

Written submission of the Secretariat of the European Commission against Racism and Intolerance (ECRI) of the Council of Europe to the United Nations Human Rights Office in the context of the preparation of the future report, by the UN High Commissioner for Human Rights, on the implementation of Human Rights Council Resolution 43/1 entitled “Promotion and protection of the human rights and fundamental freedoms of Africans and of people of African descent against excessive use of force and other human rights violations by law enforcement officers”

1. ECRI STATEMENT ON RACIST POLICE ABUSE, INCLUDING RACIAL PROFILING, AND SYSTEMIC RACISM

In the context of its 82nd plenary meeting (30 June – 2 July 2020), ECRI issued a rare [statement](#) on racist police abuse, including racial profiling, and systemic racism. In its statement, ECRI noted that the tragic death of George Floyd upon apprehension by the police in Minneapolis (Minnesota, United States) triggered a wave of protests against racism across the world and ignited discussions on the excessive use of force by law enforcement officials against persons belonging to minority groups, the persistent practices of racial profiling and more generally systemic racism, all of which are to be found in Europe.

ECRI recalled its [General Policy Recommendation No. 11](#) on combating racism and racial discrimination in policing and reiterated in particular that racial profiling constitutes a specific form of racial discrimination and must be expressly prohibited by law.

In its statement, ECRI urged Council of Europe member States to take steps to prevent and combat racism in policing, in particular to develop: i) recruitment procedures which ensure that the composition of the police reflects the diversity of the population; ii) human rights training, at regular intervals, for all police officers; iii) frameworks for dialogue and co-operation between the police and members of minority groups; iv) effective reporting procedures within the police, including through the adoption of protective measures for ‘whistle blowers’; v) strong support for victims and witnesses of police misconduct; and vi) fully independent bodies to investigate incidents of alleged police abuse.

2. THE NATURE AND SCALE OF ANTI-BLACK RACISM BASED ON ECRI’S FIRST SIXTH-ROUND COUNTRY REPORTS, SHORTCOMINGS OBSERVED AND GOOD PRACTICES AND ISSUES CONCERNING (RACIAL) PROFILING BY THE POLICE.

This section compiles extracts from selected sixth-round country monitoring reports ([Report](#) on Germany; [Report](#) on Switzerland; [Report](#) on Austria; [Report](#) on Belgium; [Report](#) on the Czech Republic; [Report](#) on the Slovak Republic) that contain information indicating the nature and scale of racism and discrimination against persons of African descent and any good practices in place to counter these problems. Such information is found under the following topics: effective equality and access to rights – inclusive education; hate speech; hate-motivated violence; integration and inclusion – migrants; and country-specific topics – racial profiling and police abuses. ECRI published the first five of its sixth monitoring cycle reports in 2020. In two of these reports (on Austria and on Germany) racial profiling is a country-specific issue and in one report (on Switzerland) police abuses is a country-specific issue.

EFFECTIVE EQUALITY AND ACCESS TO RIGHTS - INCLUSIVE EDUCATION

Findings:

In its sixth [Report](#) on Germany (§ 15), ECRI expressed concern about the results of a study from 2017, according to which 18% of people originating from Sub-Saharan African countries [...] felt discriminated in the German educational institutions as a student or a parent.¹ Around 16% of all German 15-year-olds surveyed reported being regular victims of bullying at school at least “a few times a month”;² [...] ECRI found that teachers are not adequately prepared to teach in a diverse environment, as neither human rights, teaching in diverse classrooms or addressing discrimination and bullying have been made an obligatory part of initial teacher training at university, the trainee programme “Referendariat” or the continuous training by the *Länder*.³

Good practice:

In its sixth [Report](#) on Germany (§ 16), ECRI welcomed the fact that the Federation and the *Länder* have developed various **good practices** to remedy these shortcomings. Among them are a network of more than 1 000 teachers with migration backgrounds in the *Land* North Rhine-Westphalia (NRW) that contributes to promoting diversity and inclusion in the education system. Berlin recently established the Anti-discrimination Commissioner of the Berlin Senate Administration for Education, Youth and Family Affairs who dealt within the first full school year of her activities with more than one hundred complaints on racial discrimination in schools, many of them involving teachers.⁴ [...] The 115.5 million Euro programme “Live Democracy” of the Federal Ministry of Family Affairs, Senior Citizens, Women and Youth supports initiatives that cover, amongst others, issues of diversity and violence-free and respectful coexistence in schools.⁵ One of the projects, “School without racism – School with courage” invites children to fight discrimination and contributes to a non-violent, democratic society.⁶ [...] In particular with regard to the federal programme “Live Democracy”, a number of interlocutors pointed out that there is a need for sustainability and some form of institutionalisation of the good practices developed, and for rolling-out and mainstreaming them in schools and other parts of the public administration.

Findings:

(§ 17) In view of the great diversity in German classrooms, ECRI considers that all *Länder* should introduce human rights and equal treatment in their education acts and the obligatory parts of their curricula. They should also transfer and roll out in schools’ good practices that have developed in projects. In addition, teachers should be better trained to provide quality and inclusive education in diverse classrooms, to intervene in cases of bullying and discrimination and thus to create the conditions under which pupils from all backgrounds can grow in a protected space, reach their potential and obtain the best possible school results.

¹ EU FRA 2019.

² OECD 19 April 2017.

³ German Institute for Human Rights, August 2017: 4; European Agency for Special Needs and Inclusive Education 2019; cf. also UN Committee on the Rights of the Child recommendations 2014: § 20b; UN Committee on the Rights of Persons with Disabilities 2015: § 28c; UN Committee on the Elimination of Racial Discrimination 2015: § 10iv, 11c and 16.

⁴ http://www.antidiskriminierungsstelle.de/SharedDocs/KontaktDaten/DE/Kontakt_AntidiskrB_Sen_BJF_Berlin.html?nn=8026478, accessed on 14.03.2019; Morgenpost 2018.

⁵ <https://www.demokratie-leben.de/>, accessed on 15.05.2019.

⁶ <https://www.schule-ohne-rassismus.org/startseite/>, accessed on 15.05.2019.

Recommendation:

(§18) ECRI recommends that the authorities of all German *Länder* introduce human rights and equal treatment in their education acts and the teaching of these topics in the obligatory parts of their curricula. They should furthermore mainstream good practices from projects on schools and reinforce initial and continuous teacher training on inclusive teaching in diverse classrooms and on intervening in cases of bullying and discrimination.

HATE SPEECH

ECRI's findings show that in some Council of Europe member states Black people are among the most frequent victims of hate speech, both on line and off line.⁷ For example, as indicated in data collected by different national organisations in Switzerland ([Report](#)):

Findings:

(§ 26) The [Swiss] Federal Commission against Racism (FCR) maintains a database of all decisions pronounced by cantonal law enforcement agencies and courts as well as by the Federal Supreme Court under Article 261bis. The database shows that 25 decisions relating to Article 261bis were taken in 2017, 41 decisions in 2016, 57 in 2015, and 22 in 2014. ECRI commends this impressive and useful database which currently contains over 1 000 decisions providing a wealth of information relating to racist hate speech. It is publicly available on the FCR's website and can be searched according to numerous criteria, such as type of act committed, protected ground, target group/victim, perpetrator, age, nationality and canton, but regrettably not gender. The database indicates that in total 89% of cases ended in a guilty verdict with only 9% acquittals. As for the type of act committed, 25% involved oral declarations, 26% written, 13% electronic communications and 4% acts of aggression. 7% of perpetrators were political actors, 4% editors or journalists and 11% right-wing extremists. 27% of victims were Jews, 17% Black people, 5% Muslims and 1% Yenishes/Roma/Manouche/Sinti.

(§ 28) Another official source of data is gathered by the Network of Counselling Centres for Victims or Racism, which recorded 301 racist incidents in 2017. Incidents are recorded in the following categories: acts of violence, communication (such as threats, insults, gestures), exclusion (including unequal or denigrating treatment, harassment, racial profiling) and extreme-right propaganda. The most frequent type of racist incident involved xenophobia (112 incidents), followed by anti-Black racism (95 incidents) [...].

(§ 29). Unofficial data are gathered by civil society organisations including via reporting mechanisms on their websites or dedicated telephone hotlines. The Foundation against Racism and Anti-Semitism (GRA) has been collecting and categorising data on racist incidents since 2005 and has a "report an incident" page on its website. In 2018, out of the 39 incidents reported up to and including September, 29 could be considered hate speech. Of these, over a third targeted Black people; they were presumed to be "African" and were told to "go home". [...]

ECRI was informed of a considerable increase in hate speech in **Slovakia** ([Report](#), § 33), in a great many cases by political figures, particularly during election campaigning. Hate speech has also been spread via the Internet and social networks. The demonisation inherent in such comments has affected a broad spectrum of groups, including LGBTI persons, women, Jews, Muslims, migrants, Roma, black athletes and also representatives of NGOs and lawyers defending the rights of those persons.^[45] This finding is corroborated by several surveys: 37% of the Roma participants in one of these surveys said

⁷ See for example ECRI's 6th report on Switzerland, § 26, 28-29.

that they had been victims of harassment in the last 12 months^[46]; in another survey, 79% of the LGBT participants thought that hateful and homophobic comments were frequent, and 63% thought that use of offensive language by politicians was widespread.^[47] It would appear that, to date, only a small proportion of this hate speech has been reflected in the official statistics of the police and the courts. In 2018, the police logged 266 cases as extremist crimes, and only 43 were classified as hate speech.^[48]

In its sixth [report](#) on the **Czech Republic** (§ 26), ECRI noted a growing trend towards xenophobic populism, while the traditional right-wing extremists and openly violent neo-Nazi groups are currently less visible – which does not mean they no longer exist. Xenophobic populists have shown to be more effective in polarising society and can often set the tone for the overall political debate on certain topics. There are several instances of such groups using hate speech for this purpose, particularly during the run-up to the general elections in October 2017. For example, the umbrella-network Bloc Against Islamisation produced a video clip showing migrants wearing burkas and hijabs attacking an elderly Czech person and dashing into a building with a sign saying, 'welfare benefits', leaving her lying helpless on the pavement. The staged election clip then tells Czech voters "you can choose whether to give money to our children and seniors or to Muslims and Africans" ^[26] . The impact of such rhetoric can be particularly dangerous when mainstream politicians do not clearly condemn and distance themselves from it, either because they hold similar views or due to fear of losing votes.

Measures taken by the authorities

(§43) ECRI has not received any information about events organised by the Czech authorities as part of the UN-initiated International Decade for People of African descent. When trying to prevent anti-Black racism more effectively, this international campaign can be a useful tool for cultural awareness-raising and for the prevention of racist hatred and hate speech. ^[47]

Recommendation:

(§ 44) ECRI recommends that the [Czech] authorities roll-out further anti-hate campaigns for the general public also by making use of related initiatives such as the International Decade for People of African descent. To guide their efforts, the authorities should draw inspiration from ECRI's General Policy Recommendation No. 15 on combating hate speech.

HATE-MOTIVATED VIOLENCE

Data shows that Black people are also among the most frequent victims of hate-motivated violence in certain Council of Europe member states.

Findings:

In ECRI's sixth [Report](#) on Switzerland (§ 58), in 2017, the Network of Counselling Centres for Victims of Racism recorded 25 acts of racist violence, 19 of which involved physical violence against persons and 4 involving damage to property. Xenophobia and anti-Black racism were the highest categories.

ECRI also noted some recent cases of police brutality against Black persons (§ 60), which it addressed in the section on Topics specific to Switzerland (§§110-112) (see below).

Recommendation:

ECRI recommended (§ 62) that the Swiss authorities encourage and facilitate closer cooperation and dialogue between the police and groups at risk of hate-motivated crime, in particular Black [and transgender] communities.

In its sixth [Report](#) on Belgium, ECRI's findings and recommendation concerning the authorities' response to hate-motivated violence may be relevant to combating anti-Black racism:

Findings:

(§ 59) On its visit to the Kazerne Dossin Museum in Musselin (Mechlen), the ECRI delegation learnt about good practices in the area of training provided for police officers on the subject of discrimination and exclusion with the aim of affording them the means of analysing these phenomena and acting professionally. ECRI regrets, however, that an end has been brought to the indefinite agreement between Unia and the Minister of the Interior, through which it was possible to hold many training courses for the police relating both to police structures and to the relations cultivated by the police with the public and civil society partners. In this context, ECRI expresses its concerns about reports that cases of racial profiling have become more widespread, particularly in the context of measures to combat irregular immigration. Even if in practice Unia continues to provide training to the police, ECRI hopes that co-operation between Unia and the Minister of the Interior will be re-established under an agreement aimed at enabling police employees to regularly attend the training provided.

(§ 60) Following the adoption of General Circular No. COL 13/2013, ECRI recommended that the authorities proceed without any further delay to designate in each police district a contact person responsible for racism and homo/transphobic issues, that these persons should be networked and that there should be close communication between the contact person in the police district and the contact prosecutor in the corresponding prosecution department. An evaluation of the circular is being carried out but it has not yet been finalised. In general, the experts on the Committee to Evaluate Federal Anti-Discrimination Legislation found that the circular was an appropriate instrument through which to establish a dedicated policy on the topics of violence motivated by hatred and discrimination. However, the committee has also issued recommendations on the correct application of the circular, recommending in particular that: (i) contact prosecutors and officers are appointed in all the constituent bodies of the public prosecutor's office and the police force; (ii) these contact persons are given regular training; (iii) contact officers draw up standard questionnaires and checklists for the police; (iv) contact prosecutors monitor processing times and the standard of investigations; (v) efforts should continue within the judiciary and the police to raise awareness, increase the

willingness of victims to report offences and provide quality support for victims; (vi) attention is paid to the importance of drawing up reports of a high standard and properly recording all the facts.

Recommendation:

ECRI recommended (§ 61) that the authorities ensure that the recommendations made by the Committee to Evaluate Federal Anti-Discrimination Legislation are implemented, particularly those on the correct application of General Circular No. COL 13/2013.

INTEGRATION AND INCLUSION - MIGRANTS

Findings:

In its sixth [Report](#) on Germany (§90), ECRI took note of studies pointing to the fact that discrimination is one of the factors for continued disadvantage of people with migration backgrounds in the labour market. Muslim and **Black** persons experience stronger discrimination than others and the degree of discrimination varies between different professions.⁸ Other factors that trigger the gaps in question are the social situation and the educational levels of people with migration backgrounds and their parents, the level of language proficiency and the quality of social networks that help when looking for work.⁹ To remedy this bundle of causes, ECRI encourages the authorities to pursue the positive approach of motivating employers to embrace diversity¹⁰ and at the same time a repressive approach where stronger action is taken against discrimination.

(§ 91) With regard to the positive approach, ECRI is pleased to note that the percentage of people with migration backgrounds working in the public administration continues to increase and reached 14.8% in the Federal administration and 10.7% in the public administration in general.¹¹ In this respect, ECRI highlights the **good practice** example of the Berlin police, where this percentage was of 32.4 in 2018 and encourages the authorities to further increase the overall number of people with migration backgrounds among their staff. ECRI also welcomes the activities of the Diversity Charter¹², which was signed by 3 000 companies and institutions with over 11 million employees in the private and public area, including by 15 *Länder*. When asked about the impact of the Diversity Charter, ECRI was informed that the charter builds on self-engagement. While some members have just signed and are not very active, others have developed and implement extensive action plans. ECRI considers that the impact of this excellent initiative, which builds on the intrinsic motivation of organisations to promote diversity, could and should be further increased.

Recommendation:

(§92) ECRI recommends that the [German] authorities encourage the Diversity Charter and its members to develop an index or set of indicators to evaluate the impact of the activities deployed by each member organisation. Based on this index, a system for regular evaluation should be established to identify good practices and pave the ground for peer learning among the Charter's member organisations.

⁸ Bertelsmann Stiftung 2018: 58 et seq.; Wissenschaftszentrum Berlin für Sozialforschung 2018: 4 et seq.; Sachverständigenrat deutscher Stiftungen für Integration und Migration 2014: 4 et seq.

⁹ IntMK 2019: 12 et seq.

¹⁰ See in this respect <https://www.netzwerk-iq.de/network-iq-start-page/developing-diversity.html>, accessed on 9.10.19.

¹¹ First figure provided by the authorities. For the second figure see IntMK 2019: 6.

¹² <https://www.charta-der-vielfalt.de/>, accessed on 20 May 2019.

COUNTRY-SPECIFIC TOPICS – RACIAL PROFILING

In its sixth [Report](#) on Germany (summary), ECRI found that there is strong evidence for extensive racial profiling and that numerous police services and representatives are unaware of or do not admit its existence. ECRI selected racial profiling as a country specific topic and as one of its two specific interim follow-up recommendations. ECRI requested priority implementation of its recommendation that the police of the Federation and the Länder should commission and participate in a study on racial profiling with the aim of eliminating this form of institutional racism (§ 109).

TOPICS SPECIFIC TO GERMANY – RACIAL PROFILING

(§104) In his 2015 report on Germany, the Council of Europe Commissioner for Human Rights expressed concerns about racially-motivated conduct by law enforcement services and numerous reports of racial profiling practised by the police. In 2017, the UN Working group of Experts on People of African Descent concluded that racial profiling is endemic among German police officials. According to a study published in 2017, 34% of the respondents with Sub-Saharan African background said that they were stopped by the police in the five years before the survey and 14% believed that this was because of their immigrant or ethnic minority background.¹³

(§ 105) ECRI recalls that it defines racial profiling as the use by the police, with no objective and reasonable justification, of grounds such as “race”, colour, language, religion, citizenship or national or ethnic origin in control, surveillance or investigation activities. In § 3 of its GPR No. 11 on Combating racism and racial discrimination in policing, ECRI recommends introducing a “reasonable suspicion standard” for any such activity, because laws that provide the police with the power to carry out identity checks without a suspicion based on objective criteria open the door to racial profiling. As ECRI already expressed in § 15 of its fifth report on Germany, it is concerned about the fact that § 23 of the Federal Police Act (FPA) gives police services the power to stop people without any suspicion of having committed a criminal offence or misdemeanour, or presenting a danger to public security. The Police Acts of several *Länder* provide that their authorities can designate areas as “criminal hotspots” and entitle the police to carry out identity checks in such areas without any degree of suspicion against the persons controlled.¹⁴

(§ 106) The recommendation in § 3 of ECRI’s GPR No. 11 reflects the case law of the Court that found that the stopping and searching of a person in a public place without reasonable suspicion of wrongdoing is a violation of Article 8 ECHR. It further decided that powers of stop and search are not “in accordance with the law” (Article 8.2 ECHR), if they are neither sufficiently circumscribed nor subject to adequate legal safeguards against abuse.¹⁵ ECRI furthermore underlines that the Court of Justice of the European Union found that EU law on the Schengen area precludes national legislation, such as § 23 FPA, that allows for controls irrespective of the behaviour of the person concerned and of the existence of specific circumstances, unless such legislation lays down the necessary framework for that power.¹⁶ Based on this decision, the Baden-Württemberg Higher Administrative Court held in 2018 that Article 23 FPA did not provide for a sufficient legal basis for identity checks.¹⁷ Another German court also found that the police had misused their margin of appreciation when carrying out such identity checks.¹⁸ Given these recent developments, ECRI considers that the authorities of the

¹³ EU FRA 2017: 69 et seq. These figures are of 27% and 5% for people with Turkish background.

¹⁴ See e.g. §§ 34.2.2, 21.2.1 of the General Act on Security and Order (Allgemeines Sicherheits- und Ordnungsgesetz) of Berlin, § 13.1.2 of the Bavarian Police Tasks Act (Poizeiaufgabengesetz) and § 19.1.2 of the Police Act (Polizeigesetz) of Saxony.

¹⁵ ECtHR, Gillan and Quinton v. The United Kingdom, no. 4158/05, 12 January 2010: 61 et seq.; ECtHR 2018: § 180.

¹⁶ EU Court of Justice, C-9/16, 21 June 2017, ECLI:EU:C:2017:483.

¹⁷ Higher Administrative Court Baden-Württemberg, 1 S 1469/17, 13.2.2018.

¹⁸ Higher Administrative Court Münster, 5 A 294/16, 7 August 2018.

Federation and the *Länder* should commission a legal opinion on the need for aligning their provisions on control and other investigation activities with this case-law.

(§ 107) Civil society informed ECRI that numerous police services and representatives are unaware of or do not admit the existence of racial profiling. Two police services acknowledged that police controls had been illegal before a second instance decision was taken that would probably have held that the police controls constituted racial profiling.¹⁹ Even though a Higher Administrative Court considered the practical guidelines of the police as too vague to protect individuals against their abusive use,²⁰ ECRI did not receive any information about any attempt to render them more precise. Furthermore, most of the bodies entrusted with the investigation of alleged cases of racial discrimination including racial profiling and racially-motivated misconduct by the police are not independent, contrary to the recommendation in § 10 of ECRI's GPR No. 11.²¹

(§ 108) ECRI considers that the authorities of the Federation and the *Länder* should examine and tackle the issue of racial profiling in a systematic way. It encourages them to carry out a study that analyses the current control practices and leads to recommendations that sustainably prevent racial profiling and curtail the number of unjustified police controls (see § 2 of ECRI's GPR No. 11). The research for this study should include the gathering of statistics and data about representative sets of police stops; an in-depth and ex-post analysis of such representative sets of police controls under the different police acts together with controlled persons and civil society organisations; an ex-post analysis of the results of these controls in terms of prosecutions and convictions; and an assessment of the ratio between checks and convictions, as well as whether this is different for minority groups compared to the rest of the population. The study and its recommendations should be used to verify the effectiveness of carrying out large numbers of controls with poor "hit rates" and results, to raise the awareness of the police about racial profiling and its harmful effects on the trust of the affected groups in the police, and to prevent and eliminate any pattern of this form of institutional racism.²²

(§ 109) ECRI recommends that the police authorities of the Federation and the *Länder* commission and participate in a study on racial profiling with the aim of developing and implementing measures that eliminate existing and prevent future racial profiling.

TOPICS SPECIFIC TO SWITZERLAND – POLICE ABUSES

In its sixth [Report](#) on Switzerland (summary), ECRI found that institutional and structural racism continues to be a problem in the police, manifested in racial profiling and identity checks targeting notably persons with itinerant ways of life and Black persons and that a number of police activities have ended in the death of Black persons.

- **Police abuses**

Findings:

ECRI noted (§ 111) numerous reports drawing attention to allegations of police abuses, including racial profiling and brutality. [...] Black people are also particularly targeted for police checks which frequently involve arrest and strip searching for drugs. ECRI is particularly alarmed that a number of police activities have ended in the death of Black persons. For example, in March 2018, a Nigerian man in Lausanne died following a police arrest during which he was pinned down and handcuffed; in October 2017, a 23-year old Gambian man died in police custody in Vaud; and in November 2016, a

¹⁹See the cases of the Higher Administrative Courts of Koblenz and Munich, Büro zur Umsetzung von Gleichbehandlung 2019 a and b.

²⁰ Higher Administrative Court Baden-Württemberg, 1 S 1469/17, 13.2.2018.

²¹ A positive example in this respect is Schleswig-Holstein, where the Ombudsman for Social Affairs is also competent for receiving and dealing with complaints against the police (§ 13 of the Citizens' and Police Commissioner Act).

²² Studies indicate that racial profiling leads de facto to a waste of public money, cf. EU FRA 2018: 49 et seq. and the research cited in ECtHR, Gillan and Quinton v. The United Kingdom, no. 4158/05, 12 January 2010: 84.

young Congolese man was fatally shot during a police patrol in Lausanne. Criminal proceedings relating to these cases in the canton of Vaud are ongoing. According to the NGO humanrights.ch, lawsuits in cases of police violence are often long and burdensome and rarely find in favour of the complainant, resulting in a system where victims feel helpless and that police are above the law.

(§ 112) The Federal Commission against Racism, referring to Black people being victims of racial profiling, recommended training for police to combat the problem of institutional and structural racism. According to a police trainer and government advisor, around 20% of police interventions do not respond to objective criteria. Lack of training was put forward as an explanation as well as the absence of an independent body to investigate complaints against police.

Recommendation:

ECRI recommends (§ 113) further training for the police on the issue of racial profiling and on the use of the reasonable suspicion standard. It also strongly recommends setting up a body independent of the police and prosecution authorities, entrusted with the investigation of alleged cases of racial discrimination and racially-motivated misconduct by the police, in line with its General Policy Recommendation No. 11 on combating racism and racial discrimination in policing.

COUNTRY SPECIFIC TOPICS

TOPICS SPECIFIC TO AUSTRIA - RACIAL PROFILING

Findings:

In its sixth [Report](#) on Austria, ECRI noted (§99) several reports that draw attention to the allegations of police misconduct, including racial profiling. Representatives of the Black and Muslim communities have raised concerns about a possible profiling of persons with repeated identity checks. The EU-FRA survey shows that 66 % of respondents with Sub-Saharan African background were stopped by the police in the five years before the survey and 37% of them perceived it as racial profiling, which was the highest among participant countries (EU-28 average was 8%).

(§ 100) In 2018, the footage of a police check regarding a Viennese rap artist of African descent in Josef-Strauß-Park was widely covered in the media. In 2019, the police launched an investigation into a gang alleged to have been involved in drugs and called it “Operation Roma”, on the basis of the ethnic origin of the suspects, thereby labelling the Roma as criminals. ECRI is particularly concerned that although the Austrian legislation prohibits racial profiling and provides a legal framework to deal with such complaints, there have been only two judgments on racial profiling so far. Moreover, despite the fact that the Austrian Ombudsman Board has a competence to deal with cases of racial profiling (as ECRI recommended in its last report), no statistics have yet been made available in relation to complaints about this issue. ECRI recalls that racial profiling has substantial negative effects and undermines trust in the police by the communities concerned (§ 59), leading to underreporting of racist acts. Specific police training is essential on this matter and the Austrian Ombudsman Board should use its powers to investigate allegations of police racial profiling and misconduct.

Recommendation:

101. ECRI recommends further training for the police on the issue of racial profiling and on the use of the reasonable suspicion standard.