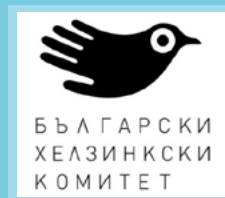


**Fair**

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# **Uncovering anti-Roma discrimination in criminal justice systems in Europe: Key findings**

In partnership with:



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Fair Trials is a global criminal justice watchdog with offices in London, Brussels and Washington, D.C., focused on improving the right to a fair trial in accordance with international standards.

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Fair Trials

Fair Trials, November 2020



This publication is possible thanks to the financial support of the Rights, Equality, and Citizenship Programme (2014-2020) of the European Union. The contents of this document are the sole responsibility of the author and can in no way be taken to reflect the views of the European Commission.

Illustrations by film director and animator, Dann Parry



# Racism in the EU's criminal justice systems



The EU Commission has recognised the need to tackle structural racism

Across the world, the movement to fight racial disparities in criminal justice systems has been gaining momentum, and there is increasing awareness that structural racism leads to discriminatory criminal justice outcomes for various racial and ethnic groups. In spring 2020, widespread protests against racial profiling and violence by the police in the United States led to similar protests in Europe, with hundreds of thousands of people demanding immediate action to recognise and eliminate structural racism.

In response, in June 2020, the European Parliament passed a motion condemning racism, hate and violence, and calling on EU institutions, bodies, and Member States to “*strongly and publicly denounce the disproportionate use of force and racist tendencies in law enforcement*”.<sup>1</sup> The EU Commission subsequently adopted its 2020-2025 Plan Against Racism,<sup>2</sup> in which it recognised for the first time the need to tackle ‘structural’ racism, and to prevent discriminatory attitudes in law enforcement. This long overdue recognition of racialised policing is encouraging, but the EU has so far failed to acknowledge and condemn the prevalence of racism throughout criminal justice systems - in courts, prosecutors’ offices, and prisons.



In a 2017 survey, 52% of Roma in Romania, and 46% of Roma in Spain declared that in the past five years, they were stopped by the police due to their ethnic background. (Source: Fundamental Rights Agency)

There is little evidence that EU Member States recognise the seriousness of racial disparities in their criminal justice systems. This denial is not helped by the lack of comprehensive and Europe-wide data on racism and discrimination in criminal justice. Most EU Member States do not collect criminal justice data or statistics disaggregated by race or ethnicity either because it is not standard practice or because it is forbidden by law. This makes it difficult to measure the degree of racial disparities in criminal justice systems.

<sup>1</sup> European Parliament resolution of 19 June 2020 on the anti-racism protests following the death of George Floyd (2020/2685(RSP))

<sup>2</sup> European Commission, ‘A Union of equality: EU anti-racism action plan 2020-2025’, 18 September 2020

**Around 50% of sentenced prisoners in Bulgaria are estimated to be Roma (Source: Bulgarian Helsinki Committee)**

However, the data that does exist is damning. Studies have shown a significant over-representation of non-majority ethnic groups in crime rate statistics, pre-trial detention, and prison populations of many EU Member States.<sup>3</sup>

Racial prejudice is widespread in societies across Europe, and it affects many ethnic groups. Given their long history of persecution and continuing socio-economic challenges, Roma are especially vulnerable to harmful stereotyping and negative societal attitudes that influence perceptions of criminal justice decision-makers, and impact criminal justice outcomes.

## Exposing the impact of anti-gypsyism in criminal justice systems

This report presents a summary of the findings of research conducted by Fair Trials, in partnership with APADOR-CH, the Bulgarian Helsinki Committee, the Hungarian Helsinki Committee, and Rights International Spain to provide further insight into Roma disproportionality in criminal justice systems of Romania, Bulgaria, Hungary, and Spain, respectively.<sup>4</sup> Between 2019-2020, researchers conducted 97 interviews with police officers, prosecutors, judges, defence lawyers, and members of the Roma community in all four countries to understand perceptions of how anti-gypsyism<sup>5</sup> impacts criminal justice decisions and outcomes. These were followed by consultations with various local experts and activists, in which the findings of the interviews were shared and discussed.



**At every stage of criminal proceedings, from arrest until sentencing, Roma defendants are vulnerable to discriminatory attitudes and biases that skew outcomes against them. The very system that is meant to impart fair and equal justice is, in fact, doing the opposite.**

<sup>3</sup> Justicia European Rights Network 'Disparities in Criminal Justice Systems for Individuals of Different Ethnic, Racial, and National Background in the European Union' (November 2018)

<sup>4</sup> Full version of this report will be available at: [www.fairtrials.org/uncovering-anti-roma-discrimination](http://www.fairtrials.org/uncovering-anti-roma-discrimination)

<sup>5</sup> We use the term 'anti-gypsyism' because it covers racism and discrimination against Roma, Sinti and travellers and is favoured by the European Commission and many Roma rights activists. We are aware that there are differences of opinion about this term.





The results of this research paint an extremely worrying picture of criminal justice systems and their treatment of Roma. At every stage of criminal proceedings, from arrest until sentencing, Roma defendants are vulnerable to discriminatory attitudes and biases that skew outcomes against them. The very system that is meant to impart fair and equal justice is, in fact, doing the opposite.

Roma face structural discrimination throughout the criminal justice system – not just from the police. Policing practices and decisions no doubt have a serious impact on Roma disproportionality in criminal justice systems, but it is the actions of prosecutors, judges, and defence lawyers that ultimately determine the outcome of criminal cases. The prevalence of anti-gypsyist attitudes amongst judges and prosecutors that was identified by this research casts serious doubts on the impartiality of their decisions, including on pre-trial detention and sentencing. These have, on occasions, been found to be consciously and overtly motivated by racial biases.



However, it is not just judges and prosecutors that demonstrated bias against Roma defendants during the interviews we conducted. There is also a real risk that defence lawyers – the very people that defendants are supposed to trust to fight for their rights – share the same anti-gypsyist attitudes. This means that for many Roma defendants, they face a system where the odds are stacked against them, and they can count on no-one but themselves to fight the injustice.

*“The Roma are always guilty. There is no presumption of innocence for us. We only have presumption of guilt.”  
(Roma man, Spain)*

Discriminatory and abusive police practices against Roma are widespread, often fuelled by negative stereotypes, and sometimes by outright hatred towards Roma. These practices not only violate the rights and dignity of Roma, but they are also significantly responsible for Roma disproportionality in criminal justice systems.



Overt displays of anti-Roma attitudes are not uncommon. These include incidences of police brutality in Roma communities and against Roma suspects,<sup>1</sup> and the use of racial slurs against Roma suspects, even in the presence of defence lawyers.<sup>2</sup> The lack of action in tackling hate crimes and in policing extremist demonstrations were also cited as examples of police bias against Roma<sup>3</sup> and there was evidence of some police forces being infiltrated by far-right groups.<sup>4</sup>

Interviews carried out with police officers as part of this research also highlighted the nature and extent of anti-gypsyism amongst their ranks. This was evidenced by the admission of various police officers of their belief in negative Roma stereotypes, such as the widespread and harmful association of Roma with criminality and voluntary underemployment.<sup>5</sup>

Certain police officers openly admitted to ethnic profiling, without recognising this practice as unjustified, harmful, and unlawful.<sup>6</sup> This admission was consistent both with existing evidence of racially-motivated use of stop and search powers, and with experiences of Roma interviewees, many of whom confirmed that police stops were a routine occurrence that they were simply too 'tired' to challenge.<sup>7</sup>

Police were also found to be targeting Roma for petty, non-violent offences, including those committed out of economic hardship. There were several incidences of people being imprisoned for failing to pay disproportionately large fines for extremely minor offences that clearly did not warrant any police intervention.<sup>8</sup>

**An elderly Roma man from Miskolc, north-eastern Hungary, was fined HUF 50,000 (EUR 140) for walking with his bicycle without a rear reflector. He was imprisoned because he was unable to pay the fine.**

**In Spain, new recruits into the police force are trained to associate certain crimes with certain ethnic groups.**

# Judges and prosecutors

One defence lawyer from Romania described that there is a 'special chair' at a prosecutor's office for Roma defendants.

Once Roma suspects and defendants enter the criminal justice system, they continue to face biases from criminal justice decision-makers that result in disparate outcomes.

There was a widely shared view among interviewees that Roma defendants are being denied the presumption of innocence, and that stereotypes of delinquency, dangerousness and social instability made them more likely to be detained pending trial, and more likely to be given custodial sentences.



*"I did not hear anybody doubt that a Roma person was not guilty... If you have a Roma client the chances of winning are lower, and people are surprised that you make an effort to defend him. The judge doesn't even look at the file." (Defence lawyer, Romania)*

When interviewed, several (but not all) judges and prosecutors appeared to believe that as a group, they are 'immune' to deeply entrenched societal biases against Roma, insisting that their decisions are impartial and solely based on evidence.<sup>9</sup> However, anti-gypsyist attitudes undoubtedly exist in both professions.

Judges in certain countries have even made overtly racist statements in their decisions regarding pre-trial detention, sentencing, and even the factual merits of criminal cases.<sup>10</sup>

Interviews with defence lawyers, as well as with judges and prosecutors, exposed worrying levels of racism and negative stereotyping that seriously question the impartiality of criminal justice decision-makers. There were examples of offensive remarks by judges and prosecutors, bullying of their Roma colleagues,<sup>11</sup> and a tendency to perceive Roma as being ignorant and insubordinate in the criminal justice system.<sup>12</sup>

These cannot be dismissed as isolated examples of anti-gypsyist attitudes. The very fact that judges and prosecutors feel able to express their discriminatory views so openly indicates that these attitudes are not only tolerated, but also normalised in criminal justice systems.

*Judges have made overtly racist statements in their decisions. A judgment from Bekes County Court, Hungary, said: "Roma [should not be] primarily understood on a racial basis ...[they] possess a morality that disrespects private property and norms of coexistence".*



The prevalence of anti-gypsyist attitudes amongst criminal justice decision-makers means that there is a heightened need for effective legal assistance for Roma defendants to challenge discriminatory and abusive practices.

However, defence lawyers themselves are not exempt from anti-Roma bias, with the research uncovering deeply and even violently prejudicial attitudes. Defence lawyers openly admitted their reluctance to represent Roma defendants on account of perceptions of 'unreasonable' behaviour or expectations, their alleged tendency to change their stories, and perceptions about low levels of education and literacy.<sup>13</sup> It was also clear that some lawyers felt embarrassed about representing Roma defendants, and worried that it would damage their reputation.<sup>14</sup>

Some lawyers gave shocking examples of openly racist comments made by other lawyers.

It is apparent that the standard of legal assistance is also impacted by greater reliance on legal aid by Roma defendants. There was widespread perception amongst interviewees that economic hardships faced by many Roma also contributed to unacceptable standards of legal assistance.<sup>15</sup>



*"Justice is for those who have money. It's not the same for everyone."  
(Roma woman, Spain)*

Economic hardships faced by many Roma also contributed to unacceptable standards of legal assistance





*“I don’t know how effective an occasional, annual sensitisation training can be if a participant is told all the other 364 days of the year that we are criminals” (Roma student, Hungary)*

In most countries researched for this study, there have been some attempts to improve relationships between the police and Roma communities including through trainings, and recruitment programmes to promote diversification of the police.<sup>16</sup>

Although many of these efforts have been welcomed, they have produced mixed results. There is scepticism that occasional trainings can change the endemic culture of anti-gypsyism in the police. Roma inclusion and recruitment programmes by the police have also been viewed as having limited success, given incidences of workplace bullying, and Roma police officers becoming part of the culture of anti-Roma discrimination.<sup>17</sup>

Anti-gypsyism is a complex challenge that impacts many, if not all aspects, of the criminal justice system. This challenge must be aimed at tackling structural racism, within all criminal justice professions and that such efforts are meaningful, widespread, and sustainable – not just through trainings, but through broader measures that address the root causes of structural racism. Given their key role in protecting suspects’ rights, defence lawyers must, in particular, address discrimination within the profession and take a much more active role to fight the systemic racism suffered by their clients.

## Endnotes

- 1 Statements of Roma interviewees in Bulgaria, Hungary, Romania
- 2 Interview with a defence lawyer in Hungary
- 3 Examples identified by the Hungarian Helsinki Committee
- 4 Interview with a lawyer from an NGO in Hungary
- 5 Interviews with police officers in Bulgaria and Romania
- 6 Interviews with police officers in Romania
- 7 Statements of Roma interviewees in Hungary and Spain
- 8 Examples given by Roma interviewees in Hungary
- 9 Interviews with prosecutors and judges in Romania; Interviews with prosecutors in Spain
- 10 Examples of court decisions identified by the Bulgarian Helsinki Committee
- 11 Interview with a prosecutor in Bulgaria; Interview with a judge in Hungary
- 12 Interviews with judges in Bulgaria and Romania
- 13 Interviews with defence lawyers in Bulgaria, Romania, and Spain
- 14 Interview with a defence lawyer in Hungary
- 15 Statements of Roma interviewees in Romania; Interviews with Judges in Hungary and Romania; Interviews with Lawyers in Bulgaria; Interviews with an activist in Hungary
- 16 Examples include anti-discrimination training for police in Bulgaria, Romania and Spain and, police recruitment programmes for Roma in Hungary, Romania
- 17 Perceptions of Roma interviewees and activists in Hungary