

EU legislation and policies to address racial and ethnic discrimination

SUMMARY

Racial and ethnic minorities face discrimination and its consequences on a daily basis. The exact scale of the problem is hard to gauge due to a lack of data and general under-reporting of racist incidents.

The coronavirus pandemic has seen a major increase in reports of racist and xenophobic incidents, and the crisis it triggered has had a disproportionately large negative effect on racial and ethnic minority groups, in the form of higher death and infection rates.

Although since 2000 the European Union (EU) has introduced legislation to combat racial and xenophobic discrimination, the problem persists, with the need for new measures recently highlighted by the global Black Lives Matter protests. A number of studies also point to the cost of racial discrimination not only for the individuals concerned but also for society as a whole. For instance, a 2018 EPRS report argued that the loss in earnings caused by racial and ethnic discrimination for both individuals and societies amounts to billions of euros annually. EU citizens also acknowledge this problem: a 2019 survey found that over half of Europeans believe racial or ethnic discrimination to be widespread in their country.

To address racial discrimination and the inequalities it engenders, the European Commission has put forward a number of equality strategies and actions. One such action, the second European summit against racism, was held on 21 March 2022. The European Parliament, meanwhile, has long been demanding an end to racial discrimination. In recent resolutions, the Parliament has called for putting an end to structural racism, discrimination, racial profiling and police brutality; for asserting the right to protest peacefully; and for boosting the role of culture, education, media and sport in the fight against racism.

This updates a briefing from March 2021.



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Context

The EU prohibits and condemns racial discrimination, yet this issue persists across its territory, as further highlighted by the coronavirus pandemic. In April 2020, the European Union Agency for Fundamental Rights (FRA) reported a [large increase](#) in racist and xenophobic incidents, particularly against people of Asian or assumed Asian origin. For instance, a survey in the Netherlands found that 49% of respondents of Asian origin had experienced racism since the start of the outbreak. Covid-19 itself is affecting racial and ethnic minority groups disproportionately, with [higher infection and death rates](#) being reported and connected with existing patterns of [inequality and discrimination](#). In June 2020, the United Nations High Commissioner for Human Rights, Michelle Bachelet, [stated](#) that 'the data tells us of a devastating impact from COVID-19 on people of African descent, as well as ethnic minorities in some countries, including Brazil, France, the United Kingdom and the United States ... in many other places, we expect similar patterns are occurring, but we are unable to say for sure given that data by race and ethnicity is simply not being collected or reported'.

Following the death of George Floyd at the hands of police officers in March 2020, worldwide protests on racial inequality called for an end to police brutality. In some European countries, these protests also sparked a broader [re-assessment](#) of their colonial past and how institutions and existing structures (including school curricula) perpetuate racial inequality.

Looking forward, there is a risk that existing [biases](#) will be hard-wired into new, increasingly central technologies, such as artificial intelligence (AI) [algorithms](#), causing further harm. This is because the historical and governmental data used for training AI reflect [cultural biases and stereotypes](#).

A 2018 [cost of non-Europe report](#) issued by the European Parliamentary Research Service (EPRS) illustrates the considerable [impacts](#) that racial and ethnic discrimination are having on individuals, societies and economies. In financial terms, these translate into lost earnings ranging from €1.8 billion to €8 billion annually for individuals and losses ranging from €2.4 billion to €10.7 billion annually for societies.

Scale of the problem

In 2019, an EU-wide [Eurobarometer survey](#) found that over half of Europeans believe racial or ethnic discrimination to be widespread in their country, but with considerable variations between Member States (see Figure 1). It also explored public attitudes towards people from groups at risk of discrimination. For the EU as a whole, the survey revealed that attitudes to racialised and ethnic

Glossary

Discrimination: The [Racial Equality Directive](#) defines discrimination as 'treating a person less favourably than another person on the basis of race and/or ethnicity or creating any practice or arrangement, which would, for no legally justifiable reason, put persons of certain races and/or ethnicities at a disadvantage'.

Ethnic or racial origin: While the Racial Equality Directive does [not define](#) 'ethnic or racial origin', its preamble states explicitly that use of the term 'race' does not imply any admission by the EU of 'theories which attempt to determine the existence of separate human races'. The Member States have adopted various formulations in their national legislation: some do not mention 'race', referring only to 'ethnic' belonging or origin; others refer to 'presumed race' or 'real or presumed' racial belonging; yet others explicitly mention skin colour as a protected ground or as a characteristic feature of a national or ethnic minority. The boundary between religion and ethnicity is not clearly defined, as case law in some countries recognises discrimination against Jews, Muslims and Sikhs as racial discrimination.

Minority: A non-dominant group that is usually numerically smaller than the majority population of a state or region regarding its ethnic, religious or linguistic characteristics; the members of this group (if only implicitly) maintain solidarity with their own culture, traditions, religion or language.

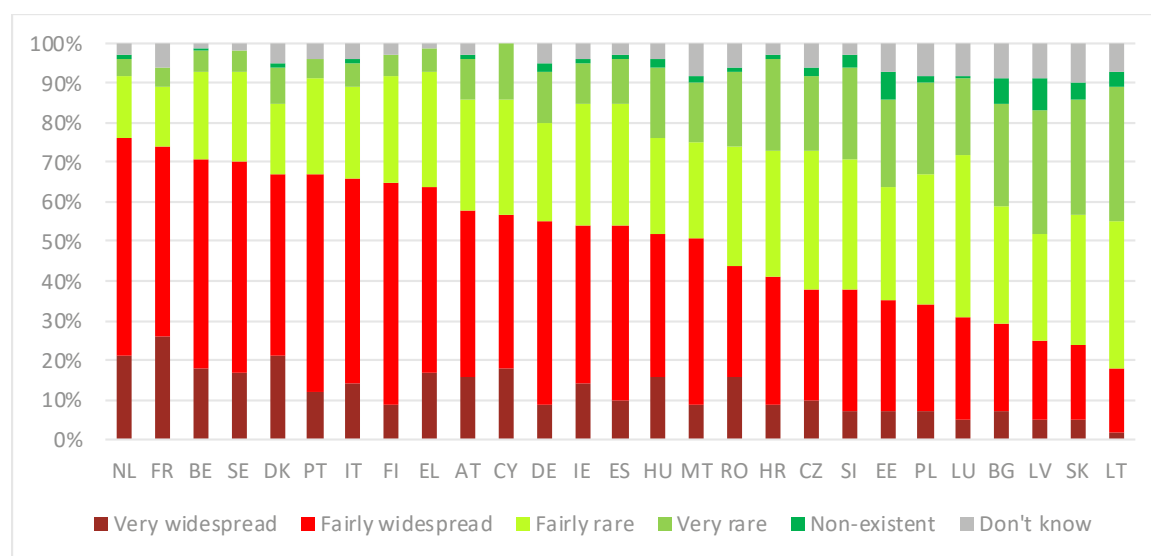
Racialisation: Processes that negatively label others using race as a label, also referred to as 'race making'.

Racism: Ideas or theories of superiority of one race or group of persons about one type of skin colour or ethnic origin.

Xenophobia: Attitudes, prejudices and behaviour that reject, exclude and often vilify people based on the perception that they are outsiders or foreigners to the community, society or national identity.

minorities had become more positive since an earlier survey conducted in 2015. In 2019, 65 % of respondents said that they were comfortable with the idea of a person with a different ethnic origin to the majority population in their country being elected to the highest political office (an increase of 10 percentage points). However, as with public perceptions of the extent of discrimination, there are wide variations between Member States. For example, on average, 79 % of respondents say they would feel comfortable having daily contact with a colleague who is a black person, but proportions vary, from 96 % of respondents in the Netherlands and 95 % in Sweden to 46 % in Hungary, 48 % in Bulgaria and 57 % in Austria. Similarly, two thirds of respondents in the EU say that they would feel comfortable if one of their children was in a love relationship with a black person. However, at country level, this varies from 89 % in the Netherlands, 88 % in Sweden, 86 % in the United Kingdom (UK) and 80 % in France to 33 % in Slovakia, 26 % in Hungary and 15 % in Bulgaria. Bulgaria is the only country where more than half say they would be uncomfortable (63 %), and uncomfortable is the most common answer in Hungary, Slovakia, Czechia and Lithuania.

Figure 1 – Opinion on how widespread ethnic discrimination is per EU Member State



Source: [Eurobarometer: Discrimination in the EU](#), September 2019.

Individual experiences of discrimination

Eurobarometer survey respondents who considered themselves to be from an ethnic minority were more likely to report that they had experienced discrimination or harassment in the past 12 months (40 % compared to 17 % of respondents overall). Respondents to an [EU-wide survey](#)¹ on migrants and minorities conducted by the FRA found that individuals believe their ethnic or immigrant background to be the main reason why they are facing discrimination, while also identifying their names, skin colour and religion as additional triggers. The survey found that men who wear religious or indigenous clothing are twice as likely to experience racist violence. Women wearing a headscarf were more likely to experience discrimination and harassment, including physical attacks. The FRA survey paints a detailed picture of the extent of racial discrimination in major areas of day-to-day life, such as employment, education, health, housing, and interaction with public authorities, as well as experiences of harassment and violence.

Intersectionality

Attention has also been drawn to other overlapping '[intersectional](#)' forms of discrimination. For instance, a black woman with disabilities may face a combination of racism and discrimination based on her gender and disability. Moreover, [studies](#) have drawn the conclusion that various factors can influence the educational achievements at the intersection of gender and ethnicity.

Harassment and violence

The FRA survey asked respondents about their experiences of [harassment and violence](#) along a spectrum from offensive comments to physical attacks. The results showed that Roma and respondents with a North African background had experienced particularly high rates of hate-motivated harassment in the 12 months before the survey (30 % and 29 %). Based on the same survey data, the FRA report [Being Black in the EU](#) spotlights the widespread harassment and violence faced by people of African descent.² One in five respondents (21 %) had experienced what they perceived as racist harassment in the 12 months prior to the survey. Nearly one in three (30 %) had experienced such harassment in the previous five years. For all groups, the rates of hate-motivated harassment varied widely across EU Member States. For example, the share of respondents of African descent who reported experiencing harassment in the previous five years ranged from 20 % in Malta to 63 % in Finland. The picture is similar for racial violence. In the five years prior to the survey, 5 % of respondents of African descent had experienced what they perceived as racial violence. Here too, the figures differed per country, ranging from 2 % in Portugal to 14 % in Finland, followed by Ireland and Austria (both 13 %) and Luxembourg (11 %). In the year before the survey, 3 % of respondents had experienced a racist physical attack, but the number for Austria was 11 %.

This survey as well as the FRA's 2021 [report](#) on crime, safety and victims' rights both show that young respondents are more likely to experience racist harassment, including online. With regard to gender, the overall prevalence of hate-motivated harassment and violence was similar for women and men, but women were more likely to experience harassment from a person known to them, such as an acquaintance or neighbour. Overall, of the respondents who had experienced hate-motivated harassment, 3 % said that the perpetrator was a police officer or a border guard, and 4 % indicated that the perpetrator was a public official. Of the respondents of African descent who had experienced racist violence, 11 % stated that the perpetrator was a law enforcement officer. Of the respondents who had experienced racist violence, 64 % did not report the incident to the police or another organisation. There were considerable differences here between men and women. Whereas women reported in 50 % of the incidents, men only did so in 23 % of the incidents. These numbers do not seem to deviate very much from the average reporting of violence in the EU, where the average [reporting of physical violence](#) to the police is 30 %. What is different is that 22 % of the respondents concerning racial violence would contact the police, while 15 % would turn to another organisation.

Police stops and racial profiling

Respondents with Asian, South Asian, North African or sub-Saharan African backgrounds, and Roma, were more likely to say that they had been stopped by the police because of their immigrant or ethnic minority background. Of the respondents of African descent, one in four (24 %) had been stopped by the police in the five years prior to the survey and 11 % had been stopped by the police in the 12 months prior to the survey. Of those respondents that had been stopped, 44 % perceived the last stop as racially motivated. This view ranged from 18 % in Finland to 70 % in Italy and 63 % in Austria. The perception of [racial profiling](#) differed greatly between Member States. Whereas the highest number of stops were in Austria (previous five years: 66 %, last 12 months: 49 %) and Finland (previous five years: 38 %, last 12 months: 22 %), the perception of racial profiling differed greatly when comparing the numbers from the previous 12 months (Austria 31 %, Finland 4 %). People's experiences also differ in terms of the [contexts](#) in which they are stopped. For example, for the general population in Greece and Austria, most police stops (94 % and 87 %, respectively) happened when people were driving, on a bike, or using another vehicle, as opposed to police stopping them while on foot or in another situation. By contrast, 78 % of immigrants and descendants of immigrants from South Asia in Greece and 72 % of immigrants and descendants of immigrants from sub-Saharan Africa in Austria, who were stopped by the police, experienced this while moving on foot. This perception was also reflected in the level of trust in the police. Whereas in Finland on a

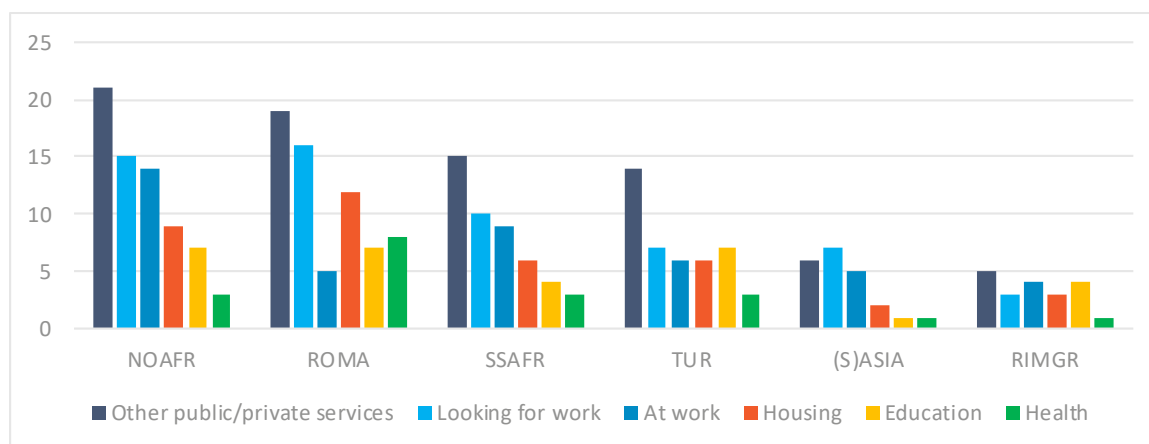
scale from zero (absolutely no trust) to 10 (absolute trust), trust in the police was 8.2, in Austria trust was 3.6. The average level of trust in the countries surveyed was 6.3.

Discrimination in areas of everyday life

When it comes to racial discrimination in daily life, 39 % of the respondents of African descent felt that they had been discriminated against in the five years prior to the survey and 24 % in the 12 months prior to the survey. The highest rates of racial discrimination in the 12 months prior to the survey were felt in Luxembourg (50 %), followed by Finland (45 %), Austria (42 %) and Denmark (41 %). The lowest rate in the EU-27 was in Portugal (17 %).

The areas in which the respondents felt they suffered discrimination differed considerably by ethnic group (see Figure 2). A quarter of the respondents of African descent had felt discriminated against while looking for work. The highest levels were observed in Luxembourg (47 %), Austria and Italy (both 46 %). Of the respondents aged 16 to 24, 18 % were neither employed nor in education or training, with large differences between countries. The highest levels were found in Austria (76 %, compared with the national average of 8 %), Malta (70 %, national average of 8 %) and Italy (42 %, national average of 20 %). The percentage of respondents with tertiary education, who were working in an elementary occupation, was nearly twice as high as for the general population (9 % compared with 5 %). In general, comparing the employment rates of the respondents of African descent to those of the general population, large distinctions could be seen, with a differentiation of up to 36 percentage points in Denmark (41 % of employed respondents of African descent compared with 77 % of employed respondents from the general population). This means that, in combination with the discrimination faced in education (the latter being generally necessary to attain higher paid employment), the racial factor can limit a person's options and expectations on the job market, which in turn limits their social and economic growth.

Figure 2 – Discrimination based on ethnic or immigrant background in different areas of life in the 12 months before the survey, by survey targets (%) * **



Data source: [FRA EU MIDIS II survey](#).

* Domains of daily life summarised under 'other public or private services': public administration, restaurant or bar, public transport, shop.

** Acronyms for target groups refer to immigrants from country/region and their descendants: NOAFR = North Africa, ROMA = Roma minority, SSAFR = sub-Saharan Africa, TUR = Turkey, (S)ASIA = South Asia and Asia, RIMGR = recent immigrants from non-EU countries.

The survey also showed that there is much deviation in awareness of national equality bodies. Average awareness of these bodies was 46 % among respondents of African descent. This ranged from 67 % in Ireland to 9 % in Malta.

Awareness of national anti-discrimination legislation differed greatly too. Whereas average awareness of such legislation was 79 %, differences in the countries surveyed stretched from 87 % in the UK and 81 % in France, to 18 % in Malta and 27 % in Italy. Only 16 % of respondents of African descent had reported or complained about the most recent incident of discrimination affecting them. This ranged from 8 % in Austria and 9 % in Portugal and Italy to 30 % in Finland.

Under-reporting and data collection issues

The surveys show that racism is a widespread issue in the EU. However, the scarcity of data makes it difficult to measure the exact scale of the problem. There are a number of reasons behind this scarcity.

Firstly, as highlighted in the survey research, incidents of discrimination and racist and xenophobic crimes are often not reported to the authorities. The FRA survey found that 88 % of ethnic discrimination, 90 % of hate-motivated harassment and 72 % of hate-motivated violence was not reported. This can be due to a lack of trust in the authorities, a lack of trust that such reporting will lead to any results, and even a lack of awareness that what has happened is a crime. This means that the data available do not necessarily give a clear picture of how widespread discrimination and crimes based on racial and ethnic origin really are.

Secondly, depending on the circumstances, reports can be filed with many different institutions (police, equality bodies, ombudsmen and other human rights institutions), making it difficult to get a complete picture. To address this issue, since 2016, the Netherlands has combined the data on discrimination collected by the police and equality bodies into a single [multi-agency report](#).

Thirdly, the data are not always fully disaggregated. Additionally, racial discrimination is not always registered as such, but as some type of discrimination such as religious.

Lastly, [many EU Member States](#) are reluctant to collect data on inequalities based on racial and ethnic origin due to historical abuses of such records, leading to serious shortcomings when it comes to assessing the situation of minorities and the implementation and impacts of legislation and policy.³

The EU legal framework

Discrimination on grounds of race and ethnicity in EU primary law

The principles of equality and the prohibition of discrimination on the basis of racial and ethnic origin have an extensive legal basis in the EU Treaties (e.g. Articles [2](#) and [3](#) of the Treaty on European Union (TEU), and [10](#), [19](#) and [67\(3\)](#) of the Treaty on the Functioning of the European Union (TFEU)).

These Treaty provisions are complemented by the [Charter of Fundamental Rights](#) of the EU, to which the Lisbon Treaty accorded the same legal value as the Treaties. The charter states explicitly in its [Article 20](#) that everyone is equal before the law and in its [Article 21\(1\)](#) that 'any discrimination based on any ground such as sex, **race, colour, ethnic** [bolding added for emphasis] or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited'.

Prior to the adoption of the [Treaty of Amsterdam](#) in 1999, the relevant EC Treaty provisions addressed discrimination on the grounds of nationality and sex only. The breakthrough Article 13 of the Treaty establishing the European Community (TEC) – introduced by the Treaty of Amsterdam (now [Article 19 TFEU](#)) – empowered the EU to adopt measures to deal with discrimination based on other grounds, including race and ethnic origin.

EU anti-discrimination legislation: Scope and implementation

Racial Equality Directive

The first main EU instrument to prohibit discrimination based on racial and ethnic origin was the [Racial Equality Directive](#), which implemented the principle of equal treatment irrespective of racial or ethnic origin. Contrary to the [Employment Equality Directive](#), which prohibits discrimination on the grounds of religion or belief, disability, age or sexual orientation but is restricted to employment, occupation and vocational training, the Racial Equality Directive has a [wider scope](#), as it obliges Member States to adopt relevant anti-discrimination legislation in the areas of:

- conditions for access to employment, to self-employment and to occupation, including selection criteria and recruitment conditions, whatever the branch of activity and at all levels of the professional hierarchy, including promotion;
- access to all types and to all levels of vocational guidance, vocational training, advanced vocational training and retraining, including practical work experience;
- employment and working conditions, including dismissal and pay; membership of and involvement in a workers' or employers' organisation, or any organisation whose members exercise a particular profession, including the benefits provided by such organisations;
- social protection, including social security and healthcare;
- social advantages;
- education; and
- access to and supply of goods and services that are available to the public, including housing.

The directive applies to third-country nationals only when they are discriminated against on grounds of racial or ethnic origin and not when they are treated differently to EU citizens on grounds of nationality.

Framework Decision on Combating Racism and Xenophobia

A follow-up to the 1996 [joint action on combating racism and xenophobia](#), the 2008 [Framework Decision on Combating Racism and Xenophobia](#) provides for the approximation of laws and regulations of EU countries on offences involving certain manifestations of racism and xenophobia. It requires that certain serious manifestations of racism and xenophobia constitute an offence in all EU countries and be punishable by effective, proportionate and dissuasive penalties. These manifestations are:

- publicly inciting violence or hatred towards a group of members or one member of a group defined by reference to race, colour, religion, descent or national or ethnic origin;
- the commission of an act [referred to in the bullet point above] by public dissemination or distribution of tracts, pictures or other material;
- publicly condoning, denying or grossly trivialising crimes of genocide, crimes against humanity and war crimes, directed against a group of persons or a member of such a group defined by reference to race, colour, religion, descent or national or ethnic origin when the conduct is carried out in a manner likely to incite to violence or hatred against such a group or a member of such a group, also explicitly including such crimes committed during the Second World War.

Furthermore, the framework decision also requires that racist and xenophobic motivation be considered an aggravated circumstance. Whereas the majority of the public is aware that incitement is a criminal offence, many are [not aware](#) that denial and trivialisation of genocide (including the holocaust), crimes against humanity and war crimes also constitute such an offence.

The framework decision applies within the territory of the EU Member States, or when the perpetrator is a national of a Member State, or when the legal person has its head office in a Member State. It also applies to online content when the perpetrator is physically present in a Member State, irrespective of the location of the server on which the content is stored, and when the content is stored on a server located in a Member State.

Victims' Rights Directive

The framework decision is reinforced by the [Victims' Rights Directive](#), which aims to ensure that victims of crime receive appropriate information, support and protection and may participate in criminal proceedings wherever in the EU the damage occurred. Member States must also ensure that victims of crime are recognised and treated in a respectful, sensitive and professional manner according to their individual needs and without any discrimination. To this end, an individual

assessment concerning the circumstances of the victim must be conducted, where particular attention is to be paid to victims who have suffered a crime committed with a bias or discriminatory motive, and to victims of hate crimes.

Audiovisual Media Services Directive

Furthermore, the [Audiovisual Media Services Directive](#) requires Member States to ensure that audiovisual media services transmitted by media service providers under their jurisdiction do not contain any incitement to violence or hatred directed against a group of persons or a member of a group based on any of the grounds referred to in Article 21 of the Charter of Fundamental Rights of the EU. This is enhanced by the [Code of conduct](#) on countering illegal hate speech online.

Assessment of the transposition and implementation of EU legislation

According to the latest (March 2021) [report](#) on the implementation of the Race Equality Directive, while all Member States had transposed the directive, challenges remained regarding its implementation and application. Lack of awareness, diverse issues concerning access to justice, effective [sanctions](#) and the effective functioning of equality were among the concerns highlighted in the report. Some [FRA](#) reports and [other sources](#) echo these concerns, stating that the directive has 'immensely enhanced legal protection against discrimination on the grounds of racial and ethnic origin throughout the EU', while also concluding that there are challenges regarding enforcement of the legislation in practice.

In its 2014 [report](#) on the implementation of the Framework Decision on Combating Racism and Xenophobia, the Commission concluded that a number of Member States had not transposed all the provisions fully and/or correctly, namely in relation to the offences of denying, condoning or grossly trivialising certain crimes. The majority of Member States had provisions on incitement to racist and xenophobic violence and hatred, but these did not always seem to fully transpose the offences covered by the framework decision. Some gaps were also observed in relation to the racist and xenophobic motivation of crimes, the liability of legal persons and jurisdiction.

According to a 2020 Commission [report](#) on the implementation of the Victims' Rights Directive, many EU Member States have not fully implemented the directive. More specifically, the requirement of an individual assessment of the victim's situation has been transposed only partially – or not at all – by several Member States. As a result, assessments do not take into consideration the fact that a crime has been committed with a bias or a discriminatory motive.

Equality bodies

The Race Equality Directive and several other directives require that Member States set up [national equality bodies](#). While it is possible to set up separate equality bodies with different competences, this approach requires much coordination between them. Instead, bundling the competences within a single body seems to be the preferred approach internationally. These equality bodies do most of the monitoring regarding the application of the equality directives and put in most of the efforts needed to ensure that Member States comply with them. However, they face many hurdles. A number of international and European standards have been designed to strengthen these equality bodies.

Equality bodies can receive complaints concerning racial and ethnic discrimination, and act on these complaints in a variety of ways depending on the means granted to them under national law. This can range from helping the complainant to pursue the complaint, to acting as a judicial authority in the matter or bringing the matter to court itself.

In order to be effective, equality bodies have to be known to the public. To this end, they conduct awareness-raising campaigns. This has been effective to varying degrees. The [FRA](#) considers that 'much stronger outreach is needed' to encourage victims to report incidents, while 'law enforcement and equality bodies need the right tools to deal with these reports effectively'.

In its 2020 [report](#) on 'Strong and effective national human rights institutions – challenges, promising practices and opportunities', the FRA stated that awareness of the respective national human rights institutions differs greatly across Member States. Whereas the overall average level of awareness stood at 68 %, it ranged from 96 % in Slovenia to 27 % in Belgium. Curiously, the rates of awareness do not necessarily reflect the number of complaints (in absolute terms as well as per capita) received by these institutions (in 2019, Slovenia received 200 new complaints, whereas Belgium (Unia) received 2 343 new complaints).

The EU policy framework

In 1986, following a European Parliament committee of inquiry report, the Commission, Council and Parliament adopted a [Joint Declaration against Racism and Xenophobia](#), which 'vigorously condemned all forms of intolerance, hostility and use of force against persons or groups of persons on the grounds of racial, religious, cultural, social or national differences'. The declaration also recognised the importance of information, awareness-raising and prevention. In 1997, the EU [organised](#) the European Year against Racism to support national action in this area. Initiatives included the decision to establish a permanent [European Monitoring Centre on Racism and Xenophobia](#) (EUMC), to help the EU and the Member States develop practical policies, by investigating the extent of the problem, analysing the underlying causes and disseminating examples of good practice. The EUMC's mandate was extended in 2003, when it became the European Agency for Fundamental Rights (FRA).

Institutional standards for equality bodies

The Race Equality Directive does not have specific requirements about the institutional rules concerning equality bodies. There are, however, multiple standards to ensure the independence and effectiveness of these bodies.

The most commonly known institutional rules for equality bodies are laid down in the **United Nations' Paris Principles**. Equality bodies set up in accordance with these rules can also be accredited by the United Nations. These principles are further strengthened by the **Council of Europe's European Commission against Racism and Intolerance** and its [General Policy Recommendation No 2](#) on equality bodies to combat racism and intolerance at national level, adopted on 7 December 2017.

Following a 2015 [resolution](#) of the European Parliament, in 2018 the **Commission** adopted [Recommendation \(EU\) 2018/951](#) on standards for equality bodies, to ensure the effectiveness and independence of such bodies.

New initiatives for the 2020-2025 period

Equality and inclusion are high on the political agenda of the current European Commission. For the first time ever, there is a Commissioner for Equality, [Helena Dalli](#), with a mandate to strengthen Europe's commitment to equality for all by ensuring full implementation of EU anti-discrimination legislation and proposing new legislation and policies. The commissioner also coordinates a new internal task force, intended to ensure that there is a consistent approach to equality across all Commission services and that equality is mainstreamed in all EU policies.

In her 2020 [State of the Union address](#), the President of the European Commission, Ursula von der Leyen, committed to building a union where fighting racism and discrimination is never optional, and to proposing a multiannual action plan. In its communication, [A Union of equality: EU anti-racism action plan 2020-2025](#), of 18 September 2020, the Commission announced a range of legislative and non-legislative measures. These include:

- reassessing the existing EU legal framework. The Commission will report on the application of the Racial Equality Directive and follow up with any necessary legislation in 2022, for which a [public consultation](#) runs until 11 April 2022. It will also ensure correct transposition of the Framework Decision on Combating racism and Xenophobia and institute infringement procedures if required;

- strengthening EU law where necessary, in areas (such as law enforcement) that are not yet covered by EU non-discrimination legislation. On 9 December 2021, the Commission presented an [initiative](#) to extend the list of EU crimes under Article 83(1) TFEU to all forms of [hate speech and hate crime](#), as part of the EU's response to the proliferation of racist and xenophobic hate speech on the internet. Once such a Council decision has been adopted, the Commission will have the competence to propose, in a second step, a legislative initiative – subject to an impact assessment – containing minimum standards providing for a strong common criminal law response;
- working to bring together stakeholders at all levels to fight racism more effectively, including by the appointment of the first [EU anti-racism coordinator](#), [Michaela Moua](#), and supporting Member States to issue national action plans against racism and racial discrimination by the end of 2022; to this end, [common guiding principles](#) have been proposed;
- earmarking EU funding under the multiannual EU budget and Next Generation EU;
- improving the collection of data disaggregated by ethnic or racial origin; to this end, the Commission issued a [guidance](#) in September 2021;
- improving diversity within the Commission and other EU institutions.

EU funding to tackle racism and xenophobia

There is no single EU funding programme for tackling racism and xenophobia. **Funding for social inclusion and combating discrimination** is available under the European structural and investment funds (ESIF). **Funding for promoting tolerance** is available under EU education and research programmes (Erasmus and Horizon). **Funding for promoting fundamental rights and citizenship** can be used to promote the principle of non-discrimination on the grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation, as well as to prevent and combat racism, xenophobia, homophobia and other forms of intolerance. The [rights, equality and citizenship programme](#), which ran over 2014-2020, had a budget of €439.5 million. For the 2021-2027 period, funding will be available under the [rights and values programme](#). EU funding supports civil society organisations and projects (including those focused on research into the implications of AI), such as [Sienna](#), [Sherpa](#) and [Panelfit](#).

The EU anti-racism action plan is one of number of equality strategies and action plans, which are intended to be inter-related. The [EU strategy on victims' rights \(2020-2025\)](#) has five key priorities: 1) communicating effectively with victims and providing a safe environment for victims to report crime; 2) improving support and protection to the most vulnerable victims; 3) facilitating victims' access to compensation; 4) strengthening cooperation and coordination among all relevant actors; and 5) strengthening the international dimension of victims' rights. The [EU Roma strategic framework](#) for equality, inclusion and participation sets key priorities and minimum targets for equality, inclusion, participation, education, employment, health, and housing of the Roma population. The [action plan](#) on integration and inclusion 2021-2027 addresses the barriers that can hinder participation and inclusion of people with a migrant background, from newcomers to citizens. It focuses on enhancing the inclusiveness of education and training, improving employment opportunities and skills recognition, and promoting access to health services and to adequate and affordable housing. On 5 October, the Commission presented its EU strategy on combating antisemitism and fostering Jewish life (2021-2030). The [proposed digital services act](#) strengthens possibilities for redress against illegal xenophobic content online.

On 21 March 2021, the EU held its [first anti-racism summit](#). On 21 March 2022, the Commission, in cooperation with the Parliament's Anti-Racism and Diversity Intergroup (ARDI) and the Council of Europe's European Commission against Racism and Intolerance, hosted the [second EU anti-racism summit](#).

The Council [welcomed](#) the Commission's initiatives on 3 March 2022 and called on it to provide updates and propose more funding opportunities.

Stakeholder positions

The EU anti-racism action plan was welcomed by civil society organisations, including the [European Coalition of Roma and pro-Roma organisations](#), and by the [ARDI](#). The action plan expected to provide a more comprehensive approach to all forms of racism in Europe and help to improve the way structural and intersectional forms of discrimination are addressed.

The European Network Against Racism ([ENAR](#)) welcomed the fact that the EU has, for the first time, explicitly acknowledged the existence of structural, institutional and historical dimensions of racism in Europe and the need to address them through wide-ranging, proactive policies. ENAR considered, however, that:

- 'The plan could be stronger on measures to address racist and disproportionate policing, as it plays a key role in maintaining and fostering racial inequalities in Europe.
- There should be more focus on collecting data disaggregated by racial or ethnic origin on profiling.
- It is also problematic that profiling is presented as a legitimate practice, given the numerous abuses of this law enforcement tool.
- Solutions proposed include good practice guidance and training, but this should go further and include strong accountability measures.
- It is also disappointing that the plan does not include specific measures to tackle the structural racism and barriers faced by migrants in Europe'.

ENAR has also drawn attention to the [impacts of Covid-19](#) and called for monitoring to ensure that EU funds, including Covid-19 recovery funds, promote racial justice and improve the socio-economic conditions of racialised communities.

The European Parliament's position

The Parliament has been a strong advocate against racial discrimination for many years. In 1984, it set up a [Committee of inquiry into the rise of fascism and racism in Europe](#), which produced a report and a resolution in 1985 calling for a number of practical measures. These included recommendations to define Community powers and responsibilities in the area of race relations more broadly; to carry out EU-wide surveys and awareness-raising activities; and to set up mechanisms for dialogue with EU civil society. The Parliament also called on Member States to ensure that national legislation on combating political extremism, racism and racial discrimination was continually updated and implemented in practice; to provide for effective means of legal recourse; and to set up specialist bodies to provide information on legal protection against discrimination, racism and incitement to racial hatred and violence.

Numerous European Parliament resolutions have been issued since. Most recently, in its [resolution of 26 March 2019](#) on fundamental rights of people of African descent in Europe, its [resolution of 19 June 2020](#) on the anti-racism protests following the death of George Floyd, and its [resolution of 8 March 2022](#) on the role of culture, education, media and sport in the fight against racism, the Parliament called for an end to structural racism and discrimination, racial profiling, police brutality, for the right to peaceful protest and for a zero-tolerance approach to racism.

The Parliament also considers that the EU institutions need to take concrete steps to address structural racism, discrimination and the under-representation of racial and ethnic minority groups within their own structures. After the 2019 European elections, [approximately 5 % of the Members of the European Parliament](#) belonged to an ethnic minority, while approximately 10 % of the European population belongs to such minorities. After the departure of the UK Members in 2020, the percentage of members belonging to an ethnic minority fell to 4 %.

As far as its own administration is concerned, with the appointment of a vice-president to deal with issues of equal opportunities in the Secretariat in 1998, the Parliament made a firm commitment to

achieving equality, diversity and inclusion. In 2004, the Parliament's [Bureau](#) set up a high-level group on gender equality (the HLG), whose mandate was extended to include diversity in 2006. The HLG, chaired by a vice-president, sets out the main priorities for the Parliament's Secretariat to implement under the responsibility of the Directorate General for Personnel. In November 2020, the Parliament set up a racial discrimination contact point for staff members, providing a dedicated address with a guarantee of confidentiality. In 2021, the Bureau adopted the HLG's [report on diversity in the European Parliament's Secretariat](#), which laid out a roadmap with specific measures for the 2022-2024 period. The number of specific measures regarding racism doubled from four in 2019 to eight in 2021. The roadmap acknowledges the need to tackle structural racism.

MAIN REFERENCES

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ENDNOTES

- ¹ The EU-MIDIS II survey, conducted in 2017, covered 25 515 respondents with different ethnic minority and immigrant backgrounds in the then EU-28.
- ² Drawing on data from the EU-MIDIS II survey, the 'Being Black in the EU' report analysed the responses of 5 803 immigrants and descendants of immigrants of African descent surveyed in 12 Member States: Denmark, Germany, Ireland, France, Italy, Luxembourg, Malta, Austria, Portugal, Finland, Sweden and the United Kingdom, then still an EU Member State. The survey sample included immigrants born in countries of sub-Saharan Africa (first-generation respondents) and people with at least one parent born in these countries (second-generation respondents). In France and the United Kingdom, the sample also included people from overseas departments and territories, and the Caribbean.
- ³ Under the Victims' Rights Directive, the EU and its Member States must collect disaggregated data on victims of crime to identify particular groups of victims of crime and address their specific needs. Data must be disaggregated by age, gender and disability. Other factors, such as race or ethnicity, sexual orientation, gender identity and refugee status may also be considered. Member States are also permitted to collect such data under [Directive 2016/680](#) on Protecting personal data when being used by police and criminal justice authorities (from 2018). Instead, many Member States register data on [country of origin or citizenship](#) or [other migration-related background](#). This type of data is not suitable for the cases of second, third and later generations. On this point, it should also be noted that the [Court of Justice of the European Union](#) has held that that ethnic origin cannot generally be presumed on the sole basis of a person's country of birth.

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