# RACIALJUSTICE

POLICING RACIALISED GROUPS - BRIEFING
DISPROPORTIONATE POLICE BRUTALITY, VIOLENCE & RACIAL PROFILING

Introduction

Protests against racialised police brutality\(^1\) have spread across Europe following the police brutal killing of 46-year-old African American George Floyd in America. Despite initial denials from European leaders, people across Europe have protested and demonstrated to say: “Europe is not innocent”. Evidence has shown that there are disproportionate stops and searches or racial profiling, police violence and incarceration of racialised groups in many EU Member States. Police violence has a disproportionate impact on black\(^2\) and Arab men but we must also be aware of police violence that has impacted on all racialised groups including Roma, migrants, woman of colour as well as transgender people of colour.

As a network, ENAR works for an equal and inclusive Europe, working to document police brutality against people of colour in Europe as well as institutional and structural racism. In Europe, we have documented several cases of racial profiling, arbitrary checks and fines, police brutality and violence against people from racialised groups in the context of Covid-19\(^3\). In the last few months, activists and organisations have made us aware of three people, from Arab descent, who have died following interactions with the police.

For decades, ENAR and anti-racist organisations on the ground have been reporting what racialised communities experience at the hands of the police across the European Union. There is significant evidence to show that police violence and discriminatory police stop and search is a race equality and human rights issue.

So far, there has been little visibility or public acknowledgement of police brutality of racialised groups and the lack of accountability for these actions results in impunity within the police. The information outlined below aims to highlight the issue of racist police abuse across the EU and our recommendations cover a range of approaches informed by evidence-based solutions and recent developments that demonstrate that a radical system change is required now.

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\(^1\) Police brutality and police violence are used here as terms to describe the infliction of physical force by law-enforcement officer on a person for such purposes as; obtaining from her/him or a third person information or a confession, punishing her/him for an act s/he or a third person has committed or is suspected of having committed, or intimidating or coercing her/him or a third person. Police brutality is one form of violence that can be direct and structural- inflicted by the police as an institution as well as by individuals acting on behalf of or with the sanction of the state.

\(^2\) The “Being Black in the EU” report revealed in 2018 that almost one-third of black Europeans had experienced racist harassment and violence, including at the hands of police https://fra.europa.eu/en/publication/2018/being-black-eu

\(^3\) Due to the lack of official data and number of recent reports of police brutality that are emerging, this briefing and other data collection relies significantly on media reports, which has been verified to the best of our ability.
2. A global pandemic highlights the policing crisis

As governments have adopted confinement enforcement legislation that has given more powers to the police to stop and search individuals and vehicles; and arrest and fine people during the COVID 19 confinement period, we have seen a rise in police violence. In some Member States the new legislation and powers have led to authorities and the police enforcing racially discriminatory policies for example with oppressive policing of Roma settlements. Official data in France\(^4\) and reports in Belgium\(^5\) and the UK\(^6\) indicate disproportionate numbers of checks and fines in working-class neighbourhoods with a high number of racial and ethnic minority residents.

These new law enforcement powers give the police the power to question people’s reasons for being in public. The powers can be ambiguous and difficult for citizens to challenge; lawyers and even the police themselves are uncertain of their full scope. There have been cases where children have been fined or arrested in the UK and beaten as police misuse their powers\(^7\). The police have been given more powers than we’ve seen in our lifetime. The UN released a statement calling for emergency responses to the coronavirus be proportionate, necessary and non-discriminatory.\(^8\) However, International and EU mechanisms such as the Race Equality Directive and other EU legislation are currently ineffective to protect victims from police violence.

Following the death of George Floyd, government leaders in Europe were quick to point the finger at the United States denying the police brutality that has been documented in Europe. European Commission Vice President Margaritis Schinas, whose portfolio covers migration and home affairs, the French Secretary of State to the Ministry of the Interior, Laurent Nuñez\(^9\), were among those that dismissed the issue of police brutality here in Europe, brushing aside the criticisms of discriminatory practices by saying Europe should not be compared with the US.

There have been some recent announcements to acknowledge police brutality and systemic racism and some reforms announced as a result of continuous and sustained attention by civil society groups and activists:

- The Defender of Rights, (French equality body), Jacques Toubon, described the practices, repeated over several years, of the police station of the 12th arrondissement of Paris against a group of young black and Arab inhabitants or perceived as such as “discriminatory”. These observations came within the framework of a civil procedure launched against the State in July 2019 by 18 minors\(^10\).

- The Council of Europe’s commissioner for human rights, Dunja Mijatović recently warned against excessive policing of Roma in the context of this pandemic, and with particular reference to Bulgaria, she condemned the selective application of confinement measures on the basis of ethnicity\(^11\).

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\(^6\) https://bigbrotherwatch.org.uk/campaigns/emergency-powers/
\(^10\) https://www.liberation.fr/france/2020/06/02/le-defenseur-des-droits-denonce-un-cas-de-discrimination-systemique-par-la-police_1790094
\(^11\) https://euobserver.com/coronavirus/148229
• French police have been banned from using chokeholds to detain suspects in light of US events, France’s interior minister, Christophe Castaner, said: “It will no longer be taught in police and gendarmerie schools. It is a method that has its dangers,” he said. He also pledged “zero tolerance” for racism in the police. Castaner’s announcement came amid French solidarity demonstrations with the Black Lives Matter movement in America.\(^{12}\)

• Berlin recently passed the first German state anti-discrimination law that explicitly bars public authorities, including police, from discriminating based on skin colour, gender and other factors.\(^{13}\)

3. How many racialised people have died at the hands of police?

There are no official EU figures of the deaths of racialised minorities following an interaction with the police but families and activists across Europe are drawing attention to those who have died and it is becoming more difficult for government officials to deny these deaths. In recent weeks, activists have brought attention to the deaths of:

• Belgium - Adil (19) of Moroccan descent died on April 10, 2020 while attempting to evade a police control at Place du Conseil in Anderlecht.

• France- Adama Traore, a young black Frenchman died of asphyxiation while in police custody in 2016. The officers involved in Traore’s death were recently exonerated as initial medical reports had stated he died of heart failure — a claim contested by two other medical investigations.

• Spain- In 2018, Mame Mbaye\(^{14}\) a Senegalese man in his thirties died of a heart attack.

• Netherlands- Mitch Henriquez- Aruban tourist who died in 2015.\(^{15}\)

Police brutality and violence is an issue in all European countries, but racialised groups are targeted in different ways according to the national context and history. In France, the black, north African or Muslim communities and Roma communities have reported incidents of police brutality over the years. There have also been many cases of police brutality in Roma settlements in particular in Bulgaria and Romania. In Croatia, migrants and Roma communities experience violence perpetrated by the police and law enforcement. And, in Greece, there have been reports of illegal push-backs of refugees and migrants at the border.

ENAR members and activists have reported worrying trends of police violence in most EU Member States, such as in Portugal\(^{16}\) and recently in Belgium. More examples of police brutality include:

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• Belgium - police officer accused of having struck or caused injury to a migrant of nationality Sudanese (18), with aggravating premeditation. Mehdi Bouda (17), was killed on August 20, 2019 by the police in Brussels while trying to evade a police control and was hit by a police car and died. In 2018, a two-year-old Iraqi-Kurdish child was killed by the police in Mons on the night of 16-17 May. The child was in a car driven by Iraqi nationals and was hit by a bullet shot by the police who were pursuing the vehicle.

• Bulgaria - In April 2017, police officers beat up two Romani men, father and son. The father who had a heart condition died on the spot. The authorities justified the police action by claiming that the men were found in possession of stolen pesticides and had resisted arrest. An extensive study on police brutality in Bulgaria conducted by the Bulgarian Helsinki Committee (2015) concludes that Roma people are disproportionately victims of physical violence during their arrest and at the police station.

• Croatia – Amnesty International recently published evidence of police abuse and torture of migrants and asylum-seekers as they tried to cross the country to reach Western Europe.

• France - Mohamed Gabsi, died on 8 April 2020 à Béziers after a violent arrest by three police officers linked to checks under confinement. According to “La Police Assassine” NGO (“Police kills”), nearly 100 people were killed by French police between 2005 and 2015.

• Germany - The Oury Jalloh, initiative is fighting to achieve justice in the case of the death of Oury Jalloh, a Sierra Leonean asylum-seeker, in police custody in 2005. More recent cases in Germany include: Rooble Muße Warsame (22) who died in a police holding cell in 2019. Amed A., a Syrian asylum seeker, died in a prison cell in 2018 after being wrongfully detained. Further reports of deaths are emerging on social media.

• Netherlands - A Dutch monitoring group on racial profiling, Controle-Alt-Delete, says 41 people died when in contact with Dutch police since 2016, and that not one officer was called into court.
• Portugal - A serious case of police brutality occurred in February 2015 which eventually resulted in charges being brought, in July 2017, against 18 PSP officers, including an officer of higher rank. Plataforma Gueto, a Social Black Movement, said that eight black people aged between 14 and 30 were killed by law enforcement officers between 2002 and 2013.

• Romania - More cases of police brutality against Roma are surfacing amidst quarantines, lockdowns and emergency measures across central and eastern Europe. The latest incident involved an attack by a police officer on five small Romani children in the quarantined Romani settlement of Krompachy, were beaten with a truncheon by the officer.

• Spain - Data collected by SOS Racismo Madrid, found that about 70% of the respondents of the online survey reported racial profiling before being subjected to police brutality.

• United Kingdom - In the UK, data shows that the proportion of black and ethnic minority deaths in custody as a result of use of force or restraint by the police, is over two times greater than it is in other deaths in custody. Significant recent cases in the UK include: Mark Duggan, who was shot dead by the police in 2011 and Sean Rigg who died in 2008 while in police custody. Jimmy Mubenga, died after being restrained by the G4S guards on a British Airways flight on 12 October 2010.

Police brutality affects all racialised groups including women of colour and it must be seen as an intersectional problem

On 1st June 2020, a woman, who lives in Brandenburg was recorded being pinning down on the floor by police officers, many residents (including children) can be heard screaming in the background. Semira Adamu was suffocated by a police officer while she was being repatriated from Belgium. Another high profile case is the death of Christy Schwundeck, who was shot dead by a female Germany police officer in an employment centre in Frankfurt.

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32. https://www.seannigjusticeandchange.com/
33. https://iwspace.de/2020/06/in-the-shadow-of-corona-police-violence-lager-brandenburg/?fbclid=IwAR0FLpqUUTEdcxMLph79ap_EWemBTuUXeWjWVWOxoAMppR8B8z8uS4P-TtOs
36. Page 30
Mental health plays a role

Those detained under the Mental Health Act in the UK, make up a significant proportion of deaths in police custody and in Germany 2019, the police shot dead Aman Alizada (19) after he experienced a psychotic episode. Data collected by SOS Racismo Madrid, found there are also numerous cases of police officers acting violently against people with mental illnesses or disorders. One of these cases, which appeared in the media, occurred in Bilbao. The Ertzaintza (Basque police force) violently arrested a young North African man who was shopping and who suffers from a mental health disorder. They arrested his mother, when she ran to explain the officers about her son’s condition.

4. The police profile racialised groups and use excessive force

EU bodies themselves, such as the EU Fundamental Rights Agency, found that one quarter of all persons of African descent surveyed were stopped by the police in the five years before the survey, and among these, 41% characterised the most recent stop as racial profiling. In France, young men perceived as black or Arab are 20 times likely to be controlled by police than others.

In the UK, black people are 9 times more likely to be stopped and searched by police compared to white people. During COVID 19 there have been numerous complaints about the use of racial profiling; the police and law enforcement officers are using this practice unlawfully.

Across Europe we are witnessing the increased use of technologies to assist policing and wider law enforcement practices. While some of these technologies are not new, law enforcement’s increased resort to data sharing and analytics, and predictive policing tools to direct policing resources has concerning implications for minority ethnic and marginalised communities.

In the UK, the police use of restraint against detainees was identified as a cause of death by post-mortem reports in 10 per cent of deaths in police custody between 2004/05 and 2014/15. France has also been criticized for heavy handed police restraint techniques.

Use of restraint has been found to be more prevalent in cases of Black and Minority Ethnic (BME) individuals who have died in police custody than in deaths of white people. Police use of force has also been found to be greater amongst those with mental health problems. The UK government is being urged to stop the rollout of tasers amid concerns it has led to a “disturbing rise” in its “disproportionate” use against black people and those with mental ill health.

5. Policing racial inequalities

Many activists have noted that racialised groups are “over policed and under protected”, ENAR has documented this in the latest Shadow Report on institutional racism and racially motivated crime. It is undeniable that there is a problem of explicit, individual incidents of racism in the police but there is a larger problem of the police feeding into structural racism that deepens and widens racial inequalities. Racial profiling and other discriminatory policing techniques target poorer neighbourhoods with higher percentage of people of colour the police reproduce racial inequalities through mass incarceration and criminalization of these minority groups. In this way, policing is linked to our neoliberal economic order that creates the conditions for racial inequalities.

ENAR understands police violence as a key manifestation of institutional and structural racism, whose practices are deeply rooted in historical ways of exploiting and abusing racialised groups (such as slavery and colonialism). Considering how law enforcement has been ideologically constructed and the increasing military power that it has been given, particularly during the COVID-19 crisis, racism in this institution has obvious consequences of severe abuse and violence towards racialised groups and can be seen as one of the ultimate tools to serve white privilege.

6. Lack of accountability leads to impunity

The data on police abuse and disproportionate targeting of racialised groups is apparent but police officers are rarely held to account and institutional racism remains rampant. There have been numerous deaths in custody where the families are still seeking some form of redress and justice through independent inquires. Lack of accountability at all levels creates conditions for police impunity. Police officers accused of killing people of colour have routinely avoided being charged and convicted over these deaths. Several international institutions have established principles for the effective investigation of deaths in police custody. However, these principles rarely lead to police officers being held to account for their abuse of power.

The death of George Floyd in the US has again highlighted the relevance of video footage as evidence. Filming the police remains controversial in Europe, although not strictly forbidden, the legislation in many countries is far from clear. In France, for example, protesters are allowed to take footage of police but could face legal action if members of certain police task forces are recognisable in videos. In Belgium, police officers have been known to confiscate or break phones to stop people from filming.

7. What can the ENAR network do about it?

Policing has been around for at least 200 years and is rooted in systems of social control and colonialism. In some EU Member States, over the last 30 years, we have seen an intensification of policing and law enforcement tied to managing social problems and EU borders. The police are asked to handle very difficult situations such as moving on homeless people, domestic and neighbour disputes and people dealing with drug addiction and mental health issues. This can result in violent and sometimes deadly confrontation.

The ENAR network can use the moment now to work with governments to develop a vision for change, it is unlikely that a simple technocratic policy response alone will be sufficient. The following list of recommendations highlight what is possible in both the short and long term for EU Member States and the EU.

7.1 What EU Member States can do now:

There are many reforms to policing that have resulted in limited success regarding reducing racial discrimination in the police force, for example, body cameras, community policing, early warning systems for problem officers, street triage\(^{48}\) and unconscious bias training\(^{49}\).

Experiences of changing police procedures of the last 5-10 years has shown some tightening of use of force and accountability are not sufficient reforms in themselves. However, some short-term reforms could be implemented alongside a longer-term plan to assess and address policing in our society.

1. **Accountability** – Create an independent body that carries out inspections, writes reports and makes recommendations. Each Member State must ensure that each death in custody or following an interaction with the police receives an independent investigation.

2. **Sanctions** – Sanction individual police officers by suspending their pay if they are under investigation. Reduce police departments budgets that are found to be disproportionally targeting racialised groups or using excessive force.

3. **Policing techniques** – Ban certain restraint techniques, use of force and the use of tasers.

4. **Training and development** – Invest in training and develop guidance on de-escalating situations including firm rules on using force as a very last resort.

5. **Publish data** – Member States must make public and transparent the extent of racial profiling, disproportionate use of force and deaths following an interaction with the police. They must also make public the policing budget and how it spent on employing police officers and training at the level of the community.

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48. Although there have been promising results from pilots of ‘street triage’ in England, where mental health nurses accompany officers to relevant incidents, in reducing police custody as a place of safety for those detained under the Mental Health Act 1983, the strength of evidence is weak. A review of the evidence on Crisis Intervention Teams, an intervention developed in the US involving training officers in dealing with people with mental health needs in combination with a designated referral point, found no overall effect on arrests of mentally ill persons.

49. Bias training assumes that racism and policing are about the unconscious decision-making of a few officers.
7.2 What EU Member States can do in the short-medium term (6 months):

There needs to be a longer term review of policing and a radical rethink of the mandate and remit of law enforcement in Europe. In the medium term:

1. Each Member State must assess the scope of the police force and assess how to better serve society equally. This assessment must be based on the needs of each community, which cannot be predetermined.

2. Governments must have conversations with communities on how to better use public resources that create safety for all. Policy-makers at a local level must ensure meaningful participation of ethnic and religious minorities and migrants, including women, in decision-making.

7.3 What EU Member States can do in the medium-to-long term (6-12 months):

National governments should not use public funds that result in death of their citizens but instead invest in services that serve the community. Member States must shift their budgets to prioritise social justice projects over policing.

1. Narrow the role of police and law enforcement and invest in services specifically designed to address issues such as mental health, rehabilitation, homelessness and other social justice projects.

2. Government must develop a community safety policing approach and plans to reinvest in evidence-based strategies that produce safety without the collateral damage that comes with policing.

3. Create crisis intervention teams made up of mental health professionals.

4. Develop community anti-violence programmes and view violence as public health issue.

5. Develop alternatives to incarceration.

7.4 What the EU can do to support race equality and address discriminatory policing at a national level:

1. Adopt an explicit application of EU non-discrimination standards to policing.

2. Political leaders within the EU must publicly acknowledge and condemn discriminatory and violent police practices, in particular when it results in death here in Europe.

3. The EU must stop funding practices that result in the torture and unlawful returns of migrants and other racialised groups.

5 The EU and its Member States should also collect equality data disaggregated by race (including ethnicity and religion) that is voluntary, anonymous and ensures the protection of personal data, self-identification and consultation with relevant communities. This is key to reveal the extent of racial inequalities in Europe and to make visible where structural discrimination, racial profiling, disproportionate use of force and deaths following an interaction with the police are happening.

8. Police brutality and community resistance research project

In June 2020, ENAR will start a research project in five EU Member States to further investigate the phenomenon of police brutality and community resistance. The findings from this project will help to further identify the problems with policing and fully substantiate recommendations for changes to policing and law enforcement. The final report aims to be published at the end of 2020.

For more information on ENAR’s work on policing, please contact Ojeaku Nwabuzo, senior research officer – ojeaku@enar-eu.org.

9. Further resources:

- Police Misconduct Against Roma & Travellers across Europe: https://www.google.com/maps/d/viewer?mid=1Xz_UxOdjmrMqEP9Ovxwvn0M0iqj-MW_F&hl=fr&ll=49.85013873430544%2C15.813863568749987&z=5

- Inquest collects data on deaths of racial and ethnic minorities in police custody: https://www.inquest.org.uk/bame-deaths-in-police-custody


- Stop racial profiling – Belgium: https://stopethnicprofiling.be/

- Reformist reforms vs. abolitionist steps in policing: https://static1.squarespace.com/static/59ead8f9692ebee25b72f17f/t/5b65cd58758d46d34254f22c/1533398363539/CR_NoCops_reform_vs_abolition_CRside.pdf