



Disparities in Criminal Justice Systems for Individuals of Different Ethnic, Racial, and National Background in the European Union

A comparative report of the scoping study

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In 2017 Irmina Pacho and Zaza Namoradze from the Open Society Justice Initiative conducted work to design research methodology and prepare this comparative report under the Justicia European Rights Network. The following Justicia members collaborated in carrying out the research, with overall coordination by Liam Herrick and Stephen O'Hara from the Irish Council for Civil Liberties:

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This report includes a comparative analysis and annexes summarizing the main findings of the country reports. Each report was prepared in accordance to the methodology based on desk research and interviews with informative stakeholders. All references to sources of information presented in the annexes are included in the original versions of the country reports and may be obtained upon request from:

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Comparative Analysis

An innovative focus by the Justicia European Rights Network on racial, ethnic, and national disparities in criminal justice systems across the European Union

Racial justice constitutes a serious challenge to criminal justice systems in many countries throughout the world. Civil society groups, academics, and legal practitioners emphasize the existence of systemic bias based on race, ethnic origin, and national background cutting across criminal justice systems. This, in consequence, affects people's practical ability to enjoy equal protection of procedural safeguards and non-discriminatory treatment in practices by police and other actors in criminal justice and undermines the fairness of proceedings, their outcomes, and overall trust in justice. Yet most European Union Member States have very little or no statistical evidence, research or information on how suspects and accused persons belonging to racial or ethnic minorities are dealt with throughout all stages of criminal proceedings and how they experience those proceedings.

In 2016, to respond to this gap, the Justicia European Rights Network, building on its work to advance procedural defense rights in the EU, decided for the first time in the European Union to address the lack of available knowledge on disparate outcomes for different ethnic and racial groups and for non-EU nationals in criminal justice practices.

The Network is seeking answers to questions surrounding the adverse effects of national policies and practices based disproportionately on race, ethnicity, or national origin. For this reason, we aim to identify existing knowledge gaps; the main challenges and areas requiring further in-depth study of bias in judicial, police, and prosecutorial discretion; and the groups most vulnerable to discriminatory treatment within the criminal justice system and under existing best practices for monitoring and operations. In addition, we are interested in understanding how disproportionalities in police stop and search practices lead to disparities in decisions on arrest and detention and the outcomes of criminal justice processes.

In 2017, under the existing European Commission Framework Grant for the Justicia Network, Open Society Justice Initiative conducted a small scale, ten-day scoping study to initiate these explorations and obtain an overview of current practices and main challenges as regards ethnic, racial, or national disparities in criminal justice. The study consisted primarily of a desk review aiming to collect both quantitative and qualitative data and a secondary analysis of empirical data collected through semi-structured key informant interviews. We carried out the scoping study across Spain, Romania, Bulgaria, Slovenia, Estonia, United Kingdom, Czech Republic, Italy, Sweden, Cyprus, Greece, and Hungary. Assessments were completed in the fourth quarter of 2017, and results were presented in country-specific reports.

Outcomes of the initial scoping study

The main challenge in analyzing the issue of disparities in criminal justice was a complete lack of consistent practices among EU Member States for collecting and analyzing data disaggregated by ethnicity, race, and/or nationality in the context of criminal justice. These practices are not consistent at the domestic level and vary significantly from one state to another. A lack of correlating data posed the main challenge in cross-country comparisons. In addition, the study noted a significant deficiency in criminal justice research. In most participating states, civil society¹, academia, and the media do not compensate for the lack of official data.

Despite these difficulties, the scoping study led to a number of findings. Most importantly, all twelve European Union Members States that took part in the research established that disparities exist for people of various ethnic, racial, and national origins, at least at some stages of their criminal justice systems and in some form. Where no statistical information was available, such a conclusion was reached through the analysis of available research studies by academia or civil society, media reports, independent expert interviews, or analyses by international bodies.

The limited methodology of this study did not enable us to understand the reasons for such discriminatory treatment, nor did it give us a comprehensive picture of existing disparities. However, it did serve to identify the main areas for concern that may adversely affect the treatment of racial, ethnic, and/or national minority groups.

First, the study underlined that the groups most vulnerable to discrimination in the course of criminal proceedings are Roma, Black, Asian, and African minorities, including members of the recent migration from conflict zones.

Second, another causal factor identified in the study is the existence of institutional bias that leads to disparities in criminal justice systems. Stereotypes deeply rooted in society are reflected in the practices of judges, police officers, prosecutors, and other bodies. For instance, interviews with key stakeholders revealed patterns of less favorable judicial resolutions when a suspect, accused, or convicted person belongs to a minority group. In some states, researchers noted strong prejudice against Roma, which manifests itself in stricter sentencing practices. In other states, statistics showed a significant overrepresentation of various groups of foreigners in crime rate statistics, pre-trial detention, and prison populations. In states where ethnic data is available it was found that black people are more likely to be arrested as a result of stop and

¹ The exceptions here are Hungary and Bulgaria, where the Hungarian Helsinki Committee and the Bulgarian Helsinki Committee, respectively, pursued research projects focusing on Roma population in the context of criminal justice.

search than white people, but less likely to be given out of court disposal, leading to higher prosecution rates for black people.

Third, yet another factor affecting the situation of ethnic, racial, or national minority groups is unequal access to the defense rights regulated by EU Criminal Procedural Directives. The study commonly mentions a lack of proper translation and interpretation services being provided to individuals not fluent in the national language, as well as a lack of sufficient information on their rights in minority or foreign languages. Lack of effective access to lawyers and poor quality of legal aid also disproportionately affects racial and ethnic minorities, including members of recent migrations from conflict zones, because they are significantly over-represented in police custody and pretrial detention.

It should be noted that access to translation and interpretation services is not an essential factor in assessing disparities in the treatment of ethnic minority groups holding citizenship in a given State and having fluent language skills. However, in states where the migration rate has increased in recent years and migrant profiling has appeared, the assumption that those ethnic minorities are mostly non-citizens who need effective access to translation and interpretation remains accurate. As regards the latter, poor implementation of procedural rights visibly hinders vulnerable minorities from understanding the phases of criminal proceedings and the overall criminal justice system, which often differ significantly from those of their country of origin. Such deficiencies in providing translation services render impossible communication between accused persons and judicial bodies, defense lawyers, and penitentiary personnel. In addition, our study showed that a poor understanding of cultural differences, along with language barriers, affects the credibility of suspects and accused persons, making it impossible for them to fully and effectively defend themselves throughout the criminal process.

Need for future analysis

The scoping research effort undertaken by Justicia Network was designed to create an overview of the existing issues of ethnic disparity in criminal justice systems across Europe. The study suggests that ethnic and racial minorities and non-nationals are significantly overrepresented at different stages of criminal proceedings across European Union Member States, owing to various factors such as unequal enjoyment of criminal procedural rights and institutional bias in criminal justice systems. However, the questions surrounding the real scope of the issue, its sources, impacts on criminal justice proceedings and outcomes, and key points in the criminal justice chain resulting in disparate treatment of ethnic, racial, or national groups could not be answered through this study and as such remain unanswered and in need of further in-depth analysis.

The importance of broadening our knowledge in this regard stems from the assumption that a criminal justice system is neither effective nor credible when it allows the disparate treatment

of different groups and when it undermines the fundamental right to equality and non-discrimination, which is at the heart of European Union values. As the study shows, key stakeholders and society as a whole have little or no awareness or knowledge of the issues at the intersection of discrimination against ethnic, racial, national groups and criminal justice. A significant challenge in this regard is a lack of disaggregated, anonymized ethnic and racial data for use in monitoring the practices and outcomes of criminal justice institutions. Only a deep understanding of the scope, nature, and sources of ethnic, racial, and national disparities, paired with a serious public discussion, will make it possible to improve laws, policies, and practices across the European Union.

Currently, the European Union is measuring the degree of transposition and implementation of the EU procedural rights directives in Member States. It is crucial that such efforts include systematically measuring the enjoyment by racial and ethnic minorities and non-EU nationals of access to the rights protected by these directives, and the impact of that enjoyment on criminal justice. Therefore, such analysis of the issues at the intersection of discrimination and fair criminal processes would definitely bring a new perspective to the discussion on shaping EU policies on criminal justice.

Annex 1: Country Report on Bulgaria

Criminal justice system statistics

- Research indicates the existence of ethnic disparities in the Bulgarian adult and juvenile criminal justice systems, with Roma being the most adversely affected ethnic group.
- Currently, Bulgaria has no comprehensive crime statistics disaggregated by ethnicity. Only the Ministry of the Interior collects data on “identified perpetrators of crime” in which the ethnic origin of perpetrators is presented under two categories: “Bulgarians” and “Others.” According to 2016 police statistics, the proportion of “Others” among the identified perpetrators of all crimes in Bulgaria was 17% (9,161 out of 53,401 identified perpetrators), i.e. as large as the ethnic minorities’ share of the population in general.

Empirical study

- By contrast to the Ministry of the Interior statistics, a 2015 survey by the Bulgarian Helsinki Committee, which was conducted among 1,691 convicted prisoners, established that among those currently serving prison sentences the proportion of Roma alone is more than 50%. Furthermore, Roma prisoners are the least represented in open-type prison facilities, where security and supervision levels are lower and prisoners are allowed to work outside of the prison facility and enjoy other privileges. Only 8.8% of the total number of Roma interviewed had been sent to open-type prison facilities, whereas the proportional representation of the other ethnic groups was higher: 15.1% of the ethnic Bulgarians and 17.7% of the ethnic Turks.
- The reasons for this heavy overrepresentation of Roma are complex. To at least some degree it is attributable to bias and discrimination in sentencing, as recognized by the European Court of Human Rights in *Parashkeva Todorova v. Bulgaria*.
- Other national studies have revealed that a disproportionate number of police stops target members of the Roma community and that Roma are subject to police ethnic profiling practices.
- Ethnic bias is also evident in the press release messages of the prosecutor’s office, which often contain information on the ethnicity of perpetrators, but only in cases of perpetrators of Roma origin.
- Leaders of political parties, members of the government and members of the EU Parliament use explicit racist and anti-Roma rhetoric in public discourse. The fight against “Roma criminality” is a constantly recurring topic in political discussions.

Annex 2: Country Report on the Czech Republic

Criminal justice system statistics

- Criminal Justice data disaggregated by ethnicity, race, or nationality is not available in the Czech Republic. Neither is ethnicity captured in national census studies.

EU procedural rights directives

- The report noted that the majority of the Roma population is fluent in Czech, so the right to translation and interpretation is not relevant for this minority.

Empirical study

- The most recent available ethnic data was gathered by independent sources in the early 1990s, before the dissolution of the Republic of Czechoslovakia. The ratio of criminal offences by Roma citizens at that time was said to be around 16% in what is now the Czech Republic (28% in what is now Slovakia), with the predominant offence being burglary (22% in what is now the Czech Republic; 40% in what is now Slovakia) and theft (19% in what is now the Czech Republic; 36% in what is now Slovakia). It is, however, uncertain what methodology these studies used and debatable how useful it would be today, nearly 30 years later.
- The report indicated that it is commonly perceived that the reason behind the lack of ethnic data collection is associated with the obligation to protect against discrimination guaranteed by the Czech Constitution.
- Neither civil society organizations nor academia fills the gap in data on disparities in criminal justice or issues relating to criminal justice more broadly.
- The experts underlined that the right to information applies equally to everyone. However, it was widely noted that the Roma people, although provided with the information, often do not fully understand the content of their rights.
- Expert consultations confirmed a broad unwillingness among defense lawyers to take cases of Roma as part of the legal aid system.

Annex 3: Country Report on Cyprus

Criminal justice system statistics

- Cyprus does not publish official statistics on ethnicity in criminal justice, but various authorities gather data disaggregated by citizenship for their own purposes. For instance, according to police statistics, out of 4,859 offenders, 3,752 (or 77.2%) were Cypriots; 479 (or 9.9%) were EU-28 citizens; and 602 (or 12.4%) were non-EU citizens; while for 26 offenders (or 0.5%) citizenship was unknown. In 2015 the prison population totaled 596 persons, of which Cypriots constituted 58.1% and foreigners 41.9%. In 2014, out of 537 inmates, Cypriots constituted 52.1%.

EU procedural rights directives

- In Cyprus, EU procedural rights directives are transposed through various specialized laws not linked to the criminal procedural code. Because defense rights are not enshrined in criminal procedure, they are often not respected by investigative authorities and judges.

Empirical study

- Expert consultations showed that the procedural rights of suspects and accused persons are rarely respected at all stages of criminal procedure. They pointed to poor quality of interpretation; appointing interpreters for the purpose of interrogation but almost never for consultations of suspects or accused persons with their defense lawyers; a lack of clarity regarding the process of appointing translators by investigative authorities; and an absence of permanent interpreters in detention facilities, which renders communication between accused persons and their defense and prison personnel impossible.
- Experts confirmed that the right of minority groups to information and to access to a lawyer from the outset of an investigation is not respected in practice.
- Courts do not collect ethnic data on sentencing. Experts underlined that the number of foreigners in prison is not significant because very often, depending on the crime of which a foreigner is accused or convicted, he/she may be deported rather than prosecuted or imprisoned.
- The report noted that ethnic profiling exists throughout the whole criminal procedure. Institutional bias is one of the factors determining that foreigners and migrants are more likely to be detained than released on bail.
- The issue of ethnic disparities in criminal justice is not being researched by either civil society or academia.

Annex 4: Country Report on Estonia

Criminal justice system statistics

- Estonian authorities do not collect any data on ethnicity. The only categories applied by public authorities in gathering statistics relate to nationality or ethnic nationality.
- There is a dearth of publicly available statistics on the criminal justice system in Estonia in general. Statistics, which are published annually, are not comprehensive and not consistently disaggregated by national identity or citizenship.

EU procedural rights directives

- The study confirmed the existence of some deficiencies in the transposition and implementation of the EU Directive on the Right to Interpretation and Translation, such as a shortage of interpreters in languages rarely used in Estonia. Another factor influencing minorities refers to the implementation of the EU Information Directive. Police officers lack [adequate] training and therefore lack practice in providing information in a manner designed to ensure a good understanding of their rights by suspects and defendants.

Expert consultations

- All the experts consulted made it clear that it is important to differentiate between two groups of ethnic minorities in Estonia: Russian speakers and other minorities (new migrants), because of the historical context of their migration to Estonia.
- As regards new migrants to Estonia, experts noted that the communication between defense lawyer and a suspect or defendant is significantly affected, which is detrimental to minorities in the criminal justice system. First, even though the right to translation and interpretation is guaranteed from the outset of the criminal proceedings, including during the consultation with the defense lawyer, there is a shortage of translators of certain languages, such as Arabic. Second, the overall poor quality of translation services affects the situation of minorities who enter the criminal system.
- Additionally, experts noted a disproportionate representation of foreigners in pre-trial detention, mainly due to lack of family, social network, or permanent housing in Estonia, regardless of the severity of the crime. In such cases, alternatives to detention, e.g. electronic surveillance or bail, are mostly not used.
- Regarding the Russian-speaking minority, the experts underlined that their disproportionate number among charged and convicted persons, as well as in the prison population, is associated with the socio-economic problems of Northeast Estonia, which is populated overwhelmingly by this minority.

Annex 5: Country Report on Greece

Criminal justice system statistics

- Greece does not collect ethnic or racial data. As regards the criminal justice context, Greece gathers only limited statistics, which are further disaggregated by nationality.
- Roma and migrants and descendants of migrants from South Asia are at greatest risk of the police practice of stop and search.
- Hellenic Police data indicate that approximately 23-30% of all perpetrators of crimes and 23-36% of all persons arrested are foreigners. Official data, however, show that the percentage of foreigners in the prison population rose from 43% in 2004 to 63% in 2013; and subsequently dropped to 54% in 2017.
- Some available studies also indicate that between 2004 and 2006 disparate sentencing affected foreigners, who were given heavier sentences than Greeks.

EU procedural rights directives

- In 2015, the National Commission for Human Rights (NCHR) published an evaluation of the effectiveness of the implementation of the EU Directive on the Right to Interpretation and Translation and the EU Information Directive. The NCHR issued recommendations stating that access to the right to interpretation and translation should not depend on a prosecutor's assessment; instead, the right should be provided from the outset of criminal proceedings as well as during communication between defendants and their lawyers. NCHR pointed to the need to improve the quality of this service. NCHR also underlined the importance of the right to information, which should be granted from the early stages of a criminal process and not be dependent on prosecutorial discretion.

Empirical study

- The study confirmed the existence of discriminatory attitudes among judges having adverse consequences on sentencing practices.
- The research confirmed broad institutional bias in Greece. Judicial officials and police officers in their practice reinforce the same stereotypes that exist in Greek society.

Annex 6: Country Report on Hungary

Criminal justice system statistics

- National statistical registration does not contain specific data on ethnicity, but it does contain data on national minorities. According to the Hungarian Central Statistical Office 6.49% of the population (555,497 persons) were registered as members of a national minority in 2011; of these, 308,957 were Roma based on self-identification. Sociologists estimated the Roma population as between 520,000 (2003) and 1 million (2008). No data is collected on ethnicity in the criminal justice system due to data protection and minority rights legislation.

Empirical studies

- Academic research, civil society data, media reporting and expert interviews confirmed the general bias and ethnic stereotypes within Hungarian society, and more importantly, among police and law students, police officers and prison officers. They also confirmed the existence of ethnic disparities at different stages in the criminal justice system.
- Police stop and search practices, as well as investigations, are considered by the experts interviewed as the most problematic areas. HHC's 2008 research found that Roma are more than three times as likely to be ID-checked than non-Roma. In 2002 it was found that Roma are more likely (29%) to become suspects through ID-checks than non-Roma (17%). HHC proved in the so-called "Rimóc" case in 2011 that 97% of the petty offence fines that the police imposed were against Roma, although less than 30% of Rimóc's population was Roma. The police practice was thus disproportionately affecting Roma.
- In 2000, HHC found in a research study that Roma defendants are more likely to be sentenced to pre-trial detention (50% compared to 40.8%), but a 2014 study found no such difference. The latter study found that Roma spend almost two months longer in pre-trial detention than non-Roma and noted disparities regarding ex-officio defense counsels and their presence at the first interrogation.
- An academic research study in 2003 found significant discrepancies between Roma and non-Roma with regard to experiences of ill treatment during police procedures (80% and 30%), as well as in dissatisfaction with the work of defense counsels. It estimates the proportion of Roma inmates in prison at between 30 and 50%. Also, the 2014 HHC research found that Roma spend significantly more days in solitary confinement than non-Roma. One of every three persons who identified themselves as Roma (33%) sensed bias from the authorities, and one of five (19%) experienced discrimination within the penitentiary system.

Annex 7: Country Report on Italy

Criminal justice system statistics

- Italy is one of the countries where authorities collect only data disaggregated by nationality in the context of the criminal justice system.
- According to available statistics, there exists a disproportionate representation of foreigners under arrest. While foreigners represent 8.3% of the population in Italy, they make up 29.2% of all those arrested.
- Foreigners are also more likely to be sentenced to pre-trial detention and less likely to gain access to alternatives to detention due to their lack of social network, permanent housing and permanent employment. These factors affect the numbers of foreigners detained, which in 2017 amounted to approximately 34%. For instance, in 2015, 29.2% of all people arrested were foreigners, whose detention rate in prison during the same year was 33%. Therefore, that same year, the percentage of Italians among people arrested was 70.8%, but it corresponded to a lower detention rate (67%).

EU procedural rights directives

- Findings indicate the existence of problems related to the implementation of the European Union procedural rights directives, in particular when the accused person does not have Italian citizenship and is not fluent in Italian. This refers mainly to the right to interpretation and translation and the right to a lawyer.

Empirical studies

- With regard to police stops, independent experts indicate that foreigners are stopped more often than Italians.
- A general problem encountered by foreigners is the difficulty of understanding the phases of criminal proceedings and the criminal justice system as a whole. This difficulty is linked to cultural and linguistic barriers that should be addressed through the presence of an interpreter and translator. However, experts indicated that translation and interpretation service are poor in quality.
- Experts also confirmed disparities in sentencing, especially within the procedure called *giudizio direttissimo*, where effective access to a lawyer is impaired. In these cases, a lawyer, not always assisted by a translator, often meets a client 10-30 minutes before the trial to prepare the case. Experts indicated that, although foreigners are not sentenced more often than Italians, they usually receive harsher sentences.

Annex 8: Country Report on Romania

Criminal justice system statistics

- Public authorities collect little official data and few statistics on ethnicity. According to the law, ethnicity is based on a person's self-identification.
- The main statistical research covering ethnicity is the Population and Housing Census of 2011, according to which Roma population amounted to 3.2% of the total population. Some stakeholders underline, though, that this data is not comprehensive.
- In 2016 and 2017, the National Administration of Penitentiaries also started collecting data related to ethnicity, according to which people who identify as Roma represent approximately 4.2% of the prison population.

Empirical studies

- Criminal justice professionals, as well as suspects and defendants, confirmed the general bias against ethnic minorities (especially against the Roma population) in the criminal justice system. The research noted a perception among some police officers and lawyers that Roma are uneducated and have no work ethic, which results in their high criminality rates.
- Expert consultations also confirmed that there is a significant bias among defense lawyers against Roma, who are believed to be uneducated, making cooperation with them difficult. In practice, many Roma people are not granted a legal aid lawyer from the first stages of the criminal process unless they can afford to have a lawyer of their choice. This happens even in cases when Roma suspects or dependents are illiterate.
- There are no statistics available showing the percentage of Roma people who are placed in pre-trial detention. Empirical studies underline, though, that there is a likelihood of disproportionality in the frequency and length of their arrest and in sentencing practices resulting, again, from institutional bias.
- It is also commonly indicated that Roma suspects and defendants have difficulties in understanding their rights and the scope of their rights, such as the right to a lawyer, to legal aid, to translation and interpretation, or to information. Thus, in practice they are often deprived of rights protected by EU criminal procedure rights directives.

Annex 9: Country Report on Slovenia

Criminal justice system statistics

- Neither data on the ethnic composition of the population nor ethnic data in criminal justice is collected in Slovenia. The police and the prison administration collect only data disaggregated by nationality upon arrest, detention, conviction, or stop and search practices.
- For instance, in 2014, 29.4% of all arrested persons were non-nationals; in 2015, 27.6%; and in 2016, 30.5%. As regards detention, in 2014, 35% of all detained were foreigners; in 2015, 32.7%; and in 2016, 36.2%. In both 2015 and 2016, the overall rate of accused foreigners (adults) was 15%. In 2015, 14.7% of foreigners were convicted (adults); in 2016, 14.9%. In 2014, 38% of foreigners were stopped and searched; in 2015, 37.5%; and in 2016, 38.2%.
- In 2014 foreigners constituted 8.1% of the inmate population; in 2015, 8.4%; and in 2016, 7.9%, from countries such as Bosnia and Herzegovina, Serbia, Croatia, Romania, Kosovo, and Montenegro.

EU procedural rights directives

- The situation in Slovenia is characterized by an almost complete lack of official and unofficial reports and studies on the implementation of directives 2010/64/EU, 2012/13/EU and 2013/48/EU in general, and virtually no reports on the effects of the transposition of these instruments on ethnic minority populations and non-nationals are available. In general, there is no tradition of studying the situation of the mentioned groups.
- Due to late transposition of the EU procedural rights directives, the European Commission issued infringement proceedings against Slovenia. The procedure as regards the Directive on the Right to a Lawyer is still pending.

Empirical study

- There is a lack of research reports and studies on the situation of ethnic minority individuals and non-nationals and on possible ethnic disparities in the criminal justice system in Slovenia. There are no civil society groups or representatives of academia focusing on this issue. While the existing data indicate that non-nationals are overrepresented in the criminal justice system, there is a lack of relevant analysis of this data and published studies. Therefore, in the absence of data analysis it is currently difficult to indicate the reasons for such disproportionality of foreigners in criminal justice and to point to the key phases of the criminal process that generate a disparate impact on racial, ethnic, or national groups in Slovenia.

Annex 10: Country Report on Spain

Criminal justice system statistics

- Spain does not provide census data or criminal justice system statistics disaggregated by ethnicity. Data are normally provided with a breakdown by nationality group. The available data suggest disproportionality at the different stages of the criminal procedures against non-Spanish people.
- Ethnic profiling in policing against various ethnic minorities is an issue that has been documented in different reports produced by civil society groups, academics, the Spanish Ombudsperson, and European and international human rights institutions. However, the issue of ethnic disparities within the subsequent steps of the criminal justice system has not received attention by civil society groups, the media or academics. Only two meaningful studies, carried out in early 2000, have examined the issue of ethnic disparities affecting Roma women and migrants. Since then, no research has been done on this issue.

EU procedural rights directives

- No particular regulations have been adopted regarding the application of the EU procedural rights directives to ethnic and racial minorities. There are some deficiencies regarding transposition measures for the EU directives that could particularly affect minorities. For example, the legislation does not establish a concrete procedure to ascertain whether an accused or suspected person understands the language of the proceedings or whether there are concerns about the quality of the translation. On the other hand, the information on rights provided to arrested persons is not set out in simple and accessible language and does not take into account the needs of vulnerable persons considering their culture, age, language, etc.

Empirical study

- Despite the lack of studies, lawyers believe that there is a bias among judges, public prosecutors, judicial staff and even some legal aid (*ex officio*) lawyers against people belonging to ethnic minorities, particularly against people with Roma (or Spanish Gitano) background. According to interviewees, some judges even seem to believe that they have the “moral justification” to impose severe sanctions on Roma individuals.
- Experts consider that judicial resolutions are less favorable when the suspected/accused/convicted person belongs to a minority group. This applies, in the opinion of the interviewees, to all stages of the criminal procedure (pre-trial detentions, convictions, applicable penalties, prison benefits, etc.). Ethnic bias against minorities affects not only suspected or accused persons, but also victims of crimes (including racially motivated crimes): it is more difficult for someone belonging to an ethnic minority to seek a remedy.

Annex 11: Country Report on Sweden

Criminal justice system statistics

- The concept of ethnic categories is not officially recognized or applied in Sweden, and therefore no ethnic data is collected, including in the context of criminal justice. However, Sweden does collect and publish data on the prison population, which is disaggregated by nationality/citizenship category.

Empirical studies

- Academic research on outcomes for ethnic minorities within the criminal justice system is sparse, perhaps due to difficulties in obtaining the necessary data. The studies that have been conducted on the topic are few and have either been conducted using a qualitative method or through an analysis of material collected from a specific court or police precinct.
- The issue of disparities for individuals of different ethnic, racial or national background within the criminal justice system is rarely reported or discussed in Swedish media.
- The expert consultations conducted for the purpose of this report showed the existence of institutional racial bias, in particular in police practice. In sentencing, the key factors creating disparities are access to interpretation services and “cultural differences” between the accused and the judicial authority.
- As regards the right to interpretation and translation, although it is granted to individuals fairly generously, poor quality of the services might seriously affect ethnic and racial minorities. In addition, the research emphasized that the fact that several different interpreters are usually present throughout criminal processes may lead to inconsistencies in the story told by an accused. The experts further underlined that interpretation can often be time consuming and tiring for the court, which might affect the ability of the accused to defend himself.
- Experts also mentioned that an accused person who belongs to an ethnic or racial minority will often defend himself by telling his story and answering the court’s questions in a manner that differs from usual court practice involving native Swedes. Consequently, the existence of such cultural difference might affect their credibility before the court.

Annex 12: Country Report on the United Kingdom

Criminal justice system statistics

- The UK has been collecting data on ethnic minorities for the last four decades in different areas of social life: education, health care, employment and criminal justice. The UK therefore makes for an informative case study into the type of data that can be collected, as well as the impact of data analysis in relation to policy recommendations and potential changes to the criminal justice system.
- According to *UK Prison Population Statistics*, the non-white population is over-represented, accounting for 12% of the general population and 25% of the prison population in December 2016. In fact, 40% of those “non-white” prisoners are black, despite black people accounting for 3% of the total population of England and Wales.
- The latest high-profile report on disparate treatment of ethnic minorities in the UK Criminal Justice System came out in 2017 and was produced by David Lammy MP. The report shows that Black and Asian people are overrepresented in the criminal justice system, at many stages along the way.
- The latest figures show that for every 1,000 members of the population, four white people are stopped and searched; those with Asian ethnicity are twice as likely as white people to be stopped; but Black people are a staggering four times more likely to be stopped and searched by the police. Figures from the Home Office show that 71% of stop and searches in 2017 resulted in “no further action”. In another 17% of stop and searches the initial outcome was an arrest. An alternative outcome was given in the remaining 12% of cases.
- Similarly, “arrest by ethnicity” is a key part of the overall story of ethnic disparity in the criminal justice system. According to the Lammy report, for every 100 young white males arrested in 2014, there are 135 arrests of “Black, Asian and Minority Ethnic” young males (a disproportionality rate of 1.35).

EU procedural rights directives

- In relation to the EU procedural rights directives, there are no specific statistical data that could shed further light on their functioning in relation to ethnic minorities in the UK. Nevertheless, it would not be unreasonable to assume that, given the context in which those directives have been implemented, ethnic disparities are likely to be a feature of their operation in the UK.