

23 May 2024

**EUROPEAN UNION AGENCY FOR  
FUNDAMENTAL RIGHTS (FRA) SUBMISSION TO  
THE CALL FOR INPUTS: JUSTICE  
ACCOUNTABILITY AND REDRESS – REPORT OF  
THE INTERNATIONAL INDEPENDENT EXPERT  
MECHANISM TO ADVANCE RACIAL JUSTICE  
AND EQUALITY IN THE CONTEXT OF LAW  
ENFORCEMENT**

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## Context for FRA's submission

The OHCHR's 'Expert Mechanism to Advance Racial Justice and Equality in Law Enforcement'<sup>1</sup> called for input to its annual report named '**Justice, accountability and redress - Report of the International Independent Expert Mechanism to Advance Racial Justice and Equality in Law Enforcement**' to be presented at the fifty-seventh session of the Human Rights Council 9 September – 9 October 2024, and subsequently transmitted to the General Assembly.<sup>2</sup>

In its upcoming report, the Expert Mechanism will explore its mandate in paragraph 11(g) and (h) of resolution 47/21, to advance racial justice and equality in the context of law enforcement globally and to contribute to accountability and redress for victims inter alia by "Making recommendations on the concrete steps needed to ensure access to justice, accountability and redress for excessive use of force and other human rights violations by law enforcement officials against Africans and people of African descent, including independent and well-resourced mechanisms to support victims of human rights violations by law enforcement officials, their families and communities" and by "Monitoring the implementation of recommendations on ending impunity for violations by law enforcement officials emanating from the report of the High Commissioner, and identifying obstacles to their full implementation".

The Expert Mechanism would welcome information on promising initiatives and positive or good practices; and on obstacles, challenges and lessons learned in ensuring access to justice, accountability and redress for excessive use of force and other human rights violations by law enforcement officials, including in relation to:

- Investigation, prosecution and sentencing, and other accountability and redress measures, including disciplinary proceedings.
- Ensuring that examining the role of racial discrimination, stereotypes and biases is central to accountability measures.
- The role of victims and their families during accountability processes.
- Independent and well-resourced oversight and complaint procedures.
- Independent and well-resourced mechanisms to support victims and communities affected.

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<sup>1</sup> <https://www.ohchr.org/en/hrc-subidiaries/expert-mechanism-racial-justice-law-enforcement>

<sup>2</sup> [OHCHR | Call for inputs: Justice, accountability and redress - Report of the International Independent Expert Mechanism to Advance Racial Justice and Equality in Law Enforcement](#)

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## BACKGROUND

The European Union Agency for Fundamental Rights (FRA)<sup>3</sup> is set up to provide independent evidence-based assistance and expertise relating to fundamental rights. It does this by collecting and analysing comparative, objective and reliable information and data about the situation of fundamental rights across the European Union.

The European Union Agency's (FRA) submission contains an overview of FRA current publications and upcoming publications and ongoing projects relevant to the call for inputs by OHCHR's International Independent Expert Mechanism to Advance Racial Justice and Equality in the context of law enforcement.

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<sup>3</sup> <https://fra.europa.eu/en>

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## FRA PUBLICATIONS

- [FRA \(2024\), Addressing Racism in Policing](#)

In April 2024, FRA published its report ‘Addressing Racism in Policing’ which provides an overview of the respective national legislation, alongside policies and practices that support or impede the implementation of anti-racism in policing across the 27 EU Member States. The report further maps existing oversight and accountability mechanisms and their effectiveness, looks at how and to which extend data is collected.

*Relevant extracts from the report – selected findings:*

### 1. CASE LAW EXAMPLES

Establishing racial or ethnic bias in police offences has a high threshold of proof, ECtHR case-law shows. However, the ECtHR has condemned several Member States for breaching their positive obligations to conduct effective investigations into allegations of racial or ethnic profiling or excessive use of violence on account of a person’s race or ethnicity.

The ECtHR has delivered judgments on racial profiling and police violence under Article 3 (prohibition of torture or ill treatment) and has scrutinised the racial and ethnic grounds of offences under Article 14 (prohibition of discrimination) in conjunction with the substantive aspect of Article 2 (right to life). Moreover, ECtHR case-law has assessed national authorities’ positive obligations to investigate allegations of racial and ethnic discrimination under Article 14 in conjunction with Article 3 or Article 8 (right to respect for private and family life).

#### 1.1 Violence and ill treatment

Several instances of police violence against Roma were severe enough to amount to ill treatment or violation of the right to life, the ECtHR determined. Nevertheless, most cases did not violate Article 14 in conjunction with the substantive aspects of Articles 2 and 3, it found. This was on account of the high threshold of proof of the causal link between police offences and racial or ethnic discrimination. In a case against Slovakia, slapping a Roma boy amounted to ill treatment, the ECtHR stated. However, it maintained that racism played no role in the violation of Article 3. The Slovak police’s use of force in the applicants’ arrests during a large-scale police search operation in a Roma neighbourhood amounted to inhuman treatment, according to the ECtHR.

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However, the court did not take a position on the applicants' argument that systemic racism was a causal factor in the intervention's design, owing to the lack of evidence and the standard of proof. In another case, the Hungarian police's treatment of a Roma in police custody amounted to ill treatment, the ECtHR held. However, it found no violation of Article 14 in conjunction with the substantive aspect of Article 3.

The ECtHR delivered two judgments in connection with the events following the Slovak police's arrest of three Roma. Although the violence inflicted in the police car when taking the applicants to the police station did not reach the required level of severity, the force used against the applicants at the police station was in breach of Article 3, according to the ECtHR. The ECtHR nevertheless considered the police crime to not be the result of racism, despite acknowledging the evidence of systemic racial policing of Roma in Slovakia and that the police had referred to the applicants as a 'Gypsy gang'. This case has been criticised for the refusal to consider the relationship between the crime committed and institutional and systemic racism. In another case, the level of violence that the Romanian police inflicted on a Roma in a police station resulted in a violation of Article 3, the ECtHR held. It nonetheless maintained that the officers' use of the word țigani did not establish racial motivation. In the context of Article 2, the ECtHR heard a case concerning a police search in a Romanian Roma neighbourhood of people who had allegedly insulted a police officer. The inhabitants' attack on the officers did not justify shooting live ammunition at random and risking people's lives, the court held. However, the disproportionality of the special forces' involvement in the operation was insufficient to conclude that the crime was racially motivated, the ECtHR maintained.

### **1.2 Racial and ethnic profiling and racial motivation in police conduct**

The ECtHR has reached similar conclusions in multiple racial profiling instances. The ECtHR acknowledged reports of the Spanish police's racially motivated identity checks in a recent case against Spain. However, it ultimately held that the applicant's argument, namely that the officers did not check anyone from the 'Caucasian population' on the same street, could not be taken as an indicator of the identity check's discriminatory motivation without other circumstances showing that an ethnic bias motivated the identity checks. In 2018, the ECtHR established the racial motivation of the operation, and of the violence used during the intervention, in a case against Romania regarding a police raid in a Roma neighbourhood. This was the first explicit mention of the term 'ethnic profiling'. The authorities had justified the operation on the basis of the alleged aggressiveness of the Roma community, considering them criminals on account of their ethnic origin, the ECtHR maintained. The court therefore found there to be ethnic profiling in violation of Article 14 in conjunction with the substantive aspect of Article 3. In February 2024, the ECtHR

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found that the subjecting of the applicant to an identity check was discriminatory treatment based on the applicant's skin colour. The court considered multiple reports by international bodies which stated that Swiss police officers received insufficient training to prevent racism or racial profiling. The court clarified that when an applicant establishes the existence of a difference in treatment, the burden of proof lies with the government to demonstrate that such difference was justified.

### **1.3 Obligation to investigate racist motivation in criminal offences involving the police**

The ECtHR also assesses national authorities' positive obligation to investigate if racism plays a role in police offences. Criminal authorities not ensuring an effective investigation into whether ethnic hatred could have played a role in the violence the Hungarian police inflicted on a Roma man constituted a violation of Article 14 in conjunction with the procedural limb of Article 3, the ECtHR stated. In Slovakia, allegations of discriminatory motives leading to a police officer shooting a Roma family were not investigated, despite the offence's strong racist elements. That amounted to a breach of Article 14 in conjunction with Article 2. The Slovak criminal justice authorities should have considered the complete sequence of events, before and after the applicants' transfer in a police vehicle, to determine whether the officers' violent behaviour in the car was the result of ethnic bias, the ECtHR clarified. The ECtHR found a violation of Article 3 in its procedural aspect. In a case against Romania, the ECtHR acknowledged the general level of hostility towards Roma people in Romania. This had to be reflected upon when considering the authorities' obligations to investigate plaintiffs' allegations of discrimination, the ECtHR maintained. By failing to conduct an in-depth assessment of the discrimination claims, the authorities 'did not censure what seems to be a discriminatory use of ethnic profiling by the authorities'. In certain cases, the ECtHR has held that national authorities had fulfilled their positive obligations. Slovakia complied with its duty in a case in which the authorities were not in possession of sufficient evidence about the racist motives of the crime and where applicants made general claims of racial bias and the authorities carried out a thorough examination. The authorities' obligation to investigate potential racial motives behind state agents' non-violent actions is implicit in the obligations under Article 14 when analysed in conjunction with Article 8, the ECtHR clarified. Germany had not taken every possible measure to ascertain whether an identity check on a train amounted to racial profiling, since the authorities had not heard witnesses and dismissed the applicant's claims on formal grounds, the ECtHR found. By contrast, Spain had carried out an effective investigation into a claim of racial profiling in another case, it held.

### **1.4 National case-law examples**

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FRA collected case-law and second instance decisions related to discriminatory policing on the grounds of racial and ethnic origin for 2011–2021. Like the ECtHR, national courts tend to impose a high threshold of proof for ethnic or racial bias driving police action. The burden of proof mostly lies with the complainant. In Austria, for example, a court rejected a complaint because the applicants' allegations that police officers demanded 'all Black passengers to get off' could not be confirmed. In Hungary, a court rejected the claims of racial motivation of police violence, since only the victims considered the police officer's brutality to be the result of racism. In Estonia, a court did not find detention pending expulsion to be based on the racial or ethnic origin of the people concerned, owing to insufficient evidence. However, in France, the complainant in a racial profiling case benefited from an adjustment of the burden of proof, the Court of Cassation clarified. Once the complainant had provided elements that gave rise to a presumption of discrimination, the burden shifted to the state to demonstrate that the checks were justified on objective grounds. The police failed to demonstrate the objective reasons justifying the checks, as the applicants provided evidence of the systematic identity checks' discriminatory nature, allegedly based on their skin colour or origin, the court found.

## **2. OVERSIGHT AND ACCOUNTABILITY MECHANISMS**

Oversight of police forces is a crucial element of supporting the detection and prevention of discriminatory or racist police behaviour. Oversight contributes to accountability. Public bodies monitor, supervise and audit the actions of public administrations, holding them accountable for their actions.

The effectiveness of oversight mechanisms is key to ensuring the protection of fundamental rights in sectors related to security, such as intelligence services and police, as FRA highlights. The effectiveness of oversight and accountability in the police depends on the level of independence, the scope of powers and the extent to which these are used. A wide range of non-judicial bodies may be entrusted with oversight of police activities. They have different levels of independence. Some have low levels of independence, as they are within the police or part of a ministry. Others have much higher levels of independence, as the executive or legislative branch may delegate supervisory powers to them. These bodies 'are not under the direction of an elected official and are relatively independent of the government'. To be effective, oversight bodies should have at least two broad powers: an investigative power (to launch ex officio investigations into police activities) and a remedial power (to investigate police activities based on individuals' complaints). In all Member States, individuals can lodge complaints against the police with the courts. This chapter focuses on non-judicial oversight bodies whose mandate is to oversee police activities and their potentially racist/ discriminatory behaviours.

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## 2.1 Non-judicial bodies with mandates to oversee policing

Italy is the only Member State where individuals' recourse against police activities is limited to judicial avenues. There is no non-judicial body with a mandate to oversee police activities. External bodies with police oversight mandates can be ombudspersons, equality bodies, independent oversight bodies, NHRIs or parliamentary committees. In Latvia and Luxembourg, the police oversight bodies are located within ministries: the Ministry of the Interior in Latvia and the Ministry of Internal Security in Luxembourg. Oversight mechanisms being associated with the executive authority raises concerns about their independence and effectiveness in handling and proceeding with complaints against the police.

In 18 Member States, there are both external and internal bodies with an oversight mandate covering policing. In six Member States, only external oversight bodies conduct oversight. Most external bodies' mandates cover the areas of racism, racial discrimination and racial profiling either explicitly or implicitly (e.g. they cover all fundamental rights).

## 2.2 Limited oversight and remedial powers

Most external and internal oversight bodies can launch investigations on their own initiative and can process individuals' complaints. In all Member States except Italy, at least one body has one of these two competences.

Most oversight bodies are entrusted with both investigative and remedial mandates, but are variously limited. Most oversight bodies lack one or several of the following essential powers:

- to take legally binding decisions;
- to impose fines;
- to act as a party during criminal proceedings;
- to transmit findings directly to the public prosecutor.

The power to issue legally binding decisions is essential to ensure the effectiveness of oversight, not only regarding the oversight body's case decisions, but also indirectly through having dissuasive effects on police officers. Yet, in nine Member States (Austria, Belgium, Czechia, Finland, France, Ireland, Lithuania, Malta and the Netherlands), none of the oversight bodies can take legally binding decisions. In addition, of the 17 Member States that may do so, seven are either under the supervision of the executive (Latvia, Luxembourg, Poland and Slovenia) or internal units of the police (Estonia, Slovakia and Spain). Therefore, they cannot be considered sufficiently independent. Similarly, the power to impose fines can effectively dissuade police officers from acting illegally. A combination of both powers is crucial for

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effectively preventing unlawful behaviours. Yet, of the 10 Member States that have independent oversight bodies, only five (Croatia, Cyprus, Denmark, Greece and Sweden) can take legally binding decisions. Of these, only in Sweden can the independent authority impose fines. Across the EU, only 12 Member States have granted oversight bodies the power to impose fines on police. In half of these, only bodies under the supervision of the executive or belonging to the police have this power (Estonia, Latvia, Luxembourg, Slovakia, Slovenia and Spain). All oversight bodies in the EU can transmit their findings to the public prosecutor. However, not all can do so directly.

### **2.3 Oversight bodies' recorded cases of racist discrimination and incidents involving the police**

Complaints procedures for victims to report police discrimination or misconduct differ across the EU. Differences in how oversight bodies receive, process and record complaints can result in differences in the figures. Therefore, these cannot be read as a true account of the number of incidents. In addition, racial discrimination is largely under-reported, regardless of the perpetrator, FRA surveys and other evidence suggest. Existing oversight bodies' data and statistics on discriminatory policing on grounds of racial or ethnic origin are crucial to understand the effectiveness of oversight mechanisms and for accountability. The data in this report represent the number of complaints oversight bodies have officially recorded. About half of the oversight bodies in Member States do not record complaints of racism in the police as a separate category. Half of the oversight bodies record racism in the police. Only a few oversight bodies publish some of these data, for example as part of their annual activity reports. The oversight bodies were also asked about the number, type and outcome of complaints between 2017 and 2021. Data differ considerably across the Member States, so direct comparison is not possible. Only a few were able to share data across the years, and data were not systematically available for all the categories. For example, some bodies record the number of complaints, but not the type of complaint, and outcomes of complaint investigations are either unavailable or only partially available for some years.

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**[FRA \(2023\), Being Black in the EU – Experiences of people of African descent | European Union Agency for Fundamental Rights \(europa.eu\)](#)**

In October 2023, FRA published the second edition of the report Being Black in the EU. The report is part of FRA's third large-scale survey on immigrants and the descendants of immigrants across the EU. It examines the experiences of almost 6,800 people of African descent in 13 EU Member States Austria, Belgium, Denmark, Finland, France,

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Germany, Ireland, Italy, Luxembourg, Poland, Portugal, Spain and Sweden. The report revisits the situation since the publication of its first edition revealing that, despite binding anti-discrimination law in the EU since 2000 and significant policy developments since then, people of African descent continue to face racism, discrimination and hate crime. To tackle racism and discrimination effectively, FRA calls on EU and EU Member states to:

- adopt measures necessary to prevent and eradicate discriminatory institutional practices and culture that enables discriminatory attitudes among police officers and unlawful profiling. These measures may include guidance on how to deescalate situations that are potentially racially charged. Drawing on FRA's 2018 guide on preventing unlawful profiling and FRA's report on addressing racism in policing, such guidance should be issued by law enforcement authorities and be included in standard operating procedures, training and codes of conduct.
- Member States should improve the collection and publication of data on racism in policing, including on unlawful ethnic profiling. Systematic collection of reliable data can help identify discriminatory practices and assess and improve the effectiveness of responses taken.
- properly enforce anti-discrimination legislation as well as effective, proportionate and dissuasive sanctions.
- identify and record hate crimes and consider bias motivation as an aggravating circumstance when determining penalties.
- collect equality data, including on 'ethnic or racial origin' to assess the situation and monitor progress.
- ensure that equality bodies have the necessary mandates and resources to tackle discrimination and support victims.

*Relevant extracts from the report – selected findings:*

## **1. POLICE STOPS**

### **KEY FINDINGS**

- One in four (26 %) respondents of African descent were stopped by the police in the 5 years before the survey and 12 % were stopped in the year preceding the survey.
  - Men were more likely to be stopped by the police than women.
  - Fewer respondents of African descent say that the police stopped them in 2022 in the 12 months preceding the survey than in 2016.
  - Among those stopped in the 12 months before the survey, more than half (58 %) perceived the most recent stop as racially motivated. The highest rates were
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in Germany (69 %), Spain (66 %) and Sweden (58 %), with the lowest rates in Luxembourg (22 %), Poland (32 %) and Finland (34 %).

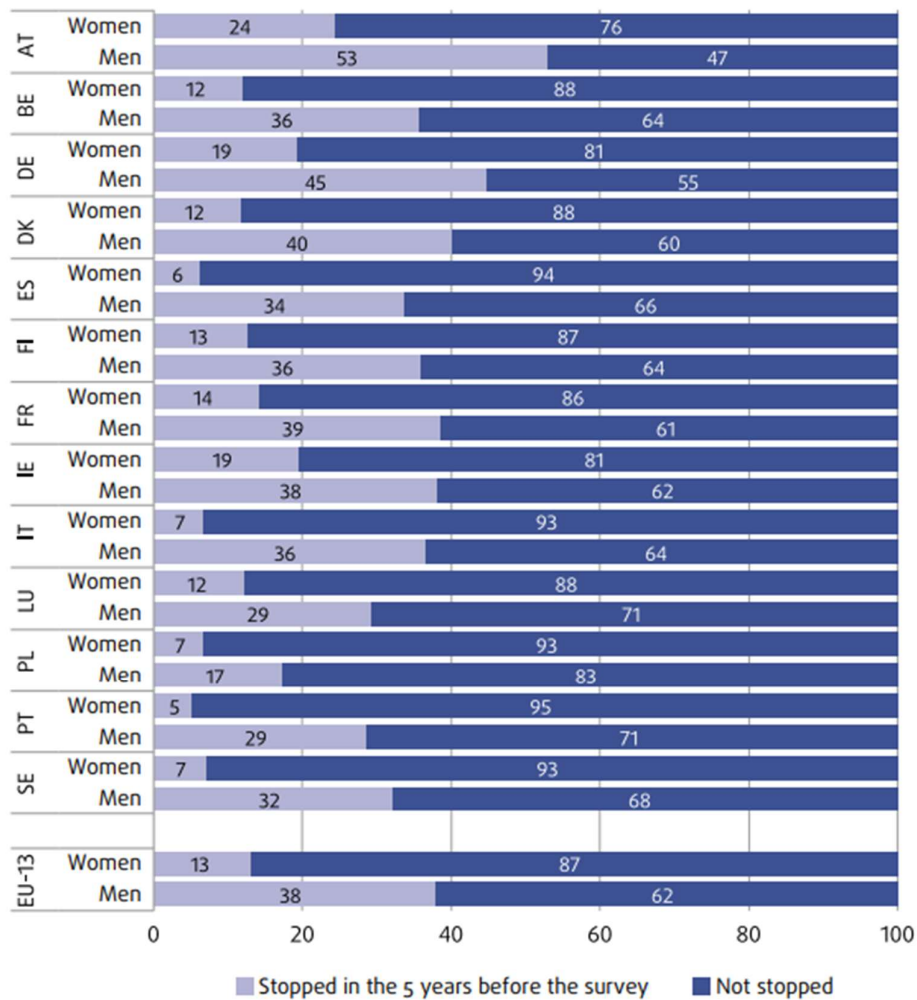
- Overall, more women than men perceived the most recent stop as a result of ethnic profiling (65 % compared with 56 %).
- Overall, more younger respondents than older respondents perceived the most recent stop to be a result of ethnic profiling.
- More than half (58 %) of the respondents whom the police stopped in the 5 years before the survey say that they were treated respectfully and 19 % say that they were treated disrespectfully.

## **2. ENCOUNTERS WITH LAW ENFORCEMENT**

The results show substantial variation between EU Member States regarding rates of police stops. A quarter (26 %) of respondents were stopped at least once by the police in the 5 years before the survey (see Figure 31), and 12 % in the 12 months before the survey. Respondents in Austria were stopped at the highest rates (40 % in the 5 years before the survey and 21 % in the 12 months before the survey). Germany (33 %) had the highest rate of stops in the 5 years before the survey and Ireland (15 %) had the highest rate for the 12 months before the survey. Over the 5 years before the survey, men of African descent were almost three times as likely to be stopped as women (38 % compared with 13 %). When looking at the 12 months before the survey, the difference is almost fivefold (19 % compared with 4 %). The prevalence of police stops was considerably higher for men than for women in all countries the survey covers during both periods. The police were more likely to stop younger respondents than older respondents. This holds true for the 5 years before the survey: the police stopped 34 % of those aged 16–24 years, 29 % of those aged 25–44 years, 22 % of those aged 45–59 years and 11 % of those aged 60 years and over. It also applies to the 12 months before the survey: the police stopped 22 % of those aged 16–24 years, 11 % of those aged 25–44 years, 9 % of those aged 45–59 years and 5 % of those aged 60 years and over. Respondents who identify as lesbian, gay, bisexual, transgender or intersex were stopped by police at higher rates than respondents who do not identify as such (35 % for the 5 years before the survey and 23 % for the 12 months before the survey compared with 26 % for the 5 years before the survey and 12 % for the 12 months before the survey). The prevalence of police stops does not substantially differ between respondents who at least sometimes wear traditional or religious clothing in public (25 % for the 5 years before the survey and 11 % for the 12 months before the survey) and those who never do so (27 % for the 5 years before the survey and 12 % for the 12 months before the survey). This is the case for both women and men.

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**FIGURE 31: PREVALENCE OF POLICE STOPS IN THE 5 YEARS BEFORE THE SURVEY, BY COUNTRY AND GENDER (%)<sup>a,b,c</sup>**



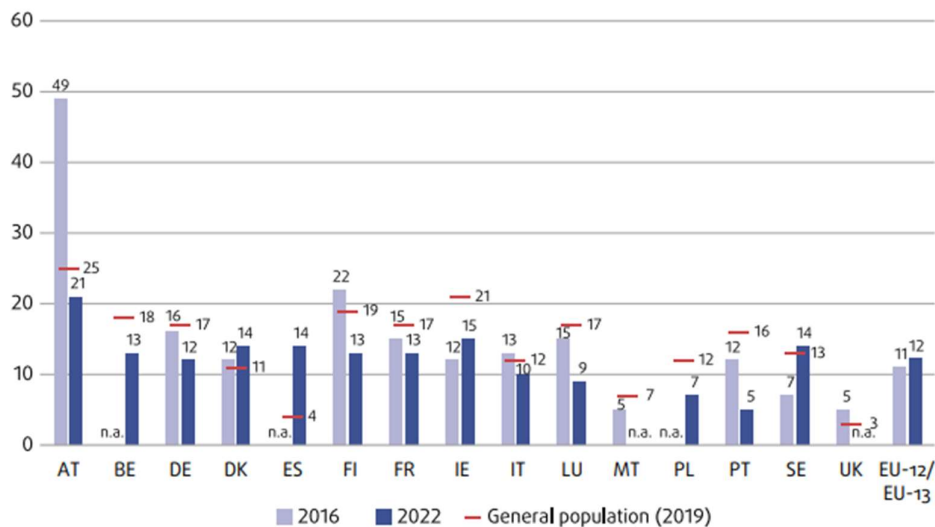
Source: FRA's EU Survey on Immigrants and Descendants of Immigrants, 2022.

▲ Notes:

- <sup>a</sup> Out of all respondents of African descent (women, n = 2 998; men, n = 3 741); weighted results.
- <sup>b</sup> Question: 'In the past 5 years in [country] (or since you have been in [country]), have you ever been stopped, searched or questioned by the police?'
- <sup>c</sup> Some bars do not add up to 100 %; this is due to rounding.

**Figure 32** compares rates of police stops in the 12 months before the survey between the general population, based on data collected in 2019 for the Fundamental Rights Survey, and people of African descent, based on EU-MIDIS II data from 2016 and data from the 2022 survey. In most EU countries for which data are available, respondents of African descent experienced fewer police stops in 2022 than the general population in 2019. Exceptions were Denmark and Spain. The rates of police stops among people of African descent were also lower in 2022 than in 2016 in all countries for which data were available, except Denmark, Ireland and Sweden. The implementation of measures to reduce the spread of COVID-19, including stay-at-home orders, may have influenced rates of police stops for the survey conducted in 2022.

**FIGURE 32: PREVALENCE OF POLICE STOPS IN THE 12 MONTHS BEFORE THE SURVEY FOR RESPONDENTS OF AFRICAN DESCENT AND THE GENERAL POPULATION, BY COUNTRY (%)<sup>a,b</sup>**



**Sources:** FRA's EU-MIDIS II, 2016; Fundamental Rights Survey, 2019; FRA's EU Survey on Immigrants and Descendants of Immigrants, 2022.

▲ Notes:

- For the Fundamental Rights Survey, the percentage is out of all respondents ( $n = 17\ 603$ ). For EU-MIDIS II and the EU Survey on Immigrants and Descendants of Immigrants, the percentage is out of all respondents of African descent ( $n_{2016} = 5\ 803$ ;  $n_{2022} = 6\ 752$ ).
- EU Survey on Immigrants and Descendants of Immigrants questions: 'In the past 5 years in [country] (or since you have been in [country]), have you ever been stopped, searched or questioned by the police?' and 'And has this happened to you in the past 12 months?' The results for EU-MIDIS II and the Fundamental Rights Survey are based on similar questions.

### 3. CIRCUMSTANCES AND NATURE OF THE MOST RECENT POLICE STOP

A total of 4 in 10 respondents of African descent who say that they were stopped in the 5 years before the survey were in a car (41 %) or on the street (38 %). Much fewer (8 %) were stopped on public transport (bus, tram, train, underground, etc.). There are noticeable country variations. The share of respondents of African descent stopped in a car is highest in Finland (66 %) and Portugal (61 %). Spain (58 %) and Belgium (41 %) have the highest rates of respondents who were stopped on the street. Germany (17 %) and Austria (11 %) had the highest shares of respondents stopped on public transport. Young respondents are more likely than older respondents to be stopped by police on the street (56 % of those aged 16–24 years, 38 % of those aged 25–44 years, 20 % of those aged 45–59 years and 4 % of those aged 60 years or over) or on public transport (10 % of those aged 16–24 years, 8 % of those aged 25–44 years, 7 % of those aged 45–59 years and 4 % of those aged 60 years or over). The opposite applies to stops where respondents were in a car (23 % for those aged 16–24 years, 41 % of those aged 25–44 years, 57 % of those aged 45–59 years and 84 % of those aged 60 years and over). Most respondents of African descent were asked for their identity papers (72 %) or were asked various questions (59 %) when the police stopped them. 37 % of all respondents stopped were asked for their driving licence or vehicle documents, 21 % were searched or had their car/vehicle searched and 11 % were given advice or warned about their behaviour. 11 % were fined, 10 % did an alcohol or drug test and 7 % were arrested or taken to a police station. Fewer than 1 % of respondents mentioned that police took money or something from them in the form of a bribe.

Men were more likely than women to be asked for their identity papers (77 % compared with 58 %), to have their car/vehicle searched (23 % compared with 13 %) and to be arrested or taken to a police station (9 % compared with 4 %). Women were more likely than men to be asked questions (64 % compared with 58 %), to be asked for their driving licence or vehicle documents (41 % compared with 35 %) and to be given advice or warned about their behaviour (17 % compared with 10 %).

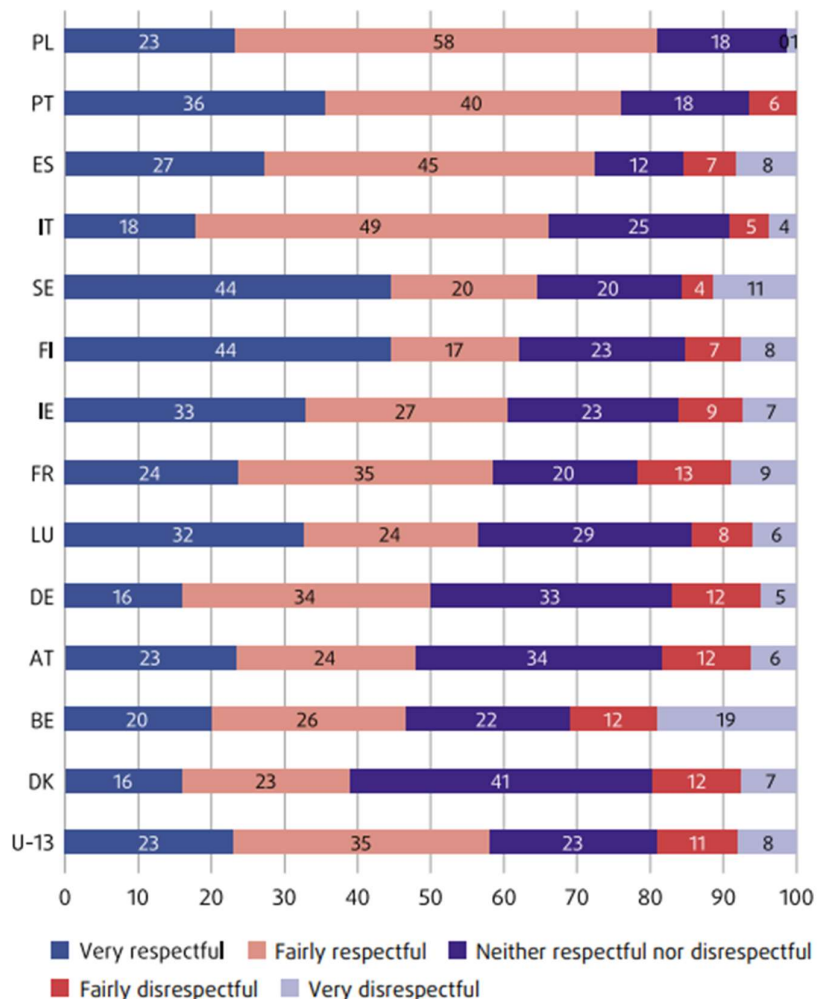
### 4. TREATMENT BY THE POLICE DURING STOPS

Respondents who say that the police stopped them in the 5 years preceding the survey were asked how the police treated them. 58 % say that they were treated either very or fairly respectfully during the stop. One in four (23 %) considered that the police were neither respectful nor disrespectful. One in five (19 %) say that the police treated them very or fairly disrespectfully (Figure 33). Respondents in Belgium tend to evaluate the conduct of the police during the most recent stop less favourably, with almost a

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third (31 %) saying that the police treated them very or fairly disrespectfully during the most recent stop. By contrast, over three quarters of respondents from Poland (81 %) and Portugal (76 %) say that the police treated them very or fairly respectfully. There was little difference between the proportions of women (21 %) and men (18 %) who perceived the police treatment to be fairly or very disrespectful during the most recent stop. Young respondents aged 16–24 years who the police stopped in the 5 years before the survey (30 %) were more likely to perceive their treatment by the police as fairly or very disrespectful than older respondents (15 % for those aged 25–44 years, 16 % for those aged 45–59 years and 14 % for those aged 60 years or over). A higher share of respondents who are (severely) limited in their daily activities (27 %) mentioned that the police treated them very or fairly disrespectfully during the most recent stop than respondents who are not limited in their daily activities (17 %). Of respondents who indicated that a police officer was (very) disrespectful during the most recent stop, 6 % say that they reported the incident.

**FIGURE 33: TREATMENT BY THE POLICE DURING THE MOST RECENT POLICE STOP IN THE 5 YEARS BEFORE THE SURVEY, BY COUNTRY (%)<sup>a,b,c</sup>**



Source: FRA's EU Survey on Immigrants and Descendants of Immigrants, 2022.

▲ Notes:

- ª Out of all respondents of African descent who were stopped by the police in the 5 years before the survey (n = 1 689); weighted results, sorted by the rate of respondents who answered 'very respectful' or 'fairly respectful'.
- » Question: 'THE LAST TIME you were stopped, how respectful [were] the police when dealing with you?'
- « Some bars do not add up to 100 %; this is due to rounding and because item non-response categories (answers 'don't know', 'don't understand the question' and 'prefer not to say') are not displayed in the figure. The total share of item non-responses did not exceed 1 % in any of the surveyed countries.

#### 4.1 Perceived discriminatory ethnic profiling

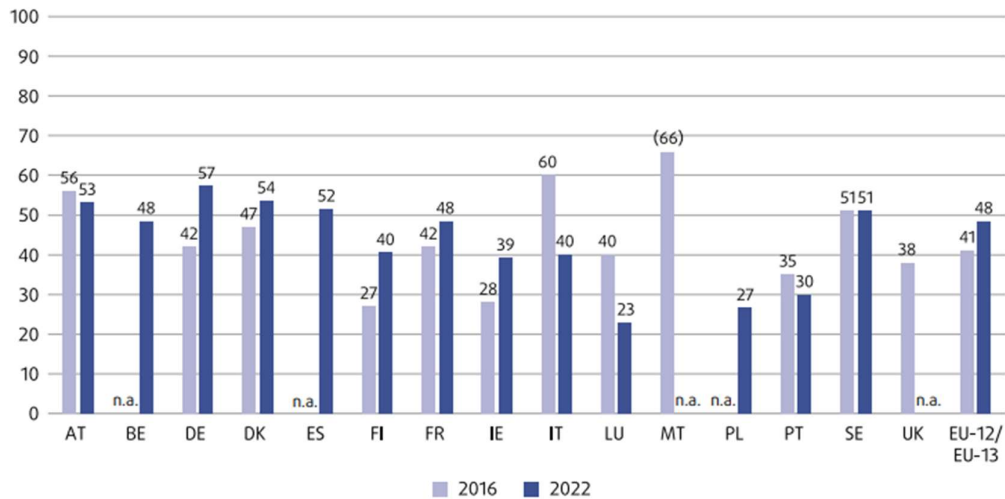
Consistently with the results of the EU-MIDIS II in 2016, nearly half (48 %) of respondents whom the police stopped in the 5 years before the survey believe that this was because of their immigrant or ethnic minority background, including their skin colour or their religion. The rate is even higher (58 %) among those stopped in the 12 months before the survey. The highest rates are found among respondents in Germany (57 % for the 5 years before the survey and 69 % for the 12 months before the survey). These rates are about two to three times higher than in Luxembourg. Luxembourg is the survey country with the lowest percentage of respondents who perceived their police stop to be motivated by their ethnic or immigrant background (23 % for the 5 years before the survey and 22 % for the 12 months before the survey).

Women were more likely than men to perceive the most recent stop as discriminatory (65 % compared with 56 %). Younger people were more likely than older people to perceive the most recent stop as discriminatory (69 % of those aged 16–24 years, 59 % of those aged 25–44 years, 39 % of those aged 45–59 years and 34 % of those aged 60 years or over), including in the 5 years before the survey (63 % of those aged 16–24 years, 49 % of those aged 25–44 years, 33 % of those aged 45–59 years and 24 % of those aged 60 years or over). Between 2016 and 2022, the rate of perceived discriminatory ethnic profiling among respondents whom the police stopped in the 5 years before the survey increased in five countries (Denmark, Finland, France, Germany and Ireland). The rate remained about the same in Austria and Sweden (see Figure 34). Italy and Luxembourg saw the largest decreases (of up to 20 percentage



points), while Germany and Finland saw the largest increases (of up to 15 percentage points).

**FIGURE 34: MOST RECENT POLICE STOP PERCEIVED TO BE DUE TO DISCRIMINATORY ETHNIC PROFILING AMONG THOSE STOPPED IN THE 5 YEARS BEFORE THE SURVEY, BY COUNTRY AND SURVEY YEAR (2016 AND 2022) (%)<sup>a,b,c,d</sup>**



Sources: FRA's EU-MIDIS II, 2016; FRA's EU Survey on Immigrants and Descendants of Immigrants, 2022

▲ Notes:

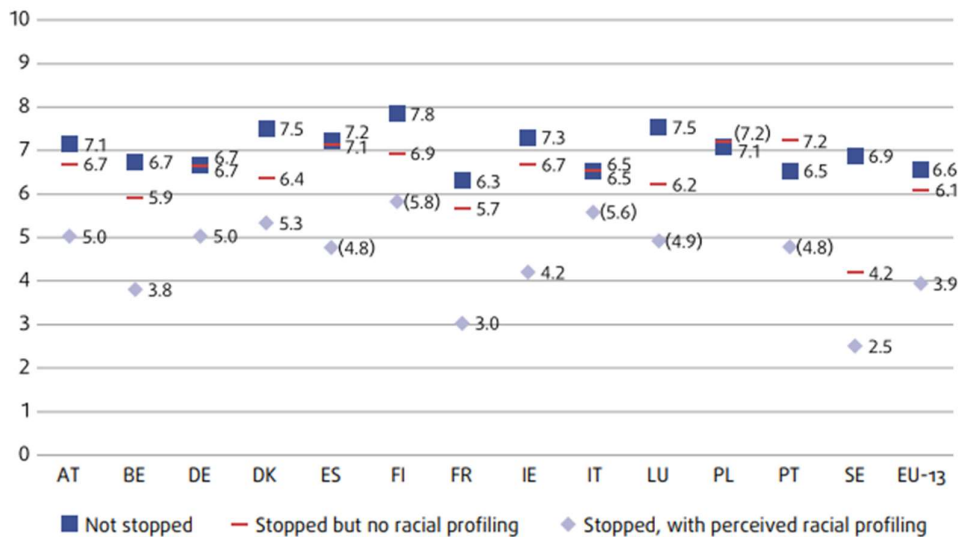
- <sup>a</sup> Out of all respondents of African descent whom the police stopped in the 5 years before the survey ( $n_{2016} = 1\,620$ ,  $n_{2022} = 1\,689$ ); weighted results.
- <sup>b</sup> Question: 'Do you think that the last time you were stopped was because of your ethnic or immigrant background?'
- <sup>c</sup> Results based on a small number of responses are statistically less reliable. Therefore, results based on 20 to 49 unweighted observations in a group total are noted in parentheses.
- <sup>d</sup> n.a., not available.

#### 4.2 Police stops and trust in the police

Overall, respondents of African descent have higher levels of trust in the police and the legal system than the general population (see Section 1.4.1 of this report). However, discrimination, harassment or violence can undermine that trust (see Section 1.4.2). Like EU-MIDIS II in 2016, this survey suggests that perceiving police stops as discriminatory reduces respondents' level of trust in the police. Across all countries

surveyed, respondents who perceive the most recent police stop as involving discriminatory racial profiling have a much lower average level of trust in the police (with a score of 3.9 on a scale of 0 to 10, where 0 stands for ‘no trust at all’ and 10 signifies ‘complete trust’) than those who were not stopped (with a score of 6.6). They also have a lower level of trust than those who were stopped but did not perceive the stop as involving discriminatory racial profiling (with a score of 6.1) (Figure 35). A similar effect on trust in the police is observed in relation to experiences of racial discrimination, as Section 1.4.2 of this report shows.

**FIGURE 35: LEVELS OF TRUST IN THE POLICE, BY COUNTRY AND EXPERIENCES WITH POLICE STOPS IN THE 5 YEARS BEFORE THE SURVEY (AVERAGE VALUES ON A SCALE OF 0 TO 10)<sup>a,b,c</sup>**



Source: FRA’s EU Survey on Immigrants and Descendants of Immigrants, 2022.

▲ Notes:

- <sup>a</sup> Out of all respondents of African descent who provided a valid answer to the question on trust in police (n = 6 440); weighted results.
- <sup>b</sup> Questions: ‘Please tell me on a scale of 0-10 how much you personally trust each of the [country’s] institutions I read out. 0 means you do not trust an institution at all, and 10 means you have complete trust.’ Sub-question: [country’s] police. ‘In the past 5 years in [country] (or since you have been in [country]), have you ever been stopped, searched or questioned by the police?’ and ‘Do you think that the last time you were stopped was because of your ethnic or immigrant background?’
- <sup>c</sup> Results based on a small number of responses are statistically less reliable. Therefore, results based on 20 to 49 unweighted observations in a group total or based on cells with fewer than 20 unweighted observations are noted in parentheses. Results based on fewer than 20 unweighted observations in a group total are not published.

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- **FRA (2023), Underpinning victims' rights: support services, reporting and protection**
    - Directive 2012/29/EU represents a milestone in the development of victims' rights. It establishes minimum standards for the rights, support and protection of victims of crime. It defines the scope of support services, guarantees the right to effective protection against secondary victimisation and comprehensively regulates the measures required for this purpose. This report covers three core components underpinning victims' rights: support services, crime reporting, and protection from secondary and repeat victimisation. Examples highlight the relevant legal provisions in Member States and how specific rights under the Victims' Rights Directive work in practice in general and in relation to specific categories of victims, such as victims of gender-based violence, victims of hate crime and child victims, in particular.
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## UPCOMING FRA PUBLICATIONS

- **FRA's 2024 annual report**
    - to be published in June 2024 will also contain some information on the disproportionate use of force by law enforcement authorities, investigations and the access to legal remedies by victims.

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  - **FRA's research on the use of remote biometric identifiers for law enforcement purposes**
    - This research project will map the use of remote biometric identification, in particular facial recognition technologies, for law enforcement purposes. Looking at specific use cases of these technologies, it will provide guidance to EU institutions and Member States, in particular their law enforcement agencies, about fundamental rights risks and necessary safeguards in this complex and sensitive area. The research for this work will be undertaken in 2024.

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  - **FRA focus paper concerning investigations of incidents of loss of life and alleged ill-treatment which occur during border management.**
    - Human rights actors have been reporting serious, recurrent and widespread rights violations against migrants and refugees during border management. Although numerous reports appear credible, many incidents are not investigated. When criminal investigations are initiated, these are often closed at pre-trial phase.
    - The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment expressed concern that investigations are few and often do not comply with Council of Europe standards. Investigations not meeting the requirements of independence, thoroughness, transparency, promptness and victim participation pose risks to the respect of the rule of law.
    - An increasing number of cases go to the European Court of Human Rights. In the last few years, the Strasbourg court adjudicated five cases where it found that national authorities in Croatia, Greece and Hungary did not effectively investigate incidents of ill-treatment and loss of life occurred during border management.
    - The low number on investigations of such cases sheds negative light to the operation of border management authorities whose work across the EU remains guided by high professional standards. Genuine efforts to investigate each incident promptly and effectively would not only enable victims to access justice but also protect border management staff from false allegations.
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- More transparency on the number and type of cases which are investigated and, on their results, would strengthen the perception that national authorities are taking the matter seriously.
  - There are objective challenges to investigate allegations of fundamental rights violations at borders, as evidence of what may have happened at night in remote locations, such as border forests or at sea, is often scarce. Also, evidence is quickly lost.
  - This focus paper will contain a checklist with suggestions to promote effective investigations of incidents of loss of life and alleged ill-treatment which occur during border management.
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