

THE SHARP EDGE OF VIOLENCE:

Police brutality and community
resistance of racialised groups



european network against racism

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Foreword

Here at ENAR, we are a network of organisations working at the grass roots and in the halls of government. Over the years, we have undertaken serious thinking and critical reflection about policing and related issues. Our work has in the past focused on racial profiling and institutional racism regarding hate crimes, in this report we turn specifically to racist police brutality and community resistance.

Even though brutality, excessive use of force and suppression of people's rights goes against our legal framework, we know that the police have a great level of discretionary power and that domestic law allows police to justify violent and racist practices for the safety of themselves and the public. However, it is important to understand that policing operates with a common set of norms that are part of a broader structure that sees the dehumanisation of racialised groups in a variety of ways. And these norms and this structure foster a culture of impunity where acts of racism are often not held to account.

In this report we describe events that we have seen over decades: someone gets killed and injured by the police; there are uprisings; inquiries; followed by limited change in policing practice. Of course we have included recommendations that address institutions now, as well as asking for a more transformative change, where we can define what we need from the police, rather than leaving it to the institutions alone.

It is important to reflect on the subject matter of this report, policing does not have to mean the violent, hierarchical, coercive institutions that we see today. If we were to reimagine policing, we could see it as a bottom up system that ensures the wellbeing of our communities not just the suppression of crime that benefits a small elite group.

We ask policy-makers as well as local communities to seriously consider redefining the police, rather than reforming. Reform will make limited changes, but to redefine the police will transform it and our lives.

Karen Taylor
Chair
European Network Against Racism (ENAR)

Glossary

Asylum seekers, refugees and migrants

The terms, 'asylum seeker', 'refugee' and 'migrant' are used in this report to refer to people on the move and crossing borders within and into the EU. In countries with individualised procedures, an asylum seeker is someone whose claim has not yet been finally decided on by the country in which they have submitted it. Not every asylum seeker will ultimately be recognised as a refugee, but every recognised refugee is initially an asylum seeker.¹ The terms refugee and asylum seeker refer to statuses recognised under international law but are not mutually exclusive, see the European Migration Network (EMN) Glossary of terms relating to Asylum and Migration for further details.²

Police brutality, violence and abuse

These terms refer to acts perpetrated by police and law enforcement that go beyond the actions of the police and law enforcement that are permitted by national law, delimited, within the framework of a system of adequate and effective safeguards against arbitrariness, abuse of force and avoidable accidents. In order to respect the right to life and according to the European Court of Human Rights (and Article 2 of the ECHR), the state and state actors cannot try to end your life and should take appropriate measures to safeguard life by making laws to protect you and, in some circumstances, by taking steps to protect you if your life is at risk.³

Police and law enforcement

Law enforcement officials is the broad term that includes all officers of the law such as police, whether appointed or elected, who exercise police powers, especially the powers of arrest or detention. Law enforcement officers may be employed by the state or private security firms.

Pushback and refoulement

These terms describe the unlawful act of preventing people from seeking protection on their territory by forcibly returning them to another country or territory

where they are likely to face persecution. Pushing back those seeking safety could violate the principles of non-refoulement.⁴

Racial profiling

Racial or ethnic profiling by police in Europe is a widespread form of discrimination that violates human rights norms. It refers to the use by police, law enforcement or border guards of generalisations based on race, ethnicity, religion or national origin - rather than individual behaviour or objective evidence - as the basis for suspicion in directing discretionary law enforcement actions.

Racialised groups

Racialisation is the very complex and contradictory process through which groups come to be designated as being of a particular "race" and on that basis subjected to differential and/or unequal treatment. Put simply, "racialization [is] the process of manufacturing and utilizing the notion of race in any capacity" (Dalal, 2002, p. 27). While white people are also racialized, this process is often rendered invisible or normative to those designated as white. As a result, white people may not see themselves as part of a race but still maintain the authority to name and racialise "others."⁵

Racism

Structural racism is embedded in institutions and society that reproduces poor opportunities for advancement in life and can describe the statistical representation of racial inequalities in all areas.⁶ Institutional racism refers specifically to the ways in which institutional policies and practices create different outcomes for different racial groups. The institutional policies may never mention any racial group, but their effect is to create advantages for white people and oppression and disadvantage for people from racialised groups.⁷

1 United Nations High Commissioner for Refugees, Master Glossary of Terms (2006).

2 Ibid

3 <https://www.equalityhumanrights.com/en/human-rights-act/article-2-right-life>

4 https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/glossary_search/non-refoulement_en

5 <https://www.racialequitytools.org/glossary>

6 <https://www.enar-eu.org/IMG/pdf/intersectionality-report-final-3.pdf>

7 <https://www.racialequitytools.org/glossary>

Torture

Article 1 of the UN Convention of Torture uses the term torture to refer to coercive acts by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from them or a third person information or a confession, punishing the individual for an act they or a third person has committed or is suspected of having committed, or intimidating or coercing the individual or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.⁸ Article 3 of the European Convention on Human Rights, contains an absolute prohibition on torture and inhumane or degrading treatment or punishment as well as deportation or extradition (being sent to another country to face criminal charges) if there is a real risk an individual will face torture or inhuman or degrading treatment or punishment in the country concerned.⁹ The Rome Statute of the International Criminal Court (Rome Statute), in paragraph 7, includes torture as a Crime against Humanity.¹⁰

Use of force

193 member countries of the United Nations, including the United States, have developed principles and standards to constrain the use of police power. The Universal

Declaration on Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR) are the two fundamental international instruments protecting human rights, establish the rights to life, equality, liberty and security of person, freedom from torture and cruel, inhuman or degrading treatment and freedom from discrimination. To ensure protection of these rights, experts have developed and U.N. bodies have adopted a set of international standards on police use of force during the past forty years. The U.N. General Assembly adopted the Code of Conduct for Law Enforcement Officials (U.N. Code of Conduct) which was intended to ensure law enforcement officials perform their duties with dignity and in compliance with the principles of human rights, but recognised the potential for abuse the exercise of such duties entails. A Code of Conduct provides the core set of standards for human rights compliant policing practices, concretizing the rights guaranteed through human rights treaties, including the right to life and freedom from torture and cruel, inhuman and degrading treatment and the right to equal treatment.¹¹ According to the Council of Europe, the police may use force only when strictly necessary and only to the extent required to obtain a legitimate objective and practical training on the use of force and limits with regard to established human rights principles, notably the European Convention on Human Rights and its case law, shall be included in police training at all levels.¹²

8 <https://www.ohchr.org/en/professionalinterest/pages/cat.aspx>

9 https://www.echr.coe.int/documents/convention_eng.pdf

10 <https://inquirycommission.org/website/wp-content/uploads/2021/04/Commission-Report-15-April.pdf>

11 <https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=1014&context=ihr>

12 <https://rm.coe.int/16805e297e>

Introduction

Racist police brutality and violence is more than just a form of violence against an individual, more than just hateful acts between individuals, but is a product of structural racism and a symptom of racial injustice. This report highlights incidents of police brutality from a victim's perspective. The data included in this report is based on research in five EU Member States: Belgium, Bulgaria, Croatia, France and Sweden and analysis of the impact of COVID restrictions in Greece.

Racist violence and brutality is not limited to specific enforcement practices or individual officers, but extends to the very framework of law and policy that governs law enforcement, including transparency and accountability for human rights violations by law enforcement officials.¹³ A particular feature of what can be seen as racist policing and brutality is the disproportionality of force used and targeting of racialised communities.

Section 1 of the report focuses on racialised police violence as a very real and under-recognised phenomenon in Europe. This is due to a lack of empirical research, especially research taking the point of view of victims, and a reluctance to register and match equality data with police and law enforcement statistics.¹⁴ Low numbers of complaints of police violence reflects the fear victims, specifically undocumented migrants, have of engaging with state institutions. In addition, victim complaint procedures lack independence and transparency, which lowers the willingness of victims to file complaints. The low number of complaints and lack of data is then used by states to shield themselves by denying and minimising the problem. In addition, section 1 provides an overview of policing under the pandemic in Europe, highlighting the disproportionate policing of racialised spaces like poor urban areas, informal settlements or refugee camps.

Section 2 of the report discusses government, law enforcement and police institutions denial of racist police brutality and institutional racism. Institutional racism has been revealed and documented over decades by civil society, journalists and independent inquiries in many EU Member States. This affects institutional responses to incidents of racist and violent

policing as well as the willingness of victims to report incidents of racist police violence.

The final section of the report is related to community resistance and protest, much of which were peaceful and powerful protests on the streets of Europe under the banner of Black Lives Matter. 2020 was also a year of a pandemic and with the pandemic came repressive policing practices to enforce the COVID 19 lockdown measures that resulted in violent treatment of protests and community resistance to racist police violence in Europe.

EU non-discrimination laws aim to protect individuals against direct and indirect discrimination on grounds based on racial or ethnic origin.¹⁵ State institutions such as the police and law enforcement should comply with and contribute to the protection of individual rights and freedoms. This legal framework is based on the individual's ability to make a sustained challenge but is not optimal to protect racialised groups from the impact of systemic racism and EU Member States consistently fail to reach the standards of combating racism as set out in the Race Equality Directive¹⁶. In addition, Europe's approach to managing borders perpetuates discrimination and violence against migrants and racialised groups.

It is important to note that issues of race and racism are difficult to raise in many countries. It was difficult to convince relevant stakeholders to participate in the research with some responses being: "France is not the United States" and that it is not "acceptable", to "racialise" the victims and to assert¹⁷ that "their skin colour or their origins" had "something to do" with their deaths or the way in which police officers behaved with them. It is always "something else" that is at play: at best, social class, at worst, "bad luck". In this political context, we have taken time to present the cases and incidents of police brutality that targets racialised groups as a way to better understand how and why racist policing manifests in the institutions and also through brute force in communities.

¹³ <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=25969&LangID=E>

¹⁴ Belgium research

¹⁵ <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX-:32000L0043;en:HTML>

¹⁶ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX-:32000L0043&from=en>

¹⁷ It should be noted that, in a particularly tense political context, it must be said, it was often the mere mention of the organisation behind this report, the European Network Against Racism (ENAR), that provoked these reactions. The fact that this investigation was conducted for and by an anti-racist association immediately set the framework and slowed down our interlocutors.

Methodology

This report is based on data collection and analysis of incidents of police brutality and the impact of law enforcement measures in Belgium, Bulgaria, Croatia, France and Sweden on police brutality during the period of 2015-2020 with a focus on COVID-19 related police and law enforcement measures during 2020 in Bulgaria, France and Greece.

The research took place in two phases:

Phase 1. Each research group carried out desk research, developed a literature review, contacted NGOs working on related topics and a media search to develop a list of approximately 40 cases and incidents of police brutality targeting racialised groups over the period of 2015 -2020. Given the extent and frequency of police violence, hundreds of other cases could have been included in this period alone. The list provides an indication of how police order is deployed in certain parts of Europe including the so-called French "overseas territories".

Phase 2. In phase 2 interviews were carried out, where possible, with victims, lawyers, families, for each of the cases and any further investigation to the cases based on media, NGO and legal documents to get an in-depth understanding. Each research group developed long case studies (included in this report) and submitted a report based on their intensive analysis of the cases.

In addition, an overview of policing under the pandemic in Europe was developed, including a legal review of states of emergency and types of police powers (enforcing lockdown, fines, prison sentences etc.) and an assessment of the impact on racialised groups. This overview highlights different racialised groups subjected to police brutality and at the intersection of different discriminatory grounds.

Considerations

In some cases, information from primary sources was impossible to gather due to the sensitive nature of this topic and extremely hostile environment towards racialised groups and civil society organisations fuelled by the far-right and shared by institutions and population at large. The issue of police brutality, particularly, remains a tremendously difficult subject to question or analyse and often victims of violence and their families do not report or seek support. In some cases, this has been described as an 'unspoken self-protection mechanism'.¹⁸

As part of the initial phase 1 search of cases of racist police brutality, there were cases of incidents against women of colour, children, people with disabilities and other groups. However, the cases included in this report do not include the wide range of groups that do suffer from multiple vulnerabilities and all forms of intersectional identities due to the difficulties of this subject matter and we acknowledge that better methodological approaches are required to ensure that these incidents are uncovered. ENAR anonymised the cases to reduce the risk of harm through tracing or exposing the victim's identity and profile.

Lastly much of the research took place in 2020, the year of the pandemic, which provided additional difficulties in contacting and interviewing relevant stakeholders.

18 Bulgarian researcher

Recommendations

Building on the Charter of Fundamental Rights, the Framework Decision Against Racism and Xenophobia, the Race Equality Directive and informed by the research and analysis from this project the recommendations are as follows:

EU Institutions:

- Adopt an explicit application of the Race Equality Directive to policing and to institutional violence
- EU institutions to launch a European-wide review of nationally used police techniques and methods for detaining individuals and to work with Member States to ban dangerous and life-threatening methods that can cause irreversible harm or death.
- The Fundamental Rights Agency of the European Union must provide a supervision and control mechanism that reduces the risk of abuse on return operations and pushbacks and improve transparency and accountability of these mechanisms.
- Engage more decisively with EU Member States to ensure that the allegations of unlawful behaviour and violence are properly investigated.
- Ensure the introduction of a sustainable monitoring mechanism that covers all fundamental rights violations at the border that is truly independent from national authorities and conducted with the support of civil society organisations.
- The European Commission must provide guidance on independent bodies and how they can carry out inspections of police institutions.
- Ensure the EC Rule of Law mechanism closely looks at and addresses fundamental rights, including when infringements are perpetuated by Member States and especially by the police.
- Review the nationality exemption in the EU Equality Frameworks
- Ensuring that the upcoming legislative reviews and NAPAR guidelines, both under the EU Action Plan Against Racism, address the legal gaps created by a single-axis approach to discrimination and inequality in EU frameworks
- Monitor the implementation of the Victims' Rights Directive to ensure that victims of police brutality are protected under the EU mechanism at national level.

Local and national governments and councils:

- Reallocate funds from police departments and use them for alternative services for communities which the police force cannot access.
- Invest in youth work, mental health first response trials, alternate (to law enforcement) response units, social workers and develop alternatives for public safety.
- Develop a national register or database of police brutality and abuse including in detention centers and prisons and the measures taken to curb such cases of violence. Ensure that the data allows for reliable statistical analysis.
- Ensure that police officers, forensic doctors, prosecutors, judges, lawyers and border control, private security as well as all other relevant law enforcement personnel, adopt and follow strictly, protocol to safeguard the fundamental rights of victims of police brutality and abuse.
- Where necessary, combat corruption within state institutions and ensure the protection of whistle-blowers and civil society activists from persecution and violence.
- Create an independent body to investigate all instances of police brutality, that include representatives from racialised groups at all levels.
- Invest in and create task forces to address systemic and institutional racism.
- Ensure people's right to expression, association and assembly are not criminalised in law or in practice.
- Outlaw the use of certain restraint mechanisms such as the chokehold or the ventral plating technique that have resulted in positional or restraint asphyxia.
- Medical examiners must independently and specifically categorise injuries and deaths caused in police and law enforcement custody, which includes from an initial chase, to arrest and incarceration.
- Ensure proper investigation of allegations of the racist motivation of incidents involving law enforcement and fully sanction those involved according to the legal remedies available.
- Ensure state appointed lawyers receive training to further their understanding of police brutality and how to support vulnerable victims at risk of revictimisation.
- Fund legal representation of people at risk of expulsion or deportation and provide additional guarantees in the

context of the arrest of a person with non-EU nationality and without legal residence.

Independent bodies:

- Independent bodies, such as the Ombudsman's office or equality bodies should have an active role in the process of collecting complaints from victims and witnesses of police violence. These bodies can provide active support to the judicial system in further legal proceedings against perpetrators.
- Develop clear lines for compliant mechanisms other than with the police and government institutions.
- Independent bodies should have the mandate to both investigate and hold accountable police officers and security guards who violate the parameters of their profession and fundamental rights.
- Develop independent civilian oversight bodies of the police and police complaints mechanisms.

Police forces, law enforcement, detention facilities

- Police departments and private security companies must screen out potential new employees in the application process if they have demonstrated racist sentiments.
- Limit checks and arrests for low level offenses, including for COVID related minor infractions.
- Police and law enforcement agents must be immediately separated and interrogated separately in order to avoid them aligning their stories.
- Provide written information about victims' rights, complaint procedures and deportations in a language that the migrant understands and ensure lawyers have access to their defendants.

- Law enforcement officers must be aware of the fundamental rights of migrants, especially as victims of crime who should be able to enjoy their rights regardless of their residence.
- Provide better nutrition and hygiene during arrests and incarceration.
- Offer victim status for individuals that may have been trafficked or smuggled.
- Develop and implement deescalation standards and practices.

Civil society, community organisers and human rights defenders

- Develop broad justice coalitions, where groups and activists can stay connected and support each other against oppressive measures and backlash activism, search for mutual goals in order to encourage mobilisation and share tactics.
- Identify when and how law enforcement budgets are being developed, and demand for a proportion of these budgets to be allocated to the community.
- Undertake investigatory research and establish systematised and accurate documentation of the abuse cases.
- Develop strategies for protest mobilisation to encourage public support of strategic protests.
- Develop mutual aid support for campaigns and protests to encourage participation and ensure safety during protests.
- Translate movement demands into policy changes that can be voted on and develop alternative public safety measures than policing.
- Develop programmes to support Human Rights Defenders in the frontline of the protection of anti-racist and migrants rights activists.
- Advocate for national legislation to include racial violence within state abusive practice.

Section 1: Racist police brutality in Europe



Racialised police violence is a very real and under-recognised phenomenon in Europe. This is due to a lack of empirical research, especially research taking the point of view of victims, and a reluctance to register and match equality data with police and law enforcement statistics.¹⁹ There are no official EU figures of the deaths of racialised minorities following an interaction with the police but families and activists across Europe are drawing attention to those who have died and it is becoming more difficult for government officials to deny these deaths.

| Country | Death in custody of racialised group |
|---------|---|
| Belgium | 22 racialised individuals are known to have died by excessive police force or negligence in Belgium. ²⁰ |
| Croatia | There are no known official figures, however in the period of 2015-2020 three deaths took place in the detention space of the border police station in Bajokovo. ²¹ |
| France | Between 2015 and 2020, at least 192 people died. Of these 192 deaths, we were able to identify the race of 156 people. Of those 156 people, 119 belong to racialised groups, or 76%. ²² |
| Sweden | Between 2015-2020, 18 people were shot and killed by police, but there is no information available on how many of them were racialised people. ²³ Since 2015, 28 people have died in police custody, but there is similarly no information available on how many of them were racialised people. ²⁴ Between 2012-2020, 43 people died while in jail, and 54 died while in prison. ²⁵ |

Low numbers of complaints of police violence reflects the fear victims have, specifically undocumented migrants, of engaging with state institutions. In addition, victim complaint procedures lack independence and transparency, which lowers the willingness of victims to file complaints. The low number of complaints and lack of data is then used by police forces and politicians to deny and minimise the problem.

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

19 Belgium research

20 Ibid

21 <https://www.rtl.hr/vijesti-hr/novosti/hrvatska/3287317/migrant-koji-je-prezivio-pozar-u-pritvoru-na-bajakovu-tuzio-hrvatsku-sudu-eu/>

22 Reference to Sihame's work needed

23 <https://polisen.se/om-polisen/polisens-arbete/polisens-befogenheter/hur-of-ta-anvander-polisen-skjutvapen/>

24 <https://www.dn.se/sverige/kravet-efter-45-doda-i-polisens-arrest-gor-om-lagen/?forceScript=1&variantType=large>

25 <https://www.kriminalvarden.se/globalassets/publikationer/kartlaggning-ar-och-utvarderingar/kos-2020---kriminalvard-och-statistik.pdf>

COVID-19 enforcement measures

In the midst of the 2020 COVID-19 pandemic, authorities in Europe imposed quarantines, lockdowns or other types of restrictions on freedom of movement. Law enforcement officers were given lockdown enforcement powers such as conducting police checks, imposing fines, militarising quarantines, monitoring freedom of movement, with the discretion to target groups or individuals based on discriminatory grounds. In the wake of a “second wave” of State measures in Europe, those restrictions were partially reinstated in some European countries.

There are several internationally agreed principles and standards applicable during a period when exceptional powers are deployed, for example in legally binding conventions such as the UN International Covenant on Civil and Political Rights.²⁶ Various international organisations have also issued guidelines, such as the toolkit of the Council of Europe.²⁷ In addition, civil rights violations may be challenged in international courts, like the CJEU or the European Court of Human Rights, and have binding effects on all member states.

In the context of the development of a joint EU crisis response, it is therefore important to consider how such common European guiding principles and standards are applied in the EU and its Member States in periods when exceptional powers are applicable. COVID-19 measures have a serious impact on democracy, the rule of law and fundamental rights in the European Union and for the first time these exceptional government powers have been applied to almost the entire territory of the European Union.²⁸

Policing of the pandemic highlighted the disproportionate policing of racialised spaces like poor urban areas, public space, informal settlements or refugee camps. From initial on-the-street encounters with police officers to the sentencing behaviour of the judiciary, racial and ethnic minorities are disproportionately impacted

by policing and legal enforcement of lockdowns. Marginalised groups, including racialised youth, refugees and migrants and Roma people stand to be the primary victims of this expansion in state power and the use of the police for public health issues.

In the time of the pandemic, the population expects to be protected from health risks. The enforcement of protection measures should not create additional risks on their lives. However, coercive health measures had a disproportionate impact on racialised groups during the “first wave” of the COVID-19 pandemic in Europe, as ENAR has previously reported.²⁹

During the first phase of lockdowns in March-April-May 2020, there were nation-wide obligations to stay home. However, limited access to accommodation, especially for Roma people and refugees³⁰ became a clear tension between the coercive enforcement of lockdown and the socio-economic reality of certain groups. This initial challenge highlights that certain groups require specific policies and that universal policies will protect all groups. It also demonstrates how laws and society can be structured that disproportionately impact certain groups as informal work or housing insecurity push some groups to involuntarily infringe lockdown rules.

Public health objectives and human rights are not mutually exclusive, however, the coercive enforcement of public health measures created tensions between the common safety objectives and necessary activities for survival.

Case study: COVID-19 measures - Bulgaria

Legal framework and enforcement of Covid-19 related measures

Bulgarian authorities used a series of coercive measures starting with the imposition of a state of emergency including the use of the military, the instalment of police

26 <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

27 <https://www.coe.int/en/web/roma-and-travellers/-/toolkit-for-police-of-ficers-council-of-europe-standards-on-racially-motivated-crimes-and-non-discrimination>

28 <https://www.europarl.europa.eu/cmsdata/233336/1204406EN.pdf>

29 <https://www.enar-eu.org/Covid19andracialisedcommunities>

30 The right to affordable housing: Europe's neglected duty <https://www.coe.int/en/web/commissioner/-/the-right-to-affordable-housing-europe-s-neglected-duty>

checkpoints on roads, militarised quarantines in certain neighbourhoods, mandatory testing and the use of drones with thermal sensors.

On 13 March 2020, the Bulgarian National Assembly first declared a one-month state of emergency following a unanimous vote.³¹ This was on the proposal of the Council of Ministers and on the grounds of Art. 84, item 12 of the Constitution.³² The National Assembly extended the state of emergency until 30 June.³³ This instructs the Council of Ministers to take all necessary measures to control the emergency situation in connection with the COVID-19 pandemic and in accordance with Art. 57, para. 3 of the Constitution.

Despite the lift of the state of emergency, Roma neighbourhoods remained subject to restrictions. On 23 March 2020 the National Assembly adopted the State of Emergency Measures and Actions Act (SEMA) allowing the military to enforce COVID-19 related measures which was subsequently extended until 13 May 2020.

The measures included heavy restrictions on freedom of movement with police checkpoints on roads, militarised quarantines and travel bans between cities. Roma cities and informal settlements³⁴ were additionally targeted with local authorities imposing restrictions on any entry and exit from the locality. For example, towns like Kazanlak, Nova Zagora, Roman and Sliven, with mostly Roma residents, were secluded. In some cases local authorities even built temporary walls around the neighborhoods.³⁵

In June 2020 in the city of Kyustendil, only the 12,000 residents of the Roma suburb of the city remained under lockdown beyond the lift of the lockdown and were still

prevented from leaving the settlement except with a proof of work (excluding informal work) or a medical emergency.³⁶

According to Amnesty International, "in the town of Yambol, the authorities used planes to "disinfect" the Roma neighbourhood, which registered an outbreak of infection and was kept under strict quarantine even after the nationwide state of emergency ended on 13 May."³⁷

Systemic racism dynamics and policing

Although the measures were applied at a national level in Bulgaria, the measures had an adverse and disproportionate impact on Roma communities. Aside from the adoption of restrictive and coercive measures applied disproportionately in Roma areas, public officials consistently linked the spread of the virus with discriminatory statements toward Roma people. UN experts declared they were "deeply concerned at the discriminatory limitations imposed on Roma on an ethnic basis that are overtly supported by Bulgarian State officials as part of the broader measures to prevent the spread of COVID-19."³⁸

Top officials feed the narrative that the spread of the virus was the fault of Roma people. The Prime Minister Boiko Borissov's declared "we want this state of emergency for a month. We need it because of those who violate the ban".³⁹ The Sofia District Prosecutor's Office stated that residents "of different ethnicities are deliberately flouting social distancing".⁴⁰ Bulgaria's rhetoric regarding the Roma population during the pandemic exemplifies "the social controls that states use are determined not only by medical and epidemiological evidence, but also by the ways in which societies view and understand particular disease threats and populations."⁴¹

The assumption that certain groups do not comply with coercive measures is both grounded in racism and in a deficiency in progressing socio-economic and health

31 <https://www.parliament.bg/en/news/ID/5051>

32 "Under Article 84, paragraph 12 of the Bulgarian Constitution, the National Assembly (Narodno Sabranie) has the power to introduce martial law or declare a state of emergency in all or part of the country's territory, following a motion from the president of the Republic or the government. The Defence and Armed Forces Act (Article 123) provides that in a state of emergency, the powers of state bodies and the armed forces include: restricting or banning flights by civil aircraft; controlling or banning crossing the state border; restricting traffic on the main roads; restricting railway traffic and introducing controls over passengers and freight; restricting free movement and introducing controls over citizens and vehicles." p.3

33 <https://dv.parliament.bg/DVWeb/showMaterialDV.jsp?idMat=147369>

34 "Informality is a response to exclusionary formal systems. Those who migrate to Cities for work or who are displaced from other neighbourhoods must create, through informal settlements, a subsidiary housing system to meet urgent needs that the formal housing system has failed to meet. Land at the margins of cities is often first settled informally, with informal businesses arising to respond to needs for water, sanitation, electricity, transportation, food, clothing and other necessities. These settlements provide necessary housing for the labourers and service providers on whom cities rely, yet they are criminalized, denied services, face widespread discrimination and are forced to pay exorbitant prices for basic necessities or go without." (para. 6) <http://www.undocs.org/A/73/310/Rev.1>

35 <http://www.romea.cz/en/news/world/bulgarian-officials-exploiting-fear-of-covid-19-to-discriminate-against-roma>

36 <https://www.nytimes.com/2020/07/06/world/europe/coronavirus-roma-bulgaria.html>

37 <https://www.amnesty.org/en/documents/eur01/2511/2020/en/> and <https://btvnovinite.bg/predavania/tazi-sutrin/dezinfekcira-ha-romskata-mahala-v-jambol-sas-samole.html>

38 <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=25881&LangID=E>

39 <https://sofiaglobe.com/2020/03/13/coronavirus-bulgarias-parliament-votes-one-month-state-of-emergency/>

40 <https://www.svobodnaevropa.bg/a/30498091.html>, <https://www.vesti.bg/temi-v-razvitie/tema-koronavirus/policiia-vleze-v-kv-fakulteta-i-hristo-botev-6107145>

41 Wendy Parmet, "Public Health and Social Control: Implications for Human Rights" (2009) International Council on Human Rights Policy (ICHRP) Working Paper

conditions. The Minister of Interior Mladen Marinov also suggested that measures could worsen in their coercivity against Roma residents “to protect the rest of the population”.⁴² Those statements were echoed at local level, for example the mayor of Nova Zagora, Nikolay Grozev, alleged that “Roma people were not respecting the ban on assembly and were moving around the town in large numbers”.⁴³ Likewise, the mayor of Nova Zagora Nikolai Grozev declared about Roma people “they may feel discriminated against, but there is nothing like that, and the measure is not for that purpose”.⁴⁴ The political discourse is in line with the seclusion of Romani people as experienced before the pandemic in Bulgaria.

Systemic racism dynamics and policing

According to UN experts “The placement of checkpoints since mid-March at the entrance of the already segregated Roma areas in Nova Zagora, Kazanlak, Sliven, Yambol, and Sofia – allegedly implemented as part of efforts to curb the pandemic– is a violation of Roma’s right to equality and freedom of movement, and could further expose Roma residents to the virus, especially where access to sanitation is poor such as in the Nova Zagora neighbourhood.”⁴⁵ UN experts concluded that the specific heavy police operation called ‘Respect’ which targeted Roma neighbours in Burgas and Sofia “must be brought to an end as it violates the principles of non-discrimination and equality, and adopts an overly-securitised approach that may put at risk the right to health of Roma people.”⁴⁶

When looking at the situation on the ground, the health concerns one can have regarding Roma villages and informal settlements is the failure of the State to ensure their access to health, water and sanitation as well as sustainable livelihood standards. Roma people in Bulgaria are at the intersection of different grounds of discrimination as they often are informal workers and/or migrants and may not qualify for government economic and social support programmes.⁴⁷

The Bulgarian Institute for Legal Initiatives conducted a survey in Roma neighbourhoods which concluded that within three months of lockdown in 2020 (March-May), their median income dropped by over 60%. The heavy restrictions create barriers in the daily life of Roma people in Bulgaria including for basic necessities like accessing an ATM to withdraw money, pay utility bills or go to the pharmacy.

The official justification of the State to discriminatory targeting against Roma communities was the fact that an important number of them came back from Western European countries. However, the State did not provide proof that the ones coming back were infected or posing an imminent health threat.⁴⁸ If the State is voluntarily targeting Roma communities through coercive measures without proving that they represent a public health risk, they are acting due to institutional racism in an arbitrary and discriminatory manner.

Case study: COVID-19 measures - France

Legal framework and enforcement of Covid-19 related measures

On 17 March 2020, the French authorities introduced lockdown and on 23 March they adopted a health-related state of emergency. While the lockdown was lifted on 11 May in mainland France, the health-related state of emergency remained in force until 10 July 2020. However, the lift of state of emergency was replaced by a “transitory regime” maintaining most of the restrictions except lockdown. On 2 October 2020, the Assembly voted to extend this transitory regime until April 2021 instead of the initial end on 30 October 2020. The law organising the end of the state of emergency gives the Prime Minister the right to prohibit travel, to close establishments or limit gatherings, and also allows to keep the epidemic data collected until the end of March 2021. According to the French Ombudsperson, the transitory regime running until 1 April 2021 does not differ much from the state of emergency of March.⁴⁹

42 <http://www.romea.cz/en/news/world/bulgarian-officials-exploiting-fear-of-covid-19-to-discriminate-against-roma>

43 <https://www.svobodnaevropa.bg/a/30498091.html>, <https://www.vesti.bg/temi-v-razvitie/tema-koronavirus/policiia-vleze-v-kv-fakulteta-i-hristo-bo-tev-6107145>

44 <https://www.svobodnaevropa.bg/a/30498091.html>, <https://www.vesti.bg/temi-v-razvitie/tema-koronavirus/policiia-vleze-v-kv-fakulteta-i-hristo-bo-tev-6107145>

45 <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25881&LangID=E>

46 <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25881&LangID=E>

47 <https://www.opensocietyfoundations.org/publications/roma-in-the-covid-19-crisis>

48 <https://balkaninsight.com/2020/04/22/bulgarias-marginalised-roma-feel-singled-out-in-pandemic/>

49 https://www.defenseurdesdroits.fr/sites/default/files/atoms/files/courrier_pjl_eus_1-converti.pdf

During the lockdown, the police were in charge of enforcing the measures and restricting people's access to public space and freedom of movement. Any person outside had to carry a mandatory self-authorisation stating the ground as listed in law (work, essential purchases, exercise within 1km from the house and during an hour, duty of care of a relative). Offenders faced a fine of 135 euros, and in case of four repeated offenses within thirty days they faced up to six months in prison.

Between March and June 2020, the Ministry of Interior announced 20.7 million checks were carried out which led to 1.1 million fines and 570 trials.⁵⁰ In 48% of these convictions, a prison sentence was pronounced including 26% of suspended sentences. The average length of prison sentence is 5 months.⁵¹

In parallel, the management of the health crisis differed between mainland France and French territories in the Caribbean, South America as well as in the Indian and Pacific oceans. For example, the prefecture⁵² of Mayotte also introduced a curfew on 24 March 2020. The prefecture of Guyana on 25 March imposed a curfew from 9pm to 5am. On 2 April 2020, all of Martinique and Guadeloupe were placed under curfew between 8pm and 5am.

In April 2020, the French government also announced the dispatch of a military helicopter carrier to Guyana and the West Indies where military forces are involved in the management of the pandemic. According to the Guadeloupean unionist leader Elie Domota "to make us feel like he's helping us, he's sending us a warship, and at the same time he's sending a message. Because this is not a warship that we need but masks, respirators, doctors, nurses, tests and drugs."⁵³

Beyond French overseas territories islands, local authorities also applied different measures when it came to neighbourhoods with predominantly post-colonial immigration and working class residents. This was the case for example in Nice where certain areas were subject to a longer night-time curfew than the rest of the city.⁵⁴

Similarly, in the Paris neighbourhood of Chateau-Rouge, local grocery stores were subject to different rules where they had to be closed between certain hours which was not the case for the rest of the country.⁵⁵ From March 26 to April 15, 2020, shops had to close their outdoors display and the entire shop could only open between 8 a.m. and 10 a.m. and in the afternoon between 2 p.m. and 4 p.m. Places where the police was already over represented were subject to stricter restrictions and reinforced already existing discriminatory and unlawful policing trends in those neighbourhoods.

Systemic racism dynamics and policing

France's colonial past is an essential element of the relation between the population and the police. Young men perceived as North African or Black are more likely to be subject to identity checks by the police.⁵⁶ Lockdown enforcement was another condensed representation of the usual racist patterns of policing. Police officers feel entitled in neighbourhoods and suburban areas home to working class post-colonial immigrants, to heavily control their freedom of movements and their access to public places. Routine police identity checks, for what was outside the lockdown, were suddenly justified by a public health objective.

As a striking example, Seine-Saint-Denis, the poorest district in mainland France and home to a large number of post-colonial migrants, is the one with the highest COVID-19 death rate nationally. According to the Regional Health Observatory of Île de France, this is due to dire housing conditions and the high number of Seine-Saint-Denis residents who are "essential" workers and therefore used more often public transports during the peak of the pandemic and also encountered more people during their work.⁵⁷ Additionally, this situation is exacerbated by the government's failure to provide adequate Personal Protective Equipment (PPE) for these workers.

Simultaneously to those tragic numbers, the policing and sentencing of Seine Saint-Denis residents because of lockdown were higher than in the rest of the country. On the first day of lockdown, 10% of the country's fines issued

50 Statements by the Minister of Interior, 11 May 2020, La Montagne https://www.lamontagne.fr/paris-75000/actualites/christophe-castaner-notre-doc-trine-c-est-la-confiance_13786888/. According to the monitoring platform Panier Salade, a total of 160 months prison sentence were pronounced <https://docs.google.com/spreadsheets/d/1K4ymx08TgHwspzAs6Qli1oUA2eAGLgy-li0eo-mmoAig/edit#gid=864779186>

51 <http://questions.assemblee-nationale.fr/q15/15-30545QE.htm>

52 The prefecture in France is a the local representative of the Ministry of Interior

53 <https://www.revolutionpermanente.fr/La-gestion-coloniale-de-cette-pandemie-saute-aux-yeux-Entretien-avec-Elie-Domota>

54 <https://www.nice.fr/fr/actualites/covid-19-mise-en-place-d-un-couvre-feu-entre-22-heures-et-5-heures-du-matin/mairie?type=articles&parent=root>

55 <https://www.prefectures-regions.gouv.fr/content/download/67973/444004/file/recueil-75-2020-101-recueil-des-actes-administratifs-special%20du%2026%2003%202020.pdf>

56 https://www.defenseurdesdroits.fr/sites/default/files/atoms/files/rapport-enquete_relations_police_population-20170111_1.pdf

57 http://ors-idf.org/fileadmin/DataStorageKit/ORS/Etudes/2020/covid_19_ISS/ORS_FOCUS_ISS_covid_vf_2020.pdf

were in Seine-Saint-Denis.⁵⁸ As well, the number of fines for breaching lockdown was three times higher than the national number. However, local authorities announced that respect for lockdown measures was comparable to other cities in France.⁵⁹

In the city of Seine Saint-Denis, Aubervilliers, on 19 March 2020 a 19-year-old Black woman was subject to violence because of a lockdown police check. Ramatoulaye B. went out of her apartment to buy groceries with her 7-year-old brother. Grocery shopping was one of the grounds allowing people to leave their house during lockdown. On her way back, eight police officers stopped Ramatoulaye and asked for the self-authorisation form stating the ground of each movement during lockdown. Ramatoulaye did not have this paper form. One officer tasered her in the chest which made her fall down on the ground, and another officer pinned her down.⁶⁰

This was not an isolated case of violent and disproportionate police response to an essential or work related movement. On 23 March, Yassine was leaving his apartment to buy some bread when he encountered police officers, which resulted in a head trauma.⁶¹ On 24 March Sofiane, a 21-year-old Amazon delivery driver, was severely beaten by plainclothes policemen while he was walking from his parents' home to go to work.⁶² Public authorities used the pretense of fighting the spread of the pandemic to reinforce their presence in certain areas (especially the "banlieues", i.e popular suburbs where a large part of immigrants and their children live) and target those identified as less-likely to comply with health measures. Data shows that during the first 45 days of lockdown, there were six times more deaths in custody than the rest of the time.⁶³

58 <http://www.leparisien.fr/seine-saint-denis-93/coronavirus-en-seine-saint-denis-un-nombre-record-d-amendes-police-et-justice-durcissent-le-ton-19-03-2020-8284008.php>

59 https://www.lexpress.fr/actualite/societe/selon-le-prefet-de-seine-saint-denis-le-confinement-est-globalement-bien-respecte_2122683.html

60 <https://twitter.com/nader2Binks/status/1240660649572786177>

61 <https://www.bondyblog.fr/societe/police-justice/aux-ulis-un-confinement-avec-supplement-violences-policieres/>

62 https://twitter.com/s_assbague/status/124315200008835077?s=20

63 French analysis of IPGN data: <https://www.interieur.gouv.fr/Publications/Rapports-de-l-IGPN/Rapport-annuel-d-activite-de-l-IGPN-2020/?nomobredirect=true>

Case study: COVID-19 measures - Greece

Legal framework and enforcement of Covid-19 related measures

The lockdown in Greece started on 21 March 2020 and, as in other European countries, freedom of movement was limited and people were required to fill in a self-authorisation form stating the ground for any of their movements. In case of violation of the lockdown rules, the penalty was a 150€ fine. Between 4 -18 May 2020, the authorities gradually eased the lockdown measures. In early October, discussion regarding reinstatement of lockdown measures started in the wake of the second wave.

However, from the start of the pandemic refugee camps were treated differently.⁶⁴ While the rest of the country was coming out of lockdown, the heavy restrictions applied in refugee camps were extended a first time until 21 June, then until 23 July and until 2 August, and until 15 September. Refugees in Lesbos were not allowed to move outside the camps except in small groups to seek necessity products. Enforcement of lockdown also differed between Greeks and refugees and migrants. For refugees and migrants, the self-authorisation form was not sufficient, they needed a written authorisation from the police to be able to leave the camp. According to Human Rights Watch, "Greek leaders should treat everyone – including migrants and asylum seekers – the same, without discrimination. And while restrictions on freedom of movement to protect public health can be necessary and justified, they have to be backed by scientific evidence".⁶⁵

According to Médecins Sans Frontières the police enforced "unwarranted and cruel quarantine" in the Moria camp on Lesbos island: "we cannot see the justification of the enforced mass quarantine. And what's worse, we know these measures will worsen our patients' already deteriorating mental health. The government should be protecting these people, but instead by keeping them hemmed in with COVID-19 in the camp, they are exposing them".⁶⁶ Additionally, facing the dire conditions of refugee camps and the high risk for public health, any requests for better services are met with violence at the hands of officers and riot police.⁶⁷ The European Parliament called for the "urgent preventive evacuation of the overcrowded

64 <https://www.mitarakis.gr/gov/migration/1962-dt-yma-kya-periorismou>

65 <https://www.hrw.org/news/2020/05/12/lockdown-should-not-discriminate-against-migrants-refugees>

66 <https://www.msf.org/greek-police-enforce-unwarranted-and-cruel-quarantine-moria-camp>

67 <https://corporatetwatch.org/coronaborderregime/>

camps". It is a violation of the European Union directive on reception requirements for asylum seekers (2013/33, article 8 on detention).

Systemic racism dynamics and policing

Patterns of police violence toward refugees in Greece since 2012 continued during the enforcement of COVID-19 related measures. Refugees in Greece consistently reported they were subject to violence and ill treatment by Greek police. In January 2020 just prior to the pandemic, the situation at the Evros border included cases of illegal and violent pushbacks.⁶⁸ Since the pandemic, the Border Violence Monitoring Network documented cases of 194 persons subject to collective expulsion including violence (use of batons, use of tasers, stripping of clothes and boat pushback across the Evros river).⁶⁹

On 18 May, seven families of refugees were illegally evicted without being provided alternative housing. Following a police operation with officers in riot gear, those families of about 50 people including babies and young children were left in the streets of Exarcheia in Athens.⁷⁰ This police operation is to be taken together with police enforcement of lockdown measures where refugees are a group subject to State violence and also face oppression regarding economic and social rights. In the case of right to housing, the government discontinued the housing program for refugees and asylum seekers.⁷¹ According to Amnesty International, 11,000 refugees and asylum seekers are affected as they are required to leave their accommodation.⁷²

As soon as the special COVID-19 restriction imposed on refugees started, the local organisation ARIS documented cases of violent police enforcement of restrictions on movements for refugees. For example, in the case of NL, a 28-year-old man from Cameroon who is an asylum seeker in Samos.⁷³ On March 31, NL was racially profiled in front of a grocery store in Samos and physically injured by four police officers. In another example, on 5 April a Pakistani man was subject to a violent check including degrading treatment⁷⁴ in Votanikos.

The pandemic has seen an increase in military force at borders and camps, persistent police violence and the suspension of 'rights' or legal processes. Using 'State of Emergency' legislation, the health crisis has been effectively weaponised. In March at the beginning of the pandemic in Europe, FRONTEX, the European Border and Coast Guard Agency deployed an additional 100 guards at the Greek Land Border. This is in addition to the agency's core of 10,000 officers working around Europe and an increase in fencing and surveillance technologies.⁷⁵



68 <https://www.dw.com/en/refugees-report-inhumane-treatment-by-greek-border-police/a-52109989>

69 https://www.borderviolence.eu/press-release-documented-pushbacks-from-centres-on-the-greek-mainland/?fbclid=IwAR21KOGTFjfxcbqcNl0Ma4wJSGxG7RCMZL-qXnTbHb6e-JEBtLqwd_Wnw0

70 https://www.efsyn.gr/ellada/dikaiomata/244153_shedio-exosis-10000-prosfygon

71 <https://www.mitarakis.gr/gov/migration/6153-dt-yma-apoxwrisi-prosfygon-estia>

72 <https://www.amnesty.org/en/documents/eur01/2511/2020/en/>

73 <http://www.arsis.gr/deltio-typoy-arsis-peristatika-astyn/>

74 <https://athens.indymedia.org/post/1604287/>

75 <https://corporatetwatch.org/coronaborderregime/>

Violence against migrants

Migrants across Europe experience violence and at times torture due to police and law enforcement misconduct, during forced return operations and in detention as well as illegal collective expulsions. Current EU policy that is designed to curb migration can result in the dehumanisation and criminalisation of irregular migrants. Recent EU plans to increase the number of expulsions from the EU will cost hundreds of millions of euros, create giant, opaque and unaccountable agencies and further undermine claims that the EU occupies the moral high ground in its treatment of migrants. The migration enforcement system especially targets racialised groups. The political and legal environment has changed in the last years and EU NGOs report they are less able to provide support to migrants.

Various human rights organisations have documented specific types of police violence against migrants in many EU Member States. The violence may take place at the border, during the process of forced returns and also through disproportionate use of force, arbitrary and illegal nude searches and during ID checks. There has been a longstanding recognition of the link between criminalisation of migration and targeted violence or mistreatment by racist state policies enacted and enforced by the police.⁷⁶

It is not only at the border where migrants will suffer abuse, there are consistent reports of physical and psychological violence in Belgium. In a survey of 440 persons, 51 persons testified about 101 violent incidents (of which 40 acts of physical and 61 acts of psychological violence)⁷⁷. Almost 60% of the respondents declare to have been confronted with police violence in Brussels, punches and kicks, often accompanied by derogatory and/or racist statements. The video of violence perpetrated against Slovak Joseph Chovanec in February 2018 by airport police while performing a nazi-salute is rare video evidence of the racist violence that is often hidden away or normalised in society.

More than half of the survey participants mentioned above state the violence took place at the police station especially during nude searches and the collection of fingerprints.⁷⁸ In Belgium, a police officer may only carry out a nude search if there are serious indications and strong suspicions that the person in question is carrying prohibited substances or objects.

Profiling by police and migrant law enforcement has a disproportionate impact on racialised groups, where race becomes an important factor on the likelihood of being subjected to an identity check, and can be a gateway to detention and deportation.⁷⁹

Case study: A.J. - Belgium

On the 21st of April, around 11 PM, police officers stopped A.J. at Anneessens, a neighborhood in the city center of Brussels. Police officers stopped to check a group of migrants during the first lockdown period. A.J. is an 18-year-old black man of Sudanese descent, born in Grida (Sudan). He migrated to Belgium but had no residence permit, nor is it known if he applied for one. A.J. was among that group. He was walking to a homeless shelter. The group dispersed when the police approached, but A.J. stumbled. The police vehicle stopped, and several police officers got out and began treating him very violently. They started looking in his bag and belongings and found a phone. They took his phone and began bashing it with their baton, eventually breaking the phone. The attorney of A.J. stated that this was deliberately done knowing that a phone is for migrants their only way of communicating with their homeland. The crew of the lead suspect then forced A.J. into the police vehicle and drove him away.

**"To destroy the mobile phone and for a migrant, everybody knows that that is the most valuable possession."
*Alexis Deswaef, Lawyer of A.J.***

⁷⁶ <https://www.statewatch.org/media/1321/deportation-union.pdf>

⁷⁷ https://doktersvandewereld.be/system/files/publications/downloads/MdM%20rapport%20Geweldmigratie%20NL%20HDfinal.pdf?fbclid=IwAR1M-9lf3ZTWP7aLDMMM2OM3WLunYlldHXpXPXzBVJl8_fWO2sa_hK2TuPJ0

⁷⁸ Belgium research

⁷⁹ <https://picum.org/tarajal-and-the-legacy-of-racism-in-spains-migration-system/>

They dropped him off after approximately half an hour in Kazernestraat. A darker and emptier street than where they arrested him. Whilst they dragged him out of the vehicle, a police officer went back and grabbed his pepper spray can, held A.J. by the collar, and fired pepper spray in his face from a close range. Two people witnessed the moment police officers dropped A.J. off and found him crying in the streets. They filmed the young migrant crying and talking about his broken phone. The footage showed a visibly beaten Black man mumbling and crying in his native language. He was visibly torn about his phone being broken. One of the witnesses commented on what happened whilst filming.

"One evening, we noticed a police intervention operation which already surprised us by its extraordinary and somewhat brutal nature."

*Mehdi Kassou, Director of ASBL
Plateforme Citoyenne*

Refugees and other migrants speak about the violence and abuse they've experienced at the hands of the Croatian police. The abuse ranges from humiliation and verbal intimidation to actual physical violence. Primarily young men report it, but there are instances where families, women and, increasingly, unaccompanied minors are experiencing abuse. In 2020 alone, the Croatian police spray-painted permanent orange crosses across heads of 33 people as an act of humiliation,⁸⁰ as well as 16 cases of men apprehended, fully restrained and then tortured for five hours before being returned to Bosnia and Herzegovina. For the later cases, the elements of torture reached a threshold to prompt a short notice visit by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT).⁸¹ The report on the CPT visit was adopted in November 2020 and the Council of Europe (CoE) Commissioner for Human Rights urged Croatia to publish it. In October 2021,

80 <https://www.theguardian.com/global-development/2020/may/28/they-made-crosses-on-our-heads-refugees-report-abuse-by-croatian-police>

81 European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), Council of Europe anti-torture Committee carries out rapid reaction visit to Croatia to examine treatment of migrants, published on 18 August 2020, available at: <https://www.coe.int/en/web/cpt/-/council-of-europe-anti-torture-committee-carries-out-rapid-reaction-visit-to-croatia-to-examine-treatment-of-migrants>

the Croatian Government still refuses to publish the CPT report on Croatia.⁸²

The unlawful conduct of law enforcement includes illegal collective expulsions from Croatian territory and police brutality in various forms of psychological and physical violence that amount to torture. The reports and testimonies of the collective expulsions from the Croatian territory have been well documented⁸³ together with the widespread violence inflicted on refugees and other migrants in the past four years. These expulsions are carried out in absolute lack of identification and documentation, deny access to the asylum system, and violate the procedural rights for interpretation and legal assistance. As a consequence of the non-implementation of the legal procedures, there are no remedies available.⁸⁴

In 2016, the first cases of expulsions without complying with any legal procedures from the territory of Croatia were reported.⁸⁵ From then, numerous sources including national and international institutions and NGOs UN Special Rapporteur on the human rights of migrants⁸⁶, Council of Europe Commissioner for Human Rights⁸⁷, Human Rights Watch⁸⁸, Amnesty International⁸⁹, Médecins Sans Frontières⁹⁰ have collected testimonies and have continuously been reporting on these unlawful actions. All of the reports throughout the whole period of four years are very consistent and complementary with each other, even though they use very different methodologies.

82 ECRE, AIDA 2020 Update: Croatia, updated on 28 May 2021, available at: <https://ecre.org/aida-2020-update-croatia/>; Telegram, The government has banned the publication of a European report on our treatment of migrants. What is it hiding? (Vlada zabranila objavu europskog izvještaja o našem tretmanu migranata. Što skriva?), published on 22 October 2021, available at: <https://www.telegram.hr/politika-kriminal/vlada-zabranila-objavu-europskog-izvjestaja-o-nasem-tretmanu-migranata-sto-skriva/>

83 For example: Centre for Peace Studies (CMS), Are You Syrious (AYS), and the Welcome! Initiative, "5th report on the pushbacks and violence from the Republic of Croatia: Illegal practices and systematic human rights violations at EU borders", Zagreb, 3rd of April 2019, available at: https://www.cms.hr/system/article_document/doc/597/5_5TH_REPORT_ON_PUSHBACKS_AND_VIOLENCE_20052019.pdf and other yearly Pushback Reports from the same authors; Médecins Sans Frontières, Serbia: Games of Violence, 4 October 2017; Save the Children, Refugee and migrant children injured in border pushbacks, 24 January 2017; No name kitchen: Illegal Push-backs and Border Violence Reports, Balkan Region, October 2019, available at: http://www.nonamekitchen.org/wp-content/uploads/2020/02/October_Report_2019_.pdf; No Name Kitchen, Violence Reports, on monthly basis available at: nonamekitchen.org/en/violence-reports/; Border Violence Monitoring Network Reports, available at: borderviolence.eu/category/monthly-report/

84 Croatia research

85 See: Moving Europe, Report on Push-backs and Police violence at the Serbo-Croatian border, 2.2.2016., available at: <http://moving-europe.org/report-on-push-backs-and-police-violence-at-the-serbo-croatian-border-2/>

86 <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25088&LangID=E>

87 Commissioner Dunja Mijatović, letter to Croatian Prime Minister, on 20 September 2018, available at: <https://rm.coe.int/09000016808d7db3>

88 <https://www.hrw.org/news/2018/12/11/croatia-migrants-pushed-back-bosnia-and-herzegovina>

89 <https://www.amnesty.org/en/documents/eur05/9964/2019/en/>

90 <https://www.msf.org/sites/msf.org/files/serbia-games-of-violence-3.10.17.pdf>

Since December 2019, The Danish Refugee Council (DRC) monitors the Bosnian side of the border and records incidents reported by the victims of pushbacks from Croatia to Bosnia and Herzegovina. The current average caseload of people reporting pushbacks is between 1600 and 1750 per month, the percentage of violence reported is as high as 50% of the cases. Violence may take the form of physical abuse but also practices of retention, theft or destruction of property. Personal belongings, including money, cell phones, and power banks may be retained or destroyed. Personal identification documents, including passports, attestation of intention to seek asylum and ID cards from the reception facilities are destroyed.

Case study: unidentified uniforms - Croatia

On 23 July 2020, the Centre for Peace Studies filed a criminal complaint to the State Attorney's Office in Zagreb against the unknown perpetrators due to well-founded suspicion that they tortured, humiliated and pushed back 16 refugees from the territory of the Republic of Croatia to Bosnia and Herzegovina. Five refugees who suffered serious injuries have testified on this account, one of whom had both arms and a leg broken by the perpetrators.⁹¹

Three of the victims declared themselves as Muslims, Pakistani nationals, one of them identified himself as a member of the Rajput caste. One of the interviewed victims was previously prosecuted for a crime in Pakistan.

The victims described how men in black uniforms and balaclavas tied them to an electricity pole, then beat them with batons, telescopic metal batons, gunstocks, electro shockers, hands and feet, sprayed them in the eyes, fired guns near their ears, humiliated them by rubbing mayonnaise, ketchup, and sugar into the wounds they had previously inflicted, recorded it and laughed.

The interviewed victims confirmed that torture lasted for 5 hours (from 11 pm on 26 May, until 4 am on 27 May). One of the interviewees was unconscious after the torture and claims they had sprayed his eyes to make him wake up. One of the interviewees believes the men in uniforms were drunk, while another believes they have tortured them because they identified themselves as Pakistanis and Muslims.

91 Centre for Peace Studies, CPS filed one more criminal complaint: What is the connection between Croatian police and armed men in black?, published on 23 July 2020, available at: <https://www.cms.hr/en/azil-i-integracijske-politike/cms-podnio-kaznenu-prijavu-koja-je-poveznica-policije-i-naoruzanih-nasilnika-u-crnom>; Amnesty International, Croatia: Shocking evidence of police torture of migrants, published on 11 June 2020, available at: <https://www.amnesty.org.uk/press-releases/croatia-shocking-evidence-police-torture-migrants>

After the torture, the men in black uniforms and balaclavas called the regular police who arrived in two vans, wearing blue uniforms. According to the interviewees' testimonies, the regular police then pushed them back to the borderline in the area of Šiljkovača, without inflicting additional injuries.

Bulgaria had been a main entry point to Europe and the European Union, also labelled as a transit country, however between 2015 and 2017 the country witnessed a 90 percent decline in demands from asylum seekers. The reduction is attributed to stricter border control use of fences and policies such as detentions, including for minors. A number of asylum seekers have declared being unlawfully detained, beaten and robbed by the police officials as well as by local gang groups (self-proclaimed acting border control individuals). Legal proceedings are not taken to punish those instances of aggression or violence.⁹²

In addition, many asylum seekers experienced push-back to Turkey (in 2018 including children), accompanied by use of excessive force from the side of the police.⁹³ In 2018, despite presiding the Global Compact for Safe, Orderly and Regular Migration (GCM), Bulgaria among other Eastern European countries⁹⁴ refused to endorse the document endorsed by about 150 other member states.⁹⁵ The political response of the Bulgarian authorities and the negative attitude towards migrants and refugees of the population at large is suggestive of the discrimination and hatred towards other minorities.

Case study: killing of Afghan national – Bulgaria

On 15 October 2015, the 19-year-old Afghan national Z.V. was shot to death near the Bulgarian-Turkish border when the group he travelled with was intercepted by a border police patrol. The circumstances of the incident established in a parallel field assessment by the Bulgarian Helsinki Committee (BHC) appeared radically different from those publicly stated by the government and prosecutor offices, according to information collected in the course of this study. According to the account of the organisation, there was clear evidence of non-accidental death of the 19-year-old, shot by a police officer. The BHC

92 Bulgarian research

93 Immigration Detention in Bulgaria: Fewer Migrants and Refugees, More Fences (April 2019)

94 Austria, Italy, Latvia, and Romania also abstained. The Czech Republic, Hungary, and Poland voted against the compact. Slovakia did not participate in the vote.

95 Immigration Detention in Bulgaria: Fewer Migrants and Refugees, More Fences (April 2019) <https://reliefweb.int/report/bulgaria/immigration-detention-bulgaria-fewer-migrants-and-refugees-more-fences-april-2019>

research of the case has been provided to the relevant institutional bodies to support the case. In June 2016 the Burgas Regional Prosecutor discontinued the criminal investigation against the border policeman who shot the fatal bullet, ruling out the death as “an accidental act”.

Europe has common rules to control the borders and safeguarding fundamental rights compliance is an important role for the European Commission. Member States have a responsibility, as well as Frontex, to ensure human rights compliance at the borders. However, there have been persistent reports of dehumanising treatment and push-backs, which means that people do not have the right to asylum, and border control is not operated in line with our fundamental rights. There are also significant inconsistencies and discrepancies between what monitoring groups observe as violations and the conclusions by Member States and Frontex.

The use of psychological and physical police violence as a way to prevent people attempting to cross Croatian territory again.

There have been several cases of police-dog attacks and incitements reported in Croatia. The technique of using police dogs is seen as a specific form of torture of migrants as police dogs are rare in Croatia, and that each dog responds to a single police officer. If investigations were carried out, it would be easy to identify which police officers were perpetrating these kinds of acts.

“For example, taking away their shoes and other belongings. Specifically shoes. Once they are pushed back to Bosnia, people have to walk for 20-25 kilometres barefoot, which prevents them from walking for weeks until it heals. I even heard about the case of a person who lost his leg as a consequence of such a treatment.”

Iza Thaler from Infokolpa



Use of force

Each EU Member State has rules regarding the use of coercive measures and the use of force lawfully practiced to achieve a goal that cannot be achieved in any other way: it must be reasonable and proportional. 19th century European philosophers and sociologists have described nation states as a territory in which a monopoly of violence⁹⁶ has been claimed, meaning that the state alone has the right to use or authorise the use of physical force. Violence is physical force, control or threat of either. Agents of the state such as the police or law enforcement are permitted to use violence but only within the parameters set such as there is an imminent danger for the law enforcement or the public.

Questions that law enforcement officers must ask are: is there a justification for use of force (defence of self or others, effecting an arrest, quelling a riot); is the force strictly necessary and proportionate to the aim pursued, or could lesser force achieve the desired result; does the force amount to torture or inhuman treatment; have any injuries been promptly examined by a doctor; are adequate records being kept against the possible need for an enquiry into the circumstances of the use of force?⁹⁷

Many EU Member States have clear links between colonial practices and racist violent policing, which remains a legacy of Europe's imperial history. For example, researchers have described modern French policing and repressive techniques, including police chases and chokeholds, as drawing its roots from centuries of institutionalised racism, colonialism and a history of subjugated racialised people. In France, Jean-Baptiste Colbert developed an edict aiming at reforming the police institution in 1667. He oversaw the "expansion of France's colonial empire in North America and the Caribbean, and founded, in 1664, the French East India Company. Colbert later drafted the first version of the Code Noir ("Black Code"), a racist decree policing African enslaved captives, treated as "chattel," officially enforced until 1848".⁹⁸

35. The police and all police operations must respect everyone's right to life

This Article - which is based on Article 2 of the European Convention on Human Rights - implies that the police and their operations shall not engage in intentional killings. Considering Article 2 of the European Convention on Human Rights in the light of Protocol No. 6 to the same Convention, concerning the abolition of the death penalty, it should also be excluded that the police are being used for the execution of capital punishment. Another factor is that police actions may lead to the loss of life as a result of the use of force by the police. That may not necessarily violate the respect for the right to life, provided that certain conditions are fulfilled. Article 2 of the European Convention on Human Rights, which contains the prohibition of intentional deprivation of life, requires that everyone's life shall be protected by the law. The second paragraph of Article 2 reads: "Deprivation of life shall not be regarded as inflicted in contravention of this article when it results from the use of force which is no more than absolutely necessary: in defence of any person from unlawful a. violence; in order to effect a lawful arrest or to prevent b. the escape of a person lawfully detained; in action lawfully taken for the purpose of c. quelling a riot or insurrection."

The European Code of Police Ethics
Council of Europe, Committee of Ministers

Use of restraint has been found to be more prevalent in cases of racialised individuals who have died in police custody than in deaths of white people in the UK. Police use of force has also been found to be greater amongst those with mental health problems. The UK government is being urged to stop the rollout of tasers amid concerns it has led to a "disturbing rise" in its "disproportionate" use against black people and those with mental ill health.⁹⁹

In Belgium, Article 37 of the Police Law, stipulates that "Any use of force is preceded by a warning, unless this would render this use ineffective."¹⁰⁰ 11% of the complaints to the Standing Committee on the Police (Comité P) concern non-permitted violence and 8.2% concern beatings and injuries perpetrated by the Belgian police. The race

96 https://en.wikipedia.org/wiki/Monopoly_on_violence

97 European Convention on Human Right - Articles 2 Right to life, 3 Prohibition of torture, 8 Respect for private and family life, 14 Prohibition of discrimination. <https://www.coe.int/en/web/echr-toolkit/le-recours-a-la-force>

98 <https://www.jacobinmag.com/2020/07/police-racism-france-africans-colonialism>

99 https://www.enar-eu.org/IMG/pdf/policing_racialised_groups_-_briefing_ojeaku_without_cover_10_revised_22062020.pdf

100 Belgian research

or ethnicity of the people filing the complaint are not registered.¹⁰¹

As discussed earlier on in this report, within the section on COVID-19, the state asks law enforcement officers to enforce laws in ways that do not create safety but promotes criminalisation of certain communities. For racialised groups, excessive and disproportionate use of force has been justified with reference to ‘excited delirium syndrome’¹⁰² and although there are incidents of racialised individuals dying as a result of police asphyxiation, L.B. Bangoura (Belgium, 2018) and Cédric Chouviat (France, 2020) there has been resistance from state institutions to ban or modify the application of restraint techniques that have led to asphyxiation. The excessive use of force is argued as a form of torture according to Article 1 of the UN Convention of Torture, which describes severe pain or suffering, whether physical or mental intentionally inflicted on a person for such purposes as obtaining information or a confession or punishment for having committed or is suspected of having committed a crime.

Harmful stereotypes have also shaped the encounters of racialised groups with law enforcement and the criminal justice system. The Working Group of Experts on People of African Descent highlighted that entrenched racial disparities in the criminal justice system “reflect harmful stereotypes grounded in the historical legacies of the global trafficking in enslaved Africans, colonisation, and the ways in which modern social narratives evolved from rhetoric designed to justify these institutions and the exploitation of people of African descent.”¹⁰³

Case study: L.B. – Belgium

In the case of L.B.’s death (2018) the use of force by the police officers has been questioned. L.B. was reported by the police to be behaving violently, with a weapon and in possession of a dog that the police were afraid of. These reports were used to legitimise the coercion and to prove that the police violence was proportional, as presented by Comité P. The family dispute the reports for the following reasons set out by the family’s lawyer:

First of all, the use of coercion and violence by the police cannot be directly linked to the fact that there was a dog

and a knife. By the time the violence by the policemen started neither the dog nor the kitchen knife were in sight.¹⁰⁴ The statements from the police officers seem to have been aligned (possibly during their meetings) as some of them claim that L.B. was holding a knife in his hand¹⁰⁵ when standing on the couch after which the police officers used coercion. One or two officers, however, state that the knife had not been there anymore at that point.¹⁰⁶ This shows again that there are many incongruencies and possibly even lies about this aspect.

Secondly, the police officers all forcefully accentuated that L.B. was extremely (inhumanely) strong and muscular. However, photos provided by L.B.’s family, of his face and body did not give the impression of an extremely, almost inhumanely, muscled man.

Thirdly, the council chamber stated that the use of force was rightful because the person had been warned many times. However, there are other reports that at the moment at which the police did use force, it took L.B. by surprise.

Another important aspect is the specific type of violence that was used by the officers. According to Alexis Deswaef, it is problematic in this case that the two police officers put all their weight on L.B.’s shoulders using the prone restraint position. It is taught at the police academy to put on handcuffs, however, should just be used to handcuff someone, to then put someone back in a vertical position. The person should never be kept in this ventral position to avoid choking, which is what happened here (Source: Alexis Deswaef). A training document from the Pedagogical Committee of the Police Training, dating from 2010, states: “When an opponent is immobilized by pressing on his body, his rib cage is compressed and the opponent may need air or lose consciousness. Unconsciousness is a vital risk to the person if this pressure is not stopped” (source De Morgen¹⁰⁷).

101 https://comitep.be/document/jaarverslagen/2019NL_act.pdf

102 https://www.brookings.edu/blog/how-we-rise/2020/08/10/how-excited-delirium-is-misused-to-justify-police-brutality/?fbclid=IwAR3qQbAp4I-y1kA_F_J-q3uC1ZSE5M_Ntmx2j5kbnkDC84_5ErZfvKqkVg

103 https://www.ohchr.org/Documents/Issues/Racism/A_HRC_47_CRP_1.pdf

104 This is also confirmed by the radio messages in which one of the police officers talks to the headquarters and says: ‘person is under control. He is cuffed. The dog is outside. There is no immediate danger.’ (De Morgen).

105 One of the officers even claims that L.B. was trying to hide the knife and hurt himself in his hand. A wound like that, however, was not mentioned in the autopsy report (De Morgen).

106 The bailiff, the assistant, the two workmen who came to take away L.B.’s properties, as well as one of the police officers, state that they have not seen a knife then (De Morgen).

107 https://www.demorgen.be/nieuws/het-laatste-levensuur-van-L.B.-bangou-ra-27-er-stond-schuim-op-zijn-lippen-snot-uit-zijn-neus-het-was-niet-prop-er~bc0d3d7e/?utm_campaign=shared_earned&utm_medium=social&utm_source=twitter&fbclid=IwAROCjBON4v1ABtTwXONullgk6S75q_bKaWU4uneu-4pF0yEUzOu5tATStk20

Other controversial and important details are the types of the bands used to tighten around his waist. The bands used were from the workers of the loading van, supposed to be used to secure L.B.'s furniture on the van (source: Alexis Deswaef). Thus, at least part of the bands that were used, were not professional police bands. And it appears that only one of them had been trained in the techniques of using police bands (colson banden) and there are questions with how the seven officers took care of L.B. once he was restrained, checking for a pulse etc and communicating with the paramedics.

On May 8, 2018, an autopsy was performed by a medical examiner, assisted by a colleague. The medical examiner concludes that L.B. died as a result of restraint asphyxia, "asphyxiation in an agitated person" (source: De Morgen¹⁰⁸). Alexis Deswaef: "The autopsy report, which is far too short at certain times, says in half a sentence: 'there are red dots in L.B.'s eyes and that is the result of strangulation, but it's not the cause of death.' This is an important point because further in the autopsy report it is mentioned that 'there is a small fissure or crack in his larynx. That also caught my attention, the fact that they didn't use this piece of information. Why did this catch my eye? I read in the French press that in the case of Cedric Chouviat, the motorcyclist who had a police check that turned violent, they pushed him on the ground on his tummy. The problematic technique was also used in the case of George Floyd and many others. It is actually illegal in many countries, not in Belgium, but it is prohibited though. He had a fracture of the larynx and would have died and suffocated as a result."

In the case of L.B., professionals, trained to use violence and given the mandate to use violence by the state, should also bear the responsibility to ensure that people do not die as a result of their actions. In this specific case it is questionable that the police officers were not charged with negligence, having not checked for a pulse according to reports.

Case study: A.K. - France

A.K., a 33-year-old Black man, died of asphyxiation after being violently arrested in a bar. During the evening of March 5-6, 2015 in Paris, A.K. appeared to be having a mental health crisis and the barman called the police. 14

police officers were eventually on scene during the arrest. It is reported that A.K. was placed in two chokeholds and transported to the police station where he arrived unconscious and with no pulse. Paramedics were unable to resuscitate A.K.. His death was declared on March 6, 2015 at 2:30 am. The autopsy results were published a few weeks later and concluded that he had "died of pulmonary oedema in a context of asphyxia and facial and cervical trauma".

According to the police officers involved and those who defended them, it was the behaviour and physical characteristics of A.K. that forced them to act this way. This was reaffirmed by Officer G., the principal respondent, during his hearing before the investigating judge. After emphasising the "Herculean strength" of A.K., he answered questions about the cause of death by explaining that "in [his] opinion, he died because of the cocaine and the superhuman effort he made during the arrest".

The administrative investigation was conducted shortly after the events and led by the Inspection Générale de la Police Nationale's (IGPN, the branch of the police in charge of investigating itself). The investigation concluded that no breach of ethics or professional misconduct could be held against the responding officers; it resulted in the case being dismissed on 16 June 2016.

Evidence shows that the use of chokeholds is dangerous and can be misused. In France, this controversial technique was used in the arrests of both Adama Traore in 2016 and Cedric Chouviat in 2020, who both died. In June 2020, the French Interior Minister, Christophe Castaner, told union officials that the controversial technique would no longer be taught to police officers and prison staff, but stopped short of a total ban. The French police will be able to use it at their discretion, leaving a problematic grey area.¹⁰⁹ However, again in 2021, the Director General of the National Police announced the definitive abandonment of the chokehold technique in France. This decision follows the mobilisations and protests of the year 2020. It will be replaced by three techniques that will now be taught to police officers: "bringing to the ground by pivot", "bringing to the ground by half-shoulder control" and "control by head control". The organisations fighting against police violence fear that these new techniques will have the same dramatic consequences.

108 https://www.demorgen.be/nieuws/het-laatste-levensuur-van-L.B.-bangou-ra-27-er-stand-schuim-op-zijn-lippen-snot-uit-zijn-neus-het-was-niet-prop-er~bc0d3d7e/?utm_campaign=shared_earned&utm_medium=social&utm_source=twitter&fbclid=IwAR0CjBON4v1ABtTwXONullgk6S7Sq_bKaWU4uneu-4pF0yEuzO5tATSTk20

109 <https://www.theguardian.com/world/2020/jun/16/france-reverses-ban-on-use-of-chokehold-after-police-protests>

In the UK, black people are more likely to be subject to police force, and more likely to die in police custody. The UK police's use of restraint against detainees was identified as a cause of death by post-mortem reports in 10 percent of deaths in police custody between 2004/05 and 2014/15.¹¹⁰

Swedish police are less likely to use deadly force compared to countries like the United States. Most instances of reported police brutality involve beatings with batons or physical assaults such as kicking and hitting. Although there are instances of police officers who exercise violence against civilians completely unprovoked, most cases involve some kind of escalation to police violence and often where the victim of the violence is filming another police encounter as a bystander, or questions police authority or decision-making.

Case study: F.G. – Sweden

An evening in early February 2018, a 45-year-old Black woman was assaulted by security guards at Gullmarsplan metro station in Stockholm after attempting to film another violent encounter between security guards and a man.¹¹¹ Witnesses stated that the "violence was so raw, so clearly exaggerated", "People just screamed: "Let her go!".¹¹² Samuel Girma, another witness to the incident, objected to the security guards' treatment of F.G., ultimately leading him to also be detained in the "security room."¹¹³ Girma's story is confirmed by security footage of him handcuffed a few meters away from F.G..

F.G. documented nine separate injuries, according to her medical records, including the loss of a tooth, a swollen wrist, a fracture in her right elbow, blue and crushed nails, significant bruising along the entirety of her right leg and both arms, and a scar along her left arm, which remains visible to this day.

The psychological trauma of the incident still haunts F.G. and her children. She remains hypervigilant and weary of public spaces and avoids returning to the Gullmarsplan metro station. The words "fu**ing ni**r, go home" remain etched in her mind. "He said it over and over again".¹¹⁴

Case study: M.D. – Sweden

12 year-old M.D. was wrestled to the ground by security guards that placed a knee on the boy's back. "I couldn't breathe," M.D. , who weighed 32 kilos at the time, told a reporter from the local neighborhood newspaper Nyhetsbyrån Järva after the incident.¹¹⁵ "He hit my head against the floor." Video footage obtained from bystanders show a total of five security guards dragging two boys along the floor of the shopping center. M.D.'s family took the boy to the hospital after the incident, where he was found to have sustained a concussion as a result of the violent encounter. The boys, and M.D. in particular, were also significantly emotionally impacted by the incident, with M.D. displaying signs of posttraumatic stress. In media interviews about the case, representatives of Securitas maintained that the guards had acted appropriately, and that critics of the incident failed to understand the difficulty of the job and that teenagers and even children could present enough of a disturbance to warrant the use of force that had been captured.

Case study: B.A. – Sweden

B.A., a 40-year-old Afro-Swedish man of Ghanaian descent, was violently removed from a train by police officers at Hyllie train station in Malmö and subsequently detained during his daily commute home from work in Copenhagen.¹¹⁶ B.A. was flagged for additional screening after a customs officer had completed ID checks onboard the train. When the police officer arrived, he immediately approached B.A. and asked him to remove his headphones. B.A., who had been listening to music, lowered the volume in his headphones to address the officer. "I can hear you," B.A. replied. The officer insisted that B.A. get off the train so that "they could talk." The reason the officer gave was that they felt he "had something to hide." "You have three seconds," the officer is heard saying. B.A. refused to get off the train and the interaction escalated to the use of force, with the officer pulling on B.A.'s arm. Eventually two police officers proceeded to forcibly pick up and drag B.A. off the train.

110 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/655710/Deaths_in_police_custody_A_review_of_the_international_evidence.pdf

111 Swedish research

112 Ibid

113 Svensson, A. (2020, June 22). Samuel blev vittne till vakternas hantering av F.G.: "Chockartat att hon döms". DN.SE. <https://www.dn.se/sthlm/samuel-blev-vittne-till-vakternas-hantering-av-F.G.-chockartat-att-hon-doms/>

114 Svensson, A. (2020, June 22). Samuel blev vittne till vakternas hantering av F.G.: "Chockartat att hon döms". DN.SE. <https://www.dn.se/sthlm/samuel-blev-vittne-till-vakternas-hantering-av-F.G.-chockartat-att-hon-doms/>

115 Gustafsson Figueroa, K. (2019, January 10). De här fyra killarna misshandlades av fem vuxna ordningsvakter—Nyhetsbyrån Järva. Available at: <https://www.nyhetsbyranjarva.se/fyra-smakillar-misshandlades-av-fem-vuxna-ordningsvakter/>

116 Benjamin Antwi släpades av tåget – se omdiskuterade händelsen. (n.d.). Expressen TV. Available at: <https://www.expressen.se/tv/nyheter/kvp/benjamin-slapades-av-taget-se-omdiskuterade-handelsen/>

Case study: A.A. - Belgium

A.A., a 22-year-old man of Moroccan origin visited his friends in the popular neighbourhood the Luchtbal, a neighbourhood in the north of Antwerp, Belgium, on the night of the (10th June, 2016). It was the month of Ramadan and A.A. was meeting his friends outside of the local youth centre after the breaking of the fast. Following a call about an alleged armed fight, the Antwerp Police approached the group of friends with several police vans. As is customary with calls involving weapons, the police sent out a team of SRT-policemen¹¹⁷ (Quick Response Team), a special police force that was created after terrorist attacks elsewhere in 2015¹¹⁸.

Some young people ran when they saw the police cars coming. Eventually, six young people were arrested. According to the police's spokeswoman, several detainees were very aggressive and several police officers involved were wounded. However, no weapons were found.¹¹⁹ When another SRT-officer walked by, he purposely kicked A.A. in the head, hitting him in the left eye.¹²⁰ Another officer used his hands.

"I'm going to make sure you're going to be blind for the rest of your life,' he said, and he started poking at my eyes, literally with his fingers in my eyes. He really wanted to pull my eye out."

From that point, A.A., who was born with a syndrome that already impacted his sight, was no longer able to see anything. He was taken to the hospital by the police and handcuffed to a bed but did not receive proper medical treatment, which had devastating consequences for his sight.

It is not just the technique used by the police that can be dangerous but the circumstances under which racialised groups are victims of disproportionate use of force for minor infractions or misdemeanours. A particular feature of what can be seen as racist policing and brutality is the

disproportionality of the force used compared to the suspected crime and the number of police officers involved in each incident.

Case study: S.W.¹²¹ - Belgium

While Sophie was walking in the street (7th June 2020), two police officers – a man and a woman – noticed her walking the dog unleashed. They stopped her and told her it wasn't allowed to walk the dog unleashed. Sophie explained the situation to the officers, who then repeated she wasn't allowed to walk the dog unleashed. "Well Socrate, let's go poop in our home then." Sophie said. Subsequently the officers asked for Sophie's papers. She couldn't provide them as she had left the home carrying only her keys and some dog poop bags. As such Sophie replied that she lived only 50 meters further on, that they could accompany her to her home and that she would then show them her papers.

One of the officers asked her whether she was aware of the fact that they could bring her in if she walked on the street without her identification papers. She replied: "If you want to take me to the police office for something like that, then go ahead. Let's go." This resulted in the police wanting to frisk her. When Sophie refused, the female agent pressed her against the wall and forcefully applied an armlock.

Both officers reacted aggressively, with the man being in charge. The whole scene lasted several minutes. The owners of a Greek restaurant on the corner of the same street knew Sophie as a frequent guest and saw what was happening. The lady of the restaurant came to calm the dog and told the police that Sophie indeed lived 50 meters further on, while her husband took out his mobile to film the incident.¹²² Afterwards she noticed how the incident had given her symptoms of post-traumatic stress syndrome. She decided to file a complaint with the Crown prosecutor and draw some public attention to the incident.¹²³

117 <https://www.hln.be/in-de-buurt/antwerpen/man-dient-klacht-in-voor-over-dreven-geweld-politie~ab65b57e/>

118 https://www.politieantwerpen.be/sites/default/files/documenten/persberichten/20161110_persbericht_SRT.pdf

119 https://www.nieuwsblad.be/cnt/dmf20160611_02334565

120 https://www.unia.be/files/Documenten/Rechtspraak/Correctionele_rechtbank_Antwerpen__12_juni_2019.pdf

121 The description of this incident is predominantly based on the elaborate testimony of the victim in the media, the video recorded by witnesses on their phone, the explanation of her lawyer and the official report by the police.

122 See Van Tendeloo, 30 June 2020. For the filmed footage see Belga/De Standaard, Interventie tegen Sophie Dewulf, partner van zanger Arno, was 'correct' volgens politie, in De Standaard, 13 June 2020, https://www.standaard.be/cnt/dmf20200613_04990086 and on the Facebook page, 7 June 2020, <https://www.facebook.com/sophie.dewulf.58/videos/1015771966773882>

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The internal affairs department of the police did look into the case. They concluded the use of force as proportionate, though they do not provide an argumentation as to why it would be proportionate to press someone against a wall and forcefully apply an armlock when someone is simply walking her dog in her neighbourhood, and simply forgot her ID papers, which could be procured by walking 50 meters further to her home.¹²⁴

Case study: A.C. - Belgium

A.C. a nineteen-year-old from Anderlecht of Moroccan descent, died on Friday evening the 10th of April 2020 as a result of a collision with a police car. On Friday the 10th of April, around 9 P.M., Adil and his friend were spotted by a police patrol near the Raadsplein in Anderlecht. According to the prosecution counsel and the family's lawyer, Alexis Deswaef, the control in question was about not respecting the coronavirus measures applied at the time. In the opinion of the police, the two young men were standing too close to each other. Adil and his friend took off on their scooters. A lot of youngsters previously got fined with a so-called €250 GAS fine (municipal administrative fine) and it is suspected that the two of them tried to avoid getting one. They drove off in opposite directions with the police in pursuit.

These case studies highlight several elements of excessive use of force such as: violence; high number of police officers responding to low level incidents; heavy handed searches and arrests of children and young people and women. In the case of A.A. there was an accusation of weapons being used but there were no weapons found by the police. In the case of S.W., the police used heavy handed tactics simply because Sophie did not have her ID card. In the Case of A.C., the police intervention led to his death for not observing the COVID-19 distance measures, a misdemeanour that should receive no more than a €250 fine. Furthermore, once the police chase started, it appeared that there was no longer an infringement of the social distancing measures. The Belgian General Inspection of Local and Federal Police annual report mentions a significant rise of legal cases against police officers,

with 70 out of 552 cases revolving around beatings, 80% of them as a result of difficult arrests and interventions.¹²⁵

The police may justify lethal or the highest level of force when there is a clear and obvious threat to the officer or the public. However, excessive reactions of these officers can contribute to injuries and loss of lives. In these cases, less aggressive tactics could have been used to deescalate the situation.

Despite the fact that several people in Europe have died as a result of police asphyxiation or disproportionate use of force, there is resistance from law enforcement and political leaders to banning the application of restraint techniques.

In some of the cases included in this report, the deaths and injuries are categorised by medical examiners and/or physicians as accidents or deaths as a result of vehicle chase. However, the deaths and injuries may be a direct result of police or law enforcement intervention and should be recorded as such. The cause and manner of death and injury at the hands of law enforcement should be recorded from the time of pursuit, fine, arrest and during detention and included on medical and death certificates. This will therefore establish data and records independent of the police and law enforcement.

124 Ibid

125 <https://www.tijd.be/politiek-economie/belgie/algemeen/ruim-550-gerechtelijke-dossiers-tegen-politiemensen/10260227.html>

Violence in detention

Violence in detention appears to affect Roma in Bulgaria and migrants in Croatia most significantly. In Bulgaria, Roma detainees are two times more likely to report use of violence by the police. Up to 70% of Roma minors reported being beaten by police officers. Despite difficulties to measure due to lack of statistical data¹²⁶ The Ombudsperson in Croatia has received complaints about the police's treatment of migrants. There are reports from both EU Member States of the difficulty there is of obtaining reports from detainees in prison as victims are denied access to their relatives or legal representatives and are fearful of making complaints because they may face more violence where they are detained. The complaints may also be suppressed by the prison administration and the medical staff do not document these incidents.

In Croatia, migrants have reported inadequate detention facilities where their safety has been jeopardised. Lawyer Lidija Horvat described two of her cases that include police brutality. First is the case of an asylum seeker from Morocco (identifying himself as Syrian during his asylum request, out of the fear of being refouled and exposed to life threatening violence) who was placed in an inadequate detention room at Bajakovo border police station in 2015. A fire broke out in which two of his compatriots were killed, and he fought for his life for several months and suffers significant consequences even today. The Republic of Croatia did not give him any compensation but expelled him from the country. The criminal complaint against those responsible was rejected, and the case is before the European Court of Human Rights (ECtHR)¹²⁷.



126 Правата на човека в България през 2016 г. Bulgarian Helsinki Committee 2016, available at: https://bghelsinki.org/media/uploads/annual_reports/annual_bhc_report_2016_issn-2367-6930_bg.pdf

127 European Court of Human Rights, Application no. 84523/17, Abdeljalil DARAI-BOU against Croatia, lodged on 19 December 2017, available at: <https://hudoc.echr.coe.int/eng#%7B%22appno%22%3A%2284523%2F17%22%7D>

Private security and militia

It is important to mention private security and militia in the context of police brutality since there is increasing use of private security officers across Europe often carrying out law enforcement activities in place of the police. The increased privatisation of the public sector has seen private security companies policing public spaces, especially commercial spaces such as shopping centers and throughout public transit systems. Frontex, the EU border management agency also outsources certain activities to private companies and there are reports of violence and abuse under this system.

Belgium has been using private security companies in a range of activities since 1830. The Belgian legal framework has enabled a significant extension of the possible activities of the private security sector.

In Belgium and Sweden, private security officers carry out surveillance activities in public-private spaces and carry out ID checks or ticket checks in public transport spaces and airports and vehicle checks. In addition to performing a safety operation at entertainment or sporting venues, they will carry out sweeping operations (searching of property to look for weapons, drugs, explosives), they can carry out intelligence and counter-terrorism protocols and wear weapons in designated areas.

Violence perpetrated by security guards in Sweden can often take place in the context of policing the public space, usually in the process of order-maintenance. However, they may not be as extensively trained as police officers and state agents. Security guards in Sweden undergo only 80 hours of training but exercise violence with the same monopoly as police officers. This fact is often raised by activists and politicians who critique the low level of training for contributing to security guards' common use of violence.

Case study: F.G. – Sweden

F.G. was traveling home with her four children when she stopped to document the incident. The guards approached her when they saw her filming and slammed the phone out of her hand, causing it to fall to the ground and break. When she insisted that she had the right to film the incident, the guards proceeded to forcibly remove her

from the station, dragging her towards the exit. When she resisted her removal, they slammed her to the ground and placed her in handcuffs. The woman's 16-year-old daughter – the oldest of the four children – also tried to film the incident but was aggressively stopped from doing so. According to witnesses, F.G. was lying on the ground face-down with one of the guards sitting on top of her, beating her with his baton. She could be seen to be bleeding from the mouth and arm. According to her medical records, she suffered from nine separate injuries including the loss of a tooth, a swollen wrist, a fracture in her right elbow, blue and crushed nails, significant bruising along the entirety of her right leg and both arms, and a scar along her left arm, which remains visible to this day.

In Croatia, there are reports of the involvement of military personnel and men in black uniforms (without insignia) and balaclavas. These individuals are described by the victims as the "police" because of their close relationship with police officers in blue uniforms whom they usually call to push people back after they've beaten and tortured them. Furthermore, their methods of conduct coincide with those depicted as Operation Corridor.

On 9 December 2019, another police officer gave inside information¹²⁸ on the organisation of these actions and on the unit called "Corridor" which allegedly carries out the collective expulsions: "Now they simply call themselves the Corridor. They have WhatsApp and Viber groups for exchanges of information and photographs of groups of migrants... Significantly, they operate throughout Croatian territory, therefore, they move like a real mobile unit. I think that it is already clear within the system that whenever they come to a certain area, soon there is information about police shootings, robbery, beating..."

128 The full testimony available in the interview: Đurđica Klancir, ZASTRAŠUJUĆA DEVIJACIJA 'KORIDORA': 'Policija sve dogovara na Whatsappu, a poseban zadatak u hvatanju migranata imaju taksisti!'/TERRIBLE DEVIATION OF THE 'CORRIDOR': 'The police arrange everything on Whatsapp, and taxi drivers have a special task in catching migrants!'; net.hr, 9 December 2019, available at: <https://net.hr/danas/hrvatska/zastrasujuca-devijacija-akcije-koridor-policija-sve-dogovara-na-whatsappu-a-poseban-zadatak-u-hvatanju-migranata-imaju-taksisti/>

Case study: unidentified uniforms - Croatia

Namely, eight armed men in unidentified black uniforms and with balaclavas on their heads treated in inhumane manner persons in search of protection. According to the description given by the victims, the perpetrators probably belong to either a special unit or the so-called operation "Corridor" of the Ministry of the Interior. Armed men in black tied refugees, fired guns near their ears and their feet, beat them with everything they had at hand, and took all their belongings following death threats. Then, the perpetrators humiliated the group of refugees. In the end, the refugees, many of whom could not walk due to serious injuries, were handed over to police officers who further pushed them back to Bosnia and Herzegovina.

Eleven out of sixteen victims arrived in front of the gate of the reception camp Miral at 6:45 in morning. Five remained in Šiljkovača because they could not walk. After all the victims passed basic medical checks, ten of them were referred to the emergency room at the Health Centre Velika Kladuša. All of them had bleeding wounds on heads and numerous bruises on various parts of their bodies. Some of them had clearly visible swellings on limbs that indicated possible fractures. At the Health Centre Velika Kladuša, everyone's head was cleaned and sutured. After an X-ray, it was determined that four of them had a broken arm and one of them had a leg and both arms broken.

The avenues of legal redress and remedies are not always clear for those who want to question and investigate how these privatised services are implemented and who monitor the impact on fundamental rights. This is also a question that EU institutions must respond to with regards to Frontex.



Section 2: Institutional violence



Institutional racism has been documented over decades by civil society, journalists and independent inquiries in most EU Member States. Yet, governments, law enforcement agencies, and police institutions recognise institutional racism to only limited degrees. The lack of acknowledgement of institutional racism within the police and security institutions allows for impunity and the continuation of racist state violence. Institutional racism also erodes trust between the state and communities and diminishes the victim's willingness to report incidents of racist police violence. The lack of data further reinforces State narratives which deny and minimise the problem.

In the EU, policing, crime prevention and investigation uses disproportional racial profiling and covert surveillance, intimidation, excessive use of force and illegal push-backs that oppress racialised groups. As mentioned above, Black and North African people are 20 times more likely to be stopped by police than white people in France.¹²⁹ In the UK, legislation such as Section 60 – has led to Black people being stopped and searched 27 times more and those detained, arrested and investigated related to counter terrorism legislation leads to a conviction in only 1% of those cases.¹³⁰ These practices are described as institutional racism as they are a result of orders, policies and a broad culture that govern the practices of individual police and law enforcement officers.

In Croatia, police officers themselves report of orders from their superiors to return refugees and migrants to Bosnia and Herzegovina, 'without paper and without processing'. In Croatia, allegations of illegal treatment of migrants, from civil society and individuals also coincide with a complaint by a border police officer submitted to the Ombudsperson. The complaint was submitted anonymously for fear of negative consequences. The systematic nature of collective expulsions in Croatia was also confirmed through two separate anonymous testimonies of Croatian police officers. These testimonies are consistent with each other and with thousands of testimonies of refugees and other migrants collected between 2016 and 2020, and describe practices that are contrary to any prescribed procedures in the Act on Foreigners¹³¹ or Law on International and Temporary Protection¹³².

129 https://www.francetvinfo.fr/societe/controle-au-facies-les-jeunes-noirs-ou-ara-bes-ont-20-fois-plus-de-chances-d-etre-controles-par-la-police-selon-le-defenseur-des-droits_2027820.html

130 <https://www.theguardian.com/society/2003/apr/21/equality.politics>

131 Croatian Law on Foreigners/Zakon o strancima, Official Gazette NN 130/11, 74/13, 69/17, 46/18, 53/20

132 Law on International and Temporary Protection/Zakon o međunarodnoj i privremenoj zaštiti, Official Gazette NN 70/15, 127/17

On 24 July 2019, one Croatian police officer stated¹³³: "My fellow policemen and I have executed illegal returns of migrants from Zagreb to the border line between Croatia and Bosnia and Herzegovina or Serbia. We would bring them to the 'green' border line and order them to cross back to Bosnia and Herzegovina or Serbia. We did not take any records of the identities. We received these orders from our superiors at the police station". He also explained in detail how the collective expulsions are being carried out: "I call my boss and say that we have a group of migrants. (...) Boss calls me on my private phone on which the conversations are not recorded, and says to take them to the border. Migrants say: 'Asylum', we respond: 'No asylum', we put them in vans and turn off the connection that shares the GPS signal, so it is not possible to track us".

Human security expert Gordan Bosanac argues that it is difficult for officers to complain as it means going against their own colleagues and journalist Barbara Matejčić highlighted: "they do not speak because there is a very elaborate system of punishing those who rebel inside, let alone outside. If you refuse an order that is illegal, you will be shifted to the protection of a MUP building where the salary is lower, etc. They have elaborated mechanisms for punishing insurgent police officers - they punish them, that's for sure." If officers do not fit into the 'canteen culture', which can include racism, sexism and anti-migrant attitudes, they end up being pushed out of the profession.

There is also a culture of silence within governments, police and law enforcement institutions regarding institutional racism. In Sweden, police authorities and private security guards routinely deny accusations of racism, consistently referring to their policy of equal treatment and colour-blindness. The lack of public data on these incidents allows for blanket denials of racist violent policing. In Croatia, the Ministry of Interior delays the publication of annual reports which means there is no publicly available, up-to-date data on the number of complaints addressed by the Civic Complaints Commission. According to the journalist Ivana Perić, police statements have always looked the same - refutations and an absolute lack of desire to talk critically about anything related to the Ministry of the Interior or to initiate valid internal investigations. "Over time, the Ministry of the Interior has perfected the use of manipulative "explanations" and its

133 The full testimony available in the interview: Barbara Matejčić, Prvi intervju u kojem hrvatski policajac tvrdi: šefovi nam naređuju da ilegalno protjerujemo migrante /First interview in which a police officer claims: our bosses order us to illegally expel migrants, Telegram.hr, 24 July 2019, available at: <https://www.telegram.hr/price/prvi-intervju-u-kojem-hrvatski-policajac-tvrdi-sefovi-nam-nareduju-da-ilegalno-protjerujemo-migrante/>

own euphemistic "new terminology" - so, for example, it will say that multiple shootings from official weapons are "accidental firings", illegal expulsion is "discouragement".

There are continued reports of police officers' affiliations with right-wing and far-right extremist groups.¹³⁴ In the Bulgarian context, police brutality remains a part of the everyday racism minorities, refugees and Romani people have suffered. Fear and helplessness and lack of support by state institutions trivialise incidents of violence, however severe they might be. In general, police brutality remains unpunished and is considered acceptable, justified and supported by the population at large. The dominant discourse of the far-right has deeply penetrated the institutional consciousness as well as that of the wider public and led to a system of oppression of Roma and other vulnerable groups.

In September 2020, investigative journalists revealed that Belgian police officers were using racist hate speech in secret Facebook Groups with several thousands of active and retired police members. Racist views are likely to correlate with racial bias and treatment. Often the victims of racist police brutality will report the use of racial slurs by individual police officers although it is not always possible to capture the racist element of policing in this way. In the case study below, unchecked racist behaviour in the police can lead to repeated offences.

The same police officer involved in the A.N. case in Sweden (see below) were also involved in another racist incident. According to media reports, the officer got into a verbal argument with two other officers – both of whom had an immigrant background – after making racist remarks in their break room.¹³⁵ The argument eventually escalated to the point that the officers drew their weapons on each other. The chief prosecutor announced that because the incident had taken place in the break room while the

officers were off duty, it would not lead to any disciplinary action against the officers.

In some Member States there may be more funding and (unconscious or implicit bias) training available to law enforcement. However increased funding for police departments and hiring of more police officers can lead to over-policing of immigrant-dense and working-class areas. In Sweden, there was a record increase in funding for police departments between 2018 and 2020. The government invested an additional 7,1 billion SEK in the police.¹³⁶ In 2020, the government committed to increasing the police force by 10,000 officers by the year 2024 and allocated an additional 30,5 billion SEK to police authorities for 2021.¹³⁷

The lack of proper investigation and convictions of racist police brutality means that victims of police violence are also reluctant to report these incidents to the police and do not believe that the report would lead to any kind of investigation or accountability.¹³⁸ For migrants, they are less likely to complain out of fear of being removed from the country. UN agencies have expressed their concerns about the experience of migrants that have submitted a complaint about inhumane treatment during a return operation.¹³⁹ These agencies also point out that it is often difficult to collect evidence as the person, in many cases, has been removed from the country and cannot be present during the investigation.

134 <https://pace.coe.int/en/news/8144/infiltration-of-the-police-and-the-military-by-racist-and-far-right-extremists-raising-awareness-and-identifying-ways-to-address-it>

135 Larsson, S. (2016b, April 29). Skrek "arabjäväl" – anmäld för liknande. Available at: <https://www.expressen.se/kvallsposten/skrek-arabjavel--anmald-for-liknande/>

136 Regeringskansliet. (2017, August 20). Historisk satsning på polisen [Text]. Regeringskansliet. Available at: <https://www.regeringen.se/pressmeddelanden/2017/08/pressmeddelande-historisk-satsning-pa-polisen/>

137 Regeringskansliet, R. och. (2020a, February 13). Miljardsatsning på polisen [Text]. Regeringskansliet; Regeringen och Regeringskansliet. Available at: <https://www.regeringen.se/regeringens-politik/ett-tryggare-sverige/miljardsatsning-pa-polisen/>

138 https://www.enar-eu.org/IMG/pdf/shadowreport2018_final.pdf

139 Belgian research

Convictions

In many cases sanctions do not reflect the racist act of abuse or violence. For example, in Sweden, where an officer was caught on video surveillance footage assaulting a teenage boy at a police station, the officer was fired from her job in lieu of a prison sentence. In another case, audio recording captured the racist verbal assault from an officer, who later physically assaulted the victim. The officer was convicted of libel but not of physical assault. In Bulgaria, none of the cases highlighted as part of this research (2015-2020) received a conviction for violent policing. Furthermore, due to Bulgaria's legal framework the victim of racist violence is still considered a victim of "hooliganism".¹⁴⁰

Case Study: Police Shooting – Bulgaria

In 2017, Sokol Rumenov,¹⁴¹ an officer from the Special Forces for Combatting Terrorism (SOBT) attempted to murder Romani individuals, after being provoked by his colleague to shoot them in a local bar in Botevgrad. The shooter took his gun and pulled the trigger and opened fire on one Romani man in the bar. His colleague prevented the killing and the deviated bullet pierced the window. The soldier was fired and police initiated legal proceedings for hooliganism against the perpetrator. While there was sufficient evidence for racially motivated crime, the court ruling dismissed the evidence and favoured a softer penalty for the perpetrator.

In Belgium, the A.J. case led to a conviction of the officer for a suspended sentence of one-year imprisonment and 1600 Euro in damages, without the inclusion of the racist element.¹⁴² According to the lawyer, the prosecutor didn't see any racist intent because there was nothing racist reported. The lawyer went on to explain that the law does not require racist words to be used but it can be the

attitude or behaviour that the aggravating circumstances could be related to.¹⁴³

Police officers have kept their jobs even when they are accused of racist incidents as the victim faces difficulties in proving the racist motivation or bias element of their case. In some instances, if the officers agree to leave their jobs or are fired, they are given a lesser or no sentence in exchange.

Lawyers for the victims of violence have stated that certain cases should go to court or there should be at least a referral of negligence but the prosecution and court systems consistently side with the police and determine that there is 'no fault'. In Belgium, a change to the Penal law in order to set up alternative measures in case of crimes instigated by racist and discriminatory motives (05/05/2019) was passed that allows a judge, who condemns a person for racism, xenophobia, negationism, discrimination or sexism, to opt for a working or autonomous probation sentence instead of imprisonment and/or a fine. In addition, the court may, in its judgment, give indications as to what such working sentence is, so that the punishment is as close as possible to the fight against racism, xenophobia, discrimination, sexism or negationism. In this way, it is possible to avoid the perpetrator committing the same acts again.^{144,145}

Case study: A.A. - Belgium

On the 12th of June 2019, the police officer that kicked A.A. in the head was convicted of the charges 'using violence against a person without legal reason in the capacity of police officer, in the circumstances that the violence results in an incapacity to perform personal labour during more than four months' (Article 66 of the Belgian Criminal Code). He received a suspended prison sentence of four years and was also ordered to follow an anger management program. He was also convicted to pay damages of

140 Criminal Code of Bulgaria, primarily provisions pertaining to bias-motivated crime, "hate speech" and discrimination. See more information here: <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&cad=rja&uact=8&ved=2ahUKewjFs-aPzKrijAhXFL1AKHdzBCOYQFjABeg-QIARAC&url=https%3A%2F%2Fwww.legislationline.org%2Fdocuments%2Fid%2F22041&usq=AOvVaw11Pei8W7xSpM4gGSCum0Rp>.

141 Written submission by the European Roma Rights Centre concerning Bulgaria to the Committee on the Elimination of Racial Discrimination, for consideration at its 92nd Session (24 April - 12 May 2017), available at: http://www.errc.org/uploads/upload_en/file/bulgaria-cerd-submission-5-april-2017.pdf

142 The officer went to appeal, and the procedure is still ongoing at the time of writing.

143 Alexis Deswaef, Lawyer of A.J.

144 Wet van 5 mei 2019 houdende wijziging van het Strafwetboek, teneinde meer in te zetten op alternatieve maatregelen bij de beteugeling van door racisme of xenofobie ingegeven delinquentie, en in verband met discriminatie herhalingsdoeltreffender tegen te gaan, BS 28 May 2019

145 <https://legalworld.wolterskluwer.be/nl/nieuws/in-het-staatsblad/rechter-kan-werkstraf-en-autonome-probiatiestraf-bij-racisme-discriminatie-en-seksisme-laten-aansluiten-bij-gepleegd-misdrijf/>

19 442 Euros and any possible future damages that will result from the ongoing treatment for A.A.'s left eye. The convicted officer made an appeal which will be trialed in January¹⁴⁶. The other involved police officer was not convicted.

In the rare cases where an incident of police violence is irrefutable due to video evidence, police officers have been suspended. Michel Zecler, a Black man was beaten inside his music studio in 2020. He was stopped by the police for not wearing a mask outside his music studio. The video footage shows no signs of resisting arrest and according to the victim, the police used racial slurs. Michel Zecler was arrested for violence against public servants. After the video footage emerged, the charges were dropped and replaced by an investigation into the officers.

If further evidence emerges and the campaigns of the families exert more pressure on the institutions, there may be changes to the initial charges, as in the case of A.K.

in France. In 2021, the judge working on the death of A.K. requested a trial for three of the police officers involved. They will be tried for "manslaughter".

The European Court of Human Rights was cited by researchers, lawyers and victims as the last option for potential accountability given the lack of proper, independent investigations and convictions at national level. Bulgarian Helsinki Committee recalls that for the 12 years between 1998 and 2010, the European Court of Human Rights issued 27 judgments against Bulgaria in 26 cases about police brutality. On average, this was more than two judgments per year against the country. In three of the cases the court condemned the state for inadequate investigations into the incidents. According to the Bulgarian Helsinki Committee's analysis of European Court of Human Rights judgments against Bulgaria, the state was sentenced to pay over 900,000 Levas in penalties and damages between 2000 and 2010 because of improperly investigated and unpunished police violence.¹⁴⁷



¹⁴⁶ https://www.unia.be/files/Documenten/Rechtspraak/Correctionele_rechtbank_Antwerpen__12_juni_2019.pdf

¹⁴⁷ <https://www.liberties.eu/en/stories/the-number-of-victims-police-brutality-bulgaria/11376>

Dishonesty in the police and legal system

A recurrent theme of the cases provided to us in Belgium, Bulgaria, Croatia, France and Sweden was dishonesty and collusion within the police and legal system regarding racist police brutality and institutional infrastructure which actively protects individuals who commit acts of violence and brutality in the name of policing.

As discussed earlier, accusations of racism are promptly denied and there are reports of significant inconsistencies between the authority's version of the events and the victims. In the "golden hour" right after an incident, police officers have provided false statements and information to the media. These inconsistencies are followed by incomplete files and reports provided to the victims, their families and their lawyers, and counter accusations from the police. The victims and their families also report a lack of proper legal support by state appointed lawyers.

Case study: I.G. - France

On February 20, 2018, I.G. a 19-year-old of north-African heritage, was severely beaten by two police officers. At the time of the events, I.G. was 16 years old and was staying at his brother's house in Marseille for vacation. That night, at 10:30 p.m., he went to a grocery store to buy some food and cigarettes. He was just a few metres away from the home at the time he encountered the police. According to his testimony, he was called a "dirty Arab", "bougnoùle" and "faggot". He finally was threatened with death. "One of them told me that I had to behave myself because last week he killed one like me, and that he could do it again without any problem," explained the victim to the investigators.

It should be noted that one of the officers did not take part in the assault and did not do anything to prevent it. During the entire intervention, he remained in the car. The incriminated police officers simply denied the facts. Despite the material evidence, despite the accuracy and consistency of the victim's and the main witness' statements, and despite the confounding results of the DNA tests.

Case study: A.J. - Belgium

At first, the police denied the incident happened. A telecommunication investigation revealed that after one of

the officers received a message with "I'm (under) internal investigation," several calls were made between the officers. The lawyer of A.J. assumes they communicated to make the story more compliant with each other. The investigator put pressure on the police witnesses, which led one young officer to tell the truth. He testified against the lead suspect. His testimony was key to the conviction of the officer. "But without his statements, everything would have been swept under the carpet." (Alexis Deswaef, Lawyer of A.J.).

Case study: Killing of Romani man – Bulgaria

On 13 April 2017, a Romani father and son were badly beaten near their home in the village of Bohot in Pleven province while gathering wood in the nearby forest.¹⁴⁸ Shortly after the two Romani men parked their vehicle near the forest, they were surrounded by several police officers, who ordered them to lay on the ground and started kicking them and beating them with batons. The son survived this ferocious attack while his father died at the scene.

The father had a heart condition and a pacemaker fitted. The police justified this severe assault "claiming that the men were found in possession of stolen pesticides and had resisted arrest."¹⁴⁹ Furthermore, the official police response included the reason for the death of the Romani man as overreaction and resistance to the police arrest. The severe beating by the police officers was denied. The family showed evidence to the media - a photo of the younger man with bruises – that he survived police violence.¹⁵⁰

Case study: A.N. – Sweden

Despite the audio recording, the police officer in question denied allegations that a crime had been committed. According to a later interview, however, the officer

148 BLM, racism and resistance: this is not the time for a euro-whitewash, available at: <http://www.errc.org/news/blm-racism-and-resistance-this-is-not-the-time-for-a-euro-whitewash>

149 BLM, racism and resistance: this is not the time for a euro-whitewash, available at: <http://www.errc.org/news/blm-racism-and-resistance-this-is-not-the-time-for-a-euro-whitewash>

150 BLM, racism and resistance: this is not the time for a euro-whitewash, available at: <http://www.errc.org/news/roma-lives-matter-bulgarian-rom-killed-for-possession-of-pesticides>

admitted to having referred to A.N. as an “Arabf**k” as well as having threatened him with a beating, but the officer denied that the beating ever took place. The officer argued that it would have been impossible for him to beat A.N. while driving, and that the wound A.N. was photographed with was obtained by other means.¹⁵¹ After roughly a year of investigation, prosecutor Jan Pernvi decided to press charges against the officer for libel and unlawful threats but dismissed the assault charge.¹⁵² Torgny Palm told the media that he could not understand how the police officer was allowed to continue working when it was clear he had such strong biases.¹⁵³

Over the years, A.N. had five different court-appointed lawyers on the case, none of whom he felt confident he could trust. He felt particularly betrayed by his last attorney, who he felt did not adequately represent him in his efforts to participate in the trial via teleconferencing, a request which the court denied.

A.N. believes that his case was mishandled, if not sabotaged, by his attorneys.

As with the case below of A.A., we can see that many families from racialised groups have had experiences with the police that have resulted in a lack of trust of the institution. This affects the victims’ willingness to report incidents of racist police brutality. With the A.A. case, we can also see how institutions can proactively gain the trust of the victim and their family if they are seen to be fully and fairly investigating the incidents.

Case study: A.A. - Belgium

There were inconsistencies and complaints regarding the case of A.A., for example the lack of examination from a legal doctor and medical reports. The police initially started their own internal investigation¹⁵⁴, even before A.A. and his family filed a complaint with their lawyer. The Internal Affairs contacted A.A. and took his statement about what happened that night. His sister tells us the following:

151 Johansson, D. (2016, November 24). Brottsmisstänkt polis förnekar brott i förhör. Smålandsposten. <https://www.smp.se/vaxjo/brottsmisstankt-polis-fornekar-brott-i-forhor/>

152 Gustavsson, A. (2017, March 7). Polismannen åtalas för förolämpning och olaga hot. SVT Nyheter. <https://www.svt.se/nyheter/lokalt/smaland/polismannen-at-alas>

153 Ahads advokat: Jag förstår inte hur polismannen kan jobba kvar—Barometern. (n.d.). Available at: <https://www.barometern.se/kalmar/ahads-advokat-jag-forstar-inte-hur-polismannen-kan-jobba-kvar>

154 <https://www.hln.be/nieuws/jongen-gooit-raam-van-combi-in-in-antwerpse-wijk-luchtbal~a5831825/>

“Our trust in the police had completely disappeared, because normally, if you were in need, you would contact the police. Now, in this case: who should we contact now? Now the police are the ones who have hurt us.”

Sister of A.A.

And then Internal Affairs said: “if something goes wrong with the police, we take action. So that trust started to come back a bit. Like: yes, okay, they are actually above the police and they are going to investigate what actually happened to A.A. that evening or earlier that night. A police report was drawn up.”

Disparity of treatment and racial biases have also been reported with regards to legal representation and some victims and their families have been disappointed with their lawyers. In Bulgaria, legal protection, such as provision of shelter or police protection of witnesses, access to legal advice/legal aid or forensic expertise, given to all citizens is rarely enforced if the victim of a crime is of Roma, of minority or refugee origin, while practices of illegal detention, cruel and inhumane and degrading treatment search and seizure continue to occur.¹⁵⁵

Victims of police brutality and their families are not adequately informed about their rights unless this information was provided by their lawyer, accompanied by an interpreter. In Bulgaria, it is reported that the aim is to deny the victims access to their rights, to discourage them from persisting in their efforts for seeking international protection. In Croatia, there are reports of the lack of access to interpreters and victims would sign hearing minutes out of fear even though they had clear problems understanding the interpreter. It seems to be a particular case with interpretations of various Arabic dialects. The system only records that the translator has been provided but does not enter into the quality of the service provided. One of the interviewees said that interpreters would add their own experiences and impressions to the interpreted statements.

Although there appears to be several cases where lawyers were not able to fully support their clients, many of the cases included in this report have been provided by lawyers with significant experience of racist policing and violence. The lack of legal protection or lack of experience could be seen most notably by state appointed lawyers.

155 https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/BGR/INT_CAT_CSS_BGR_29219_E.pdf

Prosecutors and independent investigations

In line with Article 4 of the Framework Decision 2008/913/JHA on combating certain forms and expressions of racism and xenophobia by means of criminal law, EU Member States must adopt specific minimum standards and guidelines for investigating, proving and processing cases with elements of bias.

In Bulgaria and cases of blatant violation of human rights, the Prosecutor's office can initiate an investigation on such ground (The National Commission Against Discrimination also has the power to initiate a complaint to the National courts and the Prosecutor's office). However, such cases remain rare, single instances rather than a regular practice. Adequate protection of individuals and communities is not provided in the case of the Romani people and migrants. Prosecutors often fail to respond to complaints if the plaintiff is of Romani origin. Attacks against Romani individuals and communities are not properly investigated, in particular when there is an alleged police violence. The legal proceedings against such crimes remain inadequate due to lack of evidence or lack of recognition of such evidence as acceptable evidence.

Case study: A.G. - France

A.G., a 37-year-old Traveller, was killed during a police intervention in Seur, on March 30, 2017. He was shot five times in the chest. He was about to share a barbecue with relatives when the G.I.G.N (Groupe d'Intervention de la Gendarmerie Nationale¹⁵⁶) turned up at the family farm to arrest him. A.G. had indeed been wanted since September 2016 when he failed to return to jail following a temporary release granted on "family reasons" grounds. According to his relatives, he knew fully well that this would toughen his sentence but the urge to be with his three children and his sick father was overwhelming. It was all the more so since A.G. spent 13 out of the last 14 years of his life in jail. A third of his lifetime.

A.G.'s family immediately and almost totally questioned the official version. Several elements of the story told by the military – and taken up unchanged by the prosecution

- are contested. First, there is the knife question and its use by the family man.

The prosecutor states that, after seeing the gendarmes, A.G. took out his douk-douk - a French-made pocket knife of simple sheet-metal construction -, "displayed it while advancing and making threatening circular gestures" and attempted to attack one of the officers. For the family, who heard a rattle and gunshots but did not see the scene, this makes absolutely no sense. They explained that he had "never hurt anyone" and that he was not "suicidal" so, according to them, he would never have taken the risk to attack gendarmes with a knife. For them, the gendarmes relied on all the racist representations of the "dangerous", "threatening", "gypsy with a knife", to justify their actions.

Did A.G. really have it in his hand, or was it added after his death to corroborate the military's version as the family thinks? On this point, and others,¹⁵⁷ we must note that the gendarmes' testimonies are contradictory.

Denials from accused policemen in France have been supported by their hierarchical superior who recalls the officers "exemplary service record" and, despite the serious accusations against them, are able to continue to work. In other EU Member States, there are complaints against the prosecution office for failing to properly investigate the conduct of the police and law enforcement, with delayed or incomplete witness interviews. Procedural obligations under Articles 2 and 3 of the European Convention on Human Rights state that when a person loses his/her life at the hands of state agents, special measures should be taken. These special measures, among other things, concern the interrogation. The agents should be immediately separated and then interrogated separately in order to deny agents the opportunity to align their stories, as the goal is to obtain the truth.

¹⁵⁶ This unit is specialized in crisis management and particularly dangerous missions such as hostage taking, organized crime and terrorist acts.

¹⁵⁷ The gendarmes' statements revealed several contradictions in the narration of the facts : they described Angelo alternately as calm or agitated, standing with his hands up or in front of him, with his fists clenched, unarmed or with a knife.

Case study: L.B. – Belgium

On the 26th of June 2020, the Council Chamber of Kortrijk decided not to prosecute the police officers accused of the murder of L.B.. The public prosecutor claimed to have all charges dropped and to halt the entire case. One of the very problematic aspects in the case of L.B. is that the police officers were interrogated only one month after the incident. The interrogations took place from 14 June, whereas the incident dates from 7 May.

During the interrogations with the policemen, one month later by Comité P, their individual stories had already been influenced by the views of the others. In the interrogations all officers gave very similar stories. However, one important detail is different from the other stories: only one of the police officers mentions that four or five policemen gathered in the hallway of L.B.'s house and agreed to jump on him, restrain him and handcuff him (source: Alexis Deswaef). Deswaef: 'That's a bit weird, isn't it? And why does he now state that it happened like that, while all the others say nothing about the fact that they had agreed to jump him in the hallway? This is something you don't invent.'

In Belgium¹⁵⁸, Bulgaria, Croatia, France, it's reported that independent bodies with the mandate to investigate police and law enforcement abuses of power are not always fully transparent with reports not being published and open to the public.

Belgium was criticised by the UN Human Rights Committee in 2010 for lack of independent supervision of the police despite Comité P, which was set up as an external supervisory body for the police.¹⁵⁹ UN Human Rights Committee stated: "there are doubts as to the independence, objectivity and transparency of Comité P and as to its ability to transparently deal with complaints against police officers".¹⁶⁰

The Committee is largely made up of police officers who sit on Comité P only temporarily, after which they return to their duties as police officers. Moreover, there are no

lawyers, doctors, citizens, etc. in this committee.¹⁶¹ La Ligue des Droits Humains also criticises the judicial sanctions for agents who are prosecuted as rare and often symbolic.¹⁶²

In Bulgaria, during 2019, the Ombudsperson opened 35 cases related to the police treatment of irregular migrants and asylum seekers.¹⁶³ However, the results of the investigations were not publicly communicated and there were limited sanctions. AYS' Tajana Tadić stated: "I remember there was only one case, recently, in which two police officers were suspended, but only because they literally brought a bloody man to the police station and there was no way to cover it up". She added: "As for control: we report something to them, they control it themselves, they investigate themselves, and conclude that nothing wrong has happened. In fact, there is no independent form of control over their actions. In theory, there are border monitoring and national preventive mechanisms, but they are systematically disabled."

In Croatia, there is longstanding, formal recognition of the link between forced removals and violence or mistreatment. The monitoring systems and reporting mechanisms that have rightfully been introduced have not been coupled with effective regimes of accountability.¹⁶⁴ The complaints and reports of violence and mistreatment have been included in the Croatian Ombudsperson's Activity Reports within the period 2016-2020. In her Activity Report for 2017¹⁶⁵, she has stressed the numerous reports about expulsions to Serbia - without following

"I remember there was only one case, recently, in which two police officers were suspended, but only because they literally brought a bloody man to the police station and there was no way to cover it up"
Tajana Tadić, Are You Serious

158 General Inspectorate of the Federal Police and of the Local Police has been charged with supervising forced returns of people. This General Inspectorate is an independent body supervising the police forces and is under the direct authority of the Ministers of Justice and of the Interior.

159 R. Van Brakel, "Een reflectie over het huidig toezicht van het gebruik van surveillance technologie door de lokale politie in België", 2020, Cahiers Politicstudies, 55: 149.

160 Human Rights Committee, "Consideration of reports submitted by States parties under article 40 of the Covenant: Draft concluding observations of the Human Rights Committee: Belgium", CCPR/C/BEL/CO/5, consideration 15.

161 <https://www.dewereldmorgen.be/artikel/2013/03/13/website-moet-slachtoffers-van-politiegeweld-stem-geven/>

162 https://obspol.be/vos-droits#droits_PlainteComiteP

163 https://asylumineurope.org/wp-content/uploads/2021/02/AIDA-BG_2020update.pdf

164 <https://www.statewatch.org/media/1321/deportation-union.pdf>

165 Republic of Croatia, Croatian Ombudsperson, Report for 2017, Zagreb, March 2018, available in Croatian: <https://www.ombudsman.hr/hr/download/izvjesce-pucke-pravobraniteljice-za-2017-godinu/>

procedures prescribed in the Croatian Law on Foreigners. Finally, she warned that these behaviours might present the violation of the Article 3 of the ECHR - in both material and procedural aspects: the active torture and degrading treatment of persons, and the obligation of the State to carry out effective investigations that need to be adequate and detailed.

Case study: M.H. - Croatia

M.H., a 6-year old Afghan girl, was hit by a train and died after being pushed back from Croatia with her family (including 5 other children) and forced to walk on train tracks back to Serbia, on 21 November 2017.

Her family's lawyers filed a criminal complaint on 18 December 2017. The Ministry of Interior denied conducting the pushback and formally stated that the family was trying to cross illegally from Serbia into Croatia when the train killed M.H., even though the train driver confirmed that the family was moving in direction from Croatia to Serbia when the train approached. The Ombudswoman also tried investigating the case and requested to see the thermal imaging camera footage but was told that the footage is unavailable due to technical issues.

According to the Human Rights House 2019 Report on Human Rights in Croatia, the system of civilian oversight of covert data collection measures implemented by the police is still not functioning. Although the Civilian Oversight Council of Security Intelligence Agencies was established at the end of 2018, the Civilian Oversight Council over the Application of Individual Police Powers has not been established.¹⁶⁶ In 2020, it still hasn't been established, for the fourth year in a row.

At an EU level, there has been an increased number of fundamental rights monitors deployed by the European Union Agency for Fundamental Rights; the agency's complaints mechanism has been updated; and the agency's Fundamental Rights Office has also been granted more staff and greater independence, but it remains to be seen whether the agency will alter its longstanding practice of failing to provide it with adequate resources.¹⁶⁷

Promising case study: Investigatory research - Belgium

In 2018, after the complaints about police violence against transmigrants by various organisations, the Inquiry Service of Comité P started an investigatory research¹⁶⁸ to identify and understand this specific type of police violence better.



166 Human Rights House Zagreb, Human Rights in Croatia: Overview of 2019, Zagreb, March 2020, available at: https://www.kucaljudskihprava.hr/wp-content/uploads/2020/04/KLJP_godisnjelzvjesc2019_ENG_web.pdf

167 <https://www.statewatch.org/news/2020/august/press-release-eu-s-planned-deportation-machine-expensive-dangerous-and-lacking-in-transparency-and-accountability-measures/> and <https://fra.europa.eu/en/news/2020/independent-monitoring-eu-external-borders-and-rights-violations>

168 https://comitep.be/document/onderzoeksrapporten/2017-05-04_antiracisme_antidiscriminatie_3.pdf
https://comitep.be/document/onderzoeksrapporten/2017-05-04_antiracisme_antidiscriminatie_1_2.pdf
<https://comitep.be/document/onderzoeksrapporten/2019-02-06%20transmigranten.pdf>

Victimisation

In the vast majority of incidents of police brutality, the victims are met with a counter-claim of resisting arrest, assaulting an officer or accused of another criminal offence. As the F.G. case in Sweden highlighted, the counterclaim resulted in charges and a conviction of F.G., the victim. In Croatia, this victimisation takes place at a group level where government officials state that migrants falsely accuse the police in the hope that such accusations will help them in their attempts to remain or re-enter.

Case study: F.G. – Sweden

A year after F.G. was attacked by security at Gullmarsplan metro station in front of her four children, she was called in for questioning by the police. Upon arrival, she learned that one of the security guards had alleged that she had bitten him on the leg and that she was being suspected of assault.

When F.G. realised she was under suspicion, she asked to have an attorney present during the interrogation. However, she was told that the crime she was suspected of was not severe enough for her to be entitled to a state-sponsored public defender. She had no choice but to undergo the interrogation without legal representation.

F.G. adamantly denies ever having bitten the security guard, explaining – as she did to the investigative officer – that it would have been impossible for her to bite the security guard on his leg while she was handcuffed and lying face-down on the ground.

After a two-day trial in December of 2019, F.G. was found guilty and given the maximum sentence of one month in jail. Approximately a week after the court's decision, F.G.'s children were taken into custody by social services.

Case study: S.W. - Belgium

According to Sophie's lawyer, after all the media attention and the juridical steps Sophie took, the police officers in turn pressed charges and accused her of defamation because she brought the incident to the attention of the media and accused the police of ethnic profiling after she

was approached by police for identification while she was walking her dog.¹⁶⁹

Case study: Killing of Romani man – Bulgaria

No charges or investigations were brought against any of the individual police officers responsible for this murder case. Nevertheless, charges for possession of pesticides were brought against the surviving victim who contacted the Bulgarian Helsinki Committee. Furthermore, the only institutional response was initiating an investigation and pressing charges against the young victim, including imprisonment for alleged possession of pesticides.¹⁷⁰

Case study: L.B. – Belgium

In July 2020, L.B.'s family received a civil court summons. Alexis Deswaef: "They have summoned the family to the civil court of Mechelen [...] because she [L.B.'s sister Esther] has written texts about the fact that her brother has been murdered by the police. And the lawyers of those policemen have now filed a civil case against her to force her to take everything offline and not to post anything concerning the case where their names or their identity can be found. [...] they also say that they [the police] are afraid of reprisals...". On top of everything else 'the family is being silenced, they have not been able to complete their mourning process and are bewildered by the decision-makers.'

In France, between 2018 and 2019, some police officers that had been accused of police violence participated in law enforcement operations against the "Gilets Jaunes" movement. Lawyer Linda Sennaoui noted that, during this period, these officers initiated a number of "contempt and rebellion" procedures. Note that in France, this infraction is often used by law enforcement officers to protect themselves in case of accusations of police violence.¹⁷¹

¹⁶⁹ Belgian research

¹⁷⁰ Information acquired by primary sources during investigation of this case. See also: BLM, racism and resistance: this is not the time for a euro-white-wash, available at: <http://www.errc.org/news/roma-lives-matter-bulgarian-rom-killed-for-possession-of-pesticides>

¹⁷¹ In fact, since convictions for contempt and rebellion give the right to damages, they can represent a significant windfall. Since the publication, at the end of 2013, of a report by the General Inspection of the Administration pointing to abuses, many voices have raised against these practices.

Police unions

Police unions are incredibly powerful and will provide support to individual police and law enforcement officers where requested and if they are facing accusations of misconduct. This could be resistance to policing reforms that could see more effective punishment of police officers for racist bias or abuse of their powers. Law enforcement officers are entitled to representation in labour disputes, however this should not protect officers from accountability of their illegal actions.

Cast study: I.G. – France

In the case of I.G. a 19-year-old of north-African heritage, was severely beaten by two police officers (2008). Two police officers were supported by the Alliance police union by challenging the victim's narrative. The local union board stated: "the youngster may well have lied, it has already happened in other cases"¹⁷². In their view, I.G. had not been assaulted by police officers but by "thugs of the Quartiers Nord." The police officers' union and colleagues also expressed their support by showing up during the various hearings.

Government officials and policy-makers are susceptible to pressure from police unions that put forward the arguments that they are entitled to special protection from the law and must use dangerous forms of restraint because they put themselves on the line and are vulnerable to violence. In June 2020, the French Interior Minister, Christophe Castaner, told union officials that the "chokehold" would no longer be taught to police officers and prison staff, but stopped short of a total ban.¹⁷³ Castaner backtracked on that position and, following a meeting with the Interior Minister, police union officials said that he had offered them "explanations" and apologies for "communications errors." "We have won something, and lost nothing," Yves Lefebvre, secretary general of Unité SGP Police Force Ouvrière, one of France's main police unions.¹⁷⁴

Case study: A.K. - France

In the case of A.K. in France (2015) the police claimed that there was "no police violence" and that the officers' action was

"legitimate" and proportionate. The few police trade unionists that spoke out publicly about the death assumed this line of defence. Three elements, in a more or less direct way, were put forward in an attempt to justify the violence of this arrest and to reverse the accusation, thus making the victim bear responsibility for his own death. The officers insisted that A.K. was "aggressive" and "violent". When interviewed by the newspaper Libération, a Parisian representative of the Alliance union claimed, for example, that the family man "was terrorising the clients", that he "was completely out of control"¹⁷⁵.

Police unions, in response to the Black Lives Matter movement have been vocal in the mainstream press and on social media in Europe presenting alternative narratives. For example, police union SLFP shared a video on violence against police officers on patrol in the Brussels municipality of Anderlecht. On their Facebook page the video was accompanied by the following comment: "Comment nos collègues font leur travail à Anderlecht (Chaussée de Mons)... Que pensez-vous Pascal Smet et Benjamin Dalle? Nos collègues auraient-ils dû faire autrement? Était-ce une priorité? "(FR/ENG: The way our colleagues are doing their job in Anderlecht (Chaussée de Mons)... What do you think, Pascal Smet and Benjamin Dalle? Should our colleagues have dealt with it otherwise? Was this a priority?).¹⁷⁶

In Belgium, as a result of the news on the death of Joseph Chovanec, police unions complained about violence against them, openly attacking politicians who took a critical stance towards the police. The unions referred to the term 'excited delirium syndrome' (EDS). Critiques claim that EDS is not an official defined medical problem (not listed in the DSM-5) and is used to justify police violence¹⁷⁷ and is a term that has been disproportionately applied to Black and Latino people.¹⁷⁸ Although the police have issued new orders stating that people with EDS have to be transferred to a hospital and not detained in a cell there remains an unscientific term used to label individuals that can result in harmful practice.

172 In this article, for instance : <https://france3-regions.francetvinfo.fr/provence-alpes-cote-d-azur/bouches-du-rhone/marseille/marseille-deux-policiers-juges-correctionnel-suspectes-bavure-jeune-mineur-1700292.html>

173 <https://www.euronews.com/2020/06/16/france-backtracks-on-chokehold-ban-after-police-protests>

174 <https://www.nytimes.com/2020/06/12/world/europe/france-police-opposition-proposed-reforms.html>

175 See more here: https://www.liberation.fr/societe/2015/05/10/amadou-koume-autopsie-d-une-mort-suspecte_1304857/

176 https://www.rtb.be/info/regions/detail_le-slfp-police-partage-une-video-de-faits-de-violences-envers-des-policiers-a-anderlecht-ils-risquent-jusqu-a-4-ans-de-prison?id=10506370

177 <https://www.psychosenet.be/assets/wbb-publications/31236/JozeF%20Chovanek%20De%20Morgen%20herwerkt.pdf>

178 https://www.brookings.edu/blog/how-we-rise/2020/08/10/how-excited-delirium-is-misused-to-justify-police-brutality/?fbclid=IwAR3qBp4I-y1kA_F_J-q3uC1ZSEd5M_Ntmx2j5kabnDC84_5ErZfvKqkVg

Section 3: Community resistance



In 2020, we saw peaceful and powerful protests on the streets of Europe under the banner of Black Lives Matter. 2020 was also a year of a pandemic and with the pandemic came repressive policing practices to enforce the COVID-19 lockdown measures that resulted in violent treatment, injury and death. The incidents circulated on social media and ignited a popular movement and community resistance to racist police violence.

The protests on the street brought about the forcible removal and defacing of statues of individuals that have been slave owners or committed barbaric acts through colonialism. There were also protests and resistance that took place in refugee camps and detention centres. These acts of resistance, civil unrest, direct action were a symbolic expression of a change in attitude and time spreading through social media.

Black Lives Matter, of course, is a movement that starts earlier than 2020 and in the last decade, we have seen increased community engagement around issues of police brutality. In Sweden, most notably Afro-Swedish community organisations, have been organising and protesting racist policing but also there has been increasing engagement from other groups including children's rights organisations. In many of the cases, civil society organisations provide support to victims of police brutality and their families. The access to established civil society was, in some cases, the only way individuals could access legal redress or accountability for acts of brutality and violence.

Case study: M.D. – Sweden

A member of the Afro-Swedish National Association spotted videos of the 12 year-old boy being tackled to the ground by security guards online, and contacted M.D.'s sister to offer their support (2019). Shortly thereafter, the family was connected to the chair of the Afro-Swedish National Association, and the organisation began planning for ways to support the family.

The Afro-Swedish National Association decided to mobilise members and affiliated civil society and activist groups to plan a targeted action with the goal of holding Securitas accountable. They decided to write an open letter directly addressed to the VP of Securitas in order to voice their grievances and present a list of demands.

To bring attention to the matter, they also planned a protest to be held outside Securitas headquarters in Stockholm. Twenty other organisations signed the letter demanding action from Securitas, including the ENPAD (the European Network for People of African Descent), the Pan-African

Movement for Justice, Sweden's Young Muslims, and several organizations representing Somali parents.¹⁷⁹

In Belgium, the most important actors were the families of victims and the committees of community activists that support them, many active in Brussels. Increasingly, the families and committees join forces and support each other online and offline. The attention given to police violence by professional NGOs and human rights organisations is still minimal, with the exception of the work done by the Flemish and Francophone Human Rights Leagues and their project policewatch.be.¹⁸⁰

Case study: L.B. – Belgium

During the Black Lives Matter protest on the 7th of June in 2020 (Brussels), L.B.'s family got a prominent place at the stairs of the Palace of Justice and L.B.'s father was one of the speakers and commented: 'The organisers contacted us and we went to answer the call with the message we had to deliver as a testimony regarding L.B.'s death.'

As detailed in this report, there are cases of women as victims of racist police brutality and violence. However, violence against women is rarely the focus of the protest, this is also the case for migrant or undocumented migrants. In many of the cases, it is the mothers and sisters driving the campaigns for justice. However, in Sweden as well as Croatia, there was at least one example of intersectional campaigning and protest bringing together transmigrant women demonstrations.

Case study: Transmigrant collective Women to Women - Croatia

However, there are few but very powerful examples of refugee and migrant community resistance. First would be the powerful banner "They can't kill us all" made by Transmigrant collective Women to Women. On 2020 Women's Day March, the refugee, migrant, and local women from the collective marched together in the first row, holding the banner and shouting, "Open the borders!" Journalist Barbara Matejčić sees it as an act of ultimate courage, as for some of those women it was the first time they ever marched. Furthermore, it was clear that their message warns of femicide, but also of all types of violence that refugees and other migrants constantly face on the route.

179 20 organisationer kräver upprättelse för Muad, 12. (2019, March 12). DN.SE. Available at: <https://www.dn.se/sthlm/20-organisationer-kraver-uppratelse-for-muad-12/>

180 Belgium report

State oppression, violence and intimidation

The failure of governments and the police to effectively address racist policing and wider racial inequalities makes protest an important way to ensure that the people's voices are heard and racism is discussed on the public agenda. In countries with a strong and vibrant civil society, there were more civil society activities and campaigns against police brutality. In Bulgaria, despite the proliferation of outbreaks of violence against minorities, both on structural and institutional level, resistance and protest at community level is lacking. "We see no resistance because the community has come to terms with its situation and normalised it, due to external and internal factors. There is an understanding that you cannot go against the system without it crushing you." (Roma Standing Conference).¹⁸¹

In Croatia, there is not a significant movement against border violence. The victims and their families are often migrants, without an established constituency to mobilise. In summer 2019, Croatian ex-president Kolinda Grabar Kitarović stated in an interview for the Swiss television that people get bruised passing through rough terrain and was accompanied by confirmation that "of course, when pushing people back there is a little bit of force".¹⁸² In May 2020, The Guardian published the article "Croatian police accused of spray-painting heads of asylum seekers" followed by victims' testimonies and photos, the Ministry of the Interior published a reaction stating "The current opus of the author of the article in question can in no respect be considered as professional and objective news reporting".

The police have a duty to ensure public safety during protests and allow for freedom of expression, association and assembly. Arresting protestors and legal observers can be seen as an intimidation tactic to deter protest and is a form of criminalisation. A clear example of how protest can be criminalised followed the Black Lives Matter protest on the 7th June in Brussels, which mobilised more than 100.000 people. Posters and banners were displayed on walls across Brussels and sprayed with messages of justice for A.C., the 19

year-old killed in a collision with the police in April 2020¹⁸³. The banners were then removed and forbidden by the police in Brussels¹⁸⁴. The League of human rights called these reactions unlawful, but the police only remarked they were following the municipal regulations, according to article 10(4) of the general police regulation. The League responded: "Unless they are hate messages, those banners account for our freedom of opinion. We are at risk of being discriminated against because of a political idea, because as far as the messages of support for the care providers are concerned, well, they are not removed."¹⁸⁵

In Sweden, 2020, there was also a new law passed that would criminalise interference with emergency personnel. The law was framed as an effort to increase protections for first responders such as police officers.¹⁸⁶ However, researchers and activists have criticised the law strongly, arguing that it will be used against civilians for resisting arrest, adding that it is destructive and counter-productive.¹⁸⁷

Case study: Black Lives Matter Protest – Sweden

Several people were injured when police forcefully dispersed a Black Lives Matter protest in central Stockholm on June 3rd. Witnesses recorded videos, which show police officers hitting protesters with batons, pepper-spraying them, and hitting, pushing, or dragging them. Videos that went viral on social media depicted officers slamming young girls to the floor and being beaten and dragged. The videos also showed police officers widely pepper-spraying protestors inside the closed space. The situation descended into more chaos with youth screaming, coughing, and running to get away from the officers. Critics of the police's actions have highlighted not only the irony in that a demonstration against police brutality devolved into the exercise of police brutality, but also that the police officers' use of force actually created an

¹⁸¹ <https://romastandingconference.org/manifesto/>

¹⁸² [https://www.srf.ch/play/tv/tagesschau/video/kroatiens-praesidentin-grabar-kitarovi-zur-balkanroute?urn=urn:srf:video:68ae3d79-230b-4af6-a318-717b9aa8a514&fbclid=IwAR35wUqv3TeatK1ensOazG8eYHiCpqnQQRv9wXnIUoX-wqH7OHp_-ULZU0M \(11:19\)](https://www.srf.ch/play/tv/tagesschau/video/kroatiens-praesidentin-grabar-kitarovi-zur-balkanroute?urn=urn:srf:video:68ae3d79-230b-4af6-a318-717b9aa8a514&fbclid=IwAR35wUqv3TeatK1ensOazG8eYHiCpqnQQRv9wXnIUoX-wqH7OHp_-ULZU0M (11:19))

¹⁸³ https://m.facebook.com/pg/colerenonconfinee/photos/?tab=album&album_id=124217592564262

¹⁸⁴ <https://www.bruzz.be/videoreeks/woensdag-22-april-2020/video-politie-bant-opruierende-banners-voor-A.C.>

¹⁸⁵ <https://www.bruzz.be/veiligheid/politie-haalt-tiental-spandoeken-voor-A.C.-weg-van-huizen-2020-04-22>

¹⁸⁶ Ny lag stärker skyddet för blåljuspersonal | Polismyndigheten. (n.d.). polisen.se. Available at: <https://polisen.se/link/26dcc7007ca947fd98fe05de0e6abe74>

¹⁸⁷ Sundberg, M., & Klintevall, M. (2019, April 5). Forskare totalsågar regeringens förslag om blåljusbrott: Bara symbolpolitik. SVT Nyheter. Available at: <https://www.svt.se/nyheter/inrikes/moderaterna-om-regeringens-blaljusforslag>

increased risk of the virus spreading. Indeed, at the same time that the use of force was justified with reference to the need to disperse the demonstration due to concerns over coronavirus, police officers' widespread use of pepper-spray ultimately lead to a chaotic situation where people were coughing in an enclosed space, thereby increasing the chances for the virus to spread.

By the end of the night, two people had been arrested for throwing items at police officers and security guards, which police commented amounted to attempted incitement of a riot. Several reports have also been filed against the police for use of force, with at least 12 complaints recorded with the office of the Justice Ombudsman.¹⁸⁸ Police officials deny any excessive force having been used at the protest and claim the force used was necessary in order to dissolve the protest due to the pandemic.

State oppression and violence as described in this report, demonstrates how oppression can operate through "bureaucratic means, cultural means, economic, militaristic and geographic means. Entire communities can be stripped of their personhood and subjected to the sharpest edges of violence, dehumanised and then all manners of persecution and violence are justified. "Collective punishment"¹⁸⁹ of Romani communities in Bulgaria have emerged as a common political response at a local level and national level in the last years with the increase of populist anti-Roma discourses led by neo-fascists and the far-right. The political response to rights-based campaigns from the side of civil society is oppression and attack of human rights arguments.

Oppression and violence can also be felt without the obvious wounds and injuries but through under-investment and over-policing communities and the criminalisation of human rights defenders. In Croatia, NGOs responded to irregular police practices in 2016 and 2017 but with increased police pressures and attempts of criminalisation of those who were vocal, others became quiet, out of fear or for choosing different acting patterns. An anonymous lawyer stated: "I am aware of cases of criminalisation of solidarity of activists, NGOs and

lawyers. I consider this an extremely dangerous tendency that has been reported but not processed. I believe that this is an abuse of a strong body of state power, specifically the Ministry of the Interior, and an abuse of their powers, which deeply insults the fundamental values of a democratic society and the protection of human rights in general and can be an introduction to dictatorship. Especially if it is not seriously investigated and if such conduct is not sanctioned. I believe that in this way the state mobilises its state bodies contrary to the purpose for which those bodies exist."

Journalist Ivana Perić thinks civil society is still under-mobilised, "especially because resistance in this context is seen as something that only associations and initiatives 'specialised' in doing so deal with, and not as a general matter affecting everyone in the (civil) society".

Case study: M.H. - Croatia

On their second attempt to get to Croatia, the M.H. family was pushed back once again after reaching Croatian territory. On their third attempt, they were held in detention for almost three months, forced to sign documents they did not understand, and their lawyer wasn't able to get to them for one and a half months. At the same time, the organisations providing assistance with the case, Centre for Peace Studies (CPS) and Are You Syrious (AYS), were pressured and intimidated by the Ministry of Interior¹⁹⁰. AYS' volunteer who assisted the family's access to the asylum procedure once they were on Croatian soil was even charged with a misdemeanour for "helping third country nationals in illegally crossing the Croatian-Serbian border", despite evidence that proved contrary.¹⁹¹ Domestic judiciary system provided no legal remedy for the family, so the case is now before the ECtHR (Applications no. 15670/18¹⁹² and 43115/18¹⁹³).

188 Israelsson, L. (n.d.). Tolv JO-anmälningar mot polisen efter demonstration. Available at: <https://www.expressen.se/nyheter/tolv-jo-anmalningar-mot-polisen-efter-demonstration/>

189 <https://www.amnesty.eu/news/bulgaria-must-investigate-and-prosecute-hate-crimes-to-end-climate-of-fear-0850/>

190 Centre for Peace Studies, Police pressure on human rights activists and lawyers protecting the refugees in Croatia, 18 April 2018, available at: <https://www.cms.hr/en/azil-i-integracijske-politike/sabor-mora-oformiti-istravno-povjerenstvom-nad-mup-om>

191 Statewatch.org. (2018). Statewatch News Online: Croatia: Criminalising solidarity: Are You Syrious? statement on politically motivated, unjust guilty verdict for our volunteer. Available at: <https://www.statewatch.org/news/2018/sep/croatia-ays-case.htm>

192 European Court of Human Rights, Application no. 15670/18, M.H. and Others against Croatia, lodged on 16 April 2018, available at: <https://hudoc.echr.coe.int/eng#%7B%22appno%22:%5B%2215670/18%22%7D>

193 European Court of Human Rights, Application no. 43115/18, M.H. and Others (no. 2) against Croatia, lodged on 13 July 2018, available at: <https://hudoc.echr.coe.int/eng#%7B%22appno%22:%5B%2243115/18%22%7D>

Civil unrest

In 2020, protests under the banner of Black Lives Matter were significant in number, size and mostly centrally organised. However, local uprisings and protests that take place directly after incidents of police brutality, are organised quickly and through word of mouth with direct claims for justice for individual cases. In some areas, racialised groups will experience greater attention from the police and live in fear of racist police violence, knowing persons within their group or community that have been affected by police violence. Individual acts of violence have a collective impact¹⁹⁴ and reverberate within communities. The sister of A.A. said: “The youths, his friends, they couldn't cope with what happened to him, why was he hurt so badly”.

Case study: A.C. - Belgium

Very fast, there were circulating calls for protest on social media¹⁹⁵. On Saturday the 11th of April around 2PM a dozen youngsters gathered near subway station Clemenceau and on the Raadsplein, at the Anderlecht municipality. The youngsters (most of them between 14 and 18 years old) demonstrated against police actions following the death of A.C.. Their protests ended up in an uprising: they threw stones at the police and police cars and bus stops were wrecked. The media spoke of at least one injured person. The police deployed a water cannon and arrested some protestors. At the same time a police weapon was stolen from a wrecked police car and several shots were fired in the air. The weapon was found behind a container after an anonymous tip on the 5th of May¹⁹⁶, a few days after this an 18-year-old young man turned himself in to the police¹⁹⁷.

Case study: A.A. - Belgium

“It was not really a protest, there was a slogan here and there. At a certain point things went wrong, because at first we were talking to the mediation team of the police, there was nothing going on yet and all of a sudden, an anonymous police car drove by, from the other side, almost slipping with squeaky tyres and that was, I think for two youngsters, sort of a last straw. They started throwing stones against that car. I don't think it had been hit but it instigated the fight. The police were actually systematically detaining a lot of people. It was at that point that there were pictures taken of a youngster throwing a stone against a combi, which was slowly driving by. There was also talk of someone wanting to throw or throwing a Molotov. Later in the evening two cars owned by city services were set on fire.”

In the case of A.A. in Belgium, the victim and his family were held responsible for the civil unrest. A.A. was interrogated for it even though at the time he was still recovering



194 <https://batjc.files.wordpress.com/2014/06/tj-ca-one-pager.pdf>

195 <https://www.vrt.be/vrtnws/nl/2020/04/18/reconstructie-hoe-virale-bericht-jes-op-sociale-media-vorig-week/>

196 <https://www.bruzz.be/samenleving/gestolen-politiewapen-terug-gevonden-anderlecht-2020-05-06>

197 https://www.rtb.be/info/regions/detail_anderlecht-l-homme-qui-avait-vole-l-arme-d-un-policier-lors-d-emeutes-s-est-rendu?id=10502066

from a concussion. A.A. was never convicted in relation to the riots. Two young people received a 37 and 30-month prison sentence. A youth worker was sentenced to community service because he was part of a WhatsApp group where the demonstrations were discussed. Four other youngsters were acquitted.¹⁹⁸

The victims of violence and their families are often held responsible for subsequent civil unrest and asked by politicians, the media and others to calm local residents and somehow maintain the order. In a video message A.C.'s father felt the need to say: "I would like to call on all you young people to remain calm, please don't make any more problems for yourselves and your family. My child needs the mercy of Allah, he doesn't need you to destroy things."¹⁹⁹

It can be left to the wider civil society community and social services to formulate wider solutions for the community. Following the incidents in Luchtbal, Belgium, it is reported that youth workers were able to arrange more

Case study: Black lives Matter protest – Sweden

The viral video of police officers pepper-spraying and assaulting the children at T-Centralen sparked particular outrage among children's rights organisations. The local chapter of Save the Children condemned the violence and demanded an independent investigation of the use of force by police officers. The youth association of Save the Children, along with the anti-racist youth organisation Ungdom Mot Rasism, also published a press release condemning the violence and presenting their own list of demands for accountability.²⁰⁰ The statement demanded three actions; first, that an independent investigation be launched into the use of force by police officers on June 3rd; second, that the police force undergo specialised training concerning how to engage with children and youth while protecting children's right to assembly and participate in democracy; third, that the police chief make an official apology to the youth who were victimised by the police violence.



198 https://www.gva.be/cnt/dmf20170629_02947821/leider-luchtbalboys-veroordeeld-tot-37-maanden-cel

199 <https://www.bruzz.be/samenleving/vader-overleden-A.C.-maat-aan-tot-kalmte-videoboodschap-2020-04-13>

200 Pressmeddelande om gårdagens polisvåld mot barn – Rädda Barnens Ungdomsförbund. (n.d.). available at: <http://rbuf.se/pressmeddelande-om-gardagens-polisvald-mot-barn/>

Filming as resistance

In many EU Member States, the camera phone has become the best line of defence, providing evidence of racist behaviour of the police and law enforcement, which would otherwise be hard to prove. The use of video or filming incidents of police brutality and social media combined has been key to community resistance and the movement around Black Lives Matter in 2020. The video footage of George Floyd losing his life was circulated across the world and was a catalyst for the movement. In Europe, videos and audio clips have had a similar effect, albeit at a national level.

In the case of 12 year-old M.D. in Sweden, the videos of the incident of him being tackled by security guards went viral, drawing much attention to the case in both mainstream press coverage and on social media. Several protests and other initiatives were organised by civil society actors in response to this case. The response included both mainstream children's rights organisations and organisations serving communities of colour. Similarly, in France, violent police enforcement of lockdown measures was caught on camera and shed a light on the reality of violence in French banlieues.²⁰¹

In France, activists have been consistently filming police brutality, the footage is posted on social media – Instagram and twitter. The French police say that filming is illegal and stop people from filming. When the security footage of Michel Zecler, a black man that was beaten inside his music studio in 2020, after he was stopped by the police for not wearing a mask, President Macron tweeted, “The images shame us. France must never allow racism to prosper.” However, Macron also introduced security laws²⁰² and article 24 which aimed at limiting and penalising the capture and broadcasting of videos of police interventions. In May 2021, the Constitutional Council censured this article and an independent commission recommended, among other things, that police officers be reminded that they do not have the right to object to being filmed. It is reported that officers generally object to this recommendation in the field.²⁰³

201 <https://www.franceinter.fr/confinement-plusieurs-personnes-affirmement-avoir-ete-brutalisees-et-insultees-lors-de-controles-de-police>

202 <https://www.laquadrature.net/2021/04/16/loi-securite-globale-adoptee-resumons/>

203 French research

Case study: A.J. - Belgium

They posted the footage and what they witnessed on Facebook²⁰⁴, and it went viral. Numerous mainstream media outlets shared the story, and the Brussels police started an investigation²⁰⁵. “At first, we spread the images of what we had witnessed. My testimony, plus the testimony of the two other witnesses who had seen Ali being dropped on the other side of the hotel.”(Mehdi Kassou, Director of ASBL Plateforme Citoyennne). Because of the widespread coverage of the incident, the Mayor and Police Chief got involved and had to comment openly in the media²⁰⁶.

Case study: F.G. – Sweden

An evening in early February 2018, a 45-year-old Black woman was assaulted by security guards at Gullmarsplan metro station in Stockholm after attempting to film another violent encounter between security guards and a man.²⁰⁷ F.G., who is of Eritrean descent, was traveling home with her four children when she stopped to document the incident. The guards approached her when they saw her filming and slammed the phone out of her hand, causing it to fall to the ground and break. When she insisted that she had the right to film the incident, the guards proceeded to forcibly remove her from the station, dragging her towards the exit. When she resisted her removal, they slammed her to the ground and placed her in handcuffs.

Case study: L.B. – Belgium

Furthermore, the bailiff's assistant, one of the witnesses of this incident, came back into the house at a certain point and started filming with his mobile phone²⁰⁸, during the moment that the policemen were using the coercion, just before the ambulance was called. One of the policemen realised he was being filmed and scolded the assistant who then stopped filming. The video appears to stop just before the crucial situation appeared that led to L.B.'s death.

204 https://m.facebook.com/story.php?story_fbid=2907902729257843&id=100001144331011&sfnsn=mo

205 <https://www.hln.be/brussel/vier-agenten-verhoord-in-onderzoek-naar-geweld-op-soedanese-vluchteling--a3202aaf/>

206 https://www.nieuwsblad.be/cnt/dmf20200422_04930833

207 Sweden Research

208 https://www.demorgen.be/nieuws/L.B.e-bangoura-27-stikt-tijdens-politie-interventie-in-roeselare-breng-hem-naar-de-kliniek-daaraan-kan-ik-niets-veranderen-he-gasten--bbe91221/?fbclid=IwAR0nLRYkzAE24ljiUHPYHX-efH-GTT5H21akenFUyRAwKk7z_r01qWmlwnaE&utm_campaign=shared_earned&utm_medium=social&utm_source=copylink

Mainstream media

The increased media coverage of racist policing over the past couple of years has also suggested that the media discourse around these issues are shifting. According to a journalist interviewed as part of this research, who has covered several instances of racial profiling and police brutality over the last several years, there is also evidence that there is a growing interest in this topic on the part of the public. However, mainstream media discourse can be critical of Black Lives Matters related protests focusing on the negative aspects and demonising victims of police brutality, putting pressure on the families to put forward counter-narratives.

Case study: A.A. - Belgium

In a reaction to the media attention the police communicated on social media that A.A. 'was no angel' and referred to a conviction and punishment in 2015²⁰⁹. The family decided to contact the media to get the story out: "Yes, I deliberately called in the media because I thought this was quite an important matter because he was not at all heard by the police and didn't receive a police report. For me it was important to get the story out there. This should not happen a second time.



209 <https://www.hln.be/in-de-buurt/antwerpen/gewonde-jongen-dient-klacht-in-~adf5ebef/>

In Bulgaria, instances of police brutality towards individuals and communities have become mostly invisible, with limited media coverage. In the rare instances where there is media coverage, it will focus on the perceived criminality of the Roma victim.²¹⁰

Case study: Killing of Romani man – Bulgaria

The victim did not press charges or bring official complaints known to human rights organisations or media. The media depicted the family using racial slurs.²¹¹ With the far-right in power fuelling negative sentiment towards Roma, lack of support from the side of the police and institutions and increasingly strong reactions in this period from the general population. The media should not underestimate how mediatised images can make a difference.

Case study: L.B. – Belgium

Most of the mainstream media portray L.B. as a gigantic man with almost inhuman powers. According to media reports, a lot of manpower and a wide variety of tools had to be used 'to conquer' L.B.. The reports emphasised that L.B. was 'outraged', "frenzied with anger" and "waving a steak knife" though the police file said the knife had been out of sight by the time the police started to contain L.B.. Some of the testimonials even show that the bailiff present, the assistant and the workers never saw a knife.

Case study: A.K. - France

There were numerous references to the victim's corpulence, both in the officers' statements and in press articles. The regional newspaper l'Aisne Nouvelle mentions, for example, "a colossus of 1m90 for nearly 110 kg" who "apparently resisted [arrest], thus requiring the intervention of 13 police officers".

210 Bulgarian research

211 BLM, racism and resistance: this is not the time for a euro-whitewash, available at: <http://www.errc.org/news/roma-lives-matter-bulgarian-rom-killed-for-possession-of-pesticides>

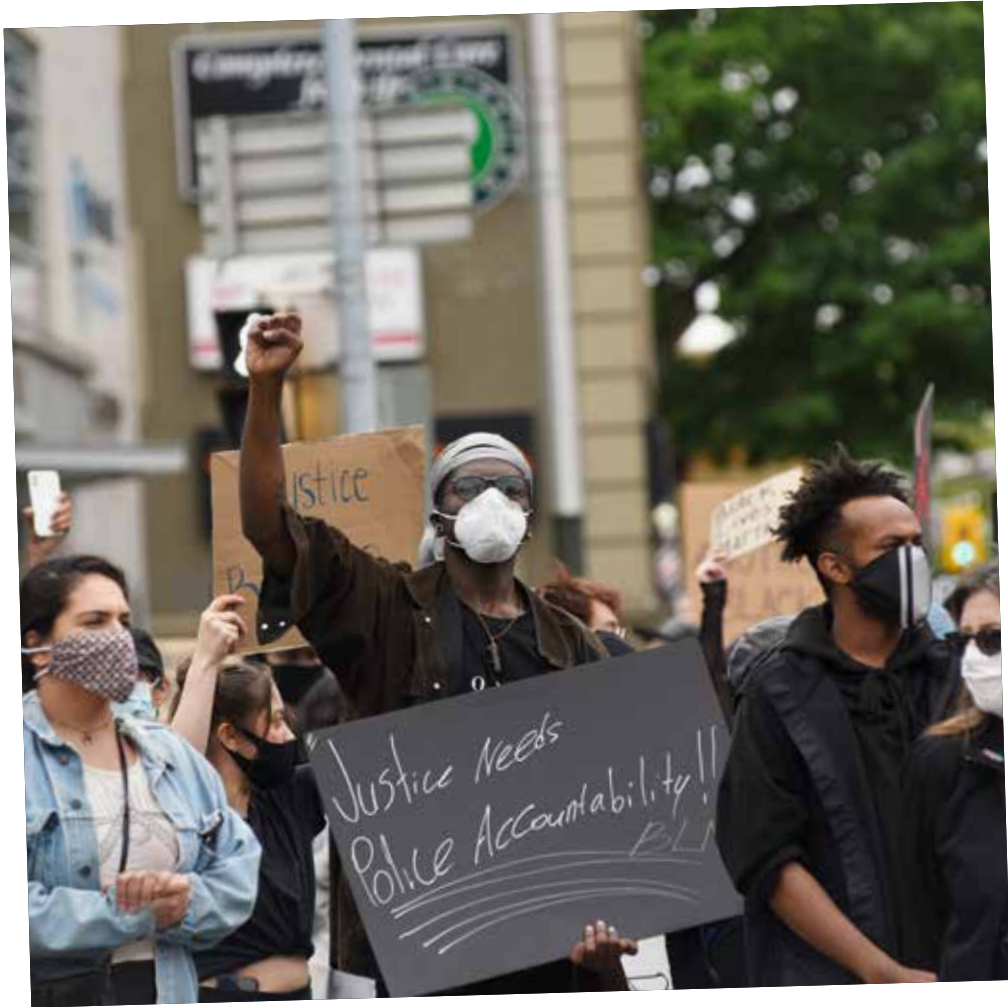
Mainstream media report on the protests that take place following a police brutality incident, rather than focus on the reasons for the protests.²¹² According to one person interviewed as part of this research in Belgium: 'I think the role of the media is very important. We see it, for example, in the treatment of the Chovanec case, because the way in which responsibility is being reversed: both the police discourse and the judges reverse the responsibility and put this responsibility onto the victim. It works because when

it happens, there is a lack of witnesses...'. There is the family's voice but these families are also victims of racism in the wider society as their complaints are not believed. The media could reverse and influence public opinion by making people understand that these cases are complex, with not just the police version of events. The media has a role to play by covering the broader context of structural and institutional racism, such as the dehumanising and racist treatment of the victim and their family.



212 "His death caused quite a stir in Roeselare and even led to a march, in which the police station was pelted." This was said in an article from *Het Laatste Nieuws* on June 2, 2020. Although many actions took place without violence, less attention is paid here. The headlines often make it clear immediately that the demonstrations did not go without any violence: "March for deceased L.B. attracts 350 participants, hotheads cause destruction afterwards". This is the headline from an article in *Het Nieuwsblad* on 19 May 2018. An article from *Het Laatste Nieuws*, published on 9 May 2018, is about the "silent vigil for man who died during eviction gets out of hand, protesters pelt the police station". Much attention is also paid to the rioters themselves: "Who was the rioter? Daniel M.B. A 31-year-old man from Wervik who took part in a silent vigil for the deceased L.B. Bangoura (27) on 9 May 2019 in Roeselare has to carry out a community sentence of 60 hours and pay a fine of 400 euros for deliberate arson at the police station on the Butter Market."

Conclusion



CONCLUSION

The problem of achieving an appropriate balance between police powers and individual liberty is not a new one.²¹³ It was hoped that with the winds of change following George Floyd's murder in 2020, progress was finally within reach. Tens of thousands took to the streets and marched, galvanised by a death that resonated across the globe and united millions in global protest. A year later, however, many of the racist practices continue in Europe.

During the police enforcement of COVID-19, the problems arose in the use of law and the criminal law to start with. Providing additional powers to those in charge of enforcing social control opened the possibility of abuse of the ones who usually are subject to state violence. In 2020, we saw the criminalisation of freedom of movement, homelessness, informal work, protest, filming police officers, being in public spaces, migration and support to migrants. Racialised communities were significantly impacted by the pandemic and a primary target of police enforcement measures. The racist policing patterns identified outside the pandemic were only reinforced and confirmed with COVID-19 related measures.

In our societal and political structures in which racism is normalised, people with a refugee or migration background are often dehumanised and criminalised. It is also within this system that violence perpetrated by the police is somehow tolerated and normalised. For those in Europe with an irregular migration situation, the only problem is not disproportionality, but especially criminalisation.

Police officers are rarely held to account for their abuse of human rights and institutional racism remains rampant. Lack of accountability at all levels creates conditions for police impunity. Police officers accused of killing racialised people have routinely avoided being charged and convicted over these deaths. Several international institutions have established principles for the effective investigation of deaths in police custody, however, these principles rarely lead to police officers being held to account for their abuse of power. There have been deaths in custody where the families are still seeking some form of redress through independent inquiries. This reflects a deep-rooted racism even more complex, not only belonging to the police but the wider criminal justice system including judges, prosecutors, medical experts, mainstream media and the wider public. This is combined

213 <https://policehumanrightsresources.org/content/uploads/2013/01/European-Convention-Handbook-for-Police.pdf?x96812>

with impunity which reigns within the police as an actor embodying absolute power.

There have been many attempts to limit the abuse of that power through reforms, including: increasing diversity of the police; community policing; early warning systems for problem officers; developing standards and code of ethics; training; bodycams; civilian oversight bodies. Each reform has had limited impact. Many of the reforms are developed to keep the police and law enforcement officers from abusing individual human rights and will not fully solve a system-wide racist institution and the criminalisation of whole groups. The concept of policing and law enforcement is not just tainted by racial bias but part of a comprehensive system of racialised social control.

In Europe, we need a transformative justice approach to policing and criminal justice. Transformative justice provides opportunities for liberatory responses to violence that actively cultivate healing, safety, accountability, connection, transformation and shared humanity and dignity.²¹⁴ We cannot end violence if we do not work to end the structural conditions that allow it to occur and to continue. Divestment from the police and reinvestment

into communities is one way to address the structural conditions that criminalise certain groups and allow for their destruction. Breaking up the police into its constituent parts but moving those funds into health care, education and supporting migrants and young people is transformative. It is critical that any remedy to racist policing addresses improved services in mental health, drug addiction and many other societal issues that we need a position of social care and not criminal justice.

Transformative justice also starts from the premise that communities – whether they are organised civil society, family members, friends, co-workers, neighbours etc. - are better placed to recognise, respond to, and address violence. Community organising is one of the most effective strategies for shifting social conditions. This requires that communities are supported and not criminalised.²¹⁵ The communities and organisations included in this report have offered best practices across Europe, whether that is through protest, filming and holding the police to account, mutual aid funds and continuous support to victims and families.

The conversations can be almost as important as the conclusions.

214 <https://batjc.files.wordpress.com/2014/06/tj-ca-one-pager.pdf>

215 <https://novelhand.com/restorative-and-transformative-justice/>

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