

Justice and Protection for Victims of Hate Speech



Albin Dearing

Clarification of concepts

- Focus on hate speech as crime

Hate speech as “a sub-category of the wider concept of hate crime” (FRA, Ensuring justice for hate crime victims, 2016)

- Criminal offence using words (insult, threat, harassment ...)
- Expression of a discriminatory attitude

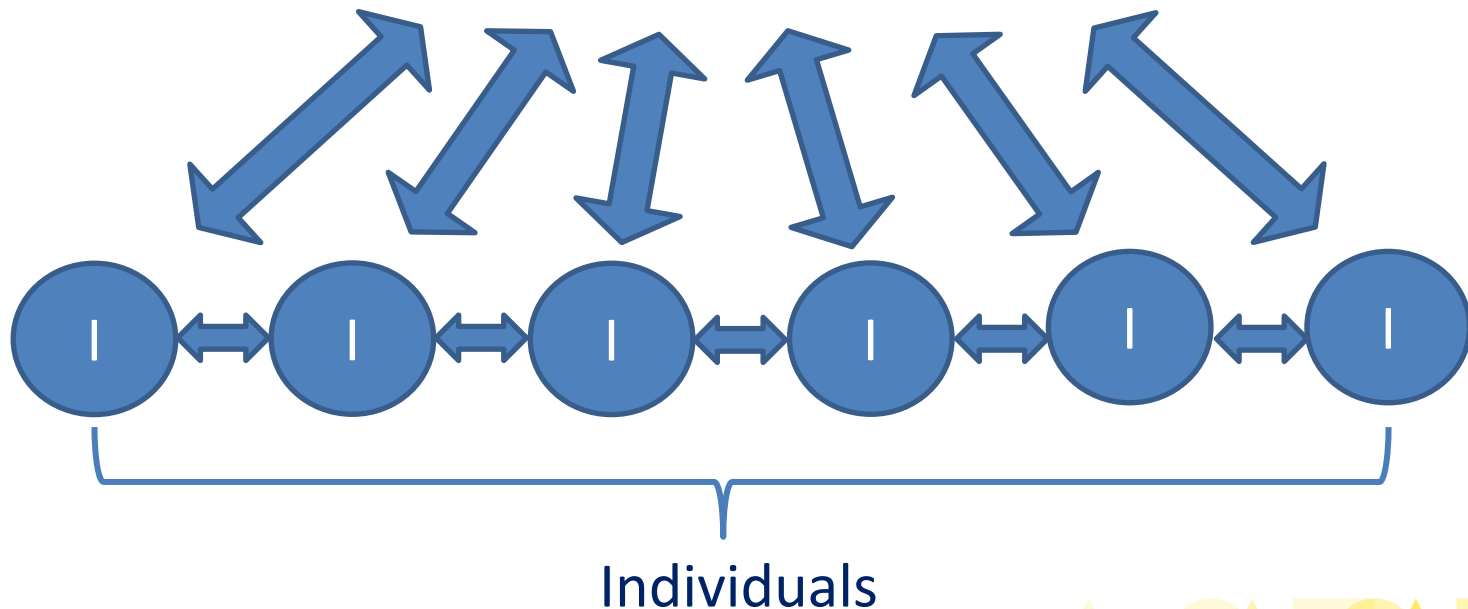
- Crimes against the person are human rights violations

– Crime is “a violation of the individual rights of victims” and indirectly calls into question the equal rights of all other members of a legal community (Recital 9 VRD). “As such,” (as the persons whose rights are violated) “victims of crime should be recognised and treated in a respectful, sensitive and professional manner without discrimination of any kind based on any ground such as ...”

A human-rights based paradigm

State authorities are tasked with

- Preventing impairments of the rights of individuals (protection) and with
 - Identifying and sanctioning violations (justice)



What is being researched by FRA as 'hate speech' and how?

What?

- Criminal forms of discriminatory – mainly offensive, abusive or intimidating – communication.

How?

- Quantitative research: large-scale surveys (mainly prevalence and victims' initial reactions)
- Qualitative research on justice: In-depth interviews with victims and practitioners

Violence against Women Survey (2014)

- Based on interviews with 42,000 women in all 28 EU MS. Still the only in-depth EU-wide survey to provide comparable data on women's experiences of violence – including sexual and cyberharassment.
- **11 % of women in the EU have experienced cyberharassment of a sexual nature since the age of 15.** This includes unwanted, offensive and sexually explicit emails or text messages, or offensive, inappropriate advances on social networking sites.
- 'Young' women (18-29 years of age) experience harassment more often, compared with women from other age groups.
- This applies particularly to cyberharassment of a sexual nature:
20 % of 'young' women have experienced this since the age of 15, compared with the average of 11 % of all women aged 18-74 years.



Violence against women:
an EU-wide survey

Main results

LGBTI

- Second LGBTI survey (May 2020); the world's largest survey on hate crime and discrimination against LGBTI people
- Two in five LGBTI respondents (38 %) in the EU-28 experienced harassment for being LGBTI.
- **Considerable differences between EU-MS:** The highest prevalence of harassment found in Latvia (44 %), Romania and Lithuania (43 %). However, also in Malta – with the lowest prevalence among the surveyed countries – still more than a quarter of respondents (27 %) experienced harassment due to being LGBTI.
- **The prevalence differs between types of harassment.** Verbal in-person harassment has the highest prevalence (27 %), followed by non-verbal in-person harassment (23 %) and **cyberharassment (10 %)**. 'Cyberharassment' covers sending emails or text messages (SMS) that are offensive or threatening or posting offensive or threatening comments on the internet (for example on Facebook or Twitter).

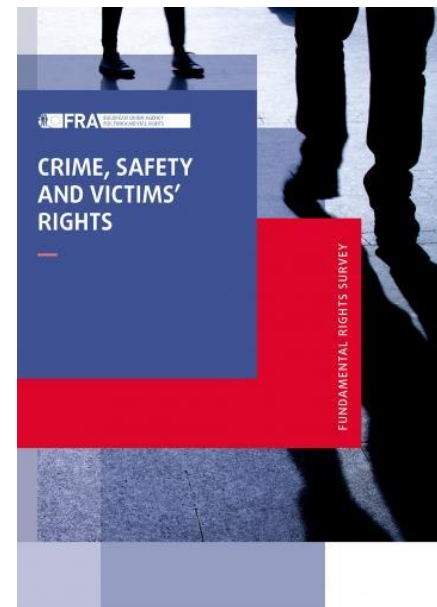


Racist hate: EU-MIDIS II

- Second European Union Minorities and Discrimination Survey (2017)
- One in four respondents (24 %) experienced one or more incidents of hate-motivated harassment in the 12 months before the survey – that is, incidents which they perceived to be motivated by their ethnic or immigrant background.
- Among the groups interviewed, Roma experienced the highest rate (30 %) of hate-motivated harassment in the 12 months before the survey, followed by immigrants and descendants of immigrants from North Africa (29 %).
- Most of the respondents' experiences with hate-motivated harassment involved incidents in which the victim and offender came in direct contact with one another – for example, in the street or another location. The survey results suggest that **cyber-harassment** involving personal insults or threats against immigrants and ethnic minorities is perceived by victims as **less common** than incidents that take place in person.

Cyberharassment: Results from the Fundamental Rights Survey report on Crime, Safety and victims' rights (19 Feb 2021; based on 35,000 interviews in EU, UK, NM)

- **14 % of people in the EU experienced cyberharassment in the five years before the survey.** This could involve receiving offensive or threatening emails or text messages or coming across offensive or threatening comments about oneself disseminated online.
- Three in five people (61 %) in the **age group 16–29** years experienced harassment in the five years before the survey. Overall, in the same age group and time frame, **27 % experienced cyberharassment.** These are the highest rates in all the age groups, with harassment experiences decreasing with age.
- The survey results show that people with limitations in usual activities (due to a health problem or disability) have higher rates of experiencing some forms of harassment:
 - 50 % of people in the EU with limitations in usual activities (due to a health problem or disability) have experienced harassment in the 5 years before the survey, compared with 37 % of people without activity limitations experiencing harassment.
 - Specifically, **23 % of people in the EU with limitations** in usual activities have **experienced cyberharassment in the 5 years before the survey**, compared with 12 % of people without activity limitations experiencing cyberharassment.



Complementing the surveys:

Qualitative socio-legal research on victims' access to justice

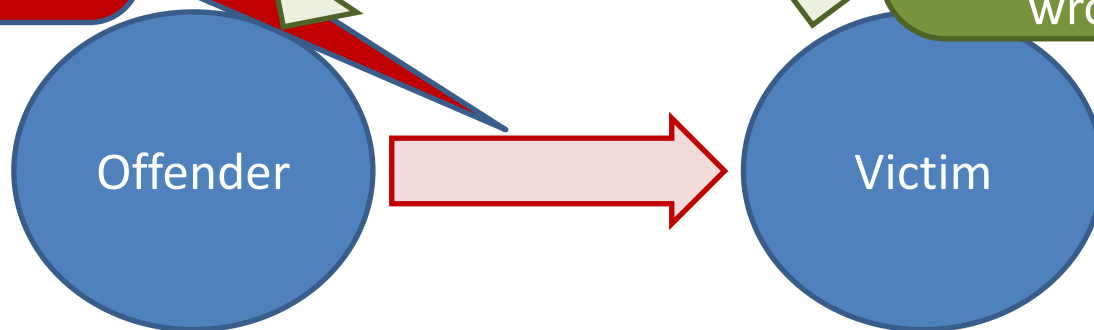


A human-rights based paradigm of criminal justice

State authorities are obliged to defend the rights of victims by identifying, prosecuting, convicting and punishing offenders

Offender violates the victim's rights and calls the victim's status as a right-holder into question

Victim is entitled to criminal proceedings as an effective redress mechanism and to sanctions that 'undo' the wrong suffered



Qualitative research, e.g.

- Making hate crime visible (2012)
- Ensuring justice for hate crime victims (2016)
- Hate crime recording ... (2018)



FRA project on “Justice for victims of violent crime”

- Desk research on legal/institutional situation in 28 MS (2016)
- In-depth field research in 7 MS: 231 face-to-face interviews conducted in 2017 in Austria, France, Germany, Netherlands, Poland, Portugal, UK
- 148 expert interviews with practitioners
 - Staff of support services (35)
 - Lawyers advising victims (25)
 - Police (35)
 - Prosecutors and judges (53)
- 83 interviews with adult victims of violent crime,
 - Including 35 women as victims of partner violence
- 4 reports published on 25 April 2019:
 - Part I: “Victims’ rights as standards of criminal justice
 - Part II: “Proceedings that do justice” (procedural just
 - Part III: “Sanctions that do justice” (outcome justice)
 - Part IV: “Women as victims of partner violence”



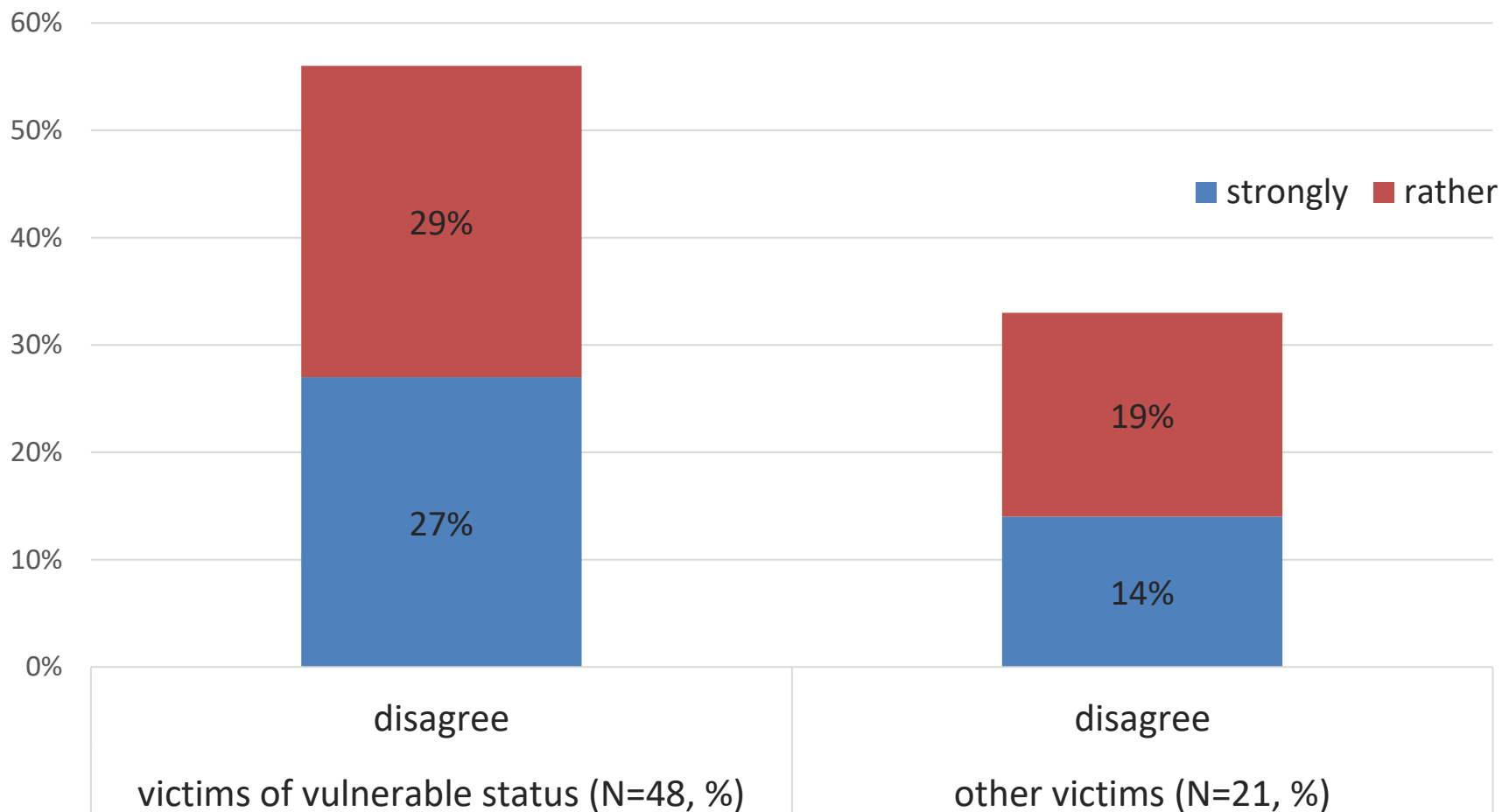
Victims of vulnerable social status are more in need of criminal justice and more demanding

Victims were divided into two groups. The group of victims who experienced discriminatory violence – a violent offence that had a potential to reinforce a status inequality – comprises:

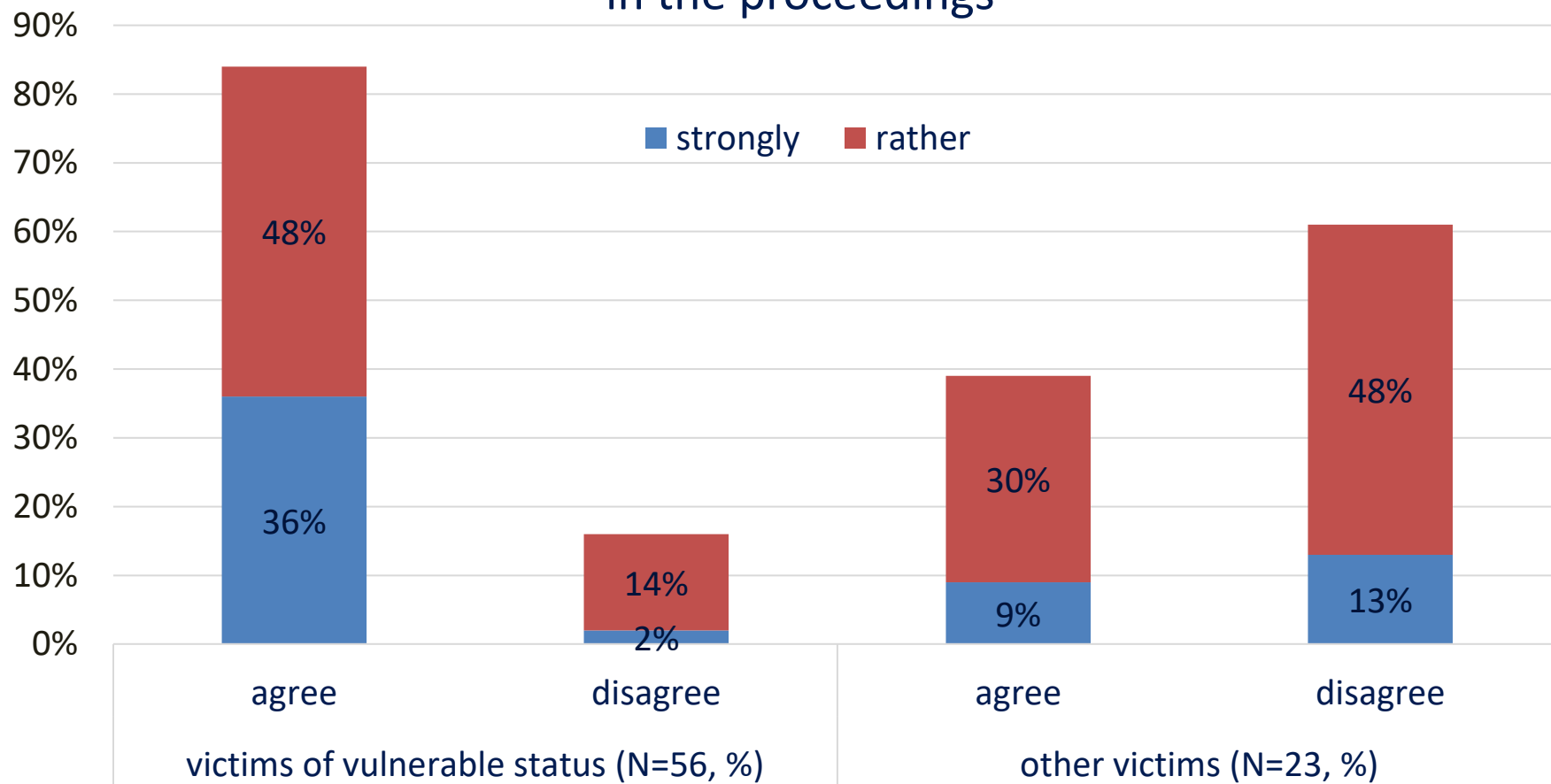
- 7 female victims of sexual violence;
- 35 female victims of partner violence;
- Male (15) and female (2) victims of racist, xenophobic or homophobic violence or
- 3 victims of abuse of power committed by officials (the police, municipal guards, the mayor of a village).

The remaining 24 victims – of assault, murder, armed robbery, kidnapping, etc. – are referred to as ‘other victims.’

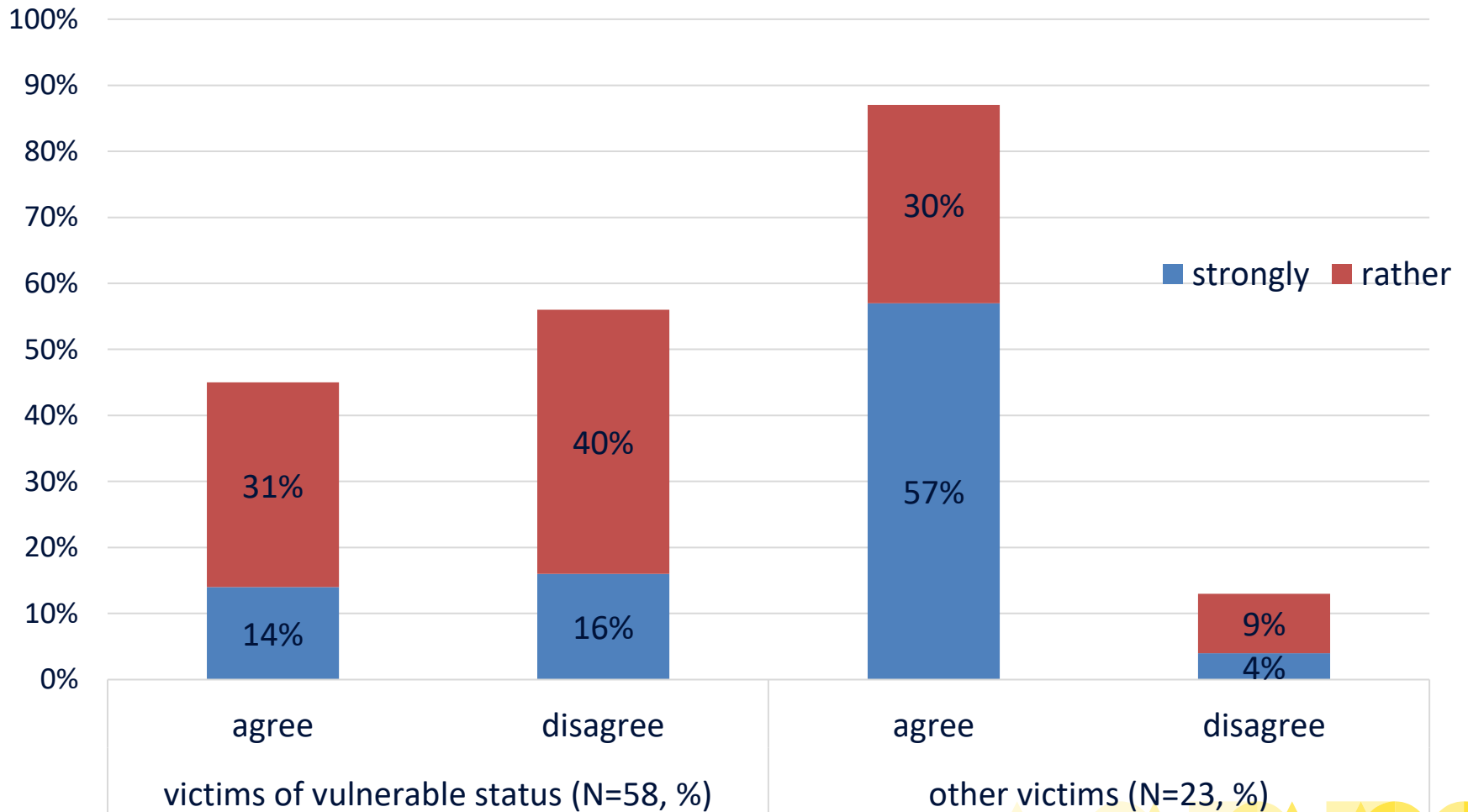
Victims *disagreeing* with „Overall, the investigation and the following proceedings conveyed a strong message that justice is done“ (groups, %)



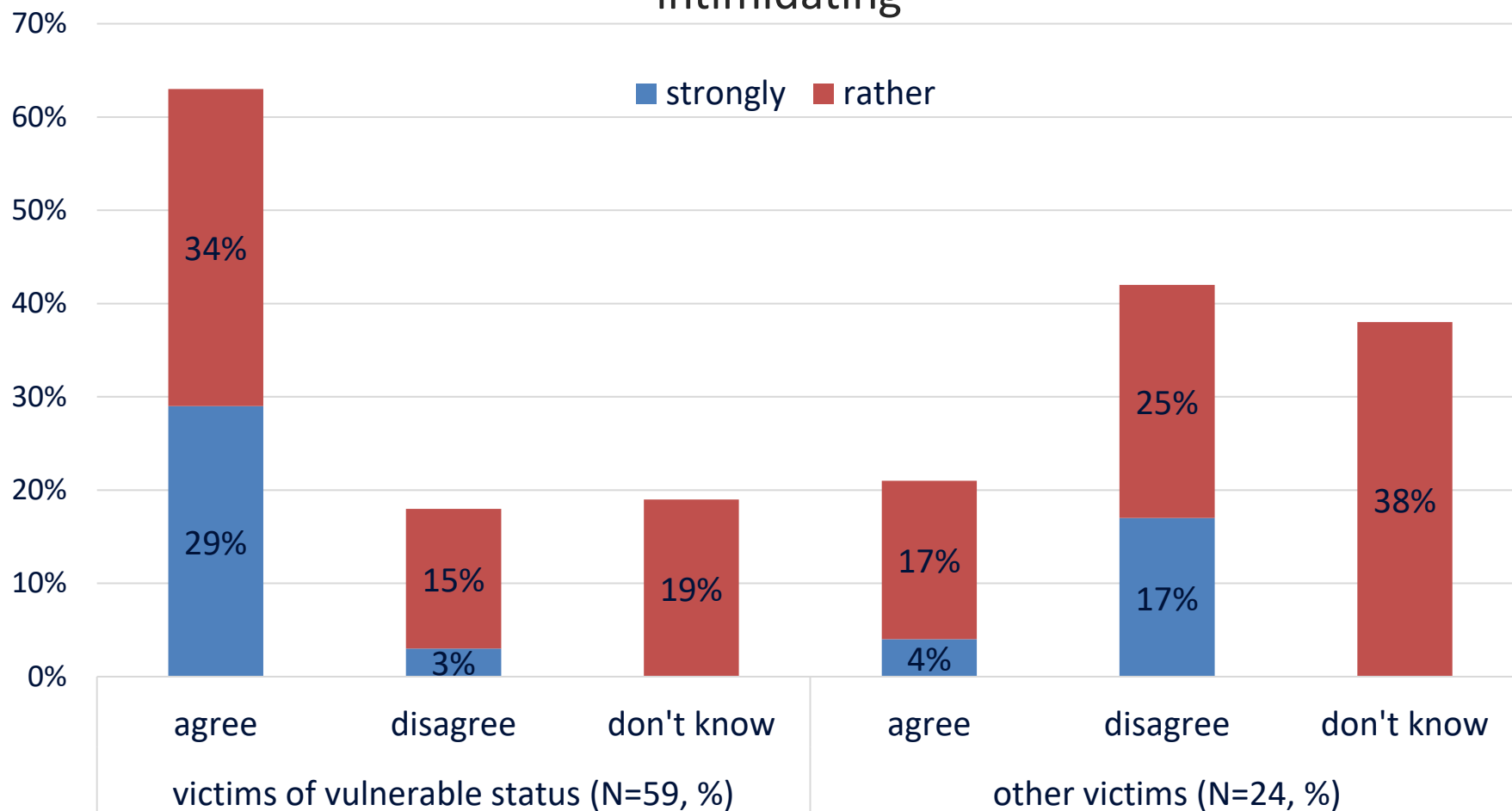
Victims agreeing/disagreeing with the statement that they would have liked to have more opportunities to participate in the proceedings



Victims agreeing/disagreeing with the statement that their rights and concerns were taken seriously by the police



Victims agreeing/disagreeing with the statement that at times they experienced the offender's presence as intimidating



The FRS report on crime victimisation rather confirms the assumption that vulnerable victims are more inclined to report their victimisation to the police

- Victims who consider themselves to be part of an ethnic minority or non-heterosexual are more likely to report incidents of harassment to the police;
- Women as victims of sexual violence and persons experiencing limitations in activities are more likely to report a violent incident to the police.

A possible explanation

- The degrading message of subjugation and inferiority entailed in any violent act is likely to impact more significantly on the self-esteem and self-confidence of victims of vulnerable societal status.
- Hence they are more in need of criminal justice as a means of restoring their rights and personhood as well as more in need of protection over the course of the proceedings.



Thank you!

albin.dearing@fra.europa.eu

fra.europa.eu