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Tackling discrimination based on social origin

Report¹

Committee on Equality and Non-Discrimination

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Summary

Across Europe, people's social origin can affect them throughout their lifetime, influencing all areas of their life, such as their living conditions, access to education and life-long learning, employment prospects and chances of social mobility. Discrimination based on social origin can occur independently of changes in a person's socio-economic status. At societal level, it moreover contributes to the persistence of poverty and social exclusion.

Even though many international conventions prohibit discrimination based on social origin, this prohibition has rarely been transposed into national legal systems. The lifelong effects it can cause are thus not taken into account in legal systems, nor are they regularly measured or targeted by public policy measures. Yet individual experiences of discrimination based on social origin often reflect deep-seated, structural problems in society.

To promote fairer societies in which each person is able to realise their full potential regardless of their background, discrimination based on social origin must be tackled through a holistic framework. It must be prohibited in antidiscrimination law and effective remedies made accessible to all, and appropriate data collection and awareness-raising are also needed. These measures must moreover be complemented with wide-ranging policies and measures capable of tackling at their roots the systems and structures that produce such discrimination.

¹ Reference to committee: Doc. [14986](#), Ref. 4881 of 27 January 2020.

A. Draft resolution²

1. Social origin is the social or class background into which a person was born and that shaped their formative years; their origins, upbringing or starting point in life. A person's social origin can lead to attributes ranging from their accent to self-perception, or the existence of personal or professional networks, which can affect their prospects in many spheres of life and persist throughout it.
2. Social origin must not be conflated with socio-economic status, which refers to a person's current situation as regards wealth, property, housing situation, level of education and other similar characteristics and which may change over the course of a person's life. Social origin and socio-economic status may coincide, notably where there is little social mobility in a given society, but the two notions are distinct.
3. No one's outcomes in life should be determined by their birth, let alone conditions prior to their birth. Yet there is broad evidence that across Europe, a person's social origin, their conditions at birth and upbringing, plays a strong role in determining their future. The chances that those who start out in life in less prosperous conditions will complete secondary or higher education, earn the same salary as persons from a more advantaged background, own their own home, avoid poverty or have a high standard of health are significantly lower than for those who start life out wealthier.
4. Discrimination based on social origin increases the persistence of poverty and social exclusion and deprives those affected of prospects of development and self-fulfilment, in turn affecting overall economic development. By threatening social cohesion and engagement, it can also place democracy at risk.
5. Such discrimination may be direct, leading to class floors that protect individuals from more advantaged socio-economic backgrounds from downward social mobility and class ceilings that hinder the upward social mobility of individuals from less advantaged socio-economic backgrounds. The class ceilings may also arise from hidden causes, mainly from ingrained perceptions and stereotyping based on social origin and social status which affect how individuals are perceived and treated by others.
6. Discrimination based on social origin also results in class pay-gaps even after controlling for educational attainment. Factors such as parental means, misrecognition of merit and informal sponsorship based on pre-existing networks or cultural affinities contribute to the existence of a class pay gap that persists throughout people's lives, even where they have identical levels of educational attainment. The use of artificial intelligence can also aggravate discrimination in this field. Furthermore, discrimination based on social origin may manifest itself as lack of social mobility, necessitating a broader and holistic perspective in policy design.
7. Discrimination based on social origin has been expressly prohibited in international law since the adoption of the Universal Declaration of Human Rights in 1948. This prohibition has been taken up in numerous international and European human rights instruments since then, including the European Convention on Human Rights (ETS No. 5), Protocol No. 12 to the European Convention on Human Rights (ETS No 177) and the European Social Charter (Revised) (ETS No. 163), as well as the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child.
8. All Council of Europe member States are thus parties to treaties that expressly prohibit discrimination based on social origin. However, few European States include social origin as a protected ground in their constitutional or legislative antidiscrimination provisions. As a result, individual remedies for discrimination based on social origin are difficult to access, as the dearth of case law in this field demonstrates. In addition, few member States collect reliable and comprehensive data in this field, possibly due to difficulties in measurement.
9. To tackle discrimination based on social origin effectively, it must first and foremost be clearly prohibited by legislation that also provides genuine remedies to individual victims of such discrimination. Intersectional perspectives must also be taken into account, ensuring that interactions between grounds such as gender or ethnic origin, on the one hand, and social origin, on the other, are identified and can be targeted. To avoid continually reproducing discrimination based on social origin, effective legislation must, moreover, exist in tandem with holistic measures designed to ensure merit-based mechanisms, to promote social mobility and social justice, creating societies that are fairer for all.
10. Regarding discrimination based on socio-economic status, which is a related but distinct issue that must also be tackled, the Assembly recalls its [Resolution 2393 \(2021\)](#) "Socio-economic inequalities in Europe: time to restore social trust by strengthening social rights", in which it noted that, despite growing overall prosperity

² Draft resolution adopted unanimously by the committee on 14 March 2022.

in Europe, disparities in all economic and social dimensions have widened, with a tandem slowdown in social mobility, negatively affecting individuals and communities, but also restraining overall economic development, undermining social justice and hurting the functioning of our society.

11. The Assembly also recalls its [Recommendation 2205 \(2021\)](#) and [Resolution 2384 \(2021\)](#) “Overcoming the socio-economic crisis sparked by the Covid-19 pandemic”, in which it called on member States to take action to overcome the negative current and longer-term impact on social rights of the Covid-19 pandemic, and its [Resolution 2343 \(2020\)](#) “Preventing discrimination caused by the use of artificial intelligence”, in which it called on States to put in place strong safeguards in order to ensure that the use of artificial intelligence would not result in violations of the principles of equality and non-discrimination, including on the ground of social origin.

12. In the light of these considerations, the Assembly calls on Council of Europe member States, as regards antidiscrimination law and public governance, to:

12.1 expressly prohibit discrimination based on real or perceived social origin in antidiscrimination legislation at all levels of the domestic legal system, where it is not already covered by existing grounds of discrimination, and ensure that it is defined and interpreted in a progressive manner, not limited to questions of nobility or non-nobility but including all class backgrounds;

12.2 also expressly prohibit discrimination based on real or perceived socio-economic status in antidiscrimination legislation at all levels of the domestic legal system, where it is not already covered by existing grounds of discrimination, and ensuring that the terms used in legislation are adequate to cover all necessary situations in the country concerned, and are regularly reviewed to keep pace with changes in society;

12.3 ensure that effective and accessible individual remedies are available for these forms of discrimination;

12.4 mainstream antidiscrimination measures in all legislation;

12.5 ensure that national equality bodies are competent to deal with discrimination on these grounds in both individual cases and as regards broader matters such as data collection and situation testing, and that they have the necessary human and financial resources to carry out these tasks;

12.6 run training courses to help civil servants working in this field to recognise and better tackle this form of discrimination;

12.7 consider making the public sector subject to an equality duty in this field, requiring all authorities exercising public powers to do so having due regard to the need to exercise them with the aim of reducing inequalities of outcome due to disadvantage based on social origin or socio-economic status;

12.8 provide training to judges, prosecutors and other persons exercising public powers to raise their awareness of the impact of discrimination based on social origin and socio-economic status and enable them to identify such discrimination whether it occurs alone or in situations of multiple or intersectional discrimination, and tackle it accordingly;

12.9 compile data on social origin, including from an intersectional perspective, with due respect to the principles of confidentiality, informed consent and voluntary self-identification and avoiding stigmatisation of persons who are already victims of discrimination based on social origin;

12.10 require both public and private companies to publish class pay gap data;

12.11 have a public debate on how merit is defined and how institutions, especially those related to education and labour markets, should respond to a drive towards a merit-based system;

12.12 review the bases on which talent and merit are measured in public sector occupations, so as to ensure that the criteria used in recruitment, assessment and promotions procedures place value on the competencies needed to do a job well, and encourage private sector employers to do likewise.

13. The Assembly further calls on Council of Europe member States to intensify their efforts to promote social mobility and social justice in line with [Resolution 2393 \(2021\)](#) “Socio-economic inequalities in Europe: time to restore social trust by strengthening social rights” and [Resolution 2384 \(2021\)](#) “Overcoming the socio-economic crisis sparked by the Covid-19 pandemic” and [Resolution 2343 \(2020\)](#) “Preventing discrimination caused by the use of artificial intelligence”.

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14. Bearing in mind that discrimination based on social origin occurs during early childhood, throughout all stages of education and all stages of participation in the labour market, the Assembly also invites member States to:

- 14.1 ensure free, equitable and accessible public provision of early education and childcare services;
- 14.2 implement policies to publicly provide free, equitable and quality education to all, regardless of social origin and throughout each individual's lifecycle;
- 14.3 design redistributive fiscal policies that will enable the cycle of material deprivation inhibiting social mobility to be broken;
- 14.4 design fiscal spending programmes to provide social safety nets and equality in initial financial endowments to ensure equal opportunities to all in terms of taking risks when building careers, both when entering the labour market and when transitioning between jobs;
- 14.5 implement reskilling, upskilling and lifelong learning schemes to eliminate friction in job transition;
- 14.6 formalise recruitment, assessment and promotion procedures and make them transparent;
- 14.7 implement positive action mechanisms such as fast-track graduate recruitment schemes that can promote the recruitment of persons with a disadvantaged social origin in careers where they are currently under-represented;
- 14.8 take measures to encourage employers to ensure that all internships are duly advertised and remunerated, and consider banning unpaid internships;
- 14.9 undertake awareness-raising campaigns to tackle the underreporting by victims of discrimination on the grounds of socio-economic status;
- 14.10 encourage the private sector to design and run training courses aimed at raising awareness of and eliminating unconscious bias;
- 14.11 promote the creation of professional support networks designed to counterbalance as well as avoid the hidden injuries experienced by many persons on an upwardly socially mobile trajectory;
- 14.12 revisit residential, zoning and housing policies to overcome residential segregation and ensure affordable housing to all, and design in situ urban and rural transformation projects to enhance community interactions in residential areas spanning all social origins;
- 14.13 implement the European Social Charter.

B. Explanatory memorandum by Ms Selin Sayek Böke, rapporteur

1. Introduction

1. To what extent does being born in a certain neighbourhood or belonging to a certain social class impact a person's life chances and outcomes? There is broad evidence that across Europe, a person's social origin³ still plays a strong role in determining their future – affecting not only their immediate living conditions but also their access to education and life-long learning, their employment prospects, and their chances of social mobility. For those who start out in life less well off, the chances that they will, for example, complete secondary or higher education, own their own home, avoid poverty or have a high standard of health are significantly lower than for those who start life out better off.⁴

2. Discrimination based on social origin increases the persistence of poverty and social exclusion. As such, discrimination based on social origin deprives persons from their “capabilities”, which according to Amartya Sen suggests lack of true development. In fair and socially mobile societies, where social origin is not a basis of discrimination, the potential of all people – including those from less advantaged backgrounds – is realised. Opportunities are not constrained by social origin. Therefore, both from a human rights perspective as well as from a development perspective it is of utmost importance to tackle discrimination based on social origin.

3. Furthermore, guaranteeing non-discrimination based on social origin would ensure social cohesion and engagement. As the prospects of being able to surpass one's birth conditions increase, so does social engagement. Conversely, the lack of such prospects for advancement is linked to a drop in engagement with society, alienation and increasing rates of self-destructive behaviour; all of which have detrimental effects on well-being as well as our democracies. Research moreover finds that overcoming barriers of social origin moves positively with “good” economic outcomes, such as employment and production, and negatively with inequality.⁵

4. A number of European and international conventions expressly prohibit discrimination based on social origin.⁶ Yet it seems that few European States include social origin as a specific protected ground in their antidiscrimination legislation, meaning individual victims may be left without effective legal or policy-based remedies against such discrimination.

5. Moreover, just as individual cases of other forms of discrimination often mirror broader patterns of institutional or structural discrimination in our societies, individual experiences of discrimination based on social origins often reflect far more deep-seated, structural problems as well. Therefore, it is crucial to tackle the problem in a holistic framework, complementing legal remedies with policies that tackle both individual cases and the systems and structures that produce such discrimination.

6. Recent studies have shown that in many European countries, today's younger generations may have fewer opportunities for upward social mobility than their parents. Overall economic growth, which could contribute to upward absolute social mobility across societies as a whole, has slowed, affecting in particular people with low incomes and in the middle classes.⁷ Widening inequalities such as unequal access to childcare, education, housing and health, together with the intergenerational transmission of poverty – all of which may be linked to greater or lesser degrees to discrimination based on social origins – raise serious human rights issues in themselves. Coupled with phenomena such as diminishing access to public services and increasing (or increasingly visible) nepotism and corruption, they also tend to generate pessimism and to undermine citizens' confidence in the capacity of today's democratic societies to be fair.⁸

³ See further below for definitions of social origin, social mobility and other crucial concepts.

⁴ See for example, Joseph Rowntree Foundation, UK Poverty Statistics; Scottish Government, The life chances of young people in Scotland: an evidence review for the First Minister's Independent Advisor on Poverty and Inequality, Social Research Series, June 2017; Child Poverty Action Group, The effects of poverty.

⁵ See, for example, Corak M. (2013), [Income Inequality, Equality of Opportunity, and Intergenerational Mobility](#), *Journal of Economic Perspectives* No. 27(3), pp.79-102, Chetty et al (2014), [“Where is the land of Opportunity? The Geography of Intergenerational Mobility in the United States”](#), *Quarterly Journal of Economics* No. 129(4) pp. 1553-1623, Güell et al (2018), [“Correlating social mobility and economic outcomes”](#), *Economic Journal* No. 128 (612), pp. F353-F403, Acciari P., Polo A. and Violante G.L. (2019), [“And yet it moves’: Intergenerational mobility in Italy”](#), NBER Working Paper 25732.

⁶ See further below.

⁷ Ludwinek A., “Does social background determine life chances in Europe?”, Blogpost, 26 April 2017.

⁸ Eurofound, *Social mobility in the EU*, Luxembourg, Publications Office of the European Union, 2017; Darvas Z. and Wolff G., *An anatomy of inclusive growth in Europe*, Blueprint Series 26, Brussels, Bruegel, 2016.

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7. As pointed out in Assembly [Resolution 2339](#) (2020) “Upholding human rights in times of crisis and pandemics: gender, equality and non-discrimination”, many of these negative dynamics appear moreover to have been exacerbated by the Covid-19 pandemic.

8. Through this report I seek first of all to raise awareness, particularly among national legislators in Council of Europe member States, not only of the extent and impact of discrimination based on social origin, but of the barriers that exist to overcoming it. I also seek to find new ways to address the realities described above by examining them through the lens of discrimination based on social origin.

9. The substance and impact of the very important issues at stake is examined chapters 5 and 6 of my report. First, however, I have explored key concepts and definitions in chapter 2, while existing standards in international and national law are outlined in chapters 3 and 4 respectively.

2. Definitions

10. Closely interrelated notions of social origin, social status, social mobility and social justice are at stake in this report. It is essential to clarify from the outset both the links and the differences between these notions. It should also be noted that often these factors will intersect with other potential grounds of discrimination, such as gender, marital status, colour, national or ethnic origin, disability or age.

2.1. Social origin

11. Many of the key international and European human rights instruments in which social origin is listed as a prohibited ground of discrimination were drafted in the 1940s, 50s and 60s. Some courts have considered that the notion of “social origin” therefore concerns only the question whether or not a person belongs to a specific class such as the nobility, as this was the issue at stake in the minds of the drafters of these texts (see further below on national legislation and case-law). However, this interpretation is narrow and ignores the need to ensure, as has been repeatedly emphasised by the European Court of Human Rights, that human rights conventions remain living instruments.

12. In any case, the word “origin” indicates clearly that the term relates to the background from which a person originates. Independently of whether a class of “nobility” exists within any given society in Europe today, it is clear that class (social) backgrounds can vary widely and that all can have a key impact on life chances.

13. In short, social origin can be understood as referring to the social (class) background into which a person was born and/or that shaped their formative years. Similar terms used in national legislation (see further below) include social affiliation and social or class descent.

2.2. Social status, socio-economic status and similar terms

14. In contrast, terms such as “social status”, “socio-economic status” or “social circumstances” can be understood to refer to a person’s current position in society. This may or may not coincide with the social situation from which they originate and is influenced by factors such as their household income or wealth, the area where they live and the social circles in which they move.

15. In this report, for consistency I have mostly used a single term, “socio-economic status”, to refer to a person’s current position in society.

2.3. Social mobility

16. Social mobility refers to the movement of individuals, families, households or other categories of people within or between social strata in a society. In other words, it is a change in social status relative to one’s current or previous social position.⁹ Most commonly it is vertical mobility (upward or downward) that is of interest.

17. Absolute social mobility refers to changes across societies as a whole, reflecting for example structural or occupational changes and societal progress. It includes large-scale societal and labour-market changes in which a large number of individuals move across classes.

⁹ On this point and on the various types of social mobility (vertical, absolute, relative, intra- and intergenerational) outlined below, see Eurofound (2017), *Social mobility in the EU*, Publications Office of the European Union, Luxembourg, pp. 3-4.

18. Relative social mobility refers to the chances of individual movement between social strata within the society in which they live, or the probability that a child will move from their parents' position in social strata to another category. It is closely related to notions of social fluidity and the openness of societies.

19. Social mobility may also be intragenerational (transitions of individuals during their lifetime) or intergenerational (transitions across more than one generation).

20. Socially mobile societies are those in which each individual's potential is realised and their current economic and occupational status cannot be attributed simply to the wealth or status of their parents.

21. In societies where there is no social mobility, there is no scope for a person's socio-economic status to evolve over the course of their lifetime. In such societies, individuals' current socio-economic status will coincide with their social origin. However – and this is a crucial notion for this report – guaranteeing social mobility is not in itself sufficient to eliminate discrimination based on social origin. Rather, it should form part of a holistic approach to tackle the problem.

2.4. Social justice

22. Finally, the notion of social mobility can be contrasted with that of social justice: while social mobility is about some individuals or groups escaping disadvantage, social justice is about eradicating such disadvantage altogether.¹⁰

3. International law standards

23. Discrimination based on social origin has been expressly prohibited in international law since the adoption of the Universal Declaration of Human Rights in 1948, of which Article 2 provides that “Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” This prohibition has been taken up in numerous international and European human rights instruments since then.¹¹

24. Article 14 of the European Convention on Human Rights (ETS No. 5) provides that “The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status”, and, in accordance with the general prohibition of discrimination set out in Article 1 of Protocol No. 12 to the Convention (ETS No 177), the enjoyment of any right set forth by law shall be secured without discrimination on the same list of grounds. However, there appears to be no case law based on the ground of social origin, and the preparatory work on Article 14 also provides little indication of what the term is intended to cover.¹²

25. Similarly, Article E of the European Social Charter (Revised) (ETS No. 163) provides that “The enjoyment of the rights set forth in this Charter shall be secured without discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national extraction or social origin, health, association with a national minority, birth or other status.” Again, discrimination on grounds of social origin does not appear to have been examined by the European Committee of Social Rights, whether in its conclusions or in its examination of collective complaints.

26. Social origin is also included among the prohibited grounds listed in Article 21(1) of the European Union Charter of Fundamental Rights, which provides that “Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited.” Here too, no case-law appears to have dealt with allegations of discrimination based on social origin.

27. The European Convention on Nationality (ETS No. 166) does not include this ground of discrimination, however, as it was considered too imprecise for the purposes of that convention¹³ – a sign that the national

¹⁰ Sosienski Smith, C., “Social mobility or social justice?”, Wonkhe, 12 December 2019.

¹¹ Within the United Nations systems, see notably: International Covenant on Civil and Political Rights (1966), Articles 2(1), 4(1), 24(1) and 26; International Covenant on Economic, Social and Cultural Rights (1966), Article 2(2); Convention on the Rights of the Child (1989), Article 2(1).

¹² Document CDH(67)3.

¹³ *Biao v. Denmark*, application no. 38590/10, judgment of 24 May 2016, paragraph 48, citing paragraph 43 of the Explanatory Report to the European Convention on Nationality (ETS No. 166).

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authorities participating in the drafting of that convention lacked, at the time, a clear and common understanding of the meaning of discrimination based on social origin.

4. Legal situation in member States

28. All member States of the Council of Europe are bound by international human rights instruments prohibiting discrimination based on social origin. In March 2021, I sent out a questionnaire to national parliaments in Council of Europe member States, via the European Centre for Parliamentary Research and Documentation (ECPRD), in order to gather information on how discrimination based on social origin is dealt with in domestic law.

29. The questionnaire asked whether “social origin” is expressly listed as a prohibited ground of discrimination in the constitution and/or anti-discrimination legislation (or other legislation) of the country concerned, and, where this was the case, requested details, including any definition of “social origin” provided in the legislation itself and/or explanatory reports/*travaux préparatoires*. It also asked whether there had been any case-law before the domestic courts or equality bodies in the country concerning discrimination based on social origin.

30. I presented a compilation of the 28 replies then received at the meeting of the Committee on Equality and Non-Discrimination of 18 May 2021.¹⁴ Subsequently, a further five replies were received, which I have also taken into account in my report.

4.1. Legislation

31. The replies to my questionnaire, from 33 national parliaments in total, showed that relatively few States expressly prohibit discrimination based specifically on social origin in their constitution or domestic anti-discrimination legislation (or other relevant legislation). Amongst those that do include such a prohibition, a wide variety of configurations exist, and there are frequently inconsistencies between the grounds of discrimination listed in the constitution and in legislation. Consistently with the definitions given above, the answers to the questionnaire, examined in more detail below, showed that where the term “social origin” is used in domestic legislation, it is understood to refer to the conditions or class in which a person was born, as distinct from their social or socio-economic status later in life.¹⁵

32. Starting with States where discrimination based on social origin is expressly prohibited in either the constitution or legislation or both, several situations were described in the replies to the questionnaire. Some constitutions set out a list of prohibited grounds of discrimination that expressly includes social origin (Croatia, the Czech Republic, Hungary, Romania and Slovakia), and this ground is also reproduced in (at least some) relevant legislation (although not always in the antidiscrimination law as such). Other constitutions set out an open-ended list of grounds in which social origin is not expressly mentioned, but potentially related grounds such as origin, social affiliation, class, social descent, social class or ancestry are mentioned in addition to the “any other grounds” formulation (Cyprus, Finland, Georgia, Iceland and Turkey); in Cyprus, Georgia and Turkey, at least some legislation, although again not always the antidiscrimination law itself, also expressly prohibits discrimination based on social origin. In Belgium, the constitution lays out a general prohibition on discrimination without specifying any particular grounds; here, social origin is however listed amongst prohibited grounds in the federal anti-discrimination law. Latvia’s constitutional provisions are similar to Belgium’s, but social origin is listed amongst prohibited grounds in the Labour Law. Germany’s constitution prohibits discrimination based on “origin”, a term which has been interpreted by the Federal Constitutional Court to refer to a person’s inherited social status and roots;¹⁶ neither “social origin” nor “origin” nor similar terms are however included in the closed list of seven grounds covered by federal anti-discrimination legislation. Switzerland’s constitution of 1999 prohibits discrimination based on a closed list of grounds including “social position”. This has been interpreted as reflecting the notion of “privileges of birth”, or a status acquired by descent, which featured in the constitution that was previously in force – and which may also cover a person’s current social status. Bulgaria’s antidiscrimination law lists 19 express grounds, including “origin”, and is open-ended, prohibiting discrimination also on “any other grounds established by law or by an international treaty to which the Republic of Bulgaria is a party”.

33. In the above group of States, individuals may find at least some express support in the domestic legal system for bringing a claim of discrimination based on social origin. Sometimes this may apply in only a very narrow range of circumstances (for example, if social origin is only included as an expressly prohibited ground in the Labour Code or criminal law but not in general antidiscrimination legislation), and sometimes only if a

¹⁴ AS/Ega/Inf (2021) 16. The analysis below is based essentially on the information provided in this document.

¹⁵ Ibid.

¹⁶ Federal Constitutional Court decision of 22 January 1959, 1 BvR 154/55.

court (which may have to be the constitutional court) is willing to interpret a potentially similar express ground such as “class”, “descent” or “origin”, or a catch-all term such as “any other ground”, as covering the notion of social origin. The latter situation also pertains in the Netherlands, where there is an open list of prohibited grounds in the constitution and a closed list in national antidiscrimination law, neither of which expressly mentions social origin or any similar characteristic.

34. In some States, the constitution lays out a general prohibition on discrimination without specifying any particular grounds, while national anti-discrimination legislation includes a closed list of grounds that does not include social origin or any similar grounds (Ireland, Norway and Sweden). In this group of countries, the only legal option open to individuals seeking redress for discrimination based on social origin is therefore to rely on the State’s obligations under international law, or on the guarantee of each person’s dignity as a human being.

35. In a third group of States, replies to the questionnaire referred to prohibited grounds such as “social status” (Albania, Greece and Slovenia, as well as Estonia and Lithuania (where the term “origin” also appears in the list of grounds) and Romania (where the term “social origin” is however used in the constitution and some legislation, as noted above)). Others mentioned “social condition” (Albania, Belgium (in some regional legislation), Italy and Spain) and “social circumstances” (Portugal and Spain). While there is little discussion of the ambit of these terms, they would appear, as observed in the definitions chapter above, to refer to a person’s current situation and thus to be distinct from their social origin. Belgium’s federal equality body, Unia, has for example argued that the notion of “social condition” should be added in federal antidiscrimination legislation, alongside the existing term “social origin”, in order to cover, for example, cases of discrimination in employment or housing against persons with a criminal record, homeless people or lone parents with children.

36. Finally, it is worth noting that some constitutions (such as those of Austria, Belgium and Turkey) include provisions to the effect that no privileges shall be granted or distinctions made based on class. Such a statement of principle is also clearly linked to the prevention of discrimination based on social origin, although its impact may be limited if it is not translated into legislation that can be easily invoked before the courts.

4.2. Case-law as an individual remedy

37. As a general rule, remedies for specific forms of discrimination are harder to access when the ground of discrimination concerned is not expressly referred to in legislation. This is because complainants have to convince the relevant equality body or court not only that an unjustified difference in treatment occurred in fact, but also – and first of all – that it fell within the ambit of relevant legal provisions even though they did not expressly cover it.

38. Unsurprisingly therefore, few examples of relevant case-law were referred to in the replies to the questionnaire, and a very high number of replies indicated that there had been no such case-law at all. This shows that effective remedies for individuals are rare when it comes to discrimination based on social origin. Nonetheless, some cases are of particular interest.

39. The Czech Constitutional Court has found that “social origin...cannot be interpreted from the perspective of the beginning of the 21st century, i.e. as a question of distinguishing between noble and non-noble individuals”. It found that calculating a municipal waste fee per person living in a household was discriminatory based on social origin with respect to underage children, notably from what it referred to as socially dysfunctional families.¹⁷ Conversely, calculating a family benefit based on the (current) economic situation of a family did not amount to discrimination based on social origin against children from higher income families. The Court noted that “social origin...is given once and for all from the moment of birth. However, the sources of income in the family can change, and thus the possible entitlement to child allowance also changes”.¹⁸ These cases highlight both the need to take a dynamic approach to the interpretation of the term “social origin” and the important distinction to be drawn between a person’s social origin and their current socio-economic status.

40. In contrast with the first Czech case referred to above, an example of a restrictive interpretation of the term “social origin” was provided by Belgium. Here, arguing that he had been discriminated against on the grounds of both social origin and birth, a worker contested a decision not to recruit him because he belonged to a family that the employer considered to be dishonest. Both grounds of discrimination were recognised at first instance but on appeal, only the ground of birth was retained, as the court considered that the ground of social origin referred only to a specific class such as nobility.¹⁹

¹⁷ Case no. Pl. ÚS 9/15 of 27 February 2018.

¹⁸ Case no. Pl. ÚS 31/17 of 17 December 2019.

¹⁹ Liège Labour court, 28 November 2018, *revue de Jurisprudence de Liège, Mons et Bruxelles*, 2019, p. 614.

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41. The Hungarian reply indicated that social origin (background) is one of the five grounds of discrimination most commonly invoked before its national Equal Treatment Authority, but did not indicate what meaning was attributed to the term nor how many of these cases were successful. The reply from Romania, where the constitution refers to social origin but the antidiscrimination law refers to social status, stated that the latter ground was invoked in 40% of complaints received by the National Council for Combating Discrimination between 2002 and 2020 (4 702 complaints out of 11 676), but did not indicate what meaning was ascribed to this term.

42. Among countries where social status is an expressly protected ground, but not social origin, Estonia's Commissioner for Equal Opportunities received 15 cases based on (current) social status between January 2017 and April 2021. One case of possible discrimination based on age, disability and social status was referred to by Lithuania.

4.3. Intersectionality

43. The reply to the questionnaire from France focused on the notion of discrimination based on "origin". In the French legal system, "origin" appears to be understood as referring to external signs which may suggest a foreign origin and which may constitute vectors of stereotypes and racial discrimination, an issue on which the French Human Rights Defender has found that urgent action is required to overcome inadequacies in existing public policy.²⁰

44. This linking of the term "origin" with a person's real or perceived foreign origin contrasts with the approach taken in Germany, where the meaning of "inherited social status and roots" (close to or synonymous with "social origin") has been attached to this term, as described above. The French reply nonetheless highlights how important it is to understand the intersectionality of social origin with other possible discrimination grounds, such as ethnic origin or migration background.

45. Indeed, there may often be an overlap between a person's (real or perceived) foreign origin, their social origin and their current social status. Research has shown that in the United Kingdom, international and domestic migrants tend to have different trajectories of social mobility, with domestic migrants, often from more privileged backgrounds, often achieving success more easily, while international migrants tend to experience low upward and high downward mobility.²¹ At the same time, it is crucial not to conflate social origin with other discrimination grounds. During the hearing held at the meeting of the Committee on Equality and Non-Discrimination on 30 November 2021, Professor Sam Friedman, Professor of Sociology at the London School of Economics, noted that people often conflate ethnic origin with social origin, assuming that having a migration background is always synonymous with having a disadvantaged social background. Yet different ethnic groups may be in very different situations. Indian and Chinese British communities are on average from more privileged backgrounds than the white population, while the Bangladeshi and Pakistani British populations are much more disadvantaged in terms of social origin. These effects can only be seen when the specific elements are properly measured. Again, this shows the importance of understanding and measuring social origin as a distinct protected characteristic.

46. Whether or not they expressly refer to social origin, many of the antidiscrimination laws cited in the replies to my questionnaire (also) prohibit discrimination based on grounds that may be closely related to social origin, such as birth or ancestry. Some include grounds such as wealth or property, which may be acquired during a person's life (and therefore more closely linked to current socio-economic status) or inherited (and therefore more closely linked to social origin). Perhaps these grounds may provide useful proxies for social origin where discrimination on this ground is not expressly prohibited by the constitution or by law (see also below on parental occupation).

47. As I will discuss in the next section, however, it is equally crucial not to conflate a person's current wealth, property, housing situation, level of education and other aspects of their socio-economic status with their social origin. Regardless of a person's current situation, their class background (and indicators of it such as accent, presentation and long-standing social networks) may continue to mark them out from their current socio-economic peers and form the basis of unjustified differential treatment (favourable or unfavourable) throughout a person's life.

²⁰ Défenseur des droits, "Discrimination and origins: the urgent need for action", June 2020.

²¹ Friedman S., Laurison D. and McMillan L. (2017), "Social Mobility, the Class Pay Gap and Intergenerational Worklessness: New Insights from the Labour Force Survey", Social Mobility Commission.

5. The class ceiling and floor

5.1. Different forms of discrimination based on social origin

48. At our hearing on 30 November 2021, Professor Friedman explained the key findings of his research into what he and his co-researcher Daniel Laurison have called the “class ceiling”.²² Their findings, based on data collected from over 100 000 people in Britain’s Labour Force Survey (conducted by the Office for National Statistics), are highly instructive for this report. They show clearly that, even though it is not always visible in everyday life in the same way as other, better-known axes of inequality, a person’s social origin tends to cast what Professor Friedman vividly described as a long shadow over their life chances.

49. Discrimination based on social origin may be direct or hidden (explicit or implicit). The very limited examples of case law discussed in section 4 above provide examples where poverty or the inherited level of social trust of a family have been perceived by the plaintiffs as direct discrimination.

50. Academic research also identifies a “direct effect of social origin (DESO)” on social mobility. This is defined as direct effects of social origin that are not mediated through education, and as factors that can lead to class ceilings and floors.²³ Class floors occur where individuals from more advantaged socio-economic backgrounds are protected from downward social mobility, whereas class ceilings occur when the upward social mobility of individuals from less advantaged socio-economic backgrounds is hindered.

51. The hidden forms of discrimination based on social origin, on the other hand, tend to arise through ingrained psychological processes that affect our perceptions of ourselves and of others. Regarding perceptions of others, classism exists: stereotyping based on social origin and social status is entrenched in the minds of many and determines how people are judged and treated by others.²⁴ As regards self-perception, research has found that growing up and living under different socio-economic and material circumstances has an impact on people’s thoughts, feelings and behaviour, and that these differences in attitudes can act as a barrier to overcoming socio-economic disadvantage.²⁵ Persons from more materially constrained backgrounds have to develop skills to cope with adversity and may tend to build the perception that they face threats which must be dealt with defensively, whereas those who do not face such material constraints worry less about making ends meet and can focus on self-exploration and risk-taking, given that challenges they meet can be faced with their existing material means.²⁶ More importantly still, as discussed further below, educational institutions and the labour market reinforce discrimination based on social origins by measuring merit and success according to characteristics associated with pre-existing socio-economic advantage.

5.2. The long shadow cast by social origin: not just getting in but getting on

52. As Professor Friedman pointed out, a common focus when studying social mobility is the question of access to professions requiring higher levels of education. In the UK, only 10% of those from working class backgrounds (i.e. whose parents do or did routine and manual jobs) go on to such professions. He cited quite staggering figures illustrating the advantages experienced by those who follow directly in their parents’ footsteps: in the United Kingdom, a person who has parent who is a lawyer is 17 times more likely to become a lawyer, while a person who has parent who is a doctor is 24 times more likely than others to become a doctor.

53. While it is already well understood that access to “higher” professions is an important vector of social mobility, the “class ceiling” research provides a crucial demonstration that access to such professions is not sufficient in itself: the influence of one’s social or class origins does not disappear when one enters the workforce. On the contrary, it continues to have an impact throughout one’s life. Thus, in contemporary Britain, people from working class backgrounds who succeed in entering high-level occupations earn on average 17% less than colleagues whose parents hold or held middle-class, professional and managerial jobs, and similar

²² Friedman S. and Laurison D. (2020), *The Class Ceiling: Why it Pays to be Privileged*, Policy Press, Bristol.

²³ Several studies find supporting evidence for the direct effects of social origin. For example, using UK data, Gugushvili A., Bukodi E. and Goldthorpe J.H. (2017), “[The Direct Effect of Social Origins on Social Mobility Chances: 'Glass Floors' and 'Glass Ceilings' in Britain](#)”, *European Sociological Review* No. 33(2), pp. 305-316; using data from fourteen countries, Bernardi F. and Ballarino E. (2016), *Education, Occupation and Social Origin: A comparative analysis of the transmission of socio-economic inequalities*, Edward Elgar, Cheltenham.

²⁴ Heys T. (2013), “[Classism in the Workplace: What to do about Socio-Economic Discrimination](#)”, Future of Work Hub.

²⁵ Evans, G. and Mellon, J. (2016), “Social Class: Identity, awareness and political attitudes: why are we still working class?”, *British Social Attitudes*, 33, pp 1-19.

²⁶ Stephens N.M., Markus H.R. and Phillips L.T. (2014), “[Social class culture cycles: How three gateway contexts shape selves and fuel inequality](#)”, *Annual Review of Psychology* No. 65, pp. 611-634 and Manstead (2018), “[The psychology of social class: How socioeconomic status impacts thought, feelings and behaviour](#)”, *British Journal of Social Psychology* No. 57(2), pp. 267-291.

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class pay gaps have been detected in countries such as France, Italy, Norway and Sweden. Even after making adjustments to account for a range of measures of merit or human capital (such as differences in educational attainment), half of the class pay gap remains. The gap is wider still for most Black and minority ethnic professionals with working-class backgrounds and for women these backgrounds, raising important issues of intersectionality. Women moreover tend to hide their working-class background, due to stigmatising tropes about working-class women, whereas there are far more romanticised stereotypes about men's upward mobility. All of these findings show why, as Professor Friedman expressed it, "the focus needs to shift from getting in to getting on".

54. Professor Friedman pointed to three main drivers of the class pay gap. The first of these is parental wealth ("the bank of mum and dad"), which provides crucial insulation from uncertainty, making it possible for those with wealthier parents to take more career risks, carry out unpaid internships, and face the cost of living in expensive cities where opportunities tend to be clustered. This is an example of the class floor referred to above.

55. A second driver of the class pay gap is the culture of informal sponsorship, whereby senior individuals take under their wing younger staff who resemble them and informally fast-track their career. He noted that often such relationships are sparked by a sense of cultural affinity – shared humour, taste, interests, recreations, ways of speaking or educational backgrounds – in other words, shared traits or pastimes that tend to be closely linked to social origin.²⁷ Such dynamics can be accentuated by differences in ability to access and operate within social networks, having tacit knowledge of how they function and pre-existing links that can easily stretch into nepotism. The role of parents who are in a position to provide advice, assistance and connexions may again be critical here.

56. As the third and most important driver of the class pay gap, Professor Friedman pointed to the misrecognition of merit, or the way in which arbitrary behavioural codes relating to accent, dress, taste, self-presentation or style – and often reflecting the historical legacy of a privileged white male majority – govern who is seen to fit in and whom it would be appropriate to promote in many professional organisations and occupations.

57. In addition to above key drivers of discrimination based on social origin, I wish to underline the potentially aggravating impact of the use of artificial intelligence. To cite just one well-known example, when the grades of pupils in United Kingdom schools were adjusted through an automated standardisation process in June 2020 following the interruption of the school year due to the Covid-19 pandemic, pupils from disadvantaged backgrounds were disproportionately affected by downgrading of their results, and the attainment gap between pupils receiving free school meals and those not receiving them widened considerably.²⁸ In its Resolution 2343 (2020) "Preventing discrimination caused by the use of artificial intelligence", the Assembly highlighted that algorithms optimised for efficiency, profitability or other objectives, without taking due account of the need to guarantee equality and non-discrimination, may cause direct or indirect discrimination on a wide variety of grounds, including social origin. The causes of this phenomenon are multiple and are analysed in depth in the report of our colleague Mr Lacroix on this subject.²⁹ A wide range of measures that States and other relevant entities need to take to prevent discriminatory outcomes arising from the use of artificial intelligence are set out in detail in the above-mentioned resolution, and I will therefore not repeat them here.

58. In order to overcome the obstacles created by discrimination based on social origin, all of these key issues need to be addressed – including from an intersectional perspective – through strong policy instruments designed to guarantee an equal footing to all, when it comes to both getting in and getting on.

5.3. Socio-economic status as a distinct but related ground of discrimination

59. I have already highlighted the important differences between social origin and (current) socio-economic status, and the fact that distinct forms of discrimination can arise on the basis of these grounds. Nonetheless, as we have seen, the two grounds may be closely related. While the focus of this report is the ground of discrimination that is recognised in international instruments, i.e. social origin, a person's socio-economic status can also affect their overall life chances, and at least some of the remedies may be similar in both cases. I therefore consider it important also to examine discrimination based on socio-economic status, at least briefly, in my report.

²⁷ See also Heys T. (2013).

²⁸ Adams R. and McIntyre N., "England A-level downgrades hit pupils from disadvantaged areas hardest", *The Guardian*, 13 August 2020.

²⁹ Doc. 15151.

60. As the European Network of Equality Bodies (Equinet) has emphasised, discrimination and poverty are two sides of the same coin. Discrimination is a cause of poverty and social exclusion, while at the same time, poverty and social exclusion can themselves be a ground of discrimination. Poverty and social exclusion thus increase the risk of experiencing discrimination – yet due to stigma, shame, social exclusion and abuse, victims of discrimination on the grounds of their socio-economic status are much less likely to report it and thus to access their rights. Moreover, discrimination on the grounds of socio-economic status is often overlooked (and underreported by victims) in multiple discrimination cases.³⁰

61. Equinet is currently carrying out extensive research into socio-economic status as a discrimination ground and we had the opportunity to hear from their policy officer Ms Milla Vidina at our hearing of 30 November 2021 about Equinet’s preliminary findings. These point to a broad consensus that such a ground should be expressly recognised in antidiscrimination legislation, in particular because a person’s socio-economic status can change over their lifetime, and everyone may therefore be susceptible to socio-economic exclusion. The lack of justiciability of social rights makes it all the more crucial to strengthen equality and non-discrimination law, which have a high degree of enforceability. Discrimination based on perceived socio-economic status also needs to be covered. Equinet’s preliminary findings show less clarity about what term should be used in antidiscrimination legislation to cover these forms of discrimination, especially as no adequate, single proxy has so far been identified. It is also not clear at this stage whether including a proliferation of related grounds (such as wealth, property or financial status), as is already the case in some countries, actually helps to tackle such discrimination better. Whatever the term used in national legislation, however, its definition should allow all necessary situations to be covered, bearing in mind the social reality in the country concerned.

62. As with all grounds covered by antidiscrimination legislation, the ground of socio-economic discrimination needs to be properly enforced and included in the competencies of equality bodies. The latter must have sufficient funding and resources to give effect to this competence, notably in order to collect data on this ground and to use situational testing.

63. In the field of discrimination based on socio-economic status, it can be difficult to design effective positive measures targeting individuals, as the structural socio-economic reasons behind individuals’ situations also need to be addressed. Two promising aspects to explore are however making the public sector subject to equality duties in this area, along the lines set out in the United Kingdom’s Equality Act, while in parallel, mainstreaming antidiscrimination measures in all legislation.

64. Awareness-raising is crucial in order to overcome the shame and guilt that often prevent people from complaining about socio-economic discrimination. It needs to be approached with sensitivity, however, as people often feel stigmatised and excluded in a culture where merit is defined in ways that privilege those with pre-existing means. To help civil servants working in this field to recognise and better tackle this form of discrimination, many equality bodies run training courses which incorporate socio-economic status either explicitly or as part of intersectional approaches.

6. Breaking the class ceiling

6.1. Legislative and institutional steps

65. Social origin needs to be included as a specific protected characteristic in antidiscrimination legislation. The responses to my questionnaire also showed the need for this: as we saw above, there is little case law on this type of discrimination in most countries, but where it is not specified as an express prohibited ground in legislation, the obstacles to having it recognised in individual cases are even higher.

66. Second, a wider conversation needs to be started about talent and merit and their meaning in specific occupations. This ties into interview practices and combating the problem of misrecognition of merit. Bywords like “polish” or “gravitas”, which incorporate quite arbitrary elements of self-presentation, remain very important for identifying who appears to “fit”, and who therefore gets a job. Organisations and occupations need to think carefully about what is actually needed to do a job well, and compare it with what is being valued on the ground. There also needs to be public debate on how merit is understood and identified at the level of society.

67. Equality bodies should be entrusted with the task of public governance of this issue, and the necessary resources should be allocated to them to do this.

³⁰ Equinet, *Addressing Poverty and Discrimination: Two Sides of the One Coin*, December 2010.

6.2. Targeted policies

68. When it comes to careers and the workplace, Professor Friedman underlined at our hearing several axes that can be explored in order to break the class ceiling. First, the social or class origins of public and private sector workers must be accurately captured, including through an intersectional lens (notably as concerns gender and characteristics related to ethnic origin). The toolkit recently put together by the United Kingdom's Social Mobility Commission for organisations that wish to measure social origin proposes a number of questions that enable relevant data to be collected.³¹ He also emphasised that, for transparency reasons, companies should be required to publish their class pay gap data, just as they are required to publish gender pay gap data in some countries.

69. Parental occupation has been identified as the best single proxy for social origin.³² However, it is also important to note that class structures are dynamic and evolve with structural changes in the economy. The changing nature of industrial production, deindustrialisation and digital transformation and industry 4.0 dynamics are all factors that could alter occupational structures in society, while rent-seeking, corruption and cronyism could alter the distribution of financial means. Socio-economic classifications and class clusters may therefore also evolve, meaning data collection, policy analysis and legislation would need to evolve in parallel.

70. Furthermore, as we have seen, social classes extend beyond financial circumstances to networks (not just "know-how" but "know-who" frameworks). Nepotism and corruption cause poverty and inequality. Policy interventions should therefore also aim to ensure that everyone can participate in networks on an equal footing.

71. Professor Friedman underlined the need for informal recruitment, assessment and promotion procedures to be formalised and made transparent. In parallel, positive action mechanisms such as graduate education schemes that act as a fast-track into civil service careers can be actively tilted towards people from working-class backgrounds, as is the case in the United Kingdom's Civil Service Fast Stream programme.³³ He also emphasised the need to ban unpaid and unadvertised internships, which are inaccessible to persons without pre-existing networks and family financial support.

72. As regards education, while it plays a critical role in the class (im)mobility of the individual, it has been found that as long as the association between individuals' class origin and their level of educational attainment remains strong, education will play a weaker role in promoting social mobility at the societal level.³⁴ Therefore, policies should aim to publicly provide free, equitable and quality education to all, regardless of social origin and throughout a person's lifecycle. Equity in accessing the same quality of education should be guaranteed from early childhood education and care to secondary and higher education and through lifelong education. This policy would also be in line with the European Social Charter.

73. One policy implication of DESO is that education alone cannot mediate the link between social origin and social destination in an individual's lifecycle. The existence of class floors suggests a form of "opportunity hoarding", where families in higher socio-economic groups seek means, both during their offspring's education as well as when they are in the active labour market, to safeguard their offspring's labour market opportunities and their destination social status. The policy implication is that public provision of equal opportunities across all social origin groups is critical. Opportunities and social status destination prospects should be safeguarded as a public service through social safety nets, rather than through private means that are pre-determined by social origin.

74. When it comes to assessing merit, it is expected that in a merit-based system, job interviews are based on an evaluation of the candidate's experiences, ideas and conduct, and evaluations of workers on the quality of the content of the task performed. However, studies across the globe find that judgments are based on the evaluator's perception of the social status of the person whose performance should be evaluated. Brief speech patterns, accent and pronunciation cues and the choice of even a few words used allow the evaluator to identify the social class of the speaker with significant accuracy.³⁵ To overcome bias in hiring and promotion decisions that are influenced by the ingrained psychological processes that shape our early perceptions of others via an unconscious evaluation of accents, word choices or speech patterns, researchers in the United Kingdom have run the "Accent Bias in Britain" project.³⁶ Accent bias affects not only labour market outcomes, but it could also

³¹ Social Mobility Commission, Socio-economic diversity and inclusion, Employers' toolkit: cross-industry edition, July 2021.

³² Ibid.

³³ Social Mobility Commission (2021), Navigating the labyrinth report: Socio-economic background and career progression within the Civil Service, pp. 17 and passim.

³⁴ Bukodi (2019), "Britain's social mobility problem has been misunderstood – education is not the great leveller", The Conversation.

³⁵ Cummings M., "Yale study shows class bias in hiring based on few seconds of speech", *Yale News*, 21 October 2019 and Kurter H.L., "Yale exposes new bias that judges interviewees within first few seconds of interview", *Forbes*, 29 October 2019.

³⁶ See <https://accentbiasbritain.org>

lead to biases in accessing basic services such as education and housing, among others. The "Accent Bias in Britain" project has tested tools, training and other policies that could be used to combat this bias. Among five specific tools they tested, regarding their effectiveness in reducing accent bias for example, they found that raising awareness through some form of unconscious bias training modules has been the most effective.

75. Finally, as our colleague Ms Stienen has pointed out, upward social mobility can involve hidden injuries and emotional experiences, sometimes referred to as "the pain of social rising". Professor Friedman agreed that such trajectories can often leave people feeling culturally homeless and dislocated from both their origin and their destination, and that understanding the lived experience of people in this social group is vital. This is why distinct types of support networks are needed for people who have had such a trajectory. In the United Kingdom, the civil service has created social mobility networks in order to respond to this need.³⁷

6.3. Social mobility as a solution

76. The overriding preoccupation at the heart of my report is that the circumstances of a person's birth should not determine their future. It goes without saying that structural inequalities play a strong role in individual experiences of discrimination in this field; providing remedies to individuals through effective antidiscrimination legislation and targeted policies, as examined in the previous chapters of this report, is clearly essential, but structural answers that promote social mobility are equally strongly needed.

77. In fair societies, the potential of all people, including those from less advantaged backgrounds, is realised. This requires a high level of social fluidity, so that people are able to compete on an equal footing based on their talents, abilities, skills and expertise, and opportunities are not constrained by social origin. Individuals should also be able to rise to the highest ranks, irrespective of their social background.

78. Issues of social mobility are of concern not only because they affect the right of each individual to develop their full potential and feel secure and hopeful about the future, but also because the lack of diversity at high levels of decision-making itself acts as a barrier to achieving social justice more broadly: it contributes to perpetuating the advantages of those groups that are represented at the decision-making table, while failing to address the disadvantages experienced by those who are not. As the Assembly recognised in its recent Resolution 2339 (2020) "Upholding human rights in times of crisis and pandemic: gender, equality and non-discrimination", the Covid-19 pandemic has acted as a strong reminder of how important it is to ensure that all voices and perspectives are heard, including in times of crisis, in order to avoid perpetuating or exacerbating disadvantage and to promote fairness and equality in our societies.

79. Below I have outlined some obstacles to social mobility that may contribute to the persistence of discrimination based on social origin.

80. It is worth noting from the outset that levels of social mobility vary quite widely across Council of Europe member States. Although social mobility has decreased over the past decades in a number of States, it has increased in others. The rates of change moreover differ for women and men.³⁸

81. In the past, upward social mobility has tended to be understood in absolute terms, with societies as a whole experiencing such upward mobility through economic growth. An image often used to describe such absolute social mobility is that of a rising tide, pushing boats up with it as it rises. However, as overall economic growth in Europe has slowed in more recent decades, there has been a greater focus on relative (individual) social mobility, coupled with concerns that younger generations will have fewer opportunities than their parents to change their social status. This makes it especially important to be aware of how both advantage and disadvantage are transmitted in Europe, and how to overcome these trends.³⁹

82. One recent study has identified eight factors that may serve as particular obstacles to social mobility, namely: widening income inequalities; diminished access to public services, including childcare, education and health; persistent inequalities in education; intergenerational transmission of poverty; gender inequalities; insufficient integration of immigrants; nepotism and corruption; and growing regional disparities.⁴⁰

83. Income and social inequalities also affect who has access to resources that may help people to improve their life chances. Unequal access to resources hinders social mobility, and thus addressing these issues,

³⁷ Social Mobility Commission (2021), Navigating the labyrinth report: Socio-economic background and career progression within the Civil Service, May 2021, pp. 8 and passim.

³⁸ Ludwinek A., "Does social background determine life chances in Europe?", 26 April 2017.

³⁹ Ibid.

⁴⁰ Eurofound (2017), *Social mobility in the EU*, Luxembourg, Publications Office of the European Union.

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including through the alleviation or reduction of poverty, may form an essential element in breaking the link between social origin and prospects.

84. Even in States where levels of social mobility are highest, it has been shown that social background can play a defining role throughout people's lives – starting even before children are born, with advantage or disadvantage being transmitted between generations through a combination of elements ranging from parents' parenting skills and social capital to children's access to quality education, their educational attainment and the development of "soft" social skills.⁴¹

85. Precarious employment appears to be another crucial factor. Low-wage, low-mobility jobs may be becoming increasingly pervasive across all ages, demographics and educational backgrounds, but the phenomenon disproportionately affects groups that also experience structural inequalities – notably women and members of racial and ethnic minority groups, and possibly those facing socio-economic disadvantage.⁴²

86. In addition, while lower-wage, more precarious workers may change jobs often, they frequently remain confined to lower-paying work, with limited progression, if any, in their careers.⁴³ This leaves them little opportunity for improving their own social status during their lifetimes.

87. At the same time, radical changes in the labour market itself heighten the problems for many of these workers. Reskilling the workforce, and especially lower-paid workers, will become increasingly important as technological innovations create new tasks and occupations, while demand for the existing skills of today's lower-paid workers diminishes.⁴⁴ Measures are therefore needed to tackle discrimination based on social origins against the background of the advent of industry 4.0⁴⁵ and the increasing use of robotics and artificial intelligence in workplaces and industry.

88. Finally, residential segregation and access to affordable housing may also have important implications for public policy in this field.⁴⁶ As our colleague Mr Jallow pointed out during our hearing of 30 November 2021, the commodification of the housing market has made access to housing increasingly dependent on socio-economic status and (at very least for children) social origin. Yet Article 31 of the European Social Charter requires States to take the necessary measures to ensure that people have access to housing, to ensure social housing, to eliminate unlawful evictions and to eliminate homelessness.

89. I explored many of the above issues – and the measures that States should take to tackle them – in my report "Socio-economic inequalities in Europe: time to restore social trust by strengthening social rights", which formed the basis of the Assembly's Recommendation 2210 (2021) and Resolution 2393 (2021). Our colleague Mr Hunko also looked at the particular impact of the ongoing pandemic on socio-economic inequalities in his report that led to the adoption by the Assembly of its Recommendation 2205 (2021) and Resolution 2384 (2021) "Overcoming the socio-economic crisis sparked by the Covid-19 pandemic".

90. For the purposes of the present report, I wish to underline how crucial it is to grasp that discrimination based on social origin, like discrimination based on socio-economic status, cannot be tackled effectively solely by adopting legislation that prohibits it and provides remedies to individual victims. While this aspect is essential – yet as we have seen, lacking in many member States at present – it must exist in tandem with holistic measures designed to promote social mobility and social justice, creating societies that are fairer for all and that do not simply keep reproducing these forms of discrimination.

7. Conclusions

91. This report originated from the observation that few European States include social origin as a protected ground in their antidiscrimination legislation, despite the fact that they have obligations to do so under international law, and few measure it sufficiently to benefit from reliable data in this field. Instead, real or supposed foreign or ethnic origins or religious beliefs are often cited as factors influencing people's access to social rights such as education, housing or employment or their experience of the criminal justice system, while the specific impact of their social origin or socio-economic (dis)advantage is far less often studied.

⁴¹ Ibid; Cummings M., "Yale study shows class bias in hiring based on few seconds of speech", *Yale News*, 21 October 2019.

⁴² Escobari M. et al. (2019), *Realism about reskilling: Upgrading the career prospects of America's low-wage workers*, Future of the Workforce Initiative, Washington DC, Brookings, pp. 1, 4.

⁴³ Ibid, pp. 5-7.

⁴⁴ Ibid.

⁴⁵ The fourth industrial revolution builds on the third (the adoption of computers and automation) through the use of "smart" and autonomous systems based on data and machine learning.

⁴⁶ Eurofound (2017).

92. With this report, and the draft resolution attached, I have endeavoured to raise awareness of these issues and to show ways forward in tackling them. I have also sought to identify existing and effective legal and policy measures, as well as innovative approaches in this field, that could be adopted more broadly by legislators and policy makers.

93. My report confirms that concerns about social origin are largely absent from legislation and especially from case law in member States. It also reveals that remedies are rare, and rarely used where they exist. But it has also led to other key findings that must be used to shape public policy in this field.

94. First of all, social origin and socio-economic status must not be conflated. The notion of social origin concerns how a person's upbringing, origins, and starting point in life can cast a shadow or leave markers that can disadvantage them throughout their lifetime, in various spheres of life and regardless of whether their socio-economic status has changed over the course of their lifetime. Socio-economic status – which reflects a person's current situation – can also be a ground of discrimination, and must also be dealt with effectively in antidiscrimination legislation and public policy. But it is not sufficient to cover only this ground in antidiscrimination legislation and measures, because it will not cover the lifelong effects experienced by individuals due to their social origin.

95. Second, when public policy fails to take due account of discrimination based on social origin, it cannot provide effective responses. Instead, it serves to perpetuate the system that produces such discrimination.

96. Despite the lack of legislation and relevant case law, extensive academic research has been carried out in this field, and numerous lines of action have already been identified that can help to break down barriers faced by individuals based on their social origin.

97. In addition to strengthening antidiscrimination laws and providing adequate training and resources to equality bodies, simple but very concrete measures such as improving data collection, breaking down discriminatory informal procedures, promoting support networks that are not based on pre-existing family or social connections, and re-examining hidden assumptions about what makes an individual fit into a given environment are all ways forward to creating fairer societies, in which each person is able to realise their full potential, regardless of their background.

98. More broadly still, accompanying these steps by wide-ranging measures to promote social mobility and overcome socio-economic inequalities, in ways already identified in the Assembly's previous work, will help both to reduce gaps in our societies and ensure that a starting point of disadvantage does not translate into a lifelong condemnation to inequality.

99. We need to recognise and tackle discrimination based on social origin effectively, through both law and policy. I hope that the draft resolution attached to this report will provide a strong source of inspiration to States in order to achieve this aim.