

Racism in Europe's law enforcement and criminal justice systems

A non-exhaustive compilation of evidence and resources for policymakers

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Fairness, equality, justice

Fair Trials is an international NGO that campaigns for fair and equal criminal justice systems. Our team of independent experts expose threats to justice through original research and identify practical changes to fix them. We campaign to change laws, support strategic litigation, reform policy and develop international standards and best practice. We do this by supporting local movements for reform and building partnerships with lawyers, activists, academics and other NGOs. We are the only international NGO that campaigns exclusively on the right to a fair trial, giving us a comparative perspective on how to tackle failings within criminal justice systems globally.

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"Fair Trials" includes Fair Trials International, Fair Trials Europe, and Fair Trials Americas. Fair Trials International is a and is based at 5 Castle Road, London, NW1 8PR. In May 2014, Fair Trials International founded Fair Trials Europe, which is a registered public foundation in Belgium (registered number 0552.688.677). In 2018 we founded Fair Trials Americas, which is a registered 501(c)(3) public charity in the United States of America (No DLN17053243307017). We were initially founded in 1992 with the name "Fair Trials Abroad".

Introduction

Racialised groups too often face the burden of evidencing racism against them and reversing the culture of denial surrounding structural racism in Europe. Fundamental issues are routinely minimised by states who ask for 'credible' and 'objective' data.

However, there is plenty of evidence to support the claim that Europe's law enforcement and criminal justice systems are structurally biased against racialised people. It can be found in their very own stories of injustice – told in policy spaces, at protests, in court, through art, on social media, and so on.

We cannot dismiss this evidence – as an exception, a matter of perception, not documented in a complaint, etc. This would silence and gaslight the many people who face police violence and ultimately uphold inequality.

We note the EU's engagement in equality data collection, but we do not believe the problem is lack of evidence. Instead, we need genuine political will to fight racism. [1]

The aim of this document is not to create new evidence or validate certain existing evidence. Instead, it compiles a record of the different cases, studies, and stories we hear about or work around, that evidence the systemic nature of bias in Europe's law enforcement and criminal justice systems. It aims to be a resource for policymakers who want to commit to fighting racism.

We will update this list periodically.

We have split the evidence by stage in the criminal legal process. This is, of course, an artificial separation. Bias is systemic and carries through the different stages, impacting the entire penal trajectory of someone who comes in contact with the 'system'.

Although this list focuses on racism, it should not be read in disconnect from other forms of structural inequality. We should be mindful of the ways these issues intersect to reinforce inequality.

Finally, please be aware of the limitations of this research compilation (based on Eurocentric, westernised, mainstream media sources; mostly in English and French; recognising that very few cases get reported [2], etc.).

The only way forward is fully and meaningfully engaging with people and groups with direct experience of injustice at the hands of law enforcement and criminal justice systems.

[1] Please see Nani Jansen Reventlow's analysis [here](#).

[2] For reasons why, see [here](#).

Criminalisation

- **Sex work:** The European Sex Workers Alliance (ESWA) explores how anti-sex work, anti-trafficking and anti-migration laws and policies are rooted in sexualised racialisation in [this report](#).
- **Drug laws:** Release's [study](#) of the impact of drug criminalisation in the UK shows racialised people are 4 times more likely than white people – and Black people almost 9 times more likely – to be stopped and searched by the police, although not more likely to be found committing an offence.
- **Migration:** The Platform for International Cooperation on Undocumented Migrants (PICUM) analyses the “race-making impact of EU migration policies” [here](#). Member States increasingly prosecute and sentence racialised asylum seekers for doing what they need to do to survive and seek asylum, such as steering boats – examples from [Italy](#) and [Greece](#) (also [here](#)). Criminalisation of solidarity with migrants and refugees is an extension of this inhumane policy-making that harms racialised communities – [Free Humanitarians](#), [PICUM](#) and [Borderline-europe](#) are amongst the organisations documenting this injustice.
- **'Anti-terrorism' laws:** The European Network Against Racism (ENAR) analyses how 'counter-terrorism' laws and policies fostered a culture of racialised suspicion enabling an expansion of the scope of criminal justice that disproportionately targets and puts at risk the Muslim community in [this report](#).
- **Poverty-related 'offences':** Criminalisation of poverty takes many forms (punishing informal work, being unhoused, setting unpayable fine amounts, [refusing benefits to people with unpaid fines](#) etc.), and it ultimately disproportionately harms racialised people, who are at an increased risk of social and economic exclusion. Organisations like the [European Anti-Poverty Network](#) (EAPN) and the [European Federation of National Organisations working with the Homeless](#) (FEANTSA) have good resources in this respect. In [Lacatus v Switzerland](#), the European Court of Human Rights (ECtHR) recognised that poverty was by itself a prison sentence for the Roma applicant, as a result of a blanket ban on begging. Nevertheless, Denmark for instance still [punishes begging with incarceration](#), despite knowing this to be highly [discriminatory](#).

Policing

- [ENAR](#) and [Equinox](#) Initiative for Racial Justice provide detailed case studies highlighting racism in law enforcement across Europe in their recent reports.
- **Racial and ethnic profiling:** In [Spain](#), “Black people run the risk of being singled out 42 times more often in ports and public transport, simply because of the colour of their skin”. A [pending ECHR case](#) was brought against Spain by a person who was told they were stopped “because they were Black, period” and further assaulted by the police officers. A [survey](#) conducted by the Ombudsperson in France shows that young men perceived as Arab/Maghrebi or Black are 20 times more likely to be stopped and searched by the police. One of the ‘impact cases’ pending before the ECHR is that of [Mohamed Wa Baile](#), who was racially profiled in Switzerland.
- **Bias:** In *Ciorcan and others v. Romania*, the ECHR noted the many published accounts of the existence in Romania of general prejudice and hostility against Roma and of continuing incidence of police abuse against members of this community. Rights International Spain (RIS) analyses the impact of discriminatory policing in [this report](#).
- **Police brutality and deadly use of force:** Most recently two Black men, Boubacar and Fadjigui, were [killed by the police in Paris](#) after being profiled as ‘suspicious’ for sitting in their car. Cases of police brutality against racialised people are incredibly common in France – such as the murder of [Adama Traore](#) in police custody and subsequent cover-up. Adama’s sister, activist Assa Traore, is [under investigation](#) for ‘false allegations’ for saying the gendarmes killed her brother, as part of a long series of judicial harassment against the family. In [Ireland](#), George Nkencho was shot dead by police in reaction to a mental health crisis.

In Belgium, police murdered [Mawda Shawri](#), a two-year-old girl whose family was fleeing to safety and seeking asylum. In relation to Belgium, the Committee on the Elimination of Racial Discrimination (CERD) [expressed concern](#) about “allegations of deaths in custody or as a result of police action and allegations of violence and ill-treatment suffered by persons belonging to ethnic minorities, migrants and asylum seekers at the hands of police officers, as well as reports that such violence and ill-treatment have intensified against the backdrop of monitoring compliance with the lockdown measures taken during the COVID-19 pandemic and the recent anti-racism demonstrations in the country.” 19 year-old Adil died after being [crashed into](#) by a police car in Brussels, after being chased for not respecting [lockdown rules](#).

Stanislav Tomas, a Roma man, was [killed by police during arrest](#) in the Czech Republic. Nikos Sampanis, a Roma teenager, was [killed by police in Greece](#) in a car chase initiated on the basis of his perceived ethnicity. The [Death in Custody campaign](#) documented 209 cases of racialised people who died at the hands of the police while in custody in Germany since 1990. In the Netherlands, [50 deaths](#) of racialised people during or as a result of arrest were reported between 2016 and 2021. Since the beginning of the pandemic, there have been reports of increased [normalisation of police brutality](#) against the [Roma community](#), including in Romania, Slovakia and Bulgaria.

Data-driven and predictive policing: [Fair Trials](#), [European Digital Rights](#) (EDRi) and other organisations have been alerting to the inherent flaws of 'predictive' models that 'assess' criminality risks in ways that [reinforce bias](#), as well as the threat of data-driven policing methods, hardwiring discrimination with the [backing of Europol](#).

Prosecution

- **Weaponizing criminal powers to reduce civil society space:** Examples of this widespread practice aimed at curbing opposition include the Greek Helsinki Monitor being judicially harassed and eventually [sentenced for denouncing hate speech](#) against a church official (another example of why [criminalisation of hate speech](#) will not protect those who report it in practice, on the contrary); KISA being deregistered following [judicial harassment in Cyprus](#) for showing solidarity with migrants; the Muslim civil society space falling victim to an incredibly powerful [islamophobic campaign](#) in [France](#).
- **Racial and ethnic profiling:** In *Lingurar v. Romania*, the ECHR found that [Romanian prosecutors engaged in racial profiling](#) by authorising police activity in Roma communities based on generalised stereotypes rather than concrete evidence.
- **Prosecution-led raids:** CAGE documented '[Operation Luxor](#)' in Austria, the "largest-ever peacetime raids" orchestrated by the prosecution against the Muslim community.
- **Protest:** French social media personality Nadjelika was [sentenced to 4 months'](#) suspended prison sentence for telling a police officer they 'sold out' during a Black Lives Matter protest in Paris.

Procedural rights

- In [this report](#), Fair Trials has covered different ways in which racialised people are disproportionately at risk of seeing their procedural rights violated, from lack of translation and interpretation to improper access to a lawyer. Fair Trials and the European Roma Rights Centre (ERRC) have also published [several reports](#) highlighting the [overt bias](#) against Roma people among legal professionals.
- Racism also manifests in gatekeeping Muslim women's access to the legal profession. In France, the Court of Cassation [upheld a ban on hijabs](#) for attorneys on the shocking grounds that displaying religious belonging might impede on their clients' procedural rights, implying that judges' potential racial bias should be circumvented rather than addressed.
- Another area of concern is the [undermining of the presumption of innocence](#) by predictive and profiling AI systems that "shift criminal justice attention away from criminal behaviour towards vague and discriminatory notions of risk and suspicion".
- Fair Trials' [report on trial waiver systems](#) also highlights that people from racialised and other marginalised groups are more likely to be coerced into pleading guilty or settling outside of court, to their detriment.

Sentencing and detention

- **Differential punishment:** In Denmark, residents of low-income, immigrant, largely Muslim neighbourhoods can [incur double penalties](#) for certain crimes and can be imprisoned for offences that are finable outside of the targeted neighbourhoods. In Sweden, a Black woman was [sentenced to one month in prison](#) for defending herself against police officers who assaulted her after she tried to film their violent intervention against another person. [Fair Trials' report](#) also shows how people perceived as Roma, Muslim or otherwise racialised, are more likely to be sentenced, and to longer sentences.
- **Pre-trial detention:** Fair Trials' [report on disparities and discrimination](#) in the criminal justice systems features several examples of disproportionate use of pre-trial detention against 'foreigners', a term that is often used in [comparative studies](#) on prison population in Europe. Although it obviously fails to be an accurate proxy for racial and ethnic origin, this category does tell a story of higher chances of incarceration for people who are not established enough in the relevant jurisdiction in the eyes of the system and thus encompasses people who live in poverty, with a migration status etc. One of the clear examples of this disparity is the [quasi-automatic detention](#) of racialised migrants, whether followed by [instrumentalised criminal charges](#) or not.

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