Input to the call for contributions for draft United Nations Declaration on the promotion and full respect of the human rights of people of African descent

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The European Union Agency for Fundamental Rights (FRA) 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.

We are pleased to provide you with the Agency’s contribution to the above-mentioned call for input. FRA’s input contains an overview of relevant research and data, including information about ongoing projects.

# Being Black in the EU

In 2018, the FRA published a report on [Being Black in the EU](https://fra.europa.eu/en/publication/2018/being-black-eu) based on findings from the second [EU Survey on Minorities and Discrimination (EU-MIDIS II)](https://fra.europa.eu/en/publication/2017/second-european-union-minorities-and-discrimination-survey-main-results). The report examines the experiences of almost 6,000 people of African descent in 12 Member States. The findings of the report shed light on the experiences of discriminatory treatment that many black people face in the EU, including by the police. Selected key findings:

* **Racist harassment and violence**: 30% of respondents say they had been racially harassed and 5% attacked in the five years before the survey. Young respondents are more likely to experience racist harassment. Men who wear traditional or religious clothing in public are twice as likely to experience racist violence compared to men who do not (12 % vs. 5 %).
* **Yet very few victims report racist harassment and violence** to any authority. 64 % of victims of racist violence, including 63 % of victims of racist physical attacks by police officers, did not report the most recent incident to any organisation – either because they felt reporting it would not change anything (34 %) or because victims do not trust or are afraid of the police (28 %).
* **Police stops are often experienced as racial profiling.** 24 % of all persons of African descent surveyed had been stopped by the police in the five years before the survey. Among those, 41% felt that the stop constituted racial profiling. **Gender plays an important role** – men are three times more likely to be stopped than women (22 % vs 7 %), and they are more likely to consider the most recent stop as racial profiling compared to women (men: 17 %, women: 4 %). Moreover, while 60 % of those who were stopped by the police in the five years before the survey say that they were treated respectfully during the most recent stop, 16 % say that the police treated them disrespectfully – and only 9 % of respondents who said they were treated disrespectfully reported or made a complaint about this.
* **Racial profiling impacts on trust in the police.** Levels of trust in the police are not affected by the number of police stops experienced, but they are affected when respondents perceive the stop as racially motivated. Consequently, the lowest level of trust in the police is found among respondents who view the most recent police stop they experienced as racial profiling.
* **Racial discrimination persists across all areas of life.** Overall,39 % felt racially discriminated against in the five years before the survey. 27 % identify skin colour as the main reason for experiencing discrimination when looking for work, at work, in education or in housing in the five years preceding the survey; 19 % consider that their ethnic origin is the main ground of discrimination in these areas of life, and another 5 % their religion or beliefs.
* **Underreporting is widespread**, with only 16 % who felt racially discriminated against reporting about the most recent incident to any organisation or body. The

most common reasons for not reporting are the belief that nothing would change as a result; because the incident is not worth reporting; or because they had no proof of having been discriminated against.

* **Labour market participation – not a level playing field.** The survey findings on labour market participation are particularly striking, showing that people of African descent are disproportionally engaged in employment requiring lower levels of education than the one they have. For instance, twice as many respondents with tertiary education (9 %) are employed in elementary occupations than members of the general population with that educational level (5 %).
* **Skin colour affects access to housing.** Nearly half of the respondents live in overcrowded housing (45 %), compared to 17 % of the general population in the EU. Moreover, 14 % say that they were prevented from renting accommodation by a private landlord because of their racial or ethnic origin; 6 % experienced this in municipal or social housing.

# Structural racism affects equal treatment

Complaints data and survey findings across the EU show that many of those belonging to ethnic minorities and migrants continue to face racism and discrimination at individual, institutional and structural levels. FRA’s [research shows that there is evidence in some Member States](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2022-fundamental-rights-report-2022_en.pdf) of racial and ethnic discrimination by public authorities and discriminatory racial profiling by law enforcement.

FRA’s own surveys point to the potential impact of structural discrimination across Member States, as illustrated by the [findings on people of African descent in EU-MIDIS II](https://fra.europa.eu/en/publication/2018/being-black-eu). More than one in two (55 %) respondents of African descent have a household income below the at-risk-of-poverty threshold after social transfers in the country where they live. Their at-risk-of-poverty rate is high for second-generation respondents (48 %) and respondents who are citizens (49 %), and is higher than that of the general population. One in two respondents of African descent reported living in overcrowded housing (45 %), compared with 17 % of the general population in the then 28 Member States of the EU. One in 10 (12 %) of these respondents experience housing deprivation, which includes living in a dwelling without a bath and a toilet or in a dwelling that is too dark, has rot in the walls or windows, or has a leaking roof.

# Tackling intersecting and multiple discrimination

[FRA evidence](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2021-opinion-equality-directives-01-2021_en_0.pdf) consistently shows that many people across the EU experience discrimination on the basis of various combinations of grounds. However, current EU and national legal provisions on equal treatment pay limited attention to aspects of multiple and intersectional discrimination failing to adequately tackle the different ways in which unequal treatment can manifest itself.

In order to adequately capture situations in which different grounds of discrimination intersect or act in combination with one another – that is, multiple and intersectional discrimination – FRA has recommended the use of comprehensive equality data collection tools, including large-scale quantitative surveys covering different population groups and grounds of discrimination, alongside discrimination testing, which is an established method for generating objective evidence of discrimination.

# Online racist hate speech persists

Racist hate crimes and hate speech persist across the EU, [FRA’s 2022 annual report on the protection of fundamental rights in the EU Member States](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2022-fundamental-rights-report-2022_en.pdf) shows. In 2021, following the previous years’ trends, incidents of online hate speech continued to be recorded influenced also by the Covid-19 pandemic exacerbating the issue. See also FRA activities on the [impact of the Covid-19 pandemic on fundamental rights in the EU](https://fra.europa.eu/en/themes/covid-19).

# Recognising the discriminatory potential of new technologies

New technologies have profoundly changed how we organise and live our lives. In particular, data-driven technologies have spurred the development of artificial intelligence (AI), including increased automation of tasks usually carried out by humans. The Covid-19 pandemic has boosted AI adoption and data sharing – creating new opportunities, but also challenges and threats to human and fundamental rights.

FRA studied the human rights impact of some of these developments recommending to assess the [impact of the increased reliance on algorithms and AI in decision-making on equal treatment and non-discrimination](https://fra.europa.eu/en/publication/2020/artificial-intelligence-and-fundamental-rights) in more detail strengthening relevant fundamental rights safeguards to limit this impact. This would contribute to alleviating risks related to potential discriminatory biases being built into algorithms and AI used in decision-making. Examples of potential problems with using AI-related technologies in relation to fundamental rights include an online chatbot which became ‘racist’ within a couple of hours; machine translations which showed gender bias; and facial recognition systems which detect gender well for white men, but not for black women. In addition to conducting human rights impact assessments prior to using AI systems and ensuring effective oversight, FRA recommends that effective accountability systems are in place to monitor and, where needed, address any negative impact of AI systems on fundamental rights.

Using facial recognition technology (FRT) – a technology that has been developing quickly in the past years and is increasingly used by multiple actors – affects a range of fundamental rights. The [fundamental rights implications of relying on facial recognition technology](https://fra.europa.eu/en/publication/2019/facial-recognition-technology-fundamental-rights-considerations-context-law) should be thoroughly assessed, in view of existing evidence that while the accuracy of matches is improving, the risk of errors remains real – particularly for certain minority groups. Moreover, FRT algorithms never provide a definitive result, but only a probability that two facial images belong to the same person. In the context of law enforcement, there is thus a certain margin of error which could lead to persons being erroneously flagged. When deploying such technologies, the risks of wrongly flagging people must be taken properly into account by law enforcement and judicial authorities.

# Need for more and better data

To date, few EU countries operate comprehensive systems or have a coordinated approach to collecting and using equality data that would uncover inequalities based on racial or ethnic origin. The resulting paucity of relevant data prevents them from understanding patterns of discrimination and the impact of structural discrimination.

To address this shortcoming the European Commission established a [Subgroup on Equality Data](https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combatting-discrimination/equality-data-collection_en), facilitated by FRA. The subgroup developed [guidelines on improving the collection and use of equality data](https://fra.europa.eu/sites/default/files/fra_uploads/ec-july-2018-guidelines-equality-data-collection.pdf), and more recently a [guidance on improving the collection of data disaggregated by racial or ethnic origin](https://ec.europa.eu/info/sites/default/files/guidance_note_on_the_collection_and_use_of_equality_data_based_on_racial_or_ethnic_origin_final.pdf) providing practical guidance on effective ways to produce comprehensive, reliable, comparable, and regular data which can support public sector institutions and other relevant stakeholders to identify disparities based on ethnic or racial origin and effectively combat racism and structural discrimination.

In the context of this work a number of challenges were identified. There is a **lack of consistency and coherence of definitions, classifications and categorisations**, which affects the comparability of equality statistics across and within states. Systematic collection of reliable and comparable data disaggregated by racial and ethnic origin should be collected based on self-identification and civil society organisations representative of groups at risk of discrimination should contribute to developing relevant definitions and indicators.

# FRA’s ongoing work

# EU Survey on Immigrants and Descendants of Immigrants

FRA is currently completing the [third wave of its survey on immigrants and descendants of immigrants](https://fra.europa.eu/da/project/2020/eu-survey-immigrants-and-descendants-immigrants). In 13 EU countries FRA is surveying people of African descent collecting data on their experiences of discrimination in employment, education, housing and healthcare services; police stops and criminal victimisation, including hate crime; awareness of rights and redress mechanisms and societal participation and integration. FRA will publish results based on the experiences of people of African descent, as second edition to its ‘Being black in the EU’ report in 2023.

# Anti-racism policing

The EU Anti-racism Action Plan requires FRA “to collect and disseminate good practices promoting fair policing”. In response, the Agency is currently conducting research on anti-racism in policing in all EU Member States, including relevant legislation and policies, police oversight, complaints and case law, as well as on, training related to anti-racism and combatting racial discrimination. Examples of related good practices on the prevention of racial and ethnic profiling (such as police practices aiming at enhancing trust, partnerships, as well as cooperation in the area of community policing) are also being collected.

# Bias when using algorithms

FRA is currently finalising [its research project on potential bias when using algorithms](https://fra.europa.eu/en/project/2018/artificial-intelligence-big-data-and-fundamental-rights). The study analyses how ethnic and/or gender bias in algorithms can be evidenced, based on simulations of algorithms by employing state-of-the-art machine learning algorithms. In the context of law enforcement, the study shows how ‘feedback loops’ based on a simple simulation of predictive policing tools can occur. The results will be published in late 2022.

# Racist hatred online

FRA is conducting research on [Online content moderation – harassment, hate speech and (incitement to) violence against specific groups](https://fra.europa.eu/en/project/2021/online-content-moderation-harassment-hate-speech-and-incitement-violence-against) which addresses content moderation of online hatred against women and ethnic minorities, linked to harassment, hate speech, and incitement to violence and hatred. The research contributes to the categorisation and development of a typology of examples of online hatred and results are expected in 2023.

We hope you find this input useful, please consult the [thematic page on our website](https://fra.europa.eu/en/themes/racial-and-ethnic-origin) for more information and do not hesitate to contact us if you have any questions.