



November 2022
This Factsheet does not bind the Court and is not exhaustive

Racial profiling

Article 14 (prohibition of discrimination) of the [European Convention on Human Rights](#) of 4 November 1950:

“The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”

Article 1 (general prohibition of discrimination) of Protocol No. 12 to the Convention of 4 November 2000:

“1. The enjoyment of any right set forth by law shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

2. No one shall be discriminated against by any public authority on any ground such as those mentioned in paragraph 1.”

[Basu v. Germany](#)

18 October 2022 (Chamber judgment¹)

The applicant in this case, a German national of Indian origin, alleged that the police had carried out an identity check on him only because of his skin colour. He was travelling on a train which had just passed the border from the Czech Republic in 2012, with his daughter. When asked, the police told him that it was a random check. He unsuccessfully brought an action in the courts, arguing that he and his daughter had been singled out as they were the only passengers with dark skin colour in the train carriage. Before the European Court, the applicant complained in particular that the identity check had amounted to racial discrimination and that the domestic courts had refused to investigate or examine on the merits his allegations.

The European Court of Human Rights held that there had been a **violation of Article 14** (prohibition of discrimination) **taken in conjunction with Article 8** (right to respect for private life) of the European Convention on Human Rights in the present case. It noted in particular that, in the context of an arguable claim of racial discrimination, racial discrimination as prohibited by Article 14 of the Convention was a particularly egregious kind of discrimination and, in view of its perilous consequences, required from the authorities special vigilance and a vigorous reaction. The Court referred in this context also to the finding of the [European Commission against Racism and Intolerance](#) (ECRI) that racial profiling, in particular, resulted in the stigmatisation and alienation of the persons concerned by it. In the case of the applicant, the Court found that the State authorities had failed to comply with their duty to take all reasonable measures to ascertain through an independent body whether or not a discriminatory attitude had played a role in the identity check, and thus had failed to carry out an effective investigation in this regard. Therefore, the Court was unable to make a finding on whether the applicant had been subjected to the identity check on account of his ethnic origin.

¹. This judgment will become final in the circumstances set out in Article 44 § 2 (final judgments) of the [European Convention on Human Rights](#).

Muhammad v. Spain

18 October 2022 (Chamber judgment²)

This case concerned the police's stopping the applicant, a Pakistani national, in a busy area of Barcelona in 2013 to check his identity documents. According to the police officers, the applicant laughed at them as they passed by and referred to them using disrespectful language, which was the reason why they approached him and requested to see his identity documents. The applicant denied the officers' version and argued that he had only been stopped because of his skin colour. He complained of the allegedly discriminatory motivation of the officers when carrying out his identity check, as well as of the lack of a sufficient and effective investigation by the Spanish authorities into his claims of having suffered racial discrimination.

In the present case, the Court held that there had been **no violation of Article 14** (prohibition of discrimination) **taken in conjunction with Article 8** (right to respect for private life) of the Convention, as regards both the complaint concerning the domestic authorities' failure to carry out an effective investigation and the complaint concerning the allegedly discriminatory grounds for the police check and arrest of the applicant. It noted in particular that, from a procedural aspect, the applicant had been able to challenge the domestic courts' decisions, which had been sufficiently reasoned and motivated. Moreover, there was no reason for the Court to depart from the domestic courts' conclusion that the applicant's attitude, and not his ethnicity, was what had caused the police officers to stop him and to identify him. In the applicant's case, the Court was therefore unable to find that the requirement on him to identify himself on the street had been motivated by racism.

Pending applications

Wa Baile v. Switzerland (no. 25883/21)

Communicated to the Swiss Government on 28 August 2020

The applicant, a Swiss national, was subjected to an identity check while on his way to work. Believing himself to be the victim of racial profiling, he refused to show his identity papers. He was able to leave after the police officers found his papers in his bag but he was fined about 140 euros for refusing to comply with a police order. He unsuccessfully challenged this sanction before the domestic courts, arguing, among other things, that he had been racially profiled on account of his skin colour.

In August 2020 the Court gave notice of the application to the Swiss Government and put questions to the parties under Articles 14 (prohibition of discrimination), 8 (right to respect for private life) and 6 § 2 (presumption of innocence) of the Convention.

Seydi and Others v. France (no. 35844/17)

Communicated to the French Government on 25 October 2021

This case concerns identity checks carried on the applicants by law enforcement officials and which they describe as racial profiling. The national courts found that the applicants' allegations of discrimination were not sufficiently substantiated and that, in the absence of evidence that the identity checks were discriminatory, the State could not be held liable.

In October 2021 the Court gave notice of the application to the French Government and put questions to the parties under Articles 14 (prohibition of discrimination), 8 (right to respect for private life) and 6 § 2 (presumption of innocence) of the Convention.

². This judgment will become final in the circumstances set out in Article 44 § 2 of the [Convention](#).

Texts and documents

See in particular:

- [Guide sur l'article 14 de la Convention européenne des droits de l'homme et l'article 1 du Protocole n° 12 à la Convention – Interdiction de la discrimination](#), préparé par le Greffe
 - [Handbook on European non-discrimination law – 2018 edition](#), European Union Fundamental Rights Agency / Council of Europe, 2018
 - [webpage](#) of the European Commission against Racism and Intolerance
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