



# FUNDAMENTAL RIGHTS REPORT – 2021

The year 2020 brought both progress and setbacks in terms of fundamental rights protection. FRA's *Fundamental Rights Report 2021* reviews major developments in the field, identifying both achievements and remaining areas of concern. This publication presents FRA's opinions on the main developments in the thematic areas covered, and a synopsis of the evidence supporting these opinions. In so doing, it provides a compact but informative overview of the main fundamental rights challenges confronting the EU and its Member States.

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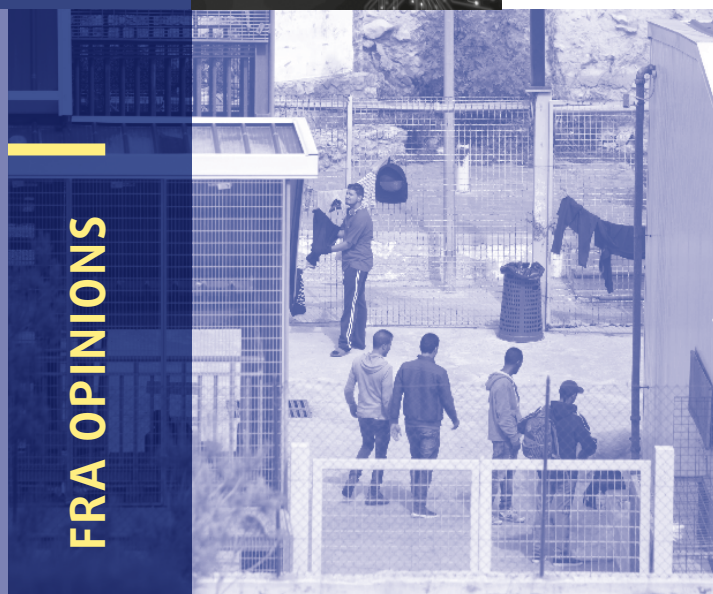
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# 1 [FOCUS]

## THE CORONAVIRUS PANDEMIC AND FUNDAMENTAL RIGHTS: A YEAR IN REVIEW

As the COVID-19 pandemic spread across the globe, authorities across the European Union adopted myriad restrictive measures to protect people's lives and health. These interfered with a wide range of fundamental rights, such as to movement and assembly; to private and family life, including personal data protection; and to education, work and social security. The pandemic and the reactions it triggered exacerbated existing challenges and inequalities in all areas of life, especially affecting vulnerable groups. It also sparked an increase in racist incidents. A human rights-based approach to tackling the pandemic requires balanced measures that are based on law, necessary, temporary and proportional. It also requires addressing the pandemic's socio-economic impact, protecting the vulnerable and fighting racism.

The pandemic and the measures adopted to contain it have seriously affected all aspects of our personal and collective life, including the functioning of our democratic institutions, as the evidence shows. The pandemic has revealed new challenges to upholding the fundamental values of the functioning of our states and the European Union. It has implications for our fundamental rights. Restrictions have an impact on our personal and social interaction, and on the protection of our sensitive personal data. At the same time, the social and economic consequences of the pandemic will be lasting and will significantly exacerbate already existing inequalities.



It is essential, as many have stressed at international, EU and national levels, that emergency and restrictive measures fully respect international human rights and rule of law standards, as international instruments enshrine them and relevant case law shapes them. A large number of documents from authoritative sources have identified these standards, which provide guidance to duty-bearers on how to better protect the rights of people to life and health without negating all their other rights.



### FRA OPINION 1.1

EU Member States should assess and balance the requirements of different fundamental and human rights when adopting restrictive measures in an emergency, such as the one presented by the COVID-19 pandemic. To achieve this balance, they should take into consideration international human and fundamental rights standards, including relevant case law and guidance by international human rights bodies. They should also involve national statutory human rights bodies when designing, implementing, and monitoring restrictive measures. These measures should be necessary, temporary and strictly proportionate.

EU Member States should ensure that restrictive measures are based on law and that courts, parliaments, statutory human rights bodies and other stakeholders, including civil society, can scrutinise them.

EU institutions should continue to monitor emergency measures in the light of the EU's founding values as laid down in Article 2 of the TEU, including fundamental rights, rule of law and democracy. Policy documents, such as the new annual European Rule of Law Mechanism report, should reflect the outcome of monitoring the emergency measures, where relevant.



### FRA OPINION 1.2

EU Member States should improve the resilience of their healthcare, social welfare and social assistance systems to ensure that they provide equitable services to everyone even during a crisis. To achieve this in a coordinated way across the EU, the European Commission's proposal for a strong European Health Union should be adopted without delay. The proposal aims to seriously improve the protection of health, but also social and economic life across the EU.

### FRA OPINION 1.3

EU Member States should enhance their efforts to ensure the continuity of education for all children under any circumstances, particularly in times of crisis such as the one presented by the COVID-19 pandemic. In this respect, they should prioritise establishing a digital infrastructure across all levels of education, and ensure appropriate training to familiarise teachers with working in a digital environment. In this regard attention should be given to the Digital Education Action Plan (2021-2027), which suggests this, and calls for stronger cooperation at EU level to make education and training systems fit for the digital age.

EU Member States should also ensure that this digital infrastructure is inclusive. This means catering to the needs of those who are socially excluded and vulnerable, such as children with disabilities, children of Roma and Travellers, and children of migrants and refugees.

### FRA OPINION 1.4

The EU and its Member States should continue to fight COVID-19-related discrimination, hate speech and racism against ethnic minority groups, migrants and refugees, or people with a migrant background. This includes strengthening measures against disinformation that spreads hate speech, and discriminatory and racist perceptions, particularly online.

As the European Parliament underlined, "even in a state of public emergency, the fundamental principles of the rule of law, democracy and respect for fundamental rights must prevail". In this respect, the EU Charter of Fundamental Rights is of major importance when it comes to EU actions, and actions of Member States that fall within the scope of EU law. FRA's bulletins throughout 2020 highlighted with evidence the implications on fundamental rights in the EU context.

At national level, restrictive measures have been under scrutiny by courts, parliaments, human rights bodies, civil society and other stakeholders. Although they recognised the need for emergency measures to contain the pandemic, they objected to those that were not based on law, lasted for a long time and were disproportionate. They also stressed the importance of fighting COVID-19-related discrimination, hate speech and racism.

Modern science responded to this challenge in record time, making vaccines available as early as the end of 2020. Still, the pandemic exposed gaps and limitations in the capacity and preparedness of our healthcare, education, employment and social protection systems to deal with such a crisis, and deliver on the obligation to fulfil the rights of all to health, education, work and social security and assistance. It also revealed gaps in our capacity to protect the rights of those more vulnerable. The pandemic is a litmus test of our readiness to respect the promise of the global Agenda 2030 to "leave no one behind" in achieving a socially just transition to sustainable development.

Despite the shortcomings, however, the EU and its Member States made considerable efforts to support their healthcare, education and social protection systems, and to assist individuals and businesses against the economic downturn and the risk of unemployment.

The EU's added value was once again of critical importance. It put in place various instruments to help Member States finance their actions. Looking forward, the EU institutions reached agreement on a recovery package of € 1.8 trillion. It combines the EU budget for 2021–2027 and NextGenerationEU, a temporary recovery instrument allowing the European Commission to raise funds on the capital market to address the immediate economic and social damage caused by the pandemic.

These EU financial measures, together with policy instruments promoting human and fundamental rights, such as the European Pillar of Social Rights, form a comprehensive framework to support national efforts.

## FRA OPINION 1.5

EU Member States should focus on the needs of vulnerable groups that are most at risk of infection and/or severe disease. These groups include older people, people in care homes, persons with pre-existing health conditions, and those living in limited and overcrowded spaces or poor living and housing conditions. This last group includes many Roma and Travellers, and people in reception or detention facilities for migrants and refugees, prisons, and shelters for homeless.

This also requires prioritising these groups for vaccination and ensuring they enjoy equitable access to health and social services as necessary.



# 2

## IMPLEMENTATION AND USE OF THE CHARTER AT NATIONAL LEVEL

The year 2020 marked a special milestone for the EU Charter of Fundamental Rights. On 7 December, it was exactly 20 years since the EU proclaimed the Charter in Nice. The European Commission used that date to launch its new 'Strategy to strengthen the application of the Charter of Fundamental Rights in the EU'. The strategy puts increased focus on the Charter's application in the Member States and on the role of national actors in making the Charter effective in people's lives. It provides a blueprint for further collective efforts in the years to come. The Commission also encouraged a more concerted implementation of the Charter at EU level. Meanwhile, its use by national courts, parliaments, governments and other actors continued to show mixed results. National courts paid growing attention to the Charter, but government measures to promote its application remained sparse. Although the COVID-19 crisis strained fundamental rights protection, it also spurred more attention to the EU's bill of rights.



The Charter is of fundamental relevance for the EU, national and local levels of government, binding them whenever they are acting within the scope of EU law. However, at national level, engagement with the Charter remains rather limited, the evidence shows. This indicates a need for further support by the EU and its Member States, as well as reinforced cooperation. The following three opinions address the EU, national and local levels of government, respectively.



### EU level

#### FRA OPINION 2.1

The EU institutions, when discussing the application of the Charter as suggested in the European Commission's Charter strategy, should make sure that evidence from relevant national actors is sufficiently taken into account. In addition to FRA, attention should also be dedicated to other EU agencies that have the potential to contribute to better implementation and promotion of the rights in the Charter. Finally, the Committee of the Regions could engage in an annual exchange of promising practices and challenges in the application and promotion of the Charter provisions at local level. This could provide additional evidence to feed into the 'inter-institutional discussion' at EU level, to which the Charter strategy refers.

Whereas the new European Commission strategy to strengthen the application of the Charter dedicates increased political attention to the national level, it also announces additional EU guidance, stimulus and support, including through new EU programmes. For instance, it announces that the European Commission will strengthen its partnership with EU Member States in various contexts to better help them implement the Charter.

In addition, the European Commission invites both the Council and the Parliament, respectively, to enter into an 'inter-institutional discussion' with the Commission. Agencies are also of relevance in this regard. Whereas FRA and its work are frequently referred to, the strategy does not in more general terms address the role of EU agencies. EU agencies all can contribute to the application of the Charter, although awareness of the Charter and obligations under it vary between agencies, as does their readiness to increase their investment in raising awareness, FRA has reported.

The Charter is important not only for the key EU institutions but for all EU actors, such as, for instance, the Committee of the Regions. Especially its Commission for Citizenship, Governance, Institutional and External Affairs (CIVEX) has an

obvious role to play in highlighting local practices and fostering an exchange amongst regional and local actors on how best to apply and promote the Charter.

## National level

The data collected for this and earlier fundamental rights reports point to a lack of national policies to promote the application of the Charter. Consequently, the 2020 Charter strategy puts a major focus on the role of EU Member States in implementing the Charter. Given the number of concrete proposals for Member States to take action, the strategy forms a blueprint for the years to come.

Application of the Charter could be strengthened by setting up Charter focal points in the national administrations, adapting procedures concerning impact assessments and legal scrutiny, ensuring that committees with sufficient Charter expertise monitor the management of EU funds or, finally, establishing and/or strengthening NHRIs.

Other measures that the strategy lays down require refreshed national policy measures, for example in the area of training, awareness raising or promoting a supportive and safe environment for CSOs and rights defenders. These proposals will require a shift in the fundamental rights culture at national level, which so far appears rather focused on national constitutional law and the ECHR, thereby underusing the added value of the Charter.



## FRA OPINION 2.2

EU Member States should consider establishing dedicated Charter focal points, as invited to do under the Charter strategy. This would allow governments to coordinate national actions with actions at EU, regional and local levels to implement the new Charter strategy more effectively. Ideally, the implementation of the strategy would follow a structured process based on concrete targets, milestones and timelines. This could take the form of a dedicated Charter action plan, or making specific references to the Charter in existing action plans or strategies. To allow for mutual learning and synergetic exchange, adopting and implementing these planning documents should go hand in hand with coordination at EU level – for instance, through targeted discussions in FREMP.





### FRA OPINION 2.3

EU Member States should promote the new Charter strategy among local and regional authorities, and explore how these authorities could more regularly refer to and promote fundamental rights in general and the Charter's added value in particular. Local and regional authorities should ensure that relevant local and regional instruments, procedures and policies refer to the Charter. Existing Charter practices should be communicated to the new national Charter focal points to ensure that these can share such practices and experiences with other Member States – for instance, through the European e-Justice Portal. Cities could consider becoming human rights cities and thereby stepping up fundamental rights considerations in their work, programmes, and activities.

#### Local level

Local administrations are not very aware of the Charter, according to FRA's **analysis of the data from the consultations** that the European Commission carried out while preparing the strategy. At the same time, the Charter "applies to regional or local bodies, and to public organisations, when they are implementing Union law" (see Explanations, Article 51, Official Journal of the European Union C 303/17 - 14.12.2007).

The strategy uses the term 'local' 17 times. It not only calls for the sharing of best Charter practices at local level and promoting a supportive and safe environment for CSOs and rights defenders at local level, but also demands that Member States provide sufficient guidance at local level so that local authorities can comply with their Charter duties. The strategy also points to the potential of local actors to raise awareness about people's rights and about what people can do if their rights are breached.

FRA is currently working on a concept for human rights cities in the EU. That framework of commitment will integrate various Charter-related components and could help increase Charter engagement at local level.



# 3

## EQUALITY AND NON-DISCRIMINATION

The European Commission in 2020 adopted major strategies and action plans to promote a Union of Equality, forging a comprehensive framework for EU and national action. While the adoption of the Equal Treatment Directive remained stalled, the Commission highlighted the need to strengthen equality bodies and improve equality data. Efforts to promote the rights of lesbian, gay, bisexual, trans, non-binary, intersex and queer (LGBTIQ) people gained momentum with the adoption of the first-ever EU strategy on LGBTIQ equality. However, evidence also showed that, in some areas and Member States, LGBTIQ people's experiences of discrimination and hate crime are increasing. Meanwhile, the COVID-19 pandemic and the measures it prompted sometimes exacerbated social inequalities, with older persons hit particularly hard.



Article 19 of the Treaty on the Functioning of the European Union (TFEU) provides the basis for EU legislation to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. The Council of the EU has adopted comprehensive legislation protecting against discrimination on grounds of gender or racial or ethnic origin in key areas of life. These include employment and occupation; education, though this is not covered by the gender equality directives; social protection; and access to and supply of goods and services that are available to the public, including housing. In contrast, EU legislation protects against discrimination on grounds of religion or belief, disability, age and sexual orientation only in the area of employment and occupation.

As a result, some of the protected characteristics set out in Article 19 of the TFEU (sex and racial or ethnic origin) enjoy wider protection than others (religion or belief, age, disability and sexual orientation), resulting in an artificial hierarchy of protected grounds. The European Commission proposed an Equal Treatment Directive in 2008. Its adoption would close this gap by extending protection against discrimination on grounds of religion or belief, age, disability and sexual orientation to the areas of education, social protection, and access to, and supply of, goods and services available to the public. No progress on adoption of the Commission's proposal was achieved at EU Council level in 2020.

The European Parliament reiterated its call to adopt the proposal, while the European Commission continued to encourage Member States to swiftly reach an agreement on the text. Meanwhile, the COVID-19 pandemic underscored the increased risk of discrimination that people may face in times of health crises on various grounds beyond sex and racial or ethnic origin, in particular age.



### FRA OPINION 3.1

Learning from the lessons of the COVID-19 pandemic, the EU legislator should continue to explore all possible avenues to adopt the Equal Treatment Directive without further delay. This would ensure that EU legislation offers comprehensive protection against discrimination on grounds of religion or belief, disability, age and sexual orientation in key areas of life, such as education; social protection, including social security and healthcare; and access to and supply of goods and services available to the public, including housing.

## FRA OPINION 3.2

EU institutions and Member States should adopt and mainstream a rights-based approach towards ageing and older persons, including in their pandemic exit strategies. This approach should be reflected in all relevant initiatives and policies, including in actions to implement the European Pillar of Social Rights and promote social inclusion policies. This means:

- combating ageist perceptions that lead to age discrimination, which are barriers to the equal treatment of older persons and the full enjoyment of their fundamental rights;
- promoting the participation of older persons in all aspects of social life, including in the design and monitoring of the implementation of measures that affect them;
- focusing on those who are more vulnerable and delivering on particular needs they may have by using all available means, including accessible new technologies and digital tools, while also maintaining non-digital services;
- collecting and analysing robust data and evidence about the rights and well-being of older persons.

Evidence suggests that older people were among the hardest hit by and during the COVID-19 pandemic. Older persons had a greater health risk than younger age groups because of their higher incidence of underlying health conditions.

The pandemic also had broader implications, affecting older persons' well-being and rights. Ageist stereotypes and discriminatory discourse; restrictive measures based on age; difficulties in accessing goods and services, including because of the digital divide between generations; and feelings of isolation and stress undermined their right to lead a life of dignity, independence and participation, enshrined in the EU Charter of Fundamental Rights. These factors also undermined their right to equal treatment and opportunities, as set out in the Charter and the European Pillar of Social Rights.

On the other hand, various actors took measures to alleviate the pandemic's impact on older persons, and to protect and help implement their rights, including through using new technologies and digital tools. Moreover, the broader discussion on the rights of older persons and their well-being gained momentum in 2020. The Council of the EU adopted conclusions calling on EU institutions and Member States to use a rights-based approach to ageing, including in their pandemic exit strategies. It further highlighted the need to take advantage of digitalisation opportunities to promote older persons' well-being.





Certain Member States have introduced legal and policy measures that jeopardise the fundamental right to equal treatment regardless of sexual orientation. FRA's second LGBTI survey and surveys conducted in several Member States showed high levels of discrimination and harassment towards LGBTI+ persons across the EU, and a notable decrease in social acceptance. Hate speech against LGBTI+ persons in public discourse is a particularly worrying phenomenon, as it further incites discrimination.

Measures to contain the pandemic particularly affected LGBTI+ persons, especially young people living at home who faced familial violence because of their sexual orientation and/or gender identity. In this regard, safeguarding their rights became even more difficult.

To address and improve the situation of LGBTIQ persons, the European Commission adopted its LGBTIQ equality strategy 2020–2025. This sets out a series of targeted actions around four main pillars focused on tackling discrimination, ensuring safety, building inclusive societies and leading the call for LGBTIQ equality around the world.



### FRA OPINION 3.3

EU Member States are encouraged to avoid any actions that jeopardise the fundamental right to equal treatment regardless of sexual orientation and gender identity and to continue adopting action plans in line with the Commission's LGBTIQ equality strategy. They are encouraged to adopt and implement legal and policy measures to ensure that lesbian, gay, bisexual, trans and intersex persons can fully enjoy their fundamental rights under EU and national law.

EU Member States should consider the available evidence on discrimination, including data from FRA's second LGBTI survey, to identify and adequately address protection gaps. They should also take into account the guidance provided by the LGBTIQ equality strategy. In particular, measures should be taken to effectively combat hate speech and hate crime and to address the harmful impacts of homophobic and transphobic statements made by public authorities and officials.

# 4

## RACISM, XENOPHOBIA AND RELATED INTOLERANCE

The year 2020 was a challenging one. The COVID-19 pandemic brought to the surface existing racism, xenophobia and related intolerance and exacerbated them. The health crisis was increasingly used as a pretext to attack minorities – including migrants, people with immigrant backgrounds and Roma – who were already subject to racial and ethnic discrimination, hate speech and hate crime. The Black Lives Matter movement mobilised societies across the globe to address racism and discrimination by law enforcement authorities. The European Commission adopted its first ever anti-racism action plan, setting out concrete measures for tackling racism and ethnic discrimination in the EU. A number of EU Member States took steps to develop national anti-racism action plans and other measures to address extremism, hate crime and hate speech.



### FRA OPINION 4.1

EU Member States should fully and correctly transpose and apply the Framework Decision on Racism and Xenophobia to criminalise racist hate crime and hate speech. Accordingly, Member States shall take the necessary measures to ensure that a racist or xenophobic motive is considered an aggravating circumstance or, alternatively, that the courts may take such a motive into consideration in determining the penalties.

In addition to fully transposing and enforcing EU legislation on fighting hate crime, Member States should put measures in place that encourage victims and witnesses to come forward and report hate crime. They should also strengthen the ability of national law enforcement systems to correctly identify and record hate crime.

The Council Framework Decision on Racism and Xenophobia (2008/913/JHA) sets out a common criminal law approach to certain forms of racism and xenophobia that amount to hate speech and hate crime. The European Commission initiated infringement procedures against two Member States that had not fully and correctly incorporated the Framework Decision into national law.

International monitoring bodies similarly revealed legal gaps in the criminal codes of a number of Member States as regards hate speech or the criminalisation of racial or xenophobic motivation as aggravating circumstance. Meanwhile, the European Court of Human Rights (ECtHR) and national high courts set limits on relying on freedom of speech to justify hate speech and incitement to hatred.

Racism and extreme right-wing sentiments continued to pose serious challenges across the EU in 2020. Several people were murdered in hate and extremist crimes, following a trend seen in previous years. International and national human rights bodies raised concerns about the growing rate of hate speech online, often perpetrated by media or political figures, and targeting migrants and ethnic minorities.

Ethnic minorities, including migrants, increasingly experience discrimination across different areas of life, and discriminatory perceptions and stereotypes persist among the general public, survey findings revealed. These trends intensified with the outbreak of the COVID-19 pandemic, as FRA and others reported.

Article 21 of the EU Charter of Fundamental Rights prohibits any discrimination on the grounds of ethnic origin and race. Similarly, the Racial Equality Directive (2000/43/EC) prohibits any discrimination on grounds of ethnic or racial origin in access to education; employment; services, including housing; and social protection, including healthcare. A number of EU Member States still do not implement the directive's provisions correctly, reports of the European Commission and of international human rights monitoring bodies show.

The Commission continued infringement procedures against Member States that discriminated against Roma children in education. Meanwhile, international human rights bodies raised concerns about the independence of the equality bodies established by the Racial Equality Directive.



### FRA OPINION 4.2

EU Member States should significantly improve the effectiveness of their measures and institutional arrangements for applying fully and correctly the Racial Equality Directive. In particular, Member States should enhance the independence of equality bodies. They should ensure that such bodies are appropriately mandated and resourced to fulfil effectively the tasks assigned to them in the EU's non-discrimination legislation.



Whereas some forms of ethnic profiling can be legal, discriminatory profiling contradicts the principles of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) and other international standards, including those embodied in the European Convention of Human Rights (ECHR) and related jurisprudence of the ECtHR, as well as the EU Charter of Fundamental Rights. Article 11 (3) of the Police Directive (2016/680) on automated individual decision-making prohibits “[p]rofil[ing] that results in discrimination against natural persons on the basis of special categories of personal data”. These include data revealing racial or ethnic origin and religious beliefs, and genetic and biometric data.

Discriminatory profiling based on ethnicity persists in the EU, as previous fundamental rights reports noted, and surveys and international monitoring bodies' reports attest. Some countries reported disproportionate enforcement of COVID-19-related restrictions with respect to ethnic minority groups. Discussions of preventing and countering police racism, spurred by cases across the EU and by the Black Lives Matter movement, triggered developments at both EU and national levels.



### FRA OPINION 4.3

EU Member States should adopt the necessary measures to prevent and eradicate discriminatory attitudes among police officers. This can be done by assessing existing safeguards against institutional forms of discrimination, including clear mission statements, robust systems of performance review with regard to preventing institutional discrimination, and inclusive and effective independent complaint mechanisms.

Specific, practical and ready-to-use guidance against discriminatory ethnic profiling by police officers exercising their duties should be issued by law enforcement authorities, included in standard operating procedures and codes of conduct, and systematically communicated to frontline officers.



#### FRA OPINION 4.4

EU Member States are encouraged to develop dedicated national action plans to fight racism, racial discrimination, antisemitism, xenophobia and related intolerance. Implementing such plans would provide EU Member States with an effective framework towards meeting their obligations under the Racial Equality Directive and the Framework Decision on Combating Racism and Xenophobia.

In line with the EU anti-racism action plan, EU Member States should consider developing national plans in a participatory manner, involving regional and local authorities, equality bodies and civil society. Moreover, the impact and effectiveness of actions taken should be regularly and transparently assessed, pursuant to clear goals and timelines, informed by evidence and by using performance indicators.



In 2020, the EU stepped up its efforts to act against racism. The European Commission adopted its first EU anti-racism action plan, for 2020–2025. It also addressed racism, bias-motivated harassment and violence, and protection and support for victims of hate crime in a number of other policy instruments, including the EU’s strategy on victims’ rights 2020–2025 and the new EU Roma strategic framework.

Almost 20 years after the UN World Conference against racism called on countries to develop and elaborate national action plans against racism, the European Commission encouraged all EU Member States to develop and adopt national action plans against racism and racial discrimination by the end of 2022. In 2020, a number of Member States took steps towards developing national action plans to fight racism, xenophobia and related intolerance.

International monitoring bodies, however, raised concerns about weaknesses in the design of such national action plans, noting that these could negatively affect their implementation, impact and monitoring. Some fail to address racism comprehensively; many lack precision in defining concrete steps; and there is a shortage of means to meet the objectives, of benchmarks and of indicators to measure progress.

# 5

## ROMA EQUALITY AND INCLUSION

The first EU Framework on National Roma Integration Strategies ended in 2020, and the new 10-year strategic framework started in the midst of the COVID-19 pandemic. The first framework brought little overall progress. Evaluations show some gains in education and poverty reduction, but none, or even deterioration, in crucial areas such as employment, healthcare and housing. The new EU Roma Strategic Framework for equality, inclusion and participation sets ambitious targets in seven key areas: non-discrimination, inclusion, participation, education, employment, health and housing. It sets out a stronger monitoring framework, with a range of quantifiable and measurable targets to track progress. Meanwhile, the pandemic affected Roma and Traveller communities disproportionately by amplifying inequalities and, in some countries, fuelling antigypsyism and anti-Roma prejudice.



Article 21 of the EU Charter of Fundamental Rights prohibits discrimination based on ethnic or social origin or membership of a national minority. For the past 20 years, the Racial Equality Directive (2000/43/EC) has promoted equal treatment and prohibited direct and indirect discrimination, including harassment, based on racial or ethnic origin, in areas such as employment, education, social protection and advantages, healthcare, or accessing goods and services, including housing.

However, antigypsyism, a significant barrier for progress in Roma inclusion, is deeply rooted. Almost half of EU citizens (46 %) would be uncomfortable having Roma or Travellers as neighbours, FRA's Fundamental Rights Survey 2019, which addressed the general population, shows. The COVID-19 pandemic, which affected Roma and Traveller communities disproportionately, amplified inequalities and, in some countries, fuelled further antigypsyism and anti-Roma prejudice.



### FRA OPINION 5.1

Drawing on lessons learned during the COVID-19 pandemic, EU Member States should ensure that the fight against discrimination and antigypsyism is mainstreamed in all policy areas of their national Roma strategies. The strategies should include targeted measures to tackle antigypsyism and discrimination affecting Roma and Travellers.

Such measures should be designed and implemented together with Roma communities and their representatives to promote positive narratives about Roma and Travellers, raising awareness of their history of discrimination, segregation and persecution.



## FRA OPINION 5.2

EU Member States should implement coordinated measures to ensure that socially excluded and marginalised Roma and Traveller children have access to distance learning tools. Any measures in education should include targeted actions tailored to specific needs of the diverse Roma and Traveller groups, drawing in particular from positive experience with Roma teaching assistants and mediators. Member States should consider encouraging the recruitment, training and deployment of more Roma mediators and teachers with a Roma background. They should also ensure that targeted measures are sustainable and well-funded, making use of EU funds as well as other funding opportunities for measures targeting Roma as well as for structural reforms for inclusive education.



Article 14 of the EU Charter of Fundamental Rights enshrines the right to education. The European Pillar of Social Rights emphasises that everyone has the right to high-quality and inclusive education (Chapter 1, principle 1). Across the EU, including in western Member States, the majority of young Roma and Travellers drop out of education or training early, the most recent data show. Despite a little progress in the past decade, the educational gap between Roma and the general population remains significant.

Moreover, Roma and Travellers living in segregated and marginalised settings often lack the necessary IT equipment and/or internet access, FRA's and other research findings show. Persistent inequality and the lack of successful policies to provide basic infrastructure and services widen the gap between Roma and Travellers and the general population. They also affect the opportunities of Roma children to access education equally. The COVID-19 pandemic made these realities very visible. FRA's research also shows that some mainstream measures have failed to reach Roma and Travellers.



The new EU Roma strategic framework for equality, inclusion and participation is part of the EU's overall political guidelines for building a Union of equality. It will contribute to the EU anti-racism action plan 2020–2025 and to implementing the principles of the European Pillar of Social Rights and the UN Sustainable Development Goals.

The previous EU framework for national Roma integration strategies, which aimed to close the gap between Roma and the general population, did not reach its ambitious goals for education, employment, healthcare and housing by 2020. Member States made only little progress in certain areas of education and poverty reduction, and no progress – or conditions even deteriorated – in employment, housing and health, FRA data show.

Based on an evaluation of the previous framework, the European Commission recognised the urgent need to renew and step up the commitment to Roma equality, inclusion and participation at both European and national levels. The new strategic framework sets seven objectives and related targets to achieve by 2030, with a focus on fighting antigypsyism and discrimination and on promoting the full participation and inclusion of Roma, through a combination of mainstream and targeted policies.



### FRA OPINION 5.3

EU Member States should prioritise the implementation of the new EU Roma strategic framework. Their national plans should define ambitious objectives and targets, which take into account lessons learned from the previous EU framework and evaluations of national strategies as well as the COVID-19 pandemic. Effective monitoring systems should assess progress, measuring the impact of both mainstream and targeted measures for the social inclusion of Roma and Travellers, as well as the effective use of national and EU funds.

National Roma strategies should include specific reference to the meaningful participation of Roma and Travellers in designing, assessing and monitoring implementation measures and actions.



# 6

## ASYLUM, VISAS, MIGRATION, BORDERS AND INTEGRATION

Respect for fundamental rights at borders remained one of the top human rights challenges in the EU. Deaths at sea, delays in assigning a safe port to rescued migrants and threats against humanitarian rescue boats continued. So did allegations of pushbacks and violence. The European Commission presented a new Pact on Migration and Asylum, a package of hard law proposals and soft law documents that puts a stronger focus on border procedures and proposes new forms of solidarity. Meanwhile, asylum procedures were adapted to cope with COVID-19-related restrictions. The EU made progress in establishing its large-scale information technology (IT) systems and started exploring the use of artificial intelligence for border control and migration management. Following Brexit, citizens of the United Kingdom became subject to new rules.



### FRA OPINION 6.1

EU Member States should promptly and effectively investigate all allegations of pushbacks and ill-treatment at borders, and increase transparency on measures taken.

Member States should set up effective and independent monitoring mechanisms at borders. To guarantee more complete fundamental rights compliance, these mechanisms should also cover the monitoring of border-surveillance activities and not only, as the Pact on Migration and Asylum proposes, the pre-entry screening procedure itself.



In 2020, widely recognised human rights bodies reported allegations of individuals being unlawfully turned back at land and sea borders, at times with police violence. Article 78 (1) of the TFEU and Articles 18 and 19 of the EU Charter of Fundamental Rights prohibit *refoulement* – meaning the return of an individual to a risk of persecution or serious harm – and collective expulsions. Article 7 of Regulation (EU) 2019/1896 on the European Border and Coast Guard and Article 4 of the Schengen Borders Code require border management to comply with fundamental rights. In its Pact on Migration and Asylum, the European Commission proposed new EU rules to monitor fundamental rights at borders.

Migrants apprehended in connection with their irregular crossing of an internal EU border are not systematically heard before they are passed back to a neighbouring EU Member State. They are also not systematically notified of the decision to pass them back to another EU Member State.

As a general principle of EU law, any decision affecting a person must be taken on an individual basis, and persons have the right to be heard. These principles are important safeguards to enable individuals to raise issues that could bar the passing back, and to exercise their right to an effective remedy under Article 47 of the Charter.



### FRA OPINION 6.2

EU Member States should put in place and apply procedures guaranteeing that persons are heard before being passed back to a neighbouring EU Member State, and formally notify them of the decision taken.



The legislative proposals under the Pact on Migration and Asylum put a stronger focus on border procedures, while proposing new solidarity mechanisms. Border procedures may result in asylum applicants being confined to facilities at or near the border, often at remote locations where it may be difficult to meet reception standards or apply safeguards to prevent arbitrary deprivation of liberty, as the Reception Conditions Directive (2013/33/EU) and the Return Directive (2008/115/EC) require. This could result in treatment that may not comply with the right to human dignity, as guaranteed by Article 1 of the Charter.



### FRA OPINION 6.3

When implementing the objectives of the Pact on Migration and Asylum, EU Member States should ensure that conditions of stay in first-reception facilities at borders are adequate, and fully respect the right to liberty and other fundamental rights set out in the EU Charter of Fundamental Rights. There should be regular oversight and preventive measures to avoid protracted stays.

## FRA OPINION 6.4

EU institutions, agencies and EU Member States should comprehensively assess the impact on fundamental rights of any AI use in the area of home affairs, including asylum, visa, immigration and borders. Stringent, effective and independent oversight mechanisms should accompany the use of AI.

→ The EU and its Member States are exploring the use of artificial intelligence (AI) to enhance decision making in home affairs, including asylum, borders and immigration. AI-driven tools may affect different fundamental rights. This is due to, for instance, bias in the design of the algorithm; or a lack of transparency in regards to the data used, which makes it difficult for the person concerned to rebut the results produced by such tools.



## FRA OPINION 6.5

EU institutions, agencies and EU Member States should continue to raise awareness of the fundamental rights safeguards in the large-scale EU IT systems and their interoperability. Data protection authorities should be adequately resourced to support people who wish to exercise their right to access, correction and deletion of their data.

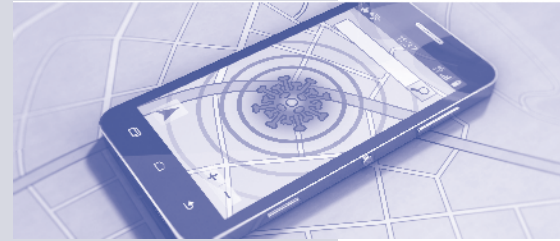
→ The EU has set up six large-scale information technology (IT) systems to support Member States to manage migration, asylum and borders, enhance judicial cooperation, and strengthen internal security. Three systems are operational: the European Asylum Dactyloscopy (Eurodac), the Visa Information System (VIS), and the Schengen Information System (SIS). The other three are in development: the Entry/Exit System (EES), the European Travel Information and Authorisation System (ETIAS), and the European Criminal Records Information System for Third-Country Nationals (ECRIS-TCN).

The legal instruments setting up such IT systems and their interoperability contain several safeguards to protect fundamental rights that the Charter enshrines, such as the protection of personal data (Article 8), non-discrimination (Article 21) and the rights of the child (Article 24). However, these safeguards remain little known.

# 7

## INFORMATION SOCIETY, PRIVACY AND DATA PROTECTION

In 2020, the COVID-19 pandemic spurred the development and uptake of innovative technologies, including artificial intelligence (AI), to counter its spread. In parallel, the ongoing use of AI technologies brought concerns over the rights to data protection and privacy (alongside other rights, such as non-discrimination). EU and international bodies swiftly responded by emphasising applicable data protection standards. At the same time, the EU continued its work on regulating the use of AI. It published a white paper and accompanying report that recognised the role of fundamental rights – alongside ethical frameworks – in ensuring rights-compliant use of AI. The EU institutions and EU Member States also further developed policies and laws that affect privacy and data protection, in areas ranging from data retention and surveillance to the fight against child sexual abuse material.



The COVID-19 pandemic prompted people to use digital data and new technologies to curb the spread of the virus and alleviate its negative impacts on society. From contact-tracing and proximity applications, to teleconferencing software or the use of algorithms in education, the intensive collection and treatment of personal data brought risks to the fundamental rights to data protection and respect for private life.

The year's developments underscored that, in times of crisis, it is crucial to conduct effective and appropriate balancing exercises to ensure that health-protecting measures do not unnecessarily or disproportionately affect fundamental rights.



### FRA OPINION 7.1

EU Member States should make sure that any measures, policies or legal initiatives taken in a time of crisis, such as a pandemic, do not interfere disproportionately with the rights to data protection and respect for private life. Specifically, EU Member States should ensure that Article 8 of the EU Charter of Fundamental Rights, as well as the principles of fairness, data minimisation, and purpose limitation, which Article 5 of the GDPR highlights, are applied.

## FRA OPINION 7.2

EU Member States should ensure that national data protection supervisory authorities have sufficient human, technical and financial resources to allow them to carry out their mandates effectively. To assess the adequacy of resources, Member States should support independent and objective reviews of the national data protection supervisory authorities' workload.

Continuing the trend that FRA identified in its *Fundamental Rights Report 2020*, the workload of data protection supervisory authorities remained extremely demanding. The large numbers of investigations and complaints persisted in most Member States. In parallel, the incomplete harmonisation of procedures and key concepts, on which the cooperation procedure on cross-border disputes rests, prevented swift resolution of these disputes.

There were signs of progress in 2020 at both national level (with regard to the increase of financial and human resources) and international level (with regard to the harmonisation of gaps). However, there is still room for improvement. The EU's strong legal framework for data protection will work effectively only when all actors are sufficiently equipped to respond promptly and effectively to all requests.



## FRA OPINION 7.3

EU institutions and EU Member States should ensure that all regulatory efforts to fight against criminal activities contain the necessary safeguards to guarantee compliance with the principles of legality, necessity and proportionality. They should also provide for effective oversight and access to remedial mechanisms. In this context, EU institutions and EU Member States should fully take into account the relevant case law of the Court of Justice of the European Union.

With terrorist threats and criminal activities persisting throughout 2020, EU institutions and Member States called for the prompt adoption of measures allowing the use of available data and technologies to fight crime. The use of data-mining technologies was variously invoked to fight against online child sexual abuse material, to support criminal investigations, to increase surveillance, and to fight against illegal online content.

However, institutional bodies and civil society often questioned the necessity and proportionality of such measures at both national and EU levels. Although security measures have legitimate objectives, they should not be used as a pretext to lower fundamental rights standards.



The pandemic did not stop work on strategies, legal initiatives and policies aimed at fostering or regulating the use of AI. To the contrary – the crisis pushed bodies to adopt swift measures that support the use of AI, which was also promoted as a tool for fighting the pandemic. Both the EU and Member States very actively developed various AI strategies and new legal instruments throughout 2020.

However, as FRA already flagged in its *Fundamental Rights Report 2019* and *Fundamental Rights Report 2020*, many AI strategies favour a reference to ‘ethics’, and only mention the need to protect fundamental rights, without outlining a detailed rights-based approach. Yet, as FRA’s report on AI and fundamental rights highlighted, the use of AI can have a far-reaching effect on people’s fundamental rights. Therefore, fundamental rights must be firmly embedded in any future legislation.



#### **FRA OPINION 7.4**

EU institutions and EU Member States should ensure that any future EU or national AI-related legal and political instruments are grounded in respect for fundamental rights. To achieve this, they should include strong legal safeguards, promote fundamental rights impact assessments, and ensure independent oversight and access to effective remedies.

EU Member States should make sure that extraordinary circumstances, such as the pandemic, do not lower the level of fundamental rights protection in the use of AI-related technologies.

# 8

## RIGHTS OF THE CHILD

The COVID-19 pandemic put unprecedented strain on children and families across the EU in 2020, especially those who were already economically or socially disadvantaged. Despite Member States' efforts, distance education was a challenge for children who lack computers or internet access, or live in overcrowded households. The threat of abuse at home also loomed large. Children continued to submit fewer asylum applications, but their reception conditions remained inadequate in several Member States. Ten Member States welcomed 573 unaccompanied children and 771 children in families who were relocated from the Greek 'hotspots'. Most Member States incorporated into national law the Procedural Safeguards Directive for children who are suspects or accused persons in criminal procedures. However, infringement procedures against seven Member States remain open. The European Commission undertook extensive consultations on the EU strategy on the rights of the child, which it plans to adopt in 2021.

### FRA OPINION 8.1

The European Commission should consider the impact of COVID-19 when preparing to launch initiatives under the EU Child Guarantee. The guarantee should define targeted initiatives and allocate sufficient funding to protect the most vulnerable children, especially in the areas of education, housing, health and social welfare.

EU Member States should continue their efforts to ensure that all children, especially the most vulnerable, have access to school on equal terms, and to protect children from violence. Member States should make sure that economic measures to support families with children produce a sustainable benefit and are accessible to the most vulnerable families, such as Roma and migrant families. For example, Member States could assess the need to review the threshold for accessing regular social payments for low-income families.

To develop evidence-based policies, Member States and the European Commission should collect data assessing children's own experiences of, and views on, the impact of the pandemic on their physical and mental well-being.



The COVID-19 pandemic had a strong impact on the well-being of children in Europe. Loss of family income, closure of schools, and increased violence at home and online raised concerns about rights under Article 3, 14 and 24 of the EU Charter of Fundamental Rights. Member States have provided families with a number of economic support packages to compensate for the loss of income. However, the limited amount and length of the support raise questions about the long-term usefulness and sustainability of such financial packages.

The transition to home schooling was not the same for all families. Some children were not fully able to participate in school routines, as they lacked access to an internet device or to a quiet space to learn. Others lost the entitlement to free school lunches. During school closure and quarantines, the longer periods spent at home resulted in an increase in reported cases of violence against children, and of cases of children being sexually exploited via the internet.



Preparations for an EU Child Guarantee continued. A scheme requested by the European Parliament, it aims to provide all children with equal access to basic services, focusing on healthcare, education, early childhood education and care, decent housing and adequate nutrition. The EU Child Guarantee is expected to be adopted in 2021.





Children arriving in Europe are entitled to protection under Article 24 of the EU Charter of Fundamental Rights, and to adequate reception conditions in accordance with the Reception Conditions Directive. The directive requires Member States to assess the reception needs of children and provide access to education and to an adequate standard of living, among others. However, in daily practice, reception conditions raise serious concerns in some Member States, with overcrowded centres, inadequate hygiene, or a lack of child-appropriate reception centres.

Children with families and unaccompanied children continue to face detention. Although EU law does not prohibit the administrative detention of children in a migration context, undocumented children, and children applying for asylum or in a return procedure, should not be deprived of liberty. Detention of children is to be understood only as an exceptional measure of last resort.

The European Commission launched the Pact on Migration and Asylum, which proposes a set of solidarity mechanisms for moments of pressure, including relocation. The joint efforts of the European Commission, Greek authorities and 10 Member States allowed the relocation of 573 unaccompanied children, and 771 children in families, from the Greek hotspots.

Meanwhile, there are still around 1,000 children in insecure accommodation in Greece. Around 100 of them live in hotspots.



## FRA OPINION 8.2

The European Commission and EU Member States should strengthen efforts to relocate unaccompanied and other vulnerable children currently living in Member States where they encounter inadequate reception conditions. Member States should consider existing good practice in the relocation of children to ensure the best interests of the child throughout the procedure.

Member States should make every effort to ensure the protection of children, making sure reception conditions respect minimum standards for a dignified standard of living and child-appropriate facilities, which the Reception Conditions Directive sets out.

Member States should develop credible and effective systems that will make it unnecessary to detain children for asylum or return purposes.



### FRA OPINION 8.3

EU Member States should strengthen efforts to implement the Procedural Safeguards Directive (2016/800/EU) in the daily practice of professionals. They could do so by providing training and professional guidance to all practitioners, including police officers, judges, lawyers and prosecutors.

The European Commission could further support EU Member States – for example, by providing guidance for the transposition and implementation of the directive and by facilitating the exchange of practical experiences among Member States.

Article 49 of the EU Charter of Fundamental Rights guarantees important safeguards for the presumption of innocence and right of defence. Article 24 makes the best interests of the child a primary consideration. The Procedural Safeguards Directive for children who are suspects or accused persons in criminal proceedings (2016/800/EU) defines and expands on those points. It requires Member States to promptly inform children and their parents of their rights when children are suspects or accused persons, ensure a lawyer assists the child, and assess the individual situation of each child.

By the end of 2020, most Member States had amended their national laws to incorporate the directive. The deadline to do so was 11 June 2019. However, the infringement procedures that began against seven Member States in 2019 remained open at the end of 2020.

# 9

## ACCESS TO JUSTICE

At EU level, 2020 brought significant innovations in the political and institutional framework on victims' rights. The European Commission established a victims' rights coordinator, adopted its first victims' rights strategy, for 2020–2025, and set up a victims' rights platform. At national level, the COVID-19 pandemic largely dictated developments. It drew attention to domestic violence and to difficulties in ensuring access to justice during times of severely restricted mobility and public life. Meanwhile, challenges to judicial independence persisted in several Member States. The Commission published its first ever rule of law report in 2020, and the European Council adopted the Regulation on a general regime of conditionality for the protection of the Union budget.

Victims of crimes against the person have rights to recognition and justice as provided for in Article 47 of the EU Charter of Fundamental Rights. In 2020, the European Commission created a framework to further develop these rights and draw closer to the objective of fully acknowledging them and giving them effect. Building on the Victims' Rights Directive, it appointed a Victims' Rights Coordinator, adopted the first EU victims' rights strategy, and established the Victims' Rights Platform. However, to a considerable extent, the strategy's success will depend on Member States' commitment to implementing it.

The strategy identifies key priorities, including supporting victims in reporting crimes, improving support and protection of vulnerable victims, facilitating victims' access to compensation, and strengthening cooperation and coordination among all relevant stakeholders. In all these respects, victim support organisations perform a crucial role. Therefore, to make the strategy work, Member States' readiness to assess and, where necessary, improve and strengthen existing support structures is essential.

In 2020, several EU Member States (including Bulgaria, Estonia and Lithuania), as well as Serbia, established or reinforced the structures of victim support organisations. However, challenges remain. These include, for example, challenges to providing victims information about their rights; to providing practical advice and support to victims in making use of their rights; and to victim support services informing victims about their role in criminal proceedings and providing relevant support, in accordance with Article 9 (1) (a) of the Victims' Rights Directive.



### FRA OPINION 9.1

EU Member States need to follow up on their commitment to ensuring full and correct implementation of the Victims' Rights Directive. They should also further develop the rights of crime victims in line with the European Commission's victims' rights strategy.

Member States should take effective measures to help implement the right of all victims to comprehensive support services, including information, advice and support relevant to the rights of victims and to their appropriate role in criminal proceedings.



## FRA OPINION 9.2

The EU Member States that have not yet ratified the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) are encouraged to do so.

FRA encourages Member States to address gaps in national legislation concerning the protection of women who are victims of violence, including by guiding the police on their task of intervening in cases of partner violence, and to adopt measures that ensure the immediate and robust protection of women against repeat victimisation and retaliation.

The Council of Europe's Istanbul Convention not only defines standards but, through the work of its monitoring body (GREVIO), also drives and guides the development of women's rights to protection against gender-based violence and to recognition and justice if they become victims. However, by the end of 2020, Bulgaria, Czechia, Hungary, Latvia, Lithuania and Slovakia had still not ratified the Convention.

In addition, the EU's accession to the Convention is still pending. At the request of the European Parliament, the CJEU worked on an opinion assessing if signing and adopting the Convention is compatible with the EU treaties. Its opinion is expected in the second quarter of 2021.



## FRA OPINION 9.3

The EU and its Member States are encouraged to further strengthen their efforts and collaboration to maintain and reinforce the independence of the judiciary as an essential component of the rule of law.

In addition, the Member States concerned should take prompt action to fully comply with the relevant judgments of the Court of Justice of the European Union (CJEU). Member States are also encouraged to act promptly on recommendations, such as those the European Commission issues in its rule of law procedure.

An independent judiciary is the cornerstone of the rule of law and of access to justice (Article 19 of the TEU, Article 67 (4) of the TFEU, and Article 47 of the EU Charter of Fundamental Rights). Challenges in the area of justice persisted in several EU Member States, particularly regarding judicial independence. The European Commission issued its first annual Rule of Law Report in 2020. The issue of justice systems and their independence was one of the four focus areas covered by the report.

The year also saw the adoption of the Regulation on a general regime of conditionality for the protection of the Union budget. It explicitly mentions corruption and compromising the independence of the judiciary among the indicators of a breach of the rule of law.

# 10

## DEVELOPMENTS IN THE IMPLEMENTATION OF THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

The European Commission started to develop a new disability strategy in 2020, initiating a consultation process that continued throughout the year. It will launch a new strategy in the first quarter of 2021. The European Parliament and Council reached a political agreement on a new Common Provisions Regulation governing EU funds, which covers the rights of persons with disabilities. Meanwhile, the COVID-19 pandemic put to the test the duty of the EU and its Member States to comply with the Convention on the Rights of Persons with Disabilities (CRPD). Member States introduced a wide range of measures that significantly affected the rights of persons with disabilities. Persons with disabilities and their representative organisations, as well as the structures set up under the CRPD to protect them, took action to ensure that these measures comply with the Convention. Overall, the pandemic underlined the importance of involving persons with disabilities and their representative organisations in situations of risk, and the value of strong national CRPD structures.

Governments took a broad range of measures to curb the spread of the coronavirus. Some of these measures did not fully take into account the rights of persons with disabilities under the CRPD, in particular Article 4 (duty to ensure and promote the rights of persons with disabilities) and Article 11 (situations of risk and humanitarian emergencies), or the EU Charter of Fundamental Rights, in particular Article 21 (non-discrimination) and Article 26 (integration of persons with disabilities). Some bans on visits were excessive, persons with disabilities could not attend schools, or they had too few exemptions from rules on wearing masks or social distancing.



## FRA OPINION 10.1

In line with the CRPD, EU Member States should, as part of their checks on legislative and executive measures dealing with situations of risk (such as the COVID-19 pandemic), consider the impact of such measures on the rights of persons with disabilities and take steps to avoid any negative impact. Measures to address situations of risk that may directly or indirectly affect the rights of persons with disabilities should be provided by law, non-discriminatory and proportionate to the legitimate aim pursued. In line with the CRPD and the EU Charter of Fundamental Rights, Member States should fully involve persons with disabilities and their representative organisations, as well as the national monitoring bodies set up under Article 33 of the CRPD, in planning and monitoring such measures.

The EU institutions and EU Member States could support these checks by facilitating the exchange of promising practices, particularly between national parliaments.

Lockdown measures also caused problems, including in the distribution of food and medical and cleaning supplies to persons with disabilities. Triage guidelines did not conform to CRPD standards, and could lead to the denial of life-saving intensive care to persons with disabilities who had similar chances of survival to persons without disabilities. In addition, the lockdowns often had a more negative impact on the mental and physical well-being of persons with disabilities. Their specific needs were frequently overlooked.

There was a lack of appropriate communication with persons with disabilities and of information for them about measures taken to address the pandemic, especially in its early stages, and they seldom took part in planning such measures. Some EU Member States have worked to ensure greater involvement of persons with disabilities in planning and monitoring such measures in the future. That could help reduce the risk that future measures will violate the CRPD.

## FRA OPINION 10.2

EU Member States should communicate their emergency responses in a fully accessible way. They should fully implement relevant EU directives, such as the revised Audiovisual Media Services Directive and the Web Accessibility Directive. Member States should provide information using appropriate means and formats – for example, subtitles, sign interpretation, and easy-read language.

The pandemic has shown that crisis communications strategies of Member States seldom make fully accessible all information about emergencies. Information during the pandemic was not always presented by means and in formats that allowed persons with disabilities to access it, even though this is required by EU law, including the revised Audiovisual Media Services Directive (2018/1808) and the Web Accessibility Directive (2016/2102).





The pandemic has underlined the urgent need for de-institutionalisation. It has shown not only that persons with disabilities are at greater physical risk in this particular pandemic, but also that their mental well-being is at greater risk when they are in institutionalised settings, because of the resultant isolation and lack of social contact.

Article 19 of the CRPD requires de-institutionalisation, and the new European disability strategy is likely to include it. The entry into force of the new Common Provisions Regulation and the roll-out of the disability strategy will increase the pressure to complete the process of de-institutionalisation.

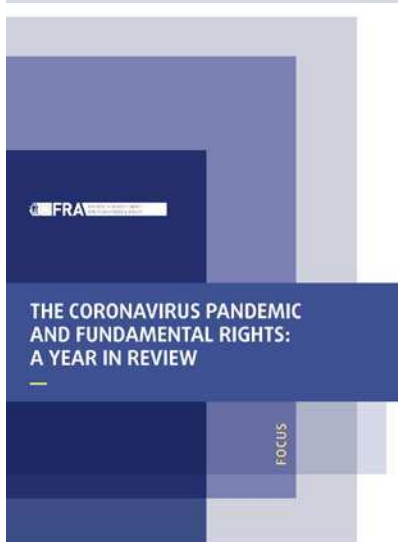


### **FRA OPINION 10.3**

In line with Article 19 of the CRPD and as part of the new European disability strategy, the EU and its Member States should urgently accelerate their efforts to achieve de-institutionalisation, including through the appropriate use of EU funds to ensure that persons with disabilities can live independently and be included in the community.



The year 2020 brought both progress and setbacks in terms of fundamental rights protection. FRA's *Fundamental Rights Report 2021* reviews major developments in the EU between January and December 2020, and outlines FRA's opinions thereon. Noting both achievements and remaining areas of concern, it provides insights into the main issues shaping fundamental rights debates across the EU.



This year's focus looks at the Coronavirus pandemic and its impact on fundamental rights. The remaining chapters discuss the EU Charter of Fundamental Rights; equality and non-discrimination; racism, xenophobia and related intolerance; Roma integration; asylum and migration; information society, privacy and data protection; rights of the child; access to justice; and developments in the implementation of the Convention on the Rights of Persons with Disabilities.





# PROMOTING AND PROTECTING YOUR FUNDAMENTAL RIGHTS ACROSS THE EU —

For the full FRA *Fundamental Rights Report 2021* – see <https://fra.europa.eu/en/publication/2021/fundamental-rights-report-2021>

See also related FRA publications:

- FRA (2021), *Fundamental Rights Report 2021 – FRA opinions*, Luxembourg, Publications Office, <https://fra.europa.eu/en/publication/2021/fundamental-rights-report-2021-fra-opinions> (available in all 24 official EU languages)
- FRA (2021), *The Coronavirus pandemic and fundamental rights: a year in review*, Luxembourg, Publications Office, <https://fra.europa.eu/en/publication/2021/coronavirus-pandemic-focus> (available in English and French)

Previous FRA Annual reports on the fundamental rights challenges and achievements in the European Union remain available on FRA's website (available in English, French and German).

FURTHER INFORMATION



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