

# Racism and Equality in the European Union

## Mark Bell



### Description

The European Union has committed itself to combating racism as a general objective of law and policy. EU legislation requires Member States to introduce laws prohibiting racial discrimination in many aspects of everyday life, including employment, education, healthcare, and housing. Alongside legislation requiring action at national level, the EU institutions have also made periodic commitments to 'mainstream' racial equality: taking anti-racism objectives into account within all areas of EU law and policy.

This book analyses the extent to which the objectives of combating racism and promoting ethnic equality have been effectively mainstreamed throughout a wide range of EU policy fields. It begins by considering what combating racism means in the contemporary context of the enlarged EU. Bell explores what mainstreaming ethnic equality objectives entails, and whether the priorities and instruments differ from those adopted in the earlier mainstreaming of gender equality, or those used on other discrimination grounds. The second part of the book examines the extent to which EU law and policy objectives have, in practice, been integrated, exploring the effects in the key areas of employment, social inclusion (including education, health and housing), immigration, and criminal law.

# Contents

<i>Acknowledgements</i>	vii
<i>List of Abbreviations</i>	xiii
<i>List of Tables</i>	xv
<i>Table of Cases</i>	xvii
<i>Table of Legislation</i>	xix
<b>Introduction</b>	1
<b>1. 'Race', Ethnicity, and Racism in Europe</b>	7
A. 'Race' and Racism	8
B. Scientific, Cultural, and Institutional Racism	9
C. 'Race', Ethnicity, and Law	12
D. Groups Vulnerable to Racism	17
E. Intersectionality and Racism	21
F. Conclusions	24
<b>2. Racism and Equality</b>	27
A. Formal Equality	28
The limits of formal equality	29
B. Substantive Equality	31
The limits of substantive equality	36
<i>Accommodating difference</i>	36
<i>Equality of opportunity or outcome</i>	37
<i>Reflecting diversity</i>	40
C. Conclusions	42
<b>3. Mainstreaming Ethnic Equality</b>	43
A. The Emergence of Mainstreaming	44
B. Explaining the Rise of Mainstreaming	45
Weaknesses in existing equality law instruments	45
Mainstreaming and EU governance	48
C. Models of Mainstreaming	50
The goals of mainstreaming	51
Methods of mainstreaming	52
<i>Expert-bureaucratic methods</i>	52
<i>Participatory-democratic methods</i>	53
The instruments of mainstreaming	55
<i>Defining the duty</i>	55

<i>Impact assessment</i>	56
<i>Measuring progress</i>	58
D. Conclusions	60
<b>4. Racism and Anti-Discrimination</b>	63
A. Racism and Anti-Discrimination Legislation	63
The main elements of the Racial Equality Directive	65
Racism and the Racial Equality Directive	67
Equality and the Racial Equality Directive	68
B. Racism and Anti-Discrimination Policy	71
Pre-Article 13	71
<i>Target groups</i>	71
<i>Key actors</i>	72
<i>Policy orientations</i>	73
Post-Article 13	74
<i>Target groups</i>	75
<i>Key actors</i>	78
Civil society	78
Institutional actors	79
<i>Policy orientations</i>	82
Moving from anti-racism to anti-discrimination	82
Recognizing the limits of individual litigation	82
Mainstreaming and data collection	83
C. Conclusions	85
<b>5. Employment</b>	89
A. Employment Legislation	92
B. The European Employment Strategy	94
The structure of the Employment Strategy	95
Ethnic equality and the Employment Strategy	96
Mainstreaming ethnic equality into the Employment Strategy	101
C. The European Social Fund	103
Mainstreaming and the European Social Fund	104
Ethnic equality and the European Social Fund	105
<i>The Integra programme 1997–1999</i>	106
<i>The Equal programme 2000–2006</i>	107
<i>The European Social Fund 2007–2013</i>	109
D. Conclusions	109
<b>6. Social Inclusion: Education, Health, and Housing</b>	113
A. From Combating Poverty to Promoting Social Inclusion	117
B. The Social Inclusion Process	118
C. Promoting Ethnic Equality and the Social Inclusion Process	120

From invisibility to key objectives	120
Mainstreaming ethnic equality into social inclusion policy	123
<i>Target groups</i>	123
<i>Data collection</i>	123
<i>Concept of racism</i>	125
<i>Mainstreaming via the OMC</i>	125
D. EU Policies on Education and Health	127
Education	127
<i>Education programmes</i>	128
<i>Applying the OMC to education</i>	129
<i>Mainstreaming ethnic equality and education policy</i>	130
Health	132
E. Conclusions	134
<b>7. Immigration and Integration</b>	137
A. Can Ethnic Equality Objectives be Mainstreamed into Immigration Law?	139
B. Irregular Migrants	141
C. Legal Migrants	145
Overview of the current legal framework	146
A framework for equality?	148
D. Integration Policy	149
The principal elements of EU integration policy	150
Integration policy and mainstreaming ethnic equality	151
E. Conclusions	155
<b>8. Criminal Law</b>	157
A. Criminal Law and the EU Treaty	159
B. Using Criminal Law to Combat Racism	161
The 1996 Joint Action on racism and xenophobia	161
The Framework Decision on racism and xenophobia	164
Cross-border cooperation on combating racist crime	168
Combating racist media via the EC Treaty	171
Racist offences and EU criminal law	172
C. Promoting Ethnic Equality in the Criminal Justice System	173
Data collection	174
Funding programmes	176
D. Conclusions	177
<b>Conclusions</b>	179
A. Combating Racism and Promoting Equality	180
Target groups and intersectionality	182

B. Models of Mainstreaming and Styles of Governance	185
C. Looking to the Future	188

<i>Bibliography</i>	191
---------------------	-----

<i>A. European Union Official Documentation</i> <i>(Commission, Council, Parliament)</i>	191
---	-----

<i>B. General Bibliography</i>	197
--------------------------------	-----

<i>Index</i>	215
--------------	-----