

DOCUMENT 62 :
BACKGROUND MATERIAL ON RACIAL PROFILING IN FRANCE

(a) Statistical Studies

1. *French National Scientific Research Centre Study* (2009). This observational statistical study by the French National Scientific Research Centre (CNRS) and published by the Open Society Justice Initiative was produced by the applicants before the domestic courts. The report followed a rigorous scientific methodology: researchers observed more than 500 stops over a one-year period across five locations in and around the *Gare du Nord* and *Châtelet les Halles* train stations.¹ The data revealed that, on average, persons perceived to be “black” (of sub-Saharan African or Caribbean origin) were stopped by police six times more than those perceived to be “white” (of Western European origin). Those perceived to be “Arab” (of North African or Maghrebian origin) were stopped eight times more than those perceived to be white. Furthermore, while people wearing clothing typically associated with French youth culture (including “hip-hop”, “tecktonic”, “punk”, and “gothic” styles) made up only ten percent of the population available to be stopped by police, they made up 47 percent of those who were checked. Bias ratios higher than 2.0 (i.e. group X is two times more likely to be checked than group Y) indicate potential targeting of ethnic minorities for police stops.²
2. *European Union Studies* (2010, 2011). A Eurojustis study carried out in France in the spring of 2011, also submitted to the courts, found that 25 percent of French residents from ethnic minority populations reported being stopped by police in the

¹ Open Society Justice Initiative, *Profiling Minorities: A Study of Stop-and-Search Practices in Paris*, June 2009 [The research methodology is set out at pp. 25-27] <http://www.cnrs.fr/inshs/recherche/docs-actualites/rapport-facies.pdf> ; Doc.52.

² Doc 52. pp 10, 27- 32.

prior two years, as compared to 10 percent of the ethnic majority population.³ Another study published in 2010 by the European Union Fundamental Rights Agency and also submitted to the courts, indicated that 42% of North Africans and 38% of Sub-saharan Africans surveyed were checked in the previous 12 months, as compared to 22% amongst the majority population.⁴ This survey found rates for targeting North Africans and Sub-Saharan Africans for street and vehicle stops in France that were amongst the highest percentage of stops targeting minorities in Europe.⁵

3. *Graines de France, Human Rights Watch, Open Society Justice Initiative Study* (2014). Another 2014 survey carried out by polling company Opinion Way and published by the non-governmental organisations Graines de France, Human Rights Watch and Open Society Justice Initiative confirms a continuing pattern of discriminatory checks.
4. The survey found particularly frequent stops of visible minorities. Ten percent of respondents to the survey reported that they had been stopped by police at least once in the previous 12 months, with an average of 2.65 stops per year. However, this average rose to 4.76 stops per year for people of migrant origin, and up to 8.18 stops per year for those of North African descent.⁶ Overall, 37.3 percent of those who had been stopped are of North African descent, although they make up only seven percent of the population.⁷

³ Eurojustis, CNRS, *Minorities and trust in the Criminal Justice System, French case study*, WP N° 6, May 2011, p. 25, http://www.pacte-grenoble.fr/wp-content/uploads/pdf_RAPPORT_EUROJUSTIS_opinion_poll_final.pdf.

⁴ European Union Agency for Fundamental Rights, *Data in Focus Report Police Stops and Minorities*, 2010, p. 8, <http://fra.europa.eu/en/publication/2010/eu-midis-data-focus-report-4-police-stops-and-minorities>

⁵ European Union Agency for Fundamental Rights, *Data in Focus Report Police Stops and Minorities*, 2010, p. 9.

⁶ Doc. 54, p. 35 ; Eurojustis, CNRS, *Minorities and trust in the Criminal Justice System, French case study*, WP N° 6, May 2011.

⁷ Doc. 54, p. 8 ; Eurojustis, CNRS, *Minorities and trust in the Criminal Justice System, French case study*, WP N° 6, May 2011.

5. *Human Rights Defender's Office Study* (2017). A recent survey published by the Human Rights Defender's Office (HRD study) in January 2017 carried out by polling company Ipsos adds striking new evidence demonstrating ongoing discriminatory check practices. The survey found that men perceived as black experienced frequent checks (more than five times in the last five years) at a rate over six times more than men perceived as white. Men perceived as Arab experienced frequent checks 11 times more than men perceived as white. Taking age into account as well, "80% of persons corresponding to the profile of "young man perceived as black or arab" declared being checked in the last five years (as compared to 16% amongst the remaining population surveyed). Measured against the population as a whole, and everything else being equal, these profiles have a probability 20% higher than others of being checked".⁸
6. These multiple studies provide rigorous consistent scientific evidence demonstrating a persistent pattern of discriminatory identity checks by police.

(b) Human Rights reports condemning racial profiling in France

7. For more than two decades, racial profiling has been highlighted in numerous reports by Human Rights treaty bodies, independent authorities and non-governmental organizations, calling on the French authorities to take urgent and effective action to address it. Some of these reports, summarized below, were submitted to the domestic courts by the six applicants.
8. *United Nations*. In August 2015, in its final observations during the 5th Periodic Review of France, the United Nations Human Rights Committee raised concern over continued racial profiling.⁹ This followed recommendations made in the March 2013 Universal Periodic Review of France, where the UN Human Rights Council urged the French authorities to take all necessary measures to prevent the

⁸ Doc.57, pp. 16 -17; Doc. 56.

⁹ United Nations Human Rights Committee, *Concluding Observations on the fifth periodic report of France*, UN Doc. CCPR/C/FRA/CO/5, 17 August 2015, para. 15.

ineffective and counterproductive practice of racial profiling and provide effective remedies for victims.¹⁰

9. *European Commission against Racism and Intolerance*. Since its second monitoring cycle report adopted 10 December 1999, the European Commission Against Racism and Intolerance (ECRI) has repeatedly raised concerns over this problem. Its latest report adopted on 8 December 2015, ECRI again highlighted this issue.¹¹ The French Court of Appeal decisions of 25 July 2014 took special note of ECRI's 2010 report that highlighted with concern that "...allegations persist concerning discriminatory conduct by law enforcement officials in respect of members of minority groups, in particular visible minorities.... A number of sources have stressed that racial profiling is a serious problem in the case of identity checks. Racial profiling consists in the use by the police, with no objective or reasonable justification, of grounds such as race, skin colour, language, religion, nationality or national or ethnic origin when carrying out control, surveillance or investigation activities...."¹².
10. *Council of Europe Commissioner for Human Rights*. In his report on his visit to France from 22 to 26 September 2014 Nils Muižnieks, Council of Europe Commissioner for Human Rights, condemned the fact that certain conduct by law enforcement agencies seems to contribute to hate acts and discriminatory conduct "against some people whose ethnic or religious origin or actual or supposed sexual orientation differs from that of the majority of the population." He specifically

¹⁰ Human Rights Council, Twenty-third session, Agenda item 6, Universal periodic review, 28 May 2013, Recommendations 120.97- 120.101, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G13/141/47/PDF/G1314147.pdf?OpenElement>.

¹¹ ECRI's Second Report, adopted 10 December 1999, published 27 June 2000, para. 29, <https://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/France/FRA-CbC-II-2000-031-EN.pdf>; ECRI Report on France, fifth monitoring cycle, adopted on 8 December 2015, paras. 108, 109, <https://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/France/FRA-CbC-V-2016-001-ENG.pdf>.

¹² ECRI report on France, fourth monitoring cycle, adopted on 29 April 2010, paras. 139-140, <https://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/France/FRA-CbC-IV-2010-016-ENG.pdf>

referred in this context to reports of persistent “discriminatory police checks on the basis of physical features, often referred to as *contrôles au faciès*”¹³

11. Human Rights Watch and and Christian Action for the Abolition of Torture also published reports which highlighted the impact of discriminatory identity checks on communities in France.¹⁴

Discriminatory identity checks are ineffective and counter-productive

12. Research indicates that stop and searches based on stereotypes are a particularly ineffective use of police resources. Existing research in different national contexts indicates that the proportion of offences detected through discriminatory stop practices is limited.¹⁵
13. The recent national study by the Human Rights Defender described above revealed that only 5.9% of individuals checked indicated having been taken to the police station after the check. The Human Rights Defender noted that, based on parliamentary reports, it can be estimated that “several million checks are carried out each year and about 95% of them lead to nothing.”¹⁶
14. Discriminatory checks have significant well-documented damaging impacts on police effectiveness. The National Consultative Commission for Human Rights (CNCDH) has recently described this problem as “an abcess for tensions between French police and the population”.¹⁷

¹³ Council of Europe Commissioner for Human Rights Nils Muiznieks, Report following visit to France (from 22 to 26 September 2014), 17 February 2015, paras. 19-20, [https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?coeReference=ComMDH\(2015\)1](https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?coeReference=ComMDH(2015)1).

¹⁴ Human Rights Watch, “The Root of Humiliation” Abusive Identity Checks In France, January 2012, p. 1, <https://www.hrw.org/report/2012/01/26/root-humiliation/abusive-identity-checks-france> Action des Chrétiens pour l’Abolition de la Torture, l’Ordre et la Force , March 2016, p. 17, https://www.acatfrance.fr/public/rapport_violences_policieres_acat.pdf.

¹⁵ Doc.57, p. 9; Doc.58, pp. 6-7; Doc. 56.

¹⁶ Julia Pascual and Jean-Baptiste Jacquin, “Le Défenseur des droit dénonce les contrôles “au faciès”, Le Monde, 20 Jauary 2017, http://www.lemonde.fr/police-justice/article/2017/01/20/le-defenseur-des-droits-denonce-les-contrôles-au-facies_5066029_1653578.html

¹⁷ Doc. 58 p. 6; Doc. 56 ; Doc. 61.