

Compendium of Promising Practices on Ethnic Profiling



BACKGROUND INFORMATION



Equinet, the European Network of Equality Bodies, brings together **49 equality bodies from 36 European countries**. Equality bodies are public institutions set up across Europe to promote equality and tackle discrimination on grounds of gender, race, age, sexual orientation, religion and belief, disability or other protected grounds. They play a fundamental role in the European non-discrimination architecture. As a first point of contact for victims of discrimination, equality bodies have an extensive understanding of how discrimination affects people in Europe.

In November 2018, Equinet, in collaboration with the Open Society Justice Initiative, organised a first-of-its-kind seminar on ethnic profiling for European equality bodies.

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EQUINET
European Network
of Equality Bodies

Research

BELGIUM

UNIA (INTERFEDERAL CENTRE FOR EQUAL OPPORTUNITIES)



In 2017, Unia (Interfederal Centre for Equal Opportunities) launched a two-year research project in partnership with the National Institute of Criminalistics and Criminology (INCC) and the police of Brussels Police North (PolBruNo) to jointly identify poor policing practices, including ethnic profiling in police activity, and to simultaneously modify these practices. The research is anchored in issues related to procedural justice, including the modalities of police intervention and the quality of interaction between the police and the community. The purpose of the research is to identify best practices in Brussels North that promote positive relationships between the police and local communities and develop

recommendations so that they can be replicated in other police zones in Belgium. The research is supervised by a committee of civil society actors, police officers and academics.

DENMARK

DANISH INSTITUTE OF HUMAN RIGHTS



In 2011, the Danish Institute of Human Rights (DIHR) published a study of the legal powers and regulation of law enforcement in the realms of ordinary policing, counter-terrorism, immigration and border control, "Ethnic Profiling in Denmark—Legal Safeguards within the Field of the Work of the Police."¹ The report examined whether Danish legislation and practices contained safeguards to combat and prevent ethnic profiling.

The report highlighted the lack of guidelines for the police in relation to ethnic profiling in stop and search activity in policing, immigration control and counter-terrorism. The DIHR drew particular attention to the operation of stop and search under Section 6 of the Police Activities Act, which enabled the police to conduct stop and search for weapons without reasonable suspicion in defined "stop and search zones." While the police were required to provide evidence to show why an increased risk of violence existed within specific zones, there was no time limit on how often zone designations could be renewed. The DIHR concluded that the lack of reasonable suspicion, geographical spread of zones and lack of time limit all increase the risk of arbitrariness, which could lead to ethnic profiling. The DIHR believed that this power might contravene the right to respect for one's private and family life under the European Convention of Human Rights and recommended that the law be amended in accordance with the European Court of Human Rights judgment *Gillan and Quinton v. The United Kingdom*. The report recommended that law enforcement should systematically collect stop data, including ethnicity and outcome; improve the complaints system; and that the Parliamentary Ombudsman carry out a full pattern-and-practice investigation into ethnic profiling in Denmark.

¹ *Ethnic profiling in Denmark – legal safeguards within the field of work of the police*, The Danish Institute for Human Rights, Report, September 2011, available at: <https://www.humanrights.dk/publications/ethnic-profiling-danmark-legal-safeguards-within-field-work-police>

FRANCE

DEFENDER OF RIGHTS



In addition to its legal interventions on ethnic profiling, the Defender has undertaken survey-based research² in order to gather objective data about these practices and impacts on trust towards police and judicial institutions. Conducted in metropolitan France at the beginning of 2016, the survey covered a representative sample of more than 5,000 people. The first part of the publication, published early 2017, dealt with the results related to the behaviour of national security forces. In a context where stops are not systematically recorded, this has provided data that may be used as evidence in legal proceedings as well as to increase public awareness of ethnic profiling. The survey also helped to

improve the Defender's knowledge in its four areas of expertise as Ombud, National Equality Body, Defender of Children's Rights and National Police Complaints Commission.

The investigation revealed that, although for the majority of respondents, relations with the police were satisfactory, specific groups of people reported more contrasting experiences. In particular, young people aged 18-25 reported seven times more checks than the general population, and men perceived as black or Arab five times more checks. If we combine these two criteria, 80% of people with the profile of "young man perceived as black or Arab" said they had been checked in the last five years, against 16% for the rest of the respondents. Compared to the general population, and all other things being equal, these profiles are 20 times more likely to be stopped and searched than others. These groups reported having been more often subject to familiarity, that is, the use of "tu" as opposed to "vous" (40% of them against 16% of the total sample); insults (21% of them against 7% of the total sample); or brutality (20% of them against 8% of the total sample) during the last identity check.

These negative experiences and the frequency of checks were associated with deteriorated relations and a low level of trust in police. Those who experienced breaches of professional ethics during identity checks rarely made complaints about these. The main reason was a belief that the complaints would be ignored.

The Defender has also conducted a comparative study³ surveying different measures to reduce discrimination during identity checks.

HUNGARY

OFFICE OF THE COMMISSIONER FOR FUNDAMENTAL RIGHTS



In the spring of 2011, right-wing extremist, anti-Roma vigilante groups descended on the segregated Roma settlement of the Hungarian town of Gyöngyöspata (in Heves County) to harass its inhabitants under the guise of conducting "patrolling" activities to curb what they defined as "gypsy crime." Often dressed in military-like uniforms and wearing black facemasks, members of the group intimidated Roma, including children, through racial slurs and verbal abuse, following them in close proximity around the village and approaching them with axes, whips or other improvised weapons.

The Commissioner issued two reports with regard to the events in Gyöngyöspata. In the first report,⁴ published in April 2011, the Commissioner found, inter alia, that the police failed to apply the relevant laws against the extremists

² *Relations police/population : le défenseur des droits publie une enquête sur les contrôles d'identité*, Defender of Rights, Report, January 2017, available at: <https://www.defenseurdesdroits.fr/fr/etudes-et-recherches/2017/01/enquete-sur-laces-aux-droits-volume-1-relations-police-population-le> (in French). *Relations between the Police and the Population Relations: The Defender of Rights publishes a survey on identity checks*, Defender of Rights, Press release, January 2017, available at: https://www.defenseurdesdroits.fr/sites/default/files/atoms/files/170120-cp-ddd-enquete_relations_police_population-en_1.pdf.

³ *Relations police-citoyens et contrôles d'identité*, Defender of Rights, Report, May 2014, available at: <https://www.defenseurdesdroits.fr/fr/outils/relations-police-citoyens-et-controles-didentite> (in French).

⁴ *A nemzeti és etnikai kisebbségi jogok országgyűlési biztosának jelentése a 2011 márciusában történt gyöngyöspatai események és a hasonló jelenségek veszélyeiről*, Office of the Commissioner for Fundamental Rights, Report, April 2011, available at: <http://www.kisebbségiombudsman.hu/data/files/203198066.pdf> (in Hungarian).

and made several recommendations to the police. In November 2011, the Commissioner's office conducted an on-the-spot investigation without previous announcement in the small town. The investigation identified ⁵ discriminatory practice of initiating minor offence cases and imposing fines against the Roma, as evidenced by complaints and media reporting. The Commissioner's office interviewed local residents and collected complaints on the spot; interviewed local authorities; observed the legality of residents' activities on the sidewalk and the streets; and reviewed relevant documentation of local authorities and the police. Upon consultation with the local Roma self-government, the Commissioner used family names and place of residence based on segregated Roma streets as proxies for ethnicity ⁶, and concluded that the police applied a wide margin of appreciation in case of minor offences and they disproportionately concentrated their activities on Roma streets and residents. The Commissioner found that rather than intervening to protect the villagers, the police started imposing fines on Roma for the most minor offences during the "invasion" of extremists, following an apparently deliberate practice of singling Roma out for this treatment. These violations included walking or pushing a stroller on the street as opposed to the dilapidated sidewalk; throwing away cigarettes or seed shells on the street; the lack of compulsory bicycle accessories, even when the bike was merely being pushed to transport sacks of flour and potatoes. The police usually overlooked similar violations in the case of the non-Roma, including the extremists.

The Commissioner made several recommendations to the National Police Chief. He suggested the police review its practice concerning minor offences in Gyöngyöspata and compare it to other settlements of a similar size and population composition. If that revealed discriminatory treatment, the Commissioner recommended that the police take the necessary steps to remedy and prevent such treatment, and develop a policy concerning the handling of minor offences.

The Hungarian Civil Liberties Union (HCLU), a prominent human rights organization, used the Commissioner's report as part of its evidence to substantiate the discriminatory nature of the police's fining practice in an *actio popularis* case against the Heves County Police Department. In its lawsuit, the HCLU alleged, among other things, that the police violated the Roma's right to equal treatment by engaging in ethnic profiling against the Roma through their fining practice for petty offences that they disproportionately targeted against the local Roma in comparison to the local non-Roma.

SPAIN

COUNCIL FOR THE ELIMINATION OF RACIAL OR ETHNIC DISCRIMINATION



In 2012, the Council for the Elimination of Racial or Ethnic Discrimination collected complaints on police discrimination in the framework of a survey, which included a question on ID checks on the street. Respondents were asked whether they believed they had been asked for their identity papers on the street for no apparent reason in the previous 12 months. In its report published on the basis of the survey, ⁷ the Council found that ID checks based on people's ethnic or racial origins were perceived to be a pattern of practice: 32.1% of all respondents reported having been stopped on the street for no apparent reason, other than their ethnicity or race. ⁸

⁵ *A nemzeti és etnikai kisebbségi jogok országgyűlési biztosának utóvizsgálati jelentése a közfoglalkoztatásról, a szabálysértési hatóságok eljárási gyakorlatáról és az oktatás helyzetéről Gyöngyöspatán*, Office of the Commissioner for Fundamental Rights, Report, December 2011, available at: <http://www.kisebbségiombudsman.hu/data/files/223419918.pdf> (in Hungarian).

⁶ Relying on the methodology and principles established in a joint report on ethnic data written by the Parliamentary Commissioner for National and Ethnic Minority Rights and the Data Protection Commissioner: *Dr. Kállai Ernő a nemzeti és etnikai kisebbségi jogok országgyűlési biztosa és Dr. Jóri András adatvédelmi biztos jelentése az etnikai adatok kezeléséről szóló vizsgálat megállapításairól*, Offices of the Commissioner for Fundamental Rights and the Data Protection Commissioner, Report, November 2009, available at: <http://www.kisebbségiombudsman.hu/data/files/158627216.pdf> (in Hungarian).

⁷ *Estudio anual sobre la discriminación por el origen racial o étnico: la percepción de las potenciales víctimas*, Council for the Elimination of Racial or Ethnic Discrimination, Report, November 2012, available at: https://www.mschs.gob.es/ssi/igualdadOportunidades/noDiscriminacion/documentos/panel_discrimi_2011.pdf (in Spanish).

⁸ With 43% of Sub-Saharan/Black Africans, 36.7% of Indo-Pakistanis, 35.3% of Andeans, 35% of Afro-Latinos/Afro-Caribbeans, 34.7% of North-Africans, 29% of the Roma, 25.3% of Eastern Europeans and 12.3% of Asians having reported such ID checks: *ibid*, p. 68.

diskriminerings ombudsmannen



In 2013, a Swedish newspaper revealed that the police in Skåne County retained a register of approximately 4,700 Swedish Roma citizens (or people married to them), including around 1,000 minors and 200 deceased people. In 2014, the Equality Ombudsman launched an investigation⁹ and issued a decision on the registry.¹⁰ In her decision, she concluded that “registration of persons with a particular ethnic origin can be a sign that ethnic profiling takes place as an established working procedure” and that “it cannot be eliminated that the police authority in Skåne uses ethnic profiling in their crime fighting operations.” She recommended the Skåne police investigate the occurrence of ethnic profiling in

its operations and take measures to eliminate it as necessary.

When the Swedish human rights NGO, Civil Rights Defenders (CRD), sued the state in 2015 in an effort to prove in court that the individuals registered had been subjected to discrimination and the register constituted a case of ethnic profiling, lawyers with CRD referred to the Equality Ombudsman’s decision on the register as part of their written evidence substantiating their discrimination allegations. Moreover, while the Equality Ombudsman cannot intervene or submit amicus briefs in litigation, CRD relied on the testimony of an expert witness on Roma issues from the Equality Ombudsman’s office during court proceedings.



⁹ While the Equality Ombudsman does not have investigative powers over the police, the Office can investigate police officers’ allegedly discriminatory attitude (so for example, the Equality Ombudsman cannot investigate police officers’ decisions to stop and search someone, only their behaviour during the activity). In the current case, the Equality Ombudsman justified the investigation by holding that the registry could be an indication that the police used ethnic profiling as a working method, and since viewing persons of a particular group as potentially more criminal than others could affect the comportment of individual police officers vis-a-vis members of that group, there was a risk of violation under the Discrimination Act.

¹⁰ *Ärende GRA 2013/617 handling 34*, Equality Ombudsman, Decision, 20 February 2014, available at: <http://www.do.se/globalassets/stallningstaganden/ovriga/stallningstagande-beslut-med-rekommendationer-till-polismyndigheten-gra-2013617.pdf> (in Swedish).



In 2010, Great Britain's Equality and Human Rights Commission (EHRC) published "Stop and think: A critical review of the use of stop and search powers in England and Wales."¹¹ Using data from the Ministry of Justice, the Home Office, the Metropolitan Police and the Office for National Statistics, the Commission analysed trends in stop and search use around the country. For each police force, the Commission examined two measures:

- the disproportionality ratio (how much more likely black and Asian people are to be stopped and searched than white people); and
- the number of 'excess' searches (how many more stops and searches are conducted on black and Asian people than would be the case if they were stopped and searched at the same rate as white people).

The report highlighted that black people were at least six times and Asian people around twice as likely to be stopped and searched as white people. After examining the justifications put forward for these disparities, the EHRC concluded that the evidence pointed to racial discrimination being a significant reason why black and Asian people were more likely to be stopped and searched than white people, and that stop and search powers were being used in a discriminatory and unlawful way.

The EHRC has since conducted thematic inspections into specific stop and search powers and issues. In 2011, the EHRC investigated race disproportionality in stops and searches under Section 60 of the Criminal Justice and Public Order Act 1994.¹² This is an exceptional stop and search power that allows people to be searched without reasonable suspicion in a defined area where there is a threat of violence. The Commission wrote to 40 police forces in England seeking information about their use of Section 60, specifically relating to the frequency of, and rationale for authorizing the power in particular geographical areas and for set periods of time. The responses received showed discrepancies in the data collected by forces and shared with the government. The analysis showed that people from some ethnicities were stopped significantly more often than other people under this power. Yet, the information provided on the authorisations did not provide enough information to justify the disproportionate number of black, Asian, and mixed ethnicity people the police stop and search. The EHRC concluded that some police forces failed to have due regard to their public sector equality duty obligations and had to undertake analysis of their use of these powers and to justify the problem of race disproportionality.



¹¹ *Stop and Think: A critical review of the use of stop and search powers in England and Wales*, Equality and Human Rights Commission, Report, 2010, available at: <https://www.equalityhumanrights.com/en/publication-download/stop-and-think-critical-review-use-stop-and-search-powers-england-and-wales>.

¹² *Race disproportionality in stops and searches under Section 60 of the Criminal Justice and Public Order Act 1994*, Equality and Human Rights Commission, Briefing Paper No.5, 2012, available at: <https://www.equalityhumanrights.com/sites/default/files/briefing-paper-5-race-disproportionality-in-stops-and-searches-under-s60-of-criminal-justice-and-public-order-act-1994.pdf>.

Legal Casework

CYPRUS

OFFICE OF THE COMMISSIONER FOR ADMINISTRATION
AND HUMAN RIGHTS (OMBUDSMAN)



The Ombudsman's Office receives and investigates ethnic discrimination complaints submitted by individuals (regardless of residency status in Cyprus) and sends reports to the implicated authority with views and recommendations for resolving the complaint. The Office has received numerous complaints alleging ethnic profiling by the police specifically.

In 2007, the police arrested 28 Chinese women on charges of engaging in prostitution. None of the women admitted to the charges, neither was the supposed offense proven. Still, the police recorded these women as having committed the offense and all were deported. In 2009, the police conducted

massive housing raids, leading to 150 migrants arrested, transferred to police stations, and the legality of their stay in Cyprus assessed—only 36 were found to lack documentation.¹³ In 2010, the equality body found¹⁴ that the policing activities employed in these two operations were motivated by a presumption of guilt on the basis of ethnicity, and were contrary to the principle of non-discrimination, negatively affected one's dignity, contributed to xenophobia and were unconstitutional. The office recommended that the police adopt measures that ensure, among other things, that police checks are not based on a presumption that ethnicity is a basis for suspicion for committing an offense; ethnic profiling should be defined and prohibited by law, and the police should reinforce this by issuing guidelines; and the police should hire migrants as officers to reinforce trust in the community.

In 2015, the office reviewed the police's treatment of an unaccompanied minor asylum seeker who was ID checked by the police while he was in the schoolyard with his girlfriend. He was brought to the police station, where his DNA and fingerprints were obtained, he was interrogated for a string of burglaries and was physically abused. The Office found¹⁵ that this treatment was prompted solely by the minor's background and immigration status. The Office concluded more broadly that ethnic discrimination by the police was a real phenomenon within the Cypriot police force. The Office recommended that Cypriot law include a provision requiring the police to proactively identify such discrimination as well as prohibit on-the-spot verification and other forms of police control based on perceived ethnic origin or religion. Furthermore, the Office recommended that guidelines on such practice be issued to all officers, that mechanisms for monitoring police conduct and recording police controls be implemented, and that education regarding ethnic profiling be integrated into police training.

In 2017, the Office submitted a report¹⁶ regarding an on-the-spot verification of a group of individuals who were stopped by the police because the group was non-Cypriot. The Office noted that arbitrary targeting by the police based on ethnicity weakens efforts to cultivate a climate of acceptance and trust in the community. The Office recommended that the Police Law include a provision that defined and prohibited police action initiated due to perceived ethnicity or religion; that guidelines regarding such action be issued to all police officers; that a mechanism for recording controls be implemented; that monitoring police action for purposes of gathering statistics, correcting improper action, and imposing sanctions when necessary, be employed; and that training for police officers of all levels include a specific program on the avoidance of using methods that discriminate on the basis of ethnicity.

¹³ *Report on Measures to Combat Discrimination, Directives 2000/43/EC and 2000/78/EC, Country Report 2010, Cyprus*, Corina Demetriou for European Network of Legal Experts in the Non-Discrimination Field, January 2011, available at: <https://www.refworld.org/pdfid/4ed658c82.pdf> [as described on pp. 31-32].

¹⁴ *Έκθεση της Αρχής κατά του Ρατσισμού και των Διακρίσεων αναφορικά με τις επιχειρήσεις της Αστυνομίας για έλεγχο, σύλληψη, κράτηση και απέλαση μεταναστών με συνοπτικές διαδικασίες*, Office of the Commissioner for Administration and Human Rights (Ombudsman), Report, June 2010, available at: [http://www.ombudsman.gov.cy/Ombudsman/Ombudsman.nsf/All/854BD576E4DA8069C225838C0048E8AC/\\$file/AKR123.2009.doc/](http://www.ombudsman.gov.cy/Ombudsman/Ombudsman.nsf/All/854BD576E4DA8069C225838C0048E8AC/$file/AKR123.2009.doc/) [in Greek].

¹⁵ *ΕΚΘΕΣΗ ΤΗΣ ΑΡΧΗΣ ΚΑΤΑ ΤΩΝ ΔΙΑΚΡΙΣΕΩΝ ΑΝΑΦΟΡΙΚΑ ΜΕ ΜΕΤΑΧΕΙΡΙΣΗ ΠΡΟΣΩΠΟΥ ΑΠΟ ΤΗΝ ΑΣΤΥΝΟΜΙΑ ΣΤΗ ΒΑΣΗ ΕΘΝΟΤΙΚΟΥ ΠΡΟΦΙΛ*, Office of the Commissioner for Administration and Human Rights (Ombudsman), Report, November 2015, available at: [http://www.ombudsman.gov.cy/Ombudsman/Ombudsman.nsf/All/7DA7435AA1C3A4E5C2257F1500453DD7/\\$file/%CE%91%CE%9A%CE%A187_2011_17112015.doc?OpenElement](http://www.ombudsman.gov.cy/Ombudsman/Ombudsman.nsf/All/7DA7435AA1C3A4E5C2257F1500453DD7/$file/%CE%91%CE%9A%CE%A187_2011_17112015.doc?OpenElement) [in Greek].

¹⁶ *ΕΚΘΕΣΗ ΑΡΧΗΣ ΚΑΤΑ ΤΩΝ ΔΙΑΚΡΙΣΕΩΝ αναφορικά με τη Δράση της Αστυνομίας στη Βάση Εθνοτικού Προφίλ*, Office of the Commissioner for Administration and Human Rights (Ombudsman), Report, January 2017, available at: [http://www.ombudsman.gov.cy/Ombudsman/Ombudsman.nsf/All/64C2723F22D1AEE9C22580D5003DB6F5/\\$file/%CE%91%CE%9A%CE%A121.2013-31012017.doc?OpenElement](http://www.ombudsman.gov.cy/Ombudsman/Ombudsman.nsf/All/64C2723F22D1AEE9C22580D5003DB6F5/$file/%CE%91%CE%9A%CE%A121.2013-31012017.doc?OpenElement) [in Greek].

FRANCE

DEFENDER OF RIGHTS



The French Defender of Rights has been very active in litigation concerning ethnic profiling in the form of discriminatory identity controls conducted by police forces. This has included intervening as *amicus curiae* before courts in order to make oral and written arguments on:

- positive obligations upon the state to address discrimination and provide an effective remedy;
- the legal framework on identity checks and standards for stop and search, recording and accountability;
- shifting the burden of proof onto the state to show that there was no discrimination in the case; and
- the value of statistics as proof.

These interventions have been at all levels ¹⁷ of court at national level, as well as in the European Court of Human Rights in relation to proceedings against Spain. The interventions culminated in a successful decision in France's highest court. The case concerned 13 young French men of North African or sub-Saharan origin who were stopped by the police. Following input from the Defender at both the appeals stage and the Court of Cassation, the Court held that:

- non-discrimination law applies to stop and search cases (which had been disputed by the state); and
- the burden of proof must be shifted to the state once the claimant has established a prima facie case of discrimination.

HUNGARY

EQUAL TREATMENT AUTHORITY

In the summer of 2018, a young Roma man, who was working at the Budapest airport at the time, was ID checked by the airport police while eating his lunch on a bench under an escalator. Alleging the ID check constituted discrimination, harassment, and ethnic profiling, the man launched a complaint before the Equal Treatment Authority. He claimed that the police only ID checked him and two other (Roma) persons with darker skin and submitted a video recording he took on his cell phone of the encounter.

At the Authority's request, the airport police submitted data on the ID checks it had conducted at the airport on the day in dispute. The data set included the names of all (Hungarian and foreign) people subjected to ID checks, and in the case of Hungarian citizens, it also contained their mother's name and their address. During its investigation, the Authority reviewed the claimant's video recording, on the basis of which it could not determine whether the two other people subjected to ID checks by the police had darker skin or were of Roma ethnicity. The Authority also analysed the data set, which contained information on 52 Hungarian and 16 foreign citizens. In relation to the foreign citizens subjected to ID checks, the Authority concluded it could not conclusively determine their skin colour, not even in the case of one of the foreigners whose name sounded Arabic or Middle

¹⁷ *Décision MDS-2016-132 du 29 avril 2016 relative à des contrôles d'identité discriminatoires*, Defender of Rights, Report, 29 April 2016, available at: https://juridique.defenseurdesdroits.fr/index.php?vl=notice_display&id=18452 [in French].

Eastern. In terms of the Hungarian citizens, the Authority used their name, their mother's name and their address as proxies for ethnicity, determining that beyond the claimant two other people (different from the people the claimant had identified as Roma) could be assumed to have Roma background. The Authority concluded that even if it presumed that the person with the Arabic or Middle Eastern name, the two people the claimant identified as Roma, and the two people the Authority assumed might be Roma, all had darker skin, the airport police would have still only ID checked 6 people with a darker skin colour, including the claimant. This would have amounted to merely 7 per cent of all the people subjected to ID checks by the airport police that day. Therefore, the Authority could not conclude that the airport police had disproportionately focused on Roma or darker-skinned individuals or that the claimant had been subjected to an ID check due to his Roma ethnicity or darker skin colour.

The complainant did not appeal the Authority's decision in court.

In 2011, the clerk of Rimóc—a Hungarian village with a majority non-Roma population—complained to the Authority that the police were targeting the Roma with spot fines for the lack of compulsory bicycle accessories. The Authority launched an ex officio investigation against the Nógrád County Police Headquarters to determine whether the fining practice of the police constituted direct discrimination on the grounds of skin colour or ethnicity.

In a hearing, the Authority interviewed the clerk, the superior of the police officers who had handed out the fines, the local chief of police and the county chief of police. During the proceedings, the police denied any ethnic motivation in their fining practice, arguing that each fine was lawful and that the police do not register the ethnicity of offenders. The Hungarian Helsinki Committee (HHC), a prominent human rights organization, entered the proceedings, carrying out actio popularis litigation on behalf of the public interest.

The Authority ordered the police to present its records of spot fines in the region, including Rimóc, during the period between January 1 and September 5, 2011. Using family names (common Roma Hungarian names in the region) and place of residence based on the segregated Roma settlement in Rimóc—all included in the records—as proxies for ethnicity, the HHC was able to determine that in 97 per cent of the cases, the people stopped and fined for the lack of bicycle accessories were Roma. Moreover, utilizing data from the 2001 census, sociological studies as well as representative samples by the Hungarian Academy of Sciences, the HHC estimated that Roma people make up 15-25 per cent of the population of Rimóc. An analysis of online second-hand bicycle advertisements from the county and a field trip to Rimóc revealed that over 80 per cent of the bicycles observed lacked some mandatory accessories. The HHC also observed non-Roma people using bicycles not adequately accessorized in the village.

The case eventually ended in a settlement¹⁸ between the Nógrád County Police Headquarters and the HHC before the Authority. The police acknowledged that the cumulative effect of the lawful police measures might have led to ethnic disproportionality, but asserted that such disproportionality could not have been substantiated or recognized by the police for the lack of data on the offenders' ethnic affiliation.

As part of the settlement, the police in Nógrád county agreed to send 20 officers to a three-day anti-discrimination training organized by the Authority; to call the attention of its employees to the content of the settlement as well as the anti-discrimination requirements under Hungarian law; to provide the Authority with data on petty offences related to bicycle usage in the region for two years; and to offer obligatory bicycle accessories free of charge to the Roma self-government.

¹⁸ EBH/190/2012, Equal Treatment Authority, Case summary, 2012, available at: <http://www.egyenlobanasmod.hu/index.php/hu/jogeset/ebh1902012> (in Hungarian).

UNITED KINGDOM

EQUALITY AND HUMAN RIGHTS COMMISSION



Following the publication of the report “Stop and think: A critical review of the use of stop and search powers in England and Wales,” the Commission (EHRC) applied criteria, including extent of disproportionality and trends, to identify five forces for further inquiries. It found that the forces’ explanations for disproportionality were not firmly substantiated by evidence. The EHRC therefore initiated legal compliance action against two forces, Leicestershire and Thames Valley, which in each case was subsequently succeeded by a formal agreement detailing a programme of action over 18 months. The three other forces were taking their own measures to address the issue, which the EHRC closely monitored.

In 2013, the EHRC published “Stop and think again: Towards race equality in police PACE stop and search” and found that the forces had improved their potentially unlawful use of stop and search powers, while continuing to see a reduction in crime rates.¹⁹ Overall, the EHRC concluded that the key steps taken to reduce disproportionality appeared to be: targets for reduction, and for reducing negative drug searches; training in “reasonable grounds” for using stop and search powers; steps to ensure intelligence-led practice rather than practice based on “hunches” or generalisations about groups; micro-monitoring to identify local or individual racially skewed patterns and challenging them; and senior level commitment and leadership.

EQUALITY COMMISSION FOR NORTHERN IRELAND

Equality Commission
FOR NORTHERN IRELAND

In 2016, the Equality Commission for Northern Ireland supported the case of a black woman who was stopped by an immigration officer after she had dropped her mother-in-law off at the airport in Belfast. The woman complained that the immigration officer asked for a passport or other identity documentation and told her that she looked “foreign.” The Commission raised the case with the Home Office, who settled it for £2000 without admission of liability. The Chief Commissioner stated that he found the case disturbing, highlighting that the woman had felt singled out because of her skin colour and had her identity questioned in the full gaze of the public.²⁰

¹⁹ *Stop and think again: towards race equality in police PACE stop and search*, Equality and Human Rights Commission, Report, 2013, available at: <https://www.equalityhumanrights.com/en/race-britain/stop-and-think-again>.

²⁰ *Race case supported by Commission settled with Home Office*, Equality Commission for Northern Ireland, Case summary, 2016, available at: <https://www.equalityni.org/Footer-Links/News/Individuals/Race-case-supported-by-Commission-settled-with-Hom>.

Engagement with Law Enforcement

BELGIUM

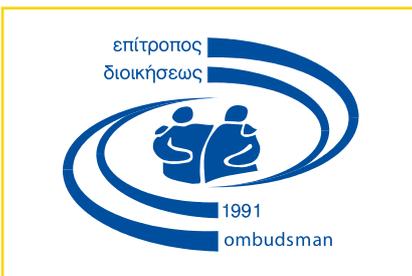
UNIA (INTERFEDERAL CENTRE FOR EQUAL OPPORTUNITIES)



For over twenty years, Unia has collaborated with the Belgian police to address ethnic profiling by the police and within the force, through diversity trainings, network support and structural diversity projects.²¹ Unia's trainings for the police highlight, among other things, the negative impact that ethnic profiling has on the police's relationship with the public; facilitate knowledge transfers of best practices between police forces nationally and internationally; and support exchanges between the police, advocates and those who have experienced ethnic profiling.

CYPRUS

OFFICE OF THE COMMISSIONER FOR ADMINISTRATION AND HUMAN RIGHTS (OMBUDSMAN)



The Cypriot Ombudsman's Office regularly provides training on ethnic profiling to the police academy, including training for new recruits and in-service training for officers. During trainings, participants are presented with real-life examples of ethnic profiling by the police in Cyprus to demonstrate the problem. Moreover, trainings are conducted in a workshop format to encourage active participation.

FINLAND

NON-DISCRIMINATION OMBUDSMAN



The Ombudsman has provided training to police officers as well as border guards. This has covered issues such as the legal prohibition on ethnic profiling; the reasons for this prohibition; and the steps that authorities should take to prevent ethnic profiling.

²¹ *Police and the law, Unia, Webpage*, available at: <https://www.unia.be/en/areas-of-action/other-areas-of-action#Police-and-the-law>.

FRANCE

DEFENDER OF RIGHTS



The Defender’s research has also been used as a training tool when engaging with law enforcement both as part of the initial training of student peacekeepers and “cadets de la République,” as well as with the trainers of the national police in the context of vocational and professional training.

GERMANY

FEDERAL ANTI-DISCRIMINATION AGENCY (FADA)



FADA offers police trainings on the Equal Treatment Act and the protected grounds of discrimination. Trainings include instruction on ethnic profiling as well as police officers’ personal rights as employees, allowing for a more sympathetic approach to the problem of discrimination. Trainers use video testimony to raise awareness of citizens’ perceptions of police conduct in relation to ethnicity. Participating police officers and their leaders have expressed an interest in in-depth follow-up training on ethnic profiling. FADA is currently preparing sessions that will focus exclusively on ethnic profiling, with an aim of including such trainings in the regular curriculum of police academies.

POLAND

COMMISSIONER FOR HUMAN RIGHTS



In 2016, the media reported that as part of the security operation related to the upcoming World Youth Day, an international event organized by the Catholic Church in Krakow, the police interviewed and collected data from participants who came from a Muslim country or were Muslim. Polish students living in the same dormitories were exempt from those interviews. The interviewed students were asked about their daily routine and who they lived with; needed to produce their phone and ID numbers; and the police checked if the windows in their dormitory rooms faced the street. Based on the press coverage alleging racial or religious discrimination, the Equal Treatment Team of the Commissioner for

Human Rights launched an ex officio investigation into the police operation.

The Commissioner in a general motion ²² issued to the Regional Head of the Police ²³ requested an explanation on the actions taken by the police. The Commissioner informed the Regional Head of the Police of his concerns that the police activities were conducted on the basis of ethnic profiling.

²² Based on Article 14(2) of the Act on the Commissioner for Human Rights, if as a result of an evaluation of a given case, the Commissioner observes a violation of freedom and rights, he may refer to the agency, organization or institution, which committed such a violation.

²³ *General Motion no XI.540.14.2016.MS*, Commissioner for Human Rights, General motion, 13 May 2016.

PORTUGAL

HIGH COMMISSION FOR MIGRATION



In 2016, the High Commission for Migration signed a Protocol with the Public Security Police (PSP) to implement the TOGETHER FOR ALL Programme, which aims to promote intercultural sensitivity, prevent conflict in multicultural communities, and ensure the safety of all individuals regardless of nationality or cultural belonging, which altogether will strengthen security.²⁴ As of April 2018, the Commission has trained over 1,100 police officers on human rights and racial discrimination law, with specific focus on ethnic profiling and countering stereotypes. Training also includes instruction on diversity and intercultural dialogue, particularly when engaging with individuals belonging

to an immigrant population or a minority group. The Commission implements techniques such as using real case examples and role reversal (i.e. “putting oneself in another’s shoes”) to generate feelings of association and empathy with affected populations.

UNITED KINGDOM

EQUALITY AND HUMAN RIGHTS COMMISSION



Following the publication of “Stop and think again: Towards race equality in police PACE stop and search”, the body commissioned the College of Policing to develop a national stop and search training programme to help address unconscious bias and ensure that police officers carry out stop and search only where it is lawful.²⁵ As part of their continuing professional development, British Police officers are trained and given guidance on:

- how to decide whether to stop and search, demonstrating clear, objective and reasonable grounds before conducting a search; and
- how to handle encounters with the public.

The national training requires constables and sergeants to complete a short online training module and test, and take part in a two-day practical classroom session. Sergeants are required to take part in a further one-day course on supervising and monitoring stop and search carried out by their officers. This approach was piloted with 1,300 police officers in six police forces. An evaluation of the pilot²⁶ found that the training had some small positive effects on officers’ knowledge, attitudes and anticipated behaviours immediately after the training was delivered. Some of these effects were sustained at a three-month follow-up. No effects were found in recorded stop and search practices by officers who participated in the training (for example, regarding the quality of written grounds for search or arrest rates). The pilot training was generally well received by officers. The findings of the evaluation have been taken into account in developing the national stop and search-learning programme that was introduced across England and Wales from 2016/17.

²⁴ ACM e PSP “Juntos Por Todos”, High Commission for Migration, News article, available at: <https://www.acm.gov.pt/-/acm-e-psp-juntos-por-todos-> (in Portuguese).

²⁵ *New stop and search training and guidance for police*, Equality and Human Rights Commission, News article, 2016, available at: <https://www.equalityhumanrights.com/en/our-work/news/new-stop-and-search-training-and-guidance-police>.

²⁶ *College of Policing stop and search training experiment: An overview*, Quinton, P. and Packham, D. for College of Policing, 2016, available at: https://whatworks.college.police.uk/Research/Documents/SS_training_OVERVIEW_Final_report.pdf.

Awareness Raising

FINLAND

NON-DISCRIMINATION OMBUDSMAN



In 2018, the University of Helsinki published Finland's first study on ethnic profiling²⁷. Based on the study, which showed that people experienced ethnic profiling in contacts with private security guards, police and border control, the Ombudsman organized a meeting with police and private security companies in Helsinki. In this meeting and in other successive discussions with the actors, the Ombudsman has advocated for new methods and practices.

FRANCE

DEFENDER OF RIGHTS



The Defender has engaged in media work and organised discussions with authorities and elected officials, in addition to an international convening²⁸ on ethnic profiling. In particular, the Defender is a member of a national group entitled "Improving relations between the population and the State security forces." Created in March 2015, this group is led by the Interministerial Committee for the Prevention of Delinquency and Radicalization, and aims to identify, develop and disseminate good practices.

GERMANY

FEDERAL ANTI-DISCRIMINATION AGENCY (FADA)



In 2017, the FADA organised a panel debate regarding policing and minority groups, with specific focus on anti-gypsyism. Participants included high-level police representatives, researchers and members of civil society, including the Central Council of German Sinti and Roma. Using data and other evidence, the panel highlighted how anti-gypsy stereotypes are pervasive in policing and that profiling based on this is one of the most prevalent discrimination experiences faced by the German Romani community.

²⁷ *The Stopped: Ethnic Profiling Research Project*, University of Helsinki, Research website, available at: <http://www.profiling.fi/>.

²⁸ *Séminaire du 8 octobre 2012: Contrôles d'identité et relations police public pratiques de polices dans d'autres pays*, Defender of Rights, Seminar webpage, 2012, available at: <https://ipcan.org/fr/actualites/seminaire-du-8-octobre-2012-contrôles-didentite-et-relations-police-public-pratiques-de-polices-dans-dautres-pays> (in French).

SWEDEN

EQUALITY OMBUDSMAN

**diskriminerings
ombudsmannen**



In 2014, the Equality Ombudsman organised an international conference on ethnic profiling. The purpose of the conference was to stimulate exchange of knowledge and best practices among researchers, police representatives and civil society. The conference, which gathered around a hundred participants, included speakers from British and Swedish police forces, Open Society Justice initiative, Organization for Security and Co-operation in Europe, Office for Democratic Institutions and Human Rights and OSCE Contact Point for Roma and Sinti Issues. The conference was filmed by Swedish State television and broadcast via the internet.

In 2016, the Equality Ombudsman organised a conference on discrimination against Muslims “in light of the practice of ethnic profiling”.²⁹ The purpose of the conference was to highlight the Muslim experiences of ethnic discrimination, notably in the fields of employment and goods and services. The conference included presentations by members of Muslim civil society in Sweden and featured two reports from the Equality Ombudsman (one regarding the portrayal of Muslims in the media and the other on complaints made by Muslims to the Equality Ombudsman) as well as an account from successful litigation on ethnic profiling by the police in France. The conference was filmed by Swedish State television and broadcast to the public on TV and the internet.

Public Statements

IRELAND

IRISH HUMAN RIGHTS AND EQUALITY COMMISSION



In early 2018, the Irish Human Rights and Equality Commission made written submissions to the Commission on the Future of Policing in Ireland.³⁰ These included a clear statement that racial profiling in any form is wrong and should be dealt with appropriately, such as through disciplinary and other procedures. The Commission recommended police protocols and cultural competence training. In turn, the Commission on the Future of Policing in Ireland published its final report in 2018, recommending the establishment of a human rights strategy and unit within the police service and collaboration with the Irish Human Rights and Equality Commission to fulfil the service’s human rights and equality responsibilities.³¹

²⁹ *Kunskapskonferens om diskrimineringen av muslimer i ljuset av etnisk profilering*, Equality Ombudsman, Seminar webpage, 2016, available at: <http://www.do.se/om-do/vad-gor-do/kalendarium/tidigare-kalendariehandelser/kunskapskonferens-om-diskrimineringen-av-muslimer/> (in Swedish).

³⁰ *Human Rights and Equality Concerns Highlighted to Commission on the Future of Policing*, Irish Human Rights and Equality Commission, Public statement, 2018, available at: <https://www.ihrec.ie/human-rights-equality-concerns-highlighted-commission-future-policing/>.

³¹ *Publication of the Future of Policing in Ireland*, Commission on the Future of Policing in Ireland, Report, 2018, available at: <http://policereform.ie/en/POLREF/Pages/PB18000006>.

SWEDEN

EQUALITY OMBUDSMAN

**diskriminerings
ombudsmannen**



The Equality Ombudsman actively engages in the Swedish legislative process and has explicitly warned against the risk of ethnic profiling with respect to a proposal to grant the police further search powers with respect to the stop and search of presumed aliens; ³² a proposal granting U.S. officials the right to control travellers to the United States of America at Swedish airports; ³³ and a proposal to criminalize membership in terrorist organizations. ³⁴

THE NETHERLANDS

NETHERLANDS INSTITUTE FOR HUMAN RIGHTS

**NETHERLANDS
INSTITUTE FOR
HUMAN RIGHTS**

Despite its limited mandate, ³⁵ the Netherlands Institute for Human Rights (The College), an independent administrative body, maintains information on their website about the necessity of impartiality and neutrality in the police's engagement with the public. ³⁶ Regarding ethnic profiling specifically, the College notes in an online statement that at times stereotypes regarding ethnicity play a major role in officers' decisions to search an individual, and describes a 2016 study that found that ethnic minorities are overrepresented in proactive controls by the police that often lack objective justification. According to the College, the police must follow the Council of Europe's definition of ethnic

profiling, and as such, an officer must be able to explain every apprehension on the basis of individual behaviour and objective criteria, aside from an individual's characteristics such as ethnicity and skin colour.

³² *Klarlagd identitet - Om utlänningars rätt att vistas i Sverige, inre utlänningskontroller och missbruk av identitetshandlingar*, Equality Ombudsman, Public statement, 2018, available at: <http://www.do.se/om-do/vad-gor-do/remissvar/remissvar-under-2018/klarlagd-identitet-om-utlanningars-ratt-att-vistas-i-sverige-inre-utlanningskontroller-och-missbruk-av-identitetshandlingar/> (in Swedish).

³³ *Amerikansk inresekontroll vid utresa från Sverige – så kan avtalen genomföras*, Equality Ombudsman, Public statement, 2017, available at: <http://www.do.se/om-do/vad-gor-do/remissvar/remissvar-under-2017/over-amerikansk-inresekontroll-vid-utresa-fran-sverige--sa-kan-avtalen-genomforas/> (in Swedish).

³⁴ *Ett särskilt straffansvar för deltagande i en terroristorganisation*, Equality Ombudsman, Public statement, 2018, available at: <http://www.do.se/om-do/vad-gor-do/remissvar/remissvar-under-2018/ett-sarskilt-straaffansvar-for-deltagande-i-en-terroristorganisation/> (in Swedish).

³⁵ In The Netherlands, the National Ombudsman is the responsible body for handling police profiling-related complaints and is not a member of Equinet.

³⁶ *Bij de politie*, Netherlands Institute for Human Rights, Webpage, available at: <https://www.mensenrechten.nl/nl/bij-de-politie> (in Dutch).

