(2007) 359 final, Brussels, 27 June 2007, p. 4, available at: <http://ec.europa.eu/social/BlobServlet?mode=redirLinks&url=http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2007:0359:FIN:EN:PDF>.

<sup>17</sup> More information available at <http://ec.europa.eu/social/main.jsp?catId=116&langId=en>.

<sup>18</sup> Equality and Human Rights Commission (EHRC) (2009b) *Monitoring update on the impact of the recession on various demographic groups*, London: Government Equalities Office, available at: [http://www.equalityhumanrights.com/uploaded\\_files/research/impact\\_of\\_the\\_recession.pdf](http://www.equalityhumanrights.com/uploaded_files/research/impact_of_the_recession.pdf).

### *Economic policy*

Depending on how they are designed, fiscal consolidation measures can threaten to adversely affect lower-income and vulnerable groups. In terms of policy, it has been argued that fiscal consolidation measures should focus primarily on cutting public spending, particularly social spending, and avoid tax increases. This demonstrates to financial markets a commitment to reduce borrowing, which in turn lowers the cost of debt servicing, setting a “virtuous circle” in motion.<sup>19</sup>

However, it is also recognised that cuts in spending, particularly social spending, need to be implemented carefully, so as to avoid harming lower-income and vulnerable groups. This was one of the major lessons learned from the experience of ‘structural adjustment’ lending to developing countries during the 1980s and 1990s by the World Bank and the International Monetary Fund (IMF). Following a series of key studies funded by UNICEF and the UNDP, it became accepted that consolidation measures must be designed so that poor and vulnerable groups are protected.<sup>20</sup>

Countries do much better in responding and dealing with economic crises when transparency and participation in decision-making is promoted.<sup>21</sup> The reason is that this lowers the likelihood of an outbreak of social conflict following austerity measures taken to respond to a crisis. For example, research has shown<sup>22</sup> that countries with weak institutions of conflict management (measured by indicators of the quality of governmental institutions, rule of law, democratic rights, and social safety nets) have experienced much more severe economic downturns in the post-war period, and have seen much slower economic growth as a result. In this sense, good

---

<sup>19</sup> See, for example, OECD (2007) ‘Fiscal consolidation: lessons from past experience’, *Economic Outlook 81*, Paris: OECD, pp. 32 and 41, available at: <http://www.oecd.org/dataoecd/21/33/38628499.pdf>.

<sup>20</sup> See for example, Cornia, G.A., Jolly, R. and Stewart, F. (1987). *Adjustment With A Human Face: Protecting the Vulnerable and Promoting Growth*. Oxford: Oxford University Press. In its recent advice to the government of Ireland, the IMF has argued that “[e]xpenditure reduction, as distinct from raising taxes, is the superior approach to fiscal consolidation but, unless carefully managed and prioritized, risks hurting the most vulnerable” (IMF (2009) *Ireland: Staff Report*, Country Report No. 09/195, Washington DC: IMF, p. 4, available at: <http://www.imf.org/EXTERNAL/PUBS/FT/SCR/2009/CR09195.PDF>).

<sup>21</sup> United Nations (2009), *Report of the Commission of Experts of the President of the United Nations General Assembly on Reforms of the International Monetary and Financial System*, p. 19 available at [http://www.un.org/ga/econcrisissummit/docs/FinalReport\\_CoE.pdf](http://www.un.org/ga/econcrisissummit/docs/FinalReport_CoE.pdf).

<sup>22</sup> See, for example, Rodrik, D. (1999) ‘Where Did All The Growth Go? External Shocks, Social Conflict, and Growth Collapses’, *Journal of Economic Growth* 4(4), pp. 385-412.

practice in dealing with a downturn from a human rights perspective also represents good economics.<sup>23</sup>

### ***Racism and xenophobia***

Economic crises can lead to increased racism and xenophobia against minority groups, particularly foreign nationals. This may be due to the perception that migrants may take away jobs or scarce welfare benefits; and extremist groups may seize on such fears.<sup>24</sup> For example, research<sup>25</sup> based on an analysis of Eurobarometer surveys showed that anti-foreigner sentiment is higher among those who are unemployed. These findings were supported by a statistical analysis conducted by FRA's predecessor, the European Centre on Racism and Xenophobia (EUMC), of Eurobarometer and European Social Survey data over the period 1997-2003, which included data from all then EU Member States and three of the candidate countries (Bulgaria, Romania and Turkey) of the time. This study found that "the higher the Gross Domestic Product (GDP) per capita in a country, the lower in general the level of support for ethnic intolerance".<sup>26</sup>

More recent research<sup>27</sup> analysed the impact of economic growth on the level of political support for political extremism over the period 1970-2002 in 16 EU Member States confirming that economic downturns do tend to raise the level of support for political extremism, although the magnitude of the effect is relatively small.

There are no EU wide comparative studies which look specifically at the impact of economic circumstances on racist crime or violence due largely to the lack of relevant comprehensive and comparable official data across the EU.

Case-study evidence, however, exists for individual EU Member States, as well as other OECD countries. In Germany, for example, there was a "disturbing escalation" of violent crimes against foreigners (in particular, those not

---

<sup>23</sup> CESR (2010) *Human Rights and the Global Economic Crisis*, p. 7 and 8, available at: <http://www.cesr.org/downloads/CESR-Human%20Rights%20and%20the%20Global%20Economic%20Crisis.pdf>.

<sup>24</sup> Awad, I. (2009) *The global economic crisis and migrant workers: impact and response*, Geneva: International Labour Office, available at: [http://www.ilo.org/actrav/what/pubs/lang--en/docName--WCMS\\_112967/index.htm](http://www.ilo.org/actrav/what/pubs/lang--en/docName--WCMS_112967/index.htm).

<sup>25</sup> Semyonov, M., Rajjman, R. and Gorodzeisky, A. (2006) 'The rise of anti-foreigner sentiment in European societies 1988-2000', *American Sociological Review* 71(3), pp. 426-449.

<sup>26</sup> EUMC Media Release 15 March 2005, available at: <http://fra.europa.eu/fraWebsite/material/pub/eurobarometer/EB2005/MR-194-03-05-01-EN.pdf>.

<sup>27</sup> Bruckner, M. and Gruner, H. (2010), *Economic growth and the rise of political extremism: theory and evidence*, Discussion Paper 7723, London: Centre for Economic Policy Research, available at: [www.cepr.org/pubs/dps/DP7723.asp](http://www.cepr.org/pubs/dps/DP7723.asp).

perceived as ethnic German) between 1990 and 1992 in the first years following unification.<sup>28</sup> This was attributed, at least in part, to “a sense of social disintegration and fear of perpetual unemployment”.<sup>29</sup>

An online Financial Times/Harris poll,<sup>30</sup> carried out in early 2009 and covering France, Germany, Italy, Spain and England, Scotland and Wales in the UK, showed wide support for returning unemployed immigrants. Among those polled 79% of Italians, 78% of Britons, 71% of Spaniards, 67% of Germans, and 51% of French supported this type of programme. In addition, over 50% of UK nationals wanted to apply restrictions on access to the British labour market to workers from fellow EU Member States, although this would fundamentally conflict with EU law.

---

<sup>28</sup> Human Rights Watch (1995) *Germany for Germans: xenophobia and racist violence in Germany*, Helsinki: Human Rights Watch; Wistrich, R. (1999) ‘Xenophobia and anti-Semitism in the new Europe: the case of Germany’, in Wistrich, R. (ed.) *Demonizing the other: Anti-Semitism, racism and xenophobia*, Amsterdam: Harwood Academic Publishers.

<sup>29</sup> Human Rights Watch (1995: 18) The link between violent crimes and economic conditions was argued on the basis that a disproportionate number of these attacks occurred in Eastern Germany, more specifically in Brandenburg and West Pomerania, where unemployment was most serious.

<sup>30</sup> Available at: [http://www.harrisinteractive.com/news/FTHarrisPoll/HI\\_FinancialTimes\\_HarrisPoll\\_March\\_2009\\_19.pdf](http://www.harrisinteractive.com/news/FTHarrisPoll/HI_FinancialTimes_HarrisPoll_March_2009_19.pdf).



## 2. Examples of EU Member State responses to the crisis

This section provides some examples of the ways and the extent to which a small selection of EU Member States (Greece, Ireland, Lithuania, Spain and the United Kingdom), severely affected by the economic crisis, responded to the crisis. It also looks at the ways in which these responses have respected and protected fundamental rights.<sup>31</sup>

The UK experienced a severe recession in 2009, with a fall in GDP of 4.9%. Although the economy returned to growth in 2010, the rate of growth remained at a low level by historical standards. The crisis has caused a large deterioration in the UK public finances. The fiscal deficit reached 12% of GDP in 2009 and 2010, and the ratio of public debt to GDP is expected to rise from 45% in 2007 to 87% by 2011.

At least in terms of economic output, the economic downturn in Spain has been less severe than in other EU countries: a decline in GDP of 3.6% in 2009, compared with 4.1% for the EU as a whole. However, Spain's economy has been more protracted, with forecasts indicating a further decline in GDP in 2010, when many other EU Member States are recovering. Spain's economic downturn has also been associated with a particularly large rise in unemployment. In addition, although Spain entered the crisis in a relatively healthy fiscal position, the crisis has caused a build-up of public debt from 36% in 2007 to an estimated 73% in 2011.

---

<sup>31</sup> The analysis in this section relates to measures introduced in each country mainly up until May 2010, although an effort was made to update some of the information until July 2010. It is mainly based on official information provided in government documentation. For the UK, the most relevant documentation includes the pre-budget reports for 2008 and 2009 (published in November of each year) and the budget reports for 2009 and 2010 (published in April of each year). Prior to May 2010, these were available at: [www.hm-treasury.gov.uk](http://www.hm-treasury.gov.uk). For Spain, the most relevant government's responses to the crisis were set out in the 'Plan España'; documentation relating to this Plan are available at: <http://www.plane.gob.es>. In Ireland, the most relevant documentation is the budget reports for 2009 (main and supplementary) and 2010; these are available at: <http://www.budget.gov.ie/BudgetInfo.aspx>. For Lithuania, the most relevant documentation is the monthly Lithuanian Parliamentary Mirror, which reviews the main laws adopted by the Lithuanian Parliament (Seimas) and presents the opinions of the position and the opposition about principal political and economic issues; this is available at: [http://www3.lrs.lt/pls/inter/w5\\_show?p\\_r=106&p\\_k=2](http://www3.lrs.lt/pls/inter/w5_show?p_r=106&p_k=2). For Greece, the government's main responses were initially set out in the national budget of 2010, which was approved by parliament in December 2009; however, a series of additional measures were adopted in February, March and May of 2010 as it became clear that the original measures set out in December 2009 would not be sufficient. Details of each budget were available by the Greek Ministry of Finance (<http://www.mnec.gr/en/>). Unless otherwise stated, these are the sources used for the information reported in the analysis below. In addition, all statistical information is taken from the Eurostat Statistical Database unless otherwise stated.

Ireland experiences a very severe and prolonged recession: a contraction in GDP of around 3% in 2008, 8% in 2009 and a predicted further 1.5% in 2010. Furthermore, although Ireland entered the crisis with a low level of public debt, the depth of the crisis in Ireland meant that the government introduced a series of austerity measures relatively quickly. These measures were designed to lessen the rapid deterioration of the public finances which threatened to spiral out of control.

Lithuania also experienced an extremely deep recession, with GDP falling by 15% in 2009; this was the second largest decline in the EU, after Latvia. The crisis has also had an adverse impact on public finances. According to the latest forecasts, the budget deficit was expected to amount to 8.9% of GDP in 2009 and 8.4% in 2010.

The Greek economy was particularly hard hit by the crisis. In 2008, Greece showed an initial resilience against the evolving global financial crisis, in comparison with the experience of other industrialised countries: its GDP growth remained at 2.0%, which although slower than in previous years was significantly above the EU average. However, the Greek economy started seriously contracting in the first quarter of 2009 and, for the first time since 1993, the economy officially entered into recession in July 2009 after contracting for two consecutive quarters. The most recent estimates suggest the economy will contract by 2% in 2009 and a further 3% in 2010. In 2009, the new government revealed that budget deficit was in fact 13.6% of GDP, which resulted in rising borrowing costs and the most severe economic crisis the country has faced in its recent history. On 23 April 2010, the government requested the activation of a bailout package of an initial size of €45 billion in loans developed with the EU and the International Monetary Fund. In May 2010, the government took a series of austerity measures followed up by other measures designed to improve the efficiency of the public sector and drastically reduce public spending through major labour and pension reforms.

### ***The impact of economic policy***

Economic policies cannot be entirely 'neutral' in their impact on different population groups. On the one hand, governments often target fiscal stimulus measures (such as tax cuts or benefit increases) at groups of people who are considered more likely to spend, rather than save, additional income. Such measures can make the stimulus more effective in terms of boosting the

economy and reducing unemployment. On the other hand, according to a widely accepted principle of social solidarity people with a higher ability to pay should contribute more to the overall burden of fiscal consolidation than disadvantaged and vulnerable groups.

Although the economic crisis was primarily addressed through fiscal consolidation measures aimed at reducing public debt, some EU Member States also implemented fiscal stimulus programmes in response to the crisis.

In the UK, for example, during 2009 the increase in public spending was spread across a range of economic sectors, including transport, energy efficiency, schools, housing, education and healthcare. In addition, a tax stimulus came in the form of a temporary reduction in value added tax (VAT), which was expected to have a disproportionately beneficial impact on lower-income groups. Steps were also taken to offset the decline in income from savings faced by many pensioners, as a result of lower interest rates.

In Spain, the increase in public spending during 2009 was distributed across the country's 8,000 municipalities according to population and directed towards local infrastructure projects likely to benefit all members of the community. In addition, part of the *Fondo Especial* in Spain was reserved for the provision of services for the elderly (such as help at home, day and night care centres, tele-healthcare and rooms at homes for dependent people).

EU Member States have also sought to limit the burden of fiscal consolidation measures on low-income and other vulnerable or disadvantaged groups. In the UK, for example, the main tax increases announced by the government (effective from 2011 onwards) were higher income taxes for those on high incomes, and a rise in national insurance contributions, which would tend to affect primarily those on middle to higher incomes. In terms of public spending, the government made certain spending commitments, namely that spending on National Health Service (NHS) front line services and Sure Start children's centres will rise in line with inflation, and spending on front-line education will rise by 0.7% a year above the rate of inflation. In addition, sufficient funding will be provided to maintain existing numbers of police officers, and to ensure the 0.7% UN aid target is met by 2013. In Spain, the government specified in January 2010 that certain areas of expenditure would not be cut: in particular, social security, education, research and development,

and international aid.<sup>32</sup> Ireland took steps to shield those on low incomes from the tax rises announced in the 2009 budget; in particular, the new income tax levy does not apply to social welfare payments, and the impact at lower levels of payment is cushioned by increases in family income supplement and by higher tax bands.<sup>33</sup> In Greece, the social solidarity supplement (EKAS) for pensioners was retained.<sup>34</sup>

As further consolidation measures may be adopted in the future, their effects are likely to be significant for vulnerable groups. Increases in indirect taxation, such as VAT, are widely recognised to have a regressive impact, in that the amount of tax paid as a share of income tends to be higher for those on lower incomes. For example, the UK charity Save the Children has campaigned against a rise in VAT, arguing that the poorest citizens spent 14% of their income on VAT, compared with 5% for the richest. VAT exemptions granted to certain 'essential' goods and services have also been reformed in some EU Member States, which will also have a regressive impact. For example, in its 2009 budget Lithuania announced the end to most VAT exemptions (such as medicine and heating); the only exceptions to be continued will be for books and other educational materials. In Greece, the 2010 budget applied VAT to legal and medical services for the first time, and increased the VAT rates applied to food, books and newspapers.

On the expenditure side, certain areas of expenditure which have been cut are likely to be quite significant for certain vulnerable groups. In Ireland, for example, the national voluntary organisation Inclusion Ireland, which is the umbrella body for over 160 organisations providing services and supports to people with an intellectual disability, claimed in December 2009 that the moratorium on recruitment and other cuts to the healthcare budget, such as in the prescription levy and in dental treatment, would have a direct adverse impact on the services people with a disability can expect to receive.<sup>35</sup>

There is no evidence that EU Member States carry out systematic *ex ante* impact assessments of fiscal consolidation measures on different population groups. From a fundamental rights perspective, this is a concern since these impacts are not always obvious at first sight: additional analysis is required to reveal how the overall burden is shared between different population groups.

---

<sup>32</sup> More information available at: <http://www.ft.com/cms/s/0/09c3057a-0d3e-11df-af79-00144feabdc0.html>.

<sup>33</sup> More information available at: <http://www.budget.gov.ie/budgets/2010/Summary.aspx>.

<sup>34</sup> More information (in Greek) at: <http://www.ika.gr/gr/infopages/asf/pensions/ekas.cfm>.

<sup>35</sup> See <http://www.inclusionireland.ie/INCLUSIONIRELANDSLAMSCUTSTOPEOPLEWITHDISABILITIES.htm>.

In this respect, a coalition of civil society groups in the UK, including the Equality Trust, Child Poverty Action Group, Barnardo's, the Trades Union Congress (TUC) and others, proposed that government carry out a 'fairness test', to ensure that tax rises and spending cuts necessary to reduce the deficit do not lead to an increase in inequality of incomes, assets or access to services.<sup>36</sup>

### ***Responding to rising unemployment***

The right to engage in work is a fundamental right protected under Article 15 of the EU Charter for Fundamental Rights.<sup>37</sup> In order to respect and protect this right, steps need to be taken to help people back into work as quickly as possible, particularly given the range of adverse side effects of unemployment on physical and mental health. In this regard, the target set by the European Council in its July 2008 Employment Guidelines<sup>38</sup>, part of the Integrated Guidelines for 2008-2010, was that first "every unemployed person is offered a job, apprenticeship, additional training or other employability measure; in the case of young persons who have left school within no more than 4 months by 2010 and in the case of adults within no more than 12 months", and, second, that "25 % of long-term unemployment should participate by 2010 in an active measure in the form of training, retraining, work practice, or other employability measure, with the aim of achieving the average of the three most advanced Member States." The economic crisis made these targets particularly hard to reach, but also highlighted the need for urgent measures to address rising unemployment.

All EU Member States experienced increases in unemployment, which have been more severe for some population groups than others, in particular young men and immigrants. For example, in the UK, by the start of 2010, close to 20% of those aged between 18 and 24 were unemployed, and of these around one quarter had been out of work for 12 months or more.<sup>39</sup> Unemployment has also risen more among ethnic minorities, in particular black and mixed

---

<sup>36</sup> More information is available at <http://www.equalitytrust.org.uk/fairnesstest>

<sup>37</sup> The right to work is included in the European Social Charter (Article 1, 1961 version), and the International Covenant on Economic, Social and Cultural Rights (Article 6).

<sup>38</sup> European Council Decision on Guidelines for the Employment Policies of the Member States, 10614/2/08, available at: <http://register.consilium.europa.eu/pdf/en/08/st10/st10614-re02.en08.pdf>

<sup>39</sup> Office for National Statistics (2010) *Statistical bulletin: labour market statistics*, London, March 2010, available at: <http://www.statistics.gov.uk/statbase/product.asp?vlnk=1944>.

groups.<sup>40</sup> Youth unemployment is also much higher among ethnic minorities, and has increased even more among these groups since the crisis began.<sup>41</sup>

In Spain, by June 2010, the youth unemployment rate (under-25s) had reached 40.3%<sup>42</sup>. Unemployment has also particularly affected those on temporary contracts, many of whom are young. In 2008-2009, the number of permanent employees actually rose slightly (by 1%), while temporary agency workers fell sharply, by 20%.<sup>43</sup> A survey carried out in 2009 found that while 32% of temporary agency workers had lost their jobs, the equivalent figure was only 5% for permanent workers.<sup>44</sup> Immigrants have also been identified as one of the more vulnerable groups to the impact of the crisis in Spain. Unemployment among immigrants is estimated at 30%, which is considerably above the national average.<sup>45</sup> This is partly to be expected, in that many were on temporary contracts and in the construction sector. In terms of gender, the rise in unemployment has so far been much larger among men, who are disproportionately represented in sectors (such as manufacturing, construction) most affected by the crisis according to Spain's Economic Report (December 2009).<sup>46</sup>

In Ireland, the rise in unemployment has been particularly marked among young men: between 2007 and 2009, the unemployment rate for male 15-19 year olds rose from 14% to 37% and from 8% to 32% for 20-24 year olds.<sup>47</sup> It has also been particularly marked among non-Irish nationals: between 2007 and 2010, the number of Irish nationals on unemployment benefit doubled (from 140,000 to 360,000), but the number of non-Irish nationals quadrupled (from 19,000 to 81,000); the rise was even larger among non-EU foreign

---

<sup>40</sup> Equality and Human Rights Commission (EHRC) (2009b) *Monitoring update on the impact of the recession on various demographic groups*, London: Government Equalities Office, p. 19, available at:

[http://www.equalityhumanrights.com/uploaded\\_files/research/impact\\_of\\_the\\_recession.pdf](http://www.equalityhumanrights.com/uploaded_files/research/impact_of_the_recession.pdf).

<sup>41</sup> IPPR (2010) *Youth unemployment and the recession: Technical Briefing*, available at <http://www.ippr.org.uk/uploadedFiles/events/Youth%20unemployment%20and%20recession%20technical%20briefing.pdf>.

<sup>42</sup> Eurostat Euroindicators (30 July 2010) available at: [http://epp.eurostat.ec.europa.eu/cache/ITY\\_PUBLIC/3-30072010-AP/EN/3-30072010-AP-EN.PDF](http://epp.eurostat.ec.europa.eu/cache/ITY_PUBLIC/3-30072010-AP/EN/3-30072010-AP-EN.PDF).

<sup>43</sup> OECD (2009) *OECD Employment Outlook*, Paris: OECD, p. 45, available at:

[http://www.oecd.org/document/0/0,3343,en\\_2649\\_34747\\_40774656\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/0/0,3343,en_2649_34747_40774656_1_1_1_1,00.html).

<sup>44</sup> Financial Times, 1 June 2009, available at <http://www.ft.com/cms/s/0/cdf69dfe-5483-11de-a58d-00144feabdc0.dwp?uiid=8f46f0f4-5492-11de-a58d-00144feabdc0.html>.

<sup>45</sup> Social Protection Committee-European Commission (2009: 41).

<sup>46</sup> El País, 18 January 2010, available at [http://www.elpais.com/articulo/sociedad/empleo/femenino/resiste/mejor/crisis/elpepisoc/20100118elpepisoc\\_1/Tes](http://www.elpais.com/articulo/sociedad/empleo/femenino/resiste/mejor/crisis/elpepisoc/20100118elpepisoc_1/Tes).

<sup>47</sup> According to Professor Philip Lane (Trinity College Dublin), "The lottery draw here was what age you were: that was what mattered in the damage done. Those in their twenties and early thirties have been hammered." (The Observer, 'Once again the young Irish prepare to leave', 28 February 2010).

nationals, which *quintupled* over the period (from 10,000 to 51,000).<sup>48</sup> In terms of gender, the rise in unemployment was larger among men than women: a rise from 5% to 16% compared to a rise from 4% to 9% respectively. The particularly large rise in male employment is attributed mainly to the decline in employment in the construction sector.<sup>49</sup>

In Greece, the unemployment rate increased significantly from 7.2% in 2008 to 12.1% in February 2010, according to the Hellenic Statistical Authority. A report published by the National Centre for Social Research (EKKE) in June 2010 showed that rising unemployment between 2008 and 2009 has particularly affected young men, women older than 45 years and those who were long-term unemployed. At the same time the unemployment rate for those between 50-64 years of age is relatively low, which can be attributed to extensive early retirement.<sup>50</sup> The OECD SOPEMI 2010 report<sup>51</sup> presents data, from the third quarter of 2009, showing that the number of unemployed foreigners doubled over the previous year.

In Lithuania, according to Statistics Lithuania<sup>52</sup> provisional Labour Force Survey data show that unemployment more than doubled in 2009 from 2008 reaching 13.7%, and 18.1% in the first quarter of 2010. Youth (aged 15–24 years) unemployment rates increased to 29.3% in 2009 and 35.9% in the first quarter of 2010<sup>53</sup>.

Reports from Belgium and the Netherlands draw a similar picture: According to data collected by the Flemish public employment agency VDAB in Belgium, the economic crisis hits people of foreign origin especially hard. VDAB counted 13.9% more unemployed Flemings and citizens of other EU-countries but 21.6% more unemployed people of non-EU origin in the first four months of 2009 (with and without Belgian citizenship).<sup>54</sup> New data collected by the statistical office CBS in the Netherlands, regarding the unemployment of

---

<sup>48</sup> IMF, *Finance and Development* 46 (1), March 2009, see in particular McPhee, S. 'High mobility: newly unemployed migrants to Ireland may stay put in recession', p. 17, available at <http://www.imf.org/external/pubs/ft/fandd/2009/03/impact.htm>

<sup>49</sup> Quarterly National Household Survey, Quarter 1 2010, available at [http://www.cso.ie/releasespublications/documents/labour\\_market/current/qnhs.pdf](http://www.cso.ie/releasespublications/documents/labour_market/current/qnhs.pdf)

<sup>50</sup> EKKE (2010) *The social portrait of Greece 2010* (Το Κοινωνικό Πορτραίτο της Ελλάδας 2010), Athens.

<sup>51</sup> OECD (2010) *SOPEMI Report 2010*, Paris: OECD, available at <http://www.oecd.org/dataoecd/6/34/45627967.pdf>.

<sup>52</sup> Available at: <http://www.stat.gov.lt/en/news/view/?id=8680&PHPSESSID=>

<sup>53</sup> Statistics Lithuania, available at: <http://www.stat.gov.lt/en/news/view/?id=8612&PHPSESSID=cb4cc46fefab5052ec0bfd39a1da2c4c>.

<sup>54</sup> See data collected by the VDAB online at: <http://www.minderhedenforum.be/2pers/200905stijgendewerkloosheid.htm> and [http://www.minderhedenforum.be/2pers/documents/Werkzoekendenenwerkenden-bijlage\\_000.pdf](http://www.minderhedenforum.be/2pers/documents/Werkzoekendenenwerkenden-bijlage_000.pdf).

various migrant groups over the second quarter of 2009 indicate that non-western migrants are more often unemployed than in previous periods. Where the unemployment figures for those groups decreased in 2008 to 9%, 2009 saw an increase to 11.2%. In comparison, unemployment among the native Dutch population rose from 3.2% in 2008 to 3.8% in 2009<sup>55</sup>.

In terms of responses, many EU Member States have taken steps to provide additional support for disadvantaged groups in the labour market most affected by the crisis. In the UK for example, the government introduced in January 2010 a guaranteed job, training or work placement for all 18-24 year olds who have been unemployed for at least six months.<sup>56</sup> It also provided, under the Future Jobs Fund,<sup>57</sup> a total of 117,000 new jobs for young people in geographical areas hardest hit by the recession. Furthermore, funds were provided for an additional 20,000 undergraduate places on courses starting in 2010-11, and a place in education and/or training was guaranteed for every 16 and 17 year old who wants one. In Lithuania, the new project of the Lithuanian Labour Exchange supported by the European Social Fund “Be Active in the Labour Market”<sup>58</sup> will provide employers hiring young people with no work experience with salary subsidies of up to 50%. In Spain, as part of its overall response to the crisis, the range of services and support available to the unemployed was expanded. This included the hiring of 1,500 additional jobs advisors and temporary subsidies (€1,500 per year) to firms employing unemployed workers with families on permanent, full-time contracts. In addition, from August 2009 it extended by 6 months the duration of time for which the standard unemployment benefit of €420 per month is paid. It is expected that 600,000 people benefited from this extension.<sup>59</sup>

Similarly in Greece, despite the priority given to reducing the fiscal deficit, some measures have been adopted in order to support businesses and create employment targeting particularly young people. These include an increase in the budget of the Guarantee Fund for Small and Very Small Enterprises<sup>60</sup> (TEMPME), with participation from small agro-businesses to ease liquidity

---

<sup>55</sup> See <http://www.cbs.nl>.

<sup>56</sup> This measure aims to ensure that no young person is “permanently disadvantaged” by the recession; the guarantee will end in April 2012.

<sup>57</sup> As a result of the Cross-Government Efficiency Savings on 24 May 2010, no further bids to the Fund will be approved.

<sup>58</sup> More information at <http://www.baltic-course.com/eng/finances/?doc=29691>.

<sup>59</sup> This estimate is taken from Social Protection Committee-European Commission (2009) *Second joint assessment of the social impact of the economic crisis and of policy responses*, SOC 715/ECOFIN 808, Brussels, 24 November 2009, p. 23; available at: <http://ec.europa.eu/social/main.jsp?catId=758&langId=en>.

<sup>60</sup> More information is available at: <http://www.tempme.gr>



constraints of small enterprises, vulnerable to the economic downturn. In 2010-2011, the Fund will guarantee low interest loans for the purchase of raw materials, goods and services valued at around one billion Euro;<sup>61</sup> a €15 billion state-support package to increase liquidity for commercial banks; a new Hellenic Development Fund to promote green energy and infrastructure scheduled to be in operation in 2010; simplification of business start-up processes, with an aim of reducing administrative costs by 70%; provision of financial incentives for firms to hire young adults (with a subsidy on their insurance contributions); and an increase in public investment in education by €500 million, and another €800 million will match EU structural funds commitments.

### ***Social protection and rights of the child***

Social protection is a fundamental right protected under Article 34 of the EU Charter for Fundamental Rights.<sup>62</sup> In order to respect and adequately protect this right through a downturn, social protection systems should seek to continue to provide support at a *satisfactory* or *adequate* level “in accordance with national laws and practices” (Article 34.1), so as to fulfil the requirement of Article 34.3 of the EU Charter of Fundamental Rights for social assistance that can provide a “decent existence”.

The rights of the child, which are protected under Article 24 of the EU Charter for Fundamental Rights, can also be affected by the economic crisis. Fiscal consolidation measures may lead to budget cuts in services that are important for children, as well as governmental and non-governmental initiatives in regard to, for example, early childhood development, grants or school fee waivers, but also action targeting the most vulnerable children, such as street-children initiatives, action against child abuse and exploitation, and youth programmes to avoid marginalisation.

EU Member States have tried to maintain the level of social benefits at pre-existing levels prior to the crisis. For example, in the UK, the value of all social benefits was increased in 2008 and 2009 at least in line with the rate of inflation. This was achieved via the long-standing policy of indexing all benefits

---

<sup>61</sup> More information on the operation of the Fund is available at: <http://www.ypoian.gr/wp-content/uploads/2010/05/%CE%BF%CE%B4%CE%B7%CE%B3%CF%8C%CF%82-%CF%80%CF%81%CE%BF%CE%B3%CF%81%CE%AC%CE%BC%CE%BC%CE%B1%CF%84%CE%BF%CF%82.pdf>.

<sup>62</sup> The right to social protection is included also in the European Social Charter (Articles 12-13, 1961 version), the International Covenant on Economic, Social and Cultural Rights (Article 9). Social protection includes both social insurance (contributory) and social assistance (non-contributory).

and tax credits (and income tax thresholds) to the rate of inflation. In 2009, benefits were raised by 1.5%, despite the fact that inflation was negative at the time. The minimum wage has also been increased in line with inflation.

In Spain, growth in pensions including minimum retirement guarantees was maintained. These all increased by around 6% in 2009, which was significantly above the rate of inflation. The government also committed to maintain growth in pensions for the remainder of the Parliament, expecting a similar rate of increase (around 30% over the five-year period).<sup>63</sup> It also increased minimum wages by 4% in 2009 and committed to a 33% increase between 2008 and 2012,<sup>64</sup> thereby significantly exceeding the rate of inflation.

In Ireland, an attempt was made to maintain the purchasing power of social benefits, by adjusting their money values in line with the rate of inflation. From 2009, virtually all social benefits were raised by around 3%, close to the inflation rate (in 2008) of 3.1% with the exception of child benefit, which remained constant in nominal terms. And although most benefits were cut by about 4% from 2010, the government argued that this cut would be offset by the negative rate of inflation in 2009. In addition, it maintained the level of the state pension from 2010, mainly because the effective rate of inflation was considered to be higher for pensioners than for the rest of the population.

However, some of the measures taken have had arguably an adverse impact on the level of social protection. For example, Ireland also introduced a series of changes to the social security system designed to limit expenditure in this area, including: a reduction in the duration of unemployment insurance, from between 12 and 15 months to between nine and 12 months; stricter eligibility requirements for unemployment insurance (at least two years of paid contributions, compared to one year previously, with at least 13 weeks in the relevant year); a maximum limit of two years on illness benefit; an end to automatic entitlement to free health care (medical, dental and optical treatment and medicines) for those aged over 70 years; a reduction of 50% in the value of unemployment insurance benefits for those aged under 20 years

---

<sup>63</sup> For example, the minimum retirement pension for married pension holders which amounted to €658 a month will reach €850 a month by 2010. This process is referred to as “revalorisation”. It is estimated that around 2.6 million people are receiving the minimum pension guarantee.

<sup>64</sup> The minimum wage amounted to €600 a month in 2008; the commitment is to reach at least €800 a month by 2012.

(from May 2009); and reductions of between 20% and 50% in the value of unemployment insurance for those aged 20-24 years (from January 2010).<sup>65</sup>

In Lithuania, there have also been reductions in a range of social security benefits. For example, the fiscal consolidation plan launched in December 2008 announced a temporary restriction of benefits for children over 3 years of age to low-income families,<sup>66</sup> and a reduction in school lunch payments.<sup>67</sup> Further reductions in social benefits and pensions were included in the 2010 budget. In Greece, a reduction in the nominal value of social security benefits was part of the consolidation measures required by the EU under its excessive deficit procedure. In particular, in its February 2010 decision, the Council asked Greece to introduce “nominal cuts in transfers paid by the social security, including through measures to restrict the indexation of benefits and entitlements”.<sup>68</sup>

It is possible to argue that some reductions in social security expenditure were necessary, simply in order to prevent an unsustainable build-up of public debt, the consequences of which could be very harmful for a state’s ability to adequately protect a whole range of fundamental rights (such as the rights to education, health, and social assistance). On the other hand, one could also argue that the level of protection provided remained adequate in terms of guaranteeing a “decent existence”, despite the reductions in overall expenditure. In Ireland for example, the government claimed, in the presentation of the 2010 budget, that even after the reduction in unemployment benefit for young people, levels of benefits for the young would still be comparable with those elsewhere, in particular the UK.<sup>69</sup> Ireland also took steps to promote greater targeting of social benefits, i.e. making sure that social security expenditures are channelled at those “most in need”.<sup>70</sup>

---

<sup>65</sup> The government did state, however, that in the case a person was younger than 24 years and has a dependent child, and in “certain other circumstances”, benefits would be paid at the full adult rate.

<sup>66</sup> It is estimated that around 64% of all families will qualify on these grounds (World Bank (2009) *Lithuania Social Sectors Public Expenditure Review*, Human Development Department, Europe and Central Asia Region, Washington DC: World Bank Group, p. 64).

<sup>67</sup> This is one of the means-tested benefits provided by the government: see World Bank (2009: 39) and Lithuanian Parliamentary Mirror (December 2008: 47).

<sup>68</sup> Council Decision of 16 February giving notice for Greece to take measures for the deficit reduction judged to be necessary in order to remedy the situation of excessive deficit (2010/182/EU), available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:083:0013:0018:EN:PDF>.

<sup>69</sup> “Unemployment among the young is a particular concern to the Government. We want to encourage them to stay close to the labour market while at the same time providing a rate of assistance that compares very well internationally, particularly with payments in Britain and Northern Ireland.” (Brian Lenihan, budget speech, December 2009, available at <http://www.budget.gov.ie/Budgets/2010/FinancialStatement.aspx>).

<sup>70</sup> “It was right that when times were good, we increased payments to those who are vulnerable. Now that we are in recession, we must look at how we can use the €21 billion welfare budget to afford maximum

Thus, in the 2009 budget, certain universal benefits – in particular, a medical card for those over seventy, child benefits, and early childcare supplements – were ended or at least significantly reduced and compensating cash payments were put in place for those on the lowest incomes.<sup>71</sup> Similarly, in Lithuania the cuts announced in late 2009 to the budget of the Social Security Fund were of a progressive nature; for example, there will be no reductions to the social benefits of persons with disabilities.<sup>72</sup>

However, in some cases civil society organisations have challenged arguments that an adequate level of social protection is being maintained. In Ireland for example, civil society groups as part of a ‘Poor Can’t Pay’ campaign<sup>73</sup> argued against the cuts in social welfare benefits from 2010, claiming that prices have fallen by much less for the poorest households, compared to wealthier ones. The campaign called on the government to refrain from making any further cuts in social welfare payments or the minimum wage.<sup>74</sup>

In addition, there are potential concerns and drawbacks about a policy of greater targeting of social benefits. In Ireland for example, there was also criticism of measures in relation to child benefit. A campaign by civil society groups argued that child benefit should not have been reduced in the 2010 budget, on the grounds that, being a universal benefit, the payment is easy to access and received without stigma.<sup>75</sup>

One final issue relates to the impact of the crisis on targets for reducing poverty. The UK, for example, had set in 1999 a target<sup>76</sup> of reducing child poverty by half by 2010, but partly as a result of the crisis this target was not

---

protection to those most in need.” (Brian Lenihan, Budget speech, April 2009, available at <http://www.irishtimes.com/indepth/aprilbudget2009/speech>).

<sup>71</sup> A further strategy was to make universal benefits (such as the child benefit) taxable; this was mentioned as a possibility in both 2009 budgets. However, certain legal reasons prevented the government from doing this (Brian Lenihan, Budget speech, December 2009, available at <http://www.budget.gov.ie/Budgets/2010/FinancialStatement.aspx>).

<sup>72</sup> Lithuanian Parliamentary Mirror, December 2009, p. 36, available at [http://www6.lrs.lt/kronikos/pdf/yk6q-38vw-g3zsF21537December\\_2009+.pdf](http://www6.lrs.lt/kronikos/pdf/yk6q-38vw-g3zsF21537December_2009+.pdf)

<sup>73</sup> “The Poor Can’t Pay” campaign is run by a coalition of charities, community organisations and trade unions, which includes among others: Focus Ireland; Age Action; Barnardo’s; Social Justice Ireland; and Mandate; more details available at: [www.thepoorcantpay.ie](http://www.thepoorcantpay.ie).

<sup>74</sup> The campaign group’s claim was based on research carried out by the ESRI, which found that the prices of goods bought by poor households have fallen more slowly than general prices (Press Statement 11.1.10, available at: <http://www.thepoorcantpay.ie/latest-news>).

<sup>75</sup> See <http://www.childrensrights.ie/index.php?q=knowledgebase/poverty/1-million-reasons-oppose-cuts-child-benefit-budget-2010> (23.3.10). The groups involved in the campaign were PACUB (Protest Against Child Unfriendly budget), OPEN, One Family, Children’s Rights Alliance and National Women’s Council of Ireland.

<sup>76</sup> See, for example, “A disappointing budget for the poorest children: Little investment as 2010 child poverty target missed by at least 600,000”, available at <http://www.cpag.org.uk/press/2010/240310.htm>.

met.<sup>77</sup> Similarly, according to the charity Help the Aged, the UK will miss its targets, set under the 2000 Warm Homes and Energy Conservation Act, to do everything reasonably practicable to eliminate fuel poverty in England, for the vulnerable by 2010 and for all others by 2016.<sup>78</sup>

### ***Racism and xenophobia***

In February 2009, the United Nations High Commissioner for Refugees Antonio Guterres declared that “xenophobia is an inevitable trend in many parts of the world when the economic situation deteriorates”.<sup>79</sup>

Past experience has suggested that economic crises can lead to outbreaks of racism, including violence against persons belonging to minorities. Sufficient measures are therefore necessary to guard against this possibility, and to protect threatened groups against any outbreaks which do occur. In particular, reducing spending on integration and community cohesion measures should be avoided, if at all possible, particularly during a period of economic crisis. In this regard, on 21 March 2009 the FRA released a statement together with the OSCE Office for Democratic Institutions and Human Rights and the Council of Europe European Commission against Racism and Intolerance warning against cutting back essential social protection and inclusion programmes as this can have a disproportional negative impact on minority and migrant groups already suffering from precarious living conditions.

FRA monitors systematically racism, xenophobia and related intolerance across the EU. FRA’s Annual Report 2010<sup>80</sup> presents an analysis of the available official statistical data on racist violence and crime, as well as on racial discrimination in areas of social life. However, such data were only available for 2008. Furthermore, trends over time can only be observed for those few EU Member States, which collect and publish comprehensive data on a regular basis. In the future one might therefore expect to see some improvement in data collection on racist crimes that can serve to monitor the application of law in practice, as EU Member States should implement Council Framework Decision

---

<sup>77</sup> In 2010, a new set of targets were announced; one of these was to reduce the proportion of children in poverty to less than 10% by 2020. These targets were set down in law, under the Child Poverty Act (passed into law in March 2010), thus strengthening systems of accountability.

<sup>78</sup> See, for example, <http://policy.helptheaged.org.uk/policy/Poverty/FuelPoverty/default.htm> (24.3.10). The likelihood of failing to meet the target had arguably become apparent as early as April 2008.

<sup>79</sup> McGuirk, R. (2009) ‘Refugees to be Victims of Economic Collapse – UN’, *The Irrawaddy*, 23 February, available at: [http://www.globalization101.org/news1/financial\\_crisis\\_and\\_xenophobia](http://www.globalization101.org/news1/financial_crisis_and_xenophobia)

<sup>80</sup> FRA (2010), *Annual Report 2010*, available at: [http://www.fra.europa.eu/fraWebsite/attachments/AR\\_2010-conf-edition\\_en.pdf](http://www.fra.europa.eu/fraWebsite/attachments/AR_2010-conf-edition_en.pdf)

2008/913/JHA on combating certain forms and expressions of racism and xenophobia by means of criminal law by 28 November 2010.

Addressing the current lack of reliable and comparable data on minorities in many EU countries, the FRA EU-MIDIS survey<sup>81</sup> published in 2009 provided for the first time robust and comparative data for all EU Member States asking a random, representative sample of migrants and minorities of their experience of discriminatory treatment, racist crime victimisation, awareness of rights, and reporting of complaints. EU-MIDIS involved face-to-face interviews with 23,500 persons from selected immigrant and ethnic minority groups in all 27 EU Member States. Some 5,000 persons from the majority population were also interviewed to compare the results. The ethnic minority and immigrant groups interviewed described high levels of discriminatory treatment and criminal victimisation, including racially motivated crime. Of the nine areas of discrimination in everyday life looked at in the survey, discrimination in employment emerged as the most significant area for discriminatory treatment. The EU-MIDIS results show that discrimination in two main areas of life, namely education and employment, is particularly problematic for some groups. This result is alarming as education and paid employment hold the key to integration and social inclusion, representing the 'prerequisite' for leading a dignified, free and confident life.

It is very difficult to say whether racism and xenophobia have increased because of the economic crisis. It is equally difficult to attribute any specific racist incidents to the economic crisis. Nevertheless, several EU Member States have responded to address the risks. For example, in the UK a £12 million scheme was launched in October 2009 designed to combat the spread of right-wing extremism.<sup>82</sup> Under the plans, each of more than 100 areas across the country judged to be vulnerable to extremism will be given extra help to boost job opportunities, education and living conditions available to residents. Special community forums will be set up to allow local people to air grievances, while further measures will aim to ensure that council leaders and other officials "speak out" more effectively for those they represent.

Spain has maintained its policy of ensuring that all immigrants are signed up on the municipal register, which allows them access to health care and education

---

<sup>81</sup> Available at: [http://fra.europa.eu/fraWebsite/eu-midis/index\\_en.htm](http://fra.europa.eu/fraWebsite/eu-midis/index_en.htm).

<sup>82</sup> Bentham, M. (2009). 'War on Right-wing racism launched in vulnerable areas', *Evening Standard*, 14 October, available at: <http://www.thisislondon.co.uk/standard/article-23756259-war-on-right-wing-racism-launched-in-vulnerable-areas.do>.

services for their children. The government's position is that this has been essential in order to protect people's basic human rights.<sup>83</sup>

In certain other cases however, responses to the crisis risk hampering efforts to prevent racism and xenophobia. Spain for example, announced that a €59m fund designed to promote the integration of immigrants into Spanish society would be abandoned.<sup>84</sup> In Ireland, in late December 2008, the National Consultative Committee on Racism and Interculturalism (NCCRI), which was a key voluntary mechanism for monitoring racist crime, preparing bi-annual reports on racist incidents, was closed<sup>85</sup> due to budget cuts. As a result, a core data collection mechanism on racist crime was lost. In addition, the Irish Migrants Rights Centre has argued that the restrictive changes to the work permit system in June 2009 – to make it more difficult for migrant workers made redundant by the crisis to remain in Ireland – created a “high degree of tension and fear” within the migrant community.<sup>86</sup>

### ***Human rights institutions and civil society organisations***

The economic crisis impacts negatively on both human rights institutions, as well as civil society organisations. In May 2010 the FRA released four reports showing that data protection authorities, equality bodies and national human rights institutions across the European Union are in need of additional support. The reports revealed that these key players in fundamental rights protection and promotion in the EU often lack resources, are not sufficiently independent or have weak mandates.

Cuts in the funding for key statutory institutions established to protect and promote human rights, such as national human rights institutions, equality bodies, national data protection authorities, and ombuds institutions, can threaten the protection of human rights and the promotion of diversity and equality. The savings gained from such cuts are minimal, but the cost of doing so can be dear at precisely the time when the vulnerable and the voiceless need more protection, not less. At the same time, human rights civil society organisations are also facing cutbacks not only in funding, but also in donations and sponsorship programmes.

---

<sup>83</sup> El Pais (2010) 'No admito que por un truco haya seres humanos sin sanidad o escuela. Zapatero avisa a los municipios que discriminan a los sin papeles', 21 January.

<sup>84</sup> El Pais (2009) 'Corbacho repone el fondo para inmigrantes', 1 May.

<sup>85</sup> FRA (2010), *Annual Report 2010*, p. 45.

<sup>86</sup> Migrant Rights Centre Ireland (2010) *Racism and migrant workers in Ireland*, Policy Paper 2010, available at: <http://www.mrci.ie/publications/documents/MRCIPPRacismandMigrantWorkersinIreland.pdf>.

There is evidence that the economic crisis has had an impact on the financing of human rights statutory bodies. In Ireland for example, the budgets of the main authorities dealing with equality and human rights have been significantly cut following the 2009 budget. The funding of the Equality Authority has been cut by 43%, the funding of the Irish Human Rights Commission (IHRC) has been cut by 32% and the National Consultative Commission on Racism and Inter-culturalism has been closed.<sup>87</sup> These developments attracted strong criticism from civil society organisations.<sup>88</sup> In the UK, the Equality and Human Rights Commission was asked to reduce its budget by 15%.<sup>89</sup> The reduction has forced the organisation to review its staffing, marketing and programme of grants to combat discrimination. In France,

During the economic crisis, demands also increase on civil society organisations providing services to poor and vulnerable groups. In the UK, for example, there has been a large increase in the numbers of people using charity networks providing donated food.<sup>90</sup> In Spain, family networks help ease the pain of unemployment.<sup>91</sup> Charities are also providing support; for example Caritas, a church-run charity, saw a 75% rise in requests for help during 2008, mainly from people struggling to pay for their homes, and immigrants who have lost their jobs.<sup>92</sup>

The increase in demand for services provided by many civil society groups has however been combined with a fall in their funding. In the UK, charities and voluntary organisations have experienced a fall of 11% in their donations in 2009-9, equivalent to a loss of around £1 billion.<sup>93</sup> In Spain, the Church is worried that, with the economic downturn biting deep, the amount the Church

---

<sup>87</sup> Ireland Human Rights Commission (2010) Written statement received from Ireland Human Rights Commission to Equal Opportunities Committee, Scottish Human Rights Commission, available at: <http://www.scottish.parliament.uk/s3/committees/equal/Budget%20process%202011-12/subs/BSP07IHRC.pdf>

<sup>88</sup> LaMarche, G. (2009) 'Ireland's economic problems: no excuse to send human rights into recession', *The Atlantic Philanthropies*, 6 May, available at: <http://www.atlanticphilanthropies.org/currents/ireland's-economic-problems---no-excuse-send-human-rights-recessio>

<sup>89</sup> The Guardian (2010) 'Human rights watchdog the EHRC faces 15% budget cut', 10 June, available at: <http://www.guardian.co.uk/politics/2010/jun/10/ehrc-budget-cut-whitehall-spending>

<sup>90</sup> For more information, see <http://www.guardian.co.uk/uk/2010/jan/17/eating-heating-furniture-cold-weather>.

<sup>91</sup> For more information, see [http://www.economist.com/realarticleid.cfm?redirect\\_id=13611650](http://www.economist.com/realarticleid.cfm?redirect_id=13611650).

<sup>92</sup> For more information, see

[http://www.economist.com/world/europe/displaystory.cfm?story\\_id=E1\\_TNRGSPND](http://www.economist.com/world/europe/displaystory.cfm?story_id=E1_TNRGSPND).

<sup>93</sup> National Council for Voluntary Organisations (2009) *The impact of the recession on charitable giving in the UK*, available at [http://www.ncvo-vol.org.uk/sites/default/files/UploadedFiles/NCVO/Research/Giving\\_Research/Recession\\_paper\\_final\\_PDF.pdf](http://www.ncvo-vol.org.uk/sites/default/files/UploadedFiles/NCVO/Research/Giving_Research/Recession_paper_final_PDF.pdf).



receives in donations will dwindle, reducing its ability to help those in need. A recent study by the International Federation of Red Cross and Red Crescent Societies reported that two thirds of national societies in Europe experienced a serious decline in the income of their organisation, and one quarter noted a significant decline in state support.<sup>94</sup>

There have been some examples of responses by EU Member States to offset the fall in funding for civil society organisations. In the UK, for example, additional funding was provided for 'third sector' organisations delivering front-line services (such as healthcare, social care, housing, education and training, and citizens' advice) to the most vulnerable and disadvantaged in society. This additional funding took the form of a £20 million Hardship Fund, and a £42 million 'Real Help for Communities' action plan. In each case, the funding lasted, however, until December 2009.

---

<sup>94</sup> Available at: [http://www.ifrc.org/Docs/Reports/Economic\\_crisis.pdf](http://www.ifrc.org/Docs/Reports/Economic_crisis.pdf). The results of the survey referred to Europe in general (a total of 52 countries), and not specifically to the European Union.

### 3. Responses by EU institutions

The European Union responded to the crisis through the European Recovery Plan<sup>95</sup> presented by the European Commission on 26 November 2008 and approved by the European Council of 11 and 12 December 2008. The plan is worth approximately €200 billion, equivalent to 1.5% of the EU's GDP and its fundamental principle is “[...] solidarity and social justice. In times of hardship, our action must be geared to help those most in need”.<sup>96</sup>

For the EU, the economic crisis has coincided with discussions regarding the future direction of the Lisbon strategy. These have culminated in the adoption by the European Council of ‘Europe 2020’, which constitutes the “new strategy for jobs and smart, sustainable and inclusive growth”.<sup>97</sup> This new strategy contains targets for raising employment and education, and for reducing numbers of people at risk of poverty – goals which are clearly vital for the promotion and protection of fundamental rights.

The new Europe 2020 strategy also refers to the fiscal consolidation efforts EU Member States have begun to make in response to the dramatic deterioration of public finances following the economic crisis. Here, it argues that “priority should be given to growth-friendly budgetary consolidation strategies mainly focused on expenditure constraint”. As discussed further below, fiscal consolidation measures are clearly important from the perspective of protecting fundamental rights, but expenditure constraint could adversely affect the rights of vulnerable groups.

#### ***Cohesion policy: the Structural and Cohesion Funds***

Article 174 of the Treaty on the Functioning of the EU requires the EU to aim at strengthening economic, social and territorial cohesion and reducing disparities in levels of development between regions. In achieving these aims, the European Social Fund (ESF), the European Regional Development Fund (ERDF) and the Cohesion Fund (CF) – established in 1958, 1974 and 1994 respectively – are designed to play a key role. More recently, the European

---

<sup>95</sup> European Commission, *A European Economic Recovery Plan*, COM(2008) 800 final, Brussels, 26 November 2008, available at: [http://ec.europa.eu/economy\\_finance/publications/publication13504\\_en.pdf](http://ec.europa.eu/economy_finance/publications/publication13504_en.pdf).

<sup>96</sup> *Ibid.*

<sup>97</sup> European Council, Conclusions, EUCO 13/10, Brussels, 17 June 2010, available at: [http://ec.europa.eu/eu2020/pdf/council\\_conclusion\\_17\\_june\\_en.pdf](http://ec.europa.eu/eu2020/pdf/council_conclusion_17_june_en.pdf)

Globalisation Adjustment Fund (EGF) was established in 2006 as a further component of EU cohesion policy.<sup>98</sup>

As part of its response to the economic crisis, the EU introduced in 2009 a series of changes (legislative and non-legislative) to the ESF, ERDF and CF aimed at increasing use of these funds during 2009, and therefore providing a fiscal stimulus to each Member State. These changes extended the final date of eligibility for the 2000-2006 period cohesion policy funds, simplified the financial management and administrative burden of programmes, and provided additional advance payments of €6.25 billion in 2009, bringing the total amount available to €11.25 billion in 2009.<sup>99</sup>

The EU also introduced certain changes to the EGF. The original aim of this fund was to provide support to workers who had lost their jobs directly as a result of exposure to the globalised economy.<sup>100</sup> In 2009 however, the scope of the EGF was temporarily extended, to cover redundancies caused by the impact of the global financial and economic crisis.<sup>101</sup>

It is clear that the changes to cohesion policy introduced by the EU in 2009 have the potential to improve the situation of vulnerable groups. First, they allow Member States to spend more in 2009 than would otherwise have been the case. This contributes to the overall fiscal stimulus in the EU, and thereby supports businesses and jobs. Second, they allow Member States to spend more in 2009 on activities that support vulnerable groups more directly. For example, ESF funds can be used to finance such activities as “specialised training, personal job counselling, apprenticeship, subsidised employment as well as grants and small credits for self-employment and business start-ups” (COM 2008, 876/3). Similarly, EGF funds can be used to cover the costs of job

---

<sup>98</sup> In the most recent multi-annual framework (2007-2013), a total of €347bn (current prices; €308bn in 2004 prices) are allocated to these three funds. The EGF is treated slightly differently; this has an annual funding ceiling of €500 million over the period, to be used according to demand.

<sup>99</sup> These measures were finalised in May 2009. In July 2009, the Commission proposed a new set of measures designed to simplify and speed up the use of cohesion policy funds, but these have not yet been approved.

<sup>100</sup> Council Regulation 1927/2006; available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:406:0001:0006:EN:PDF>

<sup>101</sup> Council Regulation 546/2009; available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:167:0026:0029:EN:PDF>. The relevant correction was as follows: “By way of derogation from paragraph 1, the EGF shall also provide support to workers made redundant as a direct result of the global financial and economic crisis, provided applications comply with the criteria set out in Article 2(a), (b) or (c). Member States applying for an EGF contribution under this derogation shall establish a direct and demonstrable link between the redundancies and the financial and economic crisis. This derogation shall apply to all applications submitted before 31 December 2011.”

search, training and/or relocation for vulnerable people made unemployed as a result of the crisis.

However, there are some concerns about the changes made to the structural and cohesion funds from the perspective of fundamental rights. In relation to the EGF, funding cannot exceed €500 million, despite the Commission's own estimates that up to 8 million people have been made unemployed as a result of the economic crisis.<sup>102</sup> Thus if EGF funds were allocated equally to each worker made redundant by the crisis, the value of benefits received would be about €125 per redundant worker. However, one recent award, made in September 2009 to Ireland to assist workers made redundant at a computer manufacturing plant, amounted to €15 million, and covered 2,400 affected workers: an average of around €6,000 per worker.<sup>103</sup> This raises a concern regarding how EGF funds will be allocated equitably in future, if applications to the Fund exceed its available funds.

Furthermore, Member States are constrained under EC legislation to allocate around 60% of structural and cohesion funds to the Lisbon strategy priorities.<sup>104</sup> However, only three of the 74 expenditure categories, which correspond to these priorities, can directly support the situation of vulnerable groups.<sup>105</sup> Many other activities which could directly support the situation of vulnerable groups would not be classified as contributing to Lisbon strategy priorities: for example, measures to help elderly people, or deprived children, or the victims of crime, to access health or education services. Under the current rules regarding EU cohesion policy, such spending could not make up more than 40% of the total. EC regulations relating to the use of Structural and Cohesion Funds could therefore, in some cases, restrict Member States from doing as much as they can to support vulnerable groups during the downturn.

---

<sup>102</sup> This estimate is taken from EC (2009). Draft Joint Employment Report 2009/10. COM 2009, 674/3.

Available at: <http://ec.europa.eu/social/main.jsp?catId=101&langId=en>.

<sup>103</sup> See <http://www.entemp.ie/press/2009/20090919.htm> (10.5.10). If the EGF was to provide benefits of around €6,000 in value to all people who have lost their jobs as a result of the crisis; this would in fact require a total EGF budget of around €50 billion, which is one hundred times the size of the current budget. The original proposal by the Commission for amending the EGF stated that "the Commission will review the budgetary means available for the EGF in the light of the implementation of the revised rules" (see COM (2008) 867 final; p.6), but it is very unlikely that an increase of this magnitude would be contemplated.

<sup>104</sup> See Council Regulation 1083/2006, Article 9.3; available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:210:0025:0025:EN:PDF>.

<sup>105</sup> *Id.*, Annex 4. The relevant categories are numbers 69 "Measures to improve access to employment and increase sustainable participation and progress of women in employment"; 70 ("Specific action to increase participation of migrants in employment and thereby strengthen their social integration") and 71 "Pathways to integration and re-entry into employment for disadvantaged people; combating discrimination in accessing and progressing in the labour market and promoting acceptance of diversity at the workplace").

In this context there have been some interesting developments in the autumn of 2010, as the European Commission set up on 7 September a Roma Task Force to examine how EU funds can help to further strengthen national measures for Roma integration, in particular Structural Funds, a significant financial lever for supporting integration efforts in Member States. The FRA is part of the Roma Task Force assisting its efforts. Based on the input of this Task Force the Commission will present in April 2011 an EU Framework for National Roma Integration Strategies assessing the use of national and European funding and making proposals for a more effective implementation of EU funds to tackle Roma exclusion and monitor the national efforts with regard to Roma integration more efficiently. As European Commission Vice President Viviane Reding said, "[...] EU funds are often not fully used or used in an effective way. This is why the European Commission has promoted measures to facilitate the access to EU funds such as allowing the Fund to support the renovation of housing in rural areas where many Roma live [...] To that end the Commission will invite Member States – both countries of origin and host countries – to present their own national strategies for the integration of Roma and associate the EU's Fundamental Rights Agency to bring in particular its valuable work in the field of data collection."<sup>106</sup>

### ***Fiscal policy: the Stability and Growth Pact***

Each EU Member State determines and operates its own fiscal policy. However, the EU sets certain restrictions on the use of fiscal policy by each Member State, under the Stability and Growth Pact (SGP). In particular, under Article 126 of the Treaty on the Functioning of the EU, and the associated Protocol, each Member State is required to not exceed a budget deficit of 3% of GDP and a public debt of 60% of GDP, unless certain specified exceptions apply.<sup>107</sup> The main objective of the SGP is to enforce fiscal discipline: in particular, “to prevent countries from exposing themselves and the other member countries to a debt default”.<sup>108</sup> It applies equally to all EU Member States, including those that have not adopted the euro.

---

<sup>106</sup> Statement by the European Commission VP Viviane Reding at the Council of Europe High-Level Meeting on Roma and Travellers Strasbourg on 20 October 2010, available at <http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/10/572&type=HTML>

<sup>107</sup> For the 3% fiscal deficit threshold, the exceptions are: a) “the [fiscal deficit to GDP] ratio has declined substantially and continuously and reached a level that comes close to [3%]” or b) “the excess [of the fiscal deficit to GDP ratio over 3%] is only exceptional and temporary and the ratio remains close to the reference value”. For the 50% public debt threshold, the exception is that “the ratio [of public debt to GDP] is sufficiently diminishing and approaching the reference value at a satisfactory pace.” (Article 126).

<sup>108</sup> De Grauwe, P. (2009). *Economics of Monetary Union*. Oxford: Oxford University Press, p. 246

Under the terms of the SGP, the Commission launches an 'excessive deficit procedure' (EDP) whenever the deficit of a Member State exceeds 3% of GDP. The Council then must decide whether any of the exceptions might apply; if not, it makes recommendations to the Member State for reducing its deficit back below 3%, and gives a time frame for doing so. Effective action must then be taken by the Member State within six months. If sufficient steps are not taken, the Council takes further actions. This includes the possibility of sanctions against the Member State, in the form of financial fines (up to a maximum of 0.5% of the country's GDP).

Nevertheless, in 2009, 20 EU Member States were forecast by the Commission to experience fiscal deficits exceeding 3% of GDP. This was to be expected, given the size of the fall in GDP experienced in that year. Nevertheless, in each case the deficits were still considered "excessive" by the Council under the terms of the SGP. The Council has therefore made recommendations in each case in terms of how to reduce the deficit back below 3% of GDP, and has set a deadline for doing so (see Table 2).

When a country is subject to an EDP, the deadline set by the EU for reducing the deficit determines the amount of 'fiscal effort' required by the Member State. Roughly speaking, this corresponds to the rate at which the fiscal deficit must be reduced, expressed in terms of % of GDP per year.<sup>109</sup> In the current crisis however, the amount of fiscal effort required from Member States in the EDP is much higher than this; for example, in Latvia it is 2.75% of GDP, while in Greece it is 3.25% (see Table 2).<sup>110</sup>

---

<sup>109</sup> As an illustration, if a country with a fiscal deficit of 9% of GDP in 2009 is required to reduce its deficit to 3% or below by 2012, then the required fiscal effort is approximately 2% of GDP per year. The exact amount may differ slightly from this, since fiscal effort is calculated more specifically in terms of the rate of reduction in the 'structural' government deficit. This is the government deficit adjusted for cyclical conditions and any temporary, one-off measures.

<sup>110</sup> In the past, the EU has required a level of fiscal effort of at least 0.5% for countries participating in the EU. The higher levels of fiscal effort currently required under the EDP are partly due to the large amount by which many countries' fiscal deficits exceeded the 3% limit in 2009: for example, by an estimated 7% in Latvia and 10% in Greece. However, it also reflects the relatively short periods of time set by the EU for some Member States to reduce their deficits back below the 3% limit.

**Table 1: The EU Excessive Deficit Procedure: selected procedures in place**

	Start date	Initial deadline	Required fiscal effort (% of GDP)*	New deadline	Required fiscal effort (% of GDP)*
UK**	7.08	2010	0.5	2015	1.75
France	4.09	2012	1.0	2013	1.0
Ireland	4.09	2013	1.5	2014	2.0
Greece	4.09	2010	1.25	2012	3.25
Spain	4.09	2012	1.25	2013	1.5
Lithuania	7.09	2011	1.5	2012	2.25
Latvia	7.09	2012	2.75	-	-
Portugal	12.09	2013	1.25	-	-

Notes: \*This refers to the average annual reduction required in the fiscal deficit as a % of GDP. \*\*Years refer to financial years ending in the year shown.

Source: [http://ec.europa.eu/economy\\_finance/sqp/deficit/countries/index\\_en.htm](http://ec.europa.eu/economy_finance/sqp/deficit/countries/index_en.htm)

What implications does the SGP have for fundamental rights, and the situation of vulnerable groups? This is a complicated issue. On the one hand, it is clearly in the interest of everyone in society, including the vulnerable, that fiscal discipline is maintained. An unsustainable build-up of public debt would have severe adverse consequences for a whole range of fundamental rights.<sup>111</sup> The same applies to a debt default. Following its debt default in 2002 for example, Argentina is still unable to borrow on capital markets, and a government which is unable to borrow will find it much more difficult to provide adequate social protection during an economic downturn.

At the same time, the fiscal efforts required of EU Member States under the EDP also clearly have the potential to adversely impact vulnerable groups. On the one hand, the EU has set many Member States with short deadlines (2-3 years) for restoring their fiscal deficits back below 3% of GDP. Given these deadlines, there is at least a possibility that the Member State can only achieve the deficit reduction over the required timescale by reducing social security expenditures to such an extent that social protection is adversely affected.

---

<sup>111</sup> Caliani et al (2010) *Bringing Human Rights to Bear in Times of Crisis: A human rights analysis of government responses to the economic crisis*, p. 17: "History shows that a large debt overhang acts as an impediment to the fiscal capacity of governments to meet their human rights obligations. The consequences of such indebtedness and their impacts on the progressive realization of human rights, especially economic and social rights, for the future cannot be ignored," available at: [http://www.escr-net.org/usr\\_doc/HRResponsestoEconCrisis\\_Final.pdf](http://www.escr-net.org/usr_doc/HRResponsestoEconCrisis_Final.pdf)

The EU has also specifically required one Member State, Greece, to introduce “nominal cuts in transfers paid by the social security, including through measures to restrict the indexation of benefits and entitlements”.<sup>112</sup> This requirement has a clear potential to adversely affect social security payments.

It would be possible to argue that the measures required of Member States under the EDP do not in fact adversely affect fundamental rights: for example, that it is possible to reduce the deficit within the required timeframe through tax increases on higher-earners, or through reductions in spending in low-priority areas. Alternatively, it may also be argued that *not* implementing the measures required would have more adverse consequences for fundamental rights than the measures themselves. However, neither of these sorts of arguments were made by EU policy in this area. A useful first step could therefore be for the EU to provide clear and transparent information on precisely how it sets the deadlines for deficit reduction for each Member State, and whether, and if so how, fundamental rights and the position of vulnerable groups is taken into account.

### ***Borrowing and investment***

The EU is required under its Treaty to run a balanced budget. Unlike Member States, it cannot borrow on financial markets in order to run a fiscal deficit. However, the EU can under certain circumstances borrow on the financial markets in order to make loans, in two main ways. The first is balance of payments support, which is available to EU Member States *not* using the euro. The second is the European Investment Bank. This approves loans amounting to around €50-60 billion each year, with an emphasis on long-term finance. In each case, the loans are guaranteed by the EU’s current budget, and therefore ultimately by the Member States.

Since the outbreak of the crisis in 2008, the EU has provided a total of €14.6 billion in balance of payments support to three EU Member States: Latvia (€3.1 billion), Hungary (€6.5 billion) and Romania (€5 billion).<sup>113</sup> In the process, the maximum amount of support available was increased in May 2009 from €12 billion to €50 billion.<sup>114</sup>

---

<sup>112</sup> Council Decision of 16<sup>th</sup> February giving notice for Greece to take measures for the deficit reduction judged to be necessary in order to remedy the situation of excessive deficit (2010/182/EU). Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:083:0013:0018:EN:PDF>.

<sup>113</sup> DG-ECOFIN (2009: 69).

<sup>114</sup> Id. The amount was raised again in May 2010, to €110 billion. In May 2010 it was also decided that countries using the euro would also be eligible for support for this fund.



The EIB has also increased its lending significantly in 2008 to €58 billion, and even more significantly in 2009 reaching a total of €79 billion, which represents a new milestone in providing financial support for the European economy.<sup>115</sup> In order to allow the increase in borrowing, the EU Member States have increased their subscriptions of capital to the EIB from €165 billion to €232 billion.<sup>116</sup> Much of the increase in lending from the EIB is aimed at small and medium sized enterprises (SMEs).<sup>117</sup>

It is clear that these EU responses have the potential to improve the situation of vulnerable groups. First, balance of payments support prevents a country from experiencing a balance of payments crisis, and a possible default on its foreign debt obligations. This is important given that all groups in society are likely to be adversely affected by such a crisis and/or default, in particular the vulnerable. Second, higher lending for SMEs from the EIB helps offset the sharp reduction in private sector credit for small businesses in 2008 and 2009. This has the potential to support vulnerable groups indirectly, by supporting businesses and therefore employment.

At the same time, there are other factors which can limit the potential of these responses to benefit vulnerable groups. First, only a limited proportion of the loans made by the EIB appear to go to sectors and projects which would support vulnerable groups more directly; for example, in health, education, or community development. Second, EU balance of payments support comes on the condition that recipient countries introduce economic adjustment programmes, which can have adverse impacts on vulnerable groups. However, the EU does not appear to carry out ex ante assessment of the potential for the conditions attached to its balance of payments support to adversely affect vulnerable groups.

### ***Monetary policy: the European Central Bank***

Since the onset of the crisis in late 2008, the European Central Bank has responded by a rapid and substantial monetary stimulus. In particular, the

---

<sup>115</sup> For more information see <http://www.eib.org/about/press/2010/2010-024-european-investment-bank-delivers-unprecedented-lending-volume.htm?lang=en>

<sup>116</sup> This increased the outstanding loans ceiling of the EIB to €581 billion (2.5 times the amount of subscribed capital). Even with the large increase in lending, by 2015 it is expected that there will still be a loans ceiling of around €100 billion.

<sup>117</sup> The EERP included a target to lend €30 billion to SMEs between 2008 and 2011, and increase of €10 billion over what was originally intended (Commission Communication, A European Economic Recovery Plan, Brussels, 26.11.2008: 13; EIB 2009: 7). These loans are channelled via commercial banks under the EIB loans for SME initiative. So far, €20.8 billion has been signed already (for 2008 and 2009).

headline interest rate set by the ECB was reduced from just over 4% in August to less than 1% one year later. This represented the lowest ever level since the ECB was established.

Stimulus measures are considered to be effective during downturns, in terms of boosting economic activity and limiting the rise in unemployment. By lowering interest rates, the stimulus carried out by the ECB will have provided support to businesses looking to finance their investment, and therefore encourage job creation. It would also have encouraged higher spending by consumers, who face lower interest payments on debt as a result, and lower borrowing costs.

One of the drawbacks of a monetary stimulus, however, is that a large reduction in interest rates can have an adverse impact for those with significant amounts of savings, and who rely on income from those savings to supplement other sources (such as the elderly). Some Member States (such as the UK) have taken steps to offset this adverse impact through compensating payments through the tax and benefit system. It would be good practice, if the ECB was to highlight more clearly the potentially adverse impact of monetary stimulus measures on some groups of the population, and provide Member States with advice on how these impacts might be offset.

### ***Monitoring and evaluation***

The EU is regularly monitoring the social impact of the crisis, including its impact on vulnerable groups and reports on it through the Joint Reports on Social Protection and Social Inclusion.<sup>118</sup> This monitoring is being achieved in a variety of ways, which differ in terms of the precise focus and/or timeliness of the information being collected.

#### *EU-SILC*

Since 2005, the EU has collected statistics from each Member State on income and living conditions in each Member State under its EU-SILC<sup>119</sup> (Community Statistics on Income and Living Conditions) programme. This source provides the most comprehensive information on the situation of certain vulnerable groups in the EU, including changes over time. Two of the most relevant

---

<sup>118</sup> The latest Draft Joint Report on Social Protection and Social Inclusion 2010 is available at: <http://ec.europa.eu/social/BlobServlet?docId=4665&langId=en>.

<sup>119</sup> More information available at: [http://epp.eurostat.ec.europa.eu/portal/page/portal/microdata/eu\\_silc](http://epp.eurostat.ec.europa.eu/portal/page/portal/microdata/eu_silc).

indicators are:

- the 'at risk of poverty' rate: people whose income is below 60% of the median income in their country of residence;
- the material deprivation rate: people who are unable to pay for at least three of nine standard goods and/or services.<sup>120</sup>

Across the EU as a whole, these measures both stood at 18% in 2008. However, there is only a limited amount of overlap between the two measures: not everyone who is materially deprived is at risk of poverty, and vice versa (such as only 40% of those at risk of poverty are materially deprived). The 2008 figures also do not show any noticeable rise relative to 2007, except in the case of Latvia where the at risk of poverty rate rises from 21% in 2007 to 26% in 2008.

The latest available figures on the above-listed indicators in the EU will only be available at the end of 2010 making EU-SILC limited in terms of providing a timely source of information on the social impacts of the crisis.<sup>121</sup> The EU's response to this problem is to use alternative sources for more timely sources of information on social impacts. These are documented in the sub-sections below.

#### *The EU Labour Force Survey*

The European Union Labour Force Survey<sup>122</sup> (EU LFS) is a large household sample survey providing quarterly results on labour participation of people aged 15 and over as well as on persons outside the labour force. Because the LFS is carried out regularly, trends in labour market indicators can be analysed on a timely basis. The drawback is that labour market developments capture only part – although clearly an important part – of the social impacts of the crisis. It cannot capture impacts such as: lower earnings for the employed, higher taxes and prices, lower social benefits for pensions and the elderly, for example.

---

<sup>120</sup> These are: a telephone, colour TV, washing machine, personal car, meat/fish every 2<sup>nd</sup> day, one week annual holiday, mortgage/rent arrears, keep home adequate warm and face unexpected expenses.

<sup>121</sup> See, for example, EC (2010). *The Social Situation in the European Union 2009*. Luxembourg: Office for Official Publications of the European Communities, p. 7. Available at: <http://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=523&type=2&furtherPubs=no>.

<sup>122</sup> For more information see <http://epp.eurostat.ec.europa.eu/portal/page/portal/microdata/lfs>

### *Eurobarometer surveys*

Since 1973, the Commission has commissioned a series of surveys of public opinion across the European Union, known as the Eurobarometer surveys. Since the outbreak of the crisis, the EC has commissioned a special Eurobarometer survey (No. 315, in May-June 2009), and two 'flash' - barometer' surveys (Nos. 276 and 286) on the impacts of the economic crisis.

The first 'flash' Barometer (No. 276) was carried out in June 2009 and the results were published in October 2009. The survey was designed to "examine public opinion about the social impact of the global economic crisis", including perceptions about the existence of poverty, levels of financial difficulty, levels of affordability of health and social services, and expectations regarding the next 12 months. The second flash barometer survey (No. 286) was a repeat of this first survey; this was carried out in December 2009, with the results being published in March 2010. Some of the key findings of the surveys were that:

- a) around three quarters (75%) of EU citizens believe that poverty has increased in their country over the past 12 months;
- b) around one fifth (20%) of EU citizens are having difficulties keeping up with household bills and credit commitments; and
- c) around one third (33%) of EU citizens have found it 'somewhat' or 'much more' difficult to afford general healthcare, childcare and long-term care over the past six months.

The special Eurobarometer survey (No. 315) on the crisis, referred to as the 'Social Climate survey' was carried out in May-June 2009 and the results were published in January 2010. This was designed to capture EU citizens' views on their own personal situation, the more general social and economic situation, and on policies in relation to social protection and inclusion. The survey highlighted that most EU citizens had a very negative perception of the general economic situation, and in particular of key social policy issues: for example, a perceived lack of adequate support for the unemployed.

The advantages of the Euro-barometer surveys are two-fold: first, they are timely; and second, they provide information on a broader range of social impacts. The drawback, however, is that while the results from the survey can be disaggregated by country, they cannot be disaggregated between groups within each country (such as by ethnicity and disability), since they are based

on a random sample of the general population. This means that there is no way of knowing, whether vulnerable groups are being more adversely affected as a result of the crisis compared to others.

### *Eurofound*

Eurofound<sup>123</sup> carries out three main surveys on living and working conditions, namely the European Working Conditions Survey (EWCS), the European Quality of Life survey (EQLS) and the European Company Survey (ECS). These surveys are carried out every four or five years however, and cannot provide a timely assessment of the impacts of the economic crisis.<sup>124</sup>

The most regular and up-to-date information published by Eurofound is the European Restructuring Monitor (ERM). ERM collects data on company restructuring involving redundancies across Europe, based on newspaper reports, and is used as a source of evidence in the monthly publication of the European Commission on *EU employment and social situation*. Eurofound recognises, however, that the ERM is subject to a number of drawbacks as a source of information on job losses.<sup>125</sup>

### *In summary*

The EU institutions reacted promptly and comprehensively to the economic crisis taking steps that have supported the protection of fundamental rights in many ways. For example, the changes introduced with quick effect to the Structural and Cohesion Funds, allowed much higher levels of expenditure (around €11 billion) from these funds in 2009; the support provided to those Member States experiencing difficulties (Greece, Latvia, Hungary and Romania); the higher levels of lending in 2009 and 2010 made available to all Member States by the European Investment Bank; the substantial monetary

---

<sup>123</sup> The European Foundation for the Improvement of Living and Working Conditions (Eurofound) was set up in 1975 to “contribute to the planning and design of better living and working conditions in Europe”; see <http://www.eurofound.europa.eu/about/index.htm> (21.4.10).

<sup>124</sup> The EWCS is carried out every five years (previous years 1990, 1995, 2000 and 2005) while the EQLS and ECS are carried out every four years (previous years 2003 and 2007, 2005 and 2009 respectively). According to the Eurofound 2010 work programme, the standard Eurobarometer survey for Autumn 2009 included a set of questions derived from the EQLS, which would allow a comparison with previous editions of the survey. No information about these had been released by July 2010.

<sup>125</sup> In particular, according to Eurofound, “The data collected and published through ERM – while useful in quantifying the phenomenon of industrial restructuring and its employment consequences – has some limitations. First, ERM correspondents have to rely on the accuracy of newspaper articles. Second, the newspaper articles report on restructuring announcements, which are rarely followed up by reporting on the actual measures taken. Third, ERM correspondents document a higher number of ‘smaller’ cases in the small economies, since these are picked up in the national papers but would not get coverage in the newspapers monitored in the large economies”; see <http://www.eurofound.europa.eu/about/index.htm> (21.4.10).

stimulus provided by the European Central Bank, benefiting all Member States using the eurozone.

At the same time, there remain some areas of concern from a fundamental rights perspective. First, is a concern as to how the EU can allocate EGF funds equitably, if faced with a large number of applications for funding, given that the value of recent awards to support workers adversely affected by the crisis have greatly exceeded the value of award which would be possible if all workers adversely affected by the crisis were to be treated equally.

Second, there is a concern that EC regulations requiring that at least 60% of the Structural and Cohesion Funds be spent on Lisbon strategy priorities could in some cases restrict Member States from doing as much as they can to support vulnerable groups during the downturn.

Third, there is a concern that the situation of vulnerable groups is not adequately taken into account when setting deadlines, under the EDP, for Member States to restore their fiscal deficits below 3% of GDP or, in some cases, when setting specific deficit-cutting measures. Decisions in this area could be supported with a strong, clear and transparent justification.

Finally, the balance of payments support was provided by the EU under conditions that may pose risks to fundamental rights: in particular, the requirements for large and at times rapid reductions in fiscal deficits. Again, such conditions could be supported with a strong, clear and transparent justification.

## 4. Some fundamental rights considerations

### *Economic policy*

To promote ‘good practice’ from a fundamental rights perspective in respect of economic policies addressing the crisis Member States and the EU could carry out and publish ex ante and ex post systematic assessments of the impact of fiscal stimulus and/or consolidation measures on different groups of the population. National human rights institutions should be capable of assessing whether or not the level of protection is adequate, and/or any justification provided by the government as to why it is unable to provide an adequate level of protection. Since the latter will involve macroeconomic considerations, it will be necessary to strengthen the capacity of national human rights institutions to assess economic policy decisions. Methods and tools for doing this sort of analysis are available and are increasingly used by civil society and human rights organisations.<sup>126</sup>

In particular, consolidation measures adopted by Member States, and guided by the EU under its Excessive Deficit Procedure, can have significant implications for the protection of key fundamental rights, including the rights to work, adequate remuneration, health and social assistance. Therefore ‘good practice’, from a fundamental rights perspective, would require a more transparent explanation for the deadlines set by the EU to Member States in order to restore their levels of borrowing back below the threshold of 3% of GDP, as well as an ex ante assessment of the possible impact these deadlines may have on key fundamental rights.<sup>127</sup>

Furthermore, a number of Member States have also introduced increases in taxes and duties. A systematic ex ante impact assessment of the impact of such tax increases on different groups of the population could help identify problems early on revealing how the overall burden is shared between different groups of the population.

---

<sup>126</sup> Prominent examples include International Budget Project (2004) *Dignity Counts: A Guide to Using Budget Analysis to Advance Human Rights*, Mexico: Fundar-IBP-IHRIP, available at: <http://www.internationalbudget.org/library/publications/index.cfm?fa=view&id=3377>; and Elson, D. (2006) *Budgeting for Women's Rights: Monitoring Government Budgets for Compliance with CEDAW*, New York: United Nations Development Fund for Women, available at: [http://www.unifem.org/attachments/products/MonitoringGovernmentBudgetsComplianceCEDAW\\_eng.pdf](http://www.unifem.org/attachments/products/MonitoringGovernmentBudgetsComplianceCEDAW_eng.pdf).

<sup>127</sup> The deadlines by which each EU Member State subject to the Excessive Deficit Procedure must restore deficits below 3% of GDP are clearly outlined in European Commission documentation, publicly available on the website (see [http://ec.europa.eu/economy\\_finance/sgp/deficit/countries/index\\_en.htm](http://ec.europa.eu/economy_finance/sgp/deficit/countries/index_en.htm)), but there is limited explanation in terms of how the deadlines are determined.

### ***Responding to unemployment***

Unemployment in the EU remains high at 9.6% (May 2010). The majority of job losses are concentrated in manufacturing and construction with consequent disproportionate impacts on younger, male, unskilled/semi-skilled workers in the private sector.<sup>128</sup> In addition, according to the limited data available, migrant workers, particularly those with temporary contracts, may also be disproportionately affected.

In this context, the adoption on 13 July 2010 by the European Council of a recommendation<sup>129</sup> establishing new guidelines for the economic policies of the EU and its Member States for the implementation of the new Europe 2020 strategy for jobs and growth constitutes ‘good practice’ from a fundamental rights perspective: “Member States’ reforms should therefore ensure access and opportunities for all throughout the lifecycle, thus reducing poverty and social exclusion, through removing barriers to labour market participation especially for women, older workers, young people, the disabled and legal migrants.”

### ***Social protection***

EU Member States have made efforts to maintain the level of social protection at pre-existing levels prior to the crisis. However, some of the measures taken have an adverse impact on the level of social protection. To promote ‘good practice’ in this area, from a fundamental rights perspective, Member States could provide clearer and more transparent explanations as to whether or not an ‘adequate’ or ‘satisfactory’ level of social protection can be provided during the economic crisis, with supporting evidence, thereby building up consensus for difficult, but necessary, measures and ensuring social cohesion. This should explain both why fiscal consolidation is required, and why that consolidation must require measures resulting in a reduction in levels of social protection, rather than other measures, such as a higher level of taxation. EU institutions, in particular the European Foundation for Living and Working Conditions (Eurofound) could assist such a process by calculating differences in the cost of living, and in effective rates of inflation, for different groups of the population, and making available more up-to-date statistics on poverty and working and living conditions of vulnerable groups.

---

<sup>128</sup> Eurofound (2010), European Restructuring Monitor, *ERM Quarterly*, Issue 2 – Summer 2010 available at: <http://www.eurofound.europa.eu/emcc/erm/templates/displaydoc.php?docID=56>.

<sup>129</sup> Available at: <http://register.consilium.europa.eu/pdf/en/10/st11/st11646.en10.pdf>.



### ***Civil society and human rights institutions***

During the economic crisis demands have increased on civil society organisations providing services to poor and vulnerable groups, while at the same time their sources of funding have been falling, although there have been some good examples,<sup>130</sup> where the state has intervened to fill this gap, which could be used as model for other countries.

In some EU Member States, fiscal consolidation efforts resulted in funding cuts for statutory human rights institutions. Such cuts should be considered carefully. While there may be some potential for public institutions to maintain existing levels of service at lower cost (such as through efficiency savings and/or wage restraint), there is a clear danger that, unless carefully considered, reductions in funding may undermine their ability to protect fundamental human rights and promote diversity and equality.

Ways to support and develop the capacity of national human rights institutions to analyse and assess economic policy decisions could also be considered. These institutions would then be able to offer independent assessments of the justifications and evidence provided by governments for some of its key policy decisions, particularly regarding social protection, as a means of strengthening accountability and helping to protect vulnerable groups. Similar issues apply to social protection. The assessments could be linked to the emerging literature which examines economic policy through a human rights lens.<sup>131</sup>

### ***Monitoring racism and xenophobia***

High rates of unemployment and the continuing effects of the economic crisis could lead to outbreaks of racism and xenophobia and it is therefore vitally important to continue efforts to monitor the situation. As EU Member States gradually implement Council Framework Decision 2008/913/JHA on combating certain forms and expressions of racism and xenophobia by means of criminal

---

<sup>130</sup> For example, the Hardship Fund provided until 23 December 2009 grant support to third sector organisations in England that are delivering front-line services to the most vulnerable and disadvantaged people in society; see <http://www.adviceuk.org.uk/filegrab/documents/a28eddbc6d5f1dbb3a4cc27268bf115f/HardshipFundguidancenotes.pdf>; the Real Help for Communities, also provided, funds for local third sector organisations supporting communities through the worst of the current economic downturn, see [http://webarchive.nationalarchives.gov.uk/+http://www.cabinetoffice.gov.uk/third\\_sector/real\\_help\\_for\\_communities.aspx](http://webarchive.nationalarchives.gov.uk/+http://www.cabinetoffice.gov.uk/third_sector/real_help_for_communities.aspx) (archived webpage).

<sup>131</sup> Prominent examples include Balakrishnan, R. and Elson, D. (2008), 'Auditing economic policy in the light of obligations on economic and social rights', *Essex Human Rights Review* 5(1), pp. 1-19 and Balakrishnan, R., Elson, D. and Patel, R. (2009), *Rethinking macro economic strategies from a human rights perspective*, available at: [www.USHRnetwork.org](http://www.USHRnetwork.org).

laws by the end of November 2010, all Member States should develop effective and systematic methods to record racist violence and crime. In addition, given that official criminal justice statistics only reveal the tip of the iceberg a second wave of FRA's EU-MIDIS survey at a four or five year cycle, namely in 2012 or 2013 would provide data that can show trends over time and include further vital information on the situation during the crisis.

## References

- Awad, I. (2009), *The global economic crisis and migrant workers: impact and response*, Geneva: International Labour Office.
- Balakrishnan, R. (2005) *Why MES with human rights: integrating macro economic strategies with human rights*, New York: Marymount Manhattan College, available at [http://www.crin.org/docs/mmc\\_human.pdf](http://www.crin.org/docs/mmc_human.pdf).
- Balakrishnan, R. and Elson, D. (2008) 'Auditing economic policy in the light of obligations on economic and social rights', *Essex Human Rights Review* 5(1), pp. 1-19.
- Balakrishnan, R., Elson, D. and Patel, R. (2009) *Rethinking macro economic strategies from a human rights perspective – Why MES with human rights II*, New York: Marymount Manhattan College.
- Bank of Greece (2009), *Monetary Policy 2008-2009*, Athens: Bank of Greece, available at <http://www.bankofgreece.gr/BogEkdoseis/monPolicy2008-9.pdf>
- Beatty, C. and Fothergill, S. (2005) The diversion from 'unemployment' to 'sickness' across British regions and districts, *Regional Studies*, 39, pp. 837-854.
- Blažienė, I. (2010) *New national agreement attracts widespread criticism*, Vilnius: Institute for Labour and Social Research.
- Bound, J. and Freeman, R. (1992) 'What went wrong? The erosion of relative earnings and employment among young black men in the 1980s', *Quarterly Journal of Economics* 107, pp. 201-232
- Bourguignon, F. and da Silva, L. (2003) *The impact of economic policies on poverty and income distribution: Evaluation techniques and tools*, Oxford: Oxford University Press.
- Burgess, S., Gardiner, K. and Propper, C. (2001) *Why rising tides don't lift all boats: an explanation of the relationship between poverty and unemployment in Britain*, CASE Paper 46, London: London School of Economics, Centre for Analysis of Social Exclusion.
- Caliari, A., Way, S-A., Raaber, N., Schoenstein, A., Balakrishnan, R. and Lusiani, N. (2010) *Bringing human rights to bear in times of crisis: a human rights analysis of government responses to the economic crisis*, submission to the 13th Session of the UN Human Rights Council, ESCR-Net.
- Center for Economic and Social Rights (2009) *Human rights and the global economic crisis: consequences, causes and responses*, available at: <http://www.cesr.org/article.php?id=389>.
- Child Poverty Action Group (CPAG) (2008) *Child poverty: the stats*, Policy Briefing, London: Child Poverty Action Group.
- Chote, R., Crawford, R., Emmerson, C., Tetlow, G. (2010) *The Public Finances: 1997 to 2010*, Election Briefing Note No. 6, London: Institute for Fiscal Studies.
- Cornia, G.A., Jolly, R. and Stewart, F. (1987) *Adjustment With A Human Face: Protecting the Vulnerable and Promoting Growth*, Oxford: Oxford University Press.

- Couch, K. and Fairlie, R. (2005) *Last hired, first fired? Black-white unemployment and the business cycle*, Working Paper 2005-50, Connecticut: University of Connecticut, Department of Economics.
- Council of the European Union (2009) *Second joint assessment by the Social Protection Committee and the European Commission of the social impact of the economic crisis and of policy responses*, SOC 715/ECOFIN 808, Brussels, 24 November.
- Cutler, D. and Katz, L. (1991) Macroeconomic performance and the disadvantaged, *Brookings Papers on Economic Activity* 2, pp.1-74
- Darby, J. and Melitz, J. (2008), 'Social spending and automatic stabilisers in the OECD', *Economic Policy* 23 (56), pp. 717-756.
- De Grauwe, P. (2009) *Economics of Monetary Union*. Oxford: Oxford University Press.
- DG Ecofin, European Commission (2002) *The EU Economy: 2001 Review*, Luxembourg: Publications Office.
- DG Ecofin, European Commission (2009) *Economic Crisis in Europe: Causes, Consequences and Responses*, Luxembourg: Publications Office.
- DG Ecofin, European Commission (2009b), *European Economic Forecast – Autumn 2009*, Luxembourg: Publications Office.
- DG-Ecofin, European Commission (2010), *European Economic Forecast – Spring 2010*, Luxembourg: Publications Office.
- Dorling, D. (2009) 'Unemployment and health', *British Medical Journal* 338:b829.
- Eichengreen, B. (2007) *The European economy since 1945*, Princeton: Princeton University Press.
- Elson, D. (2006) *Budgeting for women's rights: monitoring government budgets for Compliance with CEDAW*, New York: United Nations Development Fund for Women
- Encarnacion, O. (2001) 'Labour and pacted democracy: post-Franco Spain in comparative perspective', *Comparative Politics* 33 (3), pp. 337-355.
- Equality and Human Rights Commission (EHRC) (2009a) *Monitoring the impact of the recession on various demographic groups*, London: Government Equalities Office.
- Equality and Human Rights Commission (EHRC) (2009b) *Monitoring update on the impact of the recession on various demographic groups*, London: Government Equalities Office
- European Commission (2005) *Integrated Guidelines for Growth and Jobs (2005–2008)*, Luxembourg: Publications Office.
- European Commission (2008) *A European Economic Recovery Plan*, Brussels, COM (2008) 800 final.
- European Commission (2009a) *Your Guide to the Lisbon Treaty*, Luxembourg: Publications Office, 2009.
- European Commission (2009b) *Draft Joint Employment Report 2009/10*, Bussels, COM 2009, 674/3.

- European Commission (2010) *The social situation in the European Union 2009*, Luxembourg: Publications Office.
- European Investment Bank (EIB) (2009) *Annual Report 2008: Volume I, Activity and Corporate Responsibility Report*, Luxembourg: EIB.
- EIB (2010) *Corporate Operational Plan 2010-2012*, Luxembourg: EIB.
- Eurostat (2010) *Statistical database*, available at: [http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/search\\_database](http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/search_database).
- EURES, European Commission (2010), European Employment Services, available at: <http://ec.europa.eu/eures/main.jsp?catId=9096&acro=living&lang=en&parentId=7845&countryId=GR&living>.
- Freedman, C., Kumhof, M., Laxton, D. and Lee, J. (2009) *The case for a global fiscal stimulus*, Staff Position Note 09/03, Washington DC: International Monetary Fund (IMF).
- Friedman, B. (2005) *The Moral Consequences of Economic Growth*, New York: Random House.
- Fundar-Centro de Analisis e Investigacion, International Budget Partnership (IBP) and International Human Rights Internship Program (IHRIP) (2004), *Dignity counts: A guide to using budget analysis to advance human rights*, Mexico: Fundar-IBP-IHRIP.
- Grau, E. and Ibarra, P. (eds.) (2009) *La política en la Red: Anuario de Movimientos sociales*, Madrid: Icaria Editorial.
- Hemming, R., Kell, M. and Mahfouz, S. (2002) *The effectiveness of fiscal policy in stimulating economic activity: a review of the literature*, Working Paper 02/208, Washington DC: IMF.
- International Federation of Red Cross and Red Crescent Societies (IFRC) (2009) *The economic crisis and its humanitarian impact on Europe: testimonies from the Red Cross Red Crescent*, Geneva: IFRC.
- International Monetary Fund (IMF) (2009a) *Republic of Lithuania: Staff Report*, Country Report No. 09/32, Washington DC: IMF.
- IMF (2009b), *Greece: Staff Report*, Country Report No. 09/244, Washington DC: IMF.
- IMF (2009c) *Ireland: Staff Report*, Country Report No. 09/195, Washington DC: IMF.
- Institute for Public Policy Research (IPPR) (2010) *Youth unemployment and the recession*, Technical Briefing, London: IPPR.
- Jimenez, M. and Cabrera, M. (2010) *La inmigración en la jurisprudencia del Tribunal Constitucional*, Madrid: Constitutional Court, available at: [www.tribunalconstitucional.ad/docs/10aniversari/E-ESPANA.pdf](http://www.tribunalconstitucional.ad/docs/10aniversari/E-ESPANA.pdf).
- Khang, H.S. (2009) 'Surviving the third wave', *Finance and Development*, December, pp. 26-29.
- Leslie, D., Lindley, J. and Thomas, L. (2002) 'Who did worse? A comparison of US and British non-white unemployment 1970-1998', *Applied Economics* 34, pp. 1041-1053.
- Maddison, A. (2003) *The World Economy: Historical Statistics*, Paris: OECD.

- McPhee, S. (2009) High mobility: newly unemployed migrants to Ireland may stay put in recession. *Finance and Development*, March, p. 17.
- Miller, D., Page, M. and Stevens, A.H. (2009) *Why are recessions good for your health?* California: University of California-Davis, Department of Economics.
- Mishkin, F. (2009) 'Is monetary policy effective during financial crises?', *American Economic Review* 99(2), pp. 573-77.
- Muriel, A. and Sibieta, L. (2009) *Living standards during previous recessions*, London: University College London.
- National Economic and Social Council (NESF) (2009), *Next steps in addressing Ireland's five-part crisis: combining retrenchment with reform*, Dublin: NESF.
- NESF (2008) *Fifth Meeting of the Social Inclusion Forum: 2008*, Dublin: NESF.
- Organismos Apasholisis Ergatikou Dynamikou (OAED) (2010) *Unemployment Insurance*, available at: [www.oaed.gr/Pages/SN\\_46.pg](http://www.oaed.gr/Pages/SN_46.pg).
- Organisation for Economic Development and Co-operation (OECD) (2003) *Employment Outlook 2003: Towards more and better jobs*, Paris: OECD.
- OECD (2007) 'Fiscal consolidation: lessons from past experience', in *OECD Economic Outlook 81*, Paris: OECD.
- OECD (2009) *OECD Employment Outlook 2009: Tackling the jobs crisis*. Paris: OECD.
- OECD (2010) *OECD Perspectives: Spain, policies for a sustainable recovery*, Paris: OECD.
- OECD (various years) *Labour Force Statistics*, Paris: OECD.
- United Nations (UN) Office of the High Commissioner for Human Rights (OHCHR) (2010) *Report of the OHCHR on the impact of the global economic and financial crises on the realisation of all human rights and on possible actions to alleviate it*, 13th Session of the Human Rights Council, Geneva.
- Pissarides, C. and Wadsworth, J. (1992) 'Unemployment risks', in McLaughlin, E. (ed.), *Understanding Unemployment*, London: Routledge.
- Ravallion, M. (1999) 'Is more targeting consistent with less spending?', *International Tax and Public Finance* 6, pp. 411-419.
- Ravallion, M. (2002) *Who is protected? On the incidence of fiscal adjustment*, Washington DC: World Bank.
- Rodrik, D. (1999) 'Where Did All The Growth Go? External Shocks, Social Conflict, and Growth Collapses', *Journal of Economic Growth* 4 (4), pp. 385-412.
- Saiz, I. (2009) 'Rights in recession? Challenges for economic and social rights enforcement in times of crisis', *Journal of Human Rights Practice* 1 (2), pp. 277-293.
- Smith R. (1973) *Inter-temporal changes in work injury rates*, Proceedings Industrial Relations Res Association, Wisconsin: Madison, pp. 167-174.
- Stafford, B. and Duffy, D. (2009) *Review of evidence on the impact of economic downturns on disadvantaged groups*, Working Paper 68, London: Department for Work and Pensions.

Subramanian, A. (2009) 'How disgraced economists managed to make amends', *The Financial Times*, 28 December.

Tedesco, L. (2010) *Immigration and foreign policy: the economic crisis and its challenges*, Policy Brief, Spain: FRIDE.

Tsibouris, G., Horton, M., Flanagan, M. and Maliszewski, W. (2006) *Experience With Large Fiscal Adjustments*, Occasional Paper 246, Washington DC: IMF.

Woodward, N. (1999) 'The search for economic stability: Western Europe since 1973', in Schulze, M.S. (ed.) *Western Europe: Economic and Social Change since 1945*, Harlow: Addison Wesley Longman.

World Bank (2009) *Lithuania Social Sectors Public Expenditure Review*, Washington DC: World Bank Group, Human Development Department, Europe and Central Asia Region.