DeRadicalisation
in Europe and Beyond: Detect, Resolve, Reintegrate

De-radicalisation and Integration: Legal and Policy Framework

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Introduction

The present report aggregates seventeen national reports plus the report on the United Nations, the Council of Europe, and the European Union framework legislation, policies and landmark case-law, which have been elaborated by the sixteen national teams of D.Rad from January to November 2021.

The overall purpose of the national and the EU reports is to reveal how existing policies and the law in its broadest meaning address radicalization in Austria, Bosnia, Finland, France, Georgia, Germany, Jordan, Kosovo, Iraq, Israel, Italy, Poland, Serbia, Slovenia, Turkey and the UK, to pinpoint their most critical aspects and the best practices.

All the reports are organised along a similar structure. The first part provides a general overview of each country's socio-economic, political and cultural context; it presents the constitutional organization of the State and the constitutional principles relevant for D.Rad focus, analyses the legal, the policy and institutional framework in the field of radicalization. This first section has descriptive aim, identifying the laws and policies addressing radicalization and promoting de-radicalization, coupled with an explanatory aim, identifying the rationale underlying the given legal and policy framework. The second part focuses on the in-depth discussion of two case-studies, selected by national teams ensuring a variety of experiences to be studied, with special attention to measures targeting youth in urban and peri-urban contexts. Each report is complemented by four annexes: the overview of the legal framework on radicalization and de-radicalization; the list of institutions dealing with radicalization and counter-radicalization; the best practices and/or programmes, the policy recommendations.

D.Rad countries present a very diverse constitutional organization of the State, and in fact they were explicitly selected to encompass a wide spectrum of variability, even though the large majority of them remain in the general frame of contemporary Western, liberal democracies. They mirror the diversity of European landscapes and beyond in terms of the structure of the State, the system of government, rights enforcement and litigation, the political system and the cultural and socio-economic background, while allowing, at the same time, for systematic comparison. *Sufficit* here to recall, in fact, that the countries selection rationale was guided by a combination of “the most similar” and “the most dissimilar” case-study selection.

The cleavage between common law system and civil law systems is nuanced and, at the same time, enriched and made more complex by the intertwining with other: centralized versus federal States; symmetric versus asymmetric decentralization (or devolution); constitutional monarchies versus republics; parliamentarian (in various typologies) versus semi-presidential (in various typologies) systems of government; diffuse versus centralized (with the presence of a Constitutional Court) systems of judicial review. Moreover, very diverse mechanisms of rights enforcement and litigation among D.Rad countries add further complexity to the analysis of the constitutional and legal framework relevant for the discussion of the fight against radicalization.

Diversity is the keyword also in the discussion of the political systems, counting biparty systems, pluri-party systems, even-multiparty systems, fragmented party systems; as well as in the discussion of the democratic model: majoritarian and consensus democracies, semi-direct and consociational ones.

The socio-economic background of the countries is no less so in terms of diversity. Noteworthy, the variability in levels of corruption, clientelism, religion's influence, income and wealth distribution strongly define our case-study diversity. Finally, the country history in terms

of radicalization drivers, trends and hubs heavily contributes shaping the countries' approach to radicalization and de-radicalization and the role of the State, that in some cases appears a radicalization agent rather than being actively promoting deradicalization.

The legal concept of counter-radicalization is currently open-ended and is often framed differently in domestic laws because of political context and historical experiences. On one hand some countries tend to focus mostly on detentions, interrogations and strong police and intelligence presence in order to protect national security and prevent future terrorist attacks. For the purpose of D.Rad legal comparative study this approach is defined as punitive counter-radicalization and it focuses on criminalizing and eradicating with the use of criminal law all the activities that might lead to violence. This punitive approach might create a tension with individual rights, particularly with freedom of speech, religious freedom, and freedom of assembly. On the other hand, some states adopt means that might also be effective but at the same time less detrimental for the radicalized individual. Integration of radical groups with local communities, providing social services, promoting civic engagement are fostered by some countries. This integrative approach in counter-radicalization characterises some of D.Rad countries.

Data for this research have been collected through a combination of desk research of various sources (Constitutions, laws and regulations, policy and legal documents, case law), information requests to relevant institutions, and semi-structured interviews with legal and policy experts and academics held during February and May 2021 (from 3 to 5 per country). The findings of the present national reports will be used in the development of a comparative report to unveil the legal, political and socio-economic context of de-radicalization and counter-radicalization in Europe and beyond.

The legal, institutional and policy overview and the case-studies of the seventeen national reports plus the one on international organisations provides both the background and a pertinent set of explaining factors for the analysis of the next set of D.Rad findings. The triangulation of WP4 findings with the outputs of previous and subsequent WPs will contribute to shedding more light on the phenomena of radicalization and de-radicalization and will provide crucial information for the elaboration of coherent policy guidelines at both national, European and international levels.

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List of Abbreviations

Charter: Charter of Fundamental Rights of the EU
CSEP: Civil Society Empowerment Programme
CoE: Council of Europe
EAW: European Arrest Warrant
ECHR: European Convention on Human Rights
ECtHR: European Court of Human Rights
ECJ: European Court of Justice
EU: European Union
ICCPR: International Covenant on Civil and Political Rights
UN: United Nations
UNODC: United Nations Office on Drugs and Crime

About the Project

D.Rad is a comparative study of radicalisation and polarisation in Europe and beyond. It aims to identify the actors, networks, and wider social contexts driving radicalisation, particularly among young people in urban and peri-urban areas. D.Rad conceptualises this through the I-GAP spectrum (injustice-grievance-alienation-polarisation) with the goal of moving towards measurable evaluations of de-radicalisation programmes. Our intention is to identify the building blocks of radicalisation, which include a sense of being victimised; a sense of being thwarted or lacking agency in established legal and political structures; and coming under the influence of “us vs them” identity formulations.

D.Rad benefits from an exceptional breadth of backgrounds. The project spans national contexts including the UK, France, Italy, Germany, Poland, Hungary, Finland, Slovenia, Bosnia, Serbia, Kosovo, Israel, Iraq, Jordan, Turkey, Georgia, Austria, and several minority nationalisms. It bridges academic disciplines ranging from political science and cultural studies to social psychology and artificial intelligence. Dissemination methods include D.Rad labs, D.Rad hubs, policy papers, academic workshops, visual outputs and digital galleries. As such, D.Rad establishes a rigorous foundation to test practical interventions geared to prevention, inclusion and de-radicalisation.

With the possibility of capturing the trajectories of seventeen nations and several minority nations, the project will provide a unique evidence base for the comparative analysis of law and policy as nation states adapt to new security challenges. The process of mapping these varieties and their link to national contexts will be crucial in uncovering strengths and weaknesses in existing interventions. Furthermore, D.Rad accounts for the problem that processes of radicalisation often occur in circumstances that escape the control and scrutiny of traditional national frameworks of justice. The participation of AI professionals in modelling, analysing and devising solutions to online radicalisation will be central to the project’s aims.

Executive summary

This report provides an overview of the acts regarding deradicalisation that have been adopted in the framework of the United Nations (UN), the Council of Europe (CoE), and the European Union (EU) as well as the case law developed in the field by the European Court of Human Rights (ECtHR) and the European Court of Justice (ECJ).

It is highlighted that all three of these organisations have tackled deradicalisation in non-binding acts, whose implementation is left to the discretion of the states, which retain sovereign powers in the field. No binding acts deal directly with the issue.

As a consequence, it might be said that international organisations have only played a supportive role in promoting deradicalisation, because of the limited powers they have been given in the field.

As far as binding acts are concerned, the focus of the UN, CoE, and EU has been on topics that may be indirectly related to deradicalisation, such as hate crime and hate speech.

The same holds true regarding the ECtHR's and ECJ's case law. In fact, there are no judgments where the legal reasoning revolves around the concepts of radicalisation and deradicalisation. However, both courts have dealt with issues that are related to it, which may provide guidance with regard to the relevant principles in the field.

1. Introduction

The UN was established in 1945. Its main purposes are maintaining international peace and security, developing friendly relations among nations, achieving international cooperation on economic, social, cultural, and humanitarian issues, and harmonising the actions of nations in the attainment of these objectives (see Marchisio, 2000; Daws and Weiss, 2008).

The CoE was established in 1949 with the purpose of safeguarding and realising the ideals and principles shared by its members, and facilitating their economic and social progress. More specifically, it can be described as a standard-setting organisation, which promotes democracy, the rule of law, human rights, and economic and social development in Europe by supporting international cooperation between its member states. Over time, it has promoted the stipulation of a number of treaties, the most important of which is the European Convention on Human Rights (ECHR) (1950). The ECHR and its additional protocols protect civil and political rights. Based on the ECHR, the ECtHR was established in 1959 (Benoît-Rohmer and Klebes, 2005; Guidikova, 2010; Leach, 2017).

The EU was established in 1992. It is a supranational organisation that pursues political and economic objectives by promoting legal integration at regional level between its 27 member states. Compared to other international organisations, it is quite different because by ratifying its treaties, the member states have partially delegated their sovereign powers to the EU itself (Lenaerts et al., 2005; Barnard and Peers (a), 2014; De Búrca and Craig, 2020).

Notwithstanding the many differences between them, these international organisations have played a role in fighting radicalisation and promoting deradicalisation. The purpose of this report is to clarify the measures they have taken and the methods they have used so far, owing to the fact that they have been given limited powers in the field.

The report comprises six sections. The first section introduces the report, its structure, and the methodology adopted. The second section deals with the socio-economic, political, and cultural background of European society.[1] The third section describes the "constitutional" organisation of the three international organisations and their "constitutional" principles, especially concerning the protection of fundamental rights.[2] The fourth section presents the legislative framework regarding the fight against radicalisation and the promotion of deradicalisation, which includes its evolution, hate speech and hate crime regulations, as well as the relevant case law. Next, the fifth section provides an overview on the policy framework on deradicalisation and the relevant institutional framework. The sixth section is devoted to two case studies: one concerns the Civil Society Empowerment Programme (CSEP), while the other takes into consideration the EU Code of Conduct on countering illegal hate speech online. The report is equipped with annexes that offer an overview of the legal and policy framework on radicalisation and deradicalisation (Appendix 1), a list of institutions dealing with deradicalisation (Appendix 2), best practices (Appendix 3), and policy recommendations (Appendix 4).

[1] As far as the non-legal aspects of the analysis are concerned, the focus is on European society and, more specifically, on the EU member states.
[2] The term "constitutional" must not be interpreted as it would be in a purely national legal and political framework. As the UN, CoE, and EU are international organizations, they do not have a constitution. Therefore, the term "constitutional" refers to the fundamental structures, values, and principles of these organizations.

As for the methodology, desk research was performed on the legal and policy framework involving the consultation of legislation, judgments, policy documents, and scientific and newspaper articles. In addition, three interviews were carried out with experts in the field.

2. The socio-economic, political, and cultural context

Although every EU member state has its own history regarding radicalisation, extremist violence, and terrorism, there are some common traits that make it possible to identify historical roots of Injustice, Grievance, Alienation, and Polarisation.

According to a widespread assumption, there seems to be a link between poverty or lack of education and terrorism, meaning that individuals are more likely to commit terrorist acts if they have lower wages or less education (for an overview and some criticism, see Bakker, 2015). Therefore, socioeconomic factors such as a lack of professional opportunities and ghettoisation may provide an explanation for radicalisation (Görzig and Al-Hashimi, 2016).[3]

However, some studies on the topic contradict that assumption. It seems that terrorist organisations prefer to recruit well-educated, middle- or upper-class individuals as they are more likely to be politically involved in their cause. Thus, it has been suggested that terrorism is "a response to political conditions and long-standing feelings of indignity and frustration that have little to do with economics" (Krueger and Malečková, 2003). The problem may lie in the imbalance between existential goals that are considered relevant in a given social milieu and legitimate means to achieve them.[4]

According to other scholars, population, ethno-religious diversity, state repression, and the structure of party politics are the variables that should be taken into account (Piazza, 2006).[5]

Finally, geopolitical events may play a role in explaining the root causes of radicalisation. For instance, the radicalisation of Western Muslim youth has been defined as a "spill-over" of the crisis in the Middle-East (Palestine, Afghanistan, Iraq)" (Amghar, 2007).

Thus, radicalisation may be the outcome of an individual's feelings of exclusion, combined with mobilising feelings of belonging and identity.

These forms of vulnerability may prompt individuals to join "radical groups that promise camaraderie and purpose to those that follow their ideological imperatives" (Bélanger et al., 2019). Thus, they may be regarded as driving forces behind radicalisation, leading to violence and, especially, terrorist violence.

As for the historical aspects, according to a generally accepted classification (Rappoport, 2002; Baker, 2015; Law, 2016), four different waves may be identified in the history of terrorism in Europe (and worldwide).

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[3] In this regard, it should be considered that according to Eurostat estimates, in January 2021, 15.663 million men and women were unemployed in the EU. Thus, the unemployment rate was 7.3%, stable compared to December 2020 and up from 6.6 % in January 2020. The youth unemployment rate was 16.9%, the unemployment rate for women was 7.7%, and the unemployment rate for men was 7.0% (Eurostat, 2021). Of the people aged 30-34 living in cities, 50% held a tertiary education degree, compared to 33.5% in towns and suburbs, and 28.4% in rural areas. Early leavers from education and training accounted for 11.4% in rural areas, 11.1% in towns and suburbs, and 9.6% in cities. The unemployment rate was 8.1% in cities, 7.1% in towns and suburbs, and 6.3% in rural areas. People at risk of poverty or social exclusion accounted for 23.7% in rural areas, 21.5% in cities, and 19.9% in towns and suburbs. The numbers with basic or above basic digital skills were 62% in cities, 55% in towns and suburbs, and 48% in rural areas (Eurostat, 2020).

[4] Interview with Giovanni Torrente (Assistant Professor of Philosophy of Law, University of Turin), 28 April 2021. Professor Torrente refers to Robert K. Merton's anomie theory (Merton, 1938).

[5] Focusing on religious diversity, 41% of Europeans are Catholics, 10% Orthodox Christians, 9% Protestants, and 4% belong to other Christian groups. Non-believers and agnostics account for 17% of the population, atheists 10%, and Muslims 2% (European Commission, 2019).

The first is the Anarchist Wave. It started in Russia in the 1880s before spreading to other parts of Europe and the world. In this phase, the purpose of the terrorist groups was to counter the repressive nature of the state by eliminating political targets such as monarchs, presidents, and prime ministers.

The second is the Anti-colonial Wave, which began in the 1920s as a response to the Versailles Peace Treaty. Terrorist groups fought against the former European empires for the freedom of colonial territories.

The third is the New Left Wave. It emerged in the 1960s. Western-based terrorist groups (such as the West German Red Army Faction or the Italian Red Brigades) presented themselves as vanguards for the Third World and rejected the Western value system.

The fourth is the Religious Wave, which started in 1979. Religion has played a key role in shaping the identities of the terrorist groups belonging to this wave. Its most representative moment is the terrorist attacks on the World Trade Center and the Pentagon, which took place on 11 September 2001 under the organisation of Al-Qaeda.

Thus, it might be said that over time there has been an evolution in the radicalisation phenomenon in Europe. As a consequence, there have been some changes in its geography.

In the 1970s and 1980s, the main issues concerned ethno-nationalist terrorism in Northern Ireland[6] and political terrorism in other parts of Europe (such as Italy or Germany).

Since 9/11, the focus has been on so-called Islamic radicalism. As far as Europe is concerned, between 2014 and 2018, France was the European country with the highest number of jihadist attacks (42) and with the highest number of suspects arrested for jihadist terrorism (1,640) (Pugliese, 2021).

It must be said that since the terrorist attacks in Spain, France, Germany, and Belgium and the 2015 migration crisis, Islam has been perceived as a main threat in many European states (Sasnal and El Menouar, 2020). Anti-Islam and anti-immigrant sentiments have led to a rise in right-wing extremism in many countries such as Germany, Italy, and the Netherlands. However, contrary to popular belief, terrorism in recent years has not been exclusively Islamic.

At least as far as the EU is concerned, the majority of terrorist attacks are not related to Islamist terrorism, but to ethno-nationalist and separatist terrorism (Europol, 2020).

Considering the member states of the European Union, more than 120 attacks (completed, foiled or failed) were registered in 2019. Of these, 21 were jihadist attacks (3 completed). Left-wing and anarchist groups were responsible for 26 attacks, especially in Italy (22). Ethno-nationalist and separatist groups were responsible for 57 attacks and right-wing groups for 21 (Europol, 2020).

As is clear from what has been stated above, over time terrorism has made the headlines in Europe and worldwide on a daily basis. Consistently with the so-called availability heuristic, this overload of information has led to the development of some assumptions, especially in European society: terrorism is increasingly lethal, terrorism is predominantly anti-Western, and terrorism is successful (for an overview on these assumptions and why they are wrong (see Bakker, 2015).

[6] Here the reference is to the Irish Republican Army (IRA). With regard to ethno-nationalist terrorism in Europe, we may also think of Euskadi ta Askatasuna (ETA), the Basque separatist organisation that was founded in 1959 and dissolved in 2018.

However, the data on the topic tell a different story, at least as far as Europe is concerned. In fact, the 1970s and 1980s were the most lethal decades, with more than 400 victims per year. The number of victims of terrorism in Europe in recent years has been relatively low (Gaub, 2017).

According to the Global Terrorism Index 2020, the ten countries most impacted by terrorism are non-Western countries (Afghanistan, Iraq, Nigeria, Syria, Somalia, Yemen, Pakistan, India, Democratic Republic of Congo, and the Philippines). The first EU member state that can be found in the index is France, ranking 37th. Greece ranks 44th, Germany 48th, and Italy 59th. Some European states are not directly affected by terrorism at all. This is the case of Croatia, Portugal, Romania, and Slovenia (Institute for Economics & Peace, 2020).

Finally, there is no evidence that terrorism is achieving its political results either in Europe or in other countries; thus, it cannot be considered successful (Abrahams, 2006).

In conclusion, it has to be said that the EU member states are some of the richest countries in the world. They also perform high in the Human Development Index.[7] Some of them are in the top 10 (Ireland, Germany, Sweden, the Netherlands, and Denmark) and all of them are in the top 60.

Nevertheless, they have had to face some serious problems related to radicalisation and terrorism in the last fifty years.

In the light of this, the idea that there is an exclusively economic explanation for these phenomena can certainly be questioned. There are probably a number of factors that must be taken into account that lead to individual radicalisation and terrorism and that are linked to some individuals' and groups' rejection of the European model based on democracy and the rule of law.

[7] The Human Development Index is a summary measure of average achievement in health, knowledge, and standard of living. Its purpose is to assess the overall development of a country; thus, it is not limited to the sole economic aspects of development.

3. The "constitutional" organisation of the United Nations, the Council of Europe, and the European Union and "constitutional" principles in the field of (de-)radicalisation

The UN is an intergovernmental organisation. Its primary bodies are the General Assembly, the Security Council, the International Court of Justice, and the UN Secretariat.
Consistently with its founding charter, the UN has promoted some key principles which have shaped the nature of public international law in the last 70 years. Notably, they are human rights, the principle of self-determination, the peaceful settlement of international disputes, and the prohibition of the threat and use of force in relations between states.
Over time, the UN has promoted the stipulation of a number of international treaties regarding the protection of human rights, both from a general point of view and with regard to some specific issues. It is worth mentioning the International Convention on the Elimination of All Forms of Racial Discrimination (1965), the International Covenant on Civil and Political Rights (ICCPR) (1966), the International Covenants on Economic, Social and Cultural Rights (1966), and the Convention against Torture (1984).
The CoE was founded in 1949 as an intergovernmental organisation. Its primary bodies are the Committee of Ministers and the Parliamentary Assembly. Since its foundation, the CoE has promoted democracy, the rule of law, and human rights through the stipulation of international treaties, the most important of which is the ECHR. In this regard, the role played by the ECtHR in interpreting that treaty and holding European states accountable for its repeated violations must be underlined.
Apart from the ECHR, it is worth remembering the European Social Charter (1961) and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (1987).
As for the EU, it is a supranational organisation which has been given sovereign powers in some fields. As a matter of fact, under Article 1(1) TEU, the member states confer competences to the EU to attain shared objectives. That paragraph sets the principle of conferral as the general standard governing the division of competences between the EU and its member states.[8]
The EU's institutions are the European Parliament, the European Council, the Council of the EU, the European Commission, the ECJ, the European Central Bank, and the Court of Auditors.
It must be said that the European integration process began in the 1950s, and originally it focused on economic matters and, more specifically, on the development of a common market. The underlying idea was that "due to closer trade ties States would become dependent on each other and thus the imperative to go to war would be reduced" (Barnard and Peers (b), 2014).
Over the years, the material scope of EU law has widened to some new areas, such as environmental protection, consumer protection, and justice and home affairs, and a more political dimension of the integration process has emerged, making it necessary to state the political and legal values founding the EU.

[8] As regards the relationship between the EU and its member states, we should also remember the primacy of EU law principle developed by the ECJ, establishing that EU law has priority over national law.

Thus, it is since the Maastricht Treaty (1992) that democracy, the rule of law, the protection of fundamental rights, and minority rights have been acknowledged as guiding political and legal values of the EU.
The EU institutions and bodies have to comply with them, as must the member states (Article 2 TEU) and states that wish to join the EU (Article 49 TEU). A specific procedure may be applied to sanction those member states that are in serious breach of these values (Article 7 TEU).
In 2000, the EU adopted its own Charter of Fundamental Rights. Since the Lisbon Treaty came into force, the Charter has had the same legal values as the treaties (Article 6(1) TEU), which means it is a source of primary law. The Charter provides a list of fundamental rights that are binding for the institutions and bodies of the EU and the member states when implementing EU law (see de Vries et al., 2013; Mastroianni et al., 2017).
Generally speaking, fundamental rights, as guaranteed by the ECHR and resulting from the constitutional traditions common to the member states, constitute general principles of EU law (Article 6(3) TEU).

Decentralisation

As a general rule, decentralisation is not an issue in the relationship between the UN or the CoE and their members, as the latter retain sovereign powers and the former operate as international fora that make international cooperation easier.

However, as far as the protection of human rights in the framework of the ECHR is concerned, we should remember the role played by the principle of subsidiarity. This principle reflects the idea that national authorities are in a better position to protect fundamental rights, while the supervisory mechanism established by the ECHR should only be activated when lacking protection at the national level (see Mowbray, 2015; Vila, 2017).

As regards the EU, under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the member states, either at a central or regional and local level, but can rather, owing to the scale or effects of the proposed action, be better achieved at the Union level (Article 5(3) TEU) (Costantinesco, 1991; Cass, 1992; Davies, 2006; Granat, 2018).

4. The legislative framework in the field of (de-) radicalisation

The legislative framework on fundamental freedoms

At the UN level, the Universal Declaration of Human Rights proclaimed by the UN General Assembly in 1948 already provided a comprehensive list of fundamental rights that states must protect. Among them – as far as radicalisation is concerned – we should consider the right to life (Article 3), prohibition of torture (Article 5), respect for private and family rights (Article 12), freedom of thought, conscience, and religion (Article 18), freedom of opinion and expression (Article 19), and freedom of peaceful assembly and association (Article 20).

As the Universal Declaration was not legally binding, these rights were later restated in the ICCPR, which would become binding for the contracting parties following ratification.

Regarding the CoE, since it came into force in 1953, the ECHR has been legally binding on the contracting parties, and, since its foundation in 1959, the ECtHR has constantly worked in order to protect the fundamental rights listed in it. As far as radicalisation is concerned, the relevant rights are: the right to life (Article 2), prohibition of torture (Article 3), right to respect for private and family life (Article 8), freedom of thought, conscience, and religion (Article 9), freedom of expression (Article 10), freedom of assembly and association (Article 11), and prohibition of discrimination (Article 14).

In the founding treaties of the European Communities, fundamental rights were absent. That is why in some early cases the ECJ refused to acknowledge them as part of Community law.

However, in 1969, in the seminal case of *Stauder*, the ECJ held that the protection of fundamental rights forms part of the constitutional traditions common to the member states and of the general principles of Community law.[9] This line of reasoning has been confirmed in many subsequent judgments.[10]

As mentioned above, in 2000, the EU adopted its own Charter of Fundamental Rights.

Among the rights guaranteed under the Charter, we may want to consider the right to life (Article 2), prohibition of torture and inhuman or degrading treatment or punishment (Article 4), respect for private and family life (Article 7), protection of personal data (Article 8), freedom of thought, conscience, and religion (Article 10), freedom of expression and information (Article 11), freedom of assembly and association (Article 12), non-discrimination (Article 21), and cultural, religious, and linguistic diversity (Article 22).

[9] It comes as no surprise that the ECJ has been hailed as the engine of European integration. By interpreting the treaties and EU law in general, the ECJ has been able to develop some fundamental legal principles that the EU legal order rests on, such as the principle of direct effect, the principle of the primacy of EU law, and the protection of fundamental rights. Interestingly enough, at the time when the Court identified those principles, none of them was expressly mentioned either in the treaties or in secondary sources of EU law. Thus, thanks to the interpretative powers vested in it (and, at certain moments, a dose of judicial activism), the ECJ has been able to promote integration between the member states through law (see Pescatore, 1972; De Burca and Weiler, 2001; Arnull, 2006).

[10] See for *Internationale Handelsgesellschaft mbH / Einfuhr- und Vorratsstelle für Getreide und Futtermittel* (1970) and *ERT* (1991).

In recent years, the protection of personal data has garnered much attention and a specific set of norms – the data protection package – has been developed in this regard, consisting of General Data Protection Regulation and Directive 2016/680.

Limitations to fundamental rights

Under Article 4(1) ICCPR, in a time of public emergency which threatens the life of the nation and whose existence is officially proclaimed, the contracting parties may take measures derogating from their obligations under the ICCPR, provided that they are consistent with the exigencies of the situation as well as with their obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion, or social origin.

However, Article 4(2) ICCPR clarifies that no derogation is permitted regarding some rights, such as the right to life, prohibition of torture, and freedom of thought, conscience, and religion.

A similar provision regarding derogation in times of emergency may be found under Article 15(1) ECHR, while Article 15(2) prohibits derogation regarding some rights, such as the right to life and prohibition of torture.

In some cases, the ECHR provides for limitations to the rights that must be prescribed by law, necessary in a democratic society and consistent with some general interests such as public safety, public order, health, or morals, or the protection of the rights and freedoms of others.[11]

Under Article 52(1) of the Charter, any limitation on the exercise of the rights and freedoms recognised by the Charter must be provided for by law and respect the essence of those rights and freedoms. Subject to the principle of proportionality, limitations may only be made if they are necessary and genuinely meet objectives of general interest recognised by the Union or the need to protect the rights and freedoms of others.

Under Article 52(3) of the Charter, in so far as the Charter contains rights which correspond to rights guaranteed by the ECHR, the meaning and scope of those rights shall be the same as those laid down by the ECHR. This provision does not prevent Union law providing more extensive protection. Therefore, the ECHR and the ECtHR's case law may be used in order to identify any limitations imposed on fundamental rights.[12]

The legislative framework on (de-)radicalisation

Since 1963, the international community has developed 19 treaties dealing with terrorism-related matters under the auspices of the UN. Following a sectoral approach to this issue, they

[11] See for instance Article 6(1), Article 8(2), Article 9(2), Article 10(2), and Article 11(2) ECHR.

[12] Before the Charter became legally binding, the ECJ had already acknowledged that the exercise of fundamental rights "may be restricted, provided that the restrictions in fact correspond to objectives of general interest and do not, taking account of the aim of the restrictions, constitute disproportionate and unacceptable interference, impairing the very substance of the rights guaranteed" (see *Schmidberger* (2003)).

focus on many aspects of terrorism, its prevention, and repression (such as criminal offences committed on board aircraft, the taking of hostages, or the suppression of terrorist bombings) but deradicalisation does not seem to be dealt with in these instruments (see Gioia, 2006).

The CoE has promoted the stipulation of some international treaties dealing with terrorism-related matters. While the Convention on the Suppression of Terrorism (1977) has the sole purpose of facilitating the extradition of persons having committed acts of terrorism (see Bellelli, 2006), the Convention on the Prevention of Terrorism (2005) should be taken into more specific account (see Hunt, 2006). In fact, not only does this Convention aim to establish as criminal offences under national law certain acts that may lead to the commission of terrorist offences and to enhance national and international cooperation, but it also provides for some limited measures regarding deradicalisation. As a matter of fact, under Article 3 of the Convention, the contracting parties must promote tolerance by encouraging inter-religious and cross-cultural dialogue. Furthermore, they must promote public awareness regarding the existence, causes and gravity of, and the threat posed by terrorist offences.

Considering the social rehabilitation of offenders as a way to promote disengagement and deradicalisation, we may want to take into account the European Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders (1964) and the Convention on the Transfer of Sentenced Persons (1983). These Conventions provide for the interstate transfer, respectively, of probationers and offenders whose sentence has been suspended and of foreigners convicted of a criminal offence in order to promote their social rehabilitation in states with which they have some significant links (for instance, family or linguistic ties).

While it has adopted several acts regarding the fight against terrorism (see Peers, 2003; De Cesari, 2006; Argomaniz et al., 2017), the EU has never adopted a specific legally binding act regarding deradicalisation.[13] Concerning the social rehabilitation of offenders, Council Framework Decision 2002/584/JHA on the European Arrest Warrant (EAW) provides that the executing judicial authority may refuse to execute the EAW if it has been issued for the purposes of execution of a custodial sentence or detention order, where the requested person is staying in, or is a national or a resident of the executing member state and that state undertakes to execute the sentence or detention order in accordance with its domestic law. In addition, Council Framework Decision 2008/909/JHA provides for a mechanism enabling persons who have been sentenced to a term of imprisonment in a member state to serve the remainder of their sentence in another member state with which they have some significant links (meaning family, linguistic, cultural, social, economic, or other kinds of ties), as this would facilitate their social rehabilitation (see Martufi, 2018; Montaldo, 2019). Furthermore, Council Framework Decision 2008/947/JHA was adopted with the aim of enhancing the prospects of persons sentenced to non-custodial sentences being reintegrated into society by transferring them to a member state with which they have significant family, linguistic, cultural, or other ties (see Neveu, 2013; Rosanò, 2019). In this light, some provisions of Directive 2012/29/EU on victims' rights may also be considered, as they concern restorative justice mechanisms, meaning processes whereby the victim and the offender are enabled, if they freely consent, to participate actively in the resolution of matters arising from the criminal offence through the help of an impartial third party. For these processes to apply, the offender must have

[13] Interview with Stefano Montaldo (Associate Professor of EU Law, University of Turin), 15 April 2021.

acknowledged the basic facts of the case, meaning that the process of social rehabilitation should at least have begun (on the directive, see Savy, 2013; Klip, 2015).

Finally, the EU may finance research on radicalisation and deradicalisation through both direct and indirect funding. As far as direct funding is concerned, under the 2014-2020 multiannual financial framework, this was possible through some programmes such as Horizon 2020, Erasmus+, and Creative Europe.[14] Indirect funding could be gained through the European Social Fund.

Thus, none of the international organisations that form the object of this report has adopted a legally binding act devoted specifically to deradicalisation. However, by changing our perspective just a touch, some interesting pieces of legislation may be found.

Moving to the fight against radicalisation online, it must be noted that the CoE promoted the stipulation of the Convention on Cybercrime (2001), which was the first international treaty dealing with this topic with the purpose of helping the contracting parties develop national legislation against cybercrime and establishing forms of international cooperation. An additional protocol, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems, was signed in Strasbourg in 2003. It provides for the criminalisation of conducts such as the dissemination of racist and xenophobic material through computer systems, racist- and xenophobic-motivated threats through computer systems, and racist- and xenophobic-motivated insults through computer systems (on the Convention, see Weber, 2003).

As far as the EU legal framework is concerned, Council Framework Decision 2008/913/JHA provides for the approximation of national criminal law in the field of racist and xenophobic offences (see Faleh Pérez, 2009; Lobba, 2014; Moschetta, 2014). Therefore, some intentional conducts are punishable in every member state. Among those conducts, publicly inciting to violence or hatred directed against a group of persons or a member of a group defined by reference to race, colour, religion, descent, or national or ethnic origin is the most relevant for the purpose of this report, as it aims to prevent radicalisation by averting the spread of extremist ideas.

Under Directive 2010/13/EU, the member states must ensure, *inter alia*, that audio-visual media services do not contain any incitement to hatred based on race, sex, religion, or nationality.

Furthermore, Directive (EU) 2017/541 provides for the approximation of national criminal law in the field of terrorism-related offences (see Maliszewska-Nienartowicz, 2017). Therefore, some intentional conducts are punishable in every member state. Among these conducts, public provocation to commit a terrorist offence should be taken into consideration, as its purpose is to prevent extremist ideas from being spread in society.

Finally, under the recently approved Regulation 2021/784 on addressing the dissemination of terrorist content online, a removal order can be issued as an administrative or judicial decision by a competent authority in a member state, obliging hosting service providers to remove illegal terrorist content or disable access to it within one hour. As a consequence, service providers are required to take proactive measures to prevent terrorist abuse and must

[14] Under the new 2021-2027 multiannual financial framework, we might consider Horizon Europe, Erasmus+, and Creative Europe.

establish complaint mechanisms to review their decisions to remove certain contents (see Sacchetti, 2019).

In conclusion, to try to sum up what has been said, it is possible to distinguish between acts that promote an integrative approach towards radicalisation, meaning an approach that aims to re-socialise the individuals that have been radicalised, and acts that promote a preventive-repressive approach, as their purpose is to prevent the dissemination of extremist ideas.

The Convention on the Prevention of Terrorism, the European Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders, the Convention on the Transfer of Sentenced Persons, Council Framework Decision 2008/909/JHA, Council Framework Decision 2008/947/JHA, Directive 2012/29/EU, and the regulations on EU funding promote an integrative approach to radicalisation and deradicalisation. In these cases the focus is on promoting dialogue and the social rehabilitation of offenders, meaning that they stress the reintegration of offenders into society, and the need to tackle the root causes of radicalisation in order for the individual to change and be resocialised.

On the other hand, the additional protocol to the Convention on Cybercrime, Council Framework Decision 2008/913/JHA, Directive 2010/13/EU, Directive (EU) 2017/541, and Regulation (EU) 2021/784 follow a preventive-repressive approach, as their aim is to preclude the spread of content inciting to hatred or illegal terrorist content, and sanctions may apply in cases of non-compliance with the obligations laid down in these acts.

Paradigmatic case-law on radicalisation

Considering the case law of the ECtHR and the ECJ, it must be stressed that there are no judgments where the legal reasoning revolves around the concepts of radicalisation and deradicalisation. However, over time, a body of principles has gradually been developed by both courts, which have been taken into consideration when dealing with issues that are related to radicalisation and deradicalisation.

As a matter of fact, the fight against terrorism has led to some significant developments in the case law of both the ECtHR and the ECJ.

As regards the ECtHR, in *Zana v. Turkey* (1997) and *Leroy v. France* (2008) it ruled that even in the framework of the fight against terrorism, a fair balance must be struck by national authorities between freedom of expression and a democratic society's legitimate right to protect itself against the activities of terrorist organisations.

In *Ramirez Sanchez v. France* (2006), it was acknowledged that protecting populations from terrorist violence is a difficult task for any state. However, Article 3 ECHR prohibits torture and inhuman or degrading treatment or punishment, and that is one of the most fundamental values of democratic societies, which suffers no exception and no derogation even in the framework of the fight against terrorism.

In this regard and on a more general level, it must be remembered that the fight led by European countries against terrorism must be consistent with all the obligations laid down in the ECHR. This leads to some relevant consequences in terms of the methods, means, techniques, and tools that can be used by state authorities.

Lethal force can be used only if absolutely necessary, "depending on whether and to what extent the authorities were in control of the situation and other relevant constraints inherent in

operative decision-making in this sensitive sphere" (*Tagayeva and others v. Russian Federation* (2017)). Otherwise, it may give rise to a violation of Article 2 ECHR (right to life).

Considering Article 5 (right to liberty and security), detention must be based on a reasonable suspicion, which, depending on the actual circumstances, presupposes the existence of facts or information that would satisfy an objective observer that the person concerned may have committed the offence (*Mehmet Hasan Altan v. Turkey* (2018)).

Over time, a number of surveillance measures have been adopted by national authorities, such as interception of communications, GPS surveillance, surveillance of telephone calls, email correspondence, and Internet usage, and searching premises. This must be done in accordance with Article 8 ECHR (right to respect for private and family life). More specifically, these interferences must be in accordance with the law, which means they must pursue a legitimate aim (for instance, protection of national security, public safety, the prevention of crime, or the protection of the rights and freedoms of others) and must be necessary in a democratic society. Thus, national authorities must strike a fair balance between competing needs (*Murray v. UK* (1996)). In this regard, the ECtHR stressed that when balancing the interest related to the protection of national security with the right to respect for private life, the national authorities enjoy a certain margin of appreciation, which must, however, be subject to adequate and effective guarantees against abuse. An assessment must be carried out, taking into account all the circumstances of the case, meaning the nature, scope, and duration of the measures, the grounds for ordering them, the authorities competent to authorise, carry out, and supervise them, and the remedies provided by national law (*Szabò and Vissy v. Hungary* (2016)).

Interference with freedom of religion (Article 9) is permissible only if prescribed by law and necessary in a democratic society in the interests of public safety, for the protection of public order, health, or morals, or for the protection of the rights and freedoms of others. In *Güler and Uğur v. Turkey* (2014), the applicants were convicted for propaganda in favour of a terrorist organisation on account of their participation in a religious ceremony. The ECtHR found that the interference was not prescribed by law and, therefore, Article 9 had been violated. However, the Court stressed that "the term propaganda is often understood as the deliberate dissemination of information in one direction to influence the public perception of events, persons or issues. The single-direction nature of the information is not per se a reason to limit freedoms. A limitation may be prescribed, inter alia, to prevent the terrorist indoctrination of individuals and/or groups who are easily influenced, the aim of the indoctrination being to make them act and think in a particular manner. The Court thus accepts that certain forms of identification with a terrorist organisation, and especially apologia for such an organisation, may be regarded as a manifestation of support for terrorism and an incitement to violence and hatred. Similarly, the Court accepts that to disseminate messages praising the perpetrator of an attack, to denigrate the victims of an attack, to raise money for terrorist organisations, or to engage in other similar conduct, may constitute acts of incitement to terrorist violence."

While interpreting Article 10 ECHR on freedom of expression, the Court underlined "the vital importance of combating racial discrimination in all its forms and manifestations" (*Jersild v. Denmark* (1994)). Furthermore, the Court acknowledged that tolerance and respect for the equal dignity of all human beings are the foundation of a democratic and pluralistic society; therefore, in principle, it may be necessary to prevent and sanction all forms of expression which incite, promote, or justify hatred based on intolerance (including religious intolerance),

provided that the measures adopted are proportionate to the pursued objective (*Erbakan v. Turkey* (2006)).

In *Gündüz v. Turkey* (2003), the ECtHR held that expressions that seek to spread, incite, or justify hatred based on intolerance, including religious intolerance, do not enjoy the protection afforded by Article 10 ECHR. However, the mere fact of defending sharia, without calling for violence to establish it, cannot be regarded as hate speech.

In *Gözel and Özer v. Turkey* (2010), the owners, publishers, and editors-in-chief of two magazines were fined and had their publications suspended on the grounds that they had published three articles which, according to domestic courts, were statements by a terrorist organisation. The national legislation did not impose any obligation on the domestic courts to analyse the articles from a textual or contextual point of view. Thus, as the punishment was automatic and inflicted without considering the public's right to be informed, the Court held there had been a violation of Article 10 (freedom of expression).

In addition, a significant case law has been developed by the ECtHR regarding extraordinary rendition. This term refers to the extrajudicial practice of illegally transferring an individual to a foreign country with the purpose of detaining and interrogating him or her. It was developed by the United States government agencies in the framework of the fight against terrorism and carried out with the help of other countries. In many cases, the ECtHR found this practice to be incompatible with a number of provisions of the ECHR, such as Article 2 (right to life), Article 3 (prohibition of torture and inhuman or degrading treatment), Article 5 (right to liberty and security), Article 6(1) (right to a fair trial), Article 8 (right to respect for private and family life), Article 13 (right to an effective remedy), and Article 1 (abolition of the death penalty) of Protocol No. 6.[15]

Although not directly related to terrorism, we should remember the case law developed by the ECtHR regarding the social rehabilitation of offenders, as this may play a role in deradicalisation. When interpreting Article 3 ECHR, the Court held that it requires "reducibility of the sentence, in the sense of a review which allows the domestic authorities to consider whether any changes in the life prisoner are so significant, and such progress towards rehabilitation has been made in the course of the sentence, as to mean that continued detention can no longer be justified on legitimate penological grounds" (*Vinter and others v. UK* (2013)). This line of reasoning was confirmed in *Murray v. the Netherlands* (2016) and *Hutchinson v. the United Kingdom* (2017). In the latter, the Court held that the criteria and conditions laid down in domestic law pertaining to the review must have a sufficient degree of clarity and certainty, and reflect the case law of the Court.

Furthermore, we should also consider the case law regarding conditions of detention and specifically, prison overcrowding: as a matter of fact, precarious detention conditions may hamper the chances of achieving rehabilitation.

As clarified in *Muršić v. Croatia* (2016), if a detainee has less than 3 square metres of floor surface in multi-occupancy accommodation, there is a strong presumption of a violation of Article 3 ECHR. This presumption may be rebutted if (i) the reductions in personal space are short, occasional, and minor, (ii) the reductions are accompanied by sufficient freedom of movement outside the cell and adequate out-of-cell activities, or (iii) the applicant is confined

[15] See *El-Masri v. the former Yugoslav Republic of Macedonia* (2012), *Nasr and Ghali v. Italy* (2016), *Husayn (Abu Zubaydah) v. Poland* (2018), *Al Nashiri v. Romania* (2018), and *Abu Zubaydah v. Lithuania* (2018).

in what is, when viewed generally, an appropriate detention facility, and there are no other aggravating aspects of the conditions of his or her detention.

Finally, it should be added that in *Refah Partisi (the Welfare Party) and Others v Turkey* (2003) and *Kasymakhunov and Saybatalov v Russian Federation* (2013), the ECtHR held that a regime based on sharia is incompatible with the fundamental principles of democracy, particularly with regard to its criminal law and criminal procedure, its rules on the legal status of women, and the way it intervenes in all spheres of private and public life in accordance with religious precepts.

Moving to the ECJ, the case law mentioned above may be taken into consideration here as well. In fact, as mentioned before, fundamental rights, as guaranteed by the ECHR and resulting from the constitutional traditions common to the member states, constitute general principles of EU law. Furthermore, under Article 52(3) of the Charter, in so far as the Charter contains rights which correspond to those guaranteed by the ECHR, the meaning and scope of those rights are the same as those laid down by the ECHR, although EU law may provide more extensive protection.

From a general point of view, *Kadi* (2008) must be seen as a milestone. In this case it was held that restrictive measures taken against persons and entities associated with terrorist organisations on the basis of a resolution adopted by the UN Security Council, and consisting in the freezing of funds and economic resources, must comply with the protection of fundamental rights (more specifically, with the protection of the right to be heard and the right to effective judicial review).

Subsequently, in *France v People's Mojahedin Organization of Iran* (2011), the ECJ confirmed *Kadi* and held that restrictive measures taken against persons and entities associated with terrorist organisations must be consistent with the rights of the defence.

In *Digital Rights Ireland* (2014), the ECJ acknowledged that the fight against international terrorism in order to keep international peace and security and the fight against serious crime in order to ensure public security constitute objectives of general interest for the EU.

More specifically, considering the case law regarding the right to privacy and the right to the protection of personal data, in *Tele2 Sverige* (2016), the ECJ held that EU law precludes national legislation which, for the purpose of fighting crime, provides for the general and indiscriminate retention of all traffic and location data of all subscribers and registered users relating to all means of electronic communication.

As far as social rehabilitation is concerned, the ECJ had the chance to clarify its nature in some cases but did not seize this opportunity. Presumably, the reason behind that choice is that neither the treaties, nor the Charter provide any recognition of that concept. The ECJ might actually rely on other sources of law, such as the constitutional traditions common to the member states. However, only some constitutions – such as the Italian and the Spanish ones – acknowledge the role played by social rehabilitation in shaping the penal system.

Thus, to date, the social rehabilitation of offenders does not have a clear legal qualification in the EU legal system.[16] However, considering this issue from the point of view of prison

[16] See *Onuekwere* (2014), *G* (2014), and *Ognyanov* (2016).

overcrowding, it must be said that the ECJ has adopted the same approach followed by the ECtHR in *Muršić v Croatia*.[17]

[17] See *Generalstaatsanwaltschaft (Conditions of detention in Hungary)* (2018) and *Dorobantu* (2019).

5. The policy and institutional framework in the field of (de-)radicalisation

Over time, an incredibly high number of non-binding acts have been adopted by the UN, CoE, and EU in the field of fundamental rights, owing to their position at the core of all three organisations.

Therefore, it would be extremely difficult and probably useless to try to make a detailed analysis of the relevant policy frameworks defined by each of these organisations regarding religious freedom and religious entities / groups, freedom of speech or expression and political organisations, and self-determination and sub-national identities.

A culture of rights has gradually been established which is in harmony with the rule of law and the value of democracy, and has human dignity and the value of life at its core (see Mertus, 2005; Petaux, 2009; de Beco, 2012; Greer et al., 2018; Mégret and Alston, 2020).

Focusing on the policy and institutional framework in the field of deradicalisation, over the years, the UN has adopted a number of acts dealing with this issue. More specifically, we should consider some resolutions passed by the UN Security Council, where the states are called upon to adopt measures to tackle radicalisation. For instance, in Resolution S/RES/1624 (2005), it was deemed necessary to enhance dialogue and understanding among civilisations and to prevent the subversion of educational, cultural, and religious institutions by terrorists and their supporters. Furthermore, in Resolution S/RES/2178 (2014), it was stressed that local communities and non-governmental actors should be engaged in developing strategies to counter violent extremist narratives; young people, families, women, religious, cultural, and education leaders, and civil society in general should be empowered; tailored approaches to countering recruitment should be developed; and social inclusion and cohesion should be promoted. In addition to this, the counter-narrative should take the gender dimension into specific consideration and states should support research into the drivers of terrorism and violent extremism (Resolution S/RES/2354 (2017)). Besides, states should develop and implement specific prosecution, rehabilitation, and reintegration strategies and protocols (Resolution S/RES/2396 (2017)).[18]

With specific regard to radicalisation in prison, the UN Standard Minimum Rules for the Treatment of Prisoners suggest that prison administrations and other competent authorities should offer education, vocational training, and work, as well as other forms of assistance that are appropriate and available, including those of a remedial, moral, spiritual, social, and health- and sports-based nature. In 2016, the United Nations Office on Drugs and Crime (UNODC) released the Handbook on the Management of Violent Extremist Prisoners and the Prevention of Radicalization to Violence in Prisons. Among other things, it provides guidance for interventions in the fields of education, vocational training, and cultural activities, as well as faith-based and psychological interventions to disengage extremist prisoners from violence and facilitate their social reintegration upon release.

As far as hate speech is concerned, the UN adopted its own Strategy and Plan of Action on Hate Speech in 2019. According to this document, the UN should, among other things, monitor hate speech by collecting data and analysing relevant trends; address the root causes, drivers,

[18] A general overview of the UN approach to the matter may be found in the Comprehensive International Framework to Counter Terrorist Narratives (S/2017/375), the UN Global Counter-Terrorism Strategy (Resolution A/RES/60/288), and the Plan of Action to Prevent Violent Extremism developed by the UN Secretariat (A/70/674).

and actors; engage and support the victims of hate speech; and use education to counter hate speech.

Moving to the CoE, in 2015, the Committee of Ministers developed an Action Plan on the fight against violent extremism and radicalisation leading to terrorism. The Action Plan has two objectives: to reinforce the legal framework against terrorism and violent extremism and to prevent and fight violent radicalisation through concrete measures in the public sector, in particular in schools and prisons, and on the Internet.

As for radicalisation in prison, in 2016 the Committee of Ministers adopted some guidelines for prison and probation services regarding radicalisation and violent extremism, which provide a list of measures that should be taken by prison and probation services to prevent persons under their responsibility from being radicalised. Imprisonment should be a measure of last resort and good prison management may avoid situations conducive to radicalisation. Individual treatment programmes and assessment tools should be established. Cultural and religious traditions should be considered regarding nutrition, clothing, opportunities for worship, and religious holidays. The measures must be carried out consistently with the respect for human rights and fundamental freedoms and the respect for data protection and privacy.

The first EU act dealing with deradicalisation was the Declaration on Combating Terrorism, adopted by the European Council on 25 March 2004 in the aftermath of the terrorist attacks in Madrid. The Declaration identified some fields of intervention where efforts should be made in order to counteract terrorism (i.e., international cooperation, border controls, sharing of intelligence, assistance to victims). Annex I to the Declaration set out the EU Strategic Objectives to Combat Terrorism. Objective 6 focused on the need to address the factors which contribute to support for and recruitment into terrorism. It stressed the need to investigate the links between extreme religious or political beliefs, as well as socio-economic and other factors, in addition to the need to develop and implement a strategy to promote cross-cultural and inter-religious understanding.

Over time, many acts focusing on deradicalising policies have been adopted to tackle the challenges posed by radicalisation. In this regard, the European Council has urged the EU institutions and member states to do their part.[19]

The European Commission has played a key role by underlining the need for the member states to combine soft and hard measures to fight radicalisation. These soft measures may include, *inter alia*, programmes targeted at youngsters in order to promote cultural diversity and tolerance, initiatives that support access to the labour market, promotion of the dialogue between states and religions, or the recruitment of people from different backgrounds by police and law enforcement authorities. As for the hard measures, on the other hand, the European Commission refers to the monitoring and collection of data on migrants' experiences, racist violence, and Islamophobia, technical assistance to third countries and regional partners, and the removal of terrorist propaganda from the Internet.[20]

[19] See The Hague Programme: Strengthening Freedom, Security and Justice in the European Union, in OJ C 53, 3 March 2005, 1 and The Stockholm Programme – An Open and Secure Europe Serving and Protecting the Citizens, OJ C 115, 4 May 2010, 1.

[20] See for instance Communication from the Commission concerning Terrorist Recruitment: Addressing the Factors Contributing to Violent Radicalisation, COM(2005) 313 final, Communication from the Commission on the EU Security Union Strategy, COM(2020) 605 final, and Communication from the Commission on a Counter-Terrorism Agenda for the EU: Anticipate, Prevent, Protect, Respond, COM(2020) 795 final.

In this regard, the European Commission is committed to supporting research into trends in radicalisation and working closely with third countries while the member states should provide specific training to practitioners and empower victims of extremist violence by strengthening their rights and funding projects that enable them to tell their stories.[21]

As far as research into trends in radicalisation is concerned, under the 2014-2020 multiannual financial framework, Horizon 2020, Erasmus+, the Creative Europe programmes, and the European Social Fund provided funding in order to better understand the root causes of extremism.[22]

In the most recent act on the topic, the European Commission identified seven areas where the EU may play a key role in supporting the member states in their fight against radicalisation. The seven areas are: 1) supporting research, evidence building, monitoring, and networking; 2) countering terrorist propaganda and hate speech online; 3) addressing radicalisation in prisons; 4) promoting inclusive education and EU common values; 5) promoting an inclusive, open and resilient society and reaching out to young people; 6) the security dimension of addressing radicalisation; and 7) the international dimension.

In particular, the European Commission believes that education and training programmes must be developed in prisons to ease the reintegration of offenders into society. Also, the member states must exchange best practices and policies in the field of the execution of penal sanctions.[23]

For its part, the Council of the EU urged the member states to take action in order to prevent radicalisation in prisons by, *inter alia*, developing risk assessment tools, offering detainees opportunities for learning and developing critical thinking skills, and implementing measures allowing for rehabilitation, deradicalisation, or disengagement both inside and outside prisons.[24]

Finally, the High-Level Commission Expert Group on Radicalisation issued a series of recommendations related to exchanging experiences and good practices to prevent and counter radicalisation in the prison and probation context; enhancing multi-agency approaches involving all relevant actors; and sharing knowledge about radicalisation phenomena and pathways and the role education and culture may play in the fight against radicalisation.[25]

In the light of the above, we can say that the UN, CoE, and EU have adopted a holistic approach regarding the fight against radicalisation. All three aspects of primary, secondary, and tertiary prevention are taken into account, as confirmed by the attention devoted to the

[21] Communication from the Commission on Preventing Radicalisation to Terrorism and Violent Extremism: Strengthening the EU's Response, COM(2013) 942 final.
[22] Communication from the Commission on the European Agenda on Security, COM(2015) 185 final.
[23] Communication from the Commission Supporting the Prevention of Radicalisation Leading to Violent Extremism, COM(2016) 379 final. See also Prevention of Radicalisation Leading to Violent Extremism - Conclusions of the Council and of the Representatives of the Governments of the Member States, meeting within the Council (21 November 2016).
[24] Conclusions of the Council of the European Union and of the Member States meeting within the Council on enhancing the criminal justice response to radicalisation leading to terrorism and violent extremism, 20 November 2015.
[25] High-Level Commission Expert Group on Radicalisation (HLCEG-R), Final Report, 18 May 2018. Set up by Commission decision of 27 July 2017, its members were the member states, EU institutions and agencies, and the Radicalisation Awareness Network Centre of Excellence. Its task was to advise on how to improve cooperation and collaboration among the stakeholders and with the member states in particular on preventing and countering radicalisation and to advise and assist the Commission in the further development of Union policies in those fields, especially as far as the development of more structured cooperation mechanisms was concerned.

development of measures concerning education, youth, and the social rehabilitation of offenders.

In this regard, it must be remembered that almost every policy document mentioned in this report stresses the need for states and international organisations to establish forms of cooperation with local authorities, practitioners, religious authorities, teachers, and civil society in general. As it is the responsibility of institutional actors to seek their involvement, cooperation should take place at an official level.

The main issue is that these acts are not legally binding; thus, they may be regarded as guiding principles or recommendations whose specific implementations is left to the states' discretion. Therefore, as the member states are not under any obligations to comply with them, they lack effectiveness.[26]

International organisations do not have direct competence in this field; thus, they only play a supportive role while it is up to the states to set up and manage reintegration programmes. More specific criticism may be addressed towards the acts adopted and the programmes implemented at the national level.

That being said, the three international organisations seem to follow both a punitive and integrative approach depending on the case. The fight against terrorism and hate speech has been led primarily by requiring the states to update national criminal legislation, in other words, by adopting a punitive approach. However, the measures regarding, for instance, education, social rehabilitation of offenders, the empowerment of youth and women, and the engagement of local communities indicate an approach that is integrative in nature.

At the beginning, specific attention was devoted to Islamist terrorism but the approach swiftly became more neutral. In this regard, it has been stressed that while radical Islamists have been the main focus for years, radicalisation and recruitment is a common factor to all ideologies that predicate terrorist action. That is why all forms of terrorism must be fought, whoever the perpetrators may be.[27]

Almost every act regarding this matter recalls the respect for democracy, the rule of law, and fundamental rights. Non-legally binding acts do not seem to raise issues in this regard, as the implementation is left to the states. Therefore, any inconsistency with the commitments to democracy, the rule of law, and fundamental rights must be assessed considering national measures in the light of national law and international obligations.

Considering that the main responsibilities for tackling radicalisation and developing and implementing deradicalisation programmes lies with the states, it is possible to identify some institutions and bodies that may play a supportive role in the UN, CoE, or EU institutional framework.

As far as the UN is concerned, both the Security Council and the General Assembly have adopted resolutions dealing with deradicalisation, urging the states to take action in some specific fields. As for hate speech, we should consider that the implementation of the UN Strategy and Plan of Action is up to the Secretariat General. Furthermore, UNODC is the UN

[26] Interview with Valsamis Mitsilegas (Professor of European Criminal Law and Global Security, Queen Mary University of London) – 14 May 2021.
[27] See for instance Communication from the Commission concerning Terrorist Recruitment: Addressing the Factors Contributing to Violent Radicalisation, cit., 12 and Revised EU Strategy for Combating Radicalisation and Recruitment to Terrorism, 15175/08, 14 November 2008, 2.

agency established to assist the UN in the fight against crime and the promotion of criminal justice.

Regarding the CoE, the Committee of Ministers has adopted relevant acts regarding deradicalisation.

As far as the EU is concerned, given that the European Commission adopted a number of communications dealing with this topic, it is worth mentioning some other bodies.

EUROPOL is the EU law enforcement agency that supports and strengthens action by the competent authorities of the member states and their mutual cooperation in preventing and combating serious crime, including terrorism.

EUROJUST is the EU agency supporting and strengthening coordination and cooperation between national investigating and prosecuting authorities in relation to serious crime affecting two or more member states.

RAN is a hub and platform connecting practitioners (i.e., civil society representatives, social workers, youth workers, teachers, police officers, and prison officers) to exchange information, identify best practices, and develop instruments to fight radicalisation.

The Steering Board for Union Actions on Preventing and Countering Radicalisation advises the European Commission on the priorities and orientations in preventing and countering radicalisation as well as on possible gaps and scope for improvement in Union cooperation in the area.

The High-Level Commission Expert Group on Radicalisation (no longer existing), whose tasks were, *inter alia*, to advise and assist the Commission in the development of EU policies on the prevention and countering of radicalisation and new cooperation mechanisms at EU level.

6. Case Studies

As stated repeatedly in this report, international organisations such as the UN, CoE, and EU do not have direct competence in the field of radicalisation and deradicalisation and only in some cases can adopt legally binding acts. The main responsibilities regarding this matter lie with the states. Therefore, it is left to them to develop and implement specific programmes and measures to tackle radicalisation.
That being said, two initiatives are worth mentioning in the framework of the EU: the Civil Society Empowerment Programme (CSEP) and the EU Code of Conduct on countering illegal hate speech online.

Case Study 1

CSEP

CSEP was launched in 2015 by Dimitris Avramopoulos, Commissioner for Migration, Home Affairs, and Citizenship, and is coordinated by RAN. It is an initiative aimed at tackling terrorist content online by supporting civil society organisations in the use of the Internet to spread positive messages countering extremist and terrorist propaganda.
As radicalisation and recruitment by terrorist organisations often happens on the Internet, CSEP helps civil society organisations active in the field of deradicalisation by providing capacity building and training as well as supporting their campaigns.
A training programme was launched in 2017 to develop the skills needed to design and implement an effective online campaign and 27 training sessions were organised around Europe.
The training material regarding the creation of online campaigns to spread counter- and alternative narratives is particularly interesting as it applies the so-called GAMMMA model. GAMMMA stands for Goal, Audience, Message, Messenger, Media, and Action and is the approach that should be followed in building an online campaign.
The Goal refers to the aim, which must be measurable, small, simple, concrete, and time-bound.
The Audience may consist of youngsters, parents, teachers, or other individuals that are addressed by the campaign.
The Message is the narrative offered by the civil society organisation, which may be a form of alternative narrative (i.e., a positive story) or a counter-narrative (i.e., a challenge to radicalisation through humour).
The Messenger is the subject spreading the Message. Both the Messenger and the Message must be credible, consistent, compelling, and connected.
Media is a reference to the online world, especially social media platforms, which must be exploited to one's own advantage considering how they work (i.e., a post on Facebook must be conversational, which means it must be authentic, visual, simple, and timely).
Finally, Action refers to the actual engagement, which must be able to channel the anger or emotion that has led to the development of the campaign into something productive by showing the addressees a credible alternative.

To date, 624 civil society organisations have joined CSEP from all over Europe and the world.[28]

Case Study 2

The EU Code of Conduct on countering illegal hate speech online

In May 2016, the European Commission, together with Facebook, Microsoft, Twitter, and YouTube, agreed a Code of Conduct to prevent and counter hate speech online. Other IT companies joined in the following years. According to this Code, the companies must adopt rules or community guidelines where they clarify that incitement to violence and hateful conduct is prohibited. They must develop and implement processes to review notifications regarding illegal hate speech on their services, so they can remove or disable access to such content. Furthermore, users must be educated about the types of content not permitted under the rules and community guidelines.

The European Commission and the companies assess the implementation of the Code of Conduct on a regular basis.

The Code was presented as a voluntary, non-binding instrument, but it was developed by the European Commission under the threat of introducing statutory regulation. This kind of approach has proved to be successful as, so far, the Code of Conduct covers 96% of the EU market share of online platforms that could be affected by hate speech content.

The most evident result concerns the review and removal of this kind of content. In 2016, 28% of such content was removed, while in 2019 it was more than 70%. The companies review 89% of the content within 24 hours. All IP companies have increased the number of employees monitoring and reviewing the content and set up training, coaching, and support programmes for them. They make significant use of technology and automatic detection systems. For instance, in the first quarter of 2019, 65.4% of the content removed by Facebook was flagged by machines, while in the second quarter of 2019, 87% of the videos removed by YouTube were flagged by automatic systems (European Commission, 2019).

According to the most recent data, 83.5% of content calling for murder or violence is removed, while content using defamatory words or pictures is removed in 57.8% of cases. Sexual orientation is the most reported ground of hate speech (33.1%), followed by xenophobia (15%), and anti-gypsyism (9.9%) (European Commission, 2020).

There is no doubt that complying with the Code of Conduct has come at a cost to IP companies, who have had to review and update their internal policies and put in place review mechanisms, usually run by automated tools.

However, it is also undeniable that they may have had a specific interest in adhering to the Code of Conduct. Indeed, complying with the rules provided for in the Code of Conduct leads to some positive outcomes: victims of hate speech are more likely to continue to use their services if they know that systems are in place to protect them; legal actions being brought against IP companies for not being vigilant may be prevented; and the negative publicity that would accompany those situations may be avoided.

Furthermore, the intervention of the European Commission ensures that an impartial third party, which is independent from the subjects that must comply with the Code of Conduct, monitors whether the Code of Conduct is working.

[28] See https://ec.europa.eu/home-affairs/what-we-do/networks/radicalisation_awareness_network/civil-society-empowerment-programme_en.

There certainly is room for improvement as far as user information is concerned, however. In fact, only Facebook informs users systematically (93.7% of notifications receive feedback). Instagram gives feedback to 62.4% of the notifications, Twitter to 43.8%, and YouTube to only 8.8%.

On a more general level, doubts have been raised regarding the Code of Conduct's legal basis in EU law and its process of implementation (Bukovská, 2019). Furthermore, it is questionable whether private companies should enjoy "the possibility to judge what is illegal content and what is not and whether a profit-driven company should be given the task to decide on the scope of the right to freedom of expression" (Quintel and Ullrich, 2020).

7. Conclusion

Since 9/11, terrorism has been used to justify restrictions to fundamental rights in many countries. Undoubtedly, national security is a major reason of concern nowadays. States are under an obligation to protect everyone from the terrorist threat. However, terrorism cannot be used as a means to distort democracy and curtail fundamental rights. A right balance must be found between competing rights and interests.

As stated above, some fundamental rights can never be suspended, even during a state of emergency, while others may be restricted under some conditions. Those restrictions must be defined as precisely as possible. Furthermore, they must be necessary and proportionate.

In this regard, it might be said that the UN, CoE, and EU have always been vocal in reminding the states of their obligations. Particular consideration should be given to the ECtHR's and ECJ's rulings on the fight against terrorism, which have held that a fair balance must be struck between fundamental rights and security.

In the light of this, one may think, for instance, of the limits that may be imposed on freedom of speech.

Focusing on Framework Decision 2008/913/JHA, these issues mainly concern the lack of a definition of racism and xenophobia. Thus, the EU member states enjoy a significant margin of discretion in that regard. This leads to an ambiguous scope of application of the framework decision, which depends on the main features of each member state's national criminal law and the sensitivity of each national community. Too broad a definition may lead to the criminalisation of free speech, while too narrow a definition may limit the impact of the legislation.

Other doubts are related to the role played by private actors, the excessive reliance on their spontaneous willingness to judge what content is illegal, as they are profit-driven entities, and the expertise they should develop in order to verify whether a fair balance has been struck.

That being said, we must bear in mind that international organisations can only play a supportive role in the fight against radicalisation because of the limited powers they have been given in the field. This makes it difficult to assess the effectiveness of the deradicalisation policies that they promote.

The UN, CoE, and EU promote and should continue to promote the states' implementation of measures related to deradicalisation, such as the training of practitioners; community engagement; counter-narratives; the mentoring model based on the role of a significant other who takes part in the reintegration process; and approaches focused on gender, age, and religious and ethnic needs (RAN, 2020).

As far as the non-binding acts are concerned, they seem to promote a concentric-circle kind of approach, based on the interaction between psychological support, religious and spiritual support, and social support (RAN, 2020).

However, as the above-mentioned acts are not legally binding, the implementation of these policies is left to the discretion of the states, which retain sovereign powers in the field. This may lead to differentiated approaches and uneven results in the fight against radicalisation.

Therefore, there are reasons to believe that a not merely national approach would be beneficial. In fact, we should not forget the role international organisations and especially the

EU may play in managing crises (see Boin et al., 2013 and Olsson and Verbeek, 2013). Indeed, crises – the terrorism crisis following 9/11, the 2007-2008 economic crisis, the refugee crisis, and the COVID-19 crisis (just to name a few) – are factors that may lead to polarisation and, as a consequence, to radicalisation.

Thus, a not merely national approach may determine more coherent and holistic policies with the involvement of the whole of society. The most obvious thing to do in order to develop a common approach would be a reform of the treaties to empower the international / supranational institutions.

However, terrorism does not affect all European states equally, as attacks have taken place only in a few countries. This explains why counterterrorism is usually considered a national security issue and why the ideas of delegating new competencies to international / supranational organisations and developing an international / supranational approach to this matter have received scarce support from the public opinion (Bures and Bätz, 2021).

This prevents the development of a European common policy and explains why the most significant acts dealing with the topic are not legally binding.

Annexes

Annex I: Overview of the legal framework on radicalisation & de-radicalisation

Legislation title (original and English) and number	Date	Type of law (i.e. statute, regulation, rule, etc…)	Object/summary of legal issues related to radicalisation	Link/PDF
European Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders	30 November 1964	Treaty (CoE)	Interstate transfer of probationers and offenders whose sentence has been suspended, social rehabilitation of offenders	https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168006ff4d
European Convention on the Suppression of Terrorism	27 January 1977	Treaty (CoE)	Extradition of individuals having committed acts of terrorism	https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168007771b2
Convention on the Transfer of Sentenced Persons	21 March 1983	Treaty (CoE)	Interstate transfer of persons convicted of a criminal offence, social rehabilitation of offenders	https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168007952 9
Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States	13 June 2002	Framework Decision (EU)	Interstate transfer of individuals for the purposes of conducting a criminal prosecution or executing a custodial sentence or detention order	https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32002F0584&from=IT
Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems	28 January 2003	Treaty (CoE)	Criminalisation of acts of a racist and xenophobic nature committed	https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/189?_coeconventions_WAR

			through computer systems	_coeconvention sportlet_languageId=en_GB
Council of Europe Convention on the Prevention of Terrorism	16 May 2005	Treaty (CoE)	Enhancement of existing legal tools to fight terrorism, promotion of tolerance, dialogue, and public awareness regarding terrorism	https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/09000016808c3f55
Council Framework Decision 2008/909/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union	27 November 2008	Framework Decision (EU)	Interstate transfer of individuals convicted of a criminal offence, social rehabilitation of offenders	https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32008F0909
Council Framework Decision 2008/947/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions	27 November 2008	Framework Decision (EU)	Interstate transfer of probationers and offenders whose sentence has been suspended, social rehabilitation of offenders	https://eur-lex.europa.eu/eli/dec_framw/2008/947/oj
Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law	28 November 2008	Directive (EU)	Approximation of national criminal law in the field of racist and xenophobic offences	https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A32008F0913
Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audio-visual media services	10 March 2010	Directive (EU)	Media services must not contain incitement to hatred based on race, sex, religion, or nationality	https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32010L0013
Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012	25 October 2012	Directive (EU)	Provisions regarding restorative	https://eur-lex.europa.eu/legal-

establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA			justice mechanisms, social rehabilitation of offenders	content/EN/TXT/?uri=CELEX%3A32012L0029
Regulation (EU) 2021/784 of the European Parliament and of the Council on addressing the dissemination of terrorist content online	29 April 2021	Regulation (EU)	Uniform rules to address the misuse of hosting services for the dissemination to the public of terrorist content online	https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2021.172.01.0079.01.ENG&toc=OJ%3AL%3A2021%3A172%3ATOC

CASE LAW

Case number	Date	Name of the court	Object/summary of legal issues related to radicalisation	Link/PDF
Case 29-69 *Stauder*	12 November 1969	ECJ	The protection of fundamental rights forms part of the general principles of EU law	https://curia.europa.eu
Case 11-70 *Internationale Handelsgesellschaft mbH / Einfuhr- und Vorratsstelle für Getreide und Futtermittel*	17 December 1970	ECJ	The protection of fundamental rights forms part of the general principles of EU law	https://curia.europa.eu
Case 4-73 *Nold*	14 May 1974	ECJ	The protection of fundamental rights forms part of the general principles of EU law	https://curia.europa.eu
Case C-260/89 *ERT*	18 June 1991	ECJ	The protection of fundamental rights forms part of the general principles of EU law	https://curia.europa.eu
Case C-112/00 *Schmidberger*	12 June 2003	ECJ	The exercise of fundamental rights may be restricted, provided that the restrictions correspond to objectives of general interest and do not constitute disproportionate and unacceptable interference	https://curia.europa.eu
Joined cases C-402/05 P and C-415/05 P *Yassin Abdullah Kadi and Al Barakaat International Foundation v Council of the European Union*	3 September 2008	ECJ	Restrictive measures taken against persons and entities associated with terrorist organisations must comply with the protection of fundamental rights	https://curia.europa.eu

and Commission of the European Communities				
Case C-27/09 P *France v People's Mojahedin Organization of Iran*	21 December 2011	ECJ	Restrictive measures taken against persons and entities associated with terrorist organisations must be consistent with the rights of the defence	https://curia.europa.eu
Joined cases C-293/12 and C-594/12 *Digital Rights Ireland*	8 April 2014	ECJ	The fight against international terrorism and the fight against serious crime in order to ensure public security constitute objectives of general interest for the EU	https://curia.europa.eu
Case C-378/12 *Onuekwere*	16 January 2014	ECJ	Periods of imprisonment in the host Member State of a family member of a Union citizen who has acquired the right of permanent residence in that Member State cannot be taken into consideration in the context of the acquisition by the family member of the right of permanent residence	https://curia.europa.eu
Case C-400/12 *G*	16 January 2014	ECJ	Periods of imprisonment in the host Member State of a family member of a Union citizen who has acquired the right of permanent residence in that Member State cannot be taken into consideration in the context of the acquisition by the family member of the right of permanent residence	https://curia.europa.eu
Joined cases C-203/15 and C-698/15 *Tele2 Sverige*	21 December 2016	ECJ	EU law precludes national legislation which, for the purpose of fighting crime, provides for the general and indiscriminate retention of all traffic and location data	https://curia.europa.eu

			of all subscribers and registered users relating to all means of electronic communication	
Case C-554/14 *Ognyanov*	5 July 2016	ECJ	EU law precludes a national rule being interpreted in such a way that it permits the executing State to grant to the sentenced person a reduction in sentence by reason of work he carried out during the period of his detention in the issuing State, although no such reduction in sentence was granted by the competent authorities of the issuing State, in accordance with the law of the issuing State	https://curia.europa.eu
Case C-220/18 PPU *Generalstaatsanwaltschaft (Conditions of detention in Hungary)*	25 July 2018	ECJ	The ECJ referred to the criteria set by the ECtHR in *Muršić v Croatia* regarding prison overcrowding	https://curia.europa.eu
Case C-128/18 *Dorobantu*	15 October 2019	ECJ	The ECJ referred to the criteria set by the ECtHR in *Muršić v Croatia* regarding prison overcrowding	https://curia.europa.eu
App no 15890/89 *Jersild v Denmark*	23 September 1994	ECtHR	Balance must be sought between freedom of expression and the fight against hate crimes	https://hudoc.echr.coe.int/
App no 14310/88 *Murray v UK*	8 February 1996	ECtHR	A fair balance must be struck between the right to respect for private and family life and the aims pursued by national authorities	https://hudoc.echr.coe.int/
App no 18954/91 *Zana v Turkey*	25 November 1997	ECtHR	A fair balance must be struck by national authorities between freedom of expression and	https://hudoc.echr.coe.int/

			a democratic society's legitimate right to protect itself against the activities of terrorist organisations	
App no 41340/98, 41342/98, 41343/98 and 41344/98 *Refah Partisi (the Welfare Party) and Others v Turkey*	13 February 2003	ECtHR	A regime based on sharia is incompatible with the fundamental principles of democracy	https://hudoc.echr.coe.int/
App no 35071/97 *Gündüz v Turkey*	4 December 2003	ECtHR	Expressions that seek to spread, incite, or justify hatred based on intolerance, including religious intolerance, do not enjoy the protection afforded by Article 10 ECHR	https://hudoc.echr.coe.int/
App no 59450/00 *Erbakan v Turkey*	4 July 2006	ECtHR	Article 3 ECHR suffers no exception and no derogation even in the framework of the fight against terrorism	https://hudoc.echr.coe.int/
App no 59405/00 *Ramirez Sanchez v France*	6 July 2006	ECtHR	It may be necessary to prevent and sanction all forms of expression which incite, promote, or justify hatred based on intolerance (including religious intolerance), provided that the measures adopted are proportionate to the pursued objective	https://hudoc.echr.coe.int/
App no 36109/03 *Leroy v France*	2 October 2008	ECtHR	Even in the framework of the fight against terrorism, a fair balance must be struck by national authorities between freedom of expression and a democratic society's legitimate right to protect	https://hudoc.echr.coe.int/

			itself against the activities of terrorist organisations	
App no 43453/04 and 31098/05 *Gözel and Özer v Turkey*	6 July 2010	ECtHR	A fair balance must be struck between freedom of expression and the aims pursued by national authorities	https://hudoc.echr.coe.int/
App no 39630/09 *El-Masri v the former Yugoslav Republic of Macedonia*	13 December 2012	ECtHR	Extraordinary renditions are incompatible with a number of provisions of the ECHR	https://hudoc.echr.coe.int/
App no 26261/05 and 26377/06 *Kasymakhunov and Saybatalov v Russian Federation*	14 March 2013	ECtHR	A regime based on sharia is incompatible with the fundamental principles of democracy	https://hudoc.echr.coe.int/
App no 66069/09, 130/10 and 3896/10 *Vinter and others v UK*	9 July 2013	ECtHR	Article 3 ECHR requires reducibility of the sentence	https://hudoc.echr.coe.int/
App no 7511/13 *Husayn (Abu Zubaydah) v Poland*	24 July 2014	ECtHR	Extraordinary renditions are incompatible with a number of provisions of the ECHR	https://hudoc.echr.coe.int/
App no 31706/10 and 33088/10 *Güler and Uğur v Turkey*	2 December 2014	ECtHR	Certain forms of identification with a terrorist organisation, and especially apologia for such an organisation, may be regarded as a manifestation of support for terrorism and an incitement to violence and hatred	https://hudoc.echr.coe.int/
App no 37138/14	12 January 2016	ECtHR	When balancing the interest related to the protection of national security with the	https://hudoc.echr.coe.int/

Szabò and Vissy v Hungary			right to respect for private life, the national authorities enjoy a certain margin of appreciation, which must, however, be subject to adequate and effective guarantees against abuse.	
App no 44883/09 *Nasr and Ghali v Italy*	23 February 2016	ECtHR	Extraordinary renditions are incompatible with a number of provisions of the ECHR	https://hudoc.echr.coe.int/
App no 10511/10 *Murray v the Netherlands*	26 April 2016	ECtHR	A fair balance must be struck between the right to respect for private and family life and the aims pursued by national authorities	https://hudoc.echr.coe.int/
App no 7334/13 *Muršić v Croatia*	20 October 2016	ECtHR	If a detainee has less than 3 square metres of floor surface in multi-occupancy accommodation, there is a strong presumption of a violation of Article 3 ECHR. However, this presumption may be rebutted	https://hudoc.echr.coe.int/
App no 57592/08 *Hutchinson v the United Kingdom*	17 January 2017	ECtHR	Article 3 ECHR requires reducibility of the sentence	https://hudoc.echr.coe.int/
App no 26562/07, 14755/08, 49339/08, 49380/08, 51313/08, 21294/11, and 37096/11 *Tagayeva and others v Russian Federation*	13 April 2017	ECtHR	Lethal force can be used only if absolutely necessary, depending on whether and to what extent the authorities were in control of the situation and other relevant constraints inherent in operative decision-making in this sensitive sphere	https://hudoc.echr.coe.int/

App no 13237/17 *Mehmet Hasan Altan v Turkey*	20 March 2018	ECtHR	Detention must be based on a reasonable suspicion, which, depending on the actual circumstances, presupposes the existence of facts or information that would satisfy an objective observer that the person concerned may have committed the offence	https://hudoc.echr.coe.int/
App no 33234/12 *Al Nashiri v Romania*	31 May 2018	ECtHR	Extraordinary renditions are incompatible with a number of provisions of the ECHR	https://hudoc.echr.coe.int/
App no 46454/11 *Abu Zubaydah v Lithuania*	31 May 2018	ECtHR	Extraordinary renditions are incompatible with a number of provisions of the ECHR	https://hudoc.echr.coe.int/

OTHER RELEVANT ISSUES

	Constitutional provisions	Statutory law (statues, rules, regulations etc.)	Important case law	Comments/issues relevant to radicalisation
Freedom of religion and belief	Article 18 ICCPR Article 8 ECHR Article 10 Charter	Directive 2000/78/EC Directive 2003/88/EC Regulation (EC) No 1099/2009	*Kokkinakis v Greece* App no 14307/88 (ECtHR, 25 May 1993) *Buscarini and others v San Marino* App no 24645/94 (ECtHR, 18 February 1999) Case C-426/16 *Liga van Moskeeën en Islamitische Organisaties Provincie Antwerpen and others* ECLI:EU:C:2018:335 Case C-336/19 *Centraal Israëlitisch Consistorie van België and others* ECLI:EU:C:2020:1031	Religious radicalisation, inter-faith dialogue
Minority rights	Article 27 ICCPR Article 14 ECHR Article 1, Protocol no 12 to the ECHR Article 21 Charter Article 22 Charter		*Erdogdu v Turkey* App no 25723/94 (ECtHR, 15 June 2000) *Ahmet Arslan and others v Turkey* App no 41135/98 (ECtHR, 23 February 2010) *Eweida and others v the United Kingdom* App no 48420/10 36516/10 51671/10 59842/10 (ECtHR, 15 January 2013)	Ethno-religious diversity
Freedom of expression	Article 19 ICCPR Article 10 ECHR		*Handyside v the United Kingdom* App no 5493/72	Limits to freedom of expression /

	Article 11 Charter		(ECtHR, 7 December 1976) Joined cases 60/84 and 61/84 *Cinéthèque / Fédération nationale des cinémas français* ECLI:EU:C:1985:329 Case C-368/95 *Familiapress* ECLI:EU:C:1997:325	Terrorist propaganda
Freedom of assembly	Article 21 ICCPR Article 11 ECHR Article 12 Charter		*Young, James and Webster v the United Kingdom* App no 7601 and 7806/77 (ECtHR, 13 August 1981) *Rantsev v Cyprus and Russia* App No 25965/04 (ECtHR, 7 January 2010)	Limits to freedom of assembly / Terrorist propaganda / Recruitment
Freedom of association/political parties etc.	Article 22 ICCPR Article 11 ECHR Article 12 Charter		*Gorzelik v Poland* App no 44158/98 (ECtHR, 20 December 2001) Case C-415/93 *Union royale belge des sociétés de Football association and others v Bosman and others* ECLI:EU:C:1995:463	Limits to freedom of association / Terrorist propaganda / Recruitment
Hate speech/ crime	Article 20 ICCPR Article 10 ECHR Article 11 Charter		*Gündüz v. Turkey* App no 35071/97 (ECtHR, 4 December 2003)	Terrorist propaganda / Expressions of xenophobia and racism
Church and state relations				

Surveillance laws	Article 8 Charter	Directive (EU) 2016/681	Joined cases C-465/00, C-138/01 and C-139/01 *Österreichischer Rundfunk and others* ECLI:EU:C:2003:294 Opinion 1/17	Terrorism prevention
Right to privacy	Article 17 ICCPR Article 8 ECHR Article 7 Charter	Framework Decision 2008/977 Regulation (EU) 2016/679 Directive 2016/680	*Niemietz v Germany* App no 13710/88 (ECtHR, 16 December 1992) Case C-34/09 *Ruiz Zambrano v Office national de l'emploi* ECLI:EU:C:2011:124	Terrorism prevention

Annex II: List of institutions dealing with (de-)radicalisation

Authority	Tier of government	Type of organisation	Area of competence in the field of radicalisation & deradicalisation	Link
European Commission	Supranational	EU institution	The European Commission provides input for the adoption of legislative acts, adopts and implements its policies, and oversees the application of the treaties and EU law	https://ec.europa.eu/
EUROPOL	Supranational	EU agency	It promotes cooperation between national law enforcement authorities in the fight against serious forms of crime	https://www.europol.europa.eu/
EUROJUST	Supranational	EU agency	It promotes cooperation in criminal matters between national judicial authorities	https://www.eurojust.europa.eu/
RAN	Supranational	Expert group	It connects practitioners to exchange information and best practices and develop new instruments in the fight against radicalisation	https://ec.europa.eu/home-affairs/what-we-do/networks/radicalisation_awareness_network_en
High-Level Commission Expert Group on Radicalisation	Supranational	Expert group	It advised and assisted the Commission in developing Union policies on the prevention and countering of radicalisation	https://ec.europa.eu/transparency/regexpert

Steering Board for Union actions on preventing and countering radicalisation	Supranational	Expert group	It advises the European Commission on priorities, orientations, gaps, and scope for improvement in the preventing and countering radicalisation	https://ec.europa.eu/transparency/regexpert

Annex III: Best practices/interventions/programmes

CoE level

Name of the project	Institution (s)	Aim	Source	Evidence of effectiveness / literature
Action Plan on the fight against violent extremism and radicalisation leading to terrorism	Committee of Ministers	The Action Plan aims to reinforce the legal framework against terrorism and violent extremism and to prevent and fight violent radicalisation through concrete measures in the public sector.		https://www.search.coe.int/cm/Pages/result_details.aspx?ObjectID=0900001680648e06

EU level

Name of the project	Institution (s)	Aim	Source	Evidence of effectiveness / literature
EU Code of Conduct on countering illegal hate speech online	European Commission (with some IT companies)	IT companies must review notifications regarding illegal hate speech on their services and remove or disable access to such content		https://ec.europa.eu/info/sites/info/files/codeofconduct_2020_factsheet_12.pdf

Annex IV: Policy recommendations

- International organisations should promote the implementation by states of positive measures related to deradicalisation.
- Those measures should be based on a concentric-circle kind of approach, i.e., on the interaction between psychological support, religious, spiritual, and social support.
- They should include:
    - The training of practitioners,
    - Community engagement, in the form of support from family, friends, colleagues, and local administrations, so that radicalised individuals get help in developing and implementing a strategy to prevent their return to radicalism,
    - The development of counter-narratives,
    - The development of a mentoring model,
    - The development of approaches focused on gender, age, and religious and ethnic needs.

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DeRadicalisation
in Europe and Beyond: Detect, Resolve, Reintegrate

Deradicalisation and Integration: Legal and Policy Framework in Austria

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List of Abbreviations

Abbreviation	German	English
BKA	Bundeskanzleramt	Federal Chancellery
BMAFJ	Bundesministerium Arbeit, Frauen und Jugend	Federal Ministry for Labour, Women and Youth
BMBWF	Bundesministerium Bildung, Wissenschaft und Forschung	Federal Ministry of Education, Science and Research
BMEIA	Bundesministerium für Europa, Integration und Äußeres	Federal Ministry for Europe, Integration and Foreign Affairs
BMGSPK	Bundesministerium Gesundheit, Soziales, Pflege und Konsumentenschutz	Federal Ministry for Health, Social Affairs, Care and Consumer Protection
BM.I	Bundesministerium für Inneres	Federal Ministry of the Interior
BMJ	Bundesministerium für Justiz	Federal Ministry of Justice
BNED	Bundesweites Netzwerk Extremismusprävention und Deradikalisierung	National Network for Prevention and Countering Violent Extremism and De-Radicalisation
BV-G	Bundes-Verfassungsgesetz	Federal Constitutional Law
BVT	Bundesamt für Verfassungsschutz und Terrorismusbekämpfung	Austrian Federal Office for the Protection of the Constitution and Counter-Terrorism
CFR	Charta der Grundrechte der Europäischen Union	Charter of Fundamental Rights of the European Union
DERAD	Netzwerk Sozialer Zusammenhalt für Dialog, Extremismusprävention und Demokratie	Conversational Sessions for risk assessment and ideological disassociation
DÖW	Doumentationsarchiv des österreichischen Widerstandes	Documentation Centre of Austrian Resistance
ECHR	Europäische Menschenrechtskonvention (EMRK)	European Convention on Human Rights
EU	Europäische Union	European Union
GrekoG	Grenzkontrollgesetz	Border Control Act
FPÖ	Freiheitliche Partei Österreich	Austrian Freedom Party
FRA	Agentur für Grundrechte	Fundamental Rights Agency

HiNBG	Hass-im-Netz-Bekämpfungs-Gesetz	Hate-on-the-Net-Combat-Act
LVT	Landesamt für Verfassungsschutz	Provincial Offices for the Protection of the Constitution and Counterterrorism
MJÖ	Muslimische Jugend Österreich	Muslim Youth Austria
NEOS	Das Neue Österreich und Liberales Forum	The New Austria and Liberal Forum
OGH	Oberster Gerichtshof	High Court of Justice
ÖVP	Österreichische Volkspartei	Austrian People's Party
PStSG	Polizeiliches Staatsschutzgesetz	Police State Protection Act
RAN		Radicalisation Awareness Network
SPÖ	Sozialdemokratische Arbeiterpartei	Social Democrats
StbG	Staatsbürgerschaftsgesetz	Citizenship Act
StGB	Strafgesetzbuch	Austrian Criminal Code
TeBG	Terror-Bekämpfungs-Gesetz	Terror Combat Act
VdU	Verband der Unabhängigen	Federation of Independents
VerbotsG	Verbotsgesetz	National Socialist Prohibition Law
VfGH	Verfassungsgerichtshof	Constitutional Court
VwGH	Verwaltungsgerichtshof	Administrative High Court
WNED	Wiener Netzwerk Demokratiekultur und Prävention	Vienna Network for Democratic Culture and Prevention

Acknowledgements

In order to reach the aim of this report, namely to give a conceptual account on how existing policies and laws address radicalisation and to pinpoint their most critical aspects and best practices, we held interviews with experts active in the field. We would like to thank them for their time and their valuable inputs. Their expertise helped us a lot to contextualise the legal and policy framework in Austria and to improve this report. Furthermore, we want to thank Hanneke Friedl for her thorough language editing and her valuable comments as well as Jakob Fux for his crucial legal inputs. Finally, we want to thank the work package lead for their support throughout the process.

About the Project

D.Rad is a comparative study of radicalisation and polarisation in Europe and beyond. It aims to identify the actors, networks and wider social contexts driving radicalisation, particularly among young people in urban and peri-urban areas. D.Rad conceptualises this through the I-GAP spectrum (injustice-grievance-alienation-polarisation) with the goal of moving towards the measurable evaluation of de-radicalisation programmes. Our intention is to identify the building blocks of radicalisation, which include the person's sense of being victimised, of being thwarted or lacking agency in established legal and political structures and coming under the influence of "us vs them" identity formulations.

D.Rad benefits from an exceptional breadth of backgrounds. The project spans national contexts including the UK, France, Italy, Germany, Poland, Hungary, Finland, Slovenia, Bosnia, Serbia, Kosovo, Israel, Iraq, Jordan, Turkey, Georgia, Austria and several minority nationalisms. It bridges academic disciplines ranging from political science and cultural studies to social psychology and artificial intelligence. Dissemination methods include D.Rad labs, D.Rad hubs, policy papers, academic workshops, visual outputs and digital galleries. As such, D.Rad establishes a rigorous foundation in order to test practical interventions geared to prevention, inclusion and de-radicalisation.

With the possibility of capturing the trajectories of 17 nations and several minority nations, the project will provide a unique evidence base for the comparative analysis of law and policy as nation states adapt to new security challenges. The process of mapping these varieties and their link to national contexts will be crucial in uncovering the strengths and weaknesses in existing interventions. Furthermore, D.Rad accounts for the problem that processes of radicalisation often occur in circumstances that escape the control and scrutiny of traditional national frameworks of justice. The participation of AI professionals in modelling, analysing and devising solutions to online radicalisation will be central to the project's aims.

1. Introduction

The following report gives an overview of the legal and policy framework concerning radicalisation and deradicalisation in Austria. The aim of the report is to outline how existing policies and laws address radicalisation, and to connect the legislative and institutional framework to the socio-economic, political, and cultural context as well as to the constitutional organisation of the state. We cover punitive measures as well as primary, secondary, and tertiary deradicalisation measures and discuss the legislative framework against the background of fundamental rights. Finally, deradicalisation measures are outlined by two in-depth case studies that focus on urban and peri-urban youth. Through this overview of the legislation on the one hand, and institutions as well as practical examples on the other, we pinpoint critical aspects and best practices in Austria.

The report is primarily based on secondary research regarding legislation and a review of the existing literature in the field. However, to gain deeper insights and a better understanding of the Austrian context and the case studies, we conducted six interviews with stakeholders in the field. Approaching the topic from several angles, we spoke with administrative officers as well as with people that are active in NGOs or other institutions of prevention and reintegration. We wished to shed light on the phenomena of right-wing extremism and religiously motivated extremism. Both types of radicalisation have shaped the Austrian landscape of extremism and radicalisation in recent years. The former is closely linked to the history of the country and is characterised by strong networks, while the latter has become the focus of attention in the last decade.

The following chapter gives an overview of the political, socio-economic, and cultural context in Austria and outlines developments in the field of radicalisation. The third chapter introduces the constitutional organisation and fundamental rights and gives examples of paradigmatic case law to illustrate how fundamental rights are executed in practice and to shed light on fields of tension. Chapter 4 discusses the legislative framework regarding counterterrorism and radicalisation and demonstrates how police surveillance powers were expanded over the years while the government introduced several laws that explicitly targeted so-called “political Islam”, a term regularly used by members of the current and recent governments. Chapter 5 illustrates the institutional framework, citing the example of the National Network for Prevention and Countering Violent Extremism and De-Radicalisation (BNED), which includes the most relevant stakeholders in the field. The two case studies – the “Vienna Network for Democratic Culture and Prevention” (WNED) and the online street work project Jamal al-Katib – are introduced in chapter six before we conclude the report with some general observations.

2. Political, socio-economic, and cultural context[1]

Austria is a federal state that consists of nine federal provinces, with a division of power between the federal level, called *Bund*, and the nine federal provinces (*Länder*). The political system displays a mix of presidential and parliamentary elements, although the presidential

[1] This chapter is a synopsis of the D.Rad 3.1 and the D.Rad 3.2. report. For an overview of stakeholders of (de)-radicalisation in Austria, see Haselbacher, Mattes, and Reeger, 2021. For an overview of trends of radicalisation, see Haselbacher and Reeger, 2021.

element is rather weak (Pelinka and Rosenberger, 2003). The capital, Vienna, is the only large city with 1.9 million inhabitants, followed by Graz in Styria (approximately 300,000 inhabitants) and Linz in Upper Austria (approximately 200,000 inhabitants). After World War II, Austria was constituted as a federal, representative, democratic republic. It has upheld its constitutional status of neutrality until today, despite having joined the European Union (EU) in 1995. Furthermore, Austria has belonged to the Euro zone since the establishment of the latter in 2002. Although Austria has never perceived itself as an immigration country (Bauböck and Perchinig, 2006), around 20% of the current population have a so-called migration background and were either born abroad or born in Austria from parents who both have foreign citizenship (Statistik Austria, 2020).

The official language in Austria is German. Romani, Czech, Slovak, Hungarian, Croatian, Slovenian and the Austrian sign language are officially recognised minority languages. However, only Hungarian, Croatian, and Slovenian are official languages in certain bilingual regions. These languages reflect the history of the country dating back to the Austro-Hungarian Empire. They are included in the Austrian State Treaty of 1955[2]. Nevertheless, their legitimacy has repeatedly been contested by right-wing extremists and nationalists (Hiesel, 2010; kaernten.ORF.at, 2021). Other languages, specifically those spoken by recent immigrants (e.g. Turkish), are not subject to the protection of minority rights, although today they are the most frequently spoken languages beside German.

The majority of the population (around 54%) is Roman Catholic. The Roman Catholic Church plays a distinctive role and church-state relations are defined by the Concordat. The second largest group are people without religious affiliation (around 25% of the population), followed by Islam, Orthodox Christians, and Protestants. These religious communities are all legally acknowledged and thus have, amongst others, the right to religious education, the right to self-determination and administration, and the right to religious assistance.

Austria has one of the highest gender pay gaps in the EU. Furthermore, the proportion of women working part-time is comparatively high (47.7% in 2019, Statistik Austria, 2021). Unemployment rose significantly in the past year due to the COVID-19 pandemic, and Austria consequently suffered from the deepest recession since the global economic crisis in the 1930s (BMSGPK, 2020). A growing number of people is currently at risk of becoming poverty-struck, and social exclusion and economic inequalities have deepened in the past two years. The Austrian government has invested large sums of money in financing short-time employment to avoid insolvencies. However, the concrete effects of the crisis, which are expected to continue characterising the next years, are yet unclear.

The Austrian landscape of political parties was long jointly dominated by the Social Democrats (SPÖ) and the Christian-Democratic People's Party (ÖVP). In this context, corporatism with institutionalised bargaining practices plays an important role that marked the political system

[2] The Austrian State Treaty (State Treaty Concerning the Restoration of an Independent and Democratic Austria, signed in Vienna on May 15, 1955; StV) was signed by representatives of the Allied occupying powers of the United States, the Soviet Union, France, and Great Britain, as well as the Austrian federal government (for more information see Suppan, 2005). The object of the treaty is the restoration of Austria as a sovereign, independent and democratic state after the National Socialist rule in Austria (1938-1945) and the subsequent period of occupation (1945-1955). It defines, inter alia, that Austria cannot enter into any political or economic union with Germany (Article 4, prohibition of annexation) and that is commited to a democratic government based on secret elections (Article 8, democratic institutions).

of the Second Republic (Tálos, 2005). The so-called system of social partnership (*Sozialpartnerschaft*) brings together the side of employees[3] (usually SPÖ dominated) and employers[4] (usually ÖVP dominated) on the one hand and ministries on the other. The social partners are included in the legislative process (if it concerns their area of interest) and can, among other things, review legislation.

The dominance of ÖVP and SPÖ has changed from the late 1980s onwards, with declining votes for these two parties, the electoral rise of the Austrian Freedom Party (FPÖ), and upcoming new parties – among them the Green Party and more recently (2012), the liberal party NEOS. While the Austrian People's Party (ÖVP) dominates the political landscape in rural areas, the city of Vienna has been under Social Democratic rule since the end of the Second World War. The well-known slogan of the city of Vienna, "Vienna is different" (*Wien ist anders*), summarises the chasm that is typical of the urban/rural divide, which has a religious, cultural, and political dimension.

Linguists and social scientists alike have highlighted the role of the FPÖ in steering public debates, using aggressive populist rhetoric and hate speech (Heinisch et al., 2020; Wodak, 2018). Populist parties have fuelled xenophobic and anti-Islamic sentiments and have steered public debates on migration and integration (Ajanovic et al., 2016). Recent studies show how the rhetoric and the party programmes of the Austrian Peoples Party (ÖVP) and the FPÖ have converged in recent years, as the ÖVP has developed a strong anti-immigrant profile under the leadership of Sebastian Kurz (Hadj Abdou et al., 2021; Hadj Abdou and Ruedin, 2021; Heinisch et al., 2020), who has been a driving force in restricting migration to Austria and in targeting so-called "political Islam". Following their party lines, the respective ministers have framed integration primarily as a problem, and migration and Islam as the central threat to society and to social cohesion.

The strength of rightist ideas also results in the country's longest standing strand of radicalisation, namely right-wing extremism. The anti-fascist political activist Ernst Kirchweger, who was killed in 1965 by a right-wing extremist during a demonstration against the anti-semitic university professor Taras Borodajkewyczis, is considered the first victim of political violence in Austria after World War II (Bruckmüller, 2018). Notably, the right-wing terrorist Franz Fuchs killed four people and injured 15 in bomb attacks during the 1990s (El Refaie, 2004). Nonetheless, most cases of right-wing radicalism were less violent (involving verbal abuse, racist graffiti, National-Socialist activities, etc.) and somewhat embedded in established structures, such as the FPÖ surroundings and nationalist fraternities or *Burschenschaften* (Weidinger, 2014, 2016). Conspicuously, the extreme right was furthermore successful in establishing networks that cut across all segments of society and has also established their own media channels on- and offline (Goetz et al., 2021, see also Haselbacher and Reeger, 2021).

Overall and compared to other countries, terror attacks and incidents involving fatalities have been rare exceptions in Austria. Due to its geographical position at the heart of Europe and its strategic role as a centre for international organisations and diplomacy, Vienna has experienced terrorist attacks in the past that can be classified as imported conflicts. The attack by the Palestinian Abu-Nidal group on the Israeli airline *El Al*, which killed three people at the

[3] The side of employers is represented through the WKO (Wirtschaftskammer), the Austrian Economic Chamber, and the LKO (Landwirtschaftskammer), the Chamber of Agriculture.

[4] The side of employees is represented through the ÖGB (Österreichischer Gewerkschaftsbund), the Austrian Federation of Trade Unions, and the AK (Arbeiterkammer),the Chamber of Labour.

Vienna International Airport in 1985, is an example of such an incident (Bunzl, 1991; Pluchinski, 2006). However, most of these more violent attacks predate the events that took place on 11 September 2001 in the USA. Due to international developments, jihadist terrorism, and here above all the phenomenon of so-called foreign fighters, have more recently played a significant role in Austria. The country has had a comparatively large number of young people who have left Austria to join jihadist groups or attempted to do so (Hofinger and Schmidinger, 2020). In November 2020, a terror attack related to the terrorist militia Islamic State took place in Vienna. A single perpetrator killed four people in the city centre and wounded a further 22 (Bell, 2020). As Bauer and Mattes note (2021, p. 1): "This terror attack has shaken Austria heavily and has brought the already dominant securitisation of Islam to the very centre of attention".

Although the characteristics and operational modes of right-wing extremism and jihadism differ, both ideologies include feelings of injustice, grievance, alienation, and polarisation. Leading figures in both milieus have nurtured these feelings and have used them to recruit followers. While injustice, grievance, and alienation pertain to a more personal level, polarising effects have been quite visible in society in the past years. In its most extreme manifestation, the terrorist militia Islamic State has called for a holy war against all people who do not subscribe to the Muslim faith, while neo-fascist actors advocate against foreign infiltration and the imminent Islamisation of the "occident". Moreover, although left-wing extremism has played a rather small role compared to the situation in other European countries, left-right polarisation remains an issue. The political left is smaller, less institutionalised, fragmented, and less violent than right-wing groups. However, when it comes to grievances and polarisation, left-wing and right-wing conflicts have fuelled demonstrations and actions of both strands of radicalisation. Current developments associated with the COVID-19 pandemic have fuelled these developments, as anti-vaccinists, esoterics, conspiracy theorists, far-right extremists, and many more took to the streets (Euronews, 2021). As is the case across Europe, the threat that these groups pose in terms of radicalisation and violent extremism becomes increasingly evident, although it is still too early to make assumptions about future developments.

3. Constitutional organisation of the state and fundamental rights

The centrepiece of the Austrian constitution is the federal constitutional law (*Bundesverfassungsgesetz* B-VG). The B-VG was in force from 1920 until the annexation ("*Anschluss*") of Austria by Nazi-Germany in 1938 and was reinstated in 1945. Among other things, the B-VG determines the organisation of the state and the division of powers. It also includes fundamental and human rights. A fundamental principle of the Austrian state is the separation of powers (see also Heinisch et al., 2020; Pelinka and Rosenberger, 2003; Ucakar, Gschiegl and Jenny, 2017) The legislative power is exercised by the parliament and the parliaments of the federal provinces. The Austrian Parliament is a bicameral system that consists of two chambers: the National Council (elected every five years directly in general elections) and the Regional Council (elected indirectly through the provincial assemblies). The executive power is exercised by the government and the administration. The executive branch includes, among others, the Federal President, the Federal Government, federal ministers, but also the provincial governments, district administrative authorities or municipal administrations. The

party with the largest number of votes in general elections receives the mandate from the President to form the government and usually provides the Federal Chancellor, who, as head of the government, holds a powerful position. The judiciary is separated from the administration in all instances.

Austrian constitutional law is highly fragmented: Each federal province has a state constitution, there are several other constitutional acts (so-called *Bundesverfassungsgesetze*, BVG, without the hyphen) and state treaties that have constitutional rank, and constitutional provisions can also be included in Basic Laws. Consequently, Austrian constitutional law is rather complex and diffuse (Berka, 2008; Öhlinger and Eberhard, 2019).In Austria's liberal-democratic system, there are multiple legal sources of fundamental rights, that is, constitutionally guaranteed rights with special status and special enforceability, which protect individuals from the powers of the state (Berka et al., 2019). Besides the B-VG, the most important laws of constitutional rank are the Basic Law on the General Rights of Nationals (StGG)[5], the European Convention on Human Rights (ECHR) and the Charter of Fundamental Rights of the European Union (CFR)[6], with the last two having several overlaps[7]. The StGG represents a catalogue of central civil rights such as the right to freedom of association and assembly (Article 12), the right to freedom of expression (Article 13), or the right to freedom of belief and conscience, including freedom of worship (Articles 14-17).

The overarching constitutional principle is the religious and ideological neutrality of the state. The Constitutional Court (VfGH) derives this fundamental right from the principle of equality, normed in Art 7 B-VG and Art 2 StGG in conjunction with Art 9 EMRK and Art 14 § 2 StGG. Recently, in December 2020, the VfGH has overturned a law that had introduced a ban on headscarves in schools. The court based its decision essentially on the fact that the law violated the principle of equality and the freedom of thought, conscience, and religion pursuant to Art 9 ECHR, and the freedom of faith and conscience pursuant to Art 14 StGG.[8] The principle of equality in Article 7 of the Federal Constitution ("all citizens are equal before the law") was emphasised by the court: "There must be objective reasons for differences in the law".

In another recent decision by the VfGH, the court has further expanded on determining the aspect of „self-determination" of individuals. In this decision, the VfGH paved the way for assisted suicide (death on demand and assistance in suicide). The constitutionally guaranteed right to self-determination proclaimed in this context is derived from the reference to the principle of equality in Art 7 B-VG and Art 2 StGG and the right to private and family life in accordance with Art 8 ECHR and the right to life in accordance with Art 2 ECHR.[9]

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[5] It should be noted, however, that not all of these rights are guaranteed to "everyone" (see, for example, Article 12 of the Austrian Constitution on the freedom of assembly and association, which is only granted to Austrian citizens).

[6] The CFR binds the Member States only when applying Union law (Art 51 (1) CFR). However, the CFR constitutes a standard of review in proceedings before the Constitutional Court within the scope of application of Union law (see VfSlg 19.632).

[7] For a more detailed discussion of the ECHR and the CRR see Grabenwarter, 2014; Peers et al., 2014; Vries et al., 2015.

[8] VfGH 11.12.2020, G 4/2020.

[9] VfGH 11.12.2020, G 139/2019.

Regarding minority rights, the most relevant legal provisions are Art 8 § 2 B-VG, which specifies that Austria "is committed to its evolved linguistic and cultural diversity, which is expressed in the autochthonous ethnic groups", and further "the language and culture, existence and preservation of these ethnic groups are to be respected, safeguarded and promoted". In addition, Art. 149 B-VG raises Section V (Protection of Minorities) of Part III of the State Treaty of Saint Germain of 10 September 1919 to constitutional status. This section contains various provisions on the protection of minorities.

However, the fundamental rights guaranteed in the ECHR and the constitution are, with exceptions, not absolutely protected, i.e., they can be subject to certain restrictions. In most cases, a substantive legal reservation must be applied. This is the case, for example, if the interests of national security and the self-determination of the state weigh stronger than the fundamental right, and, of course, proportionality must always be given. For example, Art 8 ECHR "Right to respect for private and family life" states that: "There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others." Legal constraints to fundamental rights thus become relevant in the field of counterterrorism, deradicalisation, and integration. Some of these constraints will be discussed in the following paragraphs.

Regarding associations and assemblies, Article 11 § 2 of the ECHR stipulates that the exercise of these rights might need to be impaired in the interest of national security, public safety, the maintenance of order and the prevention of crime, the protection of health and morals, or the protection of the rights and freedoms of others. The Assembly Act entails provisions that account for these aspects. These tensions have recently become apparent in the context of far-right COVID-19 demonstrations, to give an example.

Concerning the freedom of expression[10], there is one particularly important constraint, namely the criminal act of "incitement to hatred" as stipulated under Art 283 of the Austrian Criminal Code, which states: "(1) Anyone who publicly in a manner suited to jeopardise public order, or in a manner perceivable to the general public incites violence against a church or religious denomination or any other group of persons defined on the basis of race, skin colour, language, religion or world view, nationality, descent or national or ethnic origin, gender, disability, age or sexual orientation, or against a member of such a group, explicitly on account of his or her belonging to such a group, shall be punished by imprisonment for up to two years. (2) Likewise, anyone who incites against a group referred to in subsection (1) in a manner perceptible to the general public or insults it in a manner that violates human dignity and thereby seeks to bring it into contempt shall be punished." This aspect has recently also become relevant in the context of online hate speech.

Regarding religious freedoms, legal restrictions can be found in the terminology of Article 9 ECHR which stipulates that "Freedom of religion or belief shall not be subject to restrictions other than those provided by law, which in a democratic society are necessary measures in the interests of public safety, public order, health and morals, or for the protection of the rights and freedoms of others." Over the past decade, debates on the abuse of religious freedoms

[10] Provisions concerning freedom of expression can be found in Art 13 StGG and in Art 10 ECHR.

through fundamentalist groups have been primarily conducted in relation to Islam and practices related to women, children, and homo- and transsexual persons.

Fundamental rights have constitutional status and thus take precedence over simple legal regulations. State measures must always be evaluated against fundamental rights, which set limits to state action and thus constitute an objective yardstick. Fundamental rights also include the subjective rights of individual citizens that can be enforced before independent courts. In the event of ambiguities regarding constitutional norms, the Constitutional Court has jurisdiction. Provisions of the ECHR can also be interpreted by the Constitutional Court, but it follows the interpretation of the law by the European Court of Human Rights, which can only be invoked after the domestic courts have been exhausted. If a provision of the CFR is involved, the Constitutional Court must refer the question to the ECJ if it cannot decide beyond doubt (Kreil, 2020).

In the prevention of extremism and counterterrorism, the right to individual freedom and the right to security must always both be taken into consideration. State surveillance measures usually result in the restriction of the fundamental rights of those who are under surveillance. While the extension of surveillance measures is in conflict with the fundamental right to respect for privacy and the fundamental right to data protection (Adensamer, 2020), measures targeting hate speech and incitement are partially in conflict with the right to freedom of expression (Cannie and Voorhoof, 2011; Howard, 2017).

However, surveillance as a multi-layered phenomenon includes not only the aspect of the restriction of freedom and the limitation of fundamental rights but also has protective aspects and contributes to the production of a social order (Kreissl, 2020; Lyon, 2012; Wright and Kreissl, 2015). The task of the legislator is to balance these two aspects. In addition, the state must ensure that fundamental rights are protected against state interference, but also against the interference of third parties and individuals. To this end, there are several institutions that focus on the monitoring of fundamental rights, such as the Fundamental Rights Agency (FRA) of the EU, based in Vienna, or the United Nations Human Rights Council.

4. Legal and policy framework in the field of radicalisation and counterterrorism

The policy framework addressing the issues of extremism and terrorism is rather complex and concerns many policy areas, ranging from public security and immigration as well as immigrant integration to the governance of political and religious associations. The mode of intervention also displays a great variety of approaches, including preventive policies, punitive measures, and the curtailing of rights. European legislation and socio-political events such as the politicisation of refugee immigration and Islam as well as the subsequent electoral success of rightist parties have all strongly influenced Austrian legislation in the realm of extremism and terrorism during the past three decades.

Regarding political associations, the post-war republic (and its later sovereignty) depended on its commitment to anti-fascism. One of the oldest laws addressing political extremism is the National Socialist Prohibition Law (*Verbotsgesetz*), which has had constitutional status since its adoption in 1947. It forbids any activity in the spirit of National Socialism (denial, trivialisation, approval, and justification), including the denial of the Holocaust. Whereas the

Nationalist Socialist Prohibition Law is unique in its form, the legislation targeting terrorism and extremism is dispersed across many different acts of law. Austria's current National Security Strategy[11] was adopted in 2013 and proposes a series of different political approaches to prevent or combat extremism, ranging from international cooperation on counterterrorism to immigrant integration.[12] One of its key recommendations at the level of domestic politics comprises the promotion of a good and safe community life through the strengthening of democratic attitudes. The further development and implementation of the National Security Strategy and the National Action Plan for Immigrant Integration[13] attempt to prevent extremist and fundamentalist trends, placing particular emphasis on dialogue concerning fundamental rights across cultures and religions. Thematically, there is a strong convergence of the topics of security, migration, asylum, and integration. The next section focusses on the legislation on counterterrorism and traces the process of the expansion of surveillance laws, whereas section 4.2 illustrates that the legislative framework in the field of radicalisation has increasingly focussed on political Islam.

4.1. Federal counter-terrorism legislation: General developments and surveillance laws

The terror attacks of 11 September 2001 in the USA mark a critical moment for Austrian counter-terrorism legislation. Consequently, and in accordance with the EU framework decision of the council on combatting terrorism[14], the federal government introduced three new offences to the Criminal Code (StGB) (Forsthuber, 2017, p.17)[15]: § 278b on terrorist organisations (membership of a terrorist organisation can be penalised with one to ten years of imprisonment); § 278c on terrorist crimes; and § 278d on the financing of terrorist activities. § 278c covers murder, specific forms of bodily injuries, extortionate kidnapping, aggravated coercion, specific forms of dangerous threat, and the damaging of critical infrastructure.[16] Punitive measures were expanded in the following years by adding § 278e on training for terrorist purposes in 2010 (i.e. education towards the construction of weapons) and § 278f covering instruction to commit a terrorist offense in 2011 (i.e. media work promoting or instructing terror attacks made available online).[17]

In 2014, Austrian parliament passed a legal package that primarily addressed Islamist terrorism and the recruitment of jihadi combatants. The amendment to the Symbols Act prohibits

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[11] https://www.bmi.gv.at/502/files/130717_Sicherheitsstrategie_Kern_A4_WEB_barrierefrei.pdf

[12] https://www.bundeskanzleramt.gv.at/themen/sicherheitspolitik/sicherheitsstrategie.html

[13] https://www.bundeskanzleramt.gv.at/dam/jcr:76ab3e9a-19e0-40cb-89eb-44a7b177cf97/nap_massnahmenkatalog.pdf

[14] Framework decision of the Council 2002/475/JI on combatting terrorism.

[15] Criminal Law Amendment Act 2002, BGBl I 2002/134.

[16] These acts have a terrorist connection if "the act is likely to cause serious or prolonged disruption of public life or serious damage to economic life and is committed with the intent to seriously intimidate the population, to coerce public authorities or an international organisation to act, acquiesce or refrain from acting, or to seriously shake or destroy the fundamental political, constitutional, economic or social structures of a state or an international organisation".

[17] BGBl I 2010/108 and BGBl I 2011/103.

the use and dissemination of symbols of the Islamic State, Al-Qaeda, and organisations associated with these groups.[18] In the same year, the amendment to the Border Control Act (GrekoG) and the Citizenship Act enabled authorities to check whether departing minors have their parents' consent to leave the country if there is a suspicion that they intend to take part in hostilities abroad.[19] Amendments to the Citizenship Act stipulate that Austrians who have participated voluntarily and actively in combat operations abroad in the context of an armed conflict will have their citizenship revoked if they hold another citizenship.

In 2016, the coalition between the SPÖ and ÖVP agreed on a new Police State Protection Act (PStSG) and amendments to the Security Police Act (*Sicherheitspolizeigesetz*).[20] The main goal of this legal reform was to provide effective protection against terrorist threats, as the government argued that authorities had too few opportunities to become active in the run-up to criminal acts. Apart from the reorganisation of the Austrian Federal Office for the Protection of the Constitution and Counter-Terrorism (BVT), an extensive database was created and powers of observation were expanded for authorities. Under this law, it became possible to recruit confidential informants in the course of undercover investigations, to store the data of all contacts of suspects, and to determine cell phone location data in the event of a concrete threat without judicial control, a fact that was heavily criticised by experts and by the opposition.

In 2018, when the Austrian government transposed the EU Directive on combatting terrorism,[21] the Criminal Code and the Criminal Procedures Act were amended.[22] The law now enables authorities to consider a wider scope of offenses as potential terrorist attacks, lowering the threshold regarding levels of bodily harm, damage to property, and data capturing and storage. Furthermore, the law introduced "travelling for terrorist purposes" to the Criminal Code. Persons who travel to another country to commit a terrorist offense can be fined with a prison sentence of six months to five years.

In April 2018, the National Council adopted the so-called Security Package (also referred to as Surveillance Package by critics).[23] It included a series of measures to prevent terrorist attacks. The then Interior Minister Wolfgang Sobotka (ÖVP) had advocated, among other things, the introduction of video surveillance in public space and the vetting of online communication services. According to an ÖVP member of parliament, these legal changes aimed to address "Islamic extremist structures" and "jihadi travellers".[24] A security package would accordingly be the next logical step following the establishment of deradicalisation measures. However, due to massive resistance from the opposition and from civil society, the package was adopted with small changes following the snap elections of 2017 and the establishment of a coalition with the far-right FPÖ. The amendment[25] included, inter alia, the introduction of state spyware

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18 BGBl I 103/2014.

19 BGBl I 104/2014.

20 BGBl I 5/2016.

21 BGBl I 2017/541.

22 BGBl I 70/2018.

23 BGBl I 29/2018.

24 https://www.parlament.gv.at/PAKT/PR/JAHR_2017/PK0782/

25 BGBl I 29/2018.

(also referred to as *Bundestrojaner*[26]) and IMSI catchers.[27] It furthermore authorised security agencies to access video and audio surveillance of public spaces in order to prevent probable attacks through facial recognition and automated identification of conspicuous behaviour.[28]

In December 2019, the VfGH annulled most parts of the Security Package.[29] The court argued that data collection was "disproportionate" and a "serious interference" of secrecy interests as defined in the Data Protection Act (*Datenschutzgesetz*) and of the right to respect for private life under Art 8 ECHR. Likewise, regarding the application of spyware, the court argued that such measures were only permissible within extremely narrow limits.

In December 2020, the federal government introduced a bill to amend the Citizenship Act (StbG) and the Symbols Act (*Symbole-Gesetz*), aiming to facilitate the withdrawal of citizenship in the event of a final conviction for a terrorist-motivated crime and pursuing action against the spread of extremist and radicalising ideas.[30] Furthermore, the scope of the Symbols Act was extended and now includes groups that use symbols that glorify or support violence or crimes against humanity. In this vein, Austria expanded prohibitions to include the far-right "Identitäre" movement as well as Islamist organisations like "Hizb ut-Tahrir," and "Caucasus Emirate".

At the same time, the federal government introduced the bill for the Counter-Terrorism Act (TeBG) in response to the Vienna terror attack. Its aim was to intensify the monitoring of terrorist offenders after their release from prison, to counter religiously motivated extremism, and to address terrorist financing. It also provides, among other things, for the electronic monitoring of extremists even after their conditional release and foresees the introduction of case conferences, a fact that was appreciated by experts. More importantly, the bill includes the introduction of Art 247b StGB on "Religiously Motivated Extremist Association", which targets specifically so-called Islamic extremism. According to Amnesty International, this is a violation of the principle of certainty and the principle of proportionality. The organisation expressed serious concerns that the introduction of this provision could have a discriminatory effect on Muslims living in Austria[31]. Several organisations (inter alia Amnesty International, Neustart,

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[26] The *Bundestrojaner* enabled so-called remote hacking of suspects' digital devices in order to vet encrypted messages.

[27] Devices that enable the location of cellphones and the interception of calls.

[28] Furthermore, security agencies were given access to the recordings of Austrian roads (vehicle license plate numbers, car brand, type, and colour) as well as the possibility to require the storage of data for telecommunications operators for up to one year. It foresaw the obligatory identity registration for the purchase of SIM cards (including prepaid ones), and the restriction of the secrecy of correspondence for persons imprisoned for more than one year.

[29] G 72-74/2019 and G 181-182/2019.

[30] By amending the Citizenship Act, Austrian citizenship can be revoked, provided that the person does not become stateless, if the person concerned has been convicted of leading or participating in a terrorist organisaisation, committed a terrorist offense, financed terrorism, conducted training for terrorist purposes, instructed others to commit a terrorist offense; travelled for terrorist purposes, incited someone towards or approved of someone committing terrorist offenses, or has been convicted by final judgment to an unconditional or partially conditional custodial sentence.

[31] https://www.parlament.gv.at/PAKT/VHG/XXVII/SNME/SNME_36479/imfname_880960.pdf

epicenter works, the Austrian Bar Association, the Austrian Association of Prosecutors[32]) criticised §247b StGB for being excessive, as the current legal framework would be sufficient to effectively combat terrorism. In addition, the national Council passed a law in June 2021 that provides for the organizational restructuring of the Austrian Federal Office for the Protection of the Constitution and Counter-Terrorism, which will be discussed in detail in chapter 5[33].

4.2. Federal legislative measures targeting counter-extremism and deradicalisation: Targeting political Islam

In 2015, the parliament passed the Islam Law 2015 (*Islamgesetz*), which replaced the previous Islam Law stemming from 1912.[34] While the Islam Law of 1912 was a reaction to the constitutional integration of Bosnia and Herzegovina into the Habsburg monarchy aiming at officially recognizing the religion in Austria (Potz, 2013), the Islam Law of 2015 included measures that aimed at curbing Islamic extremism.[35] The federal Security Strategy paper from 2015 names Islamist extremism as the primary threat to national security. It identifies the "establishment of a so-called 'home-grown' scene, consisting primarily of young Muslims from the second and third generations of immigrants and of people who have converted to Islam" as the central threat (BMI, 2015, p. 9).[36] This points to the politicization of Islam in Austria (Hafez and Heinisch, 2018; Mattes, 2018a). In the country report on Stakeholders of (De)-Radicalisation in Austria, we have outlined how the differentiation between Islam as a religion and the phenomenon of political Islamism became increasingly blurred in the past years (Haselbacher, Mattes, and Reeger, 2021). Accordingly, Mattes has stated that "drawing on religion for boundary-making is in practice not limited to Austria's far right populist representatives" (Mattes 2018b, p.159).

In 2017, Austria adopted a legal package for the integration of refugees, which entailed a ban on full-face coverings in public places (particularly targeting the wearing of the niqab and burqa).[37] The package also provided legal grounds to prohibit the distribution of radical campaign materials, which was aimed at Quran distribution campaigns by Salafists. In the following year, parliament passed an agreement based on Art 15a B-VG that regulated the adoption of subnational legislation on nursery schools.[38] One aspect of the agreement is the mandatory

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[32] For comments on the TeBG see https://www.parlament.gv.at/PAKT/VHG/XXVII/ME/ME_00083/index.shtml#tab-Stellungnahmen

[33] BGBl I 148/2021.

[34] BGBl I 39/2015.

[35] It included provisions on the relations between the state and Islamic institutions, regulated religious teachings, banned foreign funding of Muslim organisations, required imams to be able to speak German, and barred foreign clerics from leadership positions in mosques (which primarily affected Turkish civil servants).

[36] https://www.bmi.gv.at/501/files/Teilstrategie_Innere_Sicherheit_V20150324_web.pdf

[37] BGBl I 68/2017; Concealing one's facial features in public was fined with up to €150. This applies not only in public places but also for example when travelling by bus, rail, and air, as well as in courts, schools, and universities.

[38] BGBl I 103/2018.

teaching of fundamental rights and the ban on headscarves in nursery schools. In 2019, this ban was extended to girls in primary schools.[39] It was overturned by the VfGH in 2020.[40]

In June 2018, federal government announced the closure of seven mosques as a result of the dissolution of the religious community Zikri Gabal, which operated those mosques. It was argued that representatives had made Salafist statements and did not display positive basic attitudes toward the state and society in Austria as prescribed in the Islam Act.[41] In addition to that, the Austrian government also considered the expulsion of around 40 imams who were related to the Turkish association Atib due to financing from abroad. However, in October 2018, media reported that only one imam had been expelled, that 38 procedures were still in progress, and that the mosques were operating again.[42] In 2019, the Regional Administrative Court of Vienna annulled the dissolution of the Arab Religious Community.[43]

In March 2019, the governing parties ÖVP and FPÖ introduced an action plan against radicalisation to prevent Islamist radicalisation and the formation of parallel societies in Austria. In July of the following year, attacks on Kurdish groups committed by fascist Turkish groups in Vienna led to the further politicisation of the topic of immigration and Islam. Subsequently, political conflicts arose between the City of Vienna, which pursues an inclusionary approach based on diversity, and the federal government. In reaction to these conflicts, the Immigrant Integration Minister and the Interior Minister announced a first set of five measures contained in the action plan, which focussed explicitly on Vienna. The measures included[44]: a) increased levels of policing in "sensitive areas" (targeting Vienna); b) the re-establishment of the Austrian Network for Prevention and Countering Violent Extremism and De-Radicalisation (BNED) (see chapter 5); c) the further examination of foreign influence on Islamist associations and organisations; d) the organisation of a round-table discussion with Turkish and Kurdish groups; and f) the establishment of an early warning system for Islamist activities.

Furthermore, the government established the Documentation Centre of Political Islam, which aims at identifying "parallel societies" and "segregated milieus" and at documenting and researching Political Islam scientifically. In 2021, the Documentation Centre published the so-called "Islam map" on the Internet.[45] It listed the addresses of all associations and organisations that have a connection to Islam, including, in some cases, private persons. The map was heavily criticised as it originated in an idea of the right-wing extremist youth organisation Identitarian Movement and puts people of Muslim faith in danger. An open letter by the Muslim Youth Austria (MJÖ) to delete the map was signed, inter alia, by former State President Heinz Fischer and a former president of the High Court of Justice (OGH), Irmgard Griss.

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39 BGBl I 54/2019.

40 G4/2020.

41 https://www.bundeskanzleramt.gv.at/bundeskanzleramt/nachrichten-der-bundesregierung/2017-2018/bundesregierung-trifft-erste-entscheidungen-im-kampf-gegen-politischen-islam-.html

42 https://www.derstandard.at/story/2000089356122/bisher-nur-ein-imam-ausgewiesen-38-verfahren-laufen-noch

43 https://www.wienerzeitung.at/nachrichten/politik/oesterreich/1017654-Moscheenschliessung-war-rechtswidrig.html

44 https://www.diepresse.com/5837045/neuer-aktionsplan-schickt-mehr-polizei-in-abgeschottene-milieus

45 https://orf.at/stories/3217399/

Regarding right-wing extremist activities, the National Council adopted a resolution in 2020 to call upon the federal government to examine possibilities to prevent the ultra-nationalist and partly fascist commemoration of the so-called "Bleiburg Massacre" in Carinthia.[46] Consequently, Interior Minister Karl Nehammer (ÖVP) initiated an interdisciplinary working group with representatives from academia, various ministries, the Constitutional Service, the diocese of Gurk-Klagenfurt (Carinthia), as well as the Documentation Centre of Austrian Resistance (DÖW). In December 2020, the National Council passed a law against hate speech on the Internet,[47] which aimed at preventing vicious insults, defamation, incitement, threats, and other illegal content on major online platforms. Large online platforms (over 100,000 users) must remove illegal contributions within 24 hours after they have been reported and the option of accelerated civil proceedings was introduced to remove postings more quickly. At the same time, the criminal offense of incitement to hatred was legally expanded. While the crime had previously only covered violations explicitly related to certain groups (e.g. Jews, homosexuals), it was expanded to attacks that are directed against individuals as (assumed) members of these groups. Thus, they are no longer merely considered as insults and can thus be prosecuted ex officio.[48]

5. Institutional framework in the field of counterterrorism and deradicalisation

Both the Ministry of the Interior and the integration agendas (gradually institutionalised since 2011, see Gruber, Mattes and Stadlmair, 2015) have been in the hands of either ÖVP or FPÖ ministers since 2000. At the federal level, matters of counterterrorism, deradicalisation, and integration are primarily subject to the portfolios of the Federal Ministry of the Interior (BM.I). The BM.I covers matters related to federal borders, immigration and emigration, asylum, return, citizenship, as well as criminal persecution and counterterrorism. The Federal Office for the Protection of the Constitution and Counterterrorism (BVT) is a key counterterrorism agency in the form of a national intelligence agency. It was created in 2002 as part of a restructuring initiative that bundled parts of the state police and special tasks forces of the Federal Ministry of Interior. In accordance with the federal structure of Austria, there are nine Provincial Offices for the Protection of the Constitution and Counterterrorism (LVT). In previous years, the BVT was caught up in some scandals and it has become apparent that the relationship between the BVT and certain LVTs is strained. This concerns questions of competence, resources, and mutual trust. As a result of the so-called "BVT affair" and the investigative mishaps in connection with the Vienna terror attack, the BVT is currently subject to restructuring. The Federal Act amending the Police State Protection Act, the Security Police Act, the Criminal Code, the Code of Criminal Procedure 1975 and the Expungement Act 1972 paved the way for organisational reforms.[49]

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[46] In May every year, several thousand people (mainly from Croatia, Austria, and Germany) gather in the Carinthian town of Bleiburg/Pliberk to commemorate post-WWII killings of fascist Croatian Ustasha.

[47] BGBl I 148/2020

[48] https://www.wienerzeitung.at/nachrichten/politik/oesterreich/2073741-Was-das-Gesetzespaket-gegen-Hass-im-Netz-bringt.html

[49] BGBl I 148/2021.

5.1. The BVT and the BNED

The tasks of the BVT comprise the protection of state institutions and the maintenance of the basic democratic order inscribed in the constitution. It also protects representatives of international organisations and critical infrastructure. The BVT is a police authority with intelligence competence. As such it conducts investigations on behalf of the public prosecutor's office, exchanges information with foreign authorities, and has access to different databases for criminal persecution, including data relating to vehicle license plates, addresses, passports, border crossings, weapons licenses, and criminal records. The BVT must operate according to the principle of legality (as opposed to the principle of opportunity), which means that it is not at their discretion whether to prosecute a crime, but they must do so as soon as they learn of it.[50] The most important legal foundations for the work of the BVT are the Police State Protection Act (PStSG), the Security Police Act (SPG) as well as the Code of Criminal Procedure (StPO). In terms of institutional anchoring, it is subordinate to the Directorate General for Public Security, which forms part of the Federal Ministry of Interior.

Since its creation, the BVT has been subject to party-political conflicts and in 2018, the BVT itself became the subject of investigation, which was later to become known as the "BVT affair". In a raid, the premises of the BVT and various private residences of its employees were searched by officers of a taskforce for combatting street crime (a unit which does not possess the competencies to carry out such a raid). The allegations concerned suspected criminal procedures in the BVT and the passing on of North Korean passport samples to foreign intelligence services. Following these events, a political debate ensued on whether there were political motives in the department of Interior Minister Herbert Kickl (FPÖ) for the action against the BVT. During the raid, diverse data carriers were taken, which included material on right-wing extremist activities of networks with connections to the FPÖ. Following these developments, the Washington Post reported that several international intelligence services excluded Austria from their information exchange activities.[51] In 2020, an employee of the BVT was suspected of having sold personal data to the company Wirecard.[52]

Furthermore, investigative mishaps were reported in connection with the Vienna terror attack:[53] First, the German Federal Service of Criminal Investigation (BKA) had informed Austrian authorities about the perpetrator's links to the jihadi movement in Germany. Second, the Slovakian police reported attempts of the perpetrator to buy ammunition in Bratislava. The recommendation for a reconsideration of the risk assessment were not acted upon, because of preparations for an operation against the Muslim brotherhood (Saal and Lippe, 2021). The events were reviewed by an independent investigative commission that criticised the lack of exchange between the institutions entrusted with probation and supervision (DERAD and Neustart) and the LVT, the BVT and the public prosecutor's office (Zerbes et al. 2020). Zerbes

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[50] https://www.profil.at/oesterreich/bvt-das-kaputte-amt/401173240

[51] https://www.washingtonpost.com/world/national-security/austrias-far-right-government-ordered-a-raid-on-its-own-intelligence-service-now-allies-are-freezing-the-country-out/2018/08/17/d20090fc-9985-11e8-b55e-5002300ef004_story.html+&cd=1&hl=de&ct=clnk&gl=at&client=firefox-b-d

[52] https://www.derstandard.at/story/2000123836144/das-bvt-wirecard-und-die-politik-ein-ueberblick-ueber-eine

[53] For a more detailed overview on the Vienna terror attack and investigative errors see Haselbacher and Reeges, forthcoming.

et al. (2021) conclude that the events related to the Vienna terror attack have revealed considerable shortcomings in the fight against terrorist crimes that are closely connected to the inadequate exchange of information between the agencies involved and organisational problems within the security apparatus. Critics demand a depoliticization of the BVT on the one hand and the separation of state protection and intelligence services (i.e. a separation of police tasks from the field of extended threat research) on the other (epicenter.works, 2021). Currently, the BVT is subject to restructuring. The reform of the Office for the Protection of the Constitution adopted in June 2021 provides for an organisational separation of the areas of state protection and intelligence, with the term "protection of the constitution" anchored as an umbrella term for the areas of "intelligence" and "state protection". Furthermore, the Police State Protection Act will be renamed to the State Protection and Intelligence Service Act (SNG) and the BVT will be renamed Directorate of State Protection and Intelligence Service (DSN).

The BNED gives a good overview of the institutional framework in general. Founded in 2017 and coordinated by the BMI, the nationwide network includes all relevant stakeholders in the field of deradicalisation and prevention of violent extremism (see figure 1). It includes all ministries that deal with issues of deradicalisation, integration, and the prevention of extremism, the most relevant NGOs in the field, representatives of the nine federal provinces, and other relevant actors such as the Association of Municipalities or the Federal Office for sect-related issues. Thus, it connects actors from the local, the regional, and the national spheres that are embedded in the federal structure of the state, and it ensures the cooperation between state and non-state actors.

The BNED meets at regular intervals and can invite additional experts as needed, depending on the topic at hand. According to the Federal Ministry of the Interior (2020), the BNED is the central strategic and policy-advisory body for the nationwide discussion of extremism prevention and deradicalisation in Austria. The network is tasked with a) bundling individual measures for extremism prevention and deradicalisation; b) promoting professional and interdisciplinary exchange c) identifying suitable intervention measures (such as an exit program); and d) drawing up recommendations for action, strategies, action plans, etc. on current topics (see BNED, n.d.).

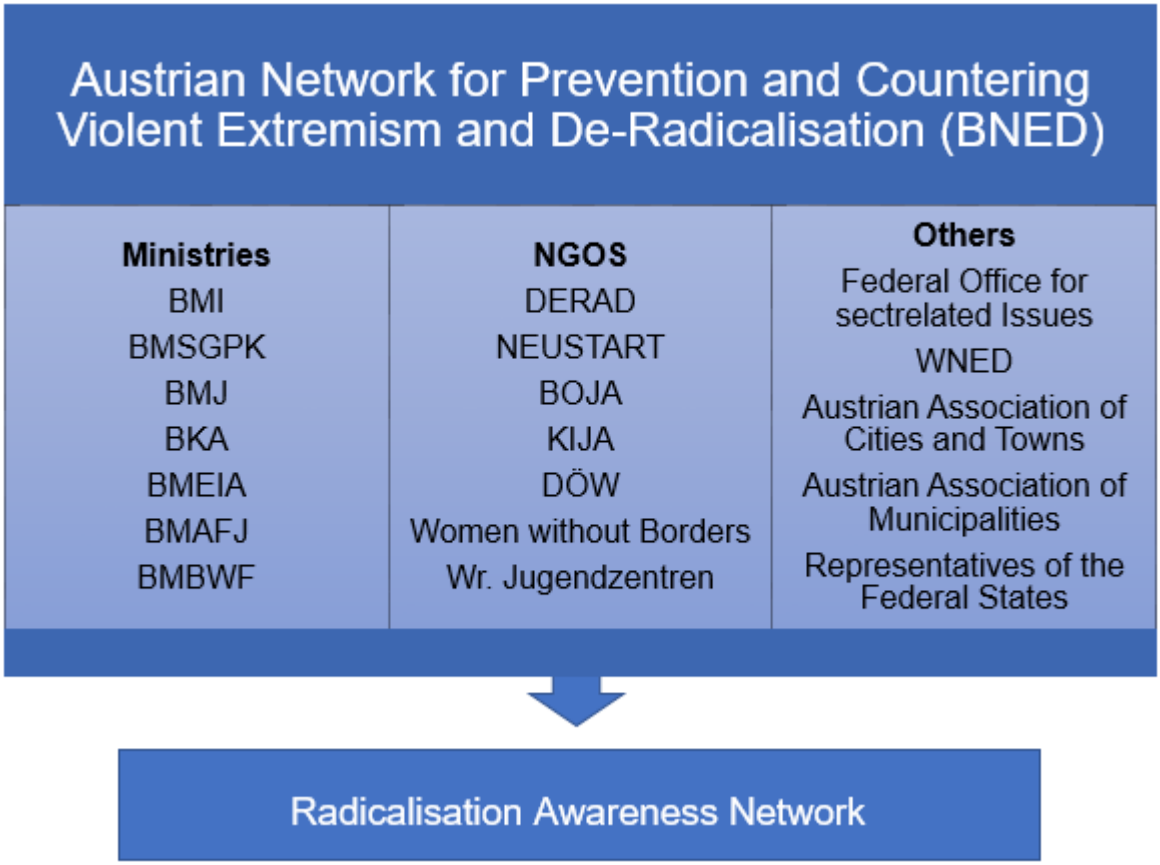

Figure 1: BNED, own illustration, information based on interviews and BNED, n.d.

5.2. National and sub-national policy framework on radicalisation and deradicalisation[54]

Given the fact that Austria has seen a comparatively low number of truly violent acts in the context of extremism and terrorism, the country is quite a latecomer as far as introducing specific measures and programmes focussing on the prevention of extremism is concerned (Reicher, 2015). Götsch (2017, p. 170) describes the current situation of measures dealing with prevention, intervention, and deradicalisation as a heterogeneous mix of private bottom-up and institutionalised top-down government initiatives. The list of measures in Annex II proves the large variety of approaches and methods.

Over the past decade and due to the arrival of refugees from countries with a Muslim background, measures of deradicalisation have had a strong focus on the youth in general and on Muslims in particular, which is surprising given the overall numbers and the scope of extremist offences as provided in official sources. Experts interviewed by Tamas (2020) argued that right-wing extremism is currently on the rise in Austria, which is not reflected in the media, as public debates on radicalisation centre on jihadism and Islamic extremism. The past decade has however seen a vivid phase of implementation of new initiatives as well as the reorientation of existing measures, which should be seen in the context of the prevalence of so-called

[54] This chapter is a synopsis taken from Haselbacher, Mattes and Reeger, 2021.

foreign fighters and the “summer of migration” of 2015. The latter heralded the arrival of many refugees with a Muslim background, which became rhetorically intertwined with the attacks associated with the terrorist militia Islamic State across Europe.

There are several ways to group the stakeholders and initiatives pertaining to deradicalisation in Austria. One may discern between the public and private spheres and cooperative action, by scale (the national, regional, and local levels), by target groups (whole populations, specific target groups, individuals) and by type of approach (punitive, integrative, educational). In this section, we focus on approaches that are integrative or educational in nature; the punitive element was discussed in chapter 4. A useful way of grouping approaches is to focus on the type of approach and to discern between primary, secondary, and tertiary prevention, although there may be overlaps and blurred lines in this respect.

Primary prevention consists of encompassing programmes and approaches aimed at larger groups with no pre-defined targets. The aim is to prevent radicalisation before the process even starts. This area of primary prevention has recently received major political attention in Austria and measures usually combine the efforts of many public and civil-society actors, with emancipatory efforts prevailing in these preventive activities (Mandl and Katona, 2018). Most of these measures are implemented in cities, with Vienna leading the way. The focus is on activities in schools and youth associations. Another strand of primary prevention deals with data collection, documentation, and the raising of awareness. Mostly run by NGOs, these initiatives focus on anti-racism campaigns and extremism-prevention efforts.

Secondary prevention measures address identified target groups or individuals, trying to help in difficult situations in order to avoid problematic action and the progress of radicalisation. This is often done in an indirect way via close relatives, mothers, friends, or other close-contact persons who are searching for help and advice. There are nationwide initiatives as well as bottom-up approaches that are noteworthy due to their innovative nature.

Tertiary prevention programmes are aimed at individuals who have put their extremist views into action or who are or have been imprisoned or otherwise legally penalised. These programmes focus on behavioural changes and involve numerous agents from federal ministries (notably the Ministry for Justice and Internal Affairs), local administration, and non-governmental actors.

Altogether, we see quite innovative new approaches alongside measures that already have been in place for a longer time and have been adjusted to new challenges. Still, there is ample room for improvement in terms of the provision of resources and the development of comprehensive strategies, especially as Austria is a relative latecomer to this field.

6. Case studies

We will now provide insights on two examples of initiatives that have been implemented in Austria. The first is a primary prevention measure called “Vienna Network for Democratic Culture and Prevention” (WNED). The second case study is “Jamal al-Khatib – My way” (*Jamal al-Khatib – Mein Weg*), which originated in Vienna. It is an online initiative in primary as well as secondary prevention, with its roots in tertiary prevention. Both initiatives target the youth, the first one being top-down and the second bottom-up, in order to account for the large variety

of projects aiming at tackling radicalisation and extremism in Austria. By choosing these two examples, we are furthermore able to showcase an online as well as an in-person intervention.

6.1. WNED – Vienna Network for Democratic Culture and Prevention

Founded in 2014, the WNED is coordinated by the Vienna Children's and Youth Ombuds-Office (*Kinder- und Jugendanwaltschaft*, KJA), an organisation established by the City of Vienna for the protection of children's and young people's interests. The Ombuds-Office is an independent institution that addresses all children and young people in Vienna, as well as concerned parents, neighbours, teachers, and institutions, who also may approach the KJA with any relevant problems.[55] The general objectives defined by the WNED are: a) The promotion and strengthening of democratic culture, human rights, and social cohesion. b) The protection of children and young people from extremism as well as the devaluation of ideologies and anti-democratic attitudes, poverty, and violence. c) The integration of groups at risk of social exclusion, and finally, d) the elimination of all forms of group-related hostility and nationalist tendencies (Source: Folder WNED).

The foundation of the federal network BNED in 2017 brought some changes to the WNED. Many members active in WNED also joined the BNED (Neustart, DERAD, Counselling Centre Extremism, DÖW). The WNED thus decided to deal with issues related to the justice system, law enforcement, and deradicalisation primarily in the BNED and to strengthen the focus of its own portfolio further on city-specific agendas within the administration. Those include the integration of groups at risk of exclusion, the promotion of democracy and human rights, counselling, and care (e.g. working with children and young people on these issues).[56]

The strength of the WNED lies in its very large, close-knit network and in its ability to act quickly through cross-organisational cooperation and the exchange of information among members of the network. The steering group consists almost entirely of administrative facilities of the City of Vienna: the Administrative Group Education, Youth, Integration, and Transparency; the Executive Group for Organisation and Security of the City of Vienna; the management of the Municipal Departments 11 (Child and Youth Welfare Service) and 17 (Integration and Diversity); the Addiction and Drug Coordination Vienna; members of the City Council; the Vienna Youth Officer (Municipal Department 13, Education and Youth); the Directorate of Education for Vienna, and the Vienna Social Fund. Finally, it is complemented by the Vienna Provincial Police Directorate (LPD). Most of the members of the steering group also are members of the group of competence centres, which is complemented by the Public Employment Service (AMS), the waff (*Wiener Arbeitnehmerförderungsfonds*), and the municipal department responsible for nursery schools (MA 10).

In the expert interviews, which we conducted primarily with stakeholders based in Vienna, there was broad consensus that the WNED is a useful and strong tool that is successful in accomplishing its goals. Some of the experts are active in the network in their professional capacity. They highlighted the networking aspect, which enables them to contact other network members easily, should need for action arise. Yet, it seems that the WNED focusses on

[55] Source: https://www.wien.gv.at/english/social/cyoo/

[56] Source: https://kja.at/praevention/netzwerk-deradikalisierung-praevention/

municipal departments and their agendas rather than on involving NGOs and other actors in the field who are part of the BNED.

Regarding the I-GAP spectrum, the WNED as a means of primary prevention aims at addressing injustice and the subsequent issues of grievance, alienation, and polarisation before they even gain prevalence. Thus, they aim at the early prevention of radicalisation among young people in a broad approach, based on democratic culture and human rights, with the goal of avoiding social exclusion as best as possible.

6.2. Jamal al-Khatib – My Way

This initiative has a quite unusual history of origin. It started out with the idea of a young man who wanted to become active in preventing other young people from making the same mistakes that he did, namely entering the jihadist scene and adopting the jihadist ideology (Reichert and Lippe, 2019). He had been sentenced to a long prison term for several offenses and during that time started to write texts to stop other young people from joining the IS. He got in touch with youth social workers who helped him to compose autobiographical texts and write down more general thoughts. In the course of time, other professionals got involved and formed a transdisciplinary team. Then, in 2018, the association "TURN" (*Verein für Gewalt- und Extremismusprävention*; Association for the Prevention and Extremism), was founded exactly for that purpose.

TURN started to produce short films based on the texts and to distribute them via online media. This prompted more youths with a Muslim background to get involved in the project; some were part of the jihadist scene, others were not. Using the method of narrative biography work, more texts were developed. The subsequent involvement of experts with an Islamic Studies background offered the opportunity to create authentic alternative narratives to jihadist propaganda. In the first phase, four short films were produced and conveyed through the narrator "Jamal al-Khatib". The interaction of youth social workers, experts in Islamic Studies, film producers, experts in digital management and, most importantly, young project participants turned out to be extremely fruitful. [57]

Jamal is a fictional character acting as the messenger in the videos. That way, the young persons involved in the project could be fully protected. Furthermore, a fictional character offers broader identification options. A wealth of texts was produced in many individual and group settings, which were combined and finally became the story of the character "Jamal al-Khatib".

The first season consists of four films. In the first, Jamal introduces himself and talks about his former affiliation with the jihadist youth scene. He reveals what motivated him to share his experiences with other young people and gives a preview of what can be expected from the next videos. The second episode is called "Home". Jamal elaborates on his childhood, his family, his refugee experience, and what it means to feel "at home", including facilitating and obstructive factors. He refers to current socio-political issues such as anti-Muslim racism, but also addresses fanatical, hermetically sealed world views associated with Jihadism. The third video, "Jihad an-Nafs" contains Jamal's personal explanation of "jihad", and why there is no room for group-based misanthropy or warmongering in his interpretation. In the fourth video,

[57] Source: https://www.turnprevention.com/jamal

"My Brother", Jamal uses the story of his best friend to explain why he renounced the jihadist scene and now actively takes a stance against it. He deals with questions of friendship and loyalty, and concludes that there is always a chance to question one's own convictions and to change one's path.[58]

Based on the experiences and results of the first season, the association TURN has produced a second season in cooperation with the Federal Agency for Civic Education in Germany. The project was expanded to cover the entire German-speaking region, and its themes and content were to be broadened (Reicher and Lippe 2019: 68). The second season again consists of a series of videos that are narrated by Jamal. In the first episode, "My Story", topics such as experiences of marginalisation are addressed, while Jamal tries to change his environment and to live a good life. The second video, "Takfir" ("exclusion"), deals with issues of group inclusion and how exclusion might make a person more receptive of the offers of extremist groups. The third video, "Honour", addresses issues of group affiliation and how this concept was misused for manipulation in different environments (in prison, on the street, and in the extremist scene). Self-determination is Jamal's future goal while he tries to question the rules and ideas of different groups. "Shirk and Democracy" is the fourth video of the second season. It touches upon issues of democracy, which in the eyes of extremist groups is to blame for injustices and thus causes them to "shirk", as it is against the Quran. The final episode, "Resistance and BESA", is about solidarity. It uses the example of Albania, where many Jews found protection during the Second World War.

This initiative is not just about producing videos and publishing these online, but about using the online space and the videos as a starting point for discussions and for political education. The initiators see the internet as an informal learning space for young people, where appropriate offers can be made that are geared to their everyday lives (Reichert and Lippe, 2019). TURN calls this "content-based online street work", which consists of online discussions via comments and personal messages. It facilitates entering into dialogue with the target group. The narratives in the videos serve as projection surfaces through which discourses are negotiated. According to Reichert and Lippe (2019), the four films of the first season received 200,000 views and 16,000 interactions online (until the end of 2018). TURN is also active in producing educational material, which is an offer to all practitioners in the educational system.

Topics regarding the I-Gap spectrum are at the very heart of the project. The development of the alternative narratives is based on the central idea that despite all the differences in radicalisation processes, there are also commonalities: Experiences of powerlessness and humiliation, alienation from larger society, and feelings of rage and injustice. This is exactly where, according to the authors, jihadist narratives tie in (Reichert and Lippe, 2019: 60).

7. Conclusion

Generally speaking, the Austrian case can be characterised as rather dynamic when it comes to the legal and policy framework on radicalisation and counterterrorism, a fact proven by the very high number of legislative changes during the past two decades. The framework is rather complex and touches upon many policy areas, including public security, immigration, immigrant integration, and the governance of political and religious associations. Austrian

[58] Source: https://www.turnprevention.com/materialien

legislation in the realm of extremism and terrorism has been strongly influenced by European legislation and socio-political events, such as the politicisation of refugee immigration and Islam, and the electoral success of rightist parties.

Constant areas of tension include the delicate balance between fundamental rights on the one hand and measures concerning counterterrorism and surveillance on the other. Regarding the latter, the multitude of reforms primarily introduce an expansion of surveillance measures and police investigative powers. Digital surveillance measures (telephone tapping, facial recognition, or video surveillance in public spaces) as well as options for the retention of data have particularly been expanded. These measures contradict the fundamental rights of respect for privacy and data protection.

Many of the legal and policy-related reforms have been initiated under the impression of the "summer of migration" of 2015 and subsequent right-wing mobilisations on the one hand and the comparatively high number of foreign fighters in the country on the other. The former heralded the arrival of many refugees with a Muslim background, which was rhetorically intertwined with attacks across Europe that were associated with the terrorist militia Islamic State. Finally, the terrorist attack in Vienna in November 2020 has boosted the political will towards reform anew. The analysis of the legal and policy framework has shown that legislative changes of the past seven years have an increasingly strong focus on Islam and have therefore been criticised for their discriminatory and sometimes symbolic character. We witness an ongoing politicisation of refugees and Islam, culminating in the bill for the Counterterrorism Act (TeBG) which introduced "Religiously Motivated Extremist Association".

In the area of prevention, there are numerous initiatives on different levels, targeting different groups. Primary prevention consists of encompassing programmes and approaches aimed at larger groups, with no pre-defined audiences. These attempt to prevent radicalisation before the process even starts, with the case study WNED being one prominent example. Secondary prevention measures address identified target groups or individuals, trying to help in difficult situations in order to avoid problematic action and the progress of radicalisation. Tertiary prevention programmes are aimed at individuals who have put their extremist views into action or who are or have been imprisoned or otherwise legally punished. We see quite innovative new approaches – illustrated by our case study Jamal al-Khatib – alongside existing measures that have been adjusted to new challenges. Yet, much still must be done regarding the provision of resources, networking, and the development of comprehensive strategies, especially as Austria is a relative latecomer in this field.

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Annexes

Annex I: Overview of the legal framework on radicalisation and deradicalisation

Legislation title (original and English) and number	Date	Type of law	Object/summary of legal issues related to radicalisation	Link/PDF
Symbole-Gesetz ***Symbols Act*** ***BGBl. I Nr. 103/2014***	12/2014	Federal	Prohibits the use and dissemination of symbols of the Islamic State, Al-Qaeda and organisations close to these groups	https://www.ris.bka.gv.at/eli/bgbl/I/2014/103
Änderung des Grenzkontrollgesetzes und des Staatsbürgerschaftsgesetzes 1985 ***Amendment of the Border Control Act and the Citizenship Act 1985.*** ***BGBl. I Nr. 104/2014***	12/2014	Federal	Enables authorities to check, as part of border controls, whether departing minors have their parents' consent to leave the country Austrians who have voluntarily and actively participated in combat operations abroad in the context of an armed conflict will have their citizenship revoked if they hold another citizenship	https://www.ris.bka.gv.at/eli/bgbl/I/2014/104
Islamgesetz 2015 ***Islam Act 2015*** ***BGBl. I Nr. 39/2015***	03/2015	Federal	Determines relations between the state and Islamic institutions; the amendment act includes new measures aimed at curbing Islamic extremism.	https://www.ris.bka.gv.at/eli/bgbl/I/2015/39
Polizeiliches Staatsschutzgesetz - PStSG sowie Änderung des Sicherheitspolizeigesetzes ***Police State Protection Act - PStSG and amendment to the Security Police Act*** ***BGBl. I Nr. 5/2016***	02/2016	Federal	To provide effective protection against terrorist threats through reorganisation of the BVT, an extensive database was created and powers of observation for investigating authorities were expanded.	https://www.ris.bka.gv.at/eli/bgbl/I/2016/5
Integrationsgesetz und Anti-Gesichtsverhüllungsgesetz sowie Änderung des Niederlassungs- und Aufenthaltsgesetzes, des Asylgesetzes 2005, des	06/2017	Federal	Ban of full-face coverings in public places; provides legal basis for prohibiting the distribution of radical campaign materials.	https://www.ris.bka.gv.at/eli/bgbl/I/2017/68

Fremdenpolizeigesetzes 2005, des Staatsbürgerschaftsgesetzes 1985 und der Straßenverkehrsordnung 1960 ***Integration Act and Anti-Face Veiling Act, and Amendments to the Settlement and Residence Act, the Asylum Act 2005, the Aliens Police Act 2005, the Citizenship Act 1985 and the Road Traffic Regulations 1960*** ***BGBl. I Nr. 68/2017***				
Strafrechtsänderungsgesetz 2018 ***Criminal Law Amendment Act 2018*** ***BGBl. I Nr. 70/2018***	10/2018	Federal law	Enables authorities to consider a wider scope of offenses as potential terrorist attacks, lowering the threshold regarding levels of bodily harm, damage to property, and data.	https://www.ris.bka.gv.at/eli/bgbl/I/2018/70
Vereinbarung gemäß Art. 15a B-VG zwischen dem Bund und den Ländern über die Elementarpädagogik für die Kindergartenjahre 2018/19 bis 2021/22 ***Agreement pursuant to Art. 15a B-VG between the Federal Government and the Länder on elementary education for the nursery school years 2018/19 to 2021/22*** ***BGBl. I Nr. 103/2018***	12/2018	Federal constitutional law	Mandatory teaching of fundamental rights and the ban on headscarves in nursery schools	https://www.ris.bka.gv.at/eli/bgbl/I/2018/103
Änderung des Schulunterrichtsgesetzes ***Amendment of the School Instruction Act*** ***BGBl. I Nr. 54/2019***	03/2018	Federal law	Ban on headscarves in primary schools	https://www.ris.bka.gv.at/eli/bgbl/I/2015/39
Änderung des Sicherheitspolizeigesetzes, der Straßenverkehrsordnung 1960 und des Telekommunikationsgesetzes 2003 ***Amendment of the Security Police Act, the Road Traffic***	05/2018	Federal law	Legalisation of state spyware; security agencies have access to video and audio surveillance of public spaces and facilities in order to prevent probable attacks; use of IMSI catchers; recording of vehicle information on public roads; obligatory	https://www.ris.bka.gv.at/eli/bgbl/I/2018/29

Regulations 1960, and the Telecommunications Act 2003 ***BGBl. I Nr. 29/2018***			identity registration for the purchase of every SIM card; restriction of the secrecy of correspondence.	
Hass-im-Netz-Bekämpfungs-Gesetz – HiNBG ***Hate on the Net Combat Act – HiNBG*** ***BGBl I Nr. 148/2020***	12/2020	Federal Law	Aims to prevent vicious insults, defamation, incitement, threats, and other illegal content on major online platforms	https://www.ris.bka.gv.at/Dokumente/BgblAuth/BGBLA_2020_I_148/BGBLA_2020_I_148.html

Case Law

Case number	Date	Name of the court	Object/summary of legal issues related to radicalisation	Link/PDF
G 4/2020	**11.12.2020**	**VfGH**	Nullification of a law that had introduced a ban on headscarves in primary schools. The court argued, that the law violated the principle of equality and the freedom of thought, conscience, and religion pursuant to Art 9 ECHR, and the freedom of faith and conscience pursuant to Art 14 StGG.	https://ris.bka.gv.at/Dokumente/Vfgh/JFT_20201211_20G00004_00/JFT_20201211_20G00004_00.pdf
G 139/2019	**11.12.2020**	**VfGH**	The court proclaimed the constitutionally guaranteed right to self-determination, deriving it from the principle of equality in Art 7 B-VG and Art 2 StGG and the right to private and family life in accordance with Art 8 ECHR and the right to life in accordance with Art 2 ECHR.	https://ris.bka.gv.at/Dokumente/Vfgh/JFT_20201211_19G00139_00/JFT_20201211_19G00139_00.pdf
VfSlg 20.356/2019	**11.12.2019**	**VfGH**	Nullification of most parts of the Security Package 2018 in December 2019, arguing that data collection was “disproportionate” and a “serious interference” of secrecy interests as defined in the Data Protection Act (Datenschutzgesetz) and of the right to respect for private life under Art 8 ECHR. Additionaly, regarding the application of spyware, the court argued that such measures were only permissible within extremely narrow limits.	https://ris.bka.gv.at/Dokumente/Vfgh/JFT_20191211_19G00072_00/JFT_20191211_19G00072_00.pdf
VfSlg 20.213/2017	**29.11.2017**	**VfGH**	Rejection of a motion by members of the National Council for the repeal of provisions of the Police State Protection Act regarding the investigative powers of the Federal Office for the Protection of the Constitution and the Fight against Terrorism in the context of extended risk research and preventive protection against attacks that endanger the constitution	https://ris.bka.gv.at/Dokumente/Vfgh/JFR_20171129_16G00223_01/JFR_20171129_16G00223_01.pdf

VfSlg 19.657/2012	**29.6.2012**	**VfGH**	Telecommunications secrecy (Art. 10a StGG) protects confidentiality and therefore the content of written and oral communications via telecommunications networks (e.g. via telephone, internet). As is the confidentiality of letters the scope of protection of telecommunications secrecy only extends to content data, but not to other data such as master data, telephone numbers or metadata (e.g. static and dynamic IP addresses, time and duration of communication) etc.	https://ris.bka.gv.at/Dokumente/Vfgh/JFR_09879371_11B01031_01/JFR_09879371_11B01031_01.pdf
VfSlg 19.632/2012	**14.3.2012**	**VfGH**	CFR constitutes a standard of review in proceedings before the Constitutional Court within the scope of application of Union law	https://ris.bka.gv.at/Dokumente/Vfgh/JFR_09879686_11U00466_2_01/JFR_09879686_11U00466_2_01.pdf

Other relevant issues

	Constitutional provisions	Statutory law (statues, rules, regulations etc.)	Important case law	Comments/issues relevant to radicalisation
Freedom of religion and belief	Basic State Law 1867, on the General Rights of Citizens (Article 14-17)			Protection of religious freedom regarding individual rights and religious societies. The state and its legal system must remain secular, act neutrally, and treat all religious societies equally. Issue example: implications of the possible introduction of the crime of "religiously motivated extremist links" in the Criminal Code, initiated in 2020.
Minority rights	Ethnic Groups Act VoGrG (StF: BGBl. Nr. 396/1976) State Treaty concerning the Restoration of an Independent and Democratic Austria (StF: BGBl. Nr. 152/1955)			
Freedom of expression	Basic State Law 1867, on the General Rights of Citizens (Article 13)			Everyone has the right to express their opinions and ideas freely and publicly or to discuss them with others. The state can restrict freedom of expression when it endangers peaceful coexistence or security, or where the fundamental rights of others are violated (In Austrian criminal law, incite-ment to hatred amounts to a criminal offense under Section 283 of the Criminal Code). Issue example: repeated problems with national-

				socialist re-enactment through radical right homepages such as Alpe Donau
Freedom of assembly	Basic State Law 1867, on the General Rights of Citizens (Article 13)	Assembly Law (BGBl. I Nr. 63/2017)		Austrian citizens have the right to assemble and form associations. The exercise of these rights is regulated by special laws. The legislature may restrict the freedom of assembly only if it is in the interest of national security and public safety, the maintenance of order and the prevention of crime, the protection of health and morals, or the protection of the rights and freedoms of others. Issue example: far-right extremism during Corona demonstrations in 2020 and 2021.
Freedom of association/ political parties etc.	Federal Act on the Financing of Political Parties (Political Parties Act 2012 - PartG) StF: BGBl. I Nr. 56/2012			Political parties can be founded relatively freely in Austria. To do so, a group of people must first adopt a statute. These must be published on the Internet and filed with the Federal Ministry of the Interior. Political parties must not violate the National Socialist Prohibition Law

Annex II: List of institutions dealing with radicalisation and counter-radicalisation

Name of the initiative	Scale	Agents	Area of competence and target groups	Link
WNED –Vienna Network Democracy Culture and Prevention (*Wiener Netzwerk Demokratiekultur und Prävention*)	Local	City of Vienna, including several municipal departments, network of practitioners, group of experts; schools, open youth care, collaboration with BNED	Awareness raising, training; children and young adults	https://kja.at/praevention/netzwerk-deradikalisierung-praevention/
ZARA – Civil Courage and Anti-Racism Work (*Zivilcourage und Anti-Rassismus-Arbeit*, NGO)	National	Cooperation with several other NGOs in the field	Counselling, prevention and raising of awareness; Austrian society at large, multiplicators, persons affected by racism	https://www.zara.or.at/de
Dokustelle – Documentation and Counseling Centre Islamophobia and Anti-Muslim Racism (*Dokumentations- und Beratungsstelle Islamfeindlichkeit und antimuslimischer Rassismus*, NGO)	Mostly Vienna, reporting cases from other federal provinces	No partners mentioned in publications and on website	Documentation and reporting of incidents, raising of awareness, counselling, workshops, empowerment; persons subject to islamophobia and anti-Muslim rascism	https://dokustelle.at/
DÖW – Documentation Centre of Austrian Resistance (*Dokumentationsarchiv des österreichischen Widerstands*)	National	Republic of Austria, City of Vienna as funding bodies	Research and documentation, educational offers on i.a. Holocaust, Roma and Sinti, right-wing extremism, prevention of extremism and de-radicalisation; Austrian society at large; students and journalists looking for information on resistance, antisemitism	https://www.doew.at/

Counselling Centre Extremism (*Beratungsstelle Extremismus*) run by BOJA (Austian Network of Open Youth Work)	Nation-wide, based in Vienna	Federal Chancellery as funding body; Family Counselling Centres across Austria, initiatives of open youth work across Austria, civil-society organisations	Counselling and support for relatives and multiplicators, helpline; policy recommendation, workshops; persons confronted with any form of extremism in their personal setting (relatives, teachers, social workers)	https://www.beratungsstelleextremismus.at/
Not in God's name (NGO)	Mostly Vienna	Funding by Federal Chancellery and other public agencies; cooperation with schools	Educational, integrative; sports activities, informal streetwork, social media campaigns; migrant children and youth	https://nign.eu/
TURN – Association for the Prevention of Violence and Extremism (*Verein für Gewalt- und Extremismusprävention*)	Mostly digital space	Network of youth workers, filmmakers, scholars of Islamic studies, social scientists, and young people who have left the jihadist subculture; young Muslims who want to take stance against jihadism	Delivering alternative narratives, community engagement and empowerment; Teachers, multiplicators, youth workers	https://www.turnprevention.com/jamal
Mothers' School against Extremism	Different venues across Austria	Edith Schlaffer (sociologist), funded by Federal Ministry for Europe, Integration, and Foreign Affairs	Training in early detection of signs of radicalisation among children; worried mothers	https://wwb.org/
Next: No to Extremism	Province of Styria, city of Graz	Large network of public agencies and NGOs	Support of institutions dealing with the prevention of extremism, awareness-raising, provision of materials on extremism and hate speech, legal support on extremism and hate speech, workshops; Institutions facing	https://www.no-extremism.at/

			extremism prevention in their work, civil society, educators and teachers, lecturers, politicians and administrators	
BNED - *Bundesweites Netzwerk Extremismusprävention und Deradikalisierung*	Multilevel	Federal ministries, civil-society organisations, federal provinces, BVT	Networking, dissemination of information among network partners	n.a.
NEUSTART Probation Services (*Bewährungshilfe*)	National	DERAD, RAN; Federal Ministry of Justice as funding body	Integrative, inclusion and prevention, reintegration into society; juvenile detainees on probation or granted parole	https://www.neustart.at/at/de/
Social Network Conferences (SONEKO)	National	Neustart	Fostering networks on the individual level, elaboration of a plan and control of compliance; youth detainees (pre-trial and upon release)	https://www.neustart.at/at/de/unsere_angebote/nach_haft/sozialnetz_konferenz.php
Kompass	National	Neustart, BVT; cooperation with Exit Europe	Individual counselling for persons who voluntarily want to leave an extremist scene and ideology; offenders and non-delinquents	https://www.neustart.at/at/de/index.php
Exit Programme for Violent Extremists, followed by Exit Europe	Multi-agency approach in an international setting	BM.I, BNED; BVT, governmental and non-governmental actors; in the second phase consortium partners in H2020 project	Integrative, awareness raising; Religously motivated extremists, jihadists; local exit practitioners, EU-wide communities, exit candidates, policy makers	https://www.bmi.gv.at/210_english/start.aspx

DERAD – Prevention of Extremism, Dialogue and Democracy (*Extremismusprävention, Dialog und Demokratie*, NGO)	International, national, local level	Federal Ministry of Justice as funding body, RAN	Deradicalisation programmes and support for prison detainees, follow-up support for persons convicted of relevant crimes, educational measures for judicial guards, workshops, consulting; prison detainees while in prison and after release	https://www.derad.at/

Sources: Haselbacher, Mattes and Reeger, 2021; RAN network online database; Tamas 2020; Mandl and Katona 2018; Websites of the actors.

Annex III: Best practices/interventions/programmes

Digital space or supranational level

Name	Institution(s)	Aim	Source and literature
Jamal al-Khatib	TURN – Association for the Prevention of Violence and Extremism (*Verein für Gewalt- und Extremismusprävention*)	Delivering alternative narratives online, community engagement and empowerment; aiming at young people who sympathize with jihadist worldviews, teachers, multiplicators, youth workers	https://www.turn-prevention.com/jamal; scientific project report: https://www.e-beratungsjournal.net/wp-content/uploads/2019/05/reicher_lippe.pdf
Decount	ISF-co-funded EU project; Institute for the Sociology of Law and Criminology (IRKS), Austrian Institute for International Affairs (oiip), BOJA, Neustart, Derad, the Ministry of the Interior	To prevent teenagers and adolescents from becoming radicalised; Website offering materials on radicalisation and extremism prevention; Video game through which processes of radicalisation can be re-enacted plus a guide for its use in youth centres and schools for teachers	https://www.extremismus.info/
Mothers' School against Extremism – Parenting for Peace	Women without borders	Training in early detection of signs of radicalisation among children aiming at worried mothers	https://wwb.org/

National level

Name	Institution(s)	Aim	Source and literature
BNED - National Network for Prevention and Countering Violent Extremism and De-Radicalisation *(Bundesweites Netzwerk Extremismusprävention*	Seven federal ministries, several NGOs and civil-society organisations, federal provinces, BVT, Austrian Association of Cities and Towns, Austrian Association of Municipalities	Central strategic and policy-advisory body for the nationwide discussion of extremism prevention and deradicalisation in Austria; networking, dissemination of information among network partners; The network is tasked with a) bundling individual measures for extremism prevention and de-radicalisation; b) promoting professional and interdisciplinary exchange on nationwide measures; c) identifying suitable inter-	

und Deradikalisierung)		vention measures (such as an exit program); and d) drawing up recommendations for action, strategies, action plans, etc. on current topics	
Exit Programme for Violent Extremists, followed by Exit Europe	BM.I, BNED; BVT, governmental and non-governmental actors; in the second phase consortium partners in H-2020 project	Integrative, awareness raising; religiously motivated extremists, jihadists; local exit practitioners, EU-wide communities, exit candidates, policy makers	https://www.bmi.gv.at/210_english/start.aspx
Kompass	Neustart, BVT; BM.I in cooperation with Exit Europe	Individual counselling for persons who voluntarily want to leave an extremist scene and ideology; offenders and non-delinquents. The aim of the project is to help religiously or politically radicalized persons to turn away from extremist and violent thinking and to encourage the clients to accept human rights and democratic values and to help them in changing their previous behavioural patterns. Kompass is currently in a pilot phase.	https://www.neustart.at/at/de/index.php
Social Network Conferences (SONEKO)	Neustart	Fostering networks on the individual level, elaboration of a plan and control of compliance; aiming at youth detainees (pre-trial and upon release)	https://www.neustart.at/at/de/unsere_angebote/nach_haft/sozialnetz_konferenz.php; evaluation report: https://www.irks.at/assets/irks/Publikationen/Forschungsbericht/Endbericht_Begleitforschung_2017.pdf
De-radicalisation in prisons	DERAD – Prevention of Extremism, Dialogue and Democracy (*Extremismusprävention, Dialog und Demokratie*, NGO)	Deradicalisation programmes and support for prison detainees, follow-up support for persons convicted of relevant crimes, educational measures for judicial guards, workshops, consulting; prison detainees while in prison and after release	https://www.derad.at/
Counselling Centre Extremism (*Beratungsstelle Extremismus*)	BOJA (Austrian Network of Open Youth Work); Federal Chancellery as funding body; Family Counselling Centres	Counselling and support for relatives and multiplicators, helpline; policy recommendation, workshops; persons confronted with any form of extremism in their personal setting (relatives, teachers, social workers)	https://www.beratungsstelleextremismus.at/

	across Austria, initiatives of open youth work across Austria, civil-society organisations		
Report Racism and/or Hate on the Net	ZARA – Civil Courage and Anti-Racism Work (*Zivilcourage und Anti-Rassismus-Arbeit*, NGO	Helping people to be heard and report racist incidents, hate on the net and/or cyber-bullying	https://www.zara.or.at/de/beratung/melden
Lectures at Schools	DÖW – Documentation Centre of Austrian Resistance (*Dokumentationsarchiv des österreichischen Widerstands*)	Teacher training and political education in schools, focusing on racism and anti-semitism, adolescence, and pathological group formation.	
#wirmüssenreden *(#we need to talk)*	Dokustelle – Documentation and Counseling Centre Islamophobia and Anti-Muslim Racism (*Dokumentations- und Beratungsstelle Islamfeindlichkeit und antimuslimischer Rassismus*, NGO)	Countering the criminalization of Muslim communities and people who are read as Muslim in Austria. The campaign aims at breaking down prevailing discourses and at highlighting anti-Muslim racism.	https://dokustelle.at/bildungsarbeit-projekte/wirmuessenreden

Sub-national/Regional level

Name	Institution(s)	Aim	Source and literature
Next: No to Extremism	Large network of public agencies and NGOs in the province of Styria and the city of Graz	Support of institutions dealing with the prevention of extremism, awareness-raising, provision of materials on extremism and hate speech, legal support on extremism and hate speech, workshops; Institutions facing extremism prevention in their work, civil society, educators and teachers, lecturers, politicians and administrators	https://www.no-extremism.at/
Not in God's Name	Not in God's Name, funding by Federal Chancellery and other public agencies; cooperation with schools	Educational, integrative; sports activities, informal streetwork, social media campaigns; migrant children and youth	https://nign.eu/

Local level

Name	Institution(s)	Aim	Source and literature
WNED –Vienna Network Democracy Culture and Prevention (*Wiener Netzwerk Demokratiekultur und Prävention*)	City of Vienna, including several municipal departments, network of practitioners, group of experts; schools, open youth care, collaboration with BNED	Awareness raising, training; children and young adults	https://kja.at/praevention/netzwerk-deradikalisierung-praevention/
Werkstatt.Wien (*Workshop.Vienna)*	Municipal Department 17 “Integration and Diversity”, City of Vienna	Education platform offering lectures, discussions and best-practice examples on political-religious extremism, deradicalization and prevention aiming at multipliers in the field of community work, police, educators	https://www.wien.gv.at/menschen/integration/daten-fakten/toolbox-integration.html
Networking Platform / Afghan and Chechen Communities	Municipal Department 17 “Integration and Diversity”, City of Vienna	Empowering communities by developing networks and dialogue with the authorities and with institutions like the municipal departments of the City of Vienna, health institutions, the police, educational and labour market institutions; development of networks and dialogue with wider society, e.g. neighbourhood associations; to offer training and information on relevant topics for daily life; to develop projects that will further the societal inclusion of communities; workshops for teenagers with a focus on democracy, non-violence and leisure activities	https://www.wien.gv.at/english/social/integration/

Sources: Haselbacher, Mattes and Reeger, 2021; RAN network online database; Tamas 2020; Mandl and Katona 2018; Websites of the projects/actors.

Annex IV: Policy recommendations

The following recommendations are based on the expert interviews and the literature review, most of all the reports of the independent investigative commission (Zerbes et al. 2020 and 2021).

De-radicalisation work should be restructured. This includes:

- The training of practitioners and professionalisation
- The development of tools of analysis for risk assessment
- The establishment of operational case analysis
- The institutional restructuring of the BVT
- The provision of sufficient financial resources

Responsibilities of institutions dealing with de-radicalisation should be clearly defined and the cooperation between institutions should be strengthened. This includes:

- The building of mutual trust
- The introduction of case conferences that can be re-activated spontaneously during probation
- The establishment of an efficient analysis and information processing system accessible to all stakeholders in the form of a common database

Measures and approaches should be more nuanced following an integrated approach. This includes:

- The development of de-radicalisation measures that focus explicitly on right-wing extremism
- The development of approaches that focus on rural and peripheral regions
- The development of measures that include schools, communities and local level stakeholders (broad primary prevention)

DeRadicalisation
in Europe and Beyond: Detect, Resolve, Reintegrate

Deradicalization And Integration Legal & Policy Framework

Bosnia and Herzegovina/Country Report

WP4

December 2021

Adnan Pečković & Jasmin Jašarević – Proni Centre for Youth Development

Horizon 2020

De-Radicalisation in Europe and Beyond: Detect, Resolve, Re-integrate

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Executive Summary

This report gives a conceptual account on how existing policies and laws address radicalisation, to pinpoint their most critical aspects and best practices, and finally to develop evidence-based policy and legal guidelines in order to contribute to combating radicalism and extremism in Bosnia and Herzegovina.

It will discuss different legalizations and regulations that deal with issues of radicalization of terrorism, radicalism and extremism, such as Strategy of Bosnia and Herzegovina for Preventing and Combating Terrorism 2015-2020" (See Appendix 1) and the "Action Plan for the Implementation of the Strategy of Bosnia and Herzegovina for Preventing and Combating Terrorism in Bosnia and Herzegovina" (See Appendix 1). This report will also discuss controversies about the Constitution of Bosnia and Herzegovina that has derived from Dayton Peace Agreement in 1995 and its support of ethnic divisions in the country and alienation of minorities in Bosnia and Herzegovina.

This report will cover five main topics. First one is the *Socio-economic, Political and Cultural Context of Bosnia and Herzegovina* that contains information of radicalization history in Bosnia and Herzegovina, history of terrorism and political violence, brief description of the society and other information that fall under the category of Socio-economic, Political and Cultural Context of Bosnia and Herzegovina. The second topic of this report will cover is the *Constitutional Organization of the State and Constitutional Principles on D.Rad Field of Analysis* where we will discuss overarching constitutional principles, values/principles/rights related to D.Rad policy fields, state composition of Bosnia and Herzegovina and other information related to constitutional organization and constitutional principles such as secularism, religious freedoms, self-determination and sub-national identities. Further on the report discusses the *Relevant Legislative Framework in the Field of Radicalization* where we will talk about national framework legislation on radicalization and de-radicalization, national legislation framework on religious freedom and freedom of speech, the sub-national legislation and we will also present one paradigmatic case-law concerning radicalization. The fourth part of this report *The Relevant Policy and Institutional Framework in the Field of Radicalization* discusses national policy framework religious freedoms and religious entities/groups, national policy framework on radicalization and de-radicalization, sub-national policies and institutions dealing with radicalization. The last part of the report presents *Two in Depth Case Studies* that will map out two counter radicalization measures through social integration. We will write about their justification and their socio-economic, political and geographical context. We will also discuss fundamental traits of the cases and lessons to be learned.

1. Introduction

Political history of Bosnia and Herzegovina with its ethnic and religious divisions fuelled by current political discourse and the rhetoric of ethno-nationalistic political elites makes Bosnia and Herzegovina a fertile ground for different forms of radicalism and extremism, such as religious extremism and right-wing radicalism embodied in different organisations, but also individuals

According to Azinović (2018) youth is the population that is most vulnerable, concerning the danger to be involved in extremist and radical activities (p.8). Pečković (2018) tells us that 4.5 % of young people in Bosnia and Herzegovina justify radicalism and terrorism under certain circumstances. These circumstances can be state occupation, misbehaviour aimed on certain group (religious, ethnic, national), when state institutions do not work for the greater good of the people (p 30-31). The anger of Bosnian citizens toward political establishment of Bosnia and Herzegovina we could see during the mass demonstrations that happened in several cities in Bosnia and Herzegovina when demonstrators have burned down part of the Bosnian presidency building and other institutions. Institutional corruption and and economic decline in Bosnia and Herzegovina were motives for the citizens of Bosnia and Herzegovina to seek justice on the streets. At the beginning the protests were peaceful, but as they went on some of the citizens have started to throw stones at the police and burn state institutions (Džidić, 2014).

This report aims to give a conceptual account on how existing policies and laws address radicalisation, to pinpoint their most critical aspects and best practices, and finally to develop evidence-based policy and legal guidelines in Bosnia and Herzegovina. The laws, regulation and action plans concerning radicalism and extremism that we will discuss in this report are the Criminal Codes of Bosnia and Herzegovina, Criminal Code of Federation of Bosnia and Herzegovina, Criminal Code of Republic of Srpska and Criminal Code of Brčko District. Other than that we will discuss strategies and action plans for combating extremism on national and sub-national level. Strategies that we will discuss in this report are Strategy of Bosnia and Herzegovina for Combating Terrorism 2006-2010 and Strategy of Bosnia and Herzegovina for Combating Terrorism 2015-2020 and the action plans derived from the strategies such as Action plan for implementation of strategy of Bosnia and Herzegovina for Combating Terrorism 2015-2020 and Action Plan for Prevention and Combating Terrorism in Federation of Bosnia and Herzegovina 2020 – 2025 will also be discussed.

2. The Socio-Economic, Political and Cultural Context

Bosnia and Herzegovina's war from 1992-1995 has left several kinds of consequences for the people. Ethnic polarization caused by ethno-nationalistic political narrative, Bosnian Constitution, as a product of Dayton Peace agreement, (signed in Wright-Patterson Air Force Base near Dayton, Ohio, United States, in November 1995) aiming at stopping the war in Bosnia and Herzegovina which in its essence supports ethnic divisions in Bosnia and Herzegovina, political corruption, high unemployment (especially amongst young people) are just some of the consequences. Dayton Peace

Agreement has cemented ethnically clean territories which made it possible for ethno-nationalistic leaders to produce ethnic homogenisation in these territories and it made a fertile ground for discriminatory practices against minorities (some cases will be discussed in this report). All these consequences create feelings of injustice, poverty political and economic alienation. According to “Trading economics” Bosnia and Herzegovina has an unemployment rate of 33.4 % (Trading economics, 2021). Among young people unemployment rate is significantly higher. Unemployment rate among young people of Bosnia and Herzegovina in 2020 was 40.18 % (Statista, 2021).

According to Delegation of European Union in Bosnia and Herzegovina,2.2 million people were displaced during the last war in Bosnia and Herzegovina. Among these 2.2 million, approximately 1 million has left the Country to seek refuge, mostly in the countries of Western Europe, where most of them live today too (Delegation of European Union to Bosnia and Herzegovina, https://europa.ba/?page_id=640). Until this day it presumed that around million people have returned home after the war (Čukur, Magnusson, Molander & Skotte, 2018). Main reasons why other have not returned, we can find in so many destroyed homes, war-time property laws, devastated economy and other who do not wish to live where they are a minority in ethnic sense (International Crisis Group, 1997). In the Annex 7 of the Dayton Peace Agreement which discusses the status of refugees and displaced persons in its article 1 it said that all the refugees have the right to freely and safely return to their pre-war homes and that the refugees have the right to reclaim their pre-war property (Pretitore, 2003). Number of problems had to be addressed concerning the reclaiming the war time property, such as claiming that refugees that claimed their property have left it on a voluntary basis and not by force. At this stage it is important to mention that in most parts of Republic of Srpska (Entity in Bosnia and Herzegovina with Serb majority) different war crimes have been committed, which have been prosecuted at the International Criminal Tribunal for Yugoslavia (ICTY) in Hague (Nederlands), so in the psychological sense, it is very hard for people to return to those places. Several Serb high ranking political and military officials have been prosecuted and convicted by ICTY, such as: Radovan Karadžić (President of Republic of Srpska during the war), Ratko Mladić (General of Republic of Srpska army), Ljubiša Beara (Security officer in the army of Republis of Srpska), all convicted for war crimes and genocide in Srebrenica. It is important to mention that above mentioned officials are just some of the convictions by ICTY.

Although most of the houses have been renewed, the authorities of Republic of Srpska (one of the Bosnian entities with Serb majority) have focused on ethnic homogenization of Serbs in this Bosnian entity and have produced uncomfortable political milieu for non-Serbs. One the events that is supported by the political elites in Republic of Srpska in the ideological sense is the annual gather of Chetnics in Višegrad (Town in eastern Bosnia) (Gadžo, 2019). Chetnics are a Serbian army organized in the WWII with Serbian ethno-nationalistic ideology, whose leaderDražaMihajlovićwas prosecuted for war crimes and sentenced to death in 1946. Chetnics in Višegrad gather to honour him and his ideology. Since several war atrocities have happened in Višegrad during the last war in Bosnia and Herzegovina, this event wakes war trauma and fear among Bosniak returnees in Višegrad and all over Republic of Srpska. This clearly represents (a well-known?) right-wing ethno-nationalistic radical discourse in Bosnia and Herzegovina, based on ethno-

nationalistic mythology of national leaders from the past that was main ideological constructed during the war and is alive even today.

On the other side, terrorist threatis representedby Islamistideologies embodied in radical Salafi movement, whose members live in rural isolated communities in Bosnia and Herzegovina, such as GornjaMaoča,Ošve and other places. Around 300 members of Salafi movement has gone to Syria and other places to join ISIS or other radical Islamist organizations (Azinović&Jusić, 2015). This movement support the radical Islamist ideology of anti-secularism and anti-Westernism, just as other radical Islamism organizations in the world. The historical roots of Salafi movement can be traced in engaging foreign Islamic (Mujahedeen) fighters in Bosnia and Herzegovina during the last war, who came to Bosnia to defend their Muslim brothers. The number of Mujahedeen in Bosnia and Herzegovina is estimated to be between two and three thousand. They fought alongside of Bosnian Muslim and initially where not under the command of Bosnian army. Later they were integrated into Bosnian army as the 3rd Corps of Army of Bosnia and Herzegovina (Azinović, 2015). Most of them have left the Country after the war, but some have remained. They have brought with them a radical perception of Islam that today is embodied in the Salafi movement.

As already mentioned, Bosnia and Herzegovina is a deeply ethnically divided country as a consequence of war and ethno-nationalistic political discourses. The three main political parties in Bosnia and Herzegovina are: Party of Democratic Action (SDA), Croatian Democratic Party (HDZ) and The Alliance of Independent Social Democrats (SNSD). All three of these political organizations are ethno-nationalistic political parties promoting the ideology of "otherness" and claiming that their ethnicity was victim during the last war and at same time presenting the "other" as an enemy. It is not rare that leaders of these political parties discuss possibilities of a "new war in Bosnia and Herzegovina"[1]. Milorad Dodik, the president of The Alliance of Independent Social Democrats, Serb nationalistic political party, uses a separatist terminology, trying to present Bosnia and Herzegovina as a failed state and therefore Republic of Srpska should separate from Bosnia and Herzegovina and Serbs should have their own state[2].

In a dominant political discourse in currant Bosnia and Herzegovina peoples that are in the situation of being an ethnic minority are discriminated in many ways. Here I would name just one example. By the Constitution of Bosnia and Herzegovina only members of three constitutive people can be members of Bosnian presidency (Bosniaks, Serbs or Croats). Any kind of ethnic minority cannot be elected to presidency. There are people who have gone to European Human Rights Court with this, but the Court decisions have not been implemented to this day. One of them is the case of Sejdić and Finci who are of Roma and Jewish nationality. In 2009 European Human Rights Court has convicted Bosnia and Herzegovina for discriminatory relationship to Roma and Jews in the context of their right to be elected

[1] *If there is a new war in Bosnia and Herzegovina, I would stand in front of my people. I'd rather die right now, then let the ones that have committed genocide rule parts of this country*" (Bakir Izetbegović, O Chanel, 2021)

[2] "*We will do this and will not be stopped by the US or anyone else, because we believe that the [1995] Dayton Agreement [ending the 1992-5 war in Bosnia] has been broken, primarily by the intervention of an international factor*" (Kovačević, 2020)

as members of Bosnian presidency. This Court decision has not been implemented until today in Bosnia and Herzegovina.

The case “Sejdić and Finci vs. Bosnia and Herzegovina” was the first case in Bosnia and Herzegovina that was confronting the discriminatory practices towards minorities in Bosnia and Herzegovina. The Constitution of Bosnia and Herzegovina in its Annex 4 distinguishes between constituent peoples (Bosnian citizens who declare themselves as Bosniaks, Serbs or Croats) and the others (Bosnian citizens who declare themselves as ethnic minorities or do not see themselves as members of any particular ethnicity). The Annex 4 of the Constitution of Bosnia and Herzegovina states as follows: *“House of Peoples. The House of Peoples shall comprise 15 delegates, two-thirds from the Federation (including five Croats and five Bosniacs) and one-third from the Republika Srpska (five Serbs)*” (Constitution of Bosnia and Herzegovina, Annex 4). It is clear only member of constitutive peoples can be elected in the House of peoples which is regarded as discriminatory. Similar case is with the Bosnian presidency which has three members who are representatives of constitutive peoples. In the Annex V of the Constitution of Bosnia and Herzegovina it is stated that only members of constitutive peoples can be elected in the presidency.

Sejdić and Finci argued that their ineligibility to be elected in the House of Representatives on the grounds of their ethnic background and have considered it racial discrimination. The matter in question was taken to European Court for Human Rights which ruled in favour of applicants (CASE OF SEJDIĆ AND FINCI v. BOSNIA AND HERZEGOVINA, Applications nos. 27996/06 and 34836/06)

3. The Constitutional Organization of the State and Constitutional Principles on D.Rad field of analysis

If one wants to discuss constitutional organization of a country, especially a post conflict country, it is important to take in consideration the context in which the constitution was arranged. As already mentioned, Bosnia and Herzegovina is a country where there was a war between three sides (three ethnicities) and where the only genocide in post WWII Europe has happened.

The Constitution of Bosnia and Herzegovina derived from the Dayton Peace Agreement that stopped the war in Bosnia and Herzegovina. It was signed between presidents of Bosnia and Herzegovina (Alija Izetbegović), Serbia (Slobodan Milošević) and Croatia (Franjo Tuđman) with the presence of the members of International Community representatives embodied in the president of U.S.A. at that time, Bill Clinton on the 21th of November 1995. Annex 4 of DPA is concerned with the Constitution of Bosnia and Herzegovina (OHR, 2009).

According to the Constitution of Bosnia and Herzegovina the countryis made up of two entities – Federation of Bosnia and Herzegovina (with Bosniak and Croat majority), Republic of Srpska (with Serb majority) and Brčko District (municipality in North-East Bosnia and Herzegovina). The lines between the entities are in most cases the front lines that were kept from the war (Vehabović, 2006). Other than that Federation of Bosnia and Herzegovina is divided with ten cantons of which 3 of the Cantons are with Croat majority, 5 with Bosniak majority and 2 of the 10 Cantons are ethnically mixed

between Bosniaks and Croats. The complex constitution of Bosnia and Herzegovina weakens the state level of authority, which is crucial for combating any form of radicalism and extremism.

Dayton Peace Agreement and later the Constitution of Bosnia and Herzegovina have cemented the ethnic composition and division of Bosnia and Herzegovina until this day. The only territory that should have served as an example of multi-ethnicity in Bosnia and Herzegovina is the town in North-East Bosnia and Herzegovina on the border to Croatia - Brčko DistrictBiH.

Ethnically homogeneous territories in Bosnia and Herzegovina are a playground for nationalistic political elites, who act as sovereign rulers of their territories. Creating the climate of "otherness", identity politics, presenting the other as an enemy and promoting ethnic exclusivity and exceptionalism, surely contributes to fear of the "others" which under circumstances can lead to different forms of radical behaviour.

Constitution of Bosnia and Herzegovina recognizes three constitutive peoples of Bosnia and Herzegovina – Bosniaks, Croats and Serbs and Others, which sets up Bosnia and Herzegovina as consociational democracy (Democracy concept specific for ethnically and religiously heterogeneous states) which undermines individual rights of citizens, promotes ethnic rights and gives political power to nationalistic leaders. This principle Mujkić (2010) called "*principle that ethnic homogeneity is a guarantor for stability of political community*" (p.8). These principles also create different discriminatory practices, especially in the treatment of ethnic minorities. This treatment of ethnic minorities can work as a push factor for radical behaviour. One of the examples for mistreatment are the events of building an Orthodox Church in the backyard of Bosniak woman, Fata Orlović from Konjević Polje, which was removed after 20 years of judicial fight. Fata Orlović and her lawyers went to European Court ofHuman Rights with this case and the Court ruled in her favour, but the decision of the Court was not implemented by the authorities of Republic of Srpska until beginning of June this year when the Church has been finally removed from Fata Orlović backyard (N1, 2021).

In the recent months Bosnia and Herzegovina has witnessed the straightening of separatist claims from Serb political elites, especially from the leader of their strongest political party (SNSD), MiloradDodik. His effort to present Bosnia and Herzegovina as a failed state has grown stronger. In one of his statements, he says: "*This is the only option (separating of Republic of Srpska from Bosnia and Herzegovina) and it will certainly be realised in some coming period*" (N1, 2021). Claims and practice like this would certainly be a lot harder to realize if there was no ethnic composition of Bosnia and Herzegovina. The Constitution has given powers to the entities then to the state and that is what makes claims like this easier. Ethnically clean territory and a separate entity make it possible for ethno-nationalistic leader to promote such politics. Still, the fact that there is a small number of Bosniaks and Croats living in Republic of Srpska and that the Constitution does not recognize the right to self-determination of entities, Dodik cannot fulfil his idea at this point in time.

4. The relevant legislative framework in the field of (de-) radicalisation

The national framework legislation on religious freedom and religious entities/groups

The Constitution of Bosnia and Herzegovina guarantees religious freedom for all citizens of Bosnia and Herzegovina. At this point it is important to mention that in Bosnia and Herzegovina there is a strong correlation between ethnicity and religion. Bosniaks are predominantly Muslims, Serbs are Orthodox, and Croats are Roman Catholic.

Annex IV of the Dayton Peace Agreement that, as already mentioned serves as basis for the Constitution of Bosnia and Herzegovina, provides freedom of thought, conscience and religion (Dayton Peace Agreement, 1995). Still, it appears that the laws are not fully implemented. Bosnia and Herzegovina's "Human Rights Report" (2020, p.9) in its part about freedom of speech states the following:*"The country's laws provide for a high level of freedom of expression, but the irregular and, in some instances, incorrect implementation and application of the law seriously undermined press freedoms".*

The same report also recognizes the pressure of officials on journalists, which directly undermines the freedom of the press. *"The practice of pressuring journalists to censor their reporting continued during the year as well. Reaction to investigative stories focusing on the corruption of high-level judicial officials continued generating pressure on journalists. In addition, journalists who worked on stories exposing procurement irregularities during the pandemic were exposed to undue pressure"* (Human Rights Report 2020, p.10)

The Law on Religion in Bosnia and Herzegovina provides freedom of religion and grants a legal status to any religion that has over 300 members. If religious community is not registered it cannot "*do charity work, raise funds, and construct and occupy places of worship*" (U.S. Department of State, 2021). Bosnia and Herzegovina is a secular state, and the Article 14 of the Law on Religion declares: "*the State may not accord the status of established Church to any religious community, nor it has the right to interfere in the affairs and internal organization of Churches and religious communities*" (Low on Religion, 2004). Still, the Article 15 of the same Law opens up space for the political elites on some level to make different agreements with religious institutions: "*matters of common interest for Bosnia and Herzegovina or some or more Churches and religious communities can be governed by an agreement made between the BiH Presidency, the Council of Ministers, the governments of entities and Churches or religious communities*".

Concerning the freedom of association in Bosnia and Herzegovina the Constitution of Bosnia and Herzegovina is clear. In its Article 2 it clearly states that the citizens of Bosnia and Herzegovina have the right of peaceful assembly and freedom of

association with others. Law of Association and Foundations of Bosnia and Herzegovina, Law of Association and Foundations of Federation of Bosnia and Herzegovina and of Republic of Srpska are all in line with the Constitution and regulate the foundation, registration, internal organization and cessation of an association and foundation that are to be registered at the level of Bosnia and Herzegovina or at the entity level.

The national framework legislation on radicalization and de-radicalization

Bosnia and Herzegovina have adopted in 2015 a "Strategy of Bosnia and Herzegovina for Preventing and Combating Terrorism 2015-2020" and the "Action Plan for the Implementation of the Strategy of Bosnia and Herzegovina for Preventing and Combating Terrorism" (Council of Ministers, 2015). The Strategy is based on prevention, protection, investigation and criminal prosecution and response/reaction to terrorist attacks.

By adopting the Strategy Bosnia and Herzegovina has declared itself ready to strengthen national capacities for combating terrorism and is a continuation of the "Strategy of Bosnia and Herzegovina for Preventing and Combating Terrorism 2006-2010" (Council of Ministers, 2006) (See Appendix 1). In the introduction of 2006-2010 strategy, it is stated that: "*Threat posed by potential terrorist attacks is growing in B&H just as in all anti-terror coalition partner countries. The existing infrastructure (both legislative and institutional) for monitoring and suppressing this problem is insufficient*" (p.2)

The Strategy has been adopted in July 2015, the Action Plan in October 2016, and the Supervisory Body for following the implementation of the Strategy in the mid of 2017 (Sorguč, 2018). The same source says that most funds spent on the implementation of the strategy were foreign donations and the money was mostly spent on conferences and workshops. Official report on the implementation of Strategy has not yet been produced, nor has a new Strategy.

Since report on the implementation of "Strategy of Bosnia and Herzegovina for Preventing and Combating Terrorism 2015-2020" has not been written yet we are unable to know the effects it has eventually had on combating terrorism. Still, there were certain changes in Criminal Code of Bosnia and Herzegovina (See Appendix 1), concerning prosecuting offences related to terrorism.

In the Articles201 and 202 of Criminal Code of Bosnia and Herzegovina, such acts including financing of terrorist activities are criminalized. These reforms were introduced at the state level, but also at the entity level and Brčko DistrictBiH. "Therefore, the general provisions of the Criminal Code of B&H provide for the criminalisation of not only organised terrorist activities, but also incitement, accessory, accomplices and similar types of activities mentioned above, which can also be applied to other criminal offences" (Committee of Experts on Terrorism, 2014, p.3)

The Strategy does not involve producing intersectional cooperation between different institutions and sectors. It is also notable that Ministry of Security has not established almost any kind of cooperation with youth organizations or generally civil sector, concerning radicalization of young people. These kinds of activities have been implemented mostly by domestic or foreign CSOs with foreign donations.

The sub-national legislation

As previously mentioned, Bosnia and Herzegovina is a complex state that under the national level has the levels of two entities (Federation of Bosnia and Herzegovina and Republic of Srpska) and Brčko District BiH as, a separate administrative unit. Criminal Codes of both entities (Federation of Bosnia and Herzegovina and Republic of Srpska) and Brčko District BiH, concerning terrorism are aligned with Criminal Code of Bosnia and Herzegovina. Each Criminal Code is applied according to the territory where the crime happened and all the Criminal Codes are aligned with Criminal Code of Bosnia and Herzegovina.

One of the recommendations for combating violent extremism made by Turčalo and Veljan (2018) says: "*Introduction of resilience development programs is necessary for high school students and young adults. One way to contribute to the development of resilience is by promoting student engagement at the community level such as volunteering and developing their awareness of their own positive contribution to society, and by encouraging students to think critically about taboo topics*" (p.23).

In this context the Government of Sarajevo Canton and its Ministry for Education, Science and Young People has adopted a law regulation about Evidencing the Unacceptable Behaviour and Protection of Students (Ministry for Education, Science and Young People, 2019). The aim of this legislation is to:

- Recognize risk factors that negatively influence their development and adjustment to the society
- Early recognition of unacceptable types of behaviour of students in elementary schools of Sarajevo Canton for prevention and protection from these kinds of behaviours
- Implementing measures by expert service in schools which are relevant for safety and social protection of students
- Timely and constant provision of educational support for students where risky behaviour, which negatively influence their development and adjustment to society was noted
- Gathering of statistical data with the aim of analysing and producing measures for preventing and protecting students in schools on Sarajevo Canton (Article 5, p.7)

Legislation like this can help identify children that are at risk and create programs in order to work with those children and potentially with their parents or caretakers, but also with school personnel in order to counter radicalization in early stages.

Paradigmatic case-law on radicalization

The Courts in Bosnia and Herzegovina have based their activities mostly on terrorist acts, which involve Islamic terrorism. To this date the Courts of Bosnia and Herzegovina have convicted 5 people for different activities related to terrorism, all together for 39.5 years in prison (Azinović, 2018).

Still, the time has shown that other forms of radicalism are present in Bosnia and Herzegovina. The still open wounds from the war, ethno-nationalistic political narrative supported with different myths from the past, among other factors, contribute to expansion of ethno-nationalistic radicalism. Often, the ethno-nationalistic organizations use hatespeech in order to spread fear among other peoples and even organize different events in order to commemorate their leaders and spread their ideological narrative.

One of such events is the annual meetings of Chetnics (Serb radical ethno-nationalistic organization based on the ideology of Chetnics from the WWII), who paraded through Višegrad where several war crimes have happened during the past war.

This time Court of Bosnia and Herzegovina has raised charges against three members of this movement (DušanSladojević, RistoLečićiSlavkoAleksić) for inciting ethnic and religious hatred at Chetnic gathering in Visegrad in 2019 (See Appendix 1). All three defendants have pleaded not guilty (Rovčanin, 2021). The members of this movement have been singing Serb nationalistic songs, such as: "*There will bloody Drina again*", which in its text contains threats to non-Serbs that aggravated the local Bosniak returnee population.

There have been several indictments for inciting ethnic and religious hatred in Bosnia and Herzegovina, involving physical and verbal attacks, graffiti writings on religious objects or cemeteries, but this is the first time that a movement or officially registered organization is on trial (OSCE, 2016). If we look at this trial from that perspective, depending what the verdict will be, we can say that also their ideological concept is on trial and it might be banned from Bosnia and Herzegovina, or just its open presentation. The State through its Court could send a message to similar organizations that this kind of radical behaviour will not be tolerated.

The effect on Bosniak returnee population because of events, such as mentioned gathering of Chetnics is devastating, since it wakes up the war trauma and raises the fear that the same could happen again.

5. The Relevant Policy and Institutional Framework in the field of (de-)radicalisation

The national policy framework on religious freedom and religious entities/groups; on freedom of speech or expression and political parties/associations/groups; on self-determination and sub-national identities

The Constitution of Bosnia and Herzegovina declared religion to be "a vital national interest" of three constituent peoples in Bosnia and Herzegovina. It also guarantees freedom of thought and practice, prohibits religious discrimination, and allows registered religious organizations to operate freely. According to U.S. Government, Sunni Muslims constitute approximately 51 percent of the population; Serbian Orthodox Christians 31percent; Roman Catholics 15 percent; and others, including Protestants and Jews 3 percent. (U.S. Department of State, 2018)

Following these principles, the House of Representatives and the House of Peoples of Bosnia and Herzegovina have passed the "Law on freedom of Religion and Legal Position of Churches and Religious Communities in Bosnia and Herzegovina" in 2004(See Appendix 1).

The aim of this Law is to guarantee the right of citizens of Bosnia and Herzegovina and others to freedom of conscience and religion in line with international standards of human rights determined in international declarations and convections.

In its Article 14 it clearly separates Church (religion) from State: "*Churches and religious communities are separate from the state and that means:1. The state may not accord the status of state religion nor that of state church or religious community to church or any religious community".*

In Bosnia and Herzegovina ethnicity and religion are closely tied, so Bosniaks are mostly Muslims, Serbs are Orthodox, and Croats are mostly Catholic. Determining Bosniaks, Serbs and Croats (along with the "others") to be constitutive peoples of Bosnia and Herzegovina, some critics would say that the Constitution of Bosnia and Herzegovina does not give much attention to individual human rights, but mostly, collective rights of constitutive peoples and that the Constitution, undermines rights of "Others" (Minorities-Jews, Roma and others). In the context of self-determination on the last census one could in the ethnic sense identify him/herself only as a member of one of the constitutive peoples or the "others".

According to the U.S. Department of State the Law provides freedom of expression, but the implementation of the Law is irregular. "*The law prohibits expression that provokes racial, ethnic, or other forms of intolerance, including "hate speech," but authorities did not enforce these restrictions*" (U.S. Department of State, 2018). It is not that rare that in Bosnia and Herzegovina, for example, journalists are verbally orphysically attacked or even receive death threats (Committee to Protect Journalists, 2021).

The National Policy framework on Radicalization and De-Radicalisation

As already mentioned,the Constitution of Bosnia and Herzegovina, although it in its preamble guarantees equal rights for everyone, its sets Bosniaks, Serbs and Croats as constitutive peoples of Bosnia and Herzegovina and by doing that sets the stage for collective rights in front of individual rights. Naming all the ethnic and religious communities as the “others” is not a principle that is in line with universal principles of Human Rights. The fact that the “others” cannot candidate and be elected to presidency or to the House of Representatives speaks for itself.

Education, as a tool for primary prevention of extremism and radicalism, is since the end of the war (92-95) under the influence of ethno-nationalistic political elites and serves as a tool for ethnic homogenisation through presenting the other as an enemy (Pečković, 2017).

“The most common and vivid example of segregation in Bosnian education is the so called “Two schools under one roof”. Students are taught in the same building but are divided according to their ethnicity and are taught according to different curriculum. Students also enter their schools through separate entrances and the schools have separate administrations” (p.23).

These kinds of policies have (had?) a longer-term devastating consequence for peace in Bosnia and Herzegovina since they maintain ethnic divisions and social distance, especially amongst children and young people.

What is also important to mention at this point is that education in Bosnia and Herzegovina is regulated on sub-national levels of Government (Entity level, Cantonal level and Brčko District level). There is no Ministry of Education on State level. Taking in consideration that Entities and Cantons are mostly mono-ethnic, we can presume that ethnically coloured education serves only for deepening ethnic distance among children and young people of Bosnia and Herzegovina.

Bosnia and Herzegovina has not developed a strategy for integrating returnees and their families from foreign war zones such as Syria and others. Around 260 Bosnian citizens are in detainee camps in Syria (100 men and 160 women and children) who at some point will be returned to Bosnia and Herzegovina and who, according to officials, pose a serious security threat to Bosnia and Herzegovina (AP, 2019). Ministry of Security of Bosnia and Herzegovina argues that the fact that Bosnian citizens and their families return to Bosnia and Herzegovina from Syria and Iraq makes combating terrorism and radicalism more complicated. This sector demands multi sectoral approach and cooperation so that returnees could be accepted back, rehabilitated, reintegrated and re-socialised into Bosnian society (Ministry of Security, 2021). Presumably these people are radicalized, and a special problem presents the radicalization of children and women. The question remains what strategy will be envisaged in order to include them again in normal life.

The sub-national policies

The Government of Federation of Bosnia and Herzegovinahas developed an Action Plan for Prevention and Combating Terrorism in Federation of Bosnia and Herzegovina 2020 – 2025 (Government of FB&H, 2020) (See Appendix 1).

"*The main aim of the Action Plan is to counter all forms of extremist and terrorist actions, respecting the values of democracy, rule of law, human rights and freedoms, making Bosnia and Herzegovina a space secure for life and work for all her citizens, as well as for others who live on Bosnian territory*" (p.2).

The Action Plan is divided in 4 sectors:

- Prevention,
- Mapping of risks and recourses,
- Investigation, criminal prosecution and penitentiary programs
- Social answer

Activities are also defined in the action plan. In the context of prevention of extremism and radicalism Action plan includes implementation of activities such as different research that would serve as a scientific basis for future actions,concerning extremism and radicalism. It has also recognized the importance of involving CSOs (especially once working with young people) in activities and projects concerned in combating extremism and radicalism. In the prevention part of the Action plan it was also mentioned that it is necessary to develop programs for combating radicalism and extremism on the internet, with special attention on children. The aim of such programs would be to enable children to recognize harmful content on the internet.

One part of the action plan is dedicated to developing operational protocols for acceptance of Bosnian citizens who return from foreign war zones. The plan is to involve 6 experts who would in 30 days develop a protocol. Institutions responsible to implement these protocols are different police institutions, Ministry of Security of Bosnia and Herzegovina, education sector, local authorities and other institutions.

First activities would be to determine the following:

1) Approximate number of women 2) age and sex of children 3) local communities where returnees would return 4) existing capacities and 5) needs of those communities necessary for successful rehabilitation and integration of returnees.

At this stage it is important to mention that there could not be found any implemented activities from the Action plan, so we can presume the implementation will go very slow. Not implementing this plan will go into favour of different extremist groups and prolong Bosnia and Herzegovina being a country in danger of radical activities of different organizations or individuals.

The institutional framework

The State institutions in charge for combating extremism and radicalism are the Ministry of Security, State Investigation and Security Agency (SIPA), Intelligence-

Security Agency of Bosnia and Herzegovina other State, Entity and Cantonal police agencies.

Local communities are in most cases adjusting their activities concerning prevention and combating extremism to the state level. Working on the local level is mostly left to CSOs. One of the examples is "PRONI" Centre for Youth Development Brčko, which is an organization that works with young people in order to raise their capacities and provide them with the opportunity to be agents of change in their community and not just observers. Through the BHRI initiative PRONI Centre has opened several youth clubs in different Bosnian communities, which are places where young people can put their ideas into action. PRONI Centre has started in 2018 with the project "Youth Countering Violent Extremism", that is focused to "*support and increase the participation of young women and men in activities, aimed at preventing violent extremism by prioritizing significant mechanisms for engagement at local and national levels, as set out in UN resolutions 2178 and 2250*".

It is important to mention that the CSOs working with young people function with donations of foreign organizations, such as USAID, UNDP, different embassies and other. Authorities on national, entity or local level have invested very little funds supporting the CSOs combating extremism and radicalism. Action Plan for Prevention and Combating Terrorism in Federation of Bosnia and Herzegovina 2020 – 2025 includes involvement of CSO in combating extremism and radicalism, but still there is no follow up on the activities in that direction.

Police agencies in Bosnia and Herzegovina are organising different types of trainings to prevent and respond to terrorist activities. One of the examples is the Police of Brčko District whose members participated in 28 specialist trainings concerning combating terrorism and 72 trainings concerning prevention of terrorism and violent extremism (Pisić, 2021).

6. Two in depth Case Studies

The two in depth case studies that are presented below are based on mapping out of the regional and local counter-radicalization measures through social integration.The first case study that is presented in this report is the **Strengthening Resilience of the Youth against Radicalization in the Western Balkans,** regional initiative implemented by international NGO Humanity in Action.

The second case study that we will discuss in this report is the **Bosnia and Herzegovina Resilience Initiative (BHRI),** implemented by International Organization for Migration. Both initiatives are meant to be a response to rising radicalism amongst young people in Bosnia and Herzegovina.

Humanity in action (See Appendix 3)

In 2018, Humanity in Action Bosnia and Herzegovina co-launched Strengthening Resilience of the Youth against Radicalization in the Western Balkans, an initiative aimed at strengthening capacities for resilience among youth in the Western Balkans, against radicalization and violent extremism. By raising awareness and promoting shared values as well as social cohesion through interfaith, inter-ethnic, and

intercultural dialogues, this program tackled the increasing rates of youth radicalization in the Western Balkans. By November 2019, the project implementation was completed in several phases, including the field research through focus groups of 8-10 young people in Albania, Bosnia and Herzegovina, Kosovo and Macedonia at high schools and universities, working with the identified active young people during the Summer School in Albania to build their capacities and raise their knowledge in order to better equip them to address the radicalization in their communities, among their friends and peers, creation of short promo videos (in each of the project country) advocating for young people, not to slide down the radicalization path, conducting interviews with 15-20 interviewees of interest, such as high school teachers, academics, religious leaders, opinion shapers relevant in a city/ community/ region-state, institutions dealing with youth, education and religious affairs and an online survey, all of which resulted in a research study publication containing country reports on the opinion of the youth in Bosnia and Herzegovina, North Macedonia, Albania and Kosovo.[3]

Working with young people, especially in ethnically divided countries, such as Bosnia and Herzegovina, can be crucial in combating any type of radicalism. As already mentioned, Bosnia and Herzegovina is a country with strong ethno-nationalistic political rhetoric, ethnically homogeneous territories, separated school curricula on Bosnian, Croat and Serb curricula, and all this means that young people in Bosnia and Herzegovina are under a strong ethno-nationalistic influence and are socialized into becoming good members of their ethnicity. All above mentioned is creating social (ethnic) distance among young people and project such as this one aim to bring young people together with aim to create resilience toward radical ideology and behaviour among them. It is also important to mention that this is a regional project which includes North Macedonia, Albania, Kosovo and Bosnia and Herzegovina. Bosnia and Herzegovina and Kosovo were war zones, as we know, and are still areas with unsolved ethnic issues. According to Azinović, 216 people from Bosnia and Herzegovina has participated in Syrian and Iraq war and 316 from Kosovo, which indicates the importance of regional activities such as this one.

Research implemented by Humanity in Action as part of this project, which contained focus groups in different cities in Bosnia and Herzegovina, has shown that the problem of radicalization is rarely discussed within the official institutional settings, "*among colleagues and within different educational platforms, especially among teachers and professionals who work with young adults. When discussed, it is often boiled down to reductionist statements on its existence and superficial identification of commonly known dangers and pitfalls for younger generations*" (Hasic, Mehmedović & Sijamija, 2020, p. 43). This indicates that experts agree that there is not enough institutional effort to provide teachers and other professional with adequate skills and knowledge to combat radicalism or prevent it in their schools or other relevant work places.

Humanity in Action BiH also launched the project Mitigating Online Radicalization and Hate-Speech in 2020 with partners from Slovakia and Lebanon. The project will also result in three studies containing opinions of youth from Bosnia and Herzegovina, Slovakia, and Lebanon (to be published in September 2021), which will be based on online survey created and disseminated by young leaders-participants of the project

[3] https://www.humanityinaction.org/bosnia-herzegovina-programs/strengthening-resilience-of-the-youth-against-radicalization-in-the-western-balkans/

from BiH, Lebanon and Slovakia. The inputs of the projects also resulted in training young leaders to build their capacities so they can act as multipliers against radicalization in their communities (with the help of experts who deal with radicalization, violent extremism, extremist propaganda, disinformation & strategic communication). Another goal was to communicate about radicalization in communities via trained young leaders. Lastly, the young leaders were trained to provide recommendations by experts for local stakeholders who are dealing with the prevention of radicalization. The impact of the project will consist of the creation of a network of active young people, who will work as multipliers of the project's ideas and goals in their respective communities thus supporting the official policies addressing radicalization and violent extremism in particular project countries.[4]

BHRI (Bosnia & Herzegovina Resilience Initiative) (See Appendix 3)

During the first year of the program, the Bosnia and Herzegovina Initiative (BHRI), financially supported by USAID and implemented by the International Organization for Migration, selected specific regions across the country on which to focus, and by this stage in the program, geographic targeting is largely steady on BHRI's core regional areas: Una Sana Canton, Greater Banja Luka, Zenica, Prijedor, Birač, Brčko, Central Bosnia and Herzegovina. Geographic selection is also determined by specific community characteristics that may present environmental push factors, such as:

Lack of opportunities for positive engagement with peers. In many communities, few structured activities exist for youth outside of school. Existing clubs or groups appear to rely on self-selection for membership (e.g. mountaineering clubs, bicycling clubs), do not typically include youth who may be at risk of marginalization, or are politically aligned.

Marginalization/stigmatization. Towns associated with violent extremism or with exceptionally egregious war crimes are stigmatized, and youth within them may feel marginalized from society leading them to entrench themselves within extreme narratives rather than to seek alternatives.

BHRI supports local activist voices and efforts, bolstering their involvement with authorities, and developing national messaging campaigns and media content based upon issues raised at the local level. It also highlights to larger audiences the successes local activists and positive actors are already achieving, as the lack of positive role models and champions is a key challenge to fostering wider youth activism. While the program's focus has remained mostly at the local and municipal level, in the last year it has been supporting channels for larger, more balanced narratives, and stronger cross-country linkages between local partners. Given that extremism in BiH draws its potential to destabilize from the very political and social make-up of the country, and the Dayton system that maintains it, BHRI clearly cannot meaningfully address all of the root causes of communal divisions and political instability. BHRI will therefore judge success in terms of what positive, moderate

[4] https://www.humanityinaction.org/mitigating-online-radicalization-and-hate-speech/

alternative actors, voices and networks it can build, and empower to continue their work beyond the end of the program. Related to that, up to now:

BHRI has invested in significant positive message development in grassroots digital and traditional media, and is following this up with a concerted attempt to project these into higher-level digital media and campaigns.

BHRI has built a network of community media platforms from across the country and trained some 260 young grassroots journalists. In all cases, BHRI has provided technical support to improve the targeting, reach, and analytics of the platforms, and the story development skills of the journalists.

The program has created or expanded numerous youth centres and clubs in some of the most isolated, marginalized or hard-line areas of the country. In addition to being run by trained youth workers, these spaces are now providing platforms for youth engagement with local municipalities on their topics of interest, as well as demonstrating collaboration with each other across ethnic lines. BHRI is now focused on networking these actors into broader coalitions across regions and revitalizing the formal Youth Councils that represent youth issues at the political level.

BHRI continues to invest in skills building among vulnerable and activist youth, including leadership, critical thinking, and empathy. Some of the most successful work in this area has been through dialogues with veterans from the 1990s war.

The program supported major online news portals to counter hate speech on their sites through a combination of targeted campaigning and technical support.

BHRI continues to support a wide array of cultural and social activities which have proven effective tools to mobilize youth and provide channels to move from discussions on contentious versions of a shared history to those of a shared vision of the future.

In the latter half of the program, BHRI has increasingly invested in diversified media programming that provides platforms for reflection on the future of the country from multiple standpoints and on shared values, on the assumption that positive, high-quality, humorous content would be welcomed by (politically affiliated) mainstream channels. These include Cantonal TV youth shows, YouTube satirical series and piloting podcast series on youth issues.

In the run-up to the 2020 local elections, BHRI supported local activists, including long-term partners, to mobilize youth to advocate for more issues-based campaigning, get out the youth vote, and raise topics of interest to youth, along with bolstering youth participation in political processes by training them on how to monitor local government performance. BHRI also supported political academies wherein members of all political parties in key areas receive training on how to develop political platforms and campaigns based on positive principles and accountability to constituents rather than divisive identity politics. Following the elections, this work has transitioned to monitoring adherence to campaign promises and preparing for local council elections to be held throughout the year.

Most important lessons learned from the program so far:

Media and campaigns:

Supporting incidental community initiatives led by youth is great for demonstrating appreciation of youth involvement with the community, creating a feedback loop that encourages further growth in skills, knowledge, changing attitudes and eventually behaviour. However, purposeful community or even nationwide campaigns, side-line the campaign narrative with the values, mission and vision that transcend engagement of youth to refurbishment of social fabrics that accept the other.

Appealing social media features such as documentaries and music spots have potential for high reach and engagement, hence it is important to understand direct and derived messages and discussion points that such narratives produce in the society. Reacting to a narrative is far from changing own attitudes. Most likely, people who positively engage with the content are those agreeing with the content. However, this does not mean that such features are not needed, as youth with similar attitudes (relevant change actors) can see that they are not alone.

Youth capacity building and networking:

Isolation of youth from their primary communities weakens the social contract with that group (good or bad). Hence, it is easier to discuss topics outside of their comfort zones in remote environment. However, with the return to their primary context it is crucial for them to have concrete assignment where they demonstrate dedication to new optics, immediately after return. Otherwise, natural trend is strengthening traditional points of views and “swimming down the stream”.

Young people feel as if older are contextualising the past (war stories) within the present and future, as if that is the only way society can prevent past to reoccur. However, by doing this, the youth has become dissociated. Often, they will easily advocate positive accepting values and in the same time ferociously justify policies and practices that discriminate certain groups. In order to avoid the second, programmes try to avoid discussion on the second, thus superficially focusing on the most obvious. There is a need for strong authorities (role models) that can create a space for young people to discuss, justify and analyse conflicted policies in a space of trust.

7. Conclusion

Throughout this report we could read about different laws, policies and regulations that deal with issues of radicalisation and terrorism on different levels in Bosnia and Herzegovina.

Most controversial legal document in the context of radicalisation is the Constitution of Bosnia and Herzegovina itself. There are several reasons for this claim. First one is the fact that it legally divides the citizens of Bosnia and Herzegovina into constitutive peoples (Bosniaks, Croats and Serbs and the Others) and sets them out to be political factors and not the individual (Citizen). In its preamble it states as follows:

„*Bosniacs, Croats, and Serbs, as constituent peoples (along with others), and citizens of Bosnia and Herzegovina hereby determine that the Constitution of Bosnia and Herzegovina is as follows*:" (Constitution of Bosnia and Herzegovina-Preamble, p 2)

This gives the power of collective identity over individual rights, which is not the practice of EU countries.

The ethno-nationalistic political elites use this concept, with the help of ideological state apparatuses (education, media and other) to homogenize their "own people" and present the other as an enemy creating a tens political atmosphere. With defining constitutive peoples (Bosniaks, Croats and Serbs) it also creates a sense of alienation for the "others" (Roma, Jews and all the citizens of Bosnia and Herzegovina who do not fell as the three constitutive peoples).

One of the examples of discrimination and alienation of the "others" is the case of Dervo Sejdic and Jakov Finci, that we have discussed in this report (Case of Sejdić and Finci vs. Bosnia and Herzegovina). In December of 2009 the European Court of Human Rights has reached a verdict that Bosnia and Herzegovina should amend the Constitution and electoral legislative in order to eliminate this discriminatory practice, but this decision has not been implemented to this day (COE, 2019).

Few years after the terrorist attack in New York (2001) in the year 2003 the authorities in Bosnia and Herzegovina have made changes to the Criminal Code of Bosnia and Herzegovina in prevention and punishment for committing terrorist activities. In the new Criminal Code of Bosnia and Herzegovina, terrorism has been criminalized (Article 201) as well as financing of terrorist activities (Article 202). In the year 2020 State Investigation and Protection Agency has filed one report to State Prosecution concerning charges for terrorism (State Investigation and Protection Agency, 2021). As the effect of these changes around 40 people have been prosecuted for terrorist activities and they have been sentenced to 150 years in jail altogether (Vučetić, 2018). Criminal Code of Bosnia and Herzegovina was amended in 2014 as people from Bosnia and Herzegovina started participating in conflict in Syria and Iraq, joining terrorist groups, such as ISIS, in order to criminalize participation of Bosnian citizens in foreign wars (Ministry of Security of Bosnia and Herzegovina, 2016).

It is important to mention, at this point, that the legal regulations mentioned above serve as tool for combating terrorism and radicalism in Bosnia and Herzegovina, but still, they do not solve the core issues in the Bosnian society. The ethno-nationalistic narrative in Bosnia and Herzegovina is still strong and it sometimes creates a warlike atmosphere among the citizens. Ethnically divided territories in Bosnia and Herzegovina make it hard for people to meet (especially young people), three ethnically biased school curricula, which serve as an ideological apparatus for sustaining ethnic divisions (Pečković, 2017) are just a few examples of systematic ethnic divisions in Bosnia and Herzegovina that create feelings of alienation and insecurity.

As already mentioned, combating terrorism is happening on a global level, which means that leading powers have the greatest influence on different processes that concern fighting terrorism and radicalism. One case that can be regarded as violating individual freedoms happened in Sarajevo, right after the World Trade Centre attacks in New York in 2001. It is the case of the "Algerian Six" (Bensayah Belkacem, Hadj

Boudella, Lakhdar Boumediene, Sabir Mahfouz Lahmar, Mustafa Ait Idr and Mohammed Nechle). Few days after the attacks on WTC, six Bosnian citizens of Algerian background have been arrested by Bosnian authorities for terrorism and plotting new attacks in the United States. All six of them were acquitted by Bosnian courts, but on the day, they were acquitted, they were arrested by United States authorities and brought to Guantanamo (France 24, 2014). Nermina Pivić, a lawyer from Bosnia and Herzegovina, who defended one of the accused discovered that her client was illegally interrogated by the FBI agents who came to Bosnia and Herzegovina.

In 2008 they were prosecuted at the County Court in Washington DC and acquitted (N1 BiH, 2016). Still today, the question remains, if the Algerian Six were acquitted by Bosnian courts, how could they have been given up to United States authorities (Boumediene v. Bush, 553 U.S. __ (2008)

What we know is this event has caused anger and demonstrations in front of the jail where Algerian Six where kept, which could have led to other extremist and radical behaviour of certain parts Bosnian Muslim community, especially Salafi community who already considered United States as their enemy and others who they believe are cooperating with United States.

Bosnia and Herzegovina Strategy for Countering Terrorism 2015-2020 has obviously expired and no report has been published at this point about the implementation of this strategy. Bosnia and Herzegovina is still a fertile ground for radical and extremist individuals or organizations, but it is notable that with the defeat of ISIS and similar organizations, the Islamic terrorism is growing weaker. Still, there is no proof that it is gone, since Salafi communities are still in existence and all the-push factors are still here. It is notable that the radical behaviour of ethno-nationalist maintained its power and influence through leading ethno-nationalistic political parties.

The European Union has made effort to help Bosnia and Herzegovina at its road to becoming a member of European Union. One of the efforts is the signed Stabilisation and Association Agreement between European Communities and their Member States, of the one part, and Bosnia and Herzegovina, of the other part in 2015 (Official Journal of the European Union, 2015). In its Article 82 it highlights the importance of cooperation between European Union and Bosnia and Herzegovina for combating money laundering and terrorism. Cooperation in the area of combating terrorism includes assistance in developing and implementing regulations and standards for combating terrorism. In the context of combating terrorism Bosnia and Herzegovina has agreed to cooperate with European Union in three main points. First one is the implementation of United Nations Security Council Resolution 1373 (2001). Further on Bosnia and Herzegovina agrees to exchange information on terrorist groups and their support networks and third point is the exchanging experiences in with regard to means and methods of combating terrorism (Article 85). At this stage it is important to mention that documents, such as "*Strategy of Bosnia and Herzegovina for Prevention and Combating Terrorism" and other regulations, derived from the commitment of Bosnia and Herzegovina to implement stabilisation and association agreement signed with European Union. This was also confirmed during the interview with the Ministry for Security of Bosnia and Herzegovina" (Ministry of Security of Bosnia and Herzegovina, 2021)*

Annexes

Annex I: Overview of The Legal Framework on Radicalization & De-Radicalization

Legislation title (original and English) and number	**Date**	**Type of law** (i.e. statute, regulation, rule, etc…)	**Object/summary of legal issues related to radicalization**	**Link/PDF**
Criminal Code of Bosnia and Herzegovina	27.06. 2003	statue	Criminalized terrorist activities and financing of terrorism.	https://www.legislationline.org/documents/section/criminal-codes/country/40/Bosnia%20and%20Herzegovina/show
Criminal Code of Federation of Bosnia and Herzegovina	28.07.2018	statue	Criminalized terrorist activities and financing of terrorism.	https://advokat-prnjavorac.com/legislation/fbih_criminal_code.pdf
Criminal Code of Republic of Srpska	01.07.2003	statue	Criminalized terrorist activities and financing of terrorism.	http://tuzilastvobih.gov.ba/files/docs/zakoni/RS_Criminal_Code_49_03,108_04_web.pdf
Criminal Code of Brčko District	28.05.2003	statue	Criminalized terrorist activities and financing of terrorism.	http://www.tuzilastvobih.gov.ba/files/docs/zakoni/BD_Criminal_Code_10_03_45_04_eng_web.pdf

Law on Freedom of Religion and Legal position of Churches and Religious Communities in Bosnia and Herzegovina	22.01. 2004	statue	Gives each religion same rights and responsibilities.	https://mrv.ba/lat/clanci/vijesti/dokumenta/law-on-freedom-of-religion-and-legal-position-of-churches-and-religious-communities-in-bosnia-and-herzegovina/
Strategy of Bosnia and Herzegovina for Combating Terrorism 2006-2010	12.2006	policy	The Strategy for Combating Terrorism 1 will take stock of the current situation in B&H and set priority tasks whose realization will contribute to establishing a comprehensive system for combating terrorism in B&H.	https://www.legislationline.org/download/id/1049/file/eac52236dde40b885cafb2006329.pdf
Strategy of Bosnia and Herzegovina for Combating Terrorism 2015-2020	2015	policy	The Strategy of Bosnia and Herzegovina for Preventing and Combating Terrorism (for the period 2015 to 2020), is based, primarily, on the approach of the European Union in preventing and combating terrorism.	http://msb.gov.ba/PDF/STRATEGIJA_ZA_BORBU_PROTIV_TERORIZMA_ENG.pdf
Action plan for implementation of strategy of Bosnia and Herzegovina for Combating Terrorism 2015-2020				
Action Plan for Prevention and Combating Terrorism in Federation of Bosnia and Herzegovina 2020 – 2025	06.2020	policy	*The main aim of the Action Plan is to counter all forms of extremist and terrorist actions respecting the values of democracy, rule of law, human rights and freedoms-make Bosnia and Herzegovina a space secure for life and work for all her citizens, as well as others living on Bosnian territory*	http://www.fbihvlada.gov.ba/file/Akcioni%20plan(2).pdf

NATIONAL CASE LAW

Case number	Date	Name of the court	Object/summary of legal issues related to radicalization	Link/PDF
Not known	05.01.2021	Court of Bosnia and Herzegovina	Inciting ethnic and religious hatred at a uniform-clad rally in the eastern Bosnian town of Visegrad in 2019.	http://www.tuzilastvobih.gov.ba/?id=4708&jezik=e

OTHER RELEVANT ISSUES

	Constitutional provisions	Statutory law (statues, rules, regulations etc.)	Important case law	Comments/issues relevant to radicalization
Freedom of religion and belief	Protecting the rights of all recognized religious communities	Law on Freedom of Religion and Legal Protection of Churches and Religious Communities in Bosnia and Herzegovina	Case of Hamidovic vs Bosnia and Herzegovina https://www.legislationline.org/download/id/9308/file/ECHR_CAse%20of%20Hamidovic%20v.%20BiH%202017.pdf	Providing equal status to all religious communities

Minority rights	Regulating the rights and obligations of members of national minorities in Bosnia and Herzegovina (hereinafter BiH) and duties of the authorities in BiH to respect and protect, preserve and develop the ethnic, cultural, linguistic and religious identity of each member of national minorities in BiH, who is a citizen of BiH.	Law on Rights of National Minorities	Case of Sejdic and Finci vs. Bosnia and Herzegovina https://www.coe.int/en/web/execution/-/sejdic-and-finci-after10-years-of-absence-of-progress-new-hopes-for-a-solution-for-the-2022-elections	Providing equal status to all minorities in Bosnia and Herzegovina
Freedom of expression	Providing all citizens with the right to express themselves which is one of the fundamental freedoms guaranteed by the UN Declaration of Human Rights	Law on Protection Against Defamation of the Federation of Bosnia and Herzegovina	Abedin Smajic vs. Bosnia and Herzegovina https://globalfreedomofexpression.columbia.edu/cases/smajic-v-bosnia-herzegovina/	Mr Smajić was found guilty in 2012 of inciting national, racial and religious hatred, discord or intolerance and given a one-year, suspended prison sentence.
Freedom of assembly	Providing citizens with the right to protest and assembly	Constitution of Bosnia and Herzegovina	Sladojevic, Aleksic and LecicVs.Bosnia and Herzegovina https://detektor.ba/2020/12/10/podignuta-optuznica-protiv-trojice-pripadnika-ravnogorskog-	Defendants have been accused by the Court of Bosnia and Herzegovina forinciting national, racial and religious hatred during the Chetnic gathering in Visegrad in 2019

			pokreta/?lang=en	
Freedom of association/political parties etc.				
Hate speech/ crime	Preventing violence towards a person or a group based on religion, ethnicity, race, sexual orientation and other.	Criminal Code of Bosnia and Herzegovina	Hate Crimes and Bias-Motivated Incidents in Bosnia and Herzegovina: 2015 Monitoring Findings of the OSCE Mission to Bosnia and Herzegovina	Hate Crimes and Bias-Motivated Incidents in Bosnia and Herzegovina: 2015 Monitoring Findings of the OSCE Mission to Bosnia and Herzegovina https://www.osce.org/files/f/documents/7/8/281906.pdf
Church and state relations	Providing secular principles in Bosnia and Herzegovina	Law on Freedom of Religion and Legal Protection of Churches and Religious Communities in Bosnia and Herzegovina	Obligatory-Mandatory religious education in primary schools	REPORT ON THE IMPLEMENTATION OF THE CONVENTION AGAINST THE DISCRIMINATION IN EDUCATION, 1960 (p, 23) http://www.unesco.org/education/edurights/media/resources/file/Bosnia_and_Herzegovina_Report_on_the_Implementation_of_the_Convention_Against_the_Discrimination_in_Education.pdf

Annex II: List of Institutions Dealing with Radicalization & Counter-Radicalization

Authority (English and original name)	**Tier of government** (national, regional, local)	**Type of organization**	**Area of competence in the field of radicalization& de-radicalization**	**Link**
Ministry of Security of Bosnia and Herzegovina (MinistarstvosigurnostiBosneiHercegovine)	National	One of the ministries in the Council of Ministers of Bosnia and Herzegovina	The Ministry of Security of Bosnia and Herzegovina has competence over the protection of international borders, inner border crossings, traffic regulation at BiH border crossings, prevention and detection of perpetuators of criminal acts of terrorism, narcotics trafficking, falsifying domestic and foreign currency, trafficking in human beings and other criminal acts with international or inter-entity elements. It is also competent for international co-operation in all fields falling within the scope of competence of the Ministry.	http://vijeceministara.gov.ba/ministarstva/sigurnosti/default.aspx?id=132&langTag=en-US
State Investigation and Protection Agency (Drzavnaagencijazaistragei zastitu)	National	Police and investigative structures of Bosnia and Herzegovina	Efficient prevention of terrorism, organised crime, serious financial crime and corruption, detection and investigation of war crimes and witness protection	http://www.sipa.gov.ba/en/about-us/general-info
Ministry Council of Bosnia and Herzegovina (VijeceministaraBosneiHercegovine)	National	Political body	The Council of Ministers is a body of executive authority of Bosnia and Herzegovina, exercising its rights and carrying out its duties as governmental functions, according to the Constitution of BiH, laws and other regulations of Bosnia and Herzegovina.	http://www.vijeceministara.gov.ba/o_vijecu_ministara/default.aspx?id=1752&langTag=en-US

Federal Ministry of Internal Affairs (Federalnoministarstvounutrasnjihposlova)	Entity level	One of the ministries in Government of Federation of Bosnia and Herzegovina entity.	In charge of coordinating police structures in Federation of Bosnia and Herzegovina entity.	http://fbihvlada.gov.ba/bosanski/ministarstva/unutrasnji_poslovi.php
Ministry of Interiors of Republic of Srpska (MinistarstvounutrasnjihposlovaRepublikeSrpske)	Entity level	One of the ministries in Government of Republic of Srpska entity.	In charge of coordinating police structures in Republic of Srpska.	https://mup.vladars.net/eng/index.php
Police of Brcko District (PolicijaBrckodistrikta BiH)	Local level	Police at the level of Brcko District. Part of police structures of Bosnia and Herzegovina.	Prevention, detection and investigation of terrorist offenses and other criminal offenses, security - interesting events and phenomena related to terrorism, extremism and violent crime based on religious or national extremism, hooliganism or other motives, achieving the highest standard of human rights andbasic freedoms.	https://policijabdbih.gov.ba/ba/organizacione-jedinice-policije/jsten.html
Intelligence - Security Agency of Bosnia and Herzegovina (Obavještajno-sigurnosnaagencija Bosne I Hercegovine - SIPA)	National	Part of police structures of Bosnia and Herzegovina at the national level.	The Crime-Investigative Department of SIPA is in charge of organized crime, terrorism, human trafficking, financial crime and corruption, illicit drug trafficking, illicit arms trafficking, and other criminal offenses within the jurisdiction of the Court of BiH and the Prosecutor's Office of BiH.	http://www.sipa.gov.ba/en

Annex III: Best Practices/Interventions/Programmes

National level

	Institution(s)	Aim	Source	Evidence of effectiveness / literature
1.	Parliamentary Assembly of Bosnia and Herzegovina	Combating radicalism and terrorism with adjustments to the Criminal Code of Bosnia and Herzegovina	http://www.tuzilastvobih.gov.ba/?opcija=sadrzaj&kat=4&id=40&jezik=e	Decreased number of terrorist attacks in Bosnia and Herzegovina GTD Search Results (umd.edu)
2.	Interreligious council of Bosnia and Herzegovina	Establishing interreligious communication and cooperation in Bosnia and Herzegovina	https://mrv.ba/o-nama-2/	Implementation of different projects aimed at peace building in Bosnia and Herzegovina and sending anti-radicalism massages. https://mrv.ba/wp-content/uploads/2020/06/irc_bih_4X0.pdf

Sub-national/Regional level

	Institution (s)	Aim	Source	Evidence of effectiveness / literature
1.	Government of Federation of Bosnia and Herzegovina	Action plan for combating all forms of extremist and terrorist action considering values of democracy, the rule of law and human rights.	http://www.fbihvlada.gov.ba/file/Akcioni%20plan(2).pdf	Decreased number of terrorist attacks in Federation of Bosnia and Herzegovina GTD Search Results (umd.edu)

Local level

	Institution(s)	Aim	Source	Evidence of effectiveness / literature
1.	Humanity in Action	Strengthening capacities for resilience among youth in the Western Balkans against radicalization and	https://www.humanityinaction.org/bosnia-herzegovina-programs/strengthening-resilience-of-the-youth-against-radicalization-in-the-western-balkans/	Reports from the focus groups of 8-10 young people in Albania, Bosnia and Herzegovina, Kosovo and Macedonia at high schools

		violent extremism		and universities.
2.	International Organization for Migration (BHRI Program)	BHRI supports local activist voices and efforts, bolstering their involvement with authorities, and developing national messaging campaigns and media content based upon issues raised at the local level.	https://bih.iom.int/	• Youth workers educated to respond to the needes of young people • Trained some 260 young grassroots journalist • Supported major online news portals to counter hate speech on their sites through a combination of targeted campaigning and technical support.

Annex IV: Policy Recomendations

- Implementing educational reforms that would deal with the issue such as radicalism and extremism with the aim to prevent such phenomena at a young age.
- Working with young people on peace building issues
- Economic reforms with the aim of decreasing poverty in Bosnia and Herzegovina.
- Combating organized crime and corruption in Bosnia and Herzegovina.

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DeRadicalisation
in Europe and Beyond: Detect, Resolve, Reintegrate

Deradicalisation and Integration Legal & Policy Framework

Finland/Country Report

WP4

November 2021

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List of Abbreviations

EU	European Union
CC	Criminal Code of Finland
CSO	Civil Society Organisation
GDPR	General Data Protection Regulation
ECHR	European Convention on Human Rights
FRA	European Union Agency for Fundamental Rights
HDL	Helsingin Diakonissalaitos, Deaconess Foundation
ISF	Internal Security Fund
MoI	Ministry of the Interior, Sisäministeriö
NAP	National Action Plan for the Prevention of Violent Radicalisation and Extremism 2019-2023
NBI	National Bureau of Investigation, Keskusrikospoliisi
NRM	Nordic Resistance Movement
PL	Suomen perustuslaki, Finnish Constitution
RAN	Radicalisation Awareness Network
REDI©	Model for supporting resilience, democracy and dialogue against violent radicalisation and extremism in educational institutions
SINE	Suomen islamilainen neuvosto, the Islamic Council of Finland
SUPO	Suojelupoliisi, Finnish Security Intelligence Service
THL	Terveyden ja hyvinvoinnin laitos, National Institute for Health and Welfare

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About the Project

D.Rad is a comparative study of radicalisation and polarisation in Europe and beyond. It aims to identify the actors, networks, and wider social contexts driving radicalisation, particularly among young people in urban and peri-urban areas. D.Rad conceptualises this through the I-GAP spectrum (injustice-grievance-alienation-polarisation) with the goal of moving towards measurable evaluations of de-radicalisation programmes. Our intention is to identify the building blocks of radicalisation, which include a sense of being victimised; a sense of being thwarted or lacking agency in established legal and political structures; and coming under the influence of "us vs them" identity formulations.

D.Rad benefits from an exceptional breadth of backgrounds. The project spans national contexts including the UK, France, Italy, Germany, Poland, Hungary, Finland, Slovenia, Bosnia, Serbia, Kosovo, Israel, Iraq, Jordan, Turkey, Georgia, Austria, and several minority nationalisms. It bridges academic disciplines ranging from political science and cultural studies to social psychology and artificial intelligence. Dissemination methods include D.Rad labs, D.Rad hubs, policy papers, academic workshops, visual outputs and digital galleries. As such, D.Rad establishes a rigorous foundation to test practical interventions geared to prevention, inclusion and de-radicalisation.

With the possibility of capturing the trajectories of seventeen nations and several minority nations, the project will provide a unique evidence base for the comparative analysis of law and policy as nation states adapt to new security challenges. The process of mapping these varieties and their link to national contexts will be crucial in uncovering strengths and weaknesses in existing interventions. Furthermore, D.Rad accounts for the problem that processes of radicalisation often occur in circumstances that escape the control and scrutiny of traditional national frameworks of justice. The participation of AI professionals in modelling, analysing and devising solutions to online radicalisation will be central to the project's aims.

Executive Summary/Abstract

The focus of the report is at the macro level with some insights into regional and local levels for integration measures in Finland as part of the Work Package 4, De-radicalisation and Integration Legal and Policy Framework. The aim of the report is to give a conceptual account of how existing policies and laws address radicalisation, to pinpoint their most critical aspects and best practices, and finally to develop evidence-based policy and guidelines in Finland. The study is based, first, on desk research on legal and policy framework, which includes mainly the scholarly literature, legislative sources and Finnish news media sources. Second, we conducted five interviews with six persons representing experts in legislation, policymaking and violent radicalisation and relevant stakeholders in the field of de-radicalisation. Third, we undertook two case studies on Finnish de-radicalisation projects.

Finland is a unitary state, characterised by the Nordic welfare state model with a strong position for municipalities but with weak regional institutions. The Finnish Constitution highlights the role of basic rights. Legal positivism in the interpretation of the law and the principle of legality are typical features of Finnish legal practice. The ex-ante examination system of the constitutionality of new legislation or EU treaties is a distinctive feature. However, the position of case law has become stronger since the 1990s. Many of the traditional political division lines and minority groups have been recognised in the Finnish political and party system and constitution. However, the existing socio-economic and geographical cleavages, the pluralisation of society, and the emergence of issues thus far not recognised in the Finnish socio-economic, political and cultural framework have set new demands for the legal and political system.

Before the 2010s, violent radicalisation prevention work could only be found embedded in other policy documents, but the focus has since then moved from mere terrorism prevention to comprehensive de-radicalisation work done in multi-professional cooperation with stakeholders at both national and local levels. The report presents two de-radicalisation projects in more detail, of which the first is a local exit work project and the other is a project provided by a national actor for spreading information and knowledge on violent radicalisation amongst social and health care sector workers.

We lay out policy recommendations that consist of securing the welfare services and recognising potential exclusion mechanisms and considering a combination of implicit and explicit de-radicalisation policies. First, trust in public authorities, including the police and the judicial system, is a factor of high importance and is part of implicit de-radicalisation policy together with providing universal accessible education and social services. Multi-professional collaboration, the inclusion of stakeholders, the combination of national coordination and locally implemented prevention work and a pragmatic approach have been functioning elements in Finnish explicit de-radicalisation policies. Violent radicalisation should be seen as both a social and a security issue, and excessive securitisation of the policies should be avoided. While projects can be useful in developing models and tools, in particular exit work which is now mainly done through project-based funding should be established and its funding arranged permanently to guarantee continuity. Third sector organisations can reach the grassroots level and individuals mistrusting public authorities, but their funding

must be secured. Information about all kinds of violent radicalisation should be openly available and public authorities should be educated on the topic. Finally, the role of international cooperation and learning from international examples is central.

1. Introduction

The focus of the report is at the macro level with some insights into regional and local levels for integration measures in Finland as part of Work Package 4, De-radicalisation and Integration Legal and Policy Framework. The aim of the report is to give a conceptual account of how existing policies and laws address radicalisation, to pinpoint their most critical aspects and best practices, and finally to develop evidence-based policy and guidelines in Finland. The report has four objectives: to be descriptive, explanatory, assessment and policy oriented. By radicalisation, the D.Rad project (see WP3.1 report on Finland, Horsmanheimo et al, 2021) has meant a process involving the increasing rejection of established law, order, and politics and the active pursuit of alternatives, in the form of politically driven violence or justification of violence (i.e., radicalisation here refers to violent forms of radicalisation). By de-radicalisation we mean processes countering such rejection at individual (micro), organisational (meso), or societal (macro) levels resulting in a shift from violent to nonviolent strategies and tactics.

The Finnish political culture is mainly described as consensual despite stark political divides in the past. The Finnish Constitution was originally written as a compromise between rivalling political interests and social groups in a country torn by the 1918 civil war. The constitutional reforms of the 21st century have strengthened the role of parliamentarism and basic rights. Legal positivism in the interpretation of the law and the principle of legality are typical features of Finnish legal practice, although the position of case law has become stronger since the 1990s. The most relevant legal framework regarding radicalisation includes freedom of speech, freedom of religion, ethnic agitation (see section 4), defamation of character and terrorism laws. Finland has nevertheless been notified by the European Commission that it should fully transpose EU law criminalising hate speech and hate crimes. With low levels of violent radicalisation, to date Finland has faced only one convicted terrorist crime. However, while the Finnish consensual political culture has acted as buffer against radicalising tendencies, its capacity to effectively deal with differences and controversies has been questioned (Saukkonen, 2013a).

In Finland, violent radicalisation was not a topic in public discussion before the 2010s. Only terrorism emerged as an issue to be prevented by the Finnish Security Intelligence Service (SUPO). In the context of low levels of political violence nationally, international cases alarmed Finnish authorities about the need for preventative work. The focus has moved from terrorism prevention by SUPO to comprehensive de-radicalisation work done in cooperation with stakeholders from public and third sector organisations. Finland is a case in point on implicit and explicit policies (cf. Ahearne, 2009). It emphasises welfare services as an implicit de-radicalisation policy. The relatively new explicit de-radicalisation work can be described as pragmatic, leaning on collaboration between various public authorities and third sector organisations. It remains nevertheless relatively lowly funded, often with fixed-term projects, which poses a risk for the continuity of the policy.

The study is based partly on desk research on legal and policy framework, including mainly the scholarly literature, legislative sources and Finnish news media sources. Furthermore, we conducted five background interviews with six people representing experts in legislation, policymaking and violent radicalisation and relevant stakeholders in the field of de-radicalisation. Four of the interviewees were willing to be named in the report: Pauli Rautiainen, Director of the Sorsa Foundation and from August 2021, Senior Lecturer in social law at the University of Eastern Finland; Anneli Portman, Senior Specialist at the Finnish

Institute for Health and Welfare (THL) and Saara Takkunen, Senior Planning Officer at the Finnish Institute for Health and Welfare; and Tarja Mankkinen, Development Manager of the Police Department in the Ministry of the Interior (MoI). Additionally, we undertook two case studies on de-radicalisation projects, the first of which (see section 6.1) is a local exit work project by a third sector organisation, and the other (see section 6.2) is a project for spreading necessary information and knowledge on violent radicalisation amongst social and health care sector workers provided by a national actor. The method of analysis has been qualitative content analysis, and the questions were guided by the aims of WP4.

This report is structured as follows: first we introduce the socio-economic, political and cultural context in Finland, then the constitutional organisation of the State and the relevant constitutional principles on D.Rad's field of analysis. Then we move to the relevant legislative framework in the field of radicalisation and relevant policy and institutional framework. Then we introduce two in depth case studies regarding counter-radicalisation and integration measures. Finally, we provide conclusions to the report.

2. The Socio-economic, Political and Cultural Context

Historical cleavages in Finnish society have included those between urban and rural areas, the Evangelical Lutheran and the Greek Orthodox religion, the Left and the Right and the Finnish-speaking and Swedish-speaking populations (Allardt, 1985; Sjöblom, 2011, p. 243). The history of political violence dates back to the murder of Nikolai Bobrikov, the Russian Governor-General of Finland, in 1904, related to "Russification" measures of the era. Violent polarisation of society was particularly deep during the 1918 civil war between the "Reds" and the "Whites" (e.g., Tepora & Roselius, 2014) and the extreme right Lapua Movement in 1929–1932[1] (Koskelainen & Hjelm, 2016). In the second part of the 20th century and until recently, radical movements have included those on the left and right, and environmental and anarchist movements (Tammikko, 2019). Currently, radical extra-parliamentary extreme right-wing activism and radical Islamism are seen as the biggest threats of violent radical action, while other radical movements operate on a smaller scale (Sisäministeriö, 2021b).

After the beginning of conflicts in Syria and Iraq in 2012, the threat of violent radicalisation has increased (Tammikko, 2019). In 2015 the so-called "refugee crisis" activated especially far-right movements (Sallamaa, 2018), which perpetrated attacks on asylum seeker centres (Kotonen & Kovalainen, 2021). Only one case has been judged to be a terrorist attack: a stabbing incident in which two people died and eight were wounded by a radical-Islamist asylum seeker in Turku in 2017 (Onnettomuustutkintakeskus, 2017). Moreover, three school attacks have been committed since 2007. While they were not considered as terrorist attacks at the time, the perpetrator of the 2007 attack was interested in extremist ideas and saw himself representing an Übermensch (see WP3.2 report on Finland, Lounela et al., 2021), and the second attack in 2008 was inspired by the first one. Overall, political violence is not reified in the Finnish political culture (see also Malkki, 2020, p. 30; Saukkonen, 2013a, p. 18).

Finland is a unitary state, characterised by a strong position for municipalities in the implementation of welfare services, but weak regional institutions (with ongoing political reforms). The Swedish-speaking Åland Islands (Ahvenanmaa) have an autonomic and

[1] Lapua Movement was a proto-fascist extreme movement that did violent acts towards communists and left-wing actors in 1929-1932. The movement also threatened the government with coup d'état twice (Koskelainen & Hjelm, 2016).

demilitarised position after the conflictual situation was solved in 1921 by the League of Nations. Multiculturalism of a particular kind is part of the constitution: Swedish is the second official language in Finland, the language of the administration and both languages are compulsory curriculum in Finnish schools. Swedish-speaking Finns are concentrated in particular regions, in the South and West Coast areas.

Regional differences in Finland have been described as small (Sjöblom, 2011). However, researchers inspired by the political ecology tradition of the 1950s–1970s identified a political "radicality axis" going from the north-west to the south-east (Koikkalainen, 2004), where on the "radical" north-eastern side of the axis, the focus was on the left wing of both socialist and non-socialist parties (Nousiainen, 1998, p. 54). The axis roughly follows the old frontier of Pähkinäsaari peace in 1323 dividing the Finnish territory between Swedish and Russian parts, which impacted the development of these regions for centuries. More recently, an OECD (2021) report found out that while trust for public institutions and administration remain high in Finland when compared internationally, it is lower in the north-east of Finland, and generally in the countryside and among those with lower education and lower-income households. Simultaneously, in the biggest cities, geographical segregation has somewhat increased during the 21st century (for the Helsinki Metropolitan Area, see Vaattovaara et al., 2018). Recent cases of violent radicalisation do not follow a clear geographical divide: reports by public authorities have described the action of the far right in all regions, noting particularly Southwest Finland and Eastern Uusimaa (Sisäministeriö, 2020b). Radical-Islamist activity mainly occurs in areas within the biggest cities (Malkki & Saarinen, 2019, p. 86). School shootings have taken place in low-inhabited, relatively rural municipalities (see Investigation Commission of the Kauhajoki School Shooting, 2010, pp. 106, 153).

Finland is characterised by the Nordic welfare state model. The welfare and safety conditions in Finland are ranked as second in the EU according to the European Social Progress Index, which is around 82 in all parts of Finland and almost 84 in Uusimaa, the maximum score being 100 (European Commission, 2020). In January 2021, the unemployment rate was 8.7% (Tilastokeskus, 2021). While the social security system mainly functions well, the existence of targeted social benefits can lead people with multiple problems to fall through the cracks of the system (Saari, 2015). Finnish public elementary school provides an equal opportunity to education for all children nationwide; while residential segregation has affected it to some extent, the institutional quality of schools in disadvantaged neighbourhoods remains relatively high (Bernelius, Huilla & Ramos Lobato, 2021). Most Finnish young people are doing well, but the gap between deprived and well-off young people deepens when the problems keep accumulating for a few (Moilanen, Airaksinen & Kangasniemi, 2019 p. 12). The COVID-19 pandemic has reduced young people's feeling of mental wellbeing (Harju, 2021).

The Finnish population has traditionally been relatively homogenous. Swedish is the other national language in Finland and 5.2% of Finns have Swedish as their mother tongue (Tilastokeskus, 2018). The Evangelical Lutheran church and the Orthodox church have a specific position (see section 4). Indigenous Sámi populations live in Sápmi, an area comprising parts of Northern Finland, Sweden, Norway, and Russia. Sámi activism has been increasing, mainly increasing awareness about past injustice, continuous inequality, racism, traditional way of life and livelihoods, and related questions of land use and autonomy in Sápmi. The Sámi have constitutional self-government in the Sámi Homeland (legally defined and covering the municipalities of Enontekiö, Inari and Utsjoki and the Lappi reindeer-herding district in Sodankylä) in the spheres of language and culture since 1996. The self-government

is managed by the Sámi Parliament, elected by the Sámi (Sámediggi, no date). Finland has received international criticism for not having ratified ILO's Indigenous and Tribal Peoples Convention 1989 (No. 169). While the ratification has been the topic of political debate throughout the 2000s, it has been postponed to one governmental period to another (Lehtola, 2015, pp. 46-51). In Finland, there are also traditional Roma, Tatar, Jewish, Ingrian Finn and Karelian minorities. Since the late 1980s, humanitarian and work- and family-related immigration to Finland have increased; due to a low starting point, the growth of the proportion of people with a foreign background has been significant (Saukkonen, 2013b, p. 13).

Finnish democracy is based on a multi-party system and proportional representation. Extremist movements have historically been excluded from politics, but other politicians and parties have been included decision-making (Saukkonen, 2013a, p. 18). The political culture is described as consensual, particularly after the 1960s due to the incomes-policy agreements of the era (Sjöblom, 2011, p. 243). The traditional political parties have reflected societal cleavages, with social-democratic and non-social democratic left-wing parties, agrarian and conservative right-wing parties, and Swedish-speaking, Christian democratic and green parties. There have been visible shifts in party politics in the 21st century. The most notable one is the 2011 election victory of the populist Finns Party, which politicised the EU membership and set itself as an alternative to the "traditional parties" (Arter, 2011; Palonen, 2020b) also aided by masculinity (Kovala & Pöysä, 2018). After the 2015 elections, it was one of the three government parties, but split due to a party leadership change. Its success has continued with its current radical right-wing leader Jussi Halla-aho: it was the second largest party in the 2019 parliamentary elections after the Social Democratic Party of Finland (Palonen, 2020a) and strengthened its position in municipal politics in the 2021 municipal elections, becoming the fourth largest party after the traditional three large parties, the National Coalition Party, the Social Democratic Party and the Centre Party. Simultaneously, the support for traditional parties has declined.

Many of the traditional cleavages and minority groups have been "embedded" and recognised in the Finnish political and party system and constitution (see also section 3). However, the existing socio-economic and geographical cleavages, the pluralisation of the society, and the emergence of issues thus far not recognised in the Finnish socio-economic, political and cultural framework set new demands for the legal and political system. For example, current research has highlighted Finland's racist and colonial elements (particularly vis-à-vis the Sámi population) (Keskinen, Seikkula & Mkwesha, 2021), which have mainly been bypassed in the Finnish narrative until now. Also, according to the European Union Agency for Fundamental Rights' (FRA) "Being black in the EU" survey (2018), Finland was amongst the most racist countries in the EU. As Finnish de-radicalisation policies largely build on the implicit de-radicalisation policies of the welfare state, mechanisms of exclusion and the position of vulnerable groups must be considered in the prevention work.

3. The Constitutional Organisation of the State and Constitutional Principles on the D.Rad Field of Analysis

Finland is a sovereign republic, an EU member since 1995 and closely involved in international cooperation. The Finnish Constitution partly builds on the legacies of the Swedish (Middle Ages–1809) and Russian (1809–1917) eras. It was originally written in 1919 after the civil war and reflects many central political cleavages of that time (e.g., between Finnish- and Swedish-speaking Finns, the Evangelic Lutheran and Greek Orthodox Churches, and republican and

monarchist ideals due to an unrealised project to establish a monarchy in Finland). Historically, Finland has fluctuated between parliamentary and (semi-)presidential systems (Sjöblom, 2011, pp. 242-243). The status of the President was particularly strong during Urho Kekkonen's presidency (1956–1981/1982), while the 1980s and 1990s marked a gradual change towards parliamentarism (Saukkonen, 2013a, p. 28). This led to a constitutional reform in 2000, through which basic rights gained more importance as well. A reform further weakening the role of the President came into effect in 2012. On a general level, the Finnish Constitution has been described as a combination of a legalistic tradition based on the respect of law and a certain level of flexibility (Saukkonen, 2013a, p. 16).

According to the Finnish Constitution (731/1999), the powers of the State in Finland are vested in the people, who are represented by the Parliament. Individuals have the right to participate and influence decision-making (PL, 14 §). The Courts are independent and hold the judiciary power, which is one of the core principles of the Finnish Constitution. The Supreme Court, the Courts of Appeal and the District Courts are the general courts of law. The Supreme Administrative Court and the regional Administrative Courts are the general courts of administrative law (PL, 3, 98 §). State administration consists of three levels: central government, regional and local administrations (PL, 119 §). Municipalities are central actors for people regarding public authorities since they provide most of the public services (Rautiainen, 2019, p. 109). The responsibilities of municipalities are large in international comparison, and this autonomy is universally applied irrespective of the size or location of a municipality (PL, 121 §; Jäntti, 2016, p. 170). Moreover, Åland has broad judicial autonomy (PL, 75 §).

There are three fundamental values at the beginning of the Finnish Constitution (PL, 1.2 §): the inviolability of the human dignity, protection of individual freedom and rights, and promotion of the principle of justice in society. Not only rights, but also demands for equality and solidarity amongst members of the community form the basis for constitutional principles. The most important basic rights are equality before the law, the right to life, personal liberty, integrity, security and privacy, the principle of legality in criminal cases, the freedom of movement, religion and conscience, expression, assembly and association, and electoral and participatory rights. In addition to these political rights there are economic, social and civil rights such as the right to education, the right to social security, the right to one's own language and culture and the right to work and property rights (PL, 12-19 §). The national languages Finnish and Swedish, Sámi as indigenous people, Roma people's and other groups rights to language and culture, and the rights of people using sign language or in need of interpretation or translation aid owing to disability are mentioned in the Constitution (PL, 17 §). Children should be treated equally and be able to affect decisions regarding themselves (PL, 6 §). A core principle is the neutrality of the court system; no one should be treated differently due to things such as sex, age, origin, language, religion, conviction, opinion, health, disability or other reason. Equality between sexes is to be promoted in societal activity and in working life (PL, 6 §). Some rights can nevertheless be limited under special circumstances: for instance, one can limit the right to property or privacy and freedom of speech if it is necessary to protect other people's fundamental rights or if there is a weighty reason to protect general interests (Rautiainen, 2019, p. 80, 91).

Finland is a modern civil law country, where the legal code is a more important foundation for judicial decisions than case law. Legal positivism in the interpretation of the law and the principle of legality are typical features of Finnish legal practice and in the actions of public

authorities. A distinctive feature is a developed ex-ante examination system of the constitutionality of new legislation or EU treaties. The Constitutional Law Committee of the Parliament, which consists of MPs but operates upon legal advice by constitutional and European law experts, gives opinions regarding questions such as compatibility of a government Bill with the Constitution or with international human rights obligations. The decisions of the Committee are usually not questioned afterwards. However, the position of case law has strengthened since the 1990s, due to Finland's EU membership, a strengthening human rights mindset, and the fundamental rights reform in the 1990s, and factual arguments have gained importance at the expense of authoritative arguments (Raitio, 2012, pp. 1-3, 10). The disbandment of the Nordic Resistance Movement (NRM) in 2020 (Supreme Court, 2020:68) was quite exceptional in that it was argued to be against the Constitution and Associations Act (see Text Box 1).

Text Box 1: Disbandment of NRM

The Nordic Resistance Movement (NRM) is a violent extra-parliamentary far right, neo-Nazi and revolutionary organisation in Sweden, Norway and Denmark, and previously in Finland (Sallamaa, 2018, pp. 39-40). Before its abolition, NRM was clearly the most organised extremist movement in Finland (Tammikko, 2020, p. 190). The NRM was disbanded in 2020 on the grounds of continuous unlawful activities, that formed a significant part of its activities, and for the protection of public interest. There had been violent acts during the NRM's or its organisers' political or ideological events, and these had received appreciation rather than condemnation from the organisation and its members. In fact, a lethal assault in Helsinki Central Railway Station Square in 2016 started the legal process to ban the NRM (see WP3.2 report on Finland, Lounela et al, 2021). Also, non-violent activity of the NRM included racism and anti-immigration rhetoric, and other nationalist-socialist values such as Holocaust denial. The Supreme Court ruled that the NRM had not only violated the Associations Act with its unlawful activities, but also the Constitution through abuse of rights, and the provisions of European Convention on Human Rights (ECHR). In addition, the Supreme Court found that NRM's activities were contrary to the public interest as established in law. NRM was disbanded as an association, as the rights of association and of speech are not absolute (Supreme Court, 2020:68).

To conclude, many traditional political cleavages (from the role of the church to language rights) are reflected in the Finnish Constitution (see also section 2), which was originally written as a compromise in a country torn by a civil war (see also Saukkonen, 2013a, p. 16; Sjöblom, 2011, pp. 242-243). The constitutional reforms of the 21st century have strengthened parliamentarism and basic rights. Recently, the COVID-19 pandemic has created public debate about the Constitution and the restriction of basic rights, which has divided legal scholars (Mölsä, 2021). Restrictions have been possible due to emergency legislation, which can nevertheless contradict the Constitution (Hallberg, 2010).

4. The Relevant Legislative Framework in the Field of Radicalisation

Freedom of speech is defined in the Finnish Constitution as the right to express, publish and receive information, opinions and other messages without anyone preventing it (PL, 12 §.). It

can be restricted in relation to other rights and laws such as ethnic agitation, defamation of character and the violation of freedom of worship (CC, 39/1889). The history of freedom of speech starts with the freedom of press in the Swedish era (Neuvonen, 2019). The left-wing press was under censorship under the Protection of the Republic Act after the 1918 civil war, and the complex relationship with the Soviet Union led to at least some self-censorship after the Second World War. Until the 1990s, freedom of speech was based on regulating communication instead of being seen as a basic human right, which changed with Finland's EU membership and other international treaties. The rapid change has caused the past legislation still affecting the current understanding of freedom of speech. This has caused challenges, strengthened in 2010s due to hate speech and fake media (ibid., pp. 91-100).

Hate speech is not a concept explicitly used in the legislative text. However, according to the part of the Criminal Code concerning ethnic agitation[2] (511/2011), someone who gives, spreads or upholds information, opinions or other messages to the public that threaten, speak ill of or insult some group on the grounds of race, skin colour, national or ethnic origin, religion or conviction, sexual orientation or disability or any other equivalent reason will be penalised. Moreover, defamation of character and illegal threats are penalised, and hate speech can also fulfil the criteria of harassment as meant in the Non-discrimination Act and in the Act on Equality between Women and Men (Knuutila et al, 2019, p. 11). The law on breach of the sanctity of religion (i.e., on religious insults) is rarely applied (Äystö, 2019). More generally, a hate crime is defined as any criminal act motivated by prejudice or hostility against groups of people that the victim represents (MoI). Finland has been called by the European Commission to fully transpose EU law criminalising hate speech and hate crimes (European Commission, 2021). Some cases from Finland have been presented in Text Box 2.

Text Box 2: Case Law on Ethnic Agitation and Defamation of Character

Several politicians, particularly from the Finns Party, have been charged with or convicted of ethnic agitation regarding their writings on immigration, certain ethnic groups or Muslims (e.g., Hakahuhta & Pinola, 2019). Members of the former NRM (see Text Box 1) carrying swastika flags at their march on Finnish Independence Day in 2018 were also charged with ethnic agitation (Kerkelä, 2021); while a lower court dismissed the charges, the process will continue at the Court of Appeal (Reinboth, 2021). An ongoing case concerns the writings of the former Christian Democratic Party's chairperson on homosexuality as a "shame", "sin" and not "a healthy variation of sexuality" (Gustafsson, 2021a).

A recent case causing a broad public discussion concerned a journalist vocal in addressing hate speech and fake news. On her private Facebook account, she referred to a municipal politician as a "Nazi clown", Nazi and racist (Reinboth, 2020; Supreme Court, 2021) after hearing that the politician—convicted of ethnic agitation for his anti-immigration and anti-Islam statements and charged with defamation of character in other, partly still ongoing cases (STT, 2020; STT, 2021)—planned to film an event organised by her (Reinboth, 2020). The journalist was convicted of defamation of character in lower courts but received a permission to appeal to the Supreme Court (Supreme Court, 2021).

[2] The Finnish expression literally meaning 'agitation against a population group' is officially translated into English as 'ethnic agitation', although several other grounds for applying the law besides ethnic origin are enlisted in the law text.

The Finnish state is formally neutral regarding all religions and churches. Yet, there are close institutional and legislative links between the State and the Evangelical Lutheran Church and the Orthodox Church of Finland. The Ministry of Education and Culture administers matters relating to the Churches and other religious communities and drafts legislation relating to them. The General Synod, the highest authority in the Evangelical Lutheran Church, makes decisions regarding doctrine, Church work, legislation, administration and finance. Although the national Parliament must ratify church law, it has no right to alter its content; proposals from the Synod can only be rejected or accepted altogether (Ministry of Education and Culture, no date a). Therefore, separation of the State and the Evangelic Lutheran and Orthodox Churches can be contested (Hjelm, 2020). Other registered religious communities are independent special legal subjects in the same manner as registered associations, and the register of religious communities is kept by the National Board of Patents and Registration (Ministry of Education and Culture, no date b). According to our interview with legal scholar Pauli Rautiainen, Finland regulates considerably the process of registering a religious community in comparison to other countries. In turn, this can affect the way in which unregistered, but de facto religious communities are treated in the face of law. Registered religious communities can apply for government aid (Opetus- ja kulttuuriministeriö, no date). Moreover, a court case in 2006-2008 concerned a mosque which had been attacked by far-right actors spilling blood on it. While a lower court ruled that this constituted a religious insult, the Court of Appeal overturned the decision because the religious community was not at a registered one. Other court cases on religious insults have nevertheless been based on a broader definition of religion, not based on registration (Äystö, 2019).

The relation between Muslims (initially arrived in Finland as internal migrants of the Russian Empire) and the newly independent Finnish State was regulated as part of the legislation concerning the freedom of religion. In the post-Cold War era, Muslim organisations have increasingly been affected by the European and global mediascape framing Islam as a threat (Martikainen, 2019, p. 29). According to Tuomas Martikainen, both rationales were visible in the establishment process of the Islamic Council of Finland (SINE), an umbrella organisation of Islamic associations, in 2004-2007. During its first years, SINE was involved in arranging various events, but it is increasingly involved in collaboration with various religious and administrative networks (ibid, 2019, 34).

The tasks of the Police are to safeguard justice and social order, national security, general order and maintenance of security, preventing, revealing and detecting crimes, and bringing crimes into consideration for charges to be laid. The Police work in collaboration with other authorities, communities and inhabitants to maintain security, and has international cooperation. The Police should respect fundamental rights and human rights when using their authority and act objectively, impartially and treat people equally, in the spirit of reconciliation, and according to the principle of least harm and proportionality. Also, the Police's task is to safeguard the freedom of assembly. It should ensure that the assembly's organiser and chairperson act according to the law, and if needed, act to secure order and safety during an assembly or a public event (Police Act, 872/2011). If the assembly puts people's safety in danger, causes significant damage to the environment or property, excessively disturbs traffic or a third party, or state visit or other international assembly or similar, the Police can move the assembly to another location (Assembly Act, 530/1999). While trust in the Police is high in Finland in international comparison (European Social Survey, 2011; OECD, 2021), recent research on the topic has pointed out critical issues such as ethnic profiling or the existence of a racist discussions in police officers' Facebook group (Himanen, 2021).

The Finnish Constitution recognises the right to private life, honour and domestic peace. Secrecy of correspondence is inviolable (PL, 10 §). According to the Data Protection Law, personal data can be handled for specified reasons only, such as the position or duties in the public community, business life, third party organisation or other similar. A valid reason can also be an authority's need for the data to protect public interest. The data should only be used when necessary and proportionally (Data Protection Law, 1050/2018). The General Data Protection Regulation (GDPR, 679/2016) is valid in Finland, but not applied in cases of criminal affairs or national security. There is a distinct law for these matters, which is enforced to prevent, investigate, reveal crimes or bring crimes into consideration for charges to be laid by authorities (Law on the Processing of Personal Data in Criminal Matters and the Maintenance, 1054/2018). A reform of the intelligence legislation in 2019 required changes in the Constitution and provided more resources and authority for SUPO, the intelligence service (Tammikko, 2019). The political debate on the topic concentrated on issues such as whether the new intelligence laws were a threat to privacy (see WP3.1 report, Horsmanheimo et al, 2021), and how to ensure the supervision of intelligence officials (i.e., how to monitor those responsible for monitoring).

According to MoI (2020b), terrorism is always violent extremism, but not all violent extremism is terrorism. Terrorist crime is defined as a crime based on terrorist incentives, for instance an illegal threat, a serious theft offence, an intentional explosive crime, a serious firearms offence, a serious disturbing of telecommunications, human trafficking, kidnapping, use of chemical weapons, manslaughter, murder or involvement of radiological weapons done with terrorist motives. Also, preparation of a terrorist crime, leading of a terrorist group, giving education, funding terrorism and travelling for a terrorist crime are penalised. However, there needs to be evidence that the penalised act was used in a certain terrorist crime (Terrorist Crimes 17/2003). So far, the only convicted terrorist crime has been the stabbing in Turku in 2017 (see section 2). There have been some other arrests and investigations which have not led to convictions (Malkki & Saarinen, 2019; Manner & Teittinen, 2021). The National Bureau of Investigation (NBI) prepared a report in 2021 about convictions for funding terrorist crimes in Europe and found that Finland was the only EU member state without any cases that led to conviction, although there had been a court hearing on the matter. There were multiple reasons for this, such as the late development of terrorist crime legislation, enhanced claims of intentionality in terrorist crimes, the low number of pre-trial investigations and hence lack of legal practice, the difficulties in collecting evidence especially from abroad and conflict zones, and the low number of experts in the terrorist crime investigation field (NBI, 2021).

Terrorist crime laws have been criticised in the mainstream media for being inadequate (Manner & Teittinen, 2021). For instance, a person was not charged with committing a terrorist crime even if they had received armed training from a terrorist organisation. This is due to the Finnish legislation that there needs to be evidence that this training was used in a certain terrorist crime which the Police could not prove. Currently, participation in a terrorist organisation's action is not penalised. The Ministry of Justice is planning to change this in 2021, but not every aspect of participation will be penalised. The participation needs to be essential for the terrorist organisation's illegal action. In addition, incitement and persuasion to recruit into a terrorist organisation will be made punishable, and the financing of an individual terrorist will become criminal when now it is only valid regarding terrorist groups. Additionally, for the police to start a pre-trial investigation, there needs to be enough evidence of the crime; without it the police cannot use coercive means such as wiretapping, reading messages or surveillance (Sippola, 2021).

While specific de-radicalisation projects and programmes exist in Finland (see section 5), the universal welfare state also prevents political tensions and extremism (Lappi-Seppälä, 2013b, p. 86). Much of the national legislation regarding it is implemented by municipalities. For instance, the Social Welfare Act aims to promote and uphold wellbeing, social security, reduce inequality, secure equal social services, and better cooperation between authorities (Social Welfare Act, 1301/2014). The Youth Act (1285/2016) requires the young to be guided to the services they need, and this is done in cooperation with youth organisations, local churches and other relevant communities. The Health Care Act (1326/2010) states that health care services should be available to all inhabitants equally. However, the services can vary between areas due to municipal differences, which can in practice cause inequalities (MoI, 2019, p. 27).

Participation and the right for individuals to have an impact on policies and the agency of public authorities concerning them are central in several policy fields. For instance, the Act on the position of rights of a client of social welfare (812/2000) states that when social services are implemented, the client's wishes, opinions, interests and individual needs, their native language and cultural background need to be considered and their conviction and privacy respected. Clients should be able to affect the decisions regarding themselves, and authorities conducting these tasks should be provided with sufficient assistance. Participation is also central in the recent Finnish Local Government Act (410/2015), which requires municipalities to provide participatory channels for the residents, and in Land Use and Building Act (132/1999) focusing on residents' rights to have an impact in their near environment. For an overview of the legal framework, see Annex 1.

5. The Relevant Policy and Institutional Framework in the Field of Radicalisation

As noted in the previous sections, the Nordic welfare state tradition combined with municipal autonomy and a primarily consensual political culture describe Finland. However, the last few decades have marked some changes. In party politics, the Finns Party has challenged the traditional parties (see section 2). Finnish society has become more pluralised, and the focus on fundamental rights has become stronger since the 1990s (see section 3). Institutions of municipal democracy have been complemented with initiatives to strengthen the participation of citizens, residents or clients, often at the local level (section 4; Meriluoto & Litmanen, 2019). The 2010s have also marked the increasing of hate speech, particularly in the online context (Knuutila et al., 2019; Malkki et al., 2021; see also section 4). Public authorities and stakeholders have had several projects on hate speech, which have provided information on good practices and legal measures, among others (MoI, 2021a; Ministry of Justice).

In criminal policies, Finland represents a Nordic tradition leaning on cooperation between the public authorities, municipalities, CSOs and companies. These policies are implemented through broad programmes networking the various actors. The aim is to tackle the background factors of criminality such as marginalisation, and different kinds of crimes (e.g. alcohol-related crimes, youth criminology, violence against women, racist crimes) are addressed with different measures. The welfare state and social policies have a central position in crime prevention, although they are seen as having an intrinsic value, not primarily framed as criminal policy (Lappi-Seppälä, 2013a, pp. 65-66). Generally, a prison sentence requires a serious crime, especially with first timers. Also, Finnish penalties are lower in international comparison

(Rikoksentorjuntaneuvosto, no date). These themes were also reflected in our interviews with Finnish experts on legislation and de-radicalisation.

Violent radicalisation was not a topic in public discussion in Finland until the 2010s, when violent extremism and terrorism became a more prominent issue in Europe. Previously, terrorism prevention work was done by SUPO, but radicalisation prevention action was only embedded in other policy documents. International cases alarmed the Finnish authorities concerning preventative work that was needed to cover radicalisation beyond preventing terrorist attacks. According to our expert interview with the Development Manager from MoI, Tarja Mankkinen, violent radicalisation has usually been seen as both a social and a security issue in the Finnish context. Getting the education sector and the social and health care sector to understand that they are part of the security work, and for police to realise that they are part of the social work was challenging. In 2021, the National Institute for Health and Welfare (THL) started a project to prevent radicalisation in the social and health care sector (see section 6.2).

According to Mankkinen, violent radicalisation was internationally seen from the perspective of radical Islamism in the post 9/11 era. In 2011, the Utøya attack in Norway, which is a Nordic welfare state like Finland, marked a change after which far-right violence was taken more seriously. As the establishment of the Finnish explicit de-radicalisation policies happened at that time, the definition of violent radicalisation has been broad from the beginning. International developments have affected violent radicalisation prevention work in Finland and there has been international cooperation in this field. The de-radicalisation models of European countries with a longer tradition have been considered when formulating the policies (MoI, 2019). Finnish authorities have been active in developing common policies and practices internationally and between the Nordic countries. Since 2011, Finland has been part of the EU Radicalisation Awareness Network (RAN), which is a multi-professional network across EU members states that works to prevent and counter violent radicalisation.

Both the implicit de-radicalisation policies conducted as a part of the broader welfare policies and the explicit de-radicalisation work have primarily been preventive in Finland. Currently the preventive work emphasises young people and the prevention of recruitment into violent radical activities. According to Mankkinen, Finnish preventive work can also be characterised as pragmatic, meaning close contacts and low institutional barriers between the involved authorities and other actors, and the solving of issues as they arise without a high level of bureaucracy. Several of our interviewees considered social policies and the prevention of social exclusion as central in preventing violent radicalisation. However, according to Rautiainen, while penalisation has traditionally not been seen as an effective means to control political forces, public opinion seems to have taken a more punitive turn when it comes to certain crimes (such as terrorist crimes).

MoI conducts radicalisation prevention work and coordinates the cooperation between the various actors. The first National Action Plan for the Prevention of Violent Radicalisation and Extremism (NAP) was published in 2012, and it guides local and regional work on the topic (MoI, 2020a, p. 12). From the very beginning, NAP was designed to include all forms of radicalisation, not just radical Islamism.

MoI has established a national steering group to implement, improve and evaluate de-radicalisation policies in Finland. The group includes police and crime officers, ministries, immigrant organisations, education specialists, municipal organisations, youth organisations, religious organisations, university researchers and other CSOs. Nevertheless, the third sector or CSOs primarily do the actual exit work funded by the Ministry. They have been considered

to be more approachable, especially if the radicalised person has had bad experiences with the authorities or does not trust them (see section 6.1). In the Rajapinta project, MoI (2019) identified observations and recommendations for local collaboration on the referral mechanism of persons of concern. Multi-professional collaboration between various public authorities and third-sector organisations is done in so-called Anchor work through local Anchor teams. The aim of the work is to promote the wellbeing of adolescents, prevent crimes and offer de-radicalisation services without age limits (Moilanen, Airaksinen & Kangasniemi, 2019). The minimum standards for Anchor work are defined at a national level, although its organisation at the local level is specified locally.

As the emphasis of de-radicalisation work is in young people in 2021, the role of schools is underlined in the preventive work. Schools are part of the local multi-professional Anchor teams, and they have a central role in preventing radicalisation through inclusiveness, open discussion and teaching critical thinking (Opetushallitus, 2018). Saija Benjamin, Katja Vallinkoski and Pia Koirijärvi (2020) have published a REDI model advising teachers and other school staff to identify and address young people who show interest in radicalisation. Although young people are involved in prevention work, including its steering group, not everyone is reached: while socially active youth are present, marginalised young people often stay out. According to Mankkinen, the steering group on violent extremism and radicalisation is working on how to contact these people. Safe spaces, such as schools, are needed for youth to discuss issues related to extremist ideologies with adults.

The Police is involved in an ongoing multi-actor project regarding hate speech called Facts against Hate, coordinated by the Ministry of Justice, which is trying to improve the prevention of increasing hate speech (MoI, 2021a) and is part of the Strategy on Preventive Police Work (ENSKA). The project also aims for bringing minorities and the Police to closer cooperation and building trust between them. In addition, the NBI undertakes internet surveillance, and the Police is present on online platforms (Poliisi, no date b). Finland is part of EU the project for deleting terrorist propaganda online.

The NBI oversees exit work in prisons and in the organised crime scene, i.e., with people who are already relatively radicalised (Poliisi, no date a). The Deaconess Foundation (HDL) does exit work with a lower threshold, although they can also work in prisons (see section 6.1). In every prison, there are two specialists on radicalisation prevention work trying to identify radicalised people. Mankkinen notes a key difference in state treatment of prisoners from different religious backgrounds: while Evangelical-Lutheran priests are paid to visit prisons, Islamic imams are not, despite the freedom of religion inscribed in the law. MoI (2021b) has noted this shortcoming.

Different religious communities and organisations have a vital role in the de-radicalisation network, such as in the local multi-professional Anchor work aimed to promote the wellbeing of adolescents and prevent crime. The religious communities work closely with other actors in the Anchor network and have the knowhow of their cultures (MoI, 2019). For example, the Forum of Young Muslims (NMF) promotes locally the inclusion of young immigrants and Muslim youth in preventing violent extremism through the Muvenna project in Turku (Nuorten Muslimien Foorumi), and the Finn Church Aid's project Reach Out promotes cooperation between religious communities and authorities (Kirkon Ulkomaanapu). Additionally, Save the Children has a project called RadicalWeb that educates adults working with the young to recognise radicalisation on the internet (Pelastakaa Lapset). MoI (2021c) has a working group to enhance the feeling of security in religious communities (until the end of May 2021),

because security threats directed at religious communities' spaces and members have increased especially regarding Jewish and Islam communities. For the list of all institutions dealing with radicalisation and counter-radicalisation see Annex 2.

All the above mentioned are included in NAP, which MoI evaluates yearly. The evaluation is extensive and contains all aspects of NAP. According to the latest report (MoI, 2021b), the implementation of policies was successful, and measures were implemented extensively when considering the effects of the COVID-19 pandemic which partly seized activity in 2020. Few measures were not implemented; for instance, measures aimed at identifying and removing recruitment material were difficult and therefore did not proceed, nor did cooperation between authorities, parents and companies increase regarding the way terrorist organisations and extreme actors utilise computer games or mobile applications (ibid., pp. 31, 38). There were also a few measures that were not implemented in 2020 but will be in the upcoming years (2021-2023).

According to our interviews, the biggest problem in the Finnish context of preventive radicalisation work is funding, which has been relatively scarce. In addition, the policy has mainly consisted of projects, funded for a limited time, which makes it hard to establish them especially in the case of third sector organisation whose funding differs from state institutions. While projects can be used to develop new models and tools (cf. Kuokkanen, 2016), the continuity of exit work should be secured. Moreover, the Finnish consensus culture is not optimal for detecting radicalised forces, and there has been unwillingness to recognise violent radicalisation as a potential threat in Finland. This is also reflected in the research on the topic: according to Malkki (2020, pp. 29-31), while political violence has been condemned, there has been a tendency to underreact rather than overreact to it, possibly because of an unwillingness to undermine Finland's reputation as a safe Nordic country.

Finnish de-radicalisation measures are mainly implicit policy measures that seek to increase the well-being of all vulnerable groups rather than potentially radicalising ones: these range from access to welfare services and particularly education (increased to 10 years under the current government) to positive discrimination in support to neighbourhoods in Helsinki. Importantly, as pointed out in our expert interviews, one needs to be careful in defining radicalisation, since "radical" ideas (as opposed to those preserving the status quo) can be important for society's development; the aim is to prevent violent radicalisation and extremism. The list for best practices, interventions and programmes can be found in Annex 3 and policy recommendations in Annex 4.

6. Two In-Depth Case Studies

The chosen case studies represent central Finnish de-radicalisation projects, which nevertheless have different kinds of focus and organisations implementing them. They are ongoing projects, of which the first one is explicit exit work done by the Deaconess Foundation (HDL), a third sector organisation, and the other one is the National Institute for Health and Welfare's (THL) project that aims to develop knowledge and know-how on violent radicalisation and its detection among social and health care workers. The case studies are based for the most part on expert interviews.

6.1. The Deaconess Foundation (HDL)

HDL is implementing an exit project from August 2020 to (under present conditions) October 2021. The project is mostly funded by the EU's Internal Security Fund (ISF), of which Finland's share is coordinated by MoI. Also, MoI and HDL have used money to execute exit work. Long-lasting funding to secure the continuity of the action is still being sought, as the purpose is to create a permanent function to help people who or whose close ones are worried about their adoption of violent radicalised ideologies or action. The exit program is implemented at the local level, currently in the Helsinki metropolitan area, Turku and Tampere.

Implementation of exit work in Finland first started in 2018. HDL is the second institution which offers exit services. Compared to previously started NBI exit work, of which target group consists of members of criminal gangs and others already engaged with serious crimes (see section 5), people can get into HDL's prevention-oriented exit program with a lower threshold. HDL, a 150-year-old third-sector organisation, has a long tradition of working with socially marginalised people with a range of backgrounds and traumas, with inclusion, agency, trust as the guideline values of the operational strategy. HDL's exit work is based on the experience of working with violent radicalisation and issues related to it. International structures for this kind of action are already built and are being improved all the time.

The exit project consists of three focus areas: education of stakeholders, creation of operating model and client work at the grassroots level. The aim of the first focus area is to spread knowledge and understanding of the importance and substance of exit work. By widening stakeholders' expertise, it is possible to reach more clients. The second focus area, the model creation, refers to building permanent practice, which is shaped by co-learning with other EU member states. The last, the grassroots level task operates with violently radicalised people or ones at risk of violent radicalisation. Specialists in violent ideologies and psychological processes act as mentors and help people with both practical and mental issues after evaluation of a need for help. If HDL's workers themselves cannot help with all the problems, they guide people forward, for instance to social or mental health services. Voluntary participation is the core of the client work – neither the authorities nor anyone else can force anyone but can recommend starting the exit programme. There are no age limits, and people from all violent-ideology backgrounds can participate in the programme as long as it is safe for everyone, including the workers. The client work has gradually started; the aim is to reach about 20 clients during the project.

The strength of HDL as an exit work provider is its position as trusted third-sector organisation. HDL enjoys trust of other organisations and potential clients. The long cooperation between governmental institutions and CSOs has created a strong base from which to develop new practices. Partners and networks, as well as effective communication between them, are seen as important factors in HDL's work. HDL is part of a steering group, led by MoI, which coordinates and improves de-radicalisation work nationwide in Finland. HDL is also strongly connected with Radicalisation Awareness Network (RAN) at the EU level (see section 5). The advantage of HDL in dealing with potential clients, compared to the police or other authorities, is that the prejudices or bad experiences do not scare people away from the available aid – many people from the target group might have a bad image of state officials if they were born in a country with venal police. The flip side of working as a CSO compared to officials is that the law does not allow HDL the same mandate in relation to privacy and information exchange. Trust is a central in creating relations in client work. HDL also presses the importance respect

for human dignity despite of the background of the client. The client still has responsibility for their own acts – HDL complies with the law in matters related to the obligation to make notifications such as a child welfare notification.

A challenge for HDL as a provider of exit services, is to convince the political elite about the significance and effectiveness of the action to get funding for it. There is need to improve indicators to prove the usually qualitative rather than quantitative results of exit work. According to our interviews, the current government and MoI are strongly committed to improve programmes like HDL's exit work, but it can change if the political climate alters. HDL's exit work has not been directly opposed, despite the relatively heated public discussion concerning radicalisation, particularly in the case of the women who have returned to Finland from the al-Hol camp (see WP 3.1 report, Horsmanheimo et al, 2021). Finally, while the funding for HDL's exit work is currently secured and may continue after the ongoing project, a general problem related to project-based funding is the insecurity of the continuity of the action (see section 5).

6.2. National Institute for Health and Welfare (THL)

THL is a research and development institute under the Ministry of Social Affairs and Health. According to the legislation under which it was established, its duties lie in the population's health and wellbeing. THL's violent radicalisation prevention project (Radik) will be active until the end of 2022. The project is situated in THL's unit of special services, and it is part of a new sector concentrating on prevention of violence. By the end of 2022, the project will have developed a web-based training programme and a tool to help the social and health care sector workers (altogether approximately 400 000 people) to recognise radicalisation, available for all nationwide. It will also produce new research-based information and evaluate the measures. The work is conducted at the national level due to the many small municipalities in Finland which do not encounter much radicalisation and have limited resources.

The Radik project is funded by the State, since THL is a public institution, and it is part of NAP (see section 5). While having its first project regarding explicit radicalisation prevention work, THL has considerable knowledge regarding other violent phenomena such as domestic abuse. The project is based on a study that found that social and health care workers need more knowledge regarding radicalisation as a phenomenon but also to recognise and deal with it. According to THL's experts, social and health care sector workers currently perceive radicalisation as an imminent violent threat. THL's Senior Specialist, Anneli Portman, argues that with the right information, social and health care workers can be in a key role in detecting violent radicalisation of, in particular, lone actors when they have the right knowledge. It is also crucial for them to have the knowledge since they are part of the multi-professional Anchor work.

The web-based training programme developed in the project will be available for all but is targeted at social and health care professionals. Having the programme online helps to spread the knowledge and provides flexibility. The programme aims to raise discussions around radicalisation in the workplace, according to Saara Takkunen, the Senior Planning Officer of Radik. The supporting tool, on the other hand, aims to create abilities to recognise violent radicalisation and to evaluate risks and the need for individual support. The interviewees reminded us that violent radicalisation does not have a set list of symptoms and tools to recognise radicalisation should never be used as mere checklists or to stigmatise marginalised groups. The aim of the supporting tool is rather to explain what things to look for, what the

protecting factors are, who the actors are that can be contacted to cooperate (besides the police) and so on. Other Nordic countries' examples were considered when creating the training programme and supporting tool.

The Radik project works in cooperation with multiple actors such as the cities of Helsinki and Oulu, the National Police Board, the NBI, the Criminal Sanctions Agency, MoI, the National Agency for Education, University of Helsinki, and THL's department of immigration. In other words, it involves various public authorities and experts in the field. On top of the formal cooperation work, the Radik project cooperates informally with multiple stakeholders, for instance with HDL's exit program experts. Information is acquired at the local, national, and international levels through the RAN and the Nordic Safe Cities network.

Many of the experts interviewed as a part of this study agreed that project-based funding is problematic, especially in the case of exit work. For the Radik project, two-year funding is deemed as being understandable since it produces tools and education material that will remain longer than that. However, updating the content of the material will be needed in the future, since violent radicalisation changes and develops over time, and for this the project, would need extra funding. Portman suggests that to enable the continuity of de-radicalisation policies in the future, one option could be regional bodies embedded in existing welfare areas, with professionals who could advise and guide with questions regarding radicalisation. Another option could be a national body responsible for radicalisation research and education, funded by the State. According to Portman, social and health care sector workers still lack information about radicalisation, indicating a lack of information about it in other sectors, too. Hence, accurate and current information about radicalisation as a phenomenon should be available to all. According to Portman and Takkunen, radicalisation should be discussed openly and addressed in a timely fashion so that the focus of the work can be in prevention. The issue of violent radicalisation is nevertheless not recognised enough in Finland because of the consensual political culture which prevents discussion about issues deemed to be difficult or controversial, and the idea of Finland being a safe country where bad things are not expected to happen.

7. Conclusion

In conclusion, Finland is characterised by the Nordic welfare state model with a strong position for both state institutions and municipalities. Basic rights are inscribed in the Finnish Constitution, and a distinctive feature of the system is the ex-ante examination of the constitutionality of new legislation or EU treaties. Legal positivism in the interpretation of the law and the principle of legality are typical features of Finnish legal practice. Finnish criminal policy can be described as socially oriented rather than punitive. While issues that are directly or indirectly related to radicalisation have been addressed as a part of the Finnish legal framework, Finland has been called by the European Commission to fully transpose EU law criminalising hate speech and hate crimes (European Commission, 2021; see section 4).

The explicit de-radicalisation policies in Finland have a comprehensive perspective and are based on multi-professional cooperation both on national and local level. This has been as beneficial to the policy's success given its multi-dimensional approach that has impeded some perils of demonisation through prevention policy (cf. Hickman et al, 2011). Our two case studies (section 6) highlight both levels' advantages. A central part of Finnish de-radicalisation policies can nevertheless be described as implicit. The institutions and policies of the welfare state and social inclusion are central in preventing violent radicalisation. Finland has free

comprehensive schooling, affordable health care and other benefits and support for those who need them. However, people in a marginalised position with multiple overlapping problems are more likely to fall through the cracks of the system (Saari, 2015). Moreover, while many traditional political divisions and minority groups are relatively well recognised in the Finnish political system and constitution, the system has been blind to certain exclusion mechanisms, and the pluralisation of society has opened up new issues (see section 2). Consequently, there are factors that can lead to certain people being more vulnerable to radicalisation if they feel excluded from Finnish society. For instance, a vulnerable group is undocumented migrants who do not have full access to Finnish health care (Keskimäki, Nykänen & Kuusio, 2014).

Trust in public authorities by all groups in society is crucial, and trust in the police and the judiciary are relatively strong in Finland (European Social Survey, 2011; OECD, 2021). The challenge remains that the Police should build trust among minorities who have bad experiences with police, for instance through Community Police Officers (see annex 3). Recruitment of police from migrant backgrounds was initiated in 2015 in Helsinki and nationwide (Vainio, 2015; MoI, 2018). Moreover, it is crucial that people feel equally treated in the judicial system. The victims of discrimination often perceive the existing redress mechanisms as burdening and difficult to grasp (Aaltonen, Heino & Villa, 2013). Discrimination, even if not done on purpose, might lead to radicalisation if discriminated-against people feel powerless in the system. Giving people non-violent options to make themselves heard reduces the risk of violence. It is important to acknowledge the existing discrimination and racism in Finland (FRA, 2018; Keskinen, Seikkula & Mkwesha, 2021), even in the work of public authorities, and to assess critically practices such as ethnic profiling (Himanen, 2021; Keskinen et al, 2018). Additionally, Finland has been advised to fully transpose the EU legislation criminalising hate speech and hate crimes (European Commission, 2021), which suggests that Finnish hate crime sanctioning is inadequate.

De-radicalisation work should have funding which goes beyond election terms. Even if the government has political will to implement de-radicalisation policies, the resources allocated to the work have been relatively small, with a focus on fixed-term projects, often conducted by third sector organisations. While CSOs and other third sector organisations have good reach to the grassroots level, making them important actors in the field, a more permanent form of government funding should be established to guarantee the continuity of the work. Qualitative indicators are needed to prove the significance and effectiveness of explicit de-radicalisation work of CSOs to persuade the funders.

Finland has a multilevel approach in its de-radicalisation and integration measures; both national and local levels have a role in it. The national actor MoI coordinates the system that then branches to the local level, to exit work, the multi-professional Anchor work and activities engaging the youth, but the interaction between the national and local levels is bidirectional. The focus on the local level also helps to consider the specific context when formulating the policies. Moreover, municipalities have a strong position in the implementation of the welfare services, making them crucial actors in implicit de-radicalisation policies. Possibly in future, regional welfare areas will become more central actors in the field due to an ongoing social and health care reform. The strength of minimum-budget multi-professional work has been in tackling the issue from its root causes and not promoting an approach which would paradoxically increase radicalisation through excessive securitisation or the stigmatisation of marginalised social groups.

While Finnish de-radicalisation policies have historically been implicit policies related to free and universal education and welfare services, the explicit work for preventing violent radicalisation focuses considerably on education regarding the phenomenon of radicalisation, which is still a difficult topic in public discussion and mainly connected to ideas of immediate violent threat. This might be due to the consensual culture of Finland, which may prevent the treatment of difficult issues, and to low levels of political violence during recent decades.

In the future, multi-professional preventative work will be developed further. Accurate information will be distributed to a range of actors, such as social and health care sector workers and school staff, who are crucial in preventing violent radicalisation. Radicalisation as a phenomenon should be better-known in a range of spheres of society, and current information should be available to the public. Moreover, exit services and other counter-radicalisation measures, still largely reliant on project funding, should become more established. Our interviews also suggested that perhaps the most efficient de-radicalisation policies would be those which ensure that participation and access in services and their planning and decision-making would also be within reach of the most vulnerable groups at risk of violent radicalisation.

Annexes

Annex I: Overview of the Legal Framework on Radicalisation & De-radicalisation

Legislation title (original and English) and number	**Date**	**Type of law** (i.e. statute, regulation, rule, etc…)	**Object/summary of legal issues related to radicalisation**	**Link/PDF**
Act on the Ombudsman for Minorities and the National Discrimination Tribunal (660/2001)	1 September 2001	statute	Prevention of ethnic discrimination, advancement of good ethnic relations, securing ethnic minorities and foreigners rights, surveillance of discrimination and reporting of human trafficking.	https://www.finlex.fi/fi/laki/ajantasa/2001/20010660 English translation: https://finlex.fi/en/laki/kaannokset/2001/en20010660_20081109.pdf
Act on the position and rights of a client of social welfare (812/2000)	1 January 2001	statute	The purpose of this Act is to promote a client orientation and confidentiality of the client relationship, as well as the client's right to good service and treatment in social care.	https://finlex.fi/fi/laki/ajantasa/2000/20000812
Act on Exercise of Freedom of Expression in Mass Media (460/2003)	1 January 2004	statute	This Act provides more specific provisions for the exercise of freedom of expression protected by the Constitution in mass media. In the application of this law, communication should not be interfered with more than is necessary, taking into account the importance of freedom of expression in a popular rule of law.	https://www.finlex.fi/fi/laki/ajantasa/2003/20030460 English translation: https://www.finlex.fi/fi/laki/kaannokset/2003/en20030460.pdf
Assembly Act (530/1999)	1 September 1999	statute	The purpose of this Act is to safeguard the exercise of the freedom of assembly provided for in the form of government and to guide the organisation of general meetings and public events with the necessary ordinal provisions.	https://www.finlex.fi/fi/laki/alkup/1999/19990530 English translation: https://finlex.fi/en/laki/kaannokset/1999/en19990

				530_20020824.pdf
Associations Act (503/1989)	1 January 1990	statute	The Association can be allowed to establish a common purpose for the purpose of common implementation. The purpose must not be against the law or good manners. The association is governed by this law.	https://www.finlex.fi/fi/laki/smur/1989/19890503 English translation: https://www.prh.fi/en/yhdistysrekisteri/act.html
Church Act (1054/1993)	1 January 1994	statute	The Evangelical Lutheran Church's own organ, the General Synod uses the highest authority to make decisions in the Church. It deals with doctrine and Church work as well as legislation, administration and finance. All proposals from the Synod can only be rejected or accepted altogether by the Parliament.	https://www.finlex.fi/fi/laki/smur/1993/19931054
Criminal Code (39/1889)	1 January 1891	statute	Finnish Criminal Code	https://www.finlex.fi/fi/laki/smur/1889/18890039001 English translation: https://finlex.fi/en/laki/kaannokset/1889/en18890039_20150766.pdf
Data Protection Law (1050/2018)	1 February 2019	statute	Data protection law enacts how personal data should be handled and data's freedom of movement. Personal data can be handled for specified reasons only.	https://www.finlex.fi/fi/laki/alkup/2018/20181050 English translation: https://www.finlex.fi/en/laki/kaannokset/2018/en20181050.pdf
Ethnic agitation (511/2011)	13 May 2011	statute	Spreading or upholding information, opinion or other messages for the public that threatens, speaks ill or insults some group on the grounds of race, skin colour, national or ethnic origin, religion or conviction, sexual	https://www.finlex.fi/fi/laki/alkup/2011/20110511

			orientation or disability or any other equivalent reason will be penalised.	
Finnish Constitution (731/1999)	1 March 2000	statute	The Finnish Constitution	https://finlex.fi/fi/laki/smur/1999/19990731 English translation: https://www.finlex.fi/fi/laki/kaannokset/1999/en19990731.pdf
Freedom of Religion Act (453/2003)	1 August 2003	statute	The Act safeguards the exercise of the freedom of religion provided for in the Constitution. In addition, the Act provides for the establishment of a registered religious colony and the grounds for activities.	https://www.finlex.fi/fi/laki/ajantasa/2003/20030453 English translation: https://www.finlex.fi/en/laki/kaannokset/2003/en20030453.pdf
General Data Protection Regulation EU (679/2016)	25 May 2016	regulation	The protection of natural persons regarding the processing of personal data and on the free movement of such data.	http://data.europa.eu/eli/reg/2016/679/oj
Health Care Act (1326/2010)	1 May 2011	statute	The purpose of the Act is to promote and maintain the health, well-being, working and functional capacity and social security of the population; to narrow health disparities between populations; to implement equal access, quality and patient safety of the services needed by the population; the client focus of healthcare services; and strengthens the playing field in primary care and enhancing cooperation between healthcare operators, different sectors of the municipality and other actors in the promotion of health and wellbeing, social and social and social in organising health care.	https://www.finlex.fi/fi/laki/alkup/2010/20101326 English translation: https://www.finlex.fi/en/laki/kaannokset/2010/en20101326_20131293.pdf

Land Use and Building Act (132/1999)	5 February 1999	statute	The objective is to ensure that the use of land and water areas and building activities on them create preconditions for a favourable living environment and promote ecologically, economically, socially and culturally sustainable development. The Act also aims to ensure that everyone has the right to participate in the preparation process, and that planning is high quality and interactive, that expertise is comprehensive and that there is open provision of information on matters being processed.	https://www.finlex.fi/fi/laki/ajantasa/1999/19990132 English translation: https://www.finlex.fi/en/laki/kaannokset/1999/en19990132
Law on the Processing of Personal Data in Criminal Matters and the Maintenance (1054/2018)	1 January 2019	statute	GDPR is not valid in cases in which the authorities need to prevent, investigate, reveal crimes or bring crimes into consideration of charges.	https://www.finlex.fi/fi/laki/alkup/2018/20181054 English translation: https://finlex.fi/en/laki/kaannokset/2018/en20181054.pdf
Local Government Act (410/2015)	10 April 2015	statute	Law on Finnish municipalities, which also regulates local democracy and participation.	https://www.finlex.fi/fi/laki/ajantasa/2015/20150410 English translation: https://www.finlex.fi/fi/laki/kaannokset/2015/en20150410.pdf
Non-Discrimination Act (1325/2014)	1 January 2015	statute	The purpose of this Act is to promote equality and prevent discrimination, and to enhance the legal protection of the person who has been subjected to discrimination.	https://finlex.fi/fi/laki/smur/2014/20141325 English translation: https://www.finlex.fi/fi/laki/kaannokset/2014/en20141325.pdf
Party Act (10/1969)	1 February 1969	statute	The purpose of this Act is to set guidelines for how a political party is established.	https://www.finlex.fi/fi/laki/ajantasa/1969/19690010

				English translation: https://finlex.fi/en/laki/kaannokset/1969/en19690010_19920653.pdf
Police Act (2011/872)	1 January 2014	statute	The tasks of police are to safeguard justice and social order, national security, general order and maintenance of security, as well as, the prevention, revealing, detection of crimes, and to bring crimes into consideration of charges.	https://www.finlex.fi/fi/laki/smur/2011/20110872 English translation: https://www.finlex.fi/fi/laki/kaannokset/2011/en20110872_20131168.pdf
Social Welfare Act (1301/2014)	1April 2015	statute	The aim of the Act is to promote and uphold wellbeing, social security, reduce inequality, secure equal social services, and better cooperation between authorities.	https://www.finlex.fi/fi/laki/alkup/2014/20141301
Terrorist Crimes (17/2003)	1 February 2003	statute	Terrorist crime is defined as a crime that is based on terrorist incentives. This can mean an illegal threat, serious theft offence, intentional explosive crime, serious firearms offence, serious disturbing of telecommunications, human trafficking, kidnapping, use of chemical weapons, manslaughter, murder or involvement of radiological weapons etc. done with terrorist motives, a preparation of a terrorist crime, leading of a terrorist group, giving education, funding terrorism and travelling for a terrorist crime.	https://www.finlex.fi/fi/laki/ajantasa/1889/18890039001?search%5Btype%5D=pika&search%5Bpika%5D=terroris%2A#a24.1.2003-17 English translation: https://www.finlex.fi/fi/laki/kaannokset/1889/en18890039.pdf
Youth Act (1285/2016)	1 January 2017	statute	This Act provides for the promotion of youth work and activities and youth policies, as well as the related responsibilities and cooperation of the State Government and Municipality, as well as state funding.	https://www.finlex.fi/fi/laki/alkup/2016/20161285

National Case Law

Case number	Date	Name of the court	Object/summary of legal issues related to radicalisation	Link/PDF
Disbandment of association S2018/698	22 September 2020	Supreme Court	"The Supreme Court held that, in the main, the activities of the association had involved such essential unlawfulness and violations of the public interest that a caution was to be deemed an insufficient remedy; hence, an order for the disbandment of the association [NRM] was issued."	https://korkeinoikeus.fi/en/index/ennakkopaatokset/shortsummariesofselectedprecedentsinenglish/2020/kko.html

Other Relevant Issues

	Constitutional provisions	Statutory law (statues, rules, regulations etc.)	Important case law	Comments/issues relevant to radicalisation
Freedom of religion and belief	PL 11 §	Freedom of Religion Act (453/2003)		The Act safeguards the exercise of the freedom of religion provided for in the Constitution. In addition, the Act provides for the establishment of a registered religious colony and the grounds for activities.
Minority rights	PL 17 §	Act on the Ombudsman for Minorities and the National Discrimination Tribunal (660/2001)		Sámi, as an indigenous people, and Roma and other groups have a right to uphold and develop their language and culture.
Freedom of expression	PL 12 §	Act on using freedom of speech in mass communication (460/2003)		Freedom of speech is defined as a right to express, publish and receive information, opinions and other messages without anyone preventing it. The freedom of speech can be restricted in relation to other rights and laws.
Freedom of assembly	PL 13 §	Assembly Act (530/1999)		The Act safeguards freedom of assembly.

Freedom of association/political parties etc.	PL 13 §	Party Act (10/1969), Associations Act (503/1989)	Disbandment of association [NRM] S2018/698	NRM was disbanded on the grounds of continuous unlawful activities (against the Constitution and the Associations Act).
Hate speech/ crime		Ethnic agitation (511/2011), Discrimination (885/2009)		Hate speech or hate crimes are not judicial concepts.
Church and state relations	PL 76 §	Church Act (1054/1993)		Evangelic-Lutheran (and Orthodox) Church have a special position.
fSurveillance laws	PL 10 §	Law on the Processing of Personal Data in Criminal Matters and the Maintenance (1054/2018), Police Act (2011/872)		GDPR is not valid in cases in which the authorities need to prevent, investigate, reveal crimes or bring crimes into consideration of charges.
Right to privacy	PL 10 §	General Data Protection Regulation EU (679/2016), Data Protection Law (1050/2018)		Everyone has a right to privacy. Personal data can be handled for specified reasons only.

Annex II: List of Institutions Dealing with Radicalisation & Counter-radicalisation

Authority (English and original name)	**Tier of government** (national, regional, local)	**Type of organisation**	**Area of competence in the field of radicalisation& de-radicalisation**	**Link**
Criminal Sanctions Agency, Rikos-seuraamuslaitos	National	Criminal Sanctions Agency	Development of de-radicalisation practices in prisons	https://www.rikosseuraamus.fi/en/index.html Project: https://www.rikosseuraamus.fi/material/attachments/rise/julkaisut-muut/t6tkkckKt/RISE_VERAD_Loppuraportti_Julkinen.pdf
Deaconess Foundation Diakonissalaitos (HDL)	Local	Third sector organisation	Exit work	https://www.hdl.fi/en/
Finn Church Aid,	Local	Third sector organisation	Reach Out project	https://www.kirkonulkomaanapu.fi/en/

Kirkon ulkomaanapu				
Finnish Institute for Health and Welfare, Terveyden ja hyvinvoinnin laitos	National	State Institute	Radik project	https://thl.fi/en/web/thlfi-en
Finnish Security Intelligence Service, Suojelupoliisi (SUPO)	National	Agency of the Ministry of the Internal Affairs	Terrorism prevention	https://supo.fi/en/frontpage
Helsinki Safe Cities Network, Turvallinen Helsinki -verkosto	Local	Municipal actors' network	Promotion of safety and the sense of security in Helsinki; enabling of a compilation of common views on phenomena that endanger safety in Helsinki; identification of signals that endanger safety; planning of preventive action	https://www.hel.fi/turva/en/cooperation/
Ministry of Education and Culture, Kulttuuri- ja opetusministeriö	National	Ministry	Administration of matters relating to the Churches and other religious communities and drafting of legislation relating to them	https://minedu.fi/en/frontpage
Ministry of the Internal Affairs, Sisäministeriö	National	Ministry	Responsibility of radicalisation prevention work in Finland, coordination of Anchor work	https://intermin.fi/en/frontpage
Ministry of Justice, Oikeus-ministeriö	National	Ministry	Work against discrimination and hate speech; coordination of projects (Facts against Hate; previous projects on the topic)	https://yhdenvertaisuus.fi/en/frontpage https://oikeusministerio.fi/en/project?tunnus=OM043:00/2019

National Agency for Education, Opetushallitus	National	Agency	Work against radicalisation at schools; REDI project	https://www.oph.fi/en/statistics-and-publications/publications/building-resilience-support-democracy-education
National Bureau of Investigation, Keskusrikos-poliisi	National	Police department	Exit work for criminals in organised crime	https://poliisi.fi/en/national-bureau-of-investigation
Police, Poliisi	National	Police	Prevention of violent radicalisation in cooperation with other stakeholders	https://poliisi.fi/en/frontpage
Save the Children, Pelastakaa Lapset	National	Third sector organisation	RadicalWeb project to educate adults working with the young to recognise radicalisation on the internet	https://www.pelastakaalapset.fi/kehittamis-ja-asiantuntijatyo/digitaalinen-hyvinvointi-ja-lapsen-oikeudet/radicalweb-hanke/
Young Muslims Forum, Nuorten Muslimien Foorumi	Local	Third sector organisation	Muvenna project; local promotion of the inclusion of young immigrants and Muslim youth to prevent violent extremism in Turku	https://nmf.fi/projektit/muvenna/

Annex III: Best Practices/Interventions/Programmes

National level

	Institution(s)	Aim	Source	Evidence of effectiveness / literature
Facts against Hate, Online training on Equality and encountering clients	Ministry of the Interior with the Police University College and the National Police Board	The objective of this training is to broaden the participants' understanding of equality, hate crime and minorities as well as the values and ethical guidelines of the police and their application to the daily work. Its aims also include lowering the threshold of communicating with minorities and supporting police officers in working with them.	https://oikeusministerio.fi/en/project?tunnus=OM043:00/2019	http://urn.fi/URN:ISBN:978-952-324-632-4 Ongoing project

National action plan for the Prevention of Violent Radicalisation and Extremism 2019–2023	Ministry of the Interior	The whole coordination and evaluation of preventing radicalisation and extremism for the years 2019-2023.	http://urn.fi/URN:ISBN:978-952-324-627-0	http://urn.fi/URN:ISBN:978-952-324-319-4 Ongoing project
RADIK project	National Institute for Health and Welfare	To increase know-how and recognition of violent radicalisation and its prevention amongst health and social sector professionals. To create a supporting tool and web-based training programme and increase knowledge on the matter.	https://thl.fi/fi/tutkimus-ja-kehittaminen/tutkimukset-ja-hankkeet/vakivaltaisen-radikalisoitumisen-ja-ekstremismin-ennalta-ehkaisy-sosiaali-ja-terveystoimessa-radik-	Ongoing project

Sub-national/Regional level

	Institution(s)	Aim	Source	Evidence of effectiveness / literature
1.				
2.				

Local level

	Institution(s)	Aim	Source	Evidence of effectiveness / literature
Anchor work	Ministry of the Interior, National Police Board, police departments, social services, health care and youth services	Anchor activities aim to address emerging problems with a low threshold. The members of the Anchor team receive information about the situation and events in their area and can thus quickly intervene in any problems. Anchor teams also have local networks, which ensures smooth communication between all those working with young people. This enables them to intervene in new and changing situations.	http://urn.fi/URN:ISBN:978-952-324-632-4 www.ankkuritoiminta.fi https://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/161483/SM_16_19_Ankkuritoiminnan_kasikirja.pdf?seque	http://urn.fi/URN:ISBN:978-952-324-632-4

			nce=4&isAllowed=y	
Community Police Officers	Helsinki Police Department, Preventive Action Unit	The community officer activities were launched in Helsinki as the police realised that while the police heard nothing of minority groups' concerns from the field, this did not mean that such concerns did not exist. The minorities simply did not dare, or did not know how to bring them to the attention of the police. As a result, the police started to work on interaction and building a relationship with minority actors. Rather than being limited to people with different linguistic and cultural backgrounds, this work also included young people and groups with different extremist ideologies.	http://urn.fi/URN:ISBN:978-952-324-632-4	http://urn.fi/URN:ISBN:978-952-324-632-4
Exit work	Deaconess Foundation (HDL)	The exit project consists of three focus areas: education of stakeholders, creation of operating model and client work. The aim of education is to spread knowledge and understanding the importance and substance of exit work. The model creation refers to building permanent practice, which is shaped by co-learning with other EU member states. The client work offers mentoring for voluntary, violently radicalised people or ones at the risk of violent radicalisation.	https://www.hdl.fi/exit/	Ongoing project
RADINET project	Vuolle Setlementti	The RADINET project (2016-2018) developed an organisation-based, nationwide client service model of Exit work for radicalised individuals who want to break free from violent extremist thinking and action. The project prepared a framework for now ongoing exit project of HDL.	https://vuolleoulu.fi/hyvinvointi-ja-yhteistyo/asiantuntijuutta-ja-osallisuutta/kehittamistyo-ja-hankkeet/radinet-hanke/	https://vuolleoulu.fi/radinet-hanke-esimerkkina-tuloksellisesta-jarjestotoiminnasta/

Annex IV: Policy Recommendations

- Multisectoral and pragmatic cooperation and communication between public authorities and different administrative levels, which also includes the central stakeholders and experts, is efficient in preventing violent radicalisation.
- A framework where guidelines are set at the national level, but the implementation of de-radicalisation policies is conducted locally is effective in considering the local context.

- Sufficient funding for de-radicalisation work over election terms is central to ensuring the continuity of the policy. Project-based funding can be used in developing policies and models for further work, but not in permanent activity such as exit work.
- Third sector organisations reach the grassroots level and people with a low level of trust for public authorities; however, the continuity of their funding (which is often project-based) needs to be taken into account.
- Diverse stakeholders need to be involved in the preventive work. This also concerns youth participation in initiatives focusing on young people.
- International cooperation and learning from international examples are central in the development of de-radicalisation policies.
- Social and security perspectives should be integrated, and excessive securitisation avoided. The role of prevention is central in de-radicalisation policies.
- The role of welfare services is of high importance as a part of the preventive work. No one should be excluded from them. Exclusion mechanisms of society and ascending phenomena need to be recognised.
- Trust in society and public authorities, including the judiciary system and the police, are central in the prevention of violent radicalisation.
- There should be sufficient education and training for public authorities to recognise all kinds of violent radicalisation and its risk factors. Openly available information about radicalisation should be provided. The difference between violent radicalisation and non-violent radical social movements should be noted. Tools to recognise risk factors for violent radicalisation should be developed, but not used as a mere checklist or in a stigmatising way.

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DeRadicalisation
in Europe and Beyond: Detect, Resolve, Reintegrate

De-radicalisation and Integration: Legal & Policy Framework

France/D4 Country Report

December 2021

Stephen W. Sawyer, Roman Zinigrad – The American University of Paris, Center for Critical Democracy Studies

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About the Project

D.Rad is a comparative study of radicalisation and polarisation in Europe and beyond. It aims to identify the actors, networks, and broader social contexts driving radicalisation, particularly among young people in urban and peri-urban areas. D.Rad conceptualises this through the I-GAP spectrum (injustice-grievance-alienation-polarisation) so as to move towards measurable evaluations of de-radicalisation programmes. Our intention is to identify the building blocks of radicalisation, which include a sense of being victimised; a sense of being thwarted or lacking agency in established legal and political structures; and coming under the influence of "us vs them" identity formulations.

D.Rad benefits from an exceptional breadth of backgrounds. The project spans national contexts, including the UK, France, Italy, Germany, Poland, Hungary, Finland, Slovenia, Bosnia, Serbia, Kosovo, Israel, Iraq, Jordan, Turkey, Georgia, Austria, and several minority nationalisms. It bridges academic disciplines ranging from political science and cultural studies to social psychology and artificial intelligence. Dissemination methods include D.Rad labs, D.Rad hubs, policy papers, academic workshops, visual outputs and digital galleries. As such, D.Rad establishes a rigorous foundation to test practical interventions geared to prevention, inclusion and de-radicalisation.

With the possibility of capturing the trajectories of seventeen nations and several minority nations, the project will provide a unique evidence base for the comparative analysis of law and policy as nation-states adapt to new security challenges. The process of mapping these varieties and their link to national contexts will be crucial in uncovering strengths and weaknesses in existing interventions. Furthermore, D.Rad accounts for the problem that processes of radicalisation often occur in circumstances that escape the control and scrutiny of traditional national frameworks of justice. The participation of AI professionals in modelling, analysing, and devising solutions to online radicalisation will be central to the project's aims.

Introduction

France has a decades-long record of developing mechanisms of counterterrorism and intelligence in its struggle against various forms of violent extremism. It is however relatively new to the field of (de)radicalisation. The first comprehensive, non-security-based reforms addressing political violence appeared only in 2013, considerably later than in other countries dealing with similar threats, such as the United States or the UK. The policies and subsequent legislative initiatives were triggered first by the 2013 series of shootings targeting French soldiers and a Jewish school, committed by Mohammed Merrah, a jihadist radical, and then took a form of utmost urgency after the emblematic series of jihadist attacks in January and November 2015. Since then, France has been constantly upgrading its arsenal of counterterrorist efforts and expanding the scope and variety of its deradicalisation measures, albeit directing them, almost exclusively, against jihadist violence and radicalisation.

In what follows, we trace the main reforms introduced by the French government in response to the rise of political extremism, point to the shortcomings of their narrow focus on jihadist violence, and analyse their impact on the French constitutional structure, legislative framework, policymaking, and social fabric. This report begins with a short overview of the socio-economic, political and cultural context of radicalisation in France. The overview touches upon issues of political polarisation; immigration and the French policy of *integration* towards migrants; the principle of *laïcité* [secularism] and its implementation in the context of jihadist radicalisation; inequality and social protests; and finally, provides a brief history of extremist violence in France.

The next part examines those elements in the constitutional structure of the French regime that affect or are affected by deradicalisation efforts. It explains the relation between the principle of indivisibility of the French Republic and its decentralised governance; the constitutional status of *laïcité*, the fundamental rights protected in the French constitutional documents, and surveys the decisions of the French Constitutional Council on the constitutionality of the government's counterterrorist and deradicalisation reforms. The report then goes on to analyse the legislative framework that makes these reforms possible. It addresses legislation in the fields of security, counterterrorism, surveillance technology, intelligence, radicalisation in prisons, administrative banning of violent groupings and organisations, restriction of religious freedoms, religiously motivated radicalisation, online hate speech and fake news. Next, the report offers an overview of the comprehensive national plans, government policies and institutional structure that implement and enforce the existing legislative scheme, and often also precipitate the next legislative initiatives.

Finally, the report maps out the main programmes and instruments of deradicalisation employed by the French government and its partnering organisations. This part evaluates the success and prospects of French policies of deradicalisation in public education – the institution on which the current administration pins most hopes in this respect – as well as in the prison system, and in several other programmes of rehabilitation and social reintegration for radicalised individuals. The report's conclusions suggest several changes in the current legal regime of deradicalisation that aim to minimise the infringements it generates upon individual rights and the rule of law, while improving its contribution to public security.

Socio-Economic, Political and Cultural Context[1]

Introduction

The following section situates the stakeholders and processes of (de)-radicalisation analysed in the report in a socio-political context. It offers a brief analysis of significant political, social and economic shifts in France's recent past, and an overview of the French history of extremist violence.

Political polarisation

The 2017 presidential elections reorganised the bipolar structure of French politics into a multi-party system controlled by a strong centre. In past decades, the French electorate was characterised by a relatively balanced right-left divide with one or two political parties on each side. The rise of the far-right *Front National* party from the end of the '80s and on was initially linked to the politicisation of migration, processes of globalisation and European integration, gradually creating a third stable electorate. In 2002, the far-right block was strong enough for its candidate to qualify for the second round in the presidential elections for the first, but not last, time. Despite growing polarisation and distrust, the political landscape remained relatively stable, with the presidency alternating between the centre-left and the centre-right until 2017. In 2012-2017, the system saw a further increase in political polarisation with the appearance of new far-left parties, primarily *La France insoumise* (LFI), led by Jean-Luc Mélenchon. The two establishment-left and -right parties were drawn to their respective extremes and moved away from competing over the centre's moderate undecided voters. The opened gap partly facilitated the overwhelming success of the centrist and neoliberal *La République en marche* (LREM) in 2017, led by Emmanuel Macron (Bedock, 2020; Murray, 2020). The current political scene in France has been described as a state of "polarized pluralism", where "two bilaterally opposed (and internally divided) camps that cannot unite and have little perspective of governing in the near future on either the left or on the right, and a strong centrist pole with ill-defined borders in a system characterized by fragmentation and ideological polarization" (Bedock, 2020). Macron's reforms, introduced shortly after the elections, played a prominent role in triggering the Yellow Vests movement in October 2018 (see 'Inequality and social protests: The Yellow Vests' below).

Immigration and *intégration*

Immigrants currently consist of about 10 per cent of the French population (~6.5 million); more than a third are naturalised. 46.5% of immigrants living in France were born in former French colonies in North and West Africa (mainly in Algeria, Morocco and Tunisia), and another third were born in Europe (primarily in Portugal and Italy) (INSEE, 2019). Immigration is a recurring but remarkably fluctuating topic in French election campaigns – it was highly politicised in the 1988, 2002 and 2012 elections but received low attention levels in the subsequent 1995, 2007 and 2017 electoral cycles (Grande et al., 2019). More generally, immigration and the French colonial past, the intersection of which is most vivid in the large waves of migrants arriving from Algeria in the '60s and '70s, continue to play a significant role in the country's politics and affect its collective identity.

[1] This section has been published in (Sawyer and Zinigrad, 2021).

The struggle of second- and third-generation immigrants from former colonies against discrimination and for recognition of their identity began in the '80s. It is still far from being fully addressed by the state. Systemic racism denied them equal opportunity in education, employment and housing, and spatial segregation enclosed communities of North- and West-African immigrants in the French suburbs (*banlieues*), where they continue to suffer from unemployment, violence and marginalisation (Chabal, 2015; Chrisafis, 2015). Until today, "Living in banlieues and immigrant-concentrated neighbourhoods in Paris is a proxy for racial and ethnic background; it marks one as non-white or as a visible minority within France" (Barwick and Beaman, 2019). Revolts against the effective transparency of these conditions have been breaking out in the *banlieues* since the '80s. The protest peaked in 2005, with violent riots that started in a northeast suburb of Paris and grew into a two-week uprising in 300 towns that involved the setting on fire of some 10,000 vehicles. The 2005 riots were met with severe police response, brought to more than 3,000 arrests and led the President to declare a state of emergency for the first time in metropolitan France since the Algerian war (Dikeç, 2007; Horvath, 2018).

Except for an initial period of relative openness to immigrants' identity politics in the mid-'80s, French governments downplay the unique grievances and demands of this group (Chabal, 2015). Multicultural attitudes to ethnic and religious minorities are rejected in favour of a policy of *intégration* into the French republican project, which "requires the effective participation of all those called to live in France in the construction of a society that brings [its citizens] together around shared principles as they are expressed in equal rights and common responsibilities".[2] In recent years, the integration rhetoric increasingly focuses on the religious dimension of the problem and underscores *laïcité* – the French notion of secularism – as the regime's foremost "shared principle" (Chebbah-Malicet, 2018).

Laïcité, jihadist violence, and the far right

The French government's two principal mechanisms employed to deal with jihadist violence are its security apparatus and public education system. Constitutional and legislative reforms, pumped up by emergency executive prerogatives unfolding in the wake of global jihadist terrorism after 9/11 and intensified after the 2015 Paris attacks, have equipped the state with extensive and precarious police powers to detect, trace and foil violent activity.

Coinciding regulatory reforms in the school system have sought to ensure the next generation of French citizens subscribes to the regime's fundamental values, the most important of which in this context is the *laïcité*. Officially written into law in 1905 as a standard ensuring strict institutional separation of (the Catholic) church and state, the *laïcité* has been gradually transformed under the Fifth Republic into a principle that extends to the regulation of individual conduct in the public sphere and encourages "moderate" religious practice. In the past twenty years, it has been famously mobilised to prohibit visual manifestations of religious attributes, such as hijabs in schools and burqas in public places, and presented as the common denominator for all French citizens.

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[2] This definition – quoted in *(Chabal, 2015, p. 91*) – was framed by the French High Council for Integration. This government institution was dissolved in 2012 but the definition continues to reflect the government's approach.

The French government insists that the preventive and integrative policies ensuing from the combination of law enforcement with the principle of *laïcité* target only radicalised "Islamist" individuals and by no means intend to stigmatise Islam or Muslim French citizens and residents as a whole. Yet, notwithstanding the official declarations regarding equality and religion-blind actions, French legal reforms and political discourse increasingly conflate Islam with jihadist ideology.

One of the aggravating factors contributing to the problem is the instrumentalisation of *laïcité* to confront violent radicalisation and, more generally, religious *communautarisme* (communitarianism). "Communitarianism" is commonly understood in France as a case of social pathology where an ethnic group prioritises traditional or religious values above the interests of the "nation" and the republican society. Historically, French governments have favoured *communautarisme* as an alternative explanation to their failure in handling the country's colonial legacy, social integration of immigrants and other manifestations of systemic racism and discrimination. Save for the radical left, *communautarisme* is routinely denounced by politicians across the political spectrum who invoke *laïcité* as the ultimate antidote against the "desire to secede from the Republic in the name of a religion" (Faye, 2019). And as the government depicts *laïcité* as being threatened by jihadism, its aversion to *communautarisme* is gradually conflated with its concern for jihadist violence (Chabal, 2015, chaps. 4, 8; Geisser, 2020a).

The recent act "reinforcing respect of the principles of the Republic", recently passed by the parliament, illustrates the problem (*Loi n° 2021-1109 du 24 août 2021 confortant le respect des principes de la République*). It is criticised for blurring the line between jihadism and Islam by lumping together security procedures aimed at curtailing terrorism together with measures limiting the place of religion in the public and private spheres.[3] Such steps turn attempts to deradicalise "Islamists" into a policy of "deradicalisation" of Islam and discredit the government's repeated declarations that in the eyes of the law, "*communautarisme* is not terrorism" (Faye, 2019).

Finally, the legal and political amalgamation of jihadism and Islam plays into the hands of the political far right. *Rassemblement National*, theformer *Front National,* and its leader, Marine Le Pen, amplify the alleged contrast between Islam and the republic's basic values, positioning themselves as the "true" defenders of *laïcité* and derive from it their anti-immigrant and anti-Muslim agenda.

Inequality and social protests: The Yellow Vests

In the past two decades, France has faced broader socioeconomic challenges, including slow recovery from the 2008 crisis, stagnating economic growth, low social mobility, and high

[3] See also the formulation suggested by the Senate "Commission of Inquiry into the responses provided by the public authorities to the development of Islamist radicalisation and the means to combat it": "Islamist radicalism is not only about the issue of terrorism or the shift to violent action, but also involves behaviors that can be peaceful and that do not lead to violence. It can be the work of groups that advocate identitarian closure or entryism into the associative and political world. For the commission of inquiry, it is a question of the desire to ensure, in certain parts of the territory, a so-called religious norm over the laws of the Republic" (Eustache-Brinio, 2020).

unemployment rates, especially among the youth. The neoliberal reforms in labour law and the pensions system introduced by Macron, along with rising taxes, were opposed mainly by the low and middle classes and established his reputation as the "president of the rich". In October 2018, triggered by the seemingly anecdotal imposition of a carbon tax on diesel fuel, residents of rural areas and farther suburbs started gathering in spontaneous protests against the government's economic policies. The rallies quickly grew into weekly mass demonstrations across France and evolved into the "Yellow Vests" social movement. It was driven by economic and democratic grievances of the lower-middle-class, brought hundreds of thousands across France to the first manifestations, and was initially met with approval by 65% to 80% of the population (Chamorel, 2019; Elabe, 2019; Frénois et al., 2018). The 2018-2020 mobilisation of the Yellow Vests produced the most significant political crisis in France since the students uprising in May 1968.

The movement did not position itself as either left or right but was rather backed by both political extremes. The majority of the Yellow Vests supporters voted for either Marine Le Pen (FN/RN) or Jean-Luc Mélenchon (LFI) in the first round of the 2017 presidential elections (Foucault et al., 2019). This phenomenon may indicate that the "right-left cleavage is giving way to one pitting the center against the far right —a shift caused by splits within both the right and the left, as well as cultural issues that draw the elites toward the center-left and the working-class toward the far right. Growing class and educational divides are replacing the socially mixed constituencies of the traditional right and left" (Chamorel, 2019, p. 57).

History of extremist violence

Politically motivated extremist violence has a long and diverse record in France. Its main driving forces since WWII may be classified in five intertwined categories: 1) anti-capitalist; 2) anti- and pro-colonial; 3) regional separatist; 4) international, and 5) jihadist terrorism. The first category is associated primarily with the extremist left-wing *Action Directe* operating in France in 1979-1987 against French ties with international corporate business and military industry. Anti-colonial violent struggles spread across South-East Asia, North Africa, the Middle East and sub-Saharan Africa from mid-'40s to early '60s,[4] and with less success in the French Overseas Territories (DOM-TOM) in the '70s-'80s.

Organisations belonging to the separatist category emerged in Brittany, French Basque Country and Corsica in the '60s-'70s fighting for regional autonomy or independence. The Basque ETA and particularly the *Corsican Front de Libération National de la Corse* (FLNC) have since carried out many thousands of terrorist acts – including more than 500 attacks only in 2011-2018 – and until recently were the most tangible and frequent terrorist threat in the country. Incidents of international terrorism are related to French involvement in other states' affairs, predominantly its ex-colonies.[5] Finally, jihadist terrorism characterises

[4] The most notorious of these was led by the *Front de Libération Nationale* (FLN) in Algeria during its War of Independence (1954-1962) – brought to a quick dissolution of most of the French empire. The pro-colonial *Organisation Armée Secrète* (OAS) – a paramilitary group founded by members of the French military in 1961 and fighting *against* the self-determination of Algeria – was the first in this period to "import" large scale terrorist attacks into Metropolitan France.

[5] The main chapters belonging to this category are first, Palestinian attacks aimed at Israeli targets in France and the French state related to the French involvement in the Israeli-Palestinian conflict in the 1960's-1980's; and second, terrorist operations carried out in the 1990's by the *Groupes Islamistes*

attacks that have been carried out in France since 2012 and that are associated with or inspired by Al-Qaeda and the Islamic State (IS). Two elements of modern Jihadist violence stand out among previous types of terrorism. The first is the medium of its proliferation – widely available online means of recruitment and diffusion of radical propaganda reaches an audience on a previously unimaginable scale. The second is the new profiles of its adherents: foreign fighters, hundreds of whom come to France from Syria, Iraq and other warzones; and "homegrown" terrorist groups or "lone wolves", who are often self-recruited, are not formally controlled by a terrorist organisation and are motivated by perceptions of personal grievance and marginalisation (Galli, 2019; Gregory, 2003).

Constitutional Framework in the Field of Radicalisation

Foundations of the French Regime

The French Fifth Republic is founded upon the principles of national sovereignty, democracy, human rights, equality, secularism, indivisibility, and social solidarity (Rogoff, 2011, p. 253). Article 1 of the 1958 Constitution epitomises these norms: "France shall be an indivisible, secular (*laïque*), democratic and social Republic. It shall ensure the equality of all citizens before the law, without distinction of origin, race or religion. It shall respect all beliefs. It shall be organised on a decentralised basis". The principles of indivisibility, decentralisation and secularism are most pertinent for questions of (de)radicalisation.

Indivisibility and decentralisation

The indivisibility of the French Republic echoes the ideas of the unity of the French People and the French Nation and the notion of indivisibility of national sovereignty. Article 3 of the 1958 Constitution proclaims: "No section of the people nor any individual may arrogate to itself, or to himself, the exercise [of national sovereignty]". Article 3 of the 1789 Declaration of the Rights of Man and of the Citizen similarly asserts that the "principle of all sovereignty resides essentially in the nation. No body nor individual may exercise any authority which does not proceed directly from the nation". The principle of indivisibility is decisive in questions of concentration of power, territorial integrity, and group rights of minorities but is nevertheless qualified by the decentralised organisation of the government and the special status of French overseas territories and population. The Constitution asserts that "The Republic shall recognise the overseas populations within the French people in a common ideal of liberty, equality and fraternity" (Art. 72-3), and the Constitutional Council has recognised the right of "overseas people […] to self-determination" (*Décision n° 91-290 DC du 9 mai 1991*).

France is a unitary state with powerful central executive, administrative, and legislative branches. The institutional structure of government, initially highly centralised, was considerably reorganised by a major legislative reform in 1982 and a constitutional amendment in 2003, which included decentralisation and vertical delegation of powers (*Loi n° 82-213 du 2 mars 1982 relative aux droits et libertés des communes, des départements et des régions*; *Loi constitutionnelle n°2003-276 du 28 mars 2003 relative à l'organisation décentralisée de la République*). The current model vests substantial political and

Armées (GIA) in Algeria – against French and francophone Algerian nationals – and in France with the purpose of destabilizing domestic Algerian politics and disentangling it from the involvement of France.

administrative prerogatives in sub-national divisions of government and grants extended autonomy and privileges to French "overseas" territories. Article 72 of the 1958 Constitution establishes three level of "territorial communities" entrusted with distinctive prerogatives: *Régions* (France currently counts 18 *régions*), *Départements* (94), and *Communes* (more than 30,000). These non-hierarchical territorial authorities are "self-governing through elected councils and […] have power to make regulations for matters coming within their jurisdiction" (Article 72), primarily in the domains of economic development, education, transportation and culture (Boyron, 2012; Duhamel and Tusseau, 2020). The territorial government is allowed to derogate from primary and secondary legislation, has financial autonomy and may organise referenda; voters in each territorial community have the right of petitioning the community's authorities (*French Constitution of 4 October 1958*, Arts. 72, 72–1; *Code général des collectivités territoriales, Arts. L1112-15 - L1112-23*; *Loi n° 2004-809 du 13 août 2004 relative aux libertés et responsabilités locales, Art. 122*; Duhamel and Tusseau, 2013).

The French overseas territories generally have more autonomy from the central government than the sub-national territorial units in mainland France, but also greatly vary across categories in their level of independence. The former French colonies of Guadeloupe, French Guiana, Martinique, Réunion and Mayotte are today part of France, defined as "overseas" *régions* and *départements* (DROM). French law is automatically applicable in these territories but the Constitution allows for adaptations necessary "in light of the specific characteristics and constraints of such communities" (*French Constitution of 4 October 1958*, Art. 73). The guiding principle applied to them by the French government is assimilation (Duhamel and Tusseau, 2020, p. 1312).

France also recognises overseas collectivities (*collectivités d'outre-mer*). Some of them enjoy advanced autonomy (e.g., French Polynesia), others have special fiscal standing (Saint-Barthélemy and Saint-Martin islands), and others lack an autonomous status (Wallis and Futuna island) (Lemaire, 2012). New Caledonia is the most independent French collectivity that stretches the most the principle of indivisibility. The French Constitution has allowed for the recognition of a special status of "shared sovereignty" for New Caledonia and an option for full secession through a referendum. The collectivity's unique model, established by an organic law in 1999, provides for a system of self-government and a New Caledonian citizenship granted to French nationals that allows to vote in the local elections. New Caledonia has its own Congress, government, customary Senate, Economic and Social Council and customary councils, but is also represented in the French Parliament and subject to the national laws in domains such as immigration control, national defence and higher education (*French Constitution of 4 October 1958*, Title XIII; *Organic Law No. 99-209 of March 19, 1999 Relating to New Caledonia (as Amended on December 31, 2009)*; L'Accord de Nouméa (5 mai 1998); Meur, 2017). New Caledonia has rejected independence in two previous referenda held in 2018 and 2020. A third and final referendum on independence, requested by the New Caledonian government and recently approved by the French government will be held in 2022 (*France 24*, 2021).

Of all the territories, the case of Corsica is particularly instructive for the understanding of the French model of "decentralised indivisibility" in view of the ongoing attempts by Corsican political and violent separatist movements to gain autonomy or independence from France. In 1991, the French Constitutional Council declared unconstitutional a section in a statute that referred to a "Corsican people, a living historical and cultural community and part of the French people" for violating the principle of indivisibility in Art. 2 of the 1958 Constitution, "as the

Constitution recognises only the French people, made up of all French citizens regardless of origin, race or religion" (*Décision n° 91-290 DC du 9 mai 1991*). At the same time, the Council upheld other parts of the same statute that accepted a special organisation of the Corsican territorial government. Thus, while breaking "with a Jacobinism of strict organisational identity" the Constitutional Council nevertheless "affirms a republican Jacobinism exclusive of any decomposition of the notion of people" (Duhamel and Tusseau, 2020). A decade later, and in the shadow of growing violence in Corsica, the Constitutional Council resorted to the unitarian logic once again and struck down an amendment to the General Code of Territorial Units, which allowed for a temporary delegation of legislative prerogatives to the Corsican Assembly. The Council considered that "giving the legislature, even for a derogatory experiment with limited duration, the possibility of empowering the territorial unit of Corsica to take measures on matters that fall to be regulated by statute, the Act referred has intervened in a matter that is for the Constitution [and] must accordingly be declared unconstitutional" (*Decision no. 2001-454 DC of 17 January 2002*). These powers were however delegated to all territorial collectivities by a constitutional amendment in 2003. Currently, Corsica is a "special-status territorial community", as defined in Art. 72-1 of the 1958 Constitution.

Finally, the notion of indivisibility plays a role in the French approach to linguistic minorities. In 1999, France signed the European Charter for Regional or Minority Languages (4 November 1992, ETS 148), which protects and promotes languages used by national traditional minorities, but the Constitutional Council declared it incompatible with the 1958 Constitution. The Council concluded that the Charter, interpreted as conferring "specific rights to 'groups' of regional or minority language speakers, within the 'territories' in which these languages are used" contravenes "the constitutional principles of the indivisibility of the Republic, of equality before the law, and of the oneness (*unicité*) of the French people" (*Decision no. 99-412 DC of 15 June 1999*). The Constitution has since been amended to ambiguously recognise regional languages as "part of France's heritage" (Article 75-1), but the Charter is yet to be ratified in France. The latest attempt to amend the Constitution so as to allow the ratification was rejected by the Senate in 2015.

Laïcité

Secularism is a fundamental and preeminent norm in the life of the French Fifth Republic that is at the same time ever-changing and highly contentious. The principle of *laïcité* is enshrined in the 1958 Constitution and its basic tenets were set up in the church-state separation law of 1905 (*Loi du 9 décembre 1905 concernant la séparation des Eglises et de l'Etat*) but its scope and nature constantly evolve through legislative and administrative reforms, and the case-law of the French Constitutional Council that is regularly summoned to interpret the notion of *laïcité* in Article 1 of the 1958 Constitution.

As per the Constitutional Council, "the principle of *laïcité* is one of the rights and freedoms guaranteed by the Constitution". The principle implies that

> the State must be neutral; […] that the Republic does not recognise any religion; […] that all beliefs are respected, the equality of all citizens before the law without distinction based on religion are also respected, and that the Republic guarantee the free exercise of religion [… and] shall not subsidise any religion (*Décision n° 2012-297 QPC du 21 février 2013*).

In 2010, the Council upheld the constitutionality of the "burqa-ban law", which prohibits the wear of "clothing designed to conceal the face" in any public space unless it is justified by medical or other, non-religion-related, motives (*Loi n° 2010-1192 du 11 octobre 2010 interdisant la dissimulation du visage dans l'espace public*). The act was judged by the Council to ensure "a conciliation which is not disproportionate between safeguarding public order and guaranteeing constitutionally protected rights" as long as it does not apply to "places of worship open to the public" (*Decision no. 2010-613 DC of 7 October 2010*). The proportionality of the ban was later approved by the European Court of Human Rights who found the act pursues a legitimate aim of "living together" and does not exceed France's margin of appreciation under the European Convention on Human Rights (*S.A.S. v. France (GC), application no. 43835/11, judgment, 1 July 2014*).[6]

The French "Block of Constitutionality" and Fundamental Rights

The French material constitution consists of several constitutional texts and norms known as the "block of constitutionality" (*bloc de constitutionnalité*). The formal 1958 French Constitution of the Fifth Republic is only one of its components. The "block" also includes the 1789 Declaration of the Rights of Man and of the Citizen, the Preamble to the French Constitution of 1946, the 2004 Charter for the Environment, and more broadly, "general principles recognised in the laws of the Republic" that concern fundamental rights and liberties, national sovereignty or the organisation of public authorities (Boyron, 2012; *Décision n° 2013-669 DC du 17 mai 2013*). All elements of the block of constitutionality are normative and judicially enforceable.

The 1958 Constitution sets up the structure and functions of government institutions and establishes the foundational principles of the French republican rule. Some of the principles, such as secularism (*laïcité*) directly concern individual liberties, but the Constitution contains no full-fledged Bill of Rights. It references the protection of rights in its Preamble, and explicitly guarantees only a few rights, such as "equality before the law" in Article 1 and protection against arbitrary detention in Article 66. The legislator is then charged with determining "the rules concerning […] civic rights and the fundamental guarantees granted to citizens for the exercise of their civil liberties; freedom, pluralism and the independence of the media; the obligations imposed for the purposes of national defence upon the person and property of citizens" (Article 34). The primary sources for the protection of rights are the other components of the block of constitutionality. The Declaration of 1789 recognises civic and political rights, such as the rights to "liberty, property, security, and resistance to oppression" (Article 2, 17), right to participate in the legislative process (Article 6), freedom of religion (Article 10) and freedom of speech (Article 11); the 1946 Preamble also proclaims social and economic rights like the rights to work, unionise and strike (§§5-7), rights to health and minimal living conditions (§11), and the right to education (§13); and the 2004 Charter guarantees the right to live in a balanced environment, which respects health (Article 1).

Other fundamental rights were incorporated into the block of constitutionality by the French Constitutional Council, which defined them as "general principles recognised in the

[6] See also the debate around the ban of veils (and of other "conspicuous religious symbols") in public schools (Weil, 2014; *Dogru v. France, Application no. 27058/05, judgment, 4 March 2009*).

laws of the Republic". Among these "unenumerated" rights are freedom of association, freedom of conscience, right to a fair trial, freedom of education (concerning the rights of parents to choose their children's education and the rights of private actors to manage alternative educational institutions), and academic freedom in universities (*Décision n° 71-44 DC du 16 juillet 1971*; *Décision n° 77-87 DC du 23 novembre 1977*; *Décision n° 76-70 DC du 2 décembre 1976*; *Décision n° 83-165 DC du 20 janvier 1984*).

Constitutionality of counter-terrorist measures

The Constitutional Council recognises the aim of "combating terrorism" as a legitimate government purpose, "which is part of the objective of constitutional value of preventing breaches of public order" (*Décision n° 2021-822 DC du 30 juillet 2021*; Favoreu, 2019, pp. 145–146). In recent years, the Constitutional Council has reviewed various legislative reforms that concerned surveillance, regulation of online hate speech, deradicalisation, and other matters of national security in connection with extremist violence and terrorism. The Council approved some of the securitisation tools introduced by the parliament but opposed other legislation that was seen as infringing the personal freedoms of individuals suspect in the dissemination of hate speech or in terrorist activity.

In August 2020, the Constitutional Council has struck down a major part of a legislative reform allowing to monitor persons convicted of terrorism after their release from prison. The objective of this reform, promulgated in the act "establishing security measures against perpetrators of terrorist offenses at the end of their sentence" (*Loi n° 2020-1023 du 10 août 2020 instaurant des mesures de sûreté à l'encontre des auteurs d'infractions terroristes à l'issue de leur peine*), was prevention of terrorism. In August 2020, the Council declared unconstitutional the act's main scheme, which authorised courts to issue an order for monitoring shortly before the person's release if they were estimated to pose a high risk to public security. The cumulative nature of the planned restrictions on the released offenders, their duration (that could be, in some cases extended to ten years after the end of their sentence), and the lack of an obligation to implement reintegration mechanisms planned during the sentence were among the factors that lead the Council to conclude that the reform infringes upon the freedom of movement, the right to personal privacy, and the right to have a normal family life of the concerned individuals (*Decision no. 2020-805 DC of 7 August 2020*; Garnerie, 2020) (for details on the proposed reform, see 'Security and Surveillance' below).

In July 2021, the government has reintroduced a softened version of the annulled measures within the act "on the prevention of acts of terrorism and intelligence" (*Loi n° 2021-998 du 30 juillet 2021 relative à la prévention d'actes de terrorisme et au renseignement*). While still allowing to order the monitoring restrictions at the expiration of the sentence and be "based not on the guilt of the convicted person but on their particular dangerousness" upon release, the new regime imposes stricter conditions for issuing a monitoring order and limits the maximum period of control to five years. Likewise, the Constitutional Council considered that in contrast with the previous scheme that was mainly oriented towards ensuring the general interest of public security, the altered mechanism is designed as a rehabilitative measure, aiming to reintegrate the released offenders back in society. As such, the new reform was estimated to properly balance "between, on the one hand, the objective of constitutional value of preventing breaches of public order and, on the other hand, the right to respect for private life and right to respect for the inviolability of the home" (*Décision n° 2021-822 DC du 30 juillet 2021*).

Indeed, the general trend in the case-law of the Constitutional Council is of non-intervention in the ever-increasing number and scope of security and surveillance measures introduced by the state in past years. In a series of decisions spanning from 2003 to 2015 the Council has approved the gradual expansion "mechanisms necessary for the development of surveillance of the population with the aim of preventing breaches of public order". Among the tools deemed constitutional by the Council were systems for the automatic processing of personal data implemented by the national police and gendarmerie, a procedure of requisition of technical connection data, and a system for the systematic reading of license plates, all with the aim of preventing and suppressing terrorism (*Décision n° 2003-467 DC du 13 mars 2003*; *Decision no. 2005-532 DC of January 19, 2006*; *Decision no. 2015-713 DC of July 23, 2015*). According to one analysis, this caselaw indicates that "the control of the constitutionality of laws on national defence is taken hostage by the legislator under the approving gaze of a public opinion in search of an alleged fundamental right to security", which leads to an "ever more increasing consideration of the requirements of defence and security, to the detriment of rights and freedoms" (Roudier, 2016).

However, the government's recent attempts to curtail online hate speech encountered a stark objection. In June 2020, the Council members have effectively annulled the *loi Avia* (*Loi n° 2020-766 du 24 juin 2020 visant à lutter contre les contenus haineux sur internet*), a far-reaching reform meant to fight against online hatred, judging to be "over-censoring". The Council struck down a provision punishing online publishers who fail to remove certain terrorism-related or child pornography content within one hour after being notified by the administrative authorities (which would not allow to contest the order in court) by one year of imprisonment and 250,000 euros fine. The Council also voided the requirement of online operators to remove manifestly illegal content of hateful or sexual nature within 24 hours from its publication or risk 250,000 euros fine for each violation. These measures were declared to violate freedom of expression and communication in a manner that "is not necessary, appropriate and proportionate". The only provisions of the *loi Avia* approved by the Constitutional Council concerned the creation of an observatory for the dissemination of hateful content online (see 'Online Hate and Fake News' below) (*Décision n° 2020-801 DC du 18 juin 2020*; Garnerie, 2020a).

Another issue the Council took on in recent years was the criminalisation of activities that do not involve direct violence or terrorism but are nevertheless situated on the radicalisation spectrum. The Council approved a 2014 reform outlawing the "apology for terrorism" (the French penal code currently punishes persons "publicly defending" acts of terrorism by five years of imprisonment and 75,000 euros fine, or seven years and 100,000 euros if the act is committed online) but struck down an offense that aimed to "repress behaviour likely to lead to radicalisation" by criminalising the "habitual consultation of terrorist websites" (*Decision no. 2018-706 QPC of 18 May 2018*; *Decision no. 2017-682 QPC of December 15, 2017*; Goetz, 2017).

Legislative Framework in the Field of Radicalisation

Security and surveillance

In the past thirty-five years, the French legislator has passed a number of comprehensive security reforms in response to a rising number of emblematic and mediatised terrorist incidents. The first act that provided a definition for the term "terrorism" introduced a set of

counterterrorist measures and laid the foundations for the contemporary legislative scheme was enacted in 1986, after a series of attacks claimed by the CSPPA ("Committee of Solidarity with Arab and Middle East Political Prisoners" (Shapiro and Suzan, 2003; *Trente cinq ans de législation antiterroriste*). The most recent changes to this framework were introduced in July 2021 with the passing of the act on "the prevention of acts of terrorism and intelligence" (*Loi n° 2021-998 du 30 juillet 2021 relative à la prévention d'actes de terrorisme et au renseignement*). The current security framework set up by the act is an overhaul of previous regimes of security and intelligence introduced in France in 2015 (prior to and in the aftermath of the November 2015 Paris attacks) and 2017.

2015-2017: Intelligence reform and State of emergency

In July 2015, the French Parliament passed a far-reaching reform in its intelligence apparatus, which provided the legal approval for surveillance methods that were already being employed by the state without a clear legal basis (*Loi n° 2015-912 du 24 juillet 2015 relative au renseignement*; Tréguer, 2017). At the time, the new act was considered "the most extensive piece of legislation ever adopted in France to regulate the work of intelligence agencies" (Tréguer, 2017). The act empowered intelligence services to employ information gathering techniques that were previously authorised only for judicial investigations (e.g., targeted telephone and Internet wiretaps, access to metadata, geotagging records and computer hacking), and sanctioned Big Data surveillance methods (such as "black boxes" monitoring Internet traffic) and real-time collection of metadata to track terrorism related activities (*Loi du 24 juillet 2015 relative au renseignement*; Tréguer, 2017). These provisions were set to expire at the end of 2021 but were made permanent in the July 2021 reform (see '2021: Prevention of Acts of Terrorism and Intelligence' below).

Several months later, following a series of coordinated jihadist attacks at the Bataclan theatre, the national stadium, and a restaurant in the centre of Paris (Sawyer and Zinigrad, 2021), the French government declared a state of emergency allowing the state to employ exceptional security measures to restore public safety (*Décret n° 2015-1475 du 14 novembre 2015 portant application de la loi n° 55-385 du 3 avril 1955*). The emergency regime was confirmed by an act of the Parliament and extended for three months on 18 November (*Loi n° 2015-1501 du 20 novembre 2015 prorogeant l'application de la loi n° 55-385 du 3 avril 1955 relative à l'état d'urgence et renforçant l'efficacité de ses dispositions*). In addition to other measures already provided for by the 1955 law on the state of emergency (such as restrictions on the free movement of people and closure of public places), the November 2015 act authorised the Minister of Interior to order house arrests and the use of electronic bracelets for any person for whom "there are serious reasons to believe that their behaviour constitutes a threat to security and public order"; issue an order for administrative dissolution of "associations or de facto groups which participate in, facilitate or incite the commission of acts seriously undermining public order"; and take "any measure" to block online contents promoting terrorism or inciting terrorist acts (*Renforcement de la loi sur l'état d'urgence: les nouvelles mesures*, 2015; *État d'urgence et autres régimes d'exception (article 16, état de siège)*, 2019).

2017: Strengthening internal security and the fight against terrorism

The state of emergency was extended six times and was in force until 2017, when the Parliament passed many of its security measures into regular law. Instead of effacing the exceptional derogations on fundamental rights that were judges necessary in the aftermath of

the 2015 attacks, the state has made them permanent by de facto perpetuating the emergency regime (Hennette-Vauchez, 2018). The most intrusive measures introduced by the law of 30 October 2017 “strengthening internal security and the fight against terrorism” that ended the state of emergency included:

1. Establishing “protection perimeters” at public events, aiming to guarantee security by authorising visual bag inspections, frisks by private security agents and searches of vehicles.
2. Allowing the closure of places of worship that are used to incite or endorse terrorism or hatred and discrimination (subject to appeal before an administrative judge).
3. Authorising “individual administrative control” of “any person in respect of whom there are serious reasons to believe that their behaviour constitutes a particularly serious threat to security and public order” or is in contact with persons or organisations inciting or supporting terrorism. The control measures included daily reporting to the police for a period up to one year or consent to electronic surveillance.
4. Allowing prefects to order (subject to judicial authorisation) the entry and search of any place if there is serious reason to believe it is being frequented by a person posing a terrorist threat or who is in contact with such persons.

(*Loi n° 2017-1510 du 30 octobre 2017 renforçant la sécurité intérieure et la lutte contre le terrorisme*; Gouvernement.fr, 2017).

Another measure introduced by the act specifically addressed the radicalisation of civil servants. It allowed to initiate administrative investigations of civil servants in positions of authority who “pose a risk of radicalisation” and authorized, when appropriate, their transfer, suspension or removal (Gouvernement.fr, 2017). Other security instruments implemented by the act involved:

1. Instituting a new criminal offence carrying a 15-year prison sentence and a 225,000 euro fine for parents who incite their children to commit acts of terrorism; this sentence may be accompanied by the loss of parental authority.
2. Carrying out identity checks in border areas or within a 20km radius of airports and international stations (later reduced to 10km).
3. Allowing the consultation of the Passenger Name Record (PNR) database, which contains the information of all air and sea passengers entering or leaving France, and creating a national system for centralising maritime transport passenger records data to or from France, separate from the PNR system (According to a government website, the PNR makes “it easier to detect the movements of Jihadist terrorists travelling by air upstream both across Europe and between Europe and other parts of the world in order to prevent them from carrying out their planned acts” (*Adoption of the PNR*, 2016)).
4. Introducing a new system for surveillance of wireless communications, which authorises intelligence services to intercept and exploit electronic communications directly, without the involvement of operators.

(*Loi n° 2017-1510 du 30 octobre 2017 renforçant la sécurité intérieure et la lutte contre le terrorisme*; *Renforcer la sécurité intérieure et l’action contre le terrorisme*, 2021; *Loi du 30 octobre 2017 renforçant la sécurité intérieure et la lutte contre le terrorisme*, 2017).

The 2017 act was initially set to expire in 2021, but the July 2021 reform perpetuated and even enhanced the state’s security arsenal (see below).

2020: Surveillance of convicted extremists upon release from prison (failed reform)

In 2020, the French Parliament proposed a bill "establishing security measures against perpetrators of terrorist offenses at the end of their sentence". The bill aimed to introduce a probation-like regime of "socio-judicial" monitoring for persons convicted of terrorism after the end of their sentence. The future law foresaw two different procedures to impose the restrictive regimes. One was the standard practice in other types of offences, namely authorising the trial court to subject persons convicted of terrorism to monitoring as part of their punishment, in addition to or instead of a custodial sentence. The other was, however, an exceptional measure allowing a court to order the monitoring shortly before one's release from prison if an examination of the concerned individual establishes that they remain radicalised even if it had not been ordered as part of the initial criminal sentencing ("characterised by a very high probability of recidivism and by a persistent adherence to an ideology or to theses inciting to the commission of acts of terrorism") (Assemblée Nationale, 2020; Sénat, 2020).

The limitations imposed under the "socio-judicial" monitoring include an obligation to periodically report to judicial, probation or police authorities, submitting to home visits and notifying the authorities of changes of employment and residence, of any travel abroad or of travel lasting more than fifteen days; not owning or carrying weapons; and more broadly, the duty to "respect the conditions of health, social, educational or psychological care to allow their reintegration and the acquisition of the values of citizenship" (*Loi du 10 août 2020 instaurant des mesures de sûreté à l'encontre des auteurs d'infractions terroristes à l'issue de leur peine*).

The bill was submitted to the review of the French Constitutional Council in August 2020. The Council upheld the option to sentence a terrorist perpetrator to a monitoring regime (this provision was promulgated on 10 August 2020 (*Loi n° 2020-1023 du 10 août 2020 instaurant des mesures de sûreté à l'encontre des auteurs d'infractions terroristes à l'issue de leur peine*)) but struck down the option to impose it retroactively, due to its disproportionate encroachment upon the constitutional freedoms of the convicted persons resulting from the accumulation and extent of the proposed measures (*Decision no. 2020-805 DC of 7 August 2020*) (see above). The Council's ruling was accounted for in the July 2021 security reform, which includes a tempered version of the annulled measures (see '2021: Prevention of Acts of Terrorism and Intelligence' below).

2021: Prevention of acts of terrorism and intelligence

The current legislative framework of terrorism prevention is promulgated in the July 2021 act on "the prevention of acts of terrorism and intelligence" (*Loi n° 2021-998 du 30 juillet 2021 relative à la prévention d'actes de terrorisme et au renseignement*). The new act encompasses the issues covered by the 2017 security act and the 2015 intelligence reform while also enhancing the prerogatives of state agencies in both areas.

The reform's main highlight concerning preventive security is the reintroduction of the monitoring regime struck down by the Constitutional Council in August 2020. As in its previous version, the monitoring scheme allows the Paris Sentence Enforcement Court to submit persons convicted of terrorism to a regime of "socio-judicial control" if they are considered to pose a particular threat to public security at the time of their release. Yet, the predominant goal of the current monitoring regime is the rehabilitation of the offenders rather than public security; the order can be issued only "if it appears strictly necessary to prevent recidivism and ensure the reintegration of the person". The regime cannot be applied to persons already

sentenced to socio-judicial follow-up or subject to other means of surveillance or security detention, and the maximum period of control is limited to five years (*Loi n° 2021-998 du 30 juillet 2021 relative à la prévention d'actes de terrorisme et au renseignement*; *Décision n° 2021-822 DC du 30 juillet 2021*).

The July 2021 reform also entrenches the prerogatives granted to state agencies in the 2015 surveillance act and empowers the state apparatus to employ new surveillance technologies. The new instruments include increased use of algorithmic surveillance, interception of communications satellites and jamming of drones (*Loi du 30 juillet 2021 relative à la prévention d'actes de terrorisme et au renseignement*).[7]

Dissolution of violent associations

French law authorises the Council of Ministers to issue an administrative order for the dissolution of groups and associations that pose a threat to public safety. Radicalised groups can be effectively banned by such an order if they provoke armed demonstrations in the street, present by military form and organisation the character of combat groups or private militias, aim to undermine the integrity of the national territory, attack by force the republican form of government, aim to bring together individuals who have been condemned for collaboration with the enemy, provoke discrimination, hatred or violence against a person or a group because of their origin, ethnic group, nationality, ethnicity or religion, or engage, on French territory or from this territory, in terrorism related activity in France or abroad (*Code de la sécurité intérieure, Art. L212-1*).[8]

Laïcité, religious freedoms, and education

2004, 2010: Veil and burqa legislation

In March 2004, the French legislator passed an act prohibiting "the wearing of signs or clothing which conspicuously manifests students' religious affiliations in public elementary, middle and high schools" (*Loi n° 2004-228 du 15 mars 2004 encadrant, en application du principe de laïcité, le port de signes ou de tenues manifestant une appartenance religieuse dans les écoles, collèges et lycées publics*). The law was enacted as a result of rising political tensions over the wearing of hijabs in schools but the definition of "conspicuous manifestation" includes other religious signs, such as kippot, dastars (Sikh turbans) or large crosses.

The scope of the ban proved to be a controversial issue. A 2004 government circular states that the law "does not prohibit accessories and outfits that are commonly worn by students without any religious significance" but does apply if students attempt to "take advantage of the religious character which they attach to [an outfit]" ('Circulaire du 18 mai 2004 relative à la mise en oeuvre de la loi n° 2004-228 du 15 mars 2004 encadrant, en application du principe de laïcité, le port de signes ou de tenues manifestant une appartenance religieuse dans les écoles, collèges et lycées publics'). The decision about whether a student uses a garment as a religious symbol was left to the discretion of the school

[7] See also the recent law "for comprehensive security preserving freedoms" extending the police use of surveillance cameras and drones (*Loi n° 2021-646 du 25 mai 2021 pour une sécurité globale préservant les libertés*).

[8] This article, enacted in 2012, replaces similar provisions dating to 1936 (*Loi du 10 janvier 1936 sur les groupes de combat et milices privées*).

management, which has resulted in several cases of students not being allowed to enter schools with long skirts (Laubacher, 2015; Soidri, 2016).

The "veil law" was criticised by some as an illiberal and unjustified incursion upon the religious freedoms of Muslims, whereas others suggested it fosters the children's autonomy from their parents and community (Weil, 2014). However, irrespective of the legislative motives behind the 2004 act or its actual impact on students, it proved to be the beginning of a trend of increasing intolerance toward the presence of Islam, particularly of Muslim religious women, in the French public sphere. Six years later, the legislator established an implied link between Muslim religious fundamentalism and extremist violence.

In 2010, the French parliament promulgated a law "prohibiting the concealment of one's face in public places", popularly known as the "burqa ban". The ban applies everywhere in the public space – in public institutions, such as hospitals, schools, or government buildings, as well as on the street – save for public places of worship (*Decision no. 2010-613 DC of 7 October 2010*), and targets exclusively women wearing niqabs (a Muslim full-face veil leaving an opening only for the eyes). Face covering is only allowed if it is prescribed by law and is justified "for health or occupational reasons, or if it is worn in the context of sports, festivities or artistic or traditional events" (*Loi n° 2010-1192 du 11 octobre 2010 interdisant la dissimulation du visage dans l'espace public*).

The parliament justified the burqa ban by needs of security ("such practices are dangerous for public safety and security and fail to comply with the minimum requirements of life in society") and the principle of equality ("those women who conceal their face, voluntarily or otherwise, are placed in a situation of exclusion and inferiority patently incompatible with constitutional principles of liberty and equality") (*Decision no. 2010-613 DC of 7 October 2010*). It was subsequently approved by the Constitutional Council and later also by the European Court of Human Rights (*Decision no. 2010-613 DC of 7 October 2010*; *S.A.S. v. France (GC), application no. 43835/11, judgment, 1 July 2014*). The European Court ruled that the interests of security and equality do not justify a blanket ban on the burqa and yet upheld the law in the name of the "French principle of living together (*le 'vivre ensemble'*)", which implies "the observance of the minimum requirements of life in society" (*S.A.S. v. France (GC), application no. 43835/11, judgment, 1 July 2014*). Nevertheless, the security narrative continues to inform the limitations upon religious freedoms in France and contributes to the association between religious fundamentalism and extremist violence. This tendency is especially apparent in the latest legislative reform confronting "separatism".

2021: Anti-separatism law

In August 2021, France enacted a law "reinforcing respect for the principles of the Republic" (*Loi n° 2021-1109 du 24 août 2021 confortant le respect des principes de la République*). The official rationale behind the act was to "provide responses to withdrawal into the community and to the development of radical Islamism by reinforcing respect for republican principles and by modifying the laws concerning religion" (*Loi du 24 août 2021 confortant le respect des principes de la République*, 2021). Informally, the act is nicknamed the "separatism law" in reference to President Macron's statement prior to its enactment that France must tackle "Islamist separatism". Following the October 2020 murder of Samuel Paty, a public-school teacher, by a jihadist extremist, Macron warned against a

> conscious, theorised, political-religious project [that] is materialising through repeated deviations from the Republic's values, which is often

> reflected by the formation of a counter-society as shown by children being taken out of school, the development of separate community sporting and cultural activities serving as a pretext for teaching principles which aren't in accordance with the Republic's laws. It's indoctrination and, through this, the negation of our principles of gender equality and human dignity (Macron, 2020a).

The act is the most far-reaching expression yet of the French government's attitude toward jihadist radicalisation. It is based on the presumption that radicalisation in religious views and practices is the main cause of jihadist violence. This causality is questioned and criticised in empirical research (Bjørgo and Horgan, 2009; Köhler, 2014; McCauley and Moskalenko, 2017; Pettinger, 2017). The three underlying premises of this approach are: first, strict observance of Islam and extremist violence are situated on the same continuum (i.e., radicalisation is rooted in religion); second, the drift from radical religious opinion to radical action can and should be prevented by weakening the socio-political power of Muslim religious communities and institutions that nurture "separatism" (i.e., deradicalisation must severe the communal ties); and finally, that the most effective means to do so is increasing the weight, visibility and importance of the principle of *laïcité* (or secularism) – a constitutional principle in the current French republican regime – in the public sphere, in education policy and in government services (i.e., the restriction of religious freedoms as an effective tool of deradicalisation).

The questionable links drawn between religion and violence are most evident in Article 9 of the new act, which creates a new criminal offense of "separatism", carrying a maximum penalty of five years imprisonment and a fine of 75,000 euros. The offence concerns the use of threats or violence against a public official, or a private individual performing a public function, with the purpose of obtaining "a total or partial exemption […] from the rules which govern the functioning of said service" (*Loi n° 2021-1109 du 24 août 2021 confortant le respect des principes de la République*, Art. 9). This opaque formulation is meant to apply to situations where the attack is driven by religious motives, such as "when a husband and his wife go to the hospital […] and the husband utters threats or commits violence because he wants his wife to be examined by a woman and not by a man [whereas] normally a patient is examined by the available caregiver, whether it is a man or a woman" or when parents "do not want their daughter to attend gymnastics classes" (Brachet, 2021). Moreover, the law considers this type of motivations to be an aggravating factor: similar violence against a public official is punishable only by three years of imprisonment and 45,000 euro fine (*Code pénal, Art. 433-3*). This distinction is meant to underscore the special reprehensibility of religiously driven violence in the eyes of the state.

Another criminal offence established by the August 2021 reform – in direct reference to the murder of Samuel Paty – is hindering a teacher in carrying out their functions in a concerted manner and by means of threats. Relatedly, the reform increased the criminal penalties for incitement to discrimination, hatred or violence by religious officials and for holding political activities or campaigns in places of worship. It also allows to issue an order of a temporary administrative closure of places of worship where such meetings take place, and extends the powers of administrative dissolution of associations, especially if they provoke "violent acts against people or property" (*Loi n° 2021-1109 du 24 août 2021 confortant le respect des principes de la République*; Januel, 2021).

Other provisions of the new act address neither violence nor even the politicisation of religious institutions, aiming instead to discourage religious radicalisation by various methods of "secularisation". Article 1 of the act requires that all government institutions and private bodies having public functions or providing public services respect the principles of secularism and neutrality. This rule prohibits employees to "manifest their religious beliefs through external signs, in particular clothing" (e.g., hijab, kippa or a cross) and applies to such establishments as day-cares, schools, libraries, swimming pools, as well as public transportation (the rule does not apply to private religious schools or places of worship). Notably, the obligation to observe neutrality even in private institutions that perform public functions was established in France already in 2013 by the Court of Cassation (*Cour de cassation, civile, Chambre sociale, 19 mars 2013, 12-11.690*). Its promulgation in law is therefore mainly of declarative and educational significance.

In the same vein, the law requires home-schooling to be preauthorised by the state, increases the government's control over private educational institutions (*hors-contrat*), adds measures to enforce the prohibition of polygamy and forced marriages, prohibits health professional to issue "virginity certificates", requires associations receiving government subsidies to sign "a republican contract of engagement", which includes the obligation "not to call into question the secular character of the Republic", submits religious associations to a stricter regime of registering and reporting foreign financing, and mandates public institutions to appoint a "laïcité referent" responsible, among others to organise the annual celebration of the "day of *laïcité*" (on December 9) (*Loi n° 2021-1109 du 24 août 2021 confortant le respect des principes de la République*).

Finally, the August 2021 reform includes provisions relating to online hate. It penalises the dissemination of information that may pose a risk to the life or property of individuals, especially if it concerns public or elected officials, journalists or minors, facilitates the blocking of "mirror sites", which reproduce banned websites, and adapts the French law to the European regulation on the "Digital Services Act" (*Loi n° 2021-1109 du 24 août 2021 confortant le respect des principes de la République*; Januel, 2021; *Loi du 24 août 2021 confortant le respect des principes de la République*, 2021).

Online hate and "fake news"

French law contains several provisions and sets up mechanisms directed against the incitement to violence, dissemination of hateful messages, and the spread of fake news.

Online hate

Article 23 of the law "on the freedom of the press" punishes with one year of imprisonment and 45,000 euro fine any incitement to "discrimination, hatred or violence against a person or a group of persons by reason of their origin or of their belonging or not belonging to an ethnic group, a nation, a race or a specific religion, [or] sex, their sexual orientation or gender identity or their disability" (*Loi du 29 juillet 1881 sur la liberté de la presse*, Article 23).

The same article also prohibits expression publicly justifying "war crimes, crimes against humanity, crimes of enslavement or exploitation of a enslaved person or crimes and offenses of collaboration with the enemy, including if these crimes were not resulted in the conviction of their authors" (*Loi du 29 juillet 1881 sur la liberté de la presse*, Article 23).

In what specifically concerns the regulation of violent and hate speech online, the 2004 law "for confidence in the digital economy" empowers judicial authorities to order that "any

person likely to prevent or put an end to a harm caused by a public online communication service" takes "any measures" to that end (*Loi n° 2004-575 du 21 juin 2004 pour la confiance dans l'économie numérique*, Art. 6). The law also establishes and administrative procedure for enjoining ISPs and online content hosts to prevent access to publications containing incitement to or justification of terrorism and child pornography) within 24 hours of being notified. For other types of illegal content, the service providers are only required "to contribute to the fight against" the dissemination of messages containing incitement to violence or hatred, or justification of crimes against humanity. The "contribution" includes setting up "an easily accessible and visible system" for reporting this type of content to them and then promptly informing the government of the received complaints (*Loi n° 2004-575 du 21 juin 2004 pour la confiance dans l'économie numérique*, Arts. 6, 6-1). Since August 2021, similar obligations apply to large online platforms operators such as Google or Facebook (*Loi n° 2004-575 du 21 juin 2004 pour la confiance dans l'économie numérique*, Art. 6-4).

Notably, service providers are not currently compelled to monitor online platforms for illicit content but are nevertheless incentivised to remove it on their initiative. The law releases ISPs and content hosts from civil and criminal liability for the dissemination of illegal content if, once they become aware of its publication, they promptly block access to it (*Loi n° 2004-575 du 21 juin 2004 pour la confiance dans l'économie numérique*, Art. 6)

A law passed by the parliament in 2020 further reinforces the regulation of online content by establishing an "Observatory of online hate" and charging it with "analysing and quantifying the phenomenon of online hate" (*Loi n° 2020-766 du 24 juin 2020 visant à lutter contre les contenus haineux sur internet, Article 16*; CSA, 2020).[9] Initially, the establishment of the observatory was envisioned as only one part in a comprehensive legal reform inspired by the 2017 German Network Enforcement Act (*Netzwerkdurchsetzungsgesetz*) and advanced by President Macron with the purpose of imposing extensive government oversight on online content. An early draft of the 2020 "law against online hate speech" included a substantial expansion of online contents the government can order to block within 24 hours, from incitement to terrorism and child pornography to any material that contains "manifest" glorification or contestation of crimes against humanity, crimes of genocide, of enslavement, and of war, incitement of discrimination, hatred, violence or defamation against a person or a group because of their ethnicity, nationality, race, religion, sex, sexual orientation, gender identity or disability, or sexual harassment (Avia, 2019). However, the Constitutional Council struck down most of this reform ruling it disproportionately undermines the freedoms of expression and communication (*Décision n° 2020-801 DC du 18 juin 2020*, 2020, paras 8–9).

[9] The observatory consists of major stakeholders representing the various interests in the online sphere. Its members include online operators (such as Facebook, Google, Microsoft, TikTok and Twitter), civil society organisations (such as CRIF, the Human Rights League, SOS Homophobie and SOS Racisme), government representatives (e.g., the National Consultative Commission on Human Rights, the Inter-ministerial Delegate for the fight against racism, anti-Semitism and anti-LGBT hatred, and the Ministry for the Digital Economy) and researchers. The agenda of this newly established organ is still under development: In October 2020, the observatory set up thematic working groups whose mission is to define the notion of hateful content, conduct a comprehensive analysis of its evolution, study the mechanisms of its diffusion and prevention, and provide support to the victims and the general public (CSA, 2020; Hoareau, 2021). The observatory has only convened trice since its foundation. The latest meeting in May 2021, was framed as "an opportunity to take stock of the work carried out and to testify to the dialogue and consolidated cooperation between the stakeholders" (CSA, 2020).

Some of the procedures were then reintroduced in a softened form by the 2021 "anti-separatism law" (see '2021: Prevention of acts of terrorism and intelligence' above).

Fake news

French legislation also criminalises the dissemination of false information in traditional and online media (*Loi n° 90-615 du 13 juillet 1990 tendant à réprimer tout acte raciste, antisémite ou xénophobe* (Gayssot Act); *Loi n° 2018-1202 du 22 décembre 2018 relative à la lutte contre la manipulation de l'information*).

Preventing the spread of "fake news" is a particular priority during election campaigns. The 2018 law "on the fight against the manipulation of information" imposes heightened transparency requirements on digital platforms at the time of elections. This involves reporting sponsored content and – for platforms exceeding a certain number of hits a day – also having a legal representative in France and making their algorithms public.

Likewise, the law allows courts to issue injunctions preventing the circulation of "fake news" that may compromise the outcome of an election (*Loi n° 2018-1202 du 22 décembre 2018 relative à la lutte contre la manipulation de l'information*). In between elections, digital platforms are subject to a general "duty of cooperation" that requires online operators to introduce measures to eliminate "fake news". The French Broadcasting Authority (CSA) supervises the fulfilment of this obligation and is also authorised "to prevent, suspend and stop the broadcasts of television services that are controlled by foreign states or are influenced by these states, and which are detrimental to the country's fundamental interests" (Government of France, 2018). The scope and effectiveness of these measures were questioned by various journalist organisations such as Reporters Without Borders (RSF, 2018) and the French National Syndicate of Journalists (Syndicat National des Journalistes, 2018). To date, only one known attempt has been made to issue an injunction against the dissemination of "fake news". During the 2019 European elections, a French court rejected a complaint against a tweet by the French Minister of Interior about an alleged "attack" of demonstrators against a hospital staff and a police officer; the demonstrators broke into the hospital but did not physically attack people. The court ruled that the tweet was "exaggerated" but did not amount to the definition of "fake news" under the law (*TGI Paris, 17 mai 2019, n° 19/53935*; Mounier, 2019). Note that the 2018 law is not France's first attempt to prevent the spread of "fake news". It only reinforces the previous, broad legislative framework of civil and criminal sanctions that fight the publication of false information.

The main provisions regulating the diffusion of "fake news" can be found in Article 27 of the 1881 law "on the freedom of the press" ("The malicious publication, dissemination and reproduction, by whatever means, of false news and documents which have been fabricated or falsified or mendaciously attributed to third parties, when this has disturbed the peace, or was capable of disturbing it, will be subject to a fine of 45,000 euros. The same offence will be subject to a fine of 135,000 euros when this malicious publication, dissemination or reproduction is likely to undermine the discipline or morale of the armed forces, or interfere with the Nation's war effort"); and in Article L97 of the French Electoral Code ("Those who, using false news, slanderous rumours or other fraudulent manoeuvres, have modified or diverted ballots, or led one or more voters to abstain from voting, will be punished with one year's imprisonment and a fine of 15,000 euros") (*Loi du 29 juillet 1881 sur la liberté de la presse, Article 27*; *Code électoral, Article L97*). (For further analysis see, e.g., Smith, 2019; Mouron, 2018).

Policy and Institutional Framework in the Field of Radicalisation

In the past decade, the French government rolled out comprehensive plans to fight terrorism and radicalisation. The policies followed upon the legislative reforms in security and surveillance and implemented the newly authorised measures in the work of government agencies.

Anti-Terrorism Plan (2014)

In April 2014, the government announced the Anti-Terrorism Plan (PLAT), which focused on thwarting the departure of French nationals to war zones, facilitating the detection and prosecution of "lone-wolves", improving the fight against the dissemination of terrorist propaganda and providing the judiciary and the police "with means of investigation adapted to the threat and its evolutions" (Ministère de l'Intérieur, 2014; Pawella, 2019).

Plan for Action against Radicalisation and Terrorism (2016)

The next programme, revealed in May 2016, explicitly addressed the issue of radicalisation on par with terrorism. The Plan for Action against Radicalisation and Terrorism (PART) was also more ambitious and wide-ranging. The plan's key concern was the neutralisation of extremist networks. It contained 80 "measures" (up from 22 measures in 2014) and aimed to "mark a new stage in combating terrorism and preventing radicalisation". Indeed, some of the seven priorities designated by the government to this end involved counter-terrorist methods while others introduced tools for deradicalisation. The mentioned themes included early detection of "radicalisation paths and terrorist networks", monitoring and neutralising terrorist networks, reaching international networks and terrorist "safe havens", increasing the reach of deradicalisation mechanisms "in order to ensure personalized measures for different populations", developing counter-speech with the cooperation of "France's Islamic community", improving protection of vulnerable sites and networks, and bolstering the Nation's resilience ('Press Kit for the Action Plan Against Radicalization and Terrorism (PART)', 2016).

Another sweeping programme countering extremist violence was rolled out in two parts, in February and July 2018, with separate plans announced for the counter terrorist and deradicalisation efforts.

National Plan for the Prevention of Radicalisation (February 2018)

The National Plan for the Prevention of Radicalisation (PNPR) contains 60 measures and targets multiple social institutions and activities: school, Internet, university, sport, health, business, public services, strengthening the professionalisation of actors and the evaluation of practices, and disengagement". The PNPR reflects a decisive reorientation of the government's policy and a recent interest in the development of preventive techniques that would reach individuals in risk of radicalisation before they associate with extremist networks or engage in violence. The programme is built along five axes: (1) "protecting minds" from radicalisation; (2) enhancing the network of deradicalisation actors; (3) studying and anticipating the evolution or radicalisation; (4) training of local state actors and testing the practices currently in use; and (5) developing new disengagement tools ('« Prévenir Pour Protéger » Plan national de prévention de la radicalisation: Communiqué du Premier ministre', 2018).

The first axis includes investing in the teaching of *laïcité* and of other "Republican values", developing mechanisms of detection in public schools and tightening the control over private educational institutions and home schooling, tackling online radicalisation by enhanced monitoring of radicalised activity on social networks and developing "counter-speech" tools. The second element in the programme instructs the national administration and territorial authorities as well as higher education institutions' deradicalisation effort to appoint special referents responsible for the detection and prevention of radicalisation, train officials and raise awareness about this issue. The plan also encourages private organisations and companies to implement the same steps within their management structure. The third axis concerns investment in research and cooperation in the field of radicalisation. The fourth axis aims to mobilise health professionals and social workers to tackle radicalisation and increase training and expertise of other actors in the same. Finally, the fifth part of the plan directs relevant stakeholders to initiate programmes and institutions for the rehabilitation and social reintegration of minors, current and former prisoners, and other individuals in risk ('« Prévenir Pour Protéger » Plan national de prévention de la radicalisation: Communiqué du Premier ministre', 2018) (for the full list of measures, see Annex).

Inter-ministerial Committee for the Prevention of Crime and Radicalisation (CIPDR)

The Plan was developed and is managed by the General Secretariat of the Inter-ministerial Committee for the Prevention of Crime and Radicalisation (CIPDR). It is implemented by various national, local and private actors. The CIPDR comprises representatives of 20 ministries and provides support, expertise and advice to prefectures, local communities and other actors in charge of prevention of delinquency and radicalisation. The Committee's proclaimed objective is "to bring the values of the Republic to life in order to protect our social cohesion and rebuild a united nation". Its main mission is to ensure the realisation of the PNPR in cooperation with the prefectures, local authorities and other organisations. In addition, since 2020, the CIPDR takes part in implementing the government's new policy of "fight against Islamist separatism" (see below).

Préfectures and state agencies

French prefectures, local administrative authority on the level of French *départements*, are put in charge of assessing and monitoring radicalisation in the community. The prefects receive intelligence reports on individuals suspected of undergoing radicalisation and report to the prosecutor's office if the monitored person is estimated to present a risk to themself or to society. Each prefecture has three operational units specialising in radicalisation:

(1) an assessment unit (*Groupes d'évaluation départemental (GED)*) responsible for the monitoring of individuals registered in the database of "alerts for the prevention of terrorist radicalisation" (*Fichier des signalements pour la prévention de la radicalisation à caractère terroriste (FSPRT)*);[10]
(2) a monitoring unit that provides support and assistance to radicalised individuals and their families, "to allow the radicalised person, if necessary, to disengage and

[10] The FSPRT was created in the aftermath of the January 2015 Paris attacks. According to the Minister of Interior, as of August 2020, the database registers more than 8,000 persons (down from more than 20,000 in September 2018) (*Question n°1810—Assemblée nationale*, 2018; *LCI*, 2021). This database is not to be confused with the "State Security" records (*fiche S*) that comprises files of individuals considered to be posing a serious threat to national security.

reintegrate, according to the values of the Republic" (*Cellules de prévention de la radicalisation et d'accompagnement des familles (CPRAF)*); and since 2019,

(3) a unit for the "fight against Islamism and communitarian withdrawal" (*Cellules départementales de lutte contre l'islamisme et le repli Communautaire (CLIR)*) (see below) (SG-CIPDR, 2021).[11]

In addition, the prefect is authorised to appoint a departmental coordinator for the prevention of radicalisation. The coordinators are responsible for harmonising and facilitating the work of the monitoring unit and local actors (SG-CIPDR, 2021).

Other State agencies involved in the coordination, monitoring and support system set up by the CIPDR on the local level are the administration of the national education system that appoints a radicalisation prevention referent for every *département*, prosecutors representing the judicial administration, the Directorate of Judicial Protection of Youth (DPJJ) under the Ministry of Justice appointing *laïcité* referents for every region, and representatives of correctional and probation services. Radicalisation referents for the monitoring units are also appointed by the employment services, departmental directorates on social cohesion (DDCS), the regional health agencies and the social security system (SG-CIPDR, 2021).

Auxiliary institutions

Public and private social welfare organisations contribute to deradicalisation efforts by providing support and services to radicalised individuals and their families. Among these organisations are "Parents Listening, Support and Accompaniment Networks" (REAAP), "Local School Support Contracts" (CLAS), "Youth Listening Reception Service" (PAEJ), (*Maisons Des Adolescents* ("Houses of adolescents"), "Schools of Parents and Educators" (EPE), and the National Union of Family Associations (UNAF). Finally, the National Liaison Committee for Specialised Prevention Actors (CNLAPS) offers information and professional training in deradicalisation strategies for actors working on social reintegration of marginalised youth.

Counter-Terrorism Action Plan (July 2018)

The Counter-Terrorism Action Plan (PACT) "responds to evolving threats, characterised by repeated attacks perpetrated by endogenous actors" and complements the February 2018 plan on deradicalisation. The PACT's strategy includes four key elements: strengthening the coordination of intelligence services for a better understanding of the terrorist threat ("Know"), addressing the issue of individuals released from prison after serving sentences for terrorism-related offences and financing of terrorism ("Obstruct"), raising awareness of the threats among private actors, local communities and the general public ("Protect"), and creating the National Anti-Terrorist Prosecution Office (PNAT).

As in the case of the PNPR, the PACT targets exclusively the jihadist threat:

> The diversity of the threat from violent radical Islamism has increased. The radicalisation of many individuals on our soil, the risk associated with ghosts or suspected terrorists detained and likely to be released in Kurdistan, Iraq and Turkey, constitute a major security issue that our country must face with determination, short, medium and long term.

[11] On *communautarisme*, see above.

> It is against this yardstick that the results of the actions of the action plan against radicalisation and terrorism should be assessed ('Plan d'action contre le terrorisme: Dossier de presse', 2018).

"Fight against separatism" (2019-)

2019 marks a stark change in the French deradicalisation policies from targeting extremist actions to assailing Muslim religious practices and communities, vaguely described as "politicised" or "separatist", that bear no immediate links to violence. The shift was explained by the claim that despite the already employed measures,

> many areas beyond violent radicalisation continue to be impacted by withdrawal into communities and the rise of Islamism. In addition, in certain neighborhoods, this withdrawal has served as a breeding ground for the departures of young French people, who feed on hate speech against the Republic and who have turned into jihadism (Comité Interministériel de Prévention de la Délinquance et de la Radicalisation).

In a November 2019 speech, Christophe Castaner, then the French Minister of the Interior, made a striking statement:

> Terrorism and radicalisation are often the tip of the iceberg. The time is no longer for modesty or pretense. Let's say it frankly, as you're seeing on the ground: radicalisation and terrorism are the most serious symptoms of a deeper evil that affects too many of our neighborhoods. [Namely,] Islamism and *communautarisme*.

Castaner made a point distinguishing Islam from "Islamism", defining the latter as an "anti-democratic and anti-republican political project, which places the law of God – or that of those who hijack it for their benefit – above the laws of the Republic" and as a "*communautaire*, authoritarian, inegalitarian social counter-project" (Ministère de l'Intérieur, 2019). Yet, the government's general discourse, policies and legislative initiatives in respect of "separatism" suggest that this statement is mainly of rhetorical rather than substantive significance (See above, and in Sawyer and Zinigrad, 2021).

Emmanuel Macron's speech in February 2020, entitled "protecting freedoms by fighting against Islamist separatism" echoed Castaner's theme and confirmed the government's concern with religious practices (Macron, 2020b). Specifically, the President emphasised the need to "fight against foreign influence", "better organise Muslim worship in France", "fight with determination against any manifestation of Islamist separatism", and "be able to bring the Republic back from where it resigned a little". In October 2020, Macron presented a more elaborate portrayal of the anti-separatist strategy, which was now branded as "The Republic in Action". The main premise of the new plan is "strengthening *laïcité* and reinforcing the principles of the Republic", which breaks down in five components:

(1) Creating "set of measures on public order and public sector impartiality which constitute strong, immediate responses to situations that have been identified and which are contrary to our principles". As an example of these situations, Macron mentioned pressure from groups or communities to include "denominational menus" (i.e., lunch alternatives for pork) in public schools or designating separate swimming hours for men and women in public pools.

(2) Restricting foreign funding of and extending the grounds for the dissolution of private associations that "carry the project of Islamist separatism" and "violate our laws and our principles".[12] Macron specifically referred to organisations allegedly "offering sporting, cultural, artistic, linguistic or other activities, which have as their *raison d'être* support for the most vulnerable or food aid, while in fact deploying assumed strategies of indoctrination".
(3) Reinforcing the idea of the school and public education as "central to the notion of *laïcité* and are where we form consciences so that children become free, rational citizens able to choose their own destinies". To this end, Macron announced that school instruction will be made compulsory for everyone from 3 years old, and home schooling will be strictly restricted.
(4) "Forging a type of 'Enlightenment Islam' in France" so as to "help this religion to structure itself in our country so that it is a partner of the Republic on matters of shared concern". This component was deciphered as "freeing Islam in France from foreign influences" by ending the training of French imams in foreign countries and increasing control over religious associations, obstructing the use of religious establishments for extremist purposes and finally, "training and promoting in France a generation of imams [and] intellectuals who uphold an Islam fully compatible with the Republic's values".
(5) Increasing trust in state institutions by such means as fighting against discrimination in housing and employment so as to "get people to love the Republic again by demonstrating that it can enable everyone to build their own lives" (Macron, 2020a).

The main tenets of the "Republic in Action" plan were implemented in the "anti-separatism" act, passed by the French Parliament in August 2021 (see '2021: Prevention of acts of terrorism and intelligence' above).

Executive Institutional Structure

The main government body overseeing the execution of policies relating to prevention of terrorism is the National Coordination of Intelligence and the Fight against Terrorism (CNRLT). The CNRLT reports to the National Intelligence Council and advises the President in the field of intelligence. The operational unit of the CNRLT, responsible for threat analysis and counterterrorism strategy, is the National Counterterrorism Centre (CNCT). The CNCT coordinates the operation of the six main intelligence agencies:

- Defence Intelligence and Security Directorate (DRSD)
- Directorate-General for External Security (DGSE)
- Directorate-General for Internal Security (DGSI)
- Military Intelligence Directorate (DRM)
- National Directorate for Intelligence and Customs Investigations (DNRED)
- Intelligence processing and action against underground financial circuits (TRACFIN).

Other agencies responsible for the prevention of terrorism include:

[12] Macron stated that the prior grounds for dissolution – terrorism, racism and anti-Semitism – are "very limited" and should also include an "attack on the dignity of the person or psychological or physical pressures".

- Within the central directorate of the judicial police:
    - Anti-terrorism sub-directorate (SDAT) (responsible for the prevention and repression of national and international terrorism, including its financial aspects)
    - Regional directorate of the judicial police of Paris (DRPJ) (responsible for increasing efficiency in the fight against organised crime)
- Within the central public security directorate:
    - Territorial intelligence services
- Under the authority of the director general of the gendarmerie:
    - The sub-directorate of operational anticipation (SDAO) (contributes to the intelligence and information mission of public authorities, to the fight against terrorism and to the protection of citizens)
    - The sub-directorate of the judicial police (SDPJ)
    - Research sections (BR)
- Under the authority of the prefect of police:
    - At the intelligence department:
        - The internal security sub-directorate
        - The territorial intelligence sub-directorate
    - At the regional direction of the judicial police:
        - The sub-directorate of the central brigades
        - The sub-directorate of territorial services
- Under the employment authority of the Minister of Defence
    - The research sections of the maritime gendarmerie, the air gendarmerie and the armament gendarmerie
- Under the authority of the Minister of Justice (director of the prison administration):
    - The national prison intelligence service (SNRP)

The prevention of dissemination of online hate is handled by Central office for the fight against crime related to information and communication technologies (OCLCTIC). The office belongs to the police cybersecurity sub-directorate and one of its responsibilities is managing the PHAROS reporting system (*plate-forme d'harmonisation, de recoupement et d'orientation des signalements*: platform for receiving, processing and referring notifications of unlawful content from the general public). From January 2021, all judicial proceedings related to the complaints submitted to the PHAROS system are managed by a special division for the fight against online hatred at the Paris tribunal.(*L'académie du renseignement*; *Code de la défense, Article R*1122-8-2*; Direction du Renseignement et de la Sécurité de la Défense; Gendarmerie Nationale, 2018; Ministère de l'Intérieur, 2011; Moréas, 2020; Ministère de l'Intérieur; Ministère de la justice, 2021; Thierry, 2021)

Case Studies[13]

Introduction

The main actors of deradicalisation in France are government bodies within the executive and judicial branches. This section presents an overview of the programmes and strategies employed by these actors. It analyses the general national plan for the prevention of radicalisation and the actors responsible for its implementation, educational efforts in public schools and the public sphere, administrative sanctions against individuals and organisations inciting violence or spreading "fake news" and rehabilitation plans in and outside prisons for individuals who have been prosecuted for terrorist activity or identified as undergoing a process of radicalisation. Given the focus on jihadist violence in the public and political discourses, it is hardly surprising that deradicalisation plans almost exclusively target "Islamist" individuals and networks.

Schools (Emphasis on *laïcité* and securitisation of the educational system)

French public schools play a central role in the government's strategy of deradicalisation. The current "policy for the prevention of violent radicalisation" implemented by the Ministry of National Education is part of the 2018 National Radicalisation Prevention Plan (PNPR) (see Counter-terrorism Action Plan (July 2018) above). The two main pillars of the policy are civic education and securitisation of the school, with a particular emphasis on the latter. The plan revolves around "4 axes: prevention, identification and reporting, monitoring of young people in the process of radicalisation and staff training" (*Politique de prévention de la radicalisation violente en milieu scolaire*, 2020).

The pedagogical aspect of preventing radicalisation consists of moral and civic education. The main components of this curriculum are the principle of *laïcité*, media and information education, the development of critical thinking and of a "feeling of belonging to a society" and a "nuanced and objective approach to the history of religious ideas and facts".

Civics classes are supplemented by a variety of security mechanisms. These include extensive staff training to identify students at risk of radicalisation, creation of special inter-governmental bodies in charge of assessing the reports on students and monitoring "young people reported as being 'in the process of radicalisation' but not charged with 'terrorist acts'", instituting a "multi-category watch units" in schools consisting of school officials together with social services and medical professionals responsible for identifying situations that must be reported to government officials responsible for the prevention of radicalisation and instructions on supporting minors returning from combat zones in Syria and Iraq (*Ecole et radicalisation violente*, 2020; *Politique de prévention de la radicalisation violente en milieu scolaire*, 2020).

Schools' securitisation as an instrument of deradicalisation, especially when the line between education and surveillance remains unclear, is controversial. First, it erodes the role of the school as a pedagogical and autonomy-nurturing institution. Consider, for instance, cases of students who refused to observe a minute of silence or subscribe to the "I am Charlie"

[13] This section has been published in (Sawyer and Zinigrad, 2021).

(*Je suis Charlie)* slogan after the Charlie Hebdo attacks in January 2015 and were reported to the police as potential cases of radicalisation (*Le Monde.fr*, 2015; Michalon-Brodeur *et al.*, 2018, p. 239). Second, an empirical study of reports submitted by schools' personnel to law enforcement has recently raised concerns about the stigmatisation of Islam implicit in the government's policy of deradicalisation. The study demonstrated a "tendency to conceptualise Muslim religiosity as potentially dangerous for minors [thus] reshaping the relationship forged between schools and religion, both in its historical foundations and in its daily practices" (Donnet, 2020). Finally, studies have also shown that more than reducing violence and radicalisation in schools, surveillance may drive students to conceal their internal conflicts and violent plans for fear of being classified as "dangerous" (Michalon-Brodeur *et al.*, 2018, p. 238).

Prisons (Questionable and counterproductive initiatives)

UPRA: Units of prevention of radicalisation

The first deradicalisation programmes for French prisons were swiftly developed after the 2015 Paris attacks. Prior to that, penitentiary authorities did not run any special deradicalisation programmes, assuming that the regular disciplinary sanctions are sufficient for the control and rehabilitation of all incarcerated persons (Robert, 2017). In March 2016, the government decided that radicalised individuals should be isolated and grouped in "units for radicalisation prevention" (*unités de prévention de la radicalisation*), specially created to this end in four prisons across the country. The units hosted "people imprisoned for acts of terrorism linked to violent radical Islamism as well as those identified in detention as radicalised, or in the process of radicalisation, and advocating the use of violent action" (Benbassa and Troendlé, 2017). The stated goal of these units was deradicalisation, which involved assessing the level of radicalisation and risk of engaging in violent actions or propagation of violence among other prisoners, and subsequent referral to a personalised "programme of care" that would provide "better treatment" (Benbassa and Troendlé, 2017; Conti, 2020).

The nature and functioning of the special units received severe criticism. The Controller-General in Places of Deprivation of Liberty disapproved of the urgent and underdeveloped planning in creating the units, and the disparities in the evaluation methods and care programmes across penitentiary institutions. More critically, the Controller-General questioned the judiciousness of bringing together radicalised individuals who may only benefit from the situation by creating new networks and concluded that given the overcrowded nature of prisons, further extension of the programme is not realistic (Contrôleur général des lieux de privation de liberté, 2016; Benbassa and Troendlé, 2017).

Ultimately, the programme was abruptly discontinued before any improvements could occur due to an assault of two correctional officers by a detainee in one of the special units. The new strategy prioritises security and safety in prisons and shifts the focus away from care and deradicalisation.

QER: Districts of Evaluation of Radicalisation

The current approach to radicalisation in prisons focuses on the assessment of risk and securitisation. In February 2017, the deradicalisation units were replaced by six "Districts of Evaluation of Radicalisation" (*quartiers d'évaluation de la radicalisation*) that accommodate

around 120 detainees for four months. The primary purpose of the "districts" is not rehabilitation but determining whether the radicalised individuals may be assigned, depending on the risk they are considered to pose to others, to a regular or a high-security detention facility (Chantraine, Scheer and Depuiset, 2018; Conti, 2020; Observatoire International des Prisons, 2020). Under this model, the notion of deradicalisation is estimated to transform into yet another method of policing to the detriment of potential recovery and social reintegration:

> Within the framework of the fight against radicalisation, detection appears to be aimed not at assisting the detainee but at providing information to intelligence services and helping the process of criminal judgement. Concerns about taqya (dissimulation) and thus the possibility of 'missing' a threat, mean that the imperative to 'reduce the risks' prevails and the work of professionals is torn between the security approach (oriented towards reducing risk) and the social approach, which aims to establish a relationship of trust with the detainee, to help social reintegration (Conti, 2020).

Rehabilitation Programmes (Failures along with signs of success)

CPIC

The "Centre for Prevention, Integration and Citizenship" (*Centre de prévention, d'insertion et de citoyenneté*, CPIC), colloquially known as the Pontoury deradicalisation centre, was opened by the government in September 2016, in the aftermath of the 2015 Paris attacks. The centre was legally defined as a public interest group, which are regulated by public law, and subject to the Inter-ministerial Committee for the Prevention of Crime and Radicalisation (CIPDR, see above).

The programme was destined for individuals in the process of radicalisation who are yet to engage in criminal terrorist activity – "people whose behaviour may lead to fear of the preparation or even the commission of violent acts inspired by jihadist ideology, while constituting the 'bottom of the spectrum' due to a weaker radicalisation than people being in the process of taking action" (Benbassa and Troendlé, 2017). The participation in the CPIC programme was voluntary and involved isolation from the family and social environment. It was meant to "constitute a medium-term between a totally open environment and prison" (Sénat, 2017).

Initially, the government hoped to extend the programme and open a CPIC in every French region by the end of 2017. Instead, the one operating CPIC lost all its participants by February 2017 and was shut down in July of the same year, mainly due to difficulties in convincing individuals with the right profile to sign up and stay in the programme. At its peak, the centre hosted only nine individuals in a facility that had a maximum capacity of 25 people, employed 27 people, and operated on a 2.5 million euros budget, and the last person left in the programme was expelled, having been convicted for violence and glorification of terrorism (Benbassa and Troendlé, 2017).

RIVE

The RIVE programme (*Recherche et intervention sur les violences extrémistes*: "Research and intervention on extremist violence") is the French government's first attempt at a public-private partnership in deradicalisation of persons convicted in terrorism. The programme's integrative approach was determined by law to provide "health, social, educational or

psychological care intended to allow […] reintegration and the acquisition of values of citizenship […] in a suitable reception establishment in which the convicted person is required to reside" (*Code de procédure pénale, Art. 138-18*).

The pilot ran for two years (October 2016-November 2018) and was operated by *APCARS* – a private association specialising in criminal offenders' social reintegration. The programme targeted individuals already convicted of terror-related crimes before or after serving their sentence. The participation did not require internment in a closed institution and included frequent and substantial encounters with social, religious, and psychological mentors.

The government contract with *APCARS* was not renewed despite overall positive reviews of its work. Instead, the RIVE model was reintroduced under a new name (PAIRS) and in partnership with a new private body. In the two years of its operation, the programme had 22 participants, none of whom has thus far relapsed into terrorism (Hecker, 2021).

PAIRS

The Programmes of Individualised Support and Social Reaffiliation (PAIRS) have succeeded RIVE in 2018 and are executed by *Groupe SOS*, a voluntary association specialising in social entrepreneurship. The declared objective of PAIRS is "the disengagement" of persons convicted in terrorism (*terroristes islamistes*, TIS) and of ordinary detainees suspected of being radicalised (*détenus de droit commun susceptibles de radicalisation*, DCSR) "from violent radicalisation and prevent the risk of violence while encouraging social reintegration". The programme accepts participants that attend it voluntarily or due to a court order. As of the end of September 2020, it has hosted 120 individuals – 92 TISs and 28 DCSRs – in its four centres (Paris, Marseille, Lyon and Lille), including those ranking "high" on the "radicalisation spectrum" (Hecker, 2021).

Each of the PAIRS centres is required to employ a multidisciplinary professional team of educators, social service assistants, professional integration counsellors, clinical psychologists, a temporary psychiatrist, and "specialists in contemporary Islam". As disclosed by an official working for the Ministry of Justice, PAIRS accepts only participants whose radicalisation involves a religious dimension (Hecker, 2021).

To date, none of the participants has engaged in terrorism but one of them was reincarcerated for threats to commit a terror act and nine others were returned to prison due to other criminal activity, including sexual assault or drug dealing (Hecker, 2021). However, the high rate of success warrants caution "in light of the small sample size, the short time the program has been running, and the absence of a control group that could definitively attribute the lack of recidivism to the program's intervention" (Hecker, 2021)

Mulhouse Programme

The Mulhouse programme is an example of a regional reintegration project initiated by a local authority in Alsace. After the January 2015 attacks, an Attorney General in the Mulhouse region has defined "the fight against violent radicalisation as an objective of the regional criminal policy" and set up an experimental three-month care programme with the participation of judicial, municipal, and medical stakeholders. The project targets individuals that are already undergoing criminal proceedings for involvement in violent crimes. It is not restricted to a specific type of violence and concerns adherents to "jihadist violence, which represents most cases, and members of extreme right-wing groups" (Benbassa and Troendlé, 2017).

Participation in the programme is mandatory for those found suitable. It is offered as an alternative to prosecution or, in case of an already convicted offender, in conjunction with a suspended sentence (Benbassa and Troendlé, 2017).

The Mulhouse programme consists of three phases: 1) understanding the person's personal situation and causes for their radicalisation and building an adjusted care programme; 2) re-establishing their social ties 3) designing a plan for future educational or professional prospects and acquiring a critical view on their radicalisation. It is considered a success and has hosted eighteen participants as of 2017 (Benbassa and Troendlé, 2017).

Conclusion

The legal framework of deradicalisation established by the French government in the course of the past decade makes up for an extensive range of constitutional, legislative and administrative mechanisms that attempt to understand, confront and curb the latest waves of political – especially jihadist – violence. The findings of this report indicate the main shortcomings of these mechanisms and contribute to the conversation about needed changes. On the constitutional level, most concerning is the ability of the French Constitutional Council to maintain its political independence from the current administration. The Council's case-law on deradicalization and counter-terrorist measures appears to be overtly deferential to the state's security reasoning, which risks undermining the proper constitutional balance of the state's public safety interests with fundamental rights.

The constitutional obligation to respect minority rights also mandates a repeal of the recent legislative changes that instruct government institutions to treat strict observance of religious (Muslim) laws as political, extremist, and dangerous opinions. Most recently, the 2021 "separatism" act places potentially illiberal religious practices in the same category with radicalised (or radicalising) behaviour that may lead to violent action and constructs religious views as politicised actions that pose a threat to the "Republican values." The act contributes to the marginalisation of Muslims in France, plays into the hands of the French far right, and ignores the claims widely established in empirical research that even the most extremist views rarely lead to extremist action. Policies of jihadist deradicalisation cannot be effective if the political, legislative and judicial milieus do not manifestly abandon this narrative and cease considering religious beliefs, their mobilisation for political ends and their utilisation to justify extremist violence as one and the same dangerous activity.

Radicalisation in French schools and prisons generates most concern in the French security apparatus and is the focus of the government's most ambitious plans of prevention and deradicalisation. The programmes currently in use in these institutions are however yet to be shown effective, and in some cases are outright counterproductive. Studies of the French public schools point to the need to eliminate procedures that trigger the state security apparatus in every case of potential radicalisation. Detection and engagement with signs of radicalisation in educational institutions should be entrusted in the hands of school officials rather than security agencies. The pedagogical, administrative, medical, or social welfare personnel in schools might require additional training to be able to address certain patterns of politically or religiously driven extremism but is also the only one qualified to confront what is essentially an educational challenge. The police and other agencies of the state security

apparatus should be called upon only in highly exceptional cases, equivalent to circumstances that trigger their participation in other types of crime-related activity in schools.

Deradicalisation policies in the French penitentiary system must account for the perceptions of alienation and discriminations prevalent among individuals suspect to have undergone or in a process of undergoing jihadist radicalisation. Another criticism of the treatment radicalised persons receive in prisons is the fixation on their isolation from other inmates and lack of concern for their rehabilitation and social reintegration. Their separation from other prisoners is shown to be motivated by political rather than professional considerations, and to risk contributing to further radicalisation of "suspects" by fostering their sentiments of alienation and injustice. The success of the French Mulhouse programme targeting non-incarcerated individuals, which does not differentiate among participants based on the nature of their criminal activity, suggests that the same policy may have advantages also within prisons.

Programmes of deradicalisation and social reintegration of released offenders, such as RIVE and PAIRS indicate that multidisciplinary care plans may be effective in the rehabilitation of radicalised individuals. Yet, due to the relatively short duration of the programmes and lack of comparative analysis with other deradicalisation platforms worldwide, the available data on their success is inconclusive. Further empirical studies are necessary to establish decisive conclusions.

Finally, the public and policymakers must take the critiques of deradicalisation seriously and adjust our current approaches. First, deradicalisation must be understood as a process which is opposed to an ever-increasing employment of state-sanctioned force against "radicalised" populations. Instead, deradicalisation programs must be understood as means to pursue a multifaceted and holistic portrayal of the causes and circumstances in which violent acts take place. Coming to terms with the perpetrators' process of radicalisation and isolating its motives, deradicalisation must seek to reduce and in some cases prevent violence at the earlier stages of its planning as well as the grievances that instigate it. Most importantly, educational efforts cannot involve surveillance and stigmatisation. Securitisation mechanisms currently employed in French public schools, such as "watch units" responsible for reporting children suspected in radicalisation to law enforcement agencies, are unacceptable and reminiscent of darker precedents of "re-education".

But efficacy and managerial enhancements are not enough. Deradicalisation has to aim for more than mere decline in politically or ideologically driven violence. Its first commitment must be the preservation of democratic institutions and traditions. Seeking to prevent radicalisation at early stages risks doing so "too early" by designating as potentially dangerous any behaviour that does not fit the socio-cultural mainstream and reaching too far into one's privacy and beliefs. Incremental expansion of the definition of radicalisation leads to ever-tightening surveillance and increasing limitation of personal liberties. In the short term it may look less draconian than the use of interrogations, administrative arrests or deportation but over time it normalizes vast oppression. Deradicalisation policies must therefore guarantee that attempts to protect France from physical extremist threats and preserve its values of liberty, equality and fraternity stop short from growing into an existential threat to the democratic foundations that protect these very values and these very people.

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Annex I: Overview of the Legal Framework on Radicalisation & Deradicalisation

Title (original and English) and number	Date	Type of provision	Object/summary of legal issues related to radicalisation	Link/PDF
Loi n° 2021-1109 du 24 août 2021 confortant le respect des principes de la République (act reinforcing respect of the principles of the Republic)	24.08.2021	Primary legislation		https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000043964778
Loi n° 2021-998 du 30 juillet 2021 relative à la prévention d'actes de terrorisme et au renseignement (act on the prevention of acts of terrorism and intelligence)	30.07.2021	Primary legislation		https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000043876100
Loi n° 2021-646 du 25 mai 2021 pour une sécurité globale préservant les libertés (act for a comprehensive security preserving freedoms)	25.05.2021	Primary legislation		https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000043530276
Loi n° 2020-1023 du 10 août 2020 instaurant des mesures de sûreté à l'encontre des auteurs d'infractions terroristes à l'issue de leur peine (act establishing security measures against perpetrators of terrorist offenses at the end of their sentence)	10.08.2020	Primary legislation		https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000042225084/
Loi n° 2020-766 du 24 juin 2020 visant à lutter contre les contenus haineux sur internet (« loi Avia ») (act aimed at fighting hate content on the Internet, aka the Avia act)	24.05.2020	Primary legislation		https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000042031970
Loi n° 2018-1202 du 22 décembre 2018 relative à la lutte contre la manipulation de l'information (act relating to the fight against the manipulation of information)	22.12.2018	Primary legislation		https://www.legifrance.gouv.fr/loda/id/JORFTEXT000037847559/

Loi n° 2017-1510 du 30 octobre 2017 renforçant la sécurité intérieure et la lutte contre le terrorisme (act strengthening internal security and the fight against terrorism	30.10.2017	Primary legislation		https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000035932811/
Loi n° 2015-1501 du 20 novembre 2015 prorogeant l'application de la loi n° 55-385 du 3 avril 1955 relative à l'état d'urgence et renforçant l'efficacité de ses dispositions (act extending the application of the act on the state of emergency and strengthening the effectiveness of its provisions)	20.11.2015	Primary legislation	Confirmation of declaration of a state of emergency	https://www.legifrance.gouv.fr/loda/id/JORFTEXT000031500831/
Décret n° 2015-1475 du 14 novembre 2015 portant application de la loi n° 55-385 du 3 avril 1955	14.11.2015	Executive order	Declaration of a state of emergency	https://www.legifrance.gouv.fr/loda/id/JORFTEXT000031473404/
Loi n° 2015-912 du 24 juillet 2015 relative au renseignement (act on intelligence)	24.07.2015	Primary legislation		https://www.legifrance.gouv.fr/loda/id/JORFTEXT000030931899/
Loi n° 2010-1192 du 11 octobre 2010 interdisant la dissimulation du visage dans l'espace public (act prohibiting concealment of the face in public space)	11.10.2010	Primary legislation	The French “Burqa ban”	https://www.legifrance.gouv.fr/loda/id/JORFTEXT000022911670
Loi n° 2004-575 du 21 juin 2004 pour la confiance dans l'économie numérique (act for confidence in the digital economy)	21.06.2004	Primary legislation		https://www.legifrance.gouv.fr/loda/id/JORFTEXT000000801164/
Circulaire du 18 mai 2004 relative à la mise en oeuvre de la loi n° 2004-228 du 15 mars 2004 encadrant, en application du principe de laïcité, le port de signes ou de tenues manifestant une appartenance religieuse dans les écoles, collèges et lycées publics	15.03.2004	Circular	Equality and neutrality in public services	https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000000252465

Loi n° 2004-228 du 15 mars 2004 encadrant, en application du principe de laïcité, le port de signes ou de tenues manifestant une appartenance religieuse dans les écoles, collèges et lycées publics (act regulating, in application of the principle of secularism, the wearing of signs or clothing demonstrating a religious affiliation in public schools, colleges and high schools)	15.03.2004	Primary legislation	Equality and neutrality in public services	https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000000417977/
Loi n° 90-615 du 13 juillet 1990 tendant à réprimer tout acte raciste, antisémite ou xénophobe (« loi Gayssot ») (act to suppress any racist, anti-Semitic or xenophobic act)	13.08.1990	Primary legislation	Prohibitiion of racist actions and speech	https://www.legifrance.gouv.fr/loda/id/JORFTEXT000000532990/
Loi du 10 janvier 1936 sur les groupes de combat et milices privées [**no longer in force**]	10.01.1936	Primary legislation	Banning of violent associations	https://www.legifrance.gouv.fr/loda/id/JORFTEXT000000325214/
Loi du 9 décembre 1905 concernant la séparation des Eglises et de l'Etat (act concerning the separation of Church and State)	9.12.1905	Primary legislation	Separation of Church and State	https://www.legifrance.gouv.fr/loda/id/JORFTEXT000000508749/
Loi du 29 juillet 1881 sur la liberté de la presse (act on the freedom of the press)	29.07.1881	Primary legislation	Freedom of the press	https://www.legifrance.gouv.fr/loda/id/LEGISCTA000006117648
Code de la défense (defence code), Article R*1122-8-2	-	Primary legislation	National counterterrorism center	https://www.legifrance.gouv.fr/loda/article_lc/LEGIARTI000034940211/2021-06-17
Code de la sécurité intérieure, Art. L212-1	-	Primary legislation	Dissolution of associations that pose a threat to public safety	https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000025505191/
Code de procédure pénale (criminal procedure code), Art. 138-18	-	Primary legislation	Judicial control after release from prison	https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000042193456/

Code électoral (election code), Article L97	-	Primary legislation	Spread of "fake news"	https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000006353232/

National case law

Case number	Date	Name of the court	Object/summary of legal issues related to radicalisation	Link/PDF
Décision n° 2021-822 DC du 30 juillet 2021	30.07.2021	Conseil constitutionnel	Approving softened reform on monitoring persons convicted of terrorism after their release from prison; combatting terrorism is a legitimate government purpose	https://www.conseil-constitutionnel.fr/decision/2021/2021822DC.htm
Decision no. 2020-805 DC of 7 August 2020	7.08.2020	Conseil constitutionnel	Striking down reform on monitoring persons convicted of terrorism after their release from prison	https://www.conseil-constitutionnel.fr/en/decision/2020/2020805DC.htm
Décision n° 2020-801 DC du 18 juin 2020	18.06.2020	Conseil constitutionnel	Striking down most of *loi Avia*	https://www.conseil-constitutionnel.fr/decision/2020/2020801DC.htm
Decision no. 2018-706 QPC of 18 May 2018	18.05.2018	Conseil constitutionnel	Approval of reform outlawing the "apology for terrorism"	https://www.conseil-constitutionnel.fr/en/decision/2018/2018706QPC.htm
Decision no. 2017-682 QPC of December 15, 2017	15.12.2017	Conseil constitutionnel	Striking down an offense that aimed to "repress behaviour likely to lead to radicalisation" by criminalising the "habitual consultation of terrorist websites"	https://www.conseil-constitutionnel.fr/en/decision/2017/2017682QPC.htm
Decision no. 2015-713 DC of July 23, 2015	23.07.2015	Conseil constitutionnel	Approval of security and surveillance measures	https://www.conseil-constitutionnel.fr/en/decision/2015/2015713DC.htm

Decision no. 2010-613 DC of 7 October 2010	07.10.2010	Conseil constitutionnel	Constitutionality of the "burqa ban"	https://www.conseil-constitutionnel.fr/en/decision/2010/2010613DC.htm
Decision no. 2005-532 DC of January 19, 2006	19.01.2006	Conseil constitutionnel	Approval of security and surveillance measures	https://www.conseil-constitutionnel.fr/en/decision/2006/2005532DC.htm
Décision n° 2003-467 DC du 13 mars 2003	13.03.2003	Conseil constitutionnel	Approval of security and surveillance measures	https://www.conseil-constitutionnel.fr/decision/2003/2003467DC.htm

Other relevant issues

	Constitutional provisions	**Statutory law (statues, rules, regulations etc.)**	**Important case law**	**Comments/ issues relevant to radicalisation**
Fundamental civil and social rights	• Declaration of the Rights of Man and of the Citizen (1789), Arts 2, 17, 6 • Preamble to the French Constitution of 1946 (§§5-7, 11, 13) • 2004 Charter for the Environment		• Décision n° 83-165 DC du 20 janvier 1984 (*Conseil constitutionnel*) • Décision n° 77-87 DC du 23 novembre 1977 (*Conseil constitutionnel*) • Décision n° 76-70 DC du 2 décembre 1976 (*Conseil constitutionnel*) • Décision n° 71-44 DC du 16 juillet 1971 (*Conseil constitutionnel*)	

Freedom of religion and belief	• French Constitution of 4 October 1958, Art 1 • Declaration of the Rights of Man and of the Citizen (1789), Art 10	• Loi n° 2021-1109 du 24 août 2021 confortant le respect des principes de la République • Loi du 9 décembre 1905 concernant la séparation des Eglises et de l'Etat • Loi n° 2010-1192 du 11 octobre 2010 interdisant la dissimulation du visage dans l'espace public • Loi n° 2004-228 du 15 mars 2004 encadrant, en application du principe de laïcité, le port de signes ou de tenues manifestant une appartenance religieuse dans les écoles, collèges et lycées publics • Circulaire du 18 mai 2004 relative à la mise en oeuvre de la loi n° 2004-228 du 15 mars 2004 encadrant, en application du principe de laïcité, le port de signes ou de tenues manifestant une appartenance religieuse dans les écoles, collèges et lycées publics	• S.A.S. v. France (GC), application no. 43835/11, judgment, 1 July 2014 (*ECtHR*) • Décision n° 2012-297 QPC du 21 février 2013 (*Conseil constitutionnel*) • Decision no. 2010-613 DC of 7 October 2010 (*Conseil constitutionnel*) • Dogru v. France, Application no. 27058/05, judgment, 4 March 2009 (*ECtHR*) • Cour de cassation, civile, Chambre sociale, 19 mars 2013, 12-11.690	
Freedom of expression	• Declaration of the Rights of Man and of the Citizen (1789), Art 11	• Loi n° 2020-766 du 24 juin 2020 visant à lutter contre les contenus haineux sur internet • Loi n° 2018-1202 du 22 décembre 2018 relative à la lutte contre la manipulation de l'information	• Décision n° 2020-801 DC du 18 juin 2020 (*Conseil constitutionnel*) • TGI Paris, 17 mai 2019, n° 19/53935 (*Tribunal judiciaire de Paris*) •	

		• Loi n° 2004-575 du 21 juin 2004 pour la confiance dans l'économie numérique • Loi n° 90-615 du 13 juillet 1990 tendant à réprimer tout acte raciste, antisémite ou xénophobe • Loi du 29 juillet 1881 sur la liberté de la presse		
Church and state relations		• Loi n° 2021-1109 du 24 août 2021 confortant le respect des principes de la République • Loi du 9 décembre 1905 concernant la séparation des Eglises et de l'Etat		
Surveillance laws		• Loi n° 2021-1109 du 24 août 2021 confortant le respect des principes de la République • Loi n° 2004-575 du 21 juin 2004 pour la confiance dans l'économie numérique		
Sub-national division of government and indivisibility of the French Republic	• French Constitution of 4 October 1958, Arts 72, 72-1, 73, 75-1, 76-77 • Organic Law No. 99-209 of March 19, 1999 Relating to New Caledonia (as Amended to December 31, 2009)	• Code général des collectivités territoriales, Arts. L1112-15 - L1112-23 • Loi n° 2004-809 du 13 août 2004 relative aux libertés et responsabilités locales, Art. 122 • L'Accord de Nouméa (5 mai 1998)	• Decision no. 2001-454 DC of 17 January 2002 (*Conseil constitutionnel*) • Decision no. 99-412 DC of 15 June 1999 (*Conseil constitutionnel*) • Décision n° 91-290 DC du 9 mai 1991 (*Conseil constitutionnel*)	

Constitutional structure	• French Constitution of 4 October 1958, Art 34		• Decision no. 2013-669 DC of May 17, 2013 (*Conseil constitutionnel*)	
Equality	• French Constitution of 4 October 1958, Art 1			
Arbitrary detention	• French Constitution of 4 October 1958, Art 66			

Annex II: List of Institutions Dealing with Radicalisation & Counter-radicalisation

Authority (English and original name)	**Tier of government**	**Type of organisation**	**Area of competence in the field of radicalisation & deradicalisation**	**Link**
National Coordination of Intelligence and the Fight against Terrorism (*Coordination nationale du renseignement et de la lutte contre le terrorisme (CNRLT)*)	National	Intelligence and counter-terrorism	Execution of policies relating to prevention of terrorism	https://www.elysee.fr/cnrlt
National Counterterrorism Centre (*Centre national du contre-terrorisme (CNCT)*)	National	Counter-terrorism	threat analysis and counterterrorism strategy	https://www.elysee.fr/cnrlt
Inter-ministerial Committee for the Prevention of Crime and Radicalisation (*Comité Interministériel de Prévention de la Délinquance et de la Radicalisation (CIPDR)*)	National	Inter-ministerial Committee	Detection and prevention of radicalisation	https://www.cipdr.gouv.fr/
Departemental assessment units (*Groupes d'évaluation départemental (GED)*)	National	Internal security (prefecture)	Assessing and monitoring radicalisation in the community	https://www.dgsi.interieur.gouv.fr/la-dgsi-en-clair/decouvrir-la-dgsi/nos-missions/lutte-contre-terrorisme-et-extremismes-violents-1
Radicalization prevention and family support units (*Cellules de prévention de la radicalisation et d'accompagnement des familles (CPRAF)*)	National	Internal security (prefecture)	Support and assistance to radicalised individuals and their families	https://www.cipdr.gouv.fr/le-cipdr/reseau-national-les-partenaires-de-terrain/
Departmental units for the fight against Islamism and community withdrawal (*Cellules départementales*	National	Internal security (prefecture)	Jihadist radicaliisation	https://www.cipdr.gouv.fr/islamisme-et-separatisme-clir/

de lutte contre l'islamisme et le repli communautaire (CLIR))				
Defence Intelligence and Security Directorate (*Direction du Renseignement et de la Sécurité de la Défense (DRSD)*)	National	Intelligence	Intelligence	https://www.drsd.defense.gouv.fr/
Directorate-General for External Security (*Direction générale de la sécurité extérieure (DGSE)*)	National	Intelligence	Intelligence	https://www.dgse.gouv.fr/en
Directorate-General for Internal Security (*Direction générale de la sécurité intérieure (DGSI)*)	National	Intelligence	Intelligence	https://www.interieur.gouv.fr/Le-ministere/DGSI
Military Intelligence Directorate (*Direction du renseignement militaire (DRM)*)	National	Intelligence	Intelligence	https://www.defense.gouv.fr/drm
National Directorate for Intelligence and Customs Investigations (*Direction Nationale du Renseignement et des Enquêtes Douanières (DNRED)*)	National	Intelligence	Intelligence	https://www.douane.gouv.fr/fiche/la-direction-nationale-du-renseignement-et-des-enquetes-douanieres
Intelligence processing and action against underground financial circuits (*Traitement du renseignement et action contre les circuits financiers clandestins (TRACFIN)*)	National	Intelligence	Intelligence	https://www.economie.gouv.fr/tracfin
Anti-terrorism sub-directorate (*Sous-direction anti-terroriste (SDAT)*)	National	Police	Prevention and repression of national and international terrorism, including its financial aspects	https://www.dgsi.interieur.gouv.fr/la-dgsi-en-clair/decouvrir-la-dgsi/nos-missions/police-judiciaire-specialisee/services-judiciaires

Regional directorate of the judicial police of Paris (*Direction régionale de la police judiciaire de la préfecture de police de Paris (DRPJ Paris)*)	National	Judiciary	Responsible for increasing efficiency in the fight against organised crime	https:www.prefecturedepolice.interieur.gouv.fr/presentation/les-directions-et-services/directions-de-police-active/la-direction-regionale-de-la-police-judiciaire
Sub-directorate of operational anticipation (*Sous-direction de l'anticipation opérationnelle (SDAO)*)	National	Intelligence	Intelligence and information mission of public authorities, to the fight against terrorism and to the protection of citizens	https://www.elysee.fr/en/national-intelligence-and-counter-terrorism-coordination
National prison intelligence service (*Service national du renseignement pénitentiaire (SNRP)*)	National	Intelligence, Ministry of Justice	Intelligence in prisons	https://www.justice.gouv.fr/le-ministere-de-la-justice-10017/direction-de-ladministration-penitentiaire-10025/
Central office for the fight against crime related to information and communication technologies (*Office central de lutte contre la criminalité liée aux technologies de l'information et de la communication (OCLCTIC)*)	National	Police	Prevention of dissemination of online hate	https://www.police-nationale.interieur.gouv.fr/Actualites/L-actu-police/Plateforme-Signalement-sur-Internet/Decouvrez-l-OCLCTIC
Observatory of online hate (*Observatoire de la haine en ligne*)	National	Regulatory	Analysing and quantifying the phenomenon of online hate	https://www.csa.fr/Informer/Toutes-les-actualites/Actualites/Observatoire-de-la-haine-en-ligne-analyser-pour-mieux-lutter

Annex III: Best Practices/Interventions/Programmes

National level

Institution(s)	Aim	Source	Evidence of effectiveness / literature
Centre for Prevention, Integration and Citizenship" (*Centre de prévention, d'insertion et de citoyenneté, (CPIC)*),	Prevention of radiclaisation of persons who are yet to engage in criminal terrorist activity	Hecker M, 'Once a Jihadist, Always a Jihadist? A Deradicalization Program Seen from the Inside' (2021).	Hecker M, 'Once a Jihadist, Always a Jihadist? A Deradicalization Program Seen from the Inside' (2021).
Research and intervention on extremist violence (*Recherche et intervention sur les violences extrémistes: (RIVE)*)	Reintegration of persons already convicted of terror-related crimes before or after serving their sentence	Hecker M, 'Once a Jihadist, Always a Jihadist? A Deradicalization Program Seen from the Inside' (2021).	Hecker M, 'Once a Jihadist, Always a Jihadist? A Deradicalization Program Seen from the Inside' (2021).
Programmes of Individualised Support and Social Reaffiliation (*Programmes d'accompagnement individualisé et de réaffiliation sociale (PAIRS)*)	Disengagement" of persons convicted in terrorism and of ordinary detainees suspected of being radicalised from violent radicalisation and prevent the risk of violence while encouraging social reintegration	Hecker M, 'Once a Jihadist, Always a Jihadist? A Deradicalization Program Seen from the Inside' (2021).	Hecker M, 'Once a Jihadist, Always a Jihadist? A Deradicalization Program Seen from the Inside' (2021).

Sub-national/Regional level

Institution(s)	Aim	Source	Evidence of effectiveness / literature

“Mulhouse programme”	Social reintegration of persons undergoing criminal proceedings for involvement in violent crimes	Benbassa E and Troendlé C, ‘Rapport Final de La Mission d’information Sur Le Désendoctrinement, Le Désembrigadement et La Réinsertion Des Djihadistes En France et En Europe, N° 633’ (12 July 2017).	Benbassa E and Troendlé C, ‘Rapport Final de La Mission d’information Sur Le Désendoctrinement, Le Désembrigadement et La Réinsertion Des Djihadistes En France et En Europe, N° 633’ (12 July 2017).

Annex IV: Policy Recommendations

- Further empirical studies on the process of social reintegration of released offenders in programmes like RIVE and PAIRS
- The classification of a person as radicalised or in risk to be radicalised should not be translated into differentiated treatment in prison or after their release. Relatedly, deradicalisation programmes should avoid separating between violent extremists and criminal offenders. Their separation in French prisons was shown to be counterproductive and in fact contribute to the radicalisation of suspects by fostering sentiments of alienation and injustice. The success of the Mulhouse programme, which welcomes all persons undergoing criminal procedures and does not have special deradicalisation schemes for political or religious extremists, supports this policy.
- Eradication of security mechanisms in schools. Signs of radicalisation should be detected and treated by school officials like any other concerning or dangerous patterns of behaviour. The pedagogical, administrative, and other qualified staff in schools might require additional training in addressing politically or religiously driven extremism but they must be the only ones involved in deradicalisation efforts in schools. The police and other agencies of the state security apparatus should be called upon only in exceptional cases, equivalent to circumstances that trigger their participation in other types of crime-related activity in schools.
- Clear distinctions must be established by law between strict observance of religious rules, and extremist opinions. The 2021 legislative reform recently passed by the French Parliament creates a dangerous fusion between behaviour that may not but is
-
- police and the state security apparatus must not be involved in
- deradicalisation French prisons to deradicliase deradicalisation policies in French prisons and success
- The independence of the constitutional Council in balancing the security needs of the state with fundamental rights is crucial to the guaranty of the rule of law and respect of constitutional freedoms.

Annex V: “Prevent to Protect”: National Plan for the Prevention of Radicalisation (February 2018)

Translated by the authors (S.W.S, R.Z.)

1. Guard the minds against radicalisation

1.1. Investing in the school

1.1.1. Defending the values of the Republican School

Measure 1: Develop support mechanisms for *laïcité* at the national and academic levels, adapting them to local needs. Strengthen training in republican values for teachers and all staff in the educational community.

Measure 2: Develop more particularly in sensitive neighbourhoods the “homework” and “Wednesday” [short school day] plans to better support students in their learning, including in media education, during school and extracurricular time.

1.1.2. Improve detection in all schools

Measure 3: Distribute in all schools the guide drawn up by the Ministry of National Education for the attention of school heads in order to improve detection even more in institutions under the Ministry of National Education. On the basis of training kits designed and made available by the General Secretariat of the Interministerial Committee for the Prevention of Crime and Radicalisation (SG-CIPDR), train police officers and gendarmes already carrying out prevention and proximity missions with schools to improve actions to prevent radicalisation and the detection of tilt indicators.

Measure 4: Distribute the guide and the training courses developed by the Ministry of National Education in maritime, agricultural and military high schools and in apprenticeship training centres (in conjunction with the regions), in order to facilitate the detection and support of the young people being reported. In agricultural education, extend the training provided to management staff, teaching and educational teams, and promote the use of existing tools both internally and externally.

1.1.3. Work in a network in the control of schooling in non-contract educational establishments and of instruction in the family

Measure 5: Develop the legal regime governing the opening of private educational establishments not under contract (*hors contrat*) by unifying the three current declarative regimes and improving their efficiency.

Measure 6: At the national level, specialise teams of academic inspectors and distribute at the regional level a guide to good practices on the controls of private educational establishments not under contract (*hors contrat*).

Measure 7: At the *département* level, set up limited training for the radicalisation prevention unit and support for families (CPRAF), to coordinate checks on private establishments not under contract (*hors contrat*) and on home instruction situations in cases of suspected radicalisation.

Measure 8: In the event of a radicalisation report and under the guidance of the prefect, improve the fluidity of the transmission of information with the mayor and the academic inspectorate. The objective is to ensure the exhaustive nature of the census of children subject to compulsory education and to speed up the implementation of compulsory checks on education in the family. The academic services must ensure that the monitoring of the minor's situation is carried out under the best possible conditions.

1.1.4. Strengthen students' defences

Measure 9: Protect students against the risk of radicalization in the digital space and conspiracy theories by systematizing media and information education (EMI), while developing their thinking criticism and the culture of debate.

Measure 10: Continue educational training for staff, develop the resources and tools available (www.eduscol.education.fr, www.reseau-canope.fr, www.clemi.fr)

1.2. Involve Internet Actors in the Protection of Citizens

1.2.1. Improve the removal of content

Measure 11: Effectively curb the dissemination of terrorist propaganda on the internet by supporting the Digital Ambassador in his mission, responsible for conducting direct dialogue with the major digital platforms with the objective of priority is to put in place automatic identification and removal tools so that content can be withdrawn less than an hour after being put online.

Measure 12: In the absence of voluntary cooperation from social platforms and networks by May 2018, support a European legislative initiative based on a Commission impact study.

Measure 13: Using the IRMa (Internet Referral Management application) system, finalise the construction of a European database of illegal content by Europol.

1.2.2. Fight against algorithmic confinement

Measure 14: Support applied research work on algorithmic confinement processes. Contribute to the development of tools to move away from exposure to content likely to encourage radical drift and effectively promote counter-discourse.

1.3. Develop the Counter Speech

1.3.1. Mobilize, above all, the actors of civil society in the counter-speech

Measure 15: Continue cooperation with Internet actors and support, in particular within the framework of the European Union Forum on the Internet, the efforts of civil society organisations involved in counter-discourse.

Measure 16: Develop the training offer and EU support for French-speaking counter-discourse actors within the framework of the European Network for Radicalisation Awareness (RAN) and the International Organisation of the Francophonie (OIF).

Measure 17: Encourage republican counter-discourse on several registers (including humorous, artistic and religious) carried by various stakeholders (intellectuals, sportsmen and Internet activists) to various audiences, in particular young people and women.

1.3.2. Pursue a targeted institutional counter-discourse

Measure 18: Pursue the development of a targeted institutional counter-discourse, to encourage the reporting of radicalised young people (toll-free number: 0 800 005 696) and illicit content (pharos: https://www.internetsignalement.gouv.fr), support parenting support, fight against conspiracy, promote our external military action as part of the fight against terrorist groups and the stabilisation of conflict zones.

2. Complete the detection/prevention network

2.1. In the Administrations

Measure 19: Concerning public officials exercising missions of national sovereignty, support the ministries in the implementation of the administrative inquiries provided for by article L.114-1 of the code of internal security amended by the law strengthening internal security and the fight against terrorism of October 30, 2017, and the follow-up to be given to them.

Measure 20: With regard to other public officials, and more particularly those whose activity puts them in regular contact with minors, initiate a reflection by the Ministry of Action and Public Accounts, in conjunction with the ministries concerned, in particular the Ministry of National Education and the Ministry of Justice, to mobilise and supplement the legal instruments allowing the dismissal of his functions of a public official in contact with audiences over whom he is likely to have an influence, and whose behaviour undermines the obligations of neutrality, respect for the principle of *laïcité*, or even involves risks of engagement in a process of radicalisation. Its conclusions will be submitted before the end of the first quarter of 2018.

2.2. In Territorial Authorities

Measure 21: Depending on the local situation, encourage local authorities to appoint referents (elected officials and/or coordinators of local or inter-municipal security and crime prevention councils – CLSPD/CISPD – in order to strengthen and secure the exchange of information with the CPRAFs and improve the systems for detecting, reporting and taking care of radicalised people.

Measure 22: Develop a national training framework towards elected officials, intended to be rolled out at the territorial level with a view to intensifying training actions for local officials, in conjunction with the National Center for the Territorial Public Service (CNFPT), the National Council for the training of local elected officials and approved organisations.

2.3. In Sport

Measure 23: Develop a common culture of vigilance in the sports field in conjunction with the “radicalisation” referents at the Ministry of Sports. Raise awareness among technical executives of sports federations but also those who organise non-instituted physical and sports activities (bodybuilding, fitness, paintball, air soft, etc.). In addition, sensitise municipal sports directors (national association network of sports facilities and service directors –

ANDIISS – with a view to developing reports within the framework of existing systems with prefects.

Measure 24: Integrate prevention of radicalisation to the interfederal training of sports educators and trainers of trainers.

Measure 25: Under the local coordination of the department prefect, develop administrative control actions and orient them towards the disciplines and areas affected by radicalisation. As soon as the national radicalisation prevention plan is announced, an interministerial circular (Ministry of the Interior/Ministry of Sports) will be sent to the prefects (decentralised sports services) to remind them of the applicable administrative measures and encourage them to plan controls on “at-risk” territories and disciplines.

Measure 26: Identify in each national sports federation a “responsible for citizenship”, in the broad sense, as an intermediary with the decentralised authorities and a point of contact for the internal security forces. Assign a liaison officer (gendarmerie or police) to the Minister of Sports.

2.4. In Private Companies

Measure 27: Increase, in conjunction with the State, the awareness of companies, professional federations and consular networks, with the creation of a specific teaching kit, in order to standardise the training offer on the identification of risky situations, the procedures for reporting to the public authorities, and the conditions for their handling in the operation of the company.

Measure 28: At the local level, organise the reporting of radicalisation situations with a view to their assessment within the framework of departmental assessment groups (GED) and possible support within the CPRAF.

Measure 29: Strengthen the coordination between the prefectures and the regional directorates of enterprises, competition, labour and employment (DIRECCTE) on the subject of radicalisation, by systematising the appointment of a referent for the prevention of radicalisation in the DIRECCTEs and by stepping up the mobilization of the DIRECCTEs to support care within the CPRAFs.

Measure 30: Raise the awareness of the social partners gathered within the National Commission for Collective Bargaining (CNNC), on an annual basis, so as to advance in the prevention of radicalisation in the workplace by associating trade unions and employers' organisations, which would join as necessary, the State services responsible for the prevention of radicalisation (SG-CIPDR and Ministry of the Interior).

2.5. In Higher Education and Research

Measure 31: Develop the awareness of personnel in higher education and research structures about the phenomenon of radicalisation. Provide them with tools and training to facilitate the detection and reporting of radicalisation situations.

Measure 32: Encourage the systematisation of “radicalisation” referents in higher education establishments, as well as the participation of university presidents and school directors in CPRAFs.

3. Understand and anticipate the evolution of radicalisation

3.1. Anticipate the Reconfigurations of the Jihadist Threat and Their Impact on Our Territory, Including in the Overseas Departments and Authorities

Measure 33: Establish a network associating the cells of foresight of the Ministries of Europe and Foreign Affairs of the main European countries and neighbouring overseas territories concerned, in order to share prospective analyses and assessments of the phenomenon of radicalisation.

Measure 34: Taking into account territorial dynamics, including overseas, define priority research axes on radicalisation issues within the framework of the Scientific Council on Radicalisation Processes (COSPRAD), by increasing the number of platforms for exchanges between researchers, public decision-makers and professionals (educators, sports world, social workers, mental health professionals, religious leaders, etc.).

3.2. Develop Applied Research on Changes in the Radicalisation Process

Measure 35: Allow researchers and scientists specialising in the prevention of radicalisation to have access to certain information extracted from the FSPRT. A secure authorisation procedure and conditions respecting the rights of individuals and the confidentiality of data and operational information will be established for this purpose.

Measure 36: Mobilise all the options for the financing of doctorates for the benefit of the prevention of radicalisation, within local authorities and companies. Strengthen support for teams in putting together their applications for European funds (H2020) on understanding radicalisation.

Measure 37: Organise research and clinical meetings in psychology and psychiatry on radicalisation and promote the dissemination of good practices.

4. Professionalise local actors and evaluate practices

4.1. Encourage the Involvement of Health, Social Work and Women's Law Professionals

4.1.1. Mobilisation of mental health professionals

Measure 38: Strengthen the relationship between regional health agencies. health (ARS) and the prefectures on the link between mental health and prevention of radicalisation, via framework agreements specifying the role of each. Encourage the generalisation of good practices in the territories, in particular those relating to the support provided by mental health professionals. In the prefectural unit and depending on the needs expressed, promote the presence of health and/or mental health professionals alongside the ARS referents.

Measure 39: Update the existing provisions relating to access and retention of sensitive data contained in the application for the management of persons subject to psychiatric care without consent (HOPSY).

4.1.2. Strengthening the mobilisation of large associative social work networks

Measure 40: Under the aegis of SG-CIPDR, produce a common guide to benchmark professional practices in the prevention of radicalisation for the benefit of large associative social work networks.

4.1.3 Mobilisation of the women's rights network

Measure 41: Associate the territorial teams with women's rights and equality, and their associative network, in the device for preventing radicalisation and monitoring radicalised people.

4.2. Strengthen the Follow-up of Actors Involved in Measures to Prevent Radicalisation

4.2.1. Develop and structure the training of actors

Measure 42: Include in the training "Values of the Republic and *Laïcité*" of the General Commission for Territorial Equality, a specific module on the prevention of radicalisation.

Measure 43: Establish a mapping of training offers by categorising them (targets, duration, costs, topics covered) and draw up specifications for training organizations on the prevention of radicalisation (SGCIPDR).

4.2.2. Increase the monitoring and control of care providers

Measure 44: Define in a specification, the criteria relating to the systems of care for individuals and support for families.

Measure 45: Set up a committee of funders to monitor actions supported to prevent radicalisation and share evaluations of the actions implemented.

4.3. Develop the Involvement of Territorial Authorities in Treatment

Measure 46: Develop cooperation actions between local authorities and State services in the care of people showing signs of radicalisation, as well as in the support for their families. Rely on the district sub-prefects and prefect delegates depending on the situation, in conjunction with the CPRAFs as well as local social operators, in particular family allowance funds and local missions.

Measure 47: Strengthen the action of *départements* councils in monitoring children of families returning from areas of operations of terrorist groups in connection with the CPRAF at the local level and the SG-CIPDR at the national level.

Measure 48: Generalise radicalisation prevention plans within the framework of city contracts and ensure their articulation with territorial crime prevention strategies as well as the adaptation of departmental plans and local security contracts or territorial strategies for prevention of radicalisation.

4.4. Develop the Evaluation Through the Feedback from International Experience and the Mobilization of Scientific Expertise

4.4.1. Mobilise scientific expertise

Measure 49: Mobilise action research expertise in the evaluation of the prevention of radicalisation to capitalise on local experiences and list good practices.

4.4.2. Share feedback from international experience

Measure 50: Develop exchanges with our foreign partners on the implementation of their national plans to prevent radicalisation, by particularly assessing the effectiveness of prevention and disengagement measures our European and Indian Ocean partners.

Measure 51: Set up a European resource centre on the prevention of radicalisation, based on existing structures.

5. Adapt disengagement

5.1. The Reintegration of Minors Returning from Areas of Operation of Terrorist Groups

Measure 52: Coordinate the establishment of interdisciplinary training to strengthen the professionalisation of actors in the care of these minors, under the aegis of the SG-CIPDR in connection with all the public service schools.

Measure 53: In conjunction with local prosecutors, centralise information at the Paris prosecutor's office on minors returning from the area of operations of terrorist groups, in order to facilitate the taking into account of the situation of parents in court, and to instruct them in need regular assessments of the situation of minors to provide the means for long-term monitoring.

Measure 54: Ensure, locally, within the framework of the CPRAF, the coordination of all the actors concerned, including the Ministries of National Education and Health. Develop long-term social and medico-psychological monitoring of children returning from areas of operations of terrorist groups by mobilising the mapping of available child psychiatric resources that can be mobilised under the control of the children's judge.

5.2. Monitoring Radicalised Detained Groups

Measure 55: Develop evaluation capacities for radicalised detainees:

- by the creation of four new radicalisation assessment quarters (QER), one of which will be reserved for the assessment of detainees.
- for women prisoners, by strengthening multidisciplinary evaluation by support pairs.
- for minors, by reinforcing, under the supervision of the judge, the multidisciplinary evaluation by judicial measures of educational investigation (MJIE) or by the evaluation carried out within the framework of the continuous intervention of the educational services of the PJJ [judicial protection of youth] in detention.

Measure 56: Design and distribute neighbourhoods for the care of radicalised persons (QPR) on the territory to accommodate, after their assessment, radicalised adult prisoners and proselytes requiring appropriate and separate care from ordinary detention. Adapt the specific detention regime for terrorist and radicalised detainees by providing at the end of 2018 at least 450 places under tight management (isolation quarters (QI), QER, QPR and specific quarters).

Measure 57: Develop programs to prevent violent radicalisation in all establishments likely to accommodate detainees prosecuted for acts of Islamist terrorism. Strengthen the identification and management of psychological

disorders in radicalised detainees by support pairs (psychologists and educators), in line with the national detainee health strategy.

5.3. Individualized Care Centres for Radicalised or on the Path of Radicalisation Placed Under Justice

Measure 58: Create three new individualised care centres for people who are radicalised or in the process of radicalisation, placed under the supervision of justice, from the system tested in Ile de France, Lille, Lyon and Marseille, piloted by the Ministry of Justice, to implement efficient individualised educational, psychological and social care, with a religious referent.

5.4. Strengthened Support and Follow-up in Support of These Centres and on Dismissal

Measure 59: For this multidisciplinary support, mobilise all the actors concerned at the local level, in particular for the professional integration dimension, under the joint coordination of the *département* prefects and public prosecutors, in conjunction with the security services. For those undergoing criminal processes not followed in such centres, and for prisoners at the end of their sentence, anticipate the end of the judicial follow-up and mobilise these local actors to facilitate their reintegration. For juvenile prisoners, ensure the continuity of the educational intervention and prepare for the release as part of an individualised and containing project.

5.5. Feedbacks and Sharing of Experience

Measure 60: Organise feedback and sharing of experiences between the services of the Ministry of Justice and the SG-CIPDR with regard to the support of the various underhand audiences of justice in the programs of prevention of radicalisation.

Annex VI: Action plan against terrorism (July 2018)

Translated by the authors (S.W.S, R.Z.)

1. Know: better identify and understand the terrorist threat and its developments

Intelligence is a fundamental component in the fight against terrorism. Intelligence efforts will be more effective the better they are coordinated. This is the mission of the National Intelligence and Counterterrorism Coordinator (CNRLT), both within the French intelligence community, and on the international scene, bilaterally with partner countries, and within the European Union. For its part, the General Directorate of Internal Security sees its role as operational leader consolidated.

***Action 1**: Strengthen the operational management of the fight against terrorism by the General Directorate of Internal Security (DGSI).*

In line with the strategic coordination mission entrusted to the national coordinator of intelligence and the fight against terrorism (CNRLT) since June 2017, the DGSI will ensure the operational coordination of intelligence, judicial investigations under the authority of magistrates, and strategies of national and international cooperation of the Ministry of the Interior in counterterrorism matters. The mission letter sent by the Minister of the Interior to the Director General of Internal Security sets the Government's expectations in terms of the fight against terrorism, and the operational coordination prerogatives of the DGSI in a logic of continuum between international and endogenous threats.

***Action 2**: Set up a unit to profile the perpetrators of terrorist attacks and identify the factors leading to them.*

This inter-service unit will conduct a study on the characteristics common to the perpetrators of attacks or attempted attacks in order to identify objective criteria of dangerousness in radicalised individuals and to shed light on the processes underlying the tipping of one or more individuals into terrorism. This action will be based on an inventory of publications already produced in France by researchers or by private or public bodies and on work carried out in other European countries.

***Action 3**: Structure the prison intelligence service with national competence.*

The integration of prison intelligence (PR) as a service of the national intelligence community reflects the major stake represented by the monitoring of persons undergoing criminal procedures (PPSMJ) in the context of the fight against terrorism, both serving secure and open sentence. Constantly growing and recognised by its peers, the PR has reached a level in its development which calls for new measures, particularly organisational measures. The long-term development of penitentiary intelligence also involves the creation of a specific professional stream offering all the officers of the service an adequate career and statutory development and by a budgetary effort: 108 posts will be created between 2018 and 2020 in within the framework of the programming law.

***Action 4**: Prepare for the evolution of security technologies and the adaptation of their legal framework.*

The ever-accelerating proliferation of innovation in digital technologies and their uses affects the methods of exercising internal security as well as all public action. In this context, it is imperative that the State constantly adapts its posture, to detect new risks, weaknesses, terrorist threats or criminal uses linked to technological change, but also, conversely, to seize technological opportunities to strengthen its own resources of action and protection of the population and to anticipate appropriate legal adaptations. A mission of analysis and proposals on changes linked to digital transformation in the field of internal security is entrusted to the ministerial coordinator for artificial intelligence.

***Action 5**: Strengthen and systematise experience feedback (RETEX) and the continuous improvement process.*

The CNRLT was tasked with designing and implementing an experience feedback method which brings together all the services concerned – intervening services, intelligence services and investigative services – and which no longer relates only to successful attacks, but also to incidents. foiled or failed actions. These systematic feedbacks are conducted by the CNRLT.

2. Obstruct: preventing and preventing acting out

Relying on a better knowledge of the threat, prevention of taking action also relies on anticipating releases from prison and on international initiatives against the financing of terrorism and for conflict resolution.

***Action 6**: Create a permanent unit to monitor prisoners leaving prison.*

Almost 10% of Islamist terrorist detainees (TIS) 2 and more than a third of common law detainees susceptible to radicalisation (DCSR) 3, whether they are convicted or sentenced, are released by the end of 2019, and more than 80% of the 143 TIS already sentenced will be sentenced by 2022. These individuals have various profiles for which the security challenges posed are multiple: proselytism, short-term threat represented by impulsive profiles, medium and long-term threat relating to planned attacks or even attempted redeployment to jihad zones abroad. A system of anticipation and taking into account by the services of the exits of these individuals is necessary to prevent possible acts of a terrorist nature. A permanent unit will be created within UCLAT with prison intelligence officers.

***Action 7**: Strengthen judicial control.*

Compliance with the obligations and prohibitions imposed on persons indicted for acts of terrorism and placed under judicial supervision or under house arrest under electronic surveillance (ASS) is of major importance. Failure to comply with this type of control requires a systematic judicial response. A working group bringing together representatives of the courts, the Ministry of Justice and the Ministry of the Interior is responsible for identifying and proposing ways to improve the channels for disseminating and exchanging information, with a modernisation of existing tracking files. These recommendations will be the subject of an interministerial instruction in September. It will also be necessary to identify the conditions for a more frequent use of house arrest under mobile electronic surveillance (ARSEM).

***Action 8**: Strengthen the enforcement of anti-terrorist sentences.*

There are currently two anti-terrorism enforcement judges (JAPAT) in Paris. A specific service will be created headed by a first vice-president, made up of three specialised magistrates. This will make it possible to position this service in a logic of clearer coordination with the entire anti-terrorist criminal chain.

Fight Against the Financing of Terrorism

At the national level

***Action 9**: Consolidate the mechanism for freezing assets for anti-terrorism purposes.*

Our system for designating and monitoring natural or legal persons linked to terrorism likely to be the subject of national, European or international anti-terrorist asset freezing measures has been improved. This has resulted in a significant increase in the number of people sanctioned: 189 asset freezes are currently in force.

***Action 10**: Continue the policy of suspending social benefits.*

In conjunction with the Ministry of Solidarity and Health, the Ministry of the Interior (DGSI) reports to social security organizations information relating to the confirmed departure of individuals from French territory for a conflict zone in order to join terrorist groups. Social security bodies are able to suspend the payment of benefits to these people. The particular monitoring carried out by social security organisations of individuals reported by the DGSI provides the latter with an additional source of information on the possible return to the national territory of individuals who have left for a jihad zone.

At the international level

***Action 11**: Follow up on the commitments made in the various competent forums,*

in particular during the international conference on the fight against the financing of terrorism “No Money for Terror” on April 25 and 26, 2018, which brought together Paris more than 70 states and 15 international and regional organizations. France is mobilizing its partners to encourage the implementation of the Paris commitments and keep the fight against terrorist financing at the heart of the priorities of international forums: the UN, the Council of Europe, the G7, the G20 and the FATF.

***Action 12**: Make the fight against terrorism a priority for the French presidency of the G7.*

France will assume the presidency of the G7 in 2019. This opportunity must be seized to ensure that the G7 maintains a high level of ambition in the fight against terrorism and to mobilise our partners on the priorities linked to this issue, in particular the fight against the financing of terrorism following on from the international conference on the fight against the financing of terrorism “No Money for Terror” which was held in Paris on April 25 and 26, 2018.

Putting Diplomatic Action at the Service of the Conflict Resolution and Capacity Building in Vulnerable States

***Action 13**: Contribute to the reform of the security sector, training and equipping the security forces of the most vulnerable states.*

The actions carried out must allow partner states to restore their authority in areas where they are currently no longer able to ensure their presence. The support provided by France thus aims to strengthen the territorial network, to develop the intervention capacity of States in complex situations, as well as to develop advanced know-how in matters of intelligence and investigation both on the Internet and in the area of financial flows. Our support is based on the principle that intelligence missions, investigations, arrests and judicial follow-up must comply with the rules and practices of the rule of law. Our action also aims to ensure that the defendants receive a fair criminal trial following the judicial investigation.

3. Protect: strengthen risk reduction policies

The national security strategy primarily aims to protect the French population, national territory and interests, including abroad, against all risks and threats. A better knowledge of the terrorist threat and its evolutions makes it possible to adapt the risk reduction policies coordinated by the public authorities in conjunction with private operators, communities and the population.

***Action 14**: Develop a common culture of safety within society.*

The objective is to increase the level of vigilance of all actors in society, whether public or private, and to involve them more in acquiring the right reactions, in order to contribute directly to the fight against terrorism and the resilience of the Nation. This requires combining and coordinating the efforts of the public authorities and private operators, in particular through the national security dialogue with the country's active forces and representatives of the directors of security and safety in the private sector. The distribution of good practice guides intended for managers of schools, shopping centres and museums illustrates this action. A new dissemination campaign is planned for the start of the school year.

***Action 15**: Optimise the contribution of the armed forces and operational reserves to the protection of the national territory in the face of the terrorist threat.*

As part of “Sentinel”, the employment of the armed forces in field missions will be optimised in view of the evolution of the threat and their complementarity with the internal security forces. This adaptation, which is permanent in nature, is also accompanied by a strengthening of the employability of operational reserves and the capacity to mobilise them.

***Action 16**: Strengthen the protection of sensitive sites and the development of security technologies.*

The common point of sensitive sites, which include points of vital importance as well as Seveso-classified industrial installations, and vulnerable places such as establishments open to the general public, is that they constitute targets of interest for terrorists. This is why their vulnerability should be reduced by implementing risk reduction policies. This requires combining and coordinating the efforts of public authorities and operators and calling on security technologies adapted to needs, in order to increase the capacities of human resources. The Security Industries Sector Committee (CoFIS) will provide innovative options on this point.

***Action 17**: Facilitate compensation for victims of terrorism.*

It is foreseen in the programming bill for justice, the creation of a judge specifically dedicated to the compensation of victims of acts of terrorism (JIVAT). This judge will be attached to the Paris First Instance Court and will have national jurisdiction. This will make it possible to unify the case law on the recognition of the quality of victim of terrorism and the various rights attached to it, and to streamline their compensation process. Magistrates dealing with legal proceedings opened for acts of terrorism will thus be able to concentrate exclusively on criminal investigations. In addition to the creation of JIVAT, various measures will strengthen the guarantees provided for in the amicable phase of expertise before the FGTI: constitution of a national list of experts specializing in the assessment of bodily injury, mission-type of expertise, reinforcement of the adversarial aspect in the procedure conducted by the FGTI.

***Action 18**: Consolidate administrative security investigations.*

In a context of a high terrorist threat, linked in large part to the phenomenon of violent radicalization, administrative security investigations, carried out in particular on the basis of Articles L. 114-1 and L. 114-2 of the Internal Security Code, participate in securing access to sensitive places or functions. Three areas of effort must be pursued: broaden the scope of administrative inquiries to include sensitive functions carried out within the framework of activities of vital importance, draw the consequences on the employment relationship from a notice of incompatibility and optimise the procedures of investigation in order to increase their efficiency. In addition, the administrative investigations carried out by the Ministry of the Armed Forces in application of Article L. 114-1 will be handled by the SNEAS, whose rise it will support. In this context, the Ministry of the Armed Forces will benefit from access to the ACCReD platform. This work will be carried out in parallel with the implementation of measure 19 of the national plan for the prevention of radicalisation, which aims to define an interministerial doctrine on administrative inquiries relating to radicalized public officials exercising missions of sovereignty or falling within the scope of security or defence.

***Action 19**: Anticipate the response to emerging threats – nuclear, radiological, biological, chemical, explosives and drones.*

It is necessary to anticipate the possible malicious use of biological agents or toxic substances. To be more effective, measures to restrict general public access to explosives precursors and to combat the diversion and theft of explosives will be strengthened. With regard to the development of civilian drones, it is also necessary to reduce the risk of malicious use of drones of the commercial range by the gradual deployment of active neutralisation devices.

***Action 20**: Strengthen the protection of French communities and influence abroad.*

France is represented abroad by the third diplomatic and consular network in the world (around 500 sites), the first cultural network (nearly 500 sites of French institutes, around 40 research institutes and more than 400 Alliances Françaises) and the first school network (500 schools of various statutes), to which are added the sites belonging to other ministries or administrative entities (French Development Agency, Research Institute for Development, Business France, etc.). The Ministry for Europe and Foreign Affairs, as part of its mission to protect the French all over the world, takes into account in its investment priorities and in its local organisation, the increase in the

level of the terrorist threat. aimed directly at French interests or more broadly at places frequented by tourists or Westerners.

***Action 21**: Support the stabilisation of crisis areas and countries most affected by radicalisation phenomena.*

In line with its emergency action, France will step up its action in countries in crisis and/or emerging from crisis to support the transition processes and lay the foundations for reconstruction and development. This support for the process of ending the crisis must support more particularly the countries affected by the phenomenon of radicalization, in particular in the Middle East, in North Africa and in the Lake Chad Basin, in order to actively fight against terrorism.

4. Punish the perpetrators of terrorist offenses

***Action 22**: Create a national anti-terrorism prosecutor's office (PNAT).*

The creation of a national anti-terrorism prosecutor's office in the organic bill accompanying the justice programming bill will strengthen public action in the fight against terrorism. Anti-terrorism activity has in fact taken a preponderant part in the activity of the public prosecutor of Paris and it appears essential to allow a prosecutor to devote himself full time to the fight against terrorism. This mission requires, in fact, continuous exchanges in order to properly articulate an administrative response and a judicial response. It requires a strong and embodied presence.

It also seems necessary in this very specific area for a prosecutor to bring the accusation of the investigation to the Court of Assize, whereas currently it is the prosecutor's office of the Paris Court of Appeal which holds the seat of the public prosecutor at the Court of Assize. The proposed solution overcomes this difficulty since the PNAT will also manage criminal terrorist cases before the special assize court, which gives full coherence to public action.

The PNAT will be competent for the terrorist offenses mentioned in article 706-16 of the Code of Criminal Procedure but also for border offenses and crimes against humanity and war crimes and offenses, which concern the same areas (Syria and Iraq in particular), the same interlocutors (DGSI, DGSE, DRM, DRSD and staff of the armed forces) and require unique investigative techniques requiring mastery of international cooperation mechanisms.

This device will ensure a real network with the territorial prosecution.

***Action 23**: Deepen the training of magistrates in the fight against terrorism.*

Starting in November 2018, the National School for the Judiciary will host a new training cycle, the "In-depth counterterrorism course" which will include various training modules, spread over one year. This in-depth program is intended to instil a real culture of the fight against terrorism and to provide the most effective tools to those involved in this fight. This training is intended for anti-terrorist magistrates from the seat as well as from the prosecution but will also be open to members of institutions working in the field of anti-terrorism, including in particular the staff of the prison administration and the ministries of the interior and the armed forces. This training will also include an international dimension with exchanges between European anti-terrorist judges.

5. Europe that protects

The European Union is an area of freedom and prosperity. It is also an area of solidarity and security that must be further strengthened in the face of the terrorist threat. It is more than ever necessary to optimize the synergy between the European countries, the institutions and the agencies of the Union. France is playing a leading role in this direction.

***Action 24**: Promote the creation of a European Intelligence Academy.*

This academy, announced by the President of the Republic at the Sorbonne in September 2017, will be set up within a European intergovernmental framework. It will provide thematic sessions bringing together intelligence practitioners around topics of common interest in a dynamic of feedback or experience sharing as well as dedicated training, in the form of awareness sessions bringing together a public outside the intelligence world (senior national and European officials, business leaders, etc.). The goal is to hold a first awareness session in the first quarter of 2019.

***Action 25**: Strengthen the border control capacities of the European Union.*

The strengthening of border control capacities in the European Union is based on new databases and information systems such as PNR (Passenger Name Record), ETIAS (European Travel Information and Authorization System) or even SES (Entry-exit system) that France wishes to extend to beneficiaries of the free movement of persons (RUE - Nationals of the European Union - and long-stay permits). It is also articulated with reinforced systems such as SIS II (Schengen Information System), VIS (Visa information system) or EURODAC (Database for the comparison of fingerprints of asylum seekers) as well as with future more secure identity documents. Interoperability thus creates synergies between these systems according to the hit/no hit principle under the aegis of the EU-LISA agency (European Information Systems Agency). Ultimately, this set will strengthen the control and registration capacity at the external borders in order to better guarantee the security of European citizens within the area of free movement.

***Action 26**: Fight against the financing of terrorism.*

Following the attacks of 13 November 2015, the Commission unveiled in February 2016 an action plan dedicated to the fight against the financing of terrorism, which is partially implemented. The project consists of the revision of the 4th anti-money laundering directive, measures on the confiscation of criminal assets and two proposals: one for a regulation relating to the recognition of orders to freeze and confiscate these assets, and one for a directive. on the exchange of information between financial intelligence units and law enforcement authorities. In addition, a proposal for a so-called “Cash Control” regulation relating to the control of cash entering or leaving the Union and a proposal for a regulation relating to the import of cultural goods as well as the study of the implementation a possible European system (TFTS) are being examined to supplement the existing agreement with the United States on the Terrorist Finance Tracking Program. France has been a pilot in the field since the international conference in Paris in April 2018 “No Money for Terror”.

***Action 27**: Fight against trafficking in firearms and explosives.*

The use of small arms and light weapons by terrorists in the Paris attacks highlighted the importance of regulating the legal arms market. A new directive on the acquisition

and possession of firearms entered into force in May 2018. It aims to tighten the rules for the acquisition and possession of certain categories of particularly lethal weapons, in particular semi-automatic, by more strictly regulating exemptions for certain categories of people (sports shooters, collectors, etc). The work for its transposition into French law must be completed by 14 September 2018 at the latest. The publication of the decree of 29 June 2018 constitutes a stage of this transposition. Three other decrees must be adopted. In addition, the revision of implementing regulation 2015/2403 relating to common standards for the neutralization of weapons should lead to adoption in October 2018.

***Action 28**: Strengthen the removal of illegal content of a terrorist nature.*

The fight against illegal content on the Internet is one of the great contemporary challenges. Important actions have already been launched at European level. Partnership frameworks have been put in place with the major Internet players to improve the identification, removal, and delisting of this content. This cooperative approach produces results, but also reaches its limits. The work of the Internet Forum shows in particular that the progress observed varies from one platform to another, that few of them include in their general conditions of use warnings about the content promoting the terrorism, and that they do not take into account the small archiving platforms on which there is an influx of terrorist content. France is committed with other European partners such as Germany and the United Kingdom in favour of the launch of a legislative initiative imposing obligations on Internet players with regard to the removal of illegal content of a terrorist nature in first. The European Commission has issued a recommendation to this effect.

***Action 29**: Strengthen the European civil protection system.*

The emergence of a European civil protection force is an objective supported by France. As a first step, the reform of the European Civil Protection Mechanism provides for a new European intervention capacity, the RescEU, which would intervene as a last resort. The question of increased pooling also arises during the next multiannual financial framework (MFF) 2021-2027. In this regard, France emphasises the consistency of bringing together all the resources dedicated to civil protection within the same mission “Guaranteeing the security of Europeans”. In accordance with French wishes, civil protection benefits from a tool dedicated to crisis management, within the framework of the post 2020 MFF.

***Action 30**: Improve the protection of victims of terrorism within the European Union.*

Solidarity, assistance and compensation for victims of terrorism and their families are an integral part of the response to terrorism at national and European level. The European Union has already put in place a legal framework to support and protect victims across Europe. The Victims’ Rights Directive provides a set of enforceable rights for all victims of crime, including rights to protection, support and assistance which take into account the individual needs of each victim. The directive of 15 March 2017 on the fight against terrorism provides for measures that more specifically meet the needs of victims of terrorism. Building on the existing EU legal framework, the aim is to promote effective cooperation between the authorities and entities responsible for the protection of victims of terrorism in order to facilitate the rapid exchange of

information, assistance in the event of a terrorist attack and a harmonized compensation scheme.

***Action 31**: Make European industry a player in the security of the Union.*

The evolution of threats and risks but also ever stronger international competition necessitates relaunching an initiative in order to structure European industry, on the one hand, around a few major flagship projects for the protection of European citizens, and on the other hand, by preserving European autonomy over critical security and cybersecurity technologies. The objective will ultimately be to launch several capacity acquisition programs on four priorities with the dual challenge of strengthening the security of the Union and offering the opportunity to European manufacturers to develop a domestic market at the scale of the European Union:

- securing the borders of the Schengen Area;
- digital transformation and interoperability of security forces;
- protection of critical transport and energy infrastructure;
- securing the smart city.

***Action 32**: Promote the central European register hosted by Eurojust in matters of terrorism.*

France is proposing the creation of a European anti-terrorism register (or European order office). This proposal, which excludes the attribution of operational powers to Eurojust, aims to centralize judicial information in terrorism matters, in particular on the identity of convicted persons as well as that of suspects in ongoing investigations. Eurojust would be given a new, more proactive mission at the service of the judicial authorities of the Member States, by carrying out analyses at Union level and by informing them of any links between their investigations and those underway in other cases. other Member States. This register could thus constitute a first step in improving the European judicial response to terrorism. It will thus make it possible to assess the role that a European public prosecutor's office may have in the long term in this area.

DeRadicalisation
in Europe and Beyond: Detect, Resolve, Reintegrate

Deradicalization and Integration Legal & Policy Framework in Georgia

Country Report

November 2021

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This document is available to download at https://dradproject.com/

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List of Abbreviations

ERCI	European Commission against Racism and Intolerance
GOC	Georgian Orthodox Church
ISIS	Islamic State of Iraq and Syria
PD	Public Defender
SARI	State Agency for Religious Issues
TDI	Tolerance and Diversity Institute

About the Project

D.Rad is a comparative study of radicalization and polarization in Europe and beyond. It aims to identify the actors, networks, and wider social contexts driving radicalization, particularly among young people in urban and peri-urban areas. D.Rad conceptualises this through the I-GAP spectrum (injustice-grievance-alienation-polarization) with the goal of moving towards measurable evaluations of de-radicalization programmes. Our intention is to identify the building blocks of radicalization of individuals, which include a sense of being victimised, a sense of being thwarted or lacking agency in established legal and political structures and the influence of “us vs them” identity formulations.

D.Rad benefits from an exceptionally broad base. The project spans the national scene in countries ranging from the UK, France, Italy, Germany, Poland, Hungary, Finland, Slovenia, Bosnia, Serbia, Kosovo, Israel, Iraq, Jordan, Turkey, Georgia and Austria to several minority nationalisms. It bridges academic disciplines ranging from political science and cultural studies to social psychology and artificial intelligence. Dissemination methods include D.Rad labs, D.Rad hubs, policy papers, academic workshops, visual outputs and digital galleries. As such, D.Rad establishes a rigorous foundation from which to test practical interventions geared to prevention, inclusion and de-radicalization.

With the possibility of capturing the trajectories of seventeen nations and several minority nations, the project will provide a unique evidence base for the comparative analysis of law and policy as nation states adapt to new security challenges. The process of mapping the situation in this diverse group and the links to national contexts will be crucial in uncovering the strengths and weaknesses in existing interventions. Furthermore, D.Rad encounters the problem that the processes of radicalisation often occur in circumstances that escape the control and scrutiny of traditional national frameworks of justice. The participation of AI professionals in modelling, analysing and devising solutions to online radicalization will be central to the project’s aims.

Executive Summary

This report analyzes legal and policy frameworks for deradicalization and integration in Georgia. It unpacks the existing laws and policies, addressing the issues of radicalization, identifies major gaps and flaws and provides policy-relevant recommendations on how to improve legal and policy frameworks. After providing a brief contextual and historical overview of radicalization and deradicalization policies and practices in Georgia, the report focuses on two particular case studies of attempted deradicalization by the Georgian state authorities: the government's policy response to Islamist radicalization in the Pankisi Gorge and radicalization motivated by Orthodox Christian fundamentalists.

Overall, formally Georgia remains a secular state with a legislation and a constitution guaranteeing equality and the same rights for everyone. However, the report also identified some worrying trends in the deradicalization legal and policy frameworks of Georgia and their practical application by the state authorities. The state authorities often tend to securitize minority issues. This often leads to a less inclusive minority policy leaving space open for radicalization of religious minorities in Pankisi Gorge and other regions. On the other hand, the Georgian Orthodox Church (GOC) enjoys asymmetric advantages in many areas of social and public life. While the GOC formally remains loyal to Georgia's Europeanization and democratic development, a section of the clergy also holds radical views and incite violence against sexual minorities among their supporters.

Two case studies and other examples explored in this report indicate that Georgia's policy framework for deradicalization seems to be both conceptually and practically underdeveloped. It lacks coherence, consistency and any inclusive agenda agreed upon in participation with all important stakeholders. The policies designed by the government are usually patchy, ad hoc and lack strategic thinking. Instead, what Georgia needs is a comprehensive deradicalization strategy to strengthen the country's resilience against present and future threats of radicalization. Even though the country is not exposed to any major radicalization threat now, new risks may emerge in the foreseeable future.

Introduction

The aim of this report is to examine existing laws and policies addressing the issues of radicalization in Georgia and to pinpoint their most critical aspects and best practices in order to help the development of evidence-based policy and legal guidelines. Thus, this report engages not only with descriptive and explanatory analysis of these issues but also aims at producing assessment and policy-oriented output.

The report starts with a general overview of the socio-economic, political, and cultural context of radicalization in Georgia and includes a brief description of several aspects of society (economic inequality, level of unemployment, demographic characteristics etc.). Next, the report discusses the constitutional organization of the state with a particular focus on state-Church relations and the special status the Georgian Orthodox Church enjoys in the second republic of Georgia. Afterwards, it engages with the existing legislative and institutional framework to address radicalization in Georgia and discusses its effectiveness based not only on desk research, but also on three interviews conducted specifically for this report. Last but not least, this report analyses in detail two cases of attempted deradicalization - "attempted" as the state's program and policies in this direction remain weak and underdeveloped or in some cases do not exist at all. As the case studies illustrate, deradicalization usually involves an ad hoc response to an incident and consists of negotiation between the parties, mediated by the authorities. The focus of the first in-depth case study is Pankisi Gorge, which is populated mostly by Muslims, and government's practices in this region, while the second case study is of the State Agency on Religious Issues (SARI) and special programs/trainings developed for media, clergymen and students by this institution.

The data comes mostly from desk research conducted specifically for this report, as well as from three i interviews with people who have relevant knowledge and working experience in this field.

The socio-economic, political and cultural context

Georgia is multi-ethnic country. The population census from 2014 suggest that out of a population of 3, 713, 804, ethnic Georgian's account for 86,8%, Azerbaijanis 6,3% and ethnic Armenians 4,5% (Geostat, 2016, 8). However, the ethnicity of Georgians is almost exclusively defined by their membership of a very specific branch of Christianity. According to the census (ibid, 9) more than 83% identify as Orthodox Christians, in comparison to 10,7 % as Muslims, 2,9% belonging to the Armenian Apostolic Church and only 0,5% identifying as Catholics. These numbers indicated the prevalence of membership of the Georgian Orthodox Church (GOC) and the special status it has in the country, either formally or informally.

The relationship between the Georgian Orthodox Church and the state has been the subject of a special constitutional agreement between the two since 2002 (Sakartvelos Sakanondeblo Matsne, 2002) and gives the Church tax exemption and provides substantial state support, either financially or in terms of acquiring land and buildings

(Ghavtadze et al., 2020, pp. 58-65). It has been only since 2014 that other religious communities (Islamic, Jewish, Armenian Apostolic, and Catholics) have started to receive state support as compensation for the damage suffered under Soviet occupation[1] (the GOC has been receiving this since the early 2000s) (Nozadze, 2014). There is an ongoing case in the Constitutional Court of Georgia with several religious organizations suing the Parliament of Georgia because, unlike the GOC,they have to pay an extra tax for importing items used for religious purposes (ssip' "sakartelos sakharebis rts'menis ek'lesia", aaip' "kartvel muslimta k'avshiri" da skhvebi sakartvelos p'arlament'is ts'inaaghmdeg (2021) CCG N1593).).

Such a discriminatory and unequal approach from the state institutions has led to increasing influence for the Georgian Orthodox Church and in several instances, it has openly clashed with the government. For instance, the 17th of May 2013 incident, when clergymen actively called on the state not to let the LGBTQI activists hold flash mobs ended up in a violent attack on the latter (Civil.ge, 2013), the GOC's opposition to the anti-discrimination bill[2] in 2014 and in influencing parliament on if to proceed in 2018 with a bill on whether or not to control marijuana cultivation. (Ghavtadze et al., 2020). Such a dominant and influential role for the Georgian Orthodox Church creates dangers of alienation and radicalization of other ethnic, religious and social groups.

Ethnic minorities in Georgia usually live together in the regions as communities and their assimilation/integration into Georgian society remains an important challenge. The former State Minister for Reconciliation and Civic Equality, Paata Zakareishvili, in an interview with the Georgian Public Broadcaster, remarked that lack of integration and equality was indeed an issue, and it was not by accident that he added "Civic Equality" to the name of the ministry, which was until 2014 known as the Ministry for Reintegration (Georgian Public Broadcaster, 2021). Reconciliation similar to Reintegration before that, was aimed mostly at two occupied territories and internally displaced persons (IDPs) rather than issues of civic equality and ethnic or religious minorities.

These challenges are further aggravated by a low level of urbanization and a high level of economic inequality. According to the Georgian statistics office, by 2014 the division between urban and rural population was 57,2% and 42,8% respectively (Geostat, 2016, 2). In comparison to the European Union that is quite low. For instance, according to the World Bank (2018) urbanization in the EU is 74,7% in comparison to Georgia's 59%.

Additional factors that need to be taken into consideration when analyzing the case of Georgia are economic inequality and high levels of poverty and unemployment. Despite an impressive rate of economic growth after the Rose Revolution in 2003[3], by

[1] Under the Soviet occupation Georgia's religious communities lost their religious and non-religious properties (buildings, cemeteries, schools, lands, etc.). After the collapse of the USSR only some parts of this property remained partially or fully preserved. The rest were either demolished/destroyed or used for other purposes. Since then the issue of restitution remains unresolved. For more infomration see TDI report from 2020 on restitution policy http://ewmi-prolog.org/images/files/8528restitutionpolicyingeorgiaeng.pdf

[2] The bill was meant to address discrimination based on gender identity or sexual orientation. Wording which caused waves of protest from conservative groups and majority of the Orthodox clergymen

[3] After the Rose Revolution Georgia went through drastic reforms that eradicated corruption and considerably strengthened state institutions. In 2007 Georgia's economic growth reached 12,6% and probably would have

2011 Georgia remained the most unequal country in terms of income distribution among the former USSR members (Livny and Labadze 2012). Such a high level of unequal GDP distribution amongst the population creates great potential for unleashing cycles of violence and poses a challenge to the existing political order (ibid). The unemployment rate, according to the World Bank, in 2020 just before the effects of the COVID-19 pandemic took its toll, was around 12% (World Bank, 2021).

One important aspect that needs to be mentioned in the context of potential sources and the history of radicalization is the fact that the state security services of Georgia have continuously viewed Muslim minorities as potential threats and have even been involved in the selection of their religious leader (mufti) in order to have the community under control (Lortkiphanidze, 2019). Additionally, there is no Muslim clerical educational institution in Georgia where they can pursue their education, thus local religious leaders of Muslim communities end up not only with knowledge of Islam that is devoid of Georgian cultural context, but they do not manage to learn the Georgian language or Constitution (GPB, 2021).

A final point that is relevant in this context is the general low level of trust in state institutions in Georgia in comparison to the extremely high level of trust in the Georgian Orthodox Church. Trust in the executive government in 2019 stood at 21%, for the parliament at 15%, and for political parties just 8%, while trust in the religious institutions has been consistently above 80% - the exceptions in 2017 and 2019 being 70% and 71% respectively (Caucasus Barometer 2019b, 2019c, 2019d).

To conclude, the key cultural, social, and economic factors are the dominance of Orthodox Christian Church and its special status in the state; perception of the Muslim minorities by the state security services as a potential threat and latter's involvement in the clerical affairs of the community; low trust in the state institutions; high level of income inequality, employment rate and poverty.

The constitutional organization of the state and constitutional principles on D.Rad field of analysis

Georgia is a parliamentary republic with while the President is elected indirectly and holds mostly ceremonial power. However, until 2013 Georgia was a presidential republic with a considerable power concentrated in hands of the president. Yet, despite what was the system in place, constitutionally Georgia always was and is a secular country. The 11th and 16th Articles of the Constitution recognize equality before the law regardless of religious affiliation, and guarantee protection of freedom of faith. Additionally, the legislative document includes Article 8 that recognizes the special role of the Georgian Orthodox Church in the history of Georgia[4], yet it in no way gives any privilege or special right to this particular clerical institution (Ghavtadze et al.,

kept going if not 2008 Russian invasion and global financial crisis. For more see https://forbes.ge/the-economic-history-of-independent-georgia/

[4] Historically, until the Russian Empire annexed the Caucasus, Georgian kingdoms were involved in fight against non-Christian invaders (Arabs, Persians, Mongols, Ottomans) and the Orthodox Christianity played important role as a marker of national identity

2020, 24-25). The history of the special status of the GOC in legislation dates back to 2001 when Article 9 of the constitution in force at that time was amended and the new version stated that the relationship between the GOC and the state was to be regulated by constitutional agreement. The latter was adopted in 2002 and gave a whole range of privileges to the Georgian Orthodox Church. It was recognized as a subject of public law, a status no other religious organization enjoyed at that time; the state took responsibility for assisting with the establishment of priests in the army and prisons, it provided immunity to the Patriarch, exempted clergymen from compulsory military service as well as recognizing the property rights of the GOC on all the lands, buildings and ruins of the Orthodox Christian monasteries and churches in Georgia and declared all non-economic activities of the GOC non-taxable. No other religious community in Georgia has enjoyed similar privileges (ibid, 25-26). Only in 2011 did they manage to acquire the right to be registered as subjects of the public law as well, despite significant opposition and protests from the GOC and its followers. However, the existence of a constitutional agreement does not per se imply discrimination of other religious communities: Georgia is close to a cooperative model of secularism where (in contrast to liberal secularism) state support of a particular religion is a common practice (cf. Fox 2005). It is important to analyze to what extent freedom of religion of other religious communities is institutionally guaranteed and here we can observe significant gaps.

Still, the dominant position of the GOC leads to the forming of a vicious circle in which the ruling party is dependent on increasing support from the Church in order to perform well in the election, while on the other hand it has to compromise more on principles of secularity and equality. For instance, in 2020, when the first nationwide restrictions on population's movements due to the coronavirus were introduced in Georgia, the GOC held Easter services and defied most of the legal regulations (Civil.ge, 2020). Similarly, when the curfew was re-introduced at the end of November 2020, the 6th of January (Orthodox Christmas Eve) was officially announced as an exception to the rule. This meant that other Christian churches celebrating Christmas in December were unable to perform Christmas Eve services (Radio Liberty, 2021). All these, in spite of the fact that the Constitutional Court of Georgia in 2018 interpreted the law as acknowledging that the special role of the GOC should in no way be used as a way of granting it any special privileges or different treatment from any other religious institutions (Ghavtadze et al., 2020, p. 28). Any such bias towards Orthodox Christianity would obviously incur the danger of alienating other minorities, making them susceptible to radical ideologies creating a means for them to achieve their goals.

This sense of alienation and discrimination due to the state favor for the GOC is further increased by instances of the latter's interference and influence on the legislative process. (This includes the amendment to the proposed reform of self-governing municipalities in 2013, removal of terms "gender" "minority", and "tolerance" from the school subject "society and me" proposed in 2016 by the Ministry of Education of

Georgia, and in 2018 the withdrawal of the bill on regulation of the cultivation of marijuana from parliament after pressure from the GOC, to mention just a few examples.) (ibid, pp. 29-31)). In addition, Orthodox priests manage to get away with criminal acts even if these are documented - for instance, in May 2013 when LGBTQI activists were violently attacked by a mob organized and led by priests, none of the latter were prosecuted as the Tbilisi City Court argued it had not found sufficient evidence (ibid, 31).

These facts stand in stark contrast to the state's approach to other religious minorities, especially the Muslim communities where state security services have actively intervened and influenced the choice of spiritual leaders (Kveliashvili, 2019). The TDI report from 2020 (pp. 54-55) also argues that religious minorities face discrimination on the border, as well. For instance, although this is against the law, in order to import clerical literature, they are required to ask for permission from the GOC or are asked to pay a tax, even though books are nontaxable.

To conclude this part, although constitutionally Georgia is a secular country and the main legislative body of the country recognizes equality before the law for all religious communities, in practice this is not the case. Relations with the GOC are regulated by special agreement with the state and the former enjoys a whole range of privileges. The Orthodox Church enjoys positive discrimination by the government in many instances and has a significant influence on the state's decision-making processes. Such asymmetrical relations between the state and the GOC creates the potential for alienation and radicalization of other religious communities. This is especially the case for the Muslim population, which has no possibility of pursuing a clerical education in Georgia and thus has to go to Saudi Arabia, Egypt, or Turkey and learn an interpretation of Islam that is devoid of local Georgian culture. According to Mikeladze[5], when interviewed for this report, this does not necessarily contribute to radicalization, but is definitely the source of alienation.

The relevant legislative framework in the field of radicalization

The Georgian legislative framework gives priority to freedom of expression over the issues of religious feelings and sentiments. All the interviewees for this report remarked that the model currently applied in Georgia is closer to the American rather than European approach and allows for wider interpretation of what falls under freedom of expression. Georgian legislation on hate speech and freedom of expression is modeled on the American counterpart and is founded on the concept of

[5] Tamta Mikeladze, Social Justice Center, interviewed with authors, 11 May 2021, Tbilisi.

the "free marketplace of ideas"[6] [7]. Hate speech is somewhat "softly" regulated in the media via internal regulatory mechanisms, which are often ignored, and such relatively open space for freedom of expression contributes to a certain extent to facilitating the emergence and public spreading of radical ideas. (ibid). Regulations in place are so light, that a far-right media channel that was blocked on Facebook due to violation of community standards, could launch on a Georgian TV channel. "Alt Info", as it is called, whose message *is 'Stay tuned. Don't switch to the liberast[8] channels',* is available to 340 000 subscribers on the internet television provider Magticom (Kincha, 2021). Guests appearing frequently on this channel include Levan Vasadze, an ultraconservative campaigner and businessman often seen among the leaders of violent attacks against sexual minorities. During one such interview, he told Alt Info that the storming of the Capitol in Washington was orchestrated by Trump's 'globalist' enemies (ibid).

Goguadze, the head of the Georgian Center for Security and Development, remarked[9] that existing legislation can be divided into two parts. The one which deals with radicalization that leads to terrorism and extremism is quite harshly punished by the law. On the other hand, there is no single conceptual approach to non-extremist radicalization and it is regulated by different clauses that are spread across legislative documents. Such harsh laws on terrorism itself lead to problems when the state needs to address fighters and their family members returning from Syria and Iraq. As the existing approach is closer to the American than to its European counterpart, they are being treated harshly, and end up going straight to jail.[10] Utiashvili[11], the former head of the Analytical Department at the Ministry of the Internal Affairs of Georgia, in an interview for this report, remarked that the only existing legislation that regulates radicalization in the country is imprisonment of those who go abroad to join radical organizations and fight on their side. However, he did not support any further tightening of laws in this direction, especially regarding hate speech since it could be abused by the authorities to silence the opposition and critical voices.

Up until 2017 the Georgian constitution included only one pretext for limiting the freedom of religion and belief and that was if this freedom inhibited somebody else's liberties. However, amendments initiated in 2017 proposed the addition of six exceptions when freedom of religion could be constrained, three of which (state

[6] Rationale for freedom of expression that is modeled on the economic concept of a free market and that the truth will eventually emerge through the free and transparent exchange of ideas

[7] Ibid.

[8] a term made up of combining words 'liberal' and 'pedarast' (slur word used for gay men) and is often encountered in Russian anti-liberal discourse

[9] Giorgi Goguadze, Georgian Center for Security and Development, interviewed with authors, 19 March 2021, Tbilisi.

[10] Ibid.

[11] Shota Utiashvili, Georgian Foundation for Strategic and International Studies, interviewed with authors, 23 March 2021, Tbilisi.

security, avoiding possible crime, and execution of justice)[12] were especially problematic and created a danger of the state actively intervening in the freedoms of religious communities. Eventually, after criticism from the Venice Commission and local watchdogs, the ruling party in 2018 amended the Constitution and removed these problematic points. The clauses were formulated so that the only exceptions for limiting religious freedoms were those measures necessary in a democratic society for security, health or protection of other's rights. (Ghavtadze et al., 2020, pp. 73-74). Between the years 2013-2018 there were several attempts to criminalize offending the religious feelings of others. In 2013 the Ministry of Internal Affairs of Georgia proposed a bill to the Parliament which was recalled after criticism from local watchdogs and the religious council at the Public Defenders' Office of Georgia. In 2015, an MP from the ruling party proposed the introduction of fines for offending religious feelings, and in 2018 an MP from the opposition party the Alliance of Patriots, submitted a bill criminalizing such actions. However none of these attempts made it through the Parliament (ibid, pp. 81-83), thus, Georgian legislation remains extremely liberal in terms of freedom of expression.

Legislation addressing racially/ethnically/religiously etc. motivated crimes, was only introduced in 2012, when the Georgian Criminal Code added religious, racial, ethnic, homophobic or transphobic intolerance as an aggravating factor in committing a crime. However, the courts continue as much as possible to avoid using this legislation and in most of the verdicts do not consider aggravating factor,despite calls from the international community and the local human rights' watchdogs (The Council of Europe's the Committee of Ministers calling the government on Georgia in 2019, just to name one) (Ghavtadze et al., 2020, p. 103).

Two important decisions were made by the Constitutional Court of Georgia on July 3rd, 2018. The first found discriminatory the practice of the Georgian Orthodox Church alone being exempt from taxes when importing literature, or building churches, while the second decision argued that it was discriminatory towards other religious communities that only the Georgian Orthodox Church was able to acquire estates for free from the state (Ghavtadze et al., 2020, p. 85). These decisions, at least formally, recognized the problematic nature of state-Church relations in Georgia.

Finally, there were few cases of court rulings that set important legal precedents for Georgia's legislative framework. In the court case of *Identoba and Others v. Georgia* the European Court of Human Rights' (ECtHR) ruled that „the police's failure to protect those participating in the International Day Against Homophobia and Transphobia (IDAHOT) march in Tbilisi, Georgia in 2012 violated the European Convention on Human Rights" (Amnesty International, 2015, p.1). The court ruled, among others, the violation of the applicants' rights under Article 3 (prohibition of inhuman or degrading treatment) and Article 11 (freedom of assembly) of the Convention' (ibid). The EctHR

[12] The rest of the excpetions were protection of one's health, public safety, and protection of others' rights

also underlined the presence of “clearly homophobic hate speech” and called upon the authorities, public actors, and community leaders “to send an unambiguous message in favour of human rights and tolerance, and against violence, hate speech and discrimination” (EctHR 2015, p.9, 21) On another occasion, Constitutional Court of Georgia declared the ban on homosexual men donating blood unconstitutional (OC Media, 2017). The ban on blood donation for gay men was introduced by Georgia’s Health Minister in 2000 (ibid).

To summarize, Georgian legislation in terms of hate speech, either in the media or publicly, is very liberal and reacts only if there is an immediate threat of violence or attack.

Relevant policy and institutional frameworks in the field of radicalization

In an interview with the Georgian Public Broadcaster in May of 2021, the former State Minister of Georgia for Reconciliation and Civic Equality remarked that inclusion and integration of ethnic and religious minorities in Georgian society remained a challenge that needed to be addressed (GPB 2021). This is especially an issue with Muslim minorities, which are being perceived as a potential security threat and are under constant scrutiny by the security services rather than the issues related to them being perceived as the sphere of politics (ibid). On the other hand, despite this, state strategy and policies towards these communities remain underdeveloped and consist mostly of ad hoc responses or short-term programs (promotion of military service among the youth of Pankisi Gorge or seminars on tolerance for media, students, and priests. Just to mention few). Only in 2015 did the Georgian government adopt a state strategy for protecting the cultural identities of minorities, ensuring their inclusion in the political life of the country. The document, outlining the goals of this strategy, was intended to increase access to education for ethnic minorities, and increase their knowledge of the Georgian language (State Strategy for Civic Equality and Integration for 2015-2020, 2015, p. 8).

When ISIS started gaining grounds in Iraq and Syria several young men left Panksi Gorge[13] to join the Islamic State. At first, the Georgian authorities did nothing to intervene – in fact, the opposite, actually facilitated the process of “getting rid” of radicals from the country. According to Utiashvili,[14] the state’s approach was to let them leave and get killed, if that was what they wanted.Only after the United States pressured officials in Tbilisi were some measures taken. These measures included

[13] Pankisi Gorge is a region populated by ethnic Kists who are related to Chechens and has been under the special focus of the security services and the media after the so-called Second Chechen War, when refugees from Chechnya found shelter in the gorge.

[14] Shota Utiashvili, Georgian Foundation for Strategic and International Studies, interviewed with authors, 23 March 2021, Tbilisi.

amending the legislation and introducing nine years of imprisonment for those joining ISIS or similar organizations abroad.

On the other hand, there are a couple of institutions established by the state recently that were meant to address the potential pitfalls and sources of radicalization. The first that should be mentioned is the State Agency for Religious Issues (SARI) established in 2014. The head of this agency is directly subordinated to the Prime Minister and, as some experts argue, instead of protection and guarantee of freedom of religion, it created the potential threat of increased state control on minority religious communities. Additionally, no representatives of these groups were involved in the process of the establishment of the agency, thus it failed to include the real interests and needs of those communities (Ghavtadze et al., 2020, p. 37). The strategy for the state's religious policy published by the agency in 2015 puts the emphasis on security and clearly hints at the control of these communities rather than at the protection of their rights (ibid, 38). According to the reports on their activities published by the agency, it has been conducting regular training on religious freedoms and tolerance for several target groups that include students, media representatives, clergymen etc. (Annual Report, 20-21). To increase inter-religious awareness, SARI prints inter-religious calendars and other publications on religion/state relations and secularism. The agency has also established the tradition of commemorating the Day of Tolerance, with one of the religious communities organizing a reception for the others. The agency also hosts an inter-religious council consisting of almost all the religious communities in Georgia and addresses issues concerning religious educational institutions, conferences to be organized, and partnerships with other institutions (ibid, pp. 34-35).

Similarly, in order to address possible sources of radicalization driven by religious and ethnic intolerance, the Public Defender's Office had by 2006 established the Tolerance Center. The purpose of this institution is to support the former by developing policies against discrimination and fostering civic integration. The Tolerance Center lists on its website the protecting of minority rights, supporting the integration of minorities through regular monitoring of key situations in Georgia, as well as identifying threats and dangers caused by intolerance, xenophobia and discrimination among its goals (Tolerance Center, n.d.). The Tolerance Centre holds conferences, discussions and seminars, and produces publications on these topics. Tolerance Centre reports are included in the Public Defender's addresses to Parliament, and furthermore it coordinates projects and events organized by the Religion and National Minorities Councils under the auspices of the Public Defender.

In 2018 the Ministry of Internal Affairs of Georgia established a special department to monitor human rights' protection. The special focus of the department is ensuring an effective response to crimes motivated by intolerance. However, it includes only the form of recommendations and does not have any actual investigatory functions.

Hence, it meets only partially what the European Commission against Racism and Intolerance (ERCI) asks from Georgia (Ghavtadze et al., 2020, p. 103).

Additionally, there are several civil society organizations that work in this direction. For example, *"Promoting Integration, Tolerance and Awareness"* that is run by the United Nations' Association of Georgia and aims at enhancing ...at enhancing the performance of government institutions in managing the implementation of the policy of civic integration, and supports the establishment of direct lines of communication between the Government of Georgia and minority communities

To conclude this section of the report, the relevant policies and programs in the field of radicalization remain weak and underdeveloped. Punishment under the law regarding joining radical organizations abroad is harsh, yet there is no institutional framework that could address issues of extremism on a long-term perspective. As two case studies analyzed in the next section illustrate, the approach from the authorities remains superficial and sporadic, without any conceptual framework.

Case studies

This section of the report is focused on two case studies of counter-radicalization attempts in Georgia. However, before the concrete policies and programs are analyzed, the broader context and significance of these particular cases need to be explained.

Pankisi Gorge

Pankisi is a gorge located in Eastern Georgia and borders the North Caucasus. It is the home of Kists - an ethnic group related to the Chechens. The gorge became the subject of international media attention after the so-called second Chechen War when the Russian military started an assault on Chechnya. Under pressure from Russian forces rebels crossed into Georgia and settled in Pankisi Gorge along with their kinfolk, the Kists, who have been living in this region for a couple of centuries. By the early 2000s Chechen partisans hiding in the region were reported to number several hundred, causing the Pankisi radicalization issue to be imported from Chechnya (Cecire, 2015, p. 1). Chechen rebels have since left the region, yet the problem of radicalization still persists in Pankisi. As of 2015, for instance, 30-50 militants from this region were estimated to be fighting in Syria, with a disproportionally large number of commanders among them (ibid., p. 2). Thus, direct involvement with ISIS and other radical fundamentalist groups in the Middle East provides a fertile breeding ground for radicalization. The issue is further complicated by the dangers of a boomerang effect of radicalized fighters returning home after the fall of ISIS as well as by the spreading of a Salafist branch of Islam that is known for its extreme conservative interpretations of the religious texts. Up to 75% of young people (18-35 years old) in Pankisi identify with Salafism (Gobronidze, 2018 p. 23).

Pankisi Gorge has been under the special attention of the State Security Service of Georgia for the last several years. Annual reports produced by the institution between the years 2015-2018 (The State Security Service of Georgia 2015, 2016, 2017, 2018) identify the developments in the Middle East as a potential threat to the Caucasus, especially considering that there were dozens of Georgians fighting on the side of Islamists in Iraq and Syria. However, although Pankisi Gorge is the focus of the security services, policies and programs aimed at addressing the challenges in this region remain underdeveloped and weak. Until the US applied pressure, the Georgian authorities did not even try to prevent the youth departing for Syria.[15]

Programs and policies which are in place are usually ad hoc and sporadic. They involve small financial grants and support for local residents to start business,[16] or increase quotas at the state universities for students from this region (Gobronidze, 2017, p. 13). In 2016 the Georgian Ministry of Defense began promoting military service in the gorge. The Deputy Minister personally visited the region and delivered presentations about the conditions for new recruits (ibid). They could be effective, as long as they are not ad hoc actions but are seen in long-term perspective. For instance, if the state invests in the infrastructure of a village populated by Kists, while the village next to it populated by ethnic Georgians remains excluded from such state investment, this has the potential of being counterproductive to what the state originally aimed to achieve.

However, the state security services' approach to the region and the perception of the community continue to create distrust of the state among the Muslim population of the country. The apparent involvement of the Security Services in the internal affairs of the Islamic community of Georgia (in the appointment of the clerical leader or in the establishment of religious institutions) causes distrust, especially among youth, which then stops identifying with the official religious institutions.[17]

Radicalization motivated by Orthodox Christian fundamentalists

Orthodox Christianity and the Georgian Orthodox Church's positioning as a defender of traditional values has an important impact on youth radicalization in Georgia. There were several instances of violent attacks on religious minorities, especially Jehovah Witnesses in the early 2000s, as well as attacks on sexual minorities, inspired and guided by Orthodox clergymen (several instances of attacks on religious minorities by the notorious priest Basil Mkalavishvili and his followers, 17th of May events in 2012 and 2013, 5th of July 2021 etc.). However, although the actors behind these violent

[15] Shota Utiashvili, Georgian Foundation for Strategic and International Studies, interviewed with authors, 23 March 2021, Tbilisi

[16] Giorgi Goguadze, Georgian Center for Security and Development, interviewed with authors, 19 March 2021, Tbilisi.

[17] Tamta Mikeladze, Social Justice Center, interviewed with authors, 11 May 2021, Tbilisi.

attacks are closely associated with the GOC, and some of them are actually priests, officially the Patriarchate condemns violence and distances itself from such radical activism. In other words, while the GOC condemns the violence, in many instances it provides ideological grounds for violence against minorities. That is what happened in 2013, when several thousand protesters, led by clergymen, attacked a flash mob organized by dozens of LGBTQI activists. Similarly, in 2019 there was an attempt to storm a movie theater to stop the screening of "And then We Danced," a Georgian-Swedish movie depicting a dancer challenging heteronormativity in the conservative Georgian folkdance culture.

However, sexual minorities are not the only target of radical Orthodox Christian groups. On several occasions they have assaulted other religious minorities or ethnic groups. In January 2021, Muslims and Orthodox Christians clashed in the municipality of Guria over a house used by Muslim community members as a place of worship. The disagreement ended with physical violence and three persons hospitalized (Kincha, 2021b).

The dominance of the Orthodox Christian Church in society and its political influence, as already discussed in this report, continues to present a considerable obstacle for deradicalization programs and policies. These consist mostly of seminars held by the State Agency for Religious Issues for students or clergymen, to increase their awareness about tolerance, or the creating of a special department within the MIA of Georgia that provides recommendations on investigations of crimes motivated by intolerance. Yet, there is no effective policy or program that would address the underlining conditions of radicalization of Orthodox Christian fundamentalists, especially given the influence and interference of the Church in the legislative processes of the state.

To summarize, there is no Georgian state policy or vision on deradicalization. The Security Services of Georgia do not identify in their reports the concrete names of groups or persons involved in the radicalizations, the sources of their funding, or ideology etc. In some cases, even the prevention of violence does not take place.[18] Goguadze,[19] in an interview, assessed state policy towards potential radicalization in Pankisi Gorge as superficial. When youth started departing to join ISIS, the central authorities started investing in infrastructural projects in the region (roads, gasification, etc.) in order to address poverty and economic difficulties in those villages. However, instead of solving the problem, this actually increased the rate of departure. Hence, a substernal approach and policy towards radicalization are still needed. Especially in the case of Pankisi Gorge, this needs to be less about state security and deal more with the issues of politics, civil integration and equality. However, such programs need

[18] Ibid.

[19] Giorgi Goguadze, Georgian Center for Security and Development, interviewed with authors, 19 March 2021, Tbilisi.

to be carefully planned and implemented so that human rights are not violated on behalf of public security. Goguadze also emphasized the problem with youth being completely disengaged from policy and decision-making despite being the prime recruitment targets.

Conclusion

This report has examined existing laws, institutions and policies on radicalization in Georgia and their effectiveness in addressing this issue. Constitutionally, Georgia remains a secular state and the law guarantees equality and freedom of expression for everyone regardless of their faith and beliefs. Yet, in practice, the picture is a little bit more complicated.

Orthodox Christianity is the dominant and most widely-spread religion across the country, hence the relationship between the GOC and the state is the subject of a special constitutional agreement. The former enjoys a whole range of privileges due to this document. It puts the Georgian Orthodox Church in a privileged position vis-à-vis other religious communities despite the fact that the Constitutional Court argued that it should not be interpreted in this way. Thus, this creates a danger of alienation and radicalization of the latter. However, this condition is not going to be changed anytime soon, since the amendment of the agreement would require consent from the GOC side.

Another controversial subject is the State Security Service's perception of Muslim communities as potential threats and the former's interference in matters relating to the latter's affairs. This is of particular concern as youth in the region populated by the minorities identifies less with the official religious institutions and therefore becomes potentially more susceptible to extremism. When the war broke out in Syria and ISIS started gaining grounds, the Georgian authorities' approach was rather liberal, letting those who wanted to join the Islamic State do so and thus "getting rid" of radicals from home. However, following recommendations from the American partners, Georgia introduced prison sentences for those going to fight on the side of extremists.

On the other hand, legislation regarding hate speech and freedom of expression is modeled on the USA and based on the "free marketplace of ideas". This implies greater visibility of extremist views and ideologies, yet all the respondents interviewed for this report opposed the introduction of any regulatory mechanisms. As they have argued, government could abuse such systems to silence critical voices. This work also mentioned several examples where there were attempts to introduce a bill criminalizing offending religious feelings, yet it never made it through parliament due to criticism from local watchdogs and the Public Defender's Office.

There is no well-developed institutional or policy framework that could be directed against potential sources of radicalization. In 2014 the government of Georgia established the State Agency on Religious Issues, as well as the Tolerance Center functioning at the Public Defender's Office. Yet, there is no substantial, conceptual long-term strategy and vision aimed at facing the challenges posed by radicalization. Most of the de-radicalization programs are sporadic, ad hoc and short-term.

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Annexes

Annex I: Overview of the legal framework on radicalization & de-radicalization

Legislation title (original and English) and number	**Date**	**Type of law** (i.e. statute, regulation, rule, etc…)	**Object/summary of legal issues related to radicalization**	**Link/PDF**
Civil Code of Georgia	1997	National	Regulates freedoms and human rights against possible discrimination	https://matsne.gov.ge/en/document/view/31702?publication=110
Constitution of Georgia	1995	Constitution	regulates freedoms and human rights;	https://matsne.gov.ge/en/document/view/30346?impose=translateEn&publication=36
Law of Georgia on the Elimination of All Forms of Discrimination	2014	National	Main legislative act on anti-discrimination	https://matsne.gov.ge/en/document/view/2339687?publication=0

National case law

Case number	Date	Name of the court	Object/summary of legal issues related to radicalization	Link/PDF
Citizens of Georgia – Levan Asatiani, Irakli Vatcharadze, Levan Berianidze, Beka Buchashvili and Gocha Gabodze v. the Ministry of Labour, Health and Social Affairs of Georgia	04.02.2014	Constitutional Court of Georgia	The constitutional court recognized the ban on blood donation for gay men as unconstitutional	https://constcourt.ge/en/judicial-acts?legal=546

Other relevant issues

	Constitutional provisions	Statutory law (statues, rules, regulations etc.)	Important case law	Comments/issues relevant to radicalization
Freedom of religion and belief	Constitution of Georgia. 1995. Article 8 – Relationship between the State and the Apostolic Autocephalous *Orthodox Church* of Georgia; Constitution of Georgia. 1995. Article 16 – Freedom of			Formally protected; Implementation partly suboptimal;

	belief, religion and conscience;			
Minority rights	Constitution of Georgia. 1995. Article 11 – Right to equality.			Formally protected; Implementation partly suboptimal;
Freedom of expression	Constitution of Georgia. 1995. Article 17 – Rights to freedom of opinion, information, mass media and the internet.			Formally protected; Implementation partly suboptimal;
Freedom of assembly	Constitution of Georgia. 1995. Article 21 – Freedom of assembly			Formally protected; Implementation partly suboptimal;
Freedom of association/political parties etc.	Constitution of Georgia. 1995. Article 22 – Freedom of association; Article 23 – Freedom of political parties;			Formally protected; Implementation partly suboptimal;
Hate speech/ crime	-			
Church and state relations	Constitution of Georgia. 1995. Article 8 – Relationship between the State and the Apostolic Autocephalous *Orthodox Church* of Georgia; Article 16 – Freedom of belief, religion and conscience;			Formally protected; Implementation partly suboptimal;
Right to privacy	Constitution of Georgia. 1995. Article 15 – Rights to personal and family privacy, personal space and privacy of communication;			Formally protected; Implementation partly suboptimal;

Annex II: List of institutions dealing with radicalization & counter-radicalization

Authority (English and original name)	**Tier of government** (national, regional, local)	**Type of organization**	**Area of competence in the field of radicalization& deradicalization**	**Link**
Council of Religions (რელიგიათა საბჭო)	National	Public Defender's Office		https://www.ombudsman.ge/eng
State Agency for Religious Issues (რელიგიის საკითხთა სახელმწიფო სააგენტო)	National	State agency / government	Religious radicalisation; Development of recommendations to support establishment of coherent religious policy, based on professional studies and scientific analysis in the sphere of religion.	https://religion.gov.ge/en/
Tolerance Center (ტოლერანტობის ცენტრი)	National	Public Defender's Office	Civic integration of ethnic and religious minorities; Development of the culture of tolerance and establishme	https://www.ombudsman.ge/eng/tolerantobis-tsentri; http://tolerantoba.ge/index.php

			nt an equal environment in Georgia; Contribution to the protection of the rights of religious and ethnic minorities.	
Office of the State Minister of Georgia for Reconciliation and Civic Equality (შერიგებისა და სამოქალაქო თანასწორობის საკითხებში საქართველოს სახელმწიფო მინისტრის აპარატი)	National	State agency / government	De-occupation of the country and reconciliation of the communities separated by the conflict; protection of rights and identity of all citizens and ethnic groups; protection of conflict-affected people;	https://smr.gov.ge/en

Annex III: Best practices/interventions/programmes

National level

	Institution(s)	Aim	Source	Evidence of effectiveness / literature
State Strategy for Civic Equality and Integration for 2015-2020	Government of Georgia;	Increasing access to education for ethnic minorities; increasing their knowledge of the Georgian language;	https://smr.gov.ge/uploads/prev/esen_55b90432.pdf	
Promoting Integration, Tolerance and Awareness	United Nation's Association of Georgia	PITA enhances government institutions' performance to manage implement civic integration policy, and supports establishment of direct lines of communication between the Government of Georgia and minority communities	http://www.una.ge/page/92/eng	

Local level

	Institution(s)	Aim	Source	Evidence of effectiveness / literature
Promotion of military service in Pankisi	Ministry of Defense of Georgia	Civic integration of Pankisi Gorge youth	Gobronidze, Giorgi. 2017. ‘ისლამის რადიკალიზაციის პრობლემა, სახელმწიფოს პოლიტიკა და რეგიონული თანამშრომლობის პერსპექტივები - ხედვა საქართველოდან.’ Caucasian House. Tbilisi	Gobronidze, Giorgi. 2017. ‘ისლამის რადიკალიზაციის პრობლემა, სახელმწიფოს პოლიტიკა და რეგიონული თანამშრომლობის პერსპექტივები - ხედვა საქართველოდან.’ Caucasian House. Tbilisi
Increase of quotas for students in the state universities from Pankisi Gorge	Ministry of Education of Georgia	Civic integration of Pankisi Gorge youth	Gobronidze, Giorgi. 2017. ‘ისლამის რადიკალიზაციის პრობლემა, სახელმწიფოს პოლიტიკა და რეგიონული თანამშრომლობის პერსპექტივები - ხედვა საქართველოდან.’ Caucasian House. Tbilisi	Gobronidze, Giorgi. 2017. ‘ისლამის რადიკალიზაციის პრობლემა, სახელმწიფოს პოლიტიკა და რეგიონული თანამშრომლობის პერსპექტივები - ხედვა საქართველოდან.’ Caucasian House. Tbilisi

Annex IV: Policy recommendations

- Deradicalization measures by the Georgian government are mostly ad-hoc, spontaneous, incoherent and do not follow any long-term strategy. Also as a result of the country's traumatic past experience with secessionist conflicts, the state authorities sometimes have an understandable tendency to have a securitizing approach to deradicalization programs and platforms, seeing minority groups as a threat and not as an opportunity. This leads to a lack of inclusiveness in the process and a low degree of social trust among minority groups towards the state institutions. Therefore, it is advisable that the state authorities make their dialogue with religious and ethnic minorities more inclusive by including members of these groups into state platforms and programs. The representatives of the minority groups can better contribute to strengthening civic unity and the deradicalization agenda if their sense of belonging to the Georgian state is increased. The state should become more active in the field of education especially and offer local young Muslims alternative sources of education programs and platforms to reduce an impact of conservative religious schools, including the Salafism movement which is very popular in Pankisi Gorge.

- While religious or right-wing radicalizations do not represent a major challenge now, Georgia may face more severe forms of radicalization in the future, also due to quickly changing external and internal environments. Therefore, policy responses to radicalization should not only be reactive but follow a long-term approach to increase countries preparedness for future risks of radicalization. For this a comprehensive preventive and pre-emptive national deradicalization agenda is required. At this point, absence of a long-term, coherent and consistent planning remains a serious programs of Georgia's state deradicalization agenda.

- The Georgian Orthodox Church (GOC), while acting as social glue among conservative parts of the society, tends to have a polarizing and detrimental effect on a number of issues, including minority rights and liberal policies such as drug liberalization or adoption of anti-discrimination legislation. Moreover, some parts of the clergy sometimes incite violence among homophobic groups in the country by using hate speech against LGBT groups and the country's liberal policies. What is more, there are very few formal and informal checks available to oppose the GOC as both the government and the majority of the opposition parties try to avoid political clash with the most popular institution in the country. Frequent scandals and fractures within the church, as well as the wealthy lifestyle of some of the clergy have already resulted in the loss of their popularity, but it still remains high. Short- and long-term measures that can be taken to reduce negative impacts of the church could be: First, strategic communication with the church by the government and the international community is needed to persuade the church that liberal policies, including antidiscrimination, are not at odds with the Orthodox Christianity. Secondly, more education and socialization opportunities should be given to young clergy

to enable them to escape a Russia-dominated social bubble that promotes Euro-skepticism and anti-liberalism. Thirdly, the privileged position of the Church (tax exemptions, budget finance etc.) should be reconsidered, and at least made conditional on the cessation by the clergy of the spreading of hate propaganda and support for anti-Western, anti-liberal and anti-democratic, violent groups.

- National legislation regarding hate speech and freedom of expression follows the less-regulated US model based on the “free marketplace of ideas”. While an absence of regulations protects the media climate from intervention by the state authorities, it also opens a space for an increase in influence by religious or right-wing radicalization. Few TV channels or social media networks in Georgia have been spreading anti-Western and anti-Liberal propaganda and hate news. To deal with this issue, specific regulatory mechanisms could be introduced. But these mechanisms, if introduced, should be the subject of a tight societal scrutiny and should not be turned into instruments in the hands of government or of religious authorities to enable them to abuse such a system and silence critical voices.

DeRadicalisation
in Europe and Beyond: Detect, Resolve, Reintegrate

DERADICALIZATION AND INTEGRATION LEGAL & POLICY FRAMEWORK

Germany/WP4 Country Report

November 2021

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De-Radicalisation in Europe and Beyond: Detect, Resolve, Re-integrate
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Table of Contents

List of abbreviations

AfD	Alternative für Deutschland, engl. Alternative for Germany
Art.	Article
BfV	Bundesamt für Verfassungsschutz, engl. Federal Office for the Protection of the Constitution
BKA	Bundeskriminalamt, engl. Federal Criminal Police Office
BVerfSchG	Bundesverfassungsschutzgesetz, Act Regulating the Cooperation between the Federation and the Federal States in Matters Relating to the Protection of the Constitution and on the Federal Office for the Protection of the Constitution
DeZIM	Deutsches Institut für Integrations- und Migrationsforschung, engl. German Centre for Integration and Migration Research
LfV	Landesamt für Verfassungsschutz, eng. State Office for the Protection of the Constitution
LKA	Landeskriminalamt, engl. State Office of Criminal Investigations
BVerfG	Bundesverfassungsgericht, engl. Federal Constitutional Court
FdGO	Freiheitlich demokratische Grundordnung, engl. free democratic basic order
FRG	Federal Republic of Germany
GBA	Generalbundesanwalt/-anwältin beim Bundesgerichtshof, engl. Public Prosecutor General at the Federal Court of Justice
GG	Grundgesetz, engl. Basic Law
KPD	Kommunistische Partei Deutschlands, engl. Communist Party of Germany
NSdAP	Nationalsozialistische Deutsche Arbeiterpartei, engl. National Socialist German Workers' Party
RAF	Rote Armee Fraktion, engl. Red Army Faction
StGB	Strafgesetzbuch, engl. Criminal Code of the Federal Republic of Germany
SRP	Sozialistische Reichspartei, engl. Socialist Reich Party

About the Project

D.Rad is a comparative study of radicalisation and polarisation in Europe and beyond. It aims to identify the actors, networks, and wider social contexts driving radicalisation, particularly among young people in urban and peri-urban areas. D.Rad conceptualises this through the I-GAP spectrum (injustice-grievance-alienation-polarisation) with the goal of moving towards measurable evaluations of de-radicalisation programmes. Our intention is to identify the building blocks of radicalisation, which include a sense of being victimised; a sense of being thwarted or lacking agency in established legal and political structures; and coming under the influence of “us vs them” identity formulations.

D.Rad benefits from an exceptional breadth of backgrounds. The project spans national contexts including the UK, France, Italy, Germany, Poland, Hungary, Finland, Slovenia, Bosnia, Serbia, Kosovo, Israel, Iraq, Jordan, Turkey, Georgia, Austria, and several minority nationalisms. It bridges academic disciplines ranging from political science and cultural studies to social psychology and artificial intelligence. Dissemination methods include D.Rad labs, D.Rad hubs, policy papers, academic workshops, visual outputs and digital galleries. As such, D.Rad establishes a rigorous foundation to test practical interventions geared to prevention, inclusion and de-radicalisation.

With the possibility of capturing the trajectories of seventeen nations and several minority nations, the project will provide a unique evidence base for the comparative analysis of law and policy as nation states adapt to new security challenges. The process of mapping these varieties and their link to national contexts will be crucial in uncovering strengths and weaknesses in existing interventions. Furthermore, D.Rad accounts for the problem that processes of radicalisation often occur in circumstances that escape the control and scrutiny of traditional national frameworks of justice. The participation of AI professionals in modelling, analysing and devising solutions to online radicalisation will be central to the project’s aims.

Executive summary

Since 2015 at the latest, the threat of radical political violence has once again become highly present in Germany. With an increasing influx of refugees due to the Syrian war and other conflicts in the Middle East, the New Right has succeeded in tapping into latent xenophobic sentiments among the population and in mobilizing masses against migration, Muslims and other minorities, creating a climate of fear. Alongside right-wing extremism, Islamism has repeatedly been at the center of public attention on radicalization ever since the attacks in New York in September 2001. However, apart from one serious terrorist attack in December 2016 on a Christmas market in Berlin, jihadist terrorism remains a rather potential threat in Germany.

This report provides an overview of the constitutional principles and legal and policy framework that guide state measures against radicalization. It describes the historical specificity of Germany's modern day policy approach to deradicalization, which is linked to the concept of 'militant democracy' developed in the former Federal Republic of Germany (FRG) that aimed to prevent extremism before any attacks on democratic order actually materialized. Using the examples of two case studies, the report demonstrates the significant role of civil society in preventing radicalization and promoting democracy and points to the specific challenges of deradicalization efforts in the fields of right-wing extremism and Islamism.

1. Introduction

Since 2015 at the latest, the threat of radical political violence has once again become highly present in Germany. With an increasing influx of refugees due to the Syrian war and other conflicts in the Middle East, the New Right has succeeded in tapping into latent xenophobic sentiments among the population and in mobilizing masses against migration, Muslims and other minorities, creating a climate of aggression and anti-immigrant sentiment. The discursive climate of violence resulted in three far-right terrorist attacks during 2019/20[1], motivated by racism and anti-Semitism, in which 13 people were killed. However, Islamism has repeatedly been at the center of public attention on radicalization ever since the September 11 attacks in New York, despite the fact that Germany itself has experienced only one jihadist terrorist attack, on a Christmas market in Berlin in December 2016, and generally shows low numbers of Islamist violence compared to other Western European countries such as France and the United Kingdom.

This report aims to outline Germany's legal, institutional and political approach to (de)radicalization considering its specific historical and socio-economic context. The German state's approach to radicalization and de-radicalization has been shaped by the historical experience of National Socialism and the subsequent division of Germany in the context of the Cold War. Building on the narrative of an overly liberal Weimar Republic, which enabled National Socialism to seize power, a concept of state protection emerged in the post-war period with the goal of creating preventive mechanisms to protect democracy from external extremist enemies, i.e., allowing the state to intervene before crimes actually materialize.

First, the report presents the socioeconomic and political context of radicalization in contemporary Germany. Here, it is shown that the sharp increase in anti-immigrant violence in 2015/16 following the influx of refugees cannot be solely linked to right-wing mobilization. Rather, the ideological and organizational structures that have been developing since the 1990s at the latest must be reflected upon. The first chapter also refers the painful experiences of many people in East Germany in the course of reunification and discusses regional inequalities between rural and urban regions that may facilitate the popularization of radical discourse.

Next, the report presents the constitutional framework for the state's approach to deradicalization. The first part outlines the constitutional framework, i.e. the constitutional principles representing the basic democratic order, and explains the fundamental rights laid down in the Constitution. The second part discusses the relevant institutional actors and their areas of responsibility. With the help of several concise examples, the following subchapter presents the historical development of criminal law in the field of radicalization and explains some of criminal law elements that may conflict with the constitutionally guaranteed fundamental rights.

Finally, the report addresses the current institutional and political state approach to deradicalization in the context of the legal framework presented. It outlines the various state programs and critically discusses the special role of civil society in preventing extremism and

[1] In February 2020, in the small western German city of Hanau, a far-right terrorist shot nine people to death for racist reasons and then executed his mother and himself. Just a few months before, in October 2019, a far-right perpetrator attacked the main synagogue in the eastern German city of Halle to kill all 68 people that were celebrating Yom Kippur. After failing to break into the synagogue he killed a female passer-by and a man at a kebab shop. And just four months before, in June 2019, a neo-Nazi assassinated the politician Walter Lübcke (CDU), president of the Kassel governmental district, who had become a target of far-right propaganda after openly supporting the government's refugee policy.

promoting democracy. Based on this, two case studies will be used to show how civil society engages in the prevention of right-wing extremism and Islamism and to identify respective challenges.

At the end, the most important results are summarized, on the basis of which policy recommendations for the state's approach to radicalization are formulated. We highlight the project-based funding structure as a major problem that leads to funding gaps and competence losses. To solve this problem, permanent funding for civil society structures must be established, for instance within the framework of the Democracy Act, which was recently blocked by the Christian Democratic Union (CDU) and the Christian Social Union (CSU) (Gensing, 2021). To overcome the narrow focus on external extremists and effectively combat extremist structures within security agencies in Germany, we also recommend more transparency and independent monitoring of state authorities, as well as a critical political discourse on everyday racism and exclusion in public institution. Overall, for an evidence-based political approach to the new challenges for German democracy, scientific research, especially research on institutional racism, must be greatly expanded.

2. The socio-economic, political and cultural context

There is a visible increase in authoritarian attitudes, nationalist sentiments and conspiracy beliefs challenging Germany's liberal democracy, unfolding in the context of the multiple social, economic and political crises that have shaped the country in the three decades following the fall of the Berlin Wall. According to Wilhelm Heitmeyer (2018), market-friendly governments trimmed to cutting welfare expenditures have accentuated social disintegration, decreased the public trust in democratic institutions and facilitated the rise of authoritarian right-wing movements. There is an increase of authoritarian attitudes[2] among the population, which have been simmering under the surface for a long time, initially not articulated and represented by any political organization. This increase followed experiences of uncertainty and loss of control spurred by a challenging social transformation after reunification, radical neoliberal reforms around the so-called "Agenda 2010"[3] at the beginning of the 2000s, as well as the global financial crisis that began in the US in 2008 and ultimately led to the Euro Crisis .

This changed dramatically in 2015/16 with the increasing influx of refugees from Syria and other countries, which provided an ideal context for the rise of far-right, anti-Muslim movements that claimed to be the only organizations capable of representing the discontent among the German population. These movements became melting pots for widespread authoritarian and racist attitudes, articulating a radical right-wing counter-program to that of the "established parties". In 2017, the Alternative for Germany (AfD), the most important representative of the New Right, succeeded in entering the Bundestag as the strongest opposition party.

Most recently, the Covid-19 crisis has reignited radicalization processes. In Germany, the movement "Querdenken" emerged in protest over the government's anti-pandemic restrictions. The movement includes a wide range of political affiliations but is open to far-right actors and conspiracy ideologues (Nachtwey et al., 2020). It shares anti-Semitic conspiracy myths and a deep mistrust in official institutions and public media outlets. A variety of incidents have been documented in which participants of the protests have violated legal regulations, attacked police officers, journalists and others, and spread hate speech against politicians and experts (Sundermann, 2020).

Socioeconomic context of radicalization

Issues of regional social inequality are commonplace in public debates and are repeatedly cited as reasons for the increasing polarization of German society (Fuest & Immel, 2019). The social and economic disparities between East and West Germany are seen as an important motive for the rise of the New Right, embodied by the AfD. Especially directly after the fall of the Berlin Wall, many people in East Germany experienced downward mobility (Mau, 2020),

[2] Authoritarian attitudes are understood as the popular demand for more discretionary exercise of political power and for the exclusion and discrimination of minorities (Heitmeyer, 2018, p. 84).

[3] The "Agenda 2010" is a neoliberal reform package of the German social system and labor market that was designed and implemented from 2003 to 2005 by the government of the Social Democratic Party (SPD) and the Alliance 90/The Greens. In particular, the labor market reforms, which are discussed under the label "Hartz IV," have severely reduced state protection and increased social inequality and fears of unemployment and social degradation. The reforms are criticized for having contributed massively to the polarization of society.

with qualifications rapidly losing value and unemployment rising notoriously (ibid., p. 169). To this day, significant differences also exist with regard to wealth distribution (ibid., p. 176 et seq.). Another reason for the unequal development of reunited Germany is related to the elite transfer that took place in the 1990s: the majority of leadership positions in politics and business, but also in the public service and the media, came to be held by West German citizens (ibid., p. 177f). This imbalance in elite recruitment continues today: more than three decades after the fall of the Wall, East Germans constitute only 23% of the personnel in East German leadership positions (ibid., p. 181).

However, studies also show that the inequality of household incomes between regions, both between eastern and western Germany and between urban and rural areas, has declined in recent years (Fuest & Immel, 2019). This is primarily due to the catching-up process of the eastern German states, while income divergences have tended to increase in the western German regions (ibid., p. 19). On the other hand, the demographic gap between rural regions and cities is growing, especially in eastern Germany (ibid., p. 19f). Population density in rural regions in eastern Germany fell by more than a third between 1994 and 2016 (ibid., p. 20). At the same time, the median age has risen from 38 to 50 years between 1994 and 2016 (ibid.).

Immigrants and people with a migration background are particularly disadvantaged by social inequality in Germany. Particularly within the education system, a close correlation between educational success and social origin is noticeable (Knauer, 2019). This also leads to differences in both educational and employment trajectories later in life. Migrants are also disproportionately represented in comparatively poorly paid industries with precarious working conditions in the service and care sectors (Khalil et al., 2020).

History of terrorism and political violence

Long before racist and anti-Semitic positions found access to formal representation in the political mainstream through the AfD, right-wing violence and terrorism had shaped the political culture of the country (Hille, 2020). Already in the early 1990s, with the rise of nationalism after reunification, a wave of violence against immigrants and people of colour erupted, culminating in pogroms like those in Hoyerswerda, Mölln, Rostock-Lichtenhagen or Solingen[4]. According to data gathered by Germany's Federal Office for the Protection of the Constitution (BfV), the number of reported cases of right-wing violence sharply increased from less than 200 in 1990 to more than 800 in 1991 and to more than 1,300 in both 1992 and 1993 (Bleich, 2007, p. 154). It was during this time that the later members of the so-called National-Socialist Underground (NSU) radicalized, a clandestine group of armed far-right extremists responsible for nine racially-motivated murders and the assassination of one police officer between 2000 and 2007 (NSU-Watch, 2020).

[4] In the early 1990s, neo-Nazis repeatedly attacked and set fire to residences of asylum seekers as well as homes of foreigners, applauded by local residents. The political background to these attacks was heated public debates about the right of asylum. In 1992, two ten- and fourteen-year-old girls and their grandmother died in Mölln after neo-Nazis threw incendiary devices at their house. A year later, five women and girls with Turkish ethnic background were killed by racists in Solingen. These far-right mobilizations played an essential part in facilitating that the center-right and right-wing campaign reaches its objective of introducing a more restrictive asylum policy in 1993 (Adaire, 2019).

In 2015, a new wave of right-wing terrorism[5] emerged with daily violent attacks on refugees, leading to disturbing records of political violence. In the context of anti-migration movements, terrorist cells such as the “Freital Group” formed and committed serious attacks on refugees and left-wing politicians, while the police managed to stop further far-right cells such as “Oldschool Society” and “Revolution Chemnitz” right before they could carry out their murderous plans, ideologically rooted in white supremacy, anti-Muslim racism, antisemitism and misogyny. Most recently, in a period of few months in 2019 and 2020, three right-wing terrorist attacks took place, killing 13 people. In total, right-wing violence has killed at least 213 people since the German reunification (Brausam, 2021).

In comparison to right-wing extremism, evidence of jihadist terrorism appears relatively low. Apart from the deadly attack on a Christmas market in 2016, jihadism remains a rather potential threat, exemplified by the numerous attacks in other European and non-European countries. Moreover, there is no indication for ethno-separatist or left-wing terrorism in Germany. The peak of left-wing terrorism dates back to the 1970s, a period known as the German Autumn, and is associated with the activities of the Red Army Faction (RAF). The RAF, a communist and anti-imperialist urban guerrilla in the FRG, was founded in the 1970s around Andreas Baader, Ulrike Meinhof and Gudrun Ensslin. It was responsible for more than 30 murders, as well as several hostage-takings, bank robberies and explosives attacks. The peak of the RAF's violent activity was marked in 1977, when the RAF carried out an assassination attempt on Federal Prosecutor General Siegfried Buback and shot the chairman of the board of Dresdner Bank, Jürgen Ponto, during a failed kidnapping attempt. In addition, RAF members kidnapped Hanns-Martin Schleyer, the president of the German Employers' Association, in early September, whose kidnapping ended with his murder (Menke, 2007).

Left-wing movements today no longer pose a terrorist threat and comprise a very heterogeneous scene within which only small segments see violence as a legitimate political means in confrontations with the police or right-wing extremists (police advisory). Nevertheless, in 2019, the BfV counted 921 violent offenses, including 355 "bodily injuries," and two attempted homicides against right-wing extremists (Verfassungsschutz, 2020, p. 32). The majority of violent acts is directed against buildings, infrastructure or other objects, or takes place in confrontation with the police, for example in the context of protests against gentrification or right-wing extremist marches. Without denying the existence of left-wing violence, it must be understood as part of a dynamic between heavily armed and sometimes aggressive police forces and comparatively vulnerable groups of people. One of the most prominent recent cases of left-wing violence was the G20 protests in Hamburg in 2017, which saw massive clashes between police and so-called "autonomous groups" (von Lucke, 2017).

Political response to radicalization

As in most Western European countries after the attacks of September 11, 2001, public debate and law enforcement in Germany primarily focused on jihadist radicalization throughout the

[5] Against the backdrop of the so-called “refugee crisis” and a massive social mobilization against the government’s migration policy led by actors of the New Right, such as Pegida or the Alternative for Germany (AfD), hundreds of arson attacks against refugee homes took place in 2014, 2015 and 2016. Many of the perpetrators had not previously been politically organized and were part of a network of personal relationships that emerged during protests against the reception of refugees (and that were initiated by local Neo-Nazis). The best-known cases include the terrorist cells “Freital Group”, “Revolution Chemnitz” and “Oldschool Society”.

2000s. This gave rise to the spread of anti-Muslim resentment in society, further driven and entrenched in the political mainstream by concepts such as that of a “Leitkultur” (“guiding or leading culture”). The concept was originally introduced in 1996 by the Syrian political scientist Bassam Tibi in order to engage in a rational debate about immigration and social cohesion in Europe (Tibi, 2017). However, the term was instrumentalized and reinterpreted in the early 2000s by the conservative politician Friedrich Merz (CDU). His concept of Leitkultur, which has since been taken up again and again in conservative circles, postulates a supposedly existing consensus of values among Germans to which immigrants must adapt. It is a right-wing political campaign term and stands as an alternative integration model in contrast to the idea of multiculturalism (Scholz, 2017). Beginning with the uncovering of the right-wing terrorist network NSU, awareness of the danger of right-wing extremist movements in Germany has gradually increased in recent years. This acknowledgment received further support with the nationwide wave of arson attacks on immigrants in 2015-16. At the latest since the murder of the conservative politician Walter Lübcke in 2019 by a neo-Nazi, right-wing extremism has also been recognized in the ranks of conservative parties as the greatest danger to democracy. As result of this and two other far-right terrorist attacks in 2019/20, in May 2020 the Cabinet Committee for the fight against racism and right-wing extremism was established, which adopted a catalogue of 89 specific measures to fight right-wing extremism and institutional racism.

3. The constitutional organization of the state

3.1. Constitutional principles

The principles of the German Constitution and its approach to 'extremism' are directly linked to German history and the historical-political reappraisal of National Socialism. Against the backdrop of the historical experience of National Socialism, the concept of 'wehrhafte Demokratie' (‘militant democracy’) emerged in the West German state. The concept is linked to the idea that democracy must be protected against extremism through rigorous and preventive action (Fuhrmann & Schulz, 2021). It builds on an interpretation of the past that regards the Weimar Republic as an overly tolerant German state that therefore became an target for extremist infiltration and abolishment of democracy. German post-war extremism prevention thus serves to avoid repeating such an alleged mistake. This means that the post-National Socialist FRG should prove itself resilient against the enemies of democracy by enshrining in the Basic Law ways of banning associations or depriving individuals of their fundamental rights if they are deemed to pose a threat to democracy. Preventive action also means that repressive measures must be taken against actions that are legal, but which can be assumed to have an intention that poses a potential threat to democracy. Specifically, this means that bans can be imposed before violent actions occur (ibid., p. 8). In addition to National Socialism, the historical experience of the Cold War and the anti-communist efforts of the West German state have created a historical context that arguably justified the establishment of legal possibilities to ban associations and deprive individuals of their basic political rights with the aim of preventing extremism and protecting democracy (Kalinowsky, 1993; Janssen & Schubert 1990).

The constitutional basis for preventive defense against extremism is rooted in the value-based nature of German Basic Law, the ‘Grundgesetz’, which is set out in Art. 79 (3) GG and declares any amendment affecting the constitutional principles laid out in Art. 20 inadmissible

(Flümann, 2014, p.147). Thus, the commitment to the constitutional principles representing the ‘free democratic basic order’ (fdGO) serve as the criterion for distinguishing democratic from extremist action. There are five constitutional principles laid out in Art. 20. The first one protects the political system of democracy, ensuring that the government is determined by free and secret elections. Related to this is the principle of separation of powers, according to which the legislative power, the executive power and the judicial power are separate. Closely linked to the principle of democracy is the principle of rule of law, which obliges the state i.a. to respect existing laws in order to prevent arbitrariness and abuse of power. Another principle concerns the welfare state, which establishes that the state must ensure that all citizens can lead a dignified life. Furthermore, the federal organization of the state is established as a constitutional principle, i.e., the composition of the state of 16 federal states, each with its own government, parliament and administration. Finally, the right to resist is also set as a central constitutional principle, granting citizens the right to not respond to the government in the case of threats to the democratic order.

Overall, the idea of a ‘militant democracy’ and the consequent possibility of restricting fundamental rights in order to prevent extremism is highly controversial. This is primarily due to an implicit equation of the protection of democracy with the protection of the state, which is accompanied by the assumption that the state itself cannot act undemocratically and represents a guarantor of democratic order (Fuhrmann & Schulz, 2021). However, a number of empirical cases prove that representatives of the state order can also exhibit far-right extremist sentiments and thus endanger democracy (ibid., p. 118). Another line of criticism responds to the fact that such an understanding of democratic protection would not primarily protect basic democratic rights against state repression, but rather only state institutions from potential opposition they may choose to label as extremist (ibid., p. 118). Furthermore, the concept of extremism itself is criticized for its analytical vagueness and its purely negative definition as being directed against the fdGO. This is accompanied by the danger of right-wing groups not agitating against the state, but against minorities, thereby falling through the raster of extremism prevention.

3.2. Constitutional rights

However, the protection of democracy in the form of state action against 'extremism' is at the same time limited by the civil rights enshrined in Articles 1 to 19 of the Constitution. Particularly relevant in this context is Art. 5 GG, freedom of expression, arts and science, which grants everyone the right to express and disseminate their opinions in speech, writing and pictures and to inform himself without hindrance from generally accessible sources and ensures freedom of reporting by means of broadcasts and film. According to Art. 5 GG, there shall be no censorship. However, the second paragraph of the article limits these rights at the same time by stating that expressions of opinion must take place within the framework of general laws and must not violate the right to personal honor or the protection of children. In the context of preventing extremism, this article is in a particularly tense relationship with the intention to prevent anti-constitutional mobilization, as it will be explained in more detail below.

Another particularly relevant Article for the state's handling of radicalization is Art. 8 GG, on freedom of assembly, which assures all citizens the right to assemble peacefully and unarmed without prior notification or permission. However, laws may restrict the right to assemble in the open air. In addition, Art. 9 GG guarantees the right to form associations, but organizations

whose aims or activities contravene the criminal laws or that are directed against the constitutional order shall be prohibited. This balancing of interests between basic political rights and extremism prevention constitutes a core dispute in the German legal system for dealing with right-wing extremist parties.

In addition, Art. 10 and 13 GG establish fundamental rights constraining state actions against radicalized extremists. Art. 10 GG safeguards privacy of correspondence, posts and telecommunications and restricts it only in the case of a legal order or when done for the sake of protecting the free democratic order. Art. 13 GG guarantees the inviolability of the home, which means that searches by rule may be authorised only by a judge and must take place in a prescribed form. In addition, Art. 13 GG stipulates that technical means of acoustical surveillance of homes used to avert urgent threats to public safety are subject to a court order. Against the backdrop of jihadist threats, Art. 16 GG also appears relevant, which guarantees that no German may be deprived of his or her citizenship, and that no German citizen may be extradited to a foreign country. Finally, Art. 18 GG formulates the possibility to revoke fundamental rights if there is a threat to the democratic order. Accordingly, persons are forfeited the fundamental rights to expression of opinion, freedom of teaching, secrecy of correspondence, property, and the right to asylum if these fundamental rights are abused to fight against the free democratic basic order.

3.3. Power and function of the executive authority

In order to assess whether the actions of individuals or associations are illegitimate and anti-constitutional, the Federal Office for the Protection of the Constitution (Bundesamt für Verfassungsschutz, BfV) was established together with the State Offices (Landesämter für Verfassungsschutz, LfV) at the regional level. The BfV is an executive agency of the Federal Ministry of the Interior. The authorities collect intelligence, among other things by observing groups suspected of being hostile to the Constitution (Schiffauer, 2006). Information collected is then made available to the political authorities, other state agencies and the public so that they can implement the knowledge politically and administratively and take the necessary measures to avert danger in time (ibid.). Each state authority acts autonomously and is not bound by instructions from the Federal Office for the Protection of the Constitution. The area of responsibility and cooperation between the individual authorities is governed by the Act Regulating the Cooperation between the Federation and the Federal States in Matters Relating to the Protection of the Constitution and on the Federal Office for the Protection of the Constitution (Bundesverfassungsschutzgesetz, BVerfSchG).

The division of tasks between federal and state authorities for the protection of the constitution is as follows. The state authorities are responsible for collecting and evaluating information on extremist endeavors and security-threatening or intelligence activities within their respective state. The Federal Office collects and evaluates additional information on efforts and activities that are of national significance. In addition, the Federal Office for the Protection of the Constitution coordinates the state authorities in the performance of their tasks.

The Office for the Protection of the Constitution is faced with the task of observing not only groups that have been proven to be dangerous, but also those that could potentially become dangerous. In other words, it also observes groups and practices that are still within the bounds of the law. According to the official reading, the Office for the Protection of the

Constitution is therefore considered an “early warning system for democracy” (BfV, 2021). However, this self-image is highly controversial, especially considering its failure to prevent the NSU's murders, which went undetected for years, bypassing the surveillance efforts of intelligence services (Fuhrmann & Schulz 2021).

Fighting against politically motivated crime is primarily the task of the Police State Protection (ST) division of the Federal Criminal Police Office (BKA). The agency is responsible in particular for compiling nationwide situation reports in the area of politically motivated crime. For this purpose, findings from investigative proceedings of the federal and state police forces as well as evaluation results of national and international partner authorities are used. The jurisdiction of the BKA are defined by the Act on the Federal Police (Bundeskriminalamtgesetz).

According to the Code of Criminal Procedure, the police, and not the military (Bundeswehr), is also responsible for countering terrorist threats. The Bundeswehr can support the police under certain circumstances on an occasional basis. The military can be deployed in accordance with the German Emergency Laws for the sake of protecting civilian objects and of combating organized and militarily armed insurgents (§ 87a (4) GG). The Bundeswehr can also act in the event of a commercial aircraft being hijacked by terrorists as per the Aviation Security Act.

In addition to that, the Public Prosecutor General at the Federal Court of Justice (GBA) plays a significant role in the prosecution of terrorism. Its jurisdiction, which is governed by the Courts Constitution Act (Gerichtsverfassungsgesetz), includes prosecution in the field of state protection as well as the performance of prosecutorial duties in appeal proceedings. The GBA represents the federal government at the Federal Court of Justice. This is an exception to the provisions of the Basic Law (Art. 95, 5), which actually assigns prosecution to the federal states.

In summary, it can be stated that the concept of ‘militant democracy’ has shaped the constitutional approach to radicalization in Germany to this day. It forms the basis for criminalizing political action as ‘extremist’ on the basis of the assumed undemocratic intention, even before criminal acts have been carried out. At the same time, the fundamental rights enshrined in the Constitution set strict limits on state action to protect democracy. This results in a permanent tension between preventing extremism and protecting democracy on the one hand and guaranteeing fundamental rights on the other. As has been shown, this tension is always an expression of social discourses, such as anti-communism in the FRG during the Cold War. The tension can neither be resolved nor can a clear and permanent balance between the two poles be found. Rather, the tension must be understood as the subject of an ongoing process of democratic negotiation in which the respective existing political power relations prevail.

4. Relevant legislative framework in the field of radicalization

4.1. Evolution of the legal framework against ‘extremism’

Three areas can be identified for a rough classification of the provisions relevant to criminal law in relation to 'extremism': 1) communication offenses (e.g. incitement to hatred, §130 StGB; insult, §185 StGB; threatening to commit a felony, §241 StGB), 2) violent offenses (e.g. murder under specific aggravating circumstances, § 211; causing bodily harm, § 223; criminal damage, §303), 3) organizational offenses (e.g. violation of a ban on forming an association, §85 StGB; dissemination of propaganda material of unconstitutional organisations, §86a StGB; forming criminal organisations, §129 StGB) (Kalinowsky, 2003, p. 100).

The historical development of today’s law on political crime (‘Politisch motivierte Kriminalität’) begins after the end of World War II and the defeat of National Socialism, when the Allies abolished a number of laws that were judged to be National Socialist (Kalinowsky, 1993). As a result of the criminal law reform in 1951, provisions of state protection were introduced into the German Criminal Code (Kalinowsky, 2003, p. 101). In this way, the concept of prevention of extremism as a key element in the protection of democracy was implemented in the legislative framework. The law reform introduced the new offense of “endangering of the democratic state” (§ 86 – 90a, Staatsgefährdung) in addition to the offenses of “high treason” (§ 81 – 83, Hochverrat) and “treason against the state” (§ 94 – 100a, Landesverrat). Thus, “instead of making concrete acts to subjects of punishment, the intention to abolish individual constitutional principles was made punishable as endangering the state" (Fuhrmann & Schulz, 2021, p. 47). The criminal element of state endangerment is thus interpreted more preventively than those of treason and treason against the state, which can be explained in the context of the historical-political narrative outlined above that National Socialism was made possible by an overly “tolerant” Weimar Republic (ibid.). The legal conclusion was to be able to intervene earlier, i.e., before an attempted overthrow.

On this legal basis, the SRP, which was classified as the successor party of the NSdAP, was banned in 1952, as was the KPD in 1956, whose commitment to the fdGO was considered purely tactical (Furhmann & Schulz, 2021, pp. 50f). Thus, the new political criminal law of the Federal Republic of Germany was not only directed against an imminent right-wing extremist danger, but also against communist activists, which can be explained against the background of the German division and the Cold War (ibid., pp. 50ff.).

In the mid-1970s, the first anti-terrorism law was drafted in West Germany, in the context of the rise of the left-wing terrorist RAF in Germany (Kalinowsky, 1993, pp. 208ff). The term terrorism is defined by law in the Criminal Code. As a rule, terrorist offenses are determined in connection with the formation of a terrorist organization (§ 129a, 129b StGB). Serious politically motivated violent offenses (§ 129a of the Criminal Code) are also considered terrorism. Furthermore, Sections 89a, 89b, 89c and 91 of the Criminal Code are assigned to terrorism. The central norm of the criminal law on terrorism, § 129a StGB, was also designed to be preventive (Frank & Freuding, 2020). Anyone who founded, participated as a member of, recruited for, or supported an association whose purposes or activities were to commit serious crimes (in particular murder, manslaughter, extortionate kidnapping, hostage-taking, and certain homicidal offenses) could henceforth expect a prison sentence of six months to

five years without having already committed an attempted or completed crime (ibid., p. 682). The preventive nature of criminal liability has been even further extended in recent times.

In 2009, section 89a of the Act of Prosecution for Preparation of Serious Violent Offences Endangering State (Gesetz zur Verfolgung der Vorbereitung schwerer staatsgefährdender Gewalttaten) was introduced, and significantly expanded criminal liability with respect to terrorism to the area of preparation acts (ibid., p. 683). The reason for these amendments was the assumption that laws criminalizing the establishment of a terrorist organization could not effectively counter the threats of international terrorism, which is increasingly carried out by radicalized individuals. The introduction of Section 89b of the German Criminal Code (StGB) already makes a mere contact with a terrorist organization a punishable offense. In addition to that, Section 91 of the StGB criminalizes the dissemination of instructions for the use of explosive devices via the Internet, which can be used to commit serious acts of violence endangering the state. In 2015, against the backdrop of increasing numbers of people traveling as 'foreign fighters' to the Middle East to take part in armed conflicts or to visit terrorist training camps, the anti-terrorism legislation was amended once again. Since then, even an unsuccessful attempt to leave the country for another state in order to participate in serious acts of state-threatening violence or to receive training in the manufacture or handling of firearms, explosives or similar dangerous means has been considered a terrorist offense.

With regard to right-wing extremism, new impulses for the development of criminal law to prevent it emerged in the course of reunification. In particular, the massive rise in right-wing extremist violence at the beginning of the 1990s presented a new challenge for the reunified German state. In 1994, the parliament responded with a comprehensive redesign of Section 130, on the Incitement of Masses, which brought legal changes in the area of so-called "communication offenses" (Seehafer, 2003, p. 33). For instance, the introduction of Section 130 (3) made the denial, downplaying, and approval of the National Socialist genocide punishable (ibid.). Among other things, the decision of the Federal Constitutional Court on the "Ausschwitz Lie"[6] (Holocaust Denial, BVerfGE 90, 241) was groundbreaking in this context. This decision sets boundaries to the scope of freedom of expression when referring to the annihilation of the Jewish population and other ethnic minorities and social groups by the Nazis, which is denied by right-wing extremists, including revisionist historians, despite the large amount of indisputable evidence (Bröhmer et al., 2012, p. 365). The decision determined that criminal punishment for Holocaust denial is a legitimate restriction on freedom of speech, i.e., because it violates the personal rights of Holocaust victims (ibid.).

Following three right-wing terrorist attacks in Germany in 2019 and 2020, a new law to combat right-wing extremism and hate crime came into force in April 2021 (BMJV, 2021). The aim of the new law is, among other things, to be able to prosecute hate crime online more harshly and effectively in the future. One of the key points of the new law is the expansion of Section 241 of the German Criminal Code, which previously only made the threat of a crime – usually

[6] The judgment concerns the permissibility of imposing restrictions on a gathering in which the denial of the persecution of Jews in the "Third Reich" is to be expected. The city of Munich had previously imposed a restriction on a meeting of the NPD on the basis of Section 5 No. 4 of the Assembly Act (VersG) that no content may be communicated that denies the persecution of the Jews in the Third Reich. The NPD had then filed a complaint against the restrictions on the basis of Article 5 (1) of the Basic Law, arguing that the restriction represents a violation of their fundamental right to freedom of expression.

the threat of murder – punishable. Now, threats to commit acts against sexual self-determination, physical integrity, personal freedom or property of significant value are also punishable by up to one year in prison. If the act is committed publicly on the Internet or by other means, the penalty is up to two years' imprisonment. The range of punishment for threatening to commit a crime has also been raised to up to two years' imprisonment if it is not committed publicly. If a crime is threatened publicly, up to three years' imprisonment may be imposed. This applies, for example, to threats of murder and rape on the Internet. Insults (§ 185 StGB) will also be punished more severely in the future. Anyone who publicly insults people online can now be punished with up to two years' imprisonment instead of up to one.

In addition, rewarding or expressing approval for the online threatening of serious crimes that have not yet been committed (§ 140 StGB), can be punished in order to counter attempts to create a climate of fear. Other changes establish the obligation of social networks to report posts containing hate speech to the Federal Criminal Police Office (BKA). This means that social networks will not only have to delete punishable postings from February 2022 onwards, but also report them to the BKA along with the user's IP address and port number. However, insults, defamation and slander are not covered by the reporting obligation, as it is considered difficult to distinguish them from statements protected by the right to freedom of expression. Finally, in June 2021, law 19/28678 and 19/31115 was passed that, among other things, intends to improve the protection against right-wing “enemy lists”. Together with the new Section 126a of the German Criminal Code (StGB), it intends to criminalize the dissemination of such lists in the future.

In summary, legislation in the field of extremism and terrorism has developed closely in accordance to historical experience. The criminal law approach to extremist parties until the 1960s was predominantly anti-communist in nature, in the context of the ideological confrontations during the Cold War (Wagner, 2016). The implementation of the Terrorism Act came in response to the left-wing terrorism of the RAF, but was further developed in the 2000s, especially against the backdrop of the international jihadist threat. Hate speech legislation, on the other hand, developed following the wave of right-wing extremist violence in the 1990s. The most recent far-reaching change in the law also took place in direct response to the increased right-wing extremist threat since 2015 and the three murderous acts of terrorism in 2019 and 2020. The common feature of the recent changes of the legal framework in the area of extremism and terrorism is its preventive nature, expanding the possibilities for punishing threats to commit a crime before they are committed.

4.2 The balancing of fundamental freedoms with the fight against extremism

The prevention of extremism and the prosecution of extremist activities under criminal law are always in tension with the fundamental rights of the Constitution. The following section will outline, with the help of a few examples, the balancing issues involved in countering and preventing extremism in Germany. The fundamental tension lies between the fundamental rights laid down in the Constitution, such as freedom of speech and freedom of assembly, on the one hand, and the guarantee of the basic democratic order and the protection of human dignity and dignity-based personal rights on the other.

Prosecution of hate speech

An important controversial issue concerns the balance between the right to freedom of speech on the one hand, and the criminal prosecution of hate speech on the other. In this context, criminal sanctions for expressing extremist political views are in tension with Art. 5 of the Basic Law, which grants freedom of speech (Flümann, 2015, p. 282). In other words, the question arises on whether expressions of opinion may be made punishable if they violate the constitutionally guaranteed dignity-based right of persons. In this regard, the Federal Constitutional Court sees particularly little room for restrictions on opinion when it comes to political speech or debates on issues of public interest (Hong, 2020a).

The constitutional standards for balancing freedom of speech and personality rights in the case of insults have been developed by the Federal Constitutional Court in decades of case law (Markard & Bredler, 2021). In a press release of June 2020, it classified the constitutional standards with reference to four parallel chamber decisions as follows (BVerfG, 2020). It has made clear that its case law emphasizes the central importance of freedom of expression, but at the same time takes its [whose? The case law's?] limits into account in terms of personality protection (Hong, 2020b). Thus, for criminal insults, freedom of speech mostly requires a thorough investigation of individual cases (ibid.).

A constitutional consideration concerns, for example, the question of whether an insult involves sufficient defamatory tone so that it can be prosecuted under criminal law. This depends in particular on whether, and to what extent, the statement affects fundamental rights of respect to which all people are equally entitled, or whether it rather diminishes the social reputation of the individual concerned (ibid.). A further consideration concerns the weighting of freedom of opinion, which is rated all the higher the more the statement aims to contribute to the formation of public opinion, and all the lower the more it is merely an emotionalizing spread of sentiments against individual persons (ibid.).

Freedom of speech is also constrained when it is assessed as "incitement of the masses" (Hong, 2020a). This concerns such statements that are directed against (definable) parts of the population and incite hatred against them, call for violent or arbitrary measures against them or attack their human dignity (§130 (2) StGB). In addition, hate speech is punishable if it is accompanied by death threats, threats of a terrorist attack (§ 126 StGB) or approval to such threats (§ 140 StGB) (Hong, 2020a).

Ban of a political party

Parties are an essential component of a democratic constitutional state. The ban of a political party is a serious interference in the democratic process of political opinion-forming and in the plural character of political development (Flümann, 2015, p. 160). Therefore, parties enjoy special protection compared to other kinds of associations with a political orientation (ibid.). Consequently, it is not sufficient to identify an anti-constitutional stance to ban a party. The condition for a party ban is that the party in question actively seeks to eliminate the free democratic basic order, which must be proven in court (ibid.). Accordingly, there has not been a party ban in Germany for 60 years (Dlf, 2017).

Attempts to ban the National Democratic Party of Germany (NPD), an openly neo-Nazi party, failed in 2017 precisely for this reason. After the right-wing terrorist cell NSU, the ranks of

which included many NPD members, was uncovered in 2011, the upper house of the German parliament or Bundesrat decided almost unanimously in December 2012 to initiate a new party banning procedure after the first one had failed in 2003 for formal reasons. In this new trial, it was possible to prove the anti-democratic nature of the party as well as its positive references to National Socialism. However, the court also ruled that the NPD did not have the potential to enforce its anti-democratic goals at the time (BVerfG, 2017). The court argued that no basic tendency of the NPD to enforce its anti-constitutional intentions through violence or the commission of criminal acts could be proven (ibid.). Furthermore, there was no sufficient evidence to accuse the NPD of purposefully creating an atmosphere of fear that could have led to a noticeable impairment of the freedom of the process of political will formation (ibid.). In other words, the Court held that the NPD was too insignificant to constitute a serious threat to German democracy, and therefore is not unconstitutional (Molier & Rijpkema, 2017). This is evidenced by the party's weak parliamentary representation, declining membership (less than 6,000 members), and low mobilization capacity (ibid.). For the aforementioned reasons, the party ban as a preventive measure of constitutional protection was deemed not necessary (BpB, 2017). Instead, existing criminal law could be used to suppress threats and the buildup of violent potential by the NPD (ibid.).

In comparison, the ban of associations on the basis of Article 9 (2) GG is far more important in the state's approach to countering extremism. An association may be banned if its purposes or activities are contrary to criminal law or if it is directed against the constitutional order or the idea of international understanding (§ 3 (1) Law on Associations). This corresponds to Art. 9 (2) of the Basic Law, which, as an expression of a pluralistic but militant constitutional democracy, places a limit on freedom of associations. Unlike party bans, bans on associations are not decided by the Federal Constitutional Court, but by an executive order. Associations whose activities are limited to one federal state can be banned by the respective state interior minister (§ 3 (2) Law on Associations), while associations whose radius covers more than one federal state can be banned by the federal interior minister (Flümann, 2015, p. 216).

Ban of religious associations

In response to the growing relevance of religion-based extremism in Germany, debates have arisen concerning the limits between religious freedom and counter-extremism prevention. In Germany, religion-based extremism is associated in particular with the Salafi branch of Islam, although this is itself a highly diverse community, and only a small minority of believers legitimizes violence or is itself willing to use violence (Garbert, 2017). In principle, however, religious beliefs are protected by fundamental rights with respect to all religions, even if they are associated with religious ideas of inequality. The scope of protection of religious freedom also includes promoting one's faith as well as recruiting others away from their faith. Accordingly, "Da'wa"[7] as a form of proselytizing is protected (Subai, 2018).

Association and criminal law place limits on religious freedom. Religious communities, just like associations, can be banned by the Ministry of the Interior (ibid.). One example is the ban of the so-called Islamic State (IS), which was imposed by the then Interior Minister Thomas de Maizière in 2014. The ban is accompanied by the punishment of the public display of “IS”-

[7] Daʿwa is an Arabic term that encompasses a wide range of meanings in general language and refers here to missionary activities and intensive propaganda activities by Salafi-jihadist groups that can be part of radicalization processes.

symbols such as its flag or sympathy-inducing badges. Furthermore, in connection with Islamist radicalization, membership in a (foreign) terrorist organization is punishable, as is the recruitment of members for such an organization's ranks.

5. The relevant policy and institutional framework in the field of radicalization

The binary opposition between democracy and extremism is deeply rooted in the political culture of the FRG and forms the basis for the state's approach to deradicalization. Against the backdrop of the historical-political reappraisal of National Socialism, the state's counter-extremism efforts are strongly preventive in nature and do not only begin when political violence occurs. A preventive approach is implemented by the state security authorities on the basis of criminal law. Moreover, measures of deradicalization are characterized by the federal division of responsibilities. As a result, the prevention structures in Germany significantly differ from other countries, such as France, where prevention work is controlled and organized centrally (BpB, 2021). In Germany, the federal states are responsible for the policy fields of security and education and thus for central areas of prevention. The measures taken by the federal states are shaped by the different challenges they face. Accordingly, the measures and programs of the states differ in type and scope. However, prevention measures are largely funded by the federal government as part of federal counter-extremism programs. Coordination between the federal structures takes place both through official coordination offices and through decentralized advice and information centers run by civil society organizations (Uhlmann, 2007, p. 23).

Furthermore, extremism prevention in Germany is characterized by a close cooperation between state authorities and civil society. Civil society plays a central role in preventing radicalization and encouraging de-radicalization. Funding comes primarily from the federal government, but the projects are mostly implemented at the local level. The structure of cooperation between governmental and civil society agencies differs from state to state and is based on the specific circumstances and needs of each state. So far, civil society prevention work has been based primarily on temporary project funds, for which actors compete in a competitive process. This is accompanied by the fact that the state sets the funding priorities, which depend on public awareness of the problem and political constellations. Civil society has little influence on this and must adapt to the given funding priorities. Against this background, experts have criticized that funding conditions tie civil society engagement to definitions of extremism and democracy perpetuated by state agencies, which produces blind spots with regard to institutional racism or other forms of exclusion (Diedrich, 2020).

Fundamental to the state's deradicalization approach is a three-part concept of prevention in primary, secondary and tertiary prevention (Handle et al., 2020, p. 6f). Primary prevention addresses the general population that is not yet radicalized and promotes democratic principles and participation on a broad level, for example through civic or political education at schools, youth clubs and other social settings. Primary prevention therefore means, in a direct sense, preventing so far non-existent radical tendencies through democracy promotion. In comparison, secondary prevention targets individuals with initial signs of radicalization and seeks to halt their radicalization process by integrating them in more democratically minded

social environments. Social work plays an important role in this process. In contrast, tertiary prevention focuses on individuals who are ready to use violence and who may have already committed extremist crimes or been involved in terrorist activities. Here, the aim is to disengage individuals from radicalized scenes through exit programs and to prevent them from committing new crimes. Often, these programs operate mainly in detention centers.

Overall, extremism prevention involves a broad range of institutional actors, including schools, social work, and religious institutions[8]. There is an increasing trend to deepen cooperation between civil society groups and security actors. This is being pushed, among other things, by government funding of so-called model projects in which social workers are in close contact with security authorities. Experts have viewed this critically, describing it in part as a form of co-optation and depoliticization of civil society (Burschel et al., 2014). Close cooperation between civil society and security agencies also risks avoiding critical engagement with "extreme" structures within security agencies (Burczyk, 2017).

The first state-sponsored program of civil society extremism prevention and democracy promotion, the “Action program against aggression and violence,” was created in the early 1990s against the backdrop of rampant racist violence of the post-reunification period. The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth and Civil Society was in charge of its planning and implementation. This institutional assignment has remained in place to this day. The program focused on violent and xenophobic youth from eastern Germany, who were considered particularly prone to right-wing extremism in the light of the massive wave of racist violence following the reunification. In total, more than 100 long-term projects were funded in about 30 cities, mostly supporting youth centers that aimed to integrate “deviant youth.” However, the “accepting social work” approach was criticized by many experts as being too friendly to offenders and even indirectly supporting the right-wing, giving them a safe space in which to continue recruiting members (Bruderus, 1998).

The subsequent program, “Youth for tolerance and democracy - against right-wing extremism, xenophobia and antisemitism”, was established by Chancellor Schröder (SPD) in 2001 under the slogan “rebellion of the decent” ("Aufstand der Anständigen”). The background for the program was two brutal racist acts that had made national headlines (Bleich, 2007, p. 155). In June 2000, Alberto Adriano was beaten to death by three right-wing youths in a park in the small town of Dessau. A month later, a bomb attack in a train station in the city of Düsseldorf injured ten people, including six Jewish immigrants. The federal government provided more than 200 million euros to strengthen civil society against right-wing extremism, promote political education and democratic culture, counsel victims and others affected by right-wing extremism and violence, and promote acceptance of diversity in the workplace (ibid.). Unlike the first initiatives in the 1990s, the focus shifted to building a general political culture of tolerance, combined with counseling for victims and others coping with acts of racist violence (ibid.). The trend has been to treat right-wing violence less as an isolated phenomenon of a

[8] The Amadeu Antonio Foundation and the organization “cultures interactive e.V.” are important stakeholders involved in the prevention against right-wing extremism. In the area of “islamist extremism” the most important stakeholders are the National Committee on Religiously Motivated Extremism (Bundesarbeitsgemeinschaft religiös begründeter Extremismus), the Violence Prevention Network e.V. and Ufuq e.V.. In the area of “left-wing extremism”, one Competence centre, namely the Federal Agency for Left-Wing Militancy (Bundesfachstelle Linke Militanz) receives state funding, as well as four pilot projects, such as the project “Left-wing extremism in past and present” at the Berlin-Hohenschönhausen Memorial.

deviant youth in the former East and more as a problem of society as a whole. This trend was continued by the two programs "Support of counseling networks - mobile intervention against right-wing extremism" and "Diversity feels good. Youth for Diversity, Tolerance and Democracy", implemented in 2007.

In 2010, the newly elected conservative coalition government (CDU/FDP) changed the political focus of extremism prevention, which shows the close link between political constellations and the specific ways in which 'extremism' is framed and dealt with politically. While the focus had previously been primarily on right-wing extremism, the topics of "left-wing extremism" and "Islamism" were now added. This is evidenced by the new program "Initiative Strengthen Democracy", which was established alongside the program "Promoting Tolerance - Strengthening Competence".

There has always been strong criticism of this strategy of the German state to approach very different phenomena such as racism, right-wing terrorism, homophobia, jihadism and left-wing violence from a single lens of "extremism". Experts have problematized, among other things, that such a broad understanding of extremism suggests a structural equivalence of left-wing and right-wing positions and equates their levels of violence, while at the same time juxtaposing both phenomena in contrast with a supposedly democratic center (Burschel et al., 2014). However, a dichotomous understanding of the political space divided in a "democratic center" and "extremist fringes" contradicts the empirical facts. In fact, studies have shown that ideologies of inequality and authoritarian attitudes are prevalent in all parts of society, including the so-called center (Decker & Brähler, 2020).

Despite the criticism, the broad approach directed against "all forms of extremism" continues to shape the state's approach to de-radicalization to this day, although right-wing extremism is recognized as by far the greatest threat to democracy. This is evident in the federal program "Demokratie leben!" (Live democracy!), which has been funding civil society extremism prevention and democracy promotion since 2014, but also in the 2016 Federal Government Strategy to Prevent Extremism and Promote Democracy. However, despite the discursive equation of right-wing extremism, left-wing extremism, and Islamism, financial support emphasizes the prevention of right-wing extremism, which can be explained by the massive preponderance of right-wing extremist acts of violence.

Since 2020, however, a gradual change can also be seen at the discursive level, which pays particular attention to the danger of racism and right-wing extremism. In response to the far-right terrorist attacks in 2019 and 2020, a Cabinet Committee on Combating Racism and Right-Wing Extremism was established in May 2020 under the leadership of German Chancellor Angela Merkel. In November 2020, the cabinet committee adopted a catalog of 89 concrete measures, which was drawn up after consultation with representatives of civil society, especially migrant organizations, and academia (tagesschau, 2020).

Compared to previous strategies for preventing extremism and promoting democracy, the catalog is characterized by a broader perspective on right-wing extremism. This is reflected in the measures of political education and prevention that are also directed at public institutions and professionally active adults, including the police and journalists. At the same time, exit and disengagement work continues to be supported as an important component of de-radicalization. Another focus of the catalog is the threat posed by so-called enemy or death

lists, which can be prosecuted more effectively through the amendments to the Criminal Code announced in the catalog and adopted in the meantime. The catalog also announces further strengthening of cooperation between civil society and security authorities in the future, particularly in the further development of exit programs, the development of new deradicalization formats and in political education. Another core content of the catalog is the announcement of a Democracy Act, through which the existing project funding for civil society actors in the prevention of extremism is to be made more permanent through the long-term allocation of funds.

6. Case studies

In order to gain a better understanding of the state efforts for extremism prevention and democracy promotion at the local level by civil society actors, the following section examines two cases in more detail. Both cases are funded as ‘pilot projects’ of extremism prevention by the federal program Demokratie leben (‘Live Democracy’). The first case refers to the organization Violence Prevention Network (VPN), which focuses on right-wing extremism and Islamism. The second case is the Alliance of Islamic Communities in Northern Germany e.V. (BIG e.V.) with its state-funded pilot project “Kamil 2.0” against Islamist extremism.

The analysis includes the following steps. First, we will outline the organizations involved, their activities and goals, and point out the innovative characteristics of the projects funded as ‘pilot projects’ by the government. Then, the knowledge of the organizations with regard to radicalization and de-radicalization is presented and commonalities with regard to processes of (de-)radicalization and the associated challenges between right-wing extremism and Islamism are elaborated. Finally, on this basis, conclusions are drawn with regard to extremism prevention and de-radicalization, from which we derive our policy recommendation (see annex IV). The analysis is based on an analysis of its websites and information materials and a semi-structured interview with a representative of one of the organizations.

Violence Prevention Network (VPN)

The first case is that of the Violence Prevention Network (VPN). VPN was founded in 2004 as a non-profit association in Berlin and converted into a non-profit GmbH in 2020. Today, the organization has more than 100 employees and operates counseling centers in several German cities. The majority of the budget comes from European Union funds, federal and state funds, and donations. In 2019, the total budget was 7,535,003.10 Euro. The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth has funded the organization as a pilot project in the prevention of right-wing extremism in 2019 and 2020 with 199,800.00 euros each as part of the state program 'Live Democracy’.

Their field of activity includes secondary and tertiary prevention in the area of right-wing extremism as well as religious-based extremism, especially Islamism. This means that their work is focused on highly radicalized, violent people, mostly men and boys, who have often been or are currently in prison. Initial contacts usually take place in this context. Women and girls have hardly been reached in the work on detention centers so far, but are to be given greater consideration in future projects.

VPN's work is based on the concept of ‘responsibility pedagogy’. This means that the goal of the social workers is that the radicalized persons learn to take responsibility for their own actions. For this, it is necessary to talk to the radicalized persons, to listen to them and to express a certain sense of sympathy and appreciation. According to one of my interviewees, 95% of the perpetrators have difficult biographies, having experienced violence in the family or had parents who have themselves been in prison. Against this background, the social workers are concerned with meeting the offenders at eye level and helping them develop skills such as empathy, a sense of responsibility and self-reflection. They should learn to deal with biographical problems in a different way than with violence. At the same time, they distance themselves from the concept of 'accepting youth work', which was applied in the 1990s because the acts of radicalized individuals are unacceptable.

The primary goal of VPN is to prevent serious acts of violence and to mitigate resentments among radicalized individuals. The idea that everyone would become ideal democratic citizens is desirable, but difficult to realize and therefore considered an illusion. The path out of hateful radical spaces is nonetheless an important step toward democratic awareness.

One example of its most recent state-funded projects is “REE! - Change of Course for Right-Wing Extremists” (funding in 2021: 199,800 Euro), which revolves around strengthening cooperation with security authorities, such as the LKA and the Office for the Protection of the Constitution. The cooperation consists of security authorities arranging contact between VPN and surveilled “extremists”, i.e. people who are about to be detained. The contact with VPN is intended to give them the opportunity to change their behavior before any acts with serious legal consequences occur. In return, VPN writes field reports about its work with radicalized individuals. Cooperation with the security authorities is also difficult in that they may receive confidential information from their clients that could lead to them being called as witnesses in court.

Alliance of Islamic Communities in Northern Germany e.V. (BIG e.V.)

The Alliance of Islamic Communities in Northern Germany e.V. (Bündnis der Islamischen Gemeinden in Norddeutschland e.V.) is an association of 16 mosques in Hamburg, Schleswig-Holstein and Lower Saxony. In total, more than 800 people volunteer in the communities of the BIG e.V., which has about 7,200 members. As an umbrella organization, the BIG e.V. supports its mosque communities and Islamic associations in organizational, legal and financial matters so that the member associations can implement religious, social, charitable and cultural services.

The Kamil 2.0 model project, funded by the government through the program 'Live Democracy' aims to protect young Muslim men and women from extremist, Islamist-based narratives. Their activities are thus located in primary prevention. The goal of the project is to develop new concepts for civic education with young adults of Islamic religion. In cooperation with mosque communities, the project develops concepts for addressing the target group in the following key topics: differences between extremist ideology and Islamic religion; devaluation of people with different opinions; identification and acceptance of the democratic system and democratic values; and media competence.

In a second step, the communities implement and test these concepts to further develop them in long-term relationships with Muslim communities. In addition, the project develops assistance for imams, multipliers and those responsible in Muslim communities who are overburdened in dealing with young radical people. Another goal of the project is to strengthen Muslim identities and facilitate the experience of democratic values in practical work. In accordance with the Beutelsbach Consensus[9], BIG e.V.'s prevention work aims to enable people to form their own coherent opinions. This means that an open and critical discussion of one's own religious tradition and current issues is encouraged.

Two general challenges can be identified regarding the German state approach to extremism prevention. The first problem is the project-based funding structure. Civil society organizations must regularly apply for funding for their extremism prevention projects in competitive procedures. Their financing is thus only guaranteed for a period of a few years at a time and must then be reapplied for. Therefore, many projects have gaps in between individual projects, during which they receive no funding and have to lay off their staff. If new funding is then received, new staff must first be found. This is particularly problematic in the area of deradicalization, since prison activities with violent offenders require a particularly specific skill profile that cannot be replaced very easily.

In addition, funding as a pilot project, which provides projects with particularly high financing, is linked to the requirement of innovation. To receive funding as a pilot project, new elements must be incorporated into the work. Existing activities and strategies of deradicalization cannot simply be continued without change. There is a legitimizing pressure to be innovative, even if in a particular case this is not even considered necessary by the organization. The ‘democracy law’, recently proposed in the catalog of the Cabinet Committee on Combating Racism and Right-Wing Extremism, which was intended to provide long-term funding for civil society actors in the field of right-wing extremism prevention, was therefore initially received positively. However, in political practice, the passage of the bill is delayed due to reservations of the CDU.

The second point of criticism concerns the fact that state funding depends on public attention to extremism. The state's willingness to provide funding for right-wing extremism prevention always comes when dramatic events occur, such as in the early 1990s, when a massive wave of violence against immigrants occurred. In the 2000s, as a result of 9/11, the focus shifted primarily to Islamism and was promoted accordingly. After the events of the last few years,

[9] The ‘Beutelsbach Consensus’ constitutes a minimum standard of civic and religious education in Germany. The consensus distinguishes political education from indoctrination. This means that participants in educational programs should not be manipulated, but trained to form their own independent judgments.

the focus is now back on right-wing extremism. However, these funding cycles do not correspond to reality. Right-wing terrorists like Stephan Ernst (the murderer of the politician Walter Lübcke) were already radicalized in the 1990s. This generation lives on, and even though public discourse may have become more quiet around its activities, it has not dissipated. Moreover, narrow definitions of right-wing extremism mean that not all forms of violence are recognized as political and cannot be dealt with accordingly. For example, the close link between violence against women or LBTQI and right-wing ideology is not yet adequately addressed in government programs (Agena & Rahner, 2021).

7. Conclusion

In the context of an increasingly dangerous threat posed by right-wing extremist violence in Germany, this report has examined the legal, institutional and political framework of the state's handling of radicalization and de-radicalization. In the first part, it was argued that the German state's modern-day understanding of democracy protection is closely linked to its historical-political interpretation of National Socialism as well as the anti-communist stance held by West Germany during the Cold War. From these experiences, the idea of state protection emerged, which preventively seeks to suppress "extremist" activity already before concrete criminal acts occur.

This preventive approach is accompanied by the possibility to restrict fundamental rights such as the rights to freedom of assembly, of expression and of religion, if the acts involved are assessed as a threat to the democratic order. Therefore, the approach is in strong tension with the constitutionally guaranteed fundamental rights in the Basic Law. However, various decisions of the Federal Constitutional Court show that parties in particular are very strongly protected, so that even the NPD, which is obviously linked to national socialist ideology, cannot be banned because it does not pose an immediate threat to democracy due to its low electoral success. The right to freedom of expression has also been protected time and again even when it has gone along with serious insults, which in turn attack the personal rights of those affected.

A major challenge currently exists in particular with regard to dealing with insults and threats in social networks. In the spring of 2021, the StGB was significantly tightened to make it easier to prosecute insults and threats on the Internet. However, due to protections of freedom of expression, there are still large legal gaps that are used by radical actors to spread hate. We therefore recommend further reflection on how hate speech on the Internet can be effectively combated (see annex IV).

In Germany, the prevention of extremism also relies heavily on the involvement of civil society. Since the 1990s, government programs have been continuously launched to provide project-based funding to local and nationwide NGOs with the purpose of strengthening democratic attitudes in society and reintegrating radicalized individuals. The challenges and flaws of this system for budget allocation were elaborated on the basis of two case studies for which civil society actors active in the fight against right-wing extremism and Islamism were interviewed. A major problem is the project-based funding structure, which leads to funding gaps and thus staff and competence losses. In addition, funding requirements push actors to keep creating new innovations instead of simply continuing functioning projects. For this reason, we

recommend establishing permanent funding for civil society structures, for example, within the framework of the Democracy Act, which has already been drafted but not yet adopted.

Moreover, we point critically to the narrow focus on extremists as operating by definition outside of the state, a vision that constitutes an overarching problem of the German approach to democracy protection as it leads to blind spots, overseeing extremist structures embedded within state authorities. Given the countless scandals in the past that have highlighted the existence and entanglement of extremists with intelligence and law enforcement agencies, we recommend greater transparency and independent monitoring of these agencies, as well as a differentiated political discourse on everyday racism and exclusion in public institutions. Extremism is not a problem of the margins, even if it perhaps manifests particularly violent there. Prejudice arises in the middle of society and is legitimized primarily by mainstream actors. The question of how to deal with the far-right AfD remains open and must be discussed further without falling into the commonplace idea that in democracies, all sides must be engaged with in dialogue.

For all the above-mentioned issues, there is a need for continuous scientific research. In particular, research on racism has been severely neglected in Germany for a long time and is now gradually being taken up by the German Centre for Integration and Migration Research (DeZIM), among others. Such research efforts need to be expanded and multiplied in order to be able to deal politically with the new challenges for German democracy in an evidence-based manner.

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ANNEX I: OVERVIEW OF THE LEGAL FRAMEWORK ON RADICALISATION & DE-RADICALISATION

Legislation title	Date	Type of law	Object/summary of legal issues related to radicalization	Link
Strafgesetzbuch (engl. Criminal Law Code)	Last reformulation on November 13th, 1998, last amendment in April 2021	Statute	The Strafgesetzbuch regulates the conditions and legal consequences of criminal offences.	https://www.gesetze-im-internet.de/englisch_stgb/index.html
Strafprozessordnung (engl. Code of Criminal Procedure)	Last reformulation on April 7th, 1987, last amendment in March 2021	Statute	The Strafprozessordnung regulates the rules for the conduct of criminal proceedings.	https://www.gesetze-im-internet.de/stpo/
Bundesverfassungsschutz-gesetz (engl. Act Regulating the Cooperation between the Federation and the Federal States in Matters Relating to the Protection of the Constitution and on the Federal Office for the Protection of the Constitution)	Last reformulation on 30th, 1990, last amendment in May 2021	Statute	The Bundesverfassungsschutzgesetz regulates the tasks and legal status of the Federal Office for the Protection of the Constitution (BfV) and the cooperation of the BfV with the constitutional protection authorities of the states in Germany.	https://www.gesetze-im-internet.de/bverfschg/BJNR029700990.html

Gerichtsverfassungsgesetz (engl. German code on court constitution)	Last reformulation on May 9th, 1975, last amendment in March 2021	Statute	The German code on court constitution regulates the court constitution of a part of the ordinary jurisdiction, namely the contentious civil jurisdiction and the criminal jurisdiction.	https://www.gesetze-im-internet.de/gvg/
Bundeskriminalamtgesetz (engl. Act on the Federal Police)	Last reformulation on May 25th, 2018, last amendment in June 2020	Statute	The Act on the Federal Police regulates the tasks of the Federal Criminal Police Office.	https://www.gesetze-im-internet.de/bkag_2018/
Luftsicherheitsgesetz (engl. Aviation Security Act)	Established on January 11th, 2005, last amendment in November 2019	Statute	The Aviation Security Act is designed to prevent aircraft hijackings, terrorist attacks on air traffic, and acts of sabotage against it.	https://www.gesetze-im-internet.de/luftsig/BJNR007810005.html
Vereinsgesetz (engl. Law on Associations)	Established on August 5th, 1964, last amendment in November 2020	Statute	The Association Act restricts the freedom of association from Article 9 (2) of the Basic Law .	https://www.gesetze-im-internet.de/vereinsg/BJNR005930964.html

NATIONAL CASE LAW

Case number	Date	Name of the court	Summary of legal issues related to radicalization	Link
1 BvR 2459/19	May 19th 2020	Federal Constitutional Court (Bundesverfassungsgericht)	In the proceedings 1 BvR 2459/19, a constitutional complaint against the order of the Higher Regional Court Stuttgart from September 20, 2019, was examined by the Federal Constitutional Court. The proceedings concerned a decision by the criminal courts on an insulting offense, in which the balancing of freedom of speech on the one hand and protection of the right of personality on the other was reviewed. The Constitutional Court confirmed the decision of the criminal courts that the personal honor of the public official had been unreasonably violated and that the insult was therefore not covered by the right to freedom of speech.	https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2020/05/rk20200519_1bvr245919.html;jsessionid=F5FF0A28A50C3C083657861F66010732.1_cid377
1 BvR 2397/19	May 19th 2020	Federal Constitutional Court (Bundesverfassungsgericht)	In the proceedings 1 BvR 2397/19, a constitutional complaint against the order of the Regional Court Mönchengladbach from January 8, 2018, was examined by the Federal Constitutional Court. The constitutional complaint protests a criminal court conviction for insult based on statements published on a public online blog about judges involved in family law proceedings. The Federal Constitutional Court confirmed the conviction for insult,	https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2020/05/rk20200519_1bv

			because the protection of honor in this case outweighs the fundamental right to freedom of opinion.	r239719.html
1 BvR 362/18	May 19th 2020	Federal Constitutional Court (Bundesverfassungsgericht)	In the proceedings 1 BvR 362/18, a constitutional complaint against the order of the Higher Regional Court Stuttgart from September 27, 2019, was examined by the Federal Constitutional Court. The Constitutional Court ruled that the criminal conviction for insult violated the fundamental right to freedom of speech, since it was not clear from the reasons for the verdict why the insult was only a concrete defamation without factual reference and was therefore no longer covered by the right to freedom of speech.	https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2020/05/rk20200519_1bvr036218.html
1 BvR 1094/19	May 19th 2020	Federal Constitutional Court (Bundesverfassungsgericht)	In the proceedings 1 BvR 1094/19 a constitutional complaint against the order of the Higher Regional Court Düsseldorf from March 27, 2019, was examined by the Federal Constitutional Court. The Constitutional Court ruled that the criminal conviction for insult violated the fundamental right to freedom of speech, because the reasons for the judgment do not sufficiently address the specific situation in which the statement was made and do not show why the interest in protecting the right of personality of the former Minister of Finance of North Rhine-Westphalia prevails.	https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2020/05/rk20200519_1bvr109419.html
2 BvB 1/13	January 17 2017	Federal Constitutional Court (Bundesverfassungsgericht)	In the proceedings, the Constitutional Court ruled on the constitutional admissibility of a party ban. It concluded that, despite the party's anti-constitutional goals and activities, the ban is inadmissible because there are currently no	https://www.bundesverfassungsgericht.de/SharedDocs/En

			concrete and substantial indications that make it appear possible for the NPD to materialize its antidemocratic political aspirations.	tscheidungen/DE/2017/01/bs20170117_2bvb000113.html
1 BvR 23/94; "Ausschwitz Lie" (Holocaust Denial)	April 13 1994	Federal Constitutional Court (Bundesverfassungsgericht)	The judgment concerned the question as to whether application of s. 5 no. 4 of the Assembly Act (Versammlungsgesetz) to assemblies at which denial of the persecution of Jews is to be expected is in violation of Article 5.1 sentence 1 of the Basic Law. The Constitutional Court saw this as a justifiable restriction on free speech. The Court noted that the scope of the freedom of speech clause predominantly covers opinions and not statements of fact.	https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/1994/04/rs19940413_1bvr002394.html

Civic Rights of the Basic Law

	Constitutional provisions
Minority rights	Article 1 GG [Human dignity – Human rights – Legally binding force of basic rights] Article 2 GG [Personal freedoms]

	Article 3 GG [Equality before the law] Article 16 GG [Citizenship – Extradition] Article 16a GG [Right of asylum]
Freedom of religion and belief	Article 4 GG [Freedom of faith and conscience]
Freedom of expression	Article 5 GG [Freedom of expression, arts and sciences]
Freedom of assembly	Article 8 GG [Freedom of assembly]
Freedom of association/political parties etc.	Article 9 GG [Freedom of association]
Surveillance laws	Article 10 GG [Privacy of correspondence, posts and telecommunications] Article 13 GG [Inviolability of the home]

Right to privacy	Article 10 GG [Privacy of correspondence, posts and telecommunications] Article 13 GG [Inviolability of the home]

ANNEX II: LIST OF INSTITUTIONS DEALING WITH RADICALISATION & COUNTER-RADICALISATION

Authority	Tier of government	Type of organization	Area of competence in the field of radicalization& deradicalization	Link
Cabinet Committee for the fight against racism and right-wing extremism	National	Cabinet Committee	Prevention of right-wing extremism and racism	https://www.bundesregierung.de/breg-en/news/cabinet-right-wing-extremism-1820094
Bundesministerin für Familie, Senioren, Frauen und Jugend (engl. Federal Ministry for Family Affairs, Senior Citizens, Women and Youth)	National	Ministry	Prevention of extremism and promotion of democracy; responsible for state program "Live Democracy'	https://www.bmfsfj.de/bmfsfj/meta/en
Bundesministerium des Innern, für Bau und Heimat (engl. Federal Ministry of the Interior, Building and Community)	National	Ministry	Counter-terrorism, prevention of extremism, protection of the constitution	https://www.bmi.bund.de/EN/home/home_node.html
Bundesamt für Verfassungsschutz (engl. Federal Office for the Protection of the Constitution)	National	Security Agency	Protection of the constitution	https://www.verfassungsschutz.de/DE/home/home_node.html
Landesamt für Verfassungsschutz (engl. State Office for the Protection of the Constitution)	Regional	Security Agency	Protection of the constitution	

Generalbundesanwalt beim Bundesgerichtshof (engl. Public Prosecutor General of the Federal Court of Justic)	National	Prosecutor of the Federal Government	Prosecution of state security, including terrorism	https://www.generalbundesanwalt.de/EN/Home/home_node.html;jsessionid=6526C96EA257F5A92987A5C732EB2EC9.intranet242
Bundeskriminalamt (engl. Federal Criminal Police Office)	National	Security Agency	Protection of internal security	https://www.bka.de/EN/Home/home_node.html
Landeskriminalamt (State Office of Criminal Investigations)	Regional	Security Agency	Protection of regional security	

ANNEX III: BEST PRACTICES / INTERVENTIONS / PROGRAMMES

Name	Date	Agents	Approach	Scale
Action Program against Aggression and Violence (AgAG)	1992	The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth and civil society	Integrative	Nationwide: regional focus on eastern Germany
Youth for tolerance and democracy - against right-wing extremism, xenophobia and antisemitism	2001 - 2006	The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth and civil society	Integrative and preventive	Nationwide; regional focus on east Germany
Support of counselling networks – mobile intervention against right-wing extremism	2007 - 2010	The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth and civil society	Integrative and preventive	Nationwide
Diversity feels good. Youth for Diversity, Tolerance and Democracy	2007 - 2010	The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth and civil society	Integrative and preventive	Nationwide
Initiative Strengthen Democracy	2010 - 2014	The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth and civil society	Integrative and preventive	Nationwide

Promoting Tolerance - Strengthening Competence (TFKS)	2011 - 2014	The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth and civil society	Integrative and preventive	Nationalwide
Live Democracy!	2015 – until today	The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth and civil society	Integrative and preventive	Nationwide

ANNEX IV: POLICY RECOMMENDATIONS

1) Development of strategies for combating and preventing extremist elements embedded within state authorities, especially the security authorities. Establishment of independent monitoring bodies for secret services, police and military.

2) Greater sensitivity and action against institutional racism and hostile attitudes in the center of society. Further reflection on effective measures against hate and incitement online.

3) Establishment of long-term funding structures for civil society engagement in the area of de-radicalization.

4) Independence of funding structures from public attention cycles in the area of de-radicalization.

5) Long-term funding and structural expansion of scientific research on right-wing extremism, radicalization, everyday racism and hate speech.

DeRadicalisation
in Europe and Beyond: Detect, Resolve, Reintegrate

De-radicalisation and Integration: Legal and Policy Framework in Hungary

Hungary/Country Report

WP4

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Roland Fazekas – Glasgow Caledonian University

Horizon 2020
De-Radicalisation in Europe and Beyond: Detect, Resolve, Re-integrate
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List of Abbreviations

ECHR: European Convention on Human Rights

ECtHR: European Court of Human Rights

FIDESZ: Fiatal Demokraták Szövetség (Alliance of Young Democrats)

LGBTQI+: lesbian-gay-bisexual-transgender-queer-intersex

MIÉP: Magyar Igazság és Élet Pártja (Hungarian Justice and Life Party)

MSZP (Hungarian Socialist Party)

NGO: Non-governmental Organisation

TASZ: Társaság a Szabadságjogokért (Hungarian Civil Liberties Union, HCLU)

TEK: Counter-Terrorism Centre (Terrorelhárítási Központ)

UNOCT: United Nations Office of Counter-Terrorism

About the Project

D.Rad is a comparative study of radicalisation and polarisation in Europe and beyond. It aims to identify the actors, networks, and wider social contexts driving radicalisation, particularly among young people in urban and peri-urban areas. D.Rad conceptualises this through the I-GAP spectrum (injustice-grievance-alienation-polarisation) with the goal of moving towards measurable evaluations of de-radicalisation programmes. Our intention is to identify the building blocks of radicalisation, which include a sense of being victimised; a sense of being thwarted or lacking agency in established legal and political structures; and coming under the influence of "us vs them" identity formulations.

D.Rad benefits from an exceptional breadth of backgrounds. The project spans national contexts including the UK, France, Italy, Germany, Poland, Hungary, Finland, Slovenia, Bosnia, Serbia, Kosovo, Israel, Iraq, Jordan, Turkey, Georgia, Austria, and several minority nationalisms. It bridges academic disciplines ranging from political science and cultural studies to social psychology and artificial intelligence. Dissemination methods include D.Rad labs, D.Rad hubs, policy papers, academic workshops, visual outputs and digital galleries. As such, D.Rad establishes a rigorous foundation to test practical interventions geared to prevention, inclusion and de-radicalisation.

With the possibility of capturing the trajectories of seventeen nations and several minority nations, the project will provide a unique evidence base for the comparative analysis of law and policy as nation states adapt to new security challenges. The process of mapping these varieties and their link to national contexts will be crucial in uncovering strengths and weaknesses in existing interventions. Furthermore, D.Rad accounts for the problem that processes of radicalisation often occur in circumstances that escape the control and scrutiny of traditional national frameworks of justice. The participation of AI professionals in modelling, analysing and devising solutions to online radicalisation will be central to the project's aims.

Executive Summary

This report shreds light on the constitutional principles of Hungary and how the legal system deals with the advanced level of radicalisation in the country. Most importantly, it is widely discussed in the report that there is an element of politics in relation to (the lack of) national de-radicalisation projects. In order to demonstrate how the regime change played crucial role in the emergence of far-right political parties, we pick up the thread in the 1990's. While the considerably short era of capitalism since 1989 gave a chance to the society to build a democracy in which the people are no longer threatened by the political elite, this report establishes the current governing party Fidesz as a new driver of radicalisation in Hungary. As our case studies demonstrate, legislation and the media is often used to further radicalise the society, whereas the authorities lack those sets of tools that could potentially stop aggression and hatred against minority groups. Since the current legal system was re-worked around 2010 when the Fidesz party won the national elections for their second time, there is a radical conservative, often far-right influence that encompasses the Hungarian Constitution and the legislative system in general.

Introduction

Over the past decades, populist and radical actors have mobilized through electoral and protest channels, and succeeded in radicalizing 'mainstream' politics on the European continent and beyond (Gattinara, 2020). The last eleven years of the Hungarian politics created a polarised society based on a facade of core nationalist and Christian values, while targeting minorities in order to maintain their populist agenda and consolidate their voter base.

This report aims to identify the paradigm shift towards the right-wing by the governing Fidesz party and argue that the consequence of the country's illiberal turn leads to further radicalisation, while the current regime neglects de-radicalisation initiatives. With supermajority legislative powers, the Fidesz government has changed the long-lasted principles of reactionary law-making with twisted constitutional values and enacted discriminatory laws so that the Hungarian legal system meets their nationalist conservative values. This report focuses on the legal side of radicalisation and de-radicalisation in the country, while supporting the argument that the state itself is the main driver of the right-wing radicalisation. This is demonstrated through a set of case studies, court cases and legislative flaws of the past decade in order to establish that far-right extremism increased during the Fidesz-led government.

For this report, we have conducted eight interviews with stakeholders about radicalisation. Their input shaped the report and their views and experiences are incorporated into the text. We have found that most of the stakeholders such as politicians, political scientists, researchers and NGOs believe that the current situation of a radicalised society is provoked by the Fidesz government via a set of legislative measures and political narrative. The overarching quest of enemy creation fits into the populist agenda of Fidesz. By targeting minorities, ethnic groups and religions they incite hatred within the society, although, radicalisation is not visible in hate crime statistics. We conclude that the Fidesz led and 'managed' radicalisation in Hungary.

I. The Socio-Economic, Political and Cultural Context

Right-wing extremism is currently the most applicable form of radicalisation in the Hungarian context (Gyollai, 2021). Although, this report follows the political, legal and social issues of increasing radicalisation patterns in Hungary only since 2003 (the emergence of the Jobbik party), the regime change of 1989 must be mentioned in order to introduce a historical perspective of right-wing radicalism. While the end of the communist regime brought deep changes within the society, it was also a contributing factor to the emergence of right-wing extremism. The discourses of radical political parties such as MIÉP and Jobbik (Movement for a Better Hungary, Jobbik Magyarországért Mozgalom) were partly based on the grievances and injustices of the long-lasting Soviet regime, with nationalist, irredentist and anti-communist political narratives. Both MIÉP and Jobbik achieved great support[1] from voters, showing that the Hungarian political scene was longing for a change and the emergence of smaller, critically thinking parties could have been interpreted as a start of a new era.

There can be two arguments of how the regime change contributed to the current issue of polarisation and radical right-wing extremism in Hungary.[2] Firstly, after 1989, voters became disappointed in the first decade of the 'free' political scene of the country. During the communist era, considerable prosperity was thriving with very low rates of unemployment, after the regime change, privatisation policies of the government has failed utterly. While a small percentage of the society had the chance to make their fortune within the frames of the newly forming capitalist era, the majority were not lucky during the 'chaos' of these years. This process started to disconnect the society by using wealth and fortune as the main difference. According to one of our interviewees, the recent period (32 years) of capitalism in Hungary is one of the reasons for the current state of polarisation within the society. Also, it needs to be mentioned that during the Soviet Regime, the Roma in Hungary were an integrated

[1] The success of the Jobbik Party was quite abrupt: in 2009, they have won 3 European Parliament mandates, while in the next year, they got into the Hungarian Parliament with 16% of the votes, by which Jobbik became one of the most supported right-wing party in the EU.
[2] Based on the interview with János Molnár, researcher of Friedrich Ebert Stiftung

layer of the society, whereas today, Roma communities live in poverty and often are segregated.

While the today known polarisation and radicalisation in Hungary had not become part of the mainstream political scene until the 2000s,[3] the ideologies and narratives of the far-right were formulated after the regime change, when MIÉP party was founded in 1993. The re-emergence of the far-right extremism in the 21th century was closely connected with the protests against the MSZP (Hungarian Socialist Party) government in September 2006. As it was discussed in the D.Rad report 3.1 on the Stakeholders of Radicalisation in Hungary (Gyollai, 2021), the leaked speech of then Prime Minister Ferenc Gyurcsány polarised the society and eventually led to protests nationwide. A new generation of right-wing extremist organizations engaged in these protests, mostly the Sixty-Four Counties Youth Movement (Hatvannégy Vármegye Ifjúsági Mozgalom – HVIM), an irredentist association founded in 2001, and also the new Movement for a Better Hungary (Jobbik Magyarországért Mozgalom), founded in 2003 took an active part (Mares, 2018). Several demonstrations in Budapest turned violent; it was mostly football hooligans and members of racist groupings that clashed with the police.

The demonstrations essentially led to the establishment of the Hungarian Guards (Magyar Gárda), a para-military group associated with the Jobbik party. The Hungarian Guards constituted the first far-right related terrorism phenomenon in Hungary in the 21th century. Despite the fact that the group avoided the use of direct physical violence, it manifested a potential threat (Mares, 2018). The Roma Killings in 2008-2009 were committed by former members of the association, who were later all imprisoned for murder, which was further aggravated by the hate crime element. The Hungarian Guards were dissolved,[4] however, the phenomenon itself gave rise to concerns about the rates of radicalism in Hungary.

While the Fidesz (Allience of Young Democrats) government was established as a liberal, pro-democracy party, their political discourse's paradigm shifted by the year 2010, after winning the national elections. The Fidesz became a right-wing populist

[3] The right-wing movement became part of the political scene in 1998, when MIEP party won 5,5% of the votes and gained parliamentary seats.
[4] Fővárosi Bíróság (District Court of Budapest) 2008. december 16. 19.P.26.453/2007/126.

and conservative-nationalist party, thus, it took over the place of the Jobbik party, which now represents a mild right-wing opposition party. The political discourse by the Fidesz government is built on populist trends. Their narratives have already scapegoated refugees during the migration crisis, liberals, the elite, political opponents, the European Union and the LGBTQ+ community in order to gain political power and increase they influence in Hungary. The enemy-creation of the Fidesz will be discussed in the case studies of the report. Often the truth became a casualty of Fidesz's propaganda campaigns. Nativism, racism, homophobia and xenophobia are indisputably increasing in the country, which brings us to assess and evaluate how important de-radicalisation is.

II. The Constitutional Organisation of the State and Constitutional Principles on De-radicalisation Field of Analysis

1. The Emergence of the Fundamental Law and the decline of the Rule of Law

Hungary has not been a subject of frequent constitutional amendments in a historical perspective. After the WWII, in 1949 the communist government adopted the first written Constitution which led to the creation of the Hungarian People's Republic. This document was heavily amended during the regime change, although it was not entirely rewritten; thus, Hungary became the only former Soviet Union country in Eastern Europe without a new Constitution.

With the supermajority, Hungarian Leading Party FIDESZ-KDNP, led by Prime Minister Viktor Orbán have fundamentally replaced the previous constitution (the 1949 Constitution) with the 2011 Fundamental Law of Hungary (Magyarország Alaptörvénye), and comprehensively rewrote several hundred other pieces of

legislation, including all cardinal laws[5] (Tóka, 2014). The bulk of these changes addressed social and economic issues, but the philosophy that underlined them put a great deal of emphasis on allowing the legislative majority and the executive to make decisive choices with as little constraint as possible, leaving core constitutional principles in a vulnerable position (Tóka, 2014). During the years of the Fidesz supermajority government, it has been argued that the Fundamental Law of Hungary is changed too frequently and always in line with the Fidesz policies in order to create legitimacy.[6] The principal effect of the changes introduced through this whirlwind of constitutional and statutory amendments was to concentrate power in the Fidesz government's hands.

Even though the Hungarian Fundamental Law creates a new, explicit principle on preserving the separation of powers (Paragraph 1) Article C)), Hungary has arguably become an authoritarian neoliberal[7] country through a set of legislative amendments that undermined the rule of law and the democratic values of the country. Defining Constitutional courts are one of the main features of checks and balances of a state, they deal primarily with constitutional law cases and have authority to declare laws unconstitutional. In general, constitutional courts of democratic countries ensure that the constitutional order and the fundamental rights are preserved and guaranteed by the Parliament. While the Hungarian Constitutional Court shall be entirely impartial, most of the judges were elected and appointed by the majority government party; whereas candidates nominated by the opposition were quickly eliminated. This process began with the alteration of the system for nominating Constitutional Court justices, giving governing parties the exclusive power to nominate and subsequently elect justices; meaning that under Viktor Orbán's right-wing regime, constitutional checks-and-balances of the constitutional court have become non-existent (Halmai, 2018). This attack against the independence of the Constitutional Court was followed

[5] Cardinal Laws (*sarkalatos törvények*) in Hungary are higher in hierarchy than other laws (except for the Constitution). These have higher importance and are meant to be harder to amend them (two-third of the votes from the present representatives are needed).
[6] HCLU's Analysis of the Seventh Amendment of the Fundamental Law, Online: https://hclu.hu/en/articles/hclus-analysis-of-the-seventh-amendment-of-the-fundamental-law
[7] Fabry (2018) argues that Fidesz has created a fusion between authoritarianism and neoliberalism by 'root-and-branch' transforming the Hungarian society. The author confirms that Fidesz "skilfully combines some of the central tenets of neoliberalism (maintenance of a balanced budget, introduction of a flat tax system and the pursuit of regressive social policies) with 'ethnicist–populist' measures that seek to co-opt, coerce or manufacture consensus among subaltern groups in society against alleged 'enemies' of the Hungarian nation."

by the Fourth Amendment to the new constitution in 2013, which annulled the entire case law of the Constitutional Court between the years 1990-2011.[8] The Fourth Amendment of the Fundamental Law stirred debates even within the European Union (hereafter EU) due to the undermined rule of law in the country which posed a clear risk of breach of core values of EU. The European Parliament argued that the major changes to Hungary's legal framework have curbed the independence of the judiciary, interfered with the administration of justice, forced nearly 300 judges into early retirement, and imposed limitations on the Constitutional Court's ability to review laws and complaints.[9] These implications have led to an infringement procedure by the European Commission, and also a European Court of Justice case,[10] which declared the discrimination at the workplace on the grounds of age unlawful based on the EU rules on equal treatment in employment.[11]

The rule of law had been undermined through several amendments over the years. It can be argued that most of the changes were reactionary and in line with Fidesz's agenda. During the refugee crisis, the Hungarian government's narrative became hostile towards migrants, therefore, the Parliament strengthened the protection of Hungarian and Christian values in the Fundamental Law.[12] The Stop-Soros[13] bill contained provisions that criminalised illegal border crossings and drastically reduced the funding of NGOs dedicated to aid refugees. Following the Stop-Soros bill, Fidesz targeted the Central European University (CEU) by drafting a new legislation in relation to the operation of foreign universities in Hungary. As CEU was founded by George Soros, who was depicted by Fidesz media propaganda as the person who manufactured the refugee crisis in order to flood Hungary with migrants, the university had no other alternative than to move its campus entirely to Vienna, Austria. Furthermore, as part of their campaign against the LGBTQ+ community, the

[8] "*Decisions of the Constitutional Court made before the entry into force of the Fundamental Law shall be repealed. This provision shall not affect the results of those decisions*." Fourth Amendment of the Fundamental Law of Hungary, 2013
[9] See Human Rights Watch: https://www.hrw.org/news/2013/09/18/hungary-constitutional-change-falls-short
[10] European commission v. Hungary, case C-286/12, 7 June 2012
[11] Directive 2000/78/EC
[12] "*In Europe, there are ongoing processes that may change the traditional cultural image of the continent. There is no Europe and no Hungary without the Christian culture. Protecting the universal values of Christian culture is a priority, and that is why the state's duty to protection shall be included in the Fundamental Law."*
[13] The 'Act on the social responsibility of organisations supporting illegal migration; the Act on the immigration financing duty; and the Act on immigration restraining orders. The name of the Bill refers to George Soros, a Hungarian-American philanthropist accused by the ruling party Fidesz of "encouraging and facilitating illegal migration to Hungary".

Constitution was changed in order to include homophobic and anti-transgenderism.[14] The Seventh Amendment made homelessness illegal by forbidding "habitual residence in public spaces", which was considered a direct violation of human rights. Even though the decision No. 38/2012. (XI. 4.) AB of the Constitutional Court of Hungary was clearly of the opinion that the criminalization of homelessness violates the Fundamental Law, the amendment is still incorporated in the constitution. In the culture of the right-wing Fidesz government, constitutionalism and the rule of law has lost their values due to the frequent changes of the Fundamental Law and the heavy discriminatory measures enshrines within.

2. Constitutional principles regarding radicalisation

Neither the Hungarian Fundamental Law nor any other cardinal laws provide framework for de-radicalization or 'disengagement' of violent extremists or radical groups and there are no constitutional principles that aims to prevent people from being drawn to radicalisation. As there is a lack of legal framework for laws in Hungary which the *D.Rad* project could build research upon, this report takes a different turn and follows the argument of WP3.1 that the main stakeholder of radicalisation is almost entirely political and state-driven (Gyollai, 2021).

In Hungary, human rights protections, such as the European Convention on Human Rights (ECHR) and the Universal Declaration of Human Rights were originally incorporated into domestic law after the Regime Change,[15] and are currently incorporated in the Fundamental Law of Hungary. The Fundamental Law provides framework for the freedom of speech; in which it stipulates that exercising freedom of speech is limited when it is aimed at violating the dignity of the Hungarian nation itself; national, ethnic or religious communities (Article IX). While conducting interviews for this report, we discovered that there is an ambiguity regarding freedom of speech and incitement to hatred. A recent court case demonstrates how the 'legal double standard' operates within the frameworks of freedom of speech and hate speech. According to

[14] "The mother is a woman; the father is a man." Article L of the Hungarian Fundamental Law
[15] 1993. évi XXXI. Törvény, az emberi jogok és az alapvető szabadságok védelméről szóló, Rómában, 1950. november 4-én kelt Egyezmény és az ahhoz tartozó nyolc kiegészítő jegyzőkönyv kihirdetéséről

the Article IX (5) of the Fundamental Law,[16] freedom of speech must not be aimed at violating the dignity of the Hungarian nation, national, ethnic, racial or religious communities. In the court case,[17] the journalist was sentenced to pay damages because in his article (written in the light of the Fidesz government's anti-migrant propaganda) he used the expressions 'filthy Hungarian migrants' and 'Hungarian bandits'. The publicist referred to the historical era of the 10th century when Hungarians plundered and pillaged Western Europe and also to the fact that Hungarians might also be considered migrants in the West; putting the Fidesz's anti-migrant propaganda to another perspective. On the other hand, when Fidesz politicians or PM Viktor Orbán himself offends the Roma population or migrants,[18] the police fail to investigate. This can be understood as a double standard regarding freedom of speech in Hungary: in case the government offends a minority group, it is constituted as freedom of speech; however, when opposition politicians or media use similar phrasing, they are being prosecuted for violating the dignity of a nation, as incitement to hatred or hate speech. This brings us to the possibility that the state has already ensured its legal impunity by taking over the police, the prosecutor's office, and the Constitutional Court, none of which would authorise investigations into the governing Fidesz party or its members. Authorities empowered to intervene if state facilitates such radicalising narrative rarely or never do so. Another example could be the Media Council (Médiatanács)[19] which has not issued fines on Hungarian Public Broadcast Media (governed by pro-government officials) in the last ten years, whereas liberal or opposition owned media outlets face fines regularly.[20] Similarly, opposition political leaders receive fines during sessions in the Parliament for offending the Fidesz party members. Jobbik leader, Peter Jakab received a 9.8 million HUF fine (approximately 24,000 GBP)[21] for calling PM Orban and Fidesz representatives 'dandy'.[22] These fines are handed out by

[16] "The exercise of freedom of expression must not be aimed at violating the dignity of the Hungarian nation, national, ethnic, racial or religious communities. Persons belonging to such a community are entitled, as defined by law, to assert their claims in court against the expression of an opinion that offends the community, for violation of their human dignity."
[17] Pfv. IV. 20. 199/2020/7. Kúria
[18] See Viktor Orbán's speech: https://hvg.hu/itthon/20180301_Video_Orban_nyiltan_fenyegeti_Miskolcot_es_migransozza_a_romakat on the Roma community, calling them migrants in Hungarian cities, threating the population of a large Hungarian city with the establishments of no-go zones and ghettos.
[19] Media Council monitors the lawful operation of Hungarian media service providers. Critics say its operational system gives the government de facto control over the media landscape in the country.
[20] See Media1: https://media1.hu/2021/01/20/rtl-hirado-mediatanacs-fovarosi-torvenyszek-birsagolas/
[21] See Index: https://index.hu/belfold/2021/05/24/belfold-parlament-birsagok-jakab-peter-szel-bernadett-tordai-bence-kover-laszlo/
[22] '*ficsúr': dandy, dandy boy, beau or fop*

current speaker of the National Assembly of Hungary, Laszlo Kover, founding member of the Fidesz party. Yet another example to show how the freedom of speech of the opposition is curtailed and that the same rules does not apply to the privileged Fidesz party members, who had not received any fines in the last years.

While the freedom of religion is protected in the Fourth Amendment of the Fundamental Law, Islamophobia and Antisemitism are apparent in Hungary. The refugee crisis had given mainstream politicians an opportunity to generate and exploit the public racist, xenophobic and ultra-nationalist urges of the sort that had previously been the exclusive preserve of the extreme right (Kalmar, 2020). The government's anti-refugee campaign was built on xenophobia and it targeted Islam by depicting it as a "violent" religion. Furthermore, the billboard campaign also targeted George Soros, a Hungarian-born American billionaire investor and philanthropist by stating that he wishes to "muslimise" Europe; some of which attacks contributed to antisemitism.[23] Targeting the EU, religions, the West, foreigners and minorities has been an overarching quest for the Fidesz in the past ten years.

Hungarian political discourse has targeted EU values such as: democracy, liberalism and open-societies. The Fidesz government enacted their most recent, controversial anti-paedophile-law based upon a similar anti-LGBTQI+ legislation from the Russian government in 2013, which will be further discussed as a case study of the report. The anti-EU, anti-gay, anti-liberal law making of the Hungarian government has further increased Euro-scepticism in the country, further radicalising the society against an "enemy."[24]

[23] See: Al-Jazeera: https://www.aljazeera.com/opinions/2017/8/9/when-anti-semitism-and-islamophobia-join-hands
[24] See: The Conversation: https://theconversation.com/hungarian-anti-lgbtq-law-is-a-political-tactic-for-orban-162811

III. The Relevant Legislative Framework of Radicalisation

1. Terrorism related legislative framework

Hungary is a special case in relation to the prevention of radicalisation. In Hungarian legal context, law-making usually further polarises the nation and there is no policy or legal framework for preventing people from being drawn into radicalisation. Although, Hungary law incorporated the United Nations Office of Counter-Terrorism (UNOCT) agenda as well as the EU's 2017 Framework Directive on Combatting Terrorism, there is no or very little mention besides jihadist extremism and terrorism; tackling far-right radicalism is not an apparent agenda of the government.

There are considerably harsh laws that penalise terrorism. In 2010, the Fidesz government established the Counter-Terrorism Centre (*Terrorelhárítási Központ*, hereafter: TEK), with the aim to detect, prevent and interrupt any terrorism related activity in the country. The well-funded, well-equipped agency is led by Brigadier General János Hajdu, who had been the personal bodyguard of Viktor Orbán before he was appointed Prime Minister for the second time in 2010. At the time of the establishment of TEK it was argued that PM Orbán created his personal secret police that any authoritarian ruler would love to have (Scheppele, 2012). Its powers have been added slowly but surely through a series of amendments to the police laws, pushed through the Parliament at times when it was passing hundreds of new laws. The promotion and protection of human rights and the rule of law in contrast with national security and the operation of TEK are not in line with each other in Hungary. There have been numerous concerns raised for possible human rights violations in relation to the operation of the agency.

The Article 6 of the Hungarian Fundamental Law recognizes the right to privacy (paragraph 1.) and the right to protection of personal data (paragraph 2.). Regarding surveillance for national security purposes, for the Counter-Terrorism Centre, there is no requirement for prior judicial authorisation. However, the Constitutional Court did not find the lack of judicial authorisation contrary to the Hungarian Constitution.[25] In

[25] Hungarian Civil Liberties Union (TASZ) The Right to Privacy in Hungary

a 2016 ECtHR case, the court held that it was a violation of Article 8 of the ECHR (private and family life) as there were insufficient legal safeguards to ensure against abuse.[26]

The Criminal Code covers terrorism related offences which carry a minimum sentence from 10 years up to life imprisonment. According to the GDU database,[27] between 2008 and 2021, seven terror incidents happened in Hungary, six of them were committed by unknown perpetrator groups and only one incident involved fatal casualties. Out of the six attacks, one was committed by a Neo-nazi group and another was linked to the infamous 'Roma Killings' incident, which was committed by far-right ideologists. Even though the Hungarian legal system takes terrorism very seriously, both the political narrative and legal framework focuses on foreign terrorism, ignoring far-right extremism – as a potential threat to the country – entirely.

2. Hate crimes

Regarding hate crimes, the Hungarian Criminal Code follows a mixed solution. One of the rarest solution to incorporate hate crimes to the criminal system can be found in Hungary: an act motivated by prejudice constitutes a *sui generis* fact, which aggravated circumstance is separated from criminal offense itself. The legislator builds on an existing fact (most often: theft, harassment, bodily harm, vandalism, etc.) and essentially redrafts it by inserting prejudicial motivation (Körtvélyesi, 2012). Therefore, prejudice and racist motive became an aggravating circumstance. The special part of the Hungarian Criminal Code provides for the punishment of hate crimes, such as violence against a member of a specific community, incitement against minorities, etc., under *sui generis* statutory facts. However, in the case of offences determined in addition to the *sui generis* facts, an offense for a vile reason is a circumstance which classifies the offense as more serious.[28] Crimes committed for a '*vile*'[29] reason implies

Stakeholder Report Universal Periodic Review 25th Session – Hungary
[26] Szabó and Vissy v. Hungary (37138/14)
[27] See ODIHR: https://hatecrime.osce.org/hungary
[28] Criminal Code 2012, C. These crimes: murder [Btk. Section 160 (2) (c)]; bodily harm [Btk. Section 164 (4) (a) and (6) (a)]; violation of personal freedom [Btk. Section 194 (2) (b)]; slander [Btk. Section 226 (2) (a)]; subordinate violation of [Btk. Section 449 (2) (a)].[28]
[29] "aljasságból"

a heavier punishment for acts motivated by racism or other hate motives; hence, hate crime is considered as an aggravating circumstance, rather than an offence itself.

Nevertheless, the legal framework in Hungary would make it possible for the authorities to effectively tackle hate crimes, systemic failures can be detected when it comes to the implementation and application of the law in cases of hate crimes against members of vulnerable groups. The most typical systemic failures are regular under-classification of hate crimes, regular failures on the part of the police to undertake law-enforcement measures, failures of the authorities to take investigative steps. For instance, in the case of RB v Hungary,[30] the ECtHR found that Hungarian authorities failed to investigate the hate-crime element and the racist motive.

Statistics in relation to hate crimes in Hungary have a counter-intuitive nature. Statistically, hate crime rates in Hungary are incredibly low in comparison to other European countries. The fundamental problem with the system is that the classification of criminal offenses depends solely on how authorities classified them. Criminal authorities must take into account indicators of prejudice (bias) when detecting and investigating of crimes, with the aim of eliminating and responding effectively to racism, racial discrimination, xenophobia and related intolerance.[31] The main reason why statistics do not contain hate crimes can be derived from the fact that there is no de facto 'hate crime' offence in the Hungarian Criminal Code, it is only an aggravating circumstance. In contrast, for instance, in the United Kingdom, hate crime itself constitute as an offence for which perpetrators can be prosecuted for,[32] while the Hungarian legal system does not allow prosecution on the mere merit of ''only' hate crimes. The only way hate crimes can be listed in statistics in Hungary is when police officers include them to their reports. Hate crimes not being properly recognised and reported by the authorities could contribute to unreported hate crimes, leading to incorrect statistics and untraceable rates of radicalism in the country.

While the Hungarian Criminal code meets the requirements of the Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law, in reality, crimes

[30] Application no. 64602/12
[31] OSCE Hate Crime Report on Hungary, Online: https://hatecrime.osce.org/hungary
[32] See: https://www.cps.gov.uk/crime-info/hate-crime

targeting minority groups are usually prosecuted as regular offences without the hate crime element. The assistance and support provided by the state for victims of hate crimes are also inadequate. In terms of prevention the authorities lack effective measures to map the nature and scale of the issue, including because they do not collect data on hate crimes, thereby hampering their ability to identify trends and craft relevant policy responses.[33]

IV. The Relevant Policy and Institutional Framework of Radicalisation

Whereas the Equal Treatment Act 2003[34] states that Hungarian state and its bodies must not discriminate on the bases of gender, race, sexual orientation and nationality, discriminatory law-making has been mainstreamed during the past decade. While conducting interviews as part of this report, we identified an underlying issue regarding radicalisation drivers in Hungary. According to stakeholders, the political discourse and narrative of the Fidesz government changed radically since the refugee crisis, during which legislation became hostile against irregular migrants. Whereas the government had dismantled human rights protection by filling the leading positions of the judiciary and the executive branches, the state itself became impugnable. By holding 90 per cent of the media platforms,[35] the perspective of the Fidesz party is predominant in country and there are no checks and balances for their media representation since media authorities that could potentially prevent harmful content to be distributed (e.g. the Media Council) are also in the hands of the government. We establish the hate-inciting, xenophobic, Euro-sceptic and homophobic political narrative by the Fidesz party as 'managed radicalisation'.

[33] Amnesty International, 'Violent Attacks against the Roma in Hungary' Online: https://www.amnesty.org/download/Documents/40000/eur270012010en.pdf
[34] 2003. évi CXXV. Törvény az egyenlő bánásmódról és az esélyegyenlőség előmozdításáról
[35] See Telex: https://telex.hu/english/2021/03/23/orbans-influence-on-the-media-is-without-rival-in-hungary

This means that while there are very low numbers of officially documented hate crimes or acts of terrorism that could be linked to radicalisation, people are encouraged by the government's political narrative to be open about their hate against the 'others', may them be foreigners, refugees, members of the LGBTQI+ community, Roma or any other minority. The externalization of the populist 'them and us' dichotomy allowed a strategy to maintain, or even radicalize populist discourse in government position (Hegedus, 2019). The 'openness' of the society about disliking the 'others' has been evolving since 2010. As the narratives and values of the government are mostly nationalist, conservative and often far-right, people feel encouraged to express their dislike for minorities. Even though the Fidesz party does not organise anti-minority marches etc. directly, it can still be established that they are the main drivers of radicalisation and political polarization via political discourse and anti-minority law making that essentially enables people to express their dislikes for minorities. Since politically targeting minority groups are common in Hungary, part of the society is encouraged to reflect radical views in their everyday lives. Therefore, racism and discrimination became a common topic in Hungary which fuels radical views nationwide.[36]

This state-led radicalisation primarily manifests in legislative measures. The most recent draft of the Ninth Amendment of the Fundamental Law sets core 'Christian, conservative' values to the constitution, as it determines that the 'children have right to be brought up according to their birth-gender'. This constitutes anti-transgender legislation, while transgendered people have already suffered for curtailing their rights before. Legislations targeting same-sex couples and transgenderism were drafted during the coronavirus pandemic, while the Fidesz government had emergency powers to be able to govern during the health-crisis. These powers were misused by changing the electoral laws and the Constitution twice as well. The government sets an example on how to eliminate the opposition and those who represent different set of values than the Fidesz.

[36] Information received during the interviews with József Kárpáti (Háttér Társaság), Attila Szabó (TASZ) and András Kováts (Menedék Egyesület)

Out of eight interviews with stakeholders of de-radicalisation in Hungary such as lawyers, NGO officials, political scientists and politicians, we concluded that the Fidesz party is the main driver of radicalisation. Through political discourse and discriminatory law-making the government targets minority groups such as the Roma, migrants or most recently, the LGBTQI+ community in order to achieve political gain and establish their nationalist, Christian facade, which is in reality an anti-democratic, far-right political agenda. 'Managed radicalisation' is a term that collectively summarises how the state – led by majority party Fidesz – incites radicalisation and polarisation in order to consolidate its voter base and gain popularity. The right-wing Fidesz propaganda currently targets the LGBTQ+ community and liberals in the media, who are being scapegoated by the government as groups of Western value-system, who aim to undermine nationalism, Christianity and Hungarian values. During the writing of this report, the Fidesz government has successfully passed a new, controversial bill[37] through the Parliament, claiming to install stricter action against offenders of paedophilia, which will be further discussed as a case study in order to confirm the government's status as stakeholder regarding radicalisation in the country.

Whereas Hungary is part of the EU's agenda of eliminating discrimination, hate crimes and radicalisation, there are no visible signs of government policies regarding these issues. As the WP3.1 demonstrated, de-radicalisation programmes are in the hands of civil societies and not the state itself. (Gyollai, 2021) The state-led radicalisation effectively focuses on jihadist terrorism, while promoting right-wing norms. The reason why there are no de-radicalisation laws, policies or programmes in the country is because the state itself is the main radicalisation driver in the country through hate-inciting political narrative and discriminatory law-making.

[37] 2021. évi LXXIX. Törvény a pedofil bűnelkövetőkkel szembeni szigorúbb fellépésről, valamint a gyermekek védelme érdekében egyes törvények módosításáról

V. Case Studies

1. Anti-LGBTQ+ law-making

Orban's populism consists of constant threat-construction and identifying new enemies is a never-ending quest for Fidesz. Although LGBTQ+ communities have long been under attack (Gyollai and Korkut 2020), the government targeted racial minorities, foreigners and the EU in their political discourse in order the consolidate their voters base. During the refugee crisis, the Fidesz government has created a hate-inciting political campaign through discriminatory law-making and heavily criminalised migration related activities. While the large influx of arriving migrants built up fear in the society (mostly due to the scaremongering campaigns by Fidesz), the government attacked the EU at the same time.

As the general election in 2022 is approaching, the government began their campaign against the opposition to strengthen their own position and to consolidate their voters base. Their most recent legislation proposal was initially created in order to pose heavier sentences on paedophile perpetrators, however, it was supplemented by the government with homophobic amendments. While they have consolidated their right-wing voters base by curtailing the rights of the members of the LGBTQ+ community, they have successfully created disruption in the opposition parties' unity by forcing the hand of the (also right-wing) Jobbik party not to refuse the bill.

The law prohibits the display and promotion of homosexuality and gender reassignment to anyone under the age of 18, and allows only registered NGOs to give lectures and information on the subject in schools – those who will definitely follow the government guidelines. The new bill also introduces a ban on media contents (movies or advertisements) that promote or depict any form of homosexuality or transgenderism. These measures are extremely discriminative and violate human rights of members of the LGBTQ+ community in Hungary. The Hatter Society called the draft amendment an attempt to seriously curb freedom of speech and children's rights and a move that "endangers mental health of LGBTQ+ youngsters and prevents

them getting access to information and affirmative support."[38] In 2019, the government has already curtailed their rights by banning same-sex couple's adoptions, legal gender recognition and included in the Fundamental Law that the 'father is a man and the mother is a woman'.[39]

Victor Madrigal-Borloz, the independent expert on protection against violence and discrimination based on sexual orientation and gender identity of the UN said that "These criminalising provisions, even when they are not applied, create a context that is hostile to the existence of LGBT persons that is also conducive to blackmail and to significant violence affecting the everyday lives of these persons".[40] After the new legislation shook the country during the Pride month, incidents of hate crimes followed. Three men tried to break into an apartment in Budapest, because there was a rainbow flag displayed in the balcony. The perpetrators managed to flee the scene before the police arrived, they also left anti-LBGTQ+ stickers on the walls of the staircase. The police suggested the residents to remove the flag from the balcony.[41] Furthermore, two gay men were recently attacked in rural Hungary; however, the police did not add the hate crime element to the investigation.[42] The attack was commented by a pro-LGBTQ+ Hungarian NGO, the Hatter Society, stating that there are fears that the new law will lead to more hate crime incidents and anti-gay attacks.[43] The NGO has been promoting acceptance and tolerance, which now will be illegal to do in schools under the provisions of the new legislation. It is also particularly worrying that LGBTQ+ youth are almost five times as likely to have attempted suicide compared to heterosexual youth (CDC, 2016); with no support in a hostile environment, which is created by the government, the state actively neglects their well-being. The openly homophobic legislation on behalf of the Hungarian government incites hate within the society against an already marginalised group, which could potentially lead to further human rights violations, hate crimes, polarisation and radicalisation.

[38] See RFERL: https://www.rferl.org/a/hungary-ban-gay-propaganda/31302483.html
[39] 'Hungarian anti-LGBTQ+ law is a political tactic for Orbán', The Conversation Online: https://theconversation.com/hungarian-anti-lgbtq-law-is-a-political-tactic-for-orban-162811
[40] See Reuters: https://www.reuters.com/world/europe/un-rights-expert-decries-hungarys-new-anti-lgbt-law-2021-06-25/
[41] See Telex: https://telex.hu/belfold/2021/07/16/harman-akartak-betorni-az-ajtot-mert-szivarvanyos-zaszlot-tett-ki-a-lako-az-erkelyre
[42] See HVG: https://hvg.hu/itthon/20210628_Megvertek_ket_meleg_orvost_Pecsen

The new ‘paedophile law’ was built on Russian example. The 2013 anti-gay Russian legislation contained similar provisions and banned homosexuality and any propaganda of “non-traditional sexual relations”. We are able to see the aftermath of the new Hungarian legislation through the past eight years of the Russian example Orbán apparently intended to follow. Human rights watchdog reported that Russian LGBTQ+ community receives no support from the state or non-state actors, as NGOs are no longer able to work with youth. In the name of protecting conservative Russian values and Russian children, there have been vigilante violence against LMBTQ+ people in Russia.[44] The Fidesz government had stated[45] that the new bill would protect Christian values and Hungarian children – using a similar phrasing as Russia did in 2013. Both Hungary and Russia enshrine discrimination in their national law by the anti-gay measures, which further violates human rights and poses a risk of radicalisation and alienation of the society.

The new legislation is extremely polarising by nature and it divided the society. It targets sexual and gender minorities for political gain, giving rise to increased radicalisation in the country. The fact that the Fidesz government has created a law that links homosexuality with paedophilia raised grave concerns and outcry of stakeholders. In the light of human rights protection, the Fidesz government has failed to adequately take their international law obligations and common EU values[46] into account.[47] As of June 2021, 16 members of the EU stated that the values of the Fidesz government are incompatible with the laws and values of the EU. In their letter for PM Orbán, they said Hungary should stick to those values or leave the EU.[48]

2. Police: the culture of discrimination?

Extreme right-wing radicalisation has been a concerning issue in Hungary since the regime change of 1989. The violent right-wing extremist scene arose at the same time

[44] Human Rights Watch, ‘Russia's “Gay Propaganda” Law Imperils LGBT Youth’ (2018) Online: https://www.hrw.org/report/2018/12/11/no-support/russias-gay-propaganda-law-imperils-lgbt-youth
[45] See HRW: https://www.hrw.org/news/2013/06/10/russia-drop-homophobic-law
[46] According to Article 2 of the Treaty on European Union, the EU is a political and economic union founded on a respect for fundamental rights and the rule of law.
[47] See Telex: https://telex.hu/kulfold/2021/06/23/ursula-von-der-leyen-szegyen-melegellenes-torveny-fellepes-europai-bizottsag-unio
[48] See Telex: https://telex.hu/kulfold/2021/06/24/ujabb-levelben-tiltakozik-az-eu-16-tagja-a-pedofiliat-a-meleg-kozossegekkel-osszemoso-magyar-torveny-ellen

as illiberal tendencies were strengthening in East Central European politics (Mares, 2018). Right-wing terrorism is a broad spectrum, however, far-right violence in Hungary mostly targets the Roma community. With an extremely low immigration ratio, especially from outside Europe, the Roma are practically the only visible ethno-racial minority. (Pap, 2020) The Roma community has suffered from marginalisation in Hungary for the past decades. Post-socialist transformation generated important macro-structural conditions for marginalization, while the capitalist regime in the region have turned many of the low-educated citizens vulnerable or even redundant. (Szalai and Zentai, 2014) In Hungary, the social and territorial polarisation is paramount. (Pap, 2020) The segregation of the Roma is undisputable, which can be demonstrated through a series of court cases.

The Roma population face "continued hostility" from police forces in Hungary, which includes a "failure to protect" them from attacks (MRG Jan. 2018). The Roma residents of Gyöngyöspata, a segregated village in the rural Hungary were victims of police discrimination, right-wing extremist threat and also involved in a compensation case that stirred the water in the country. In 2017, the Kuria (Supreme Court of Hungary) stated that the Hungarian Police Forces violated the right to equal treatment of the entire population of the village, by holding their weeks of practice near the settlement. The police also failed to act on several occasions, when a large group (2000 people) of far-right extremists (members of the Hungarian Guards) were threatening the Roma residents of the village. In doing so, the police's omission to act on the threat violated the human dignity of the Roma residents, contributing to the development of a hostile, humiliating and intimidating environment against them.[49] The Kuria ruled that the failure to protect the Roma from racist harassment amounted to harassment under the Equal Treatment Act [50] (HCLU 17 Feb. 2017). Similar incidents and court cases occurred in the past five years. In a January 2017 decision, concerning two applicants, both of Roma origin, who "alleged that the [Hungarian] police had failed to protect them from racist abuse during [a] demonstration and to properly investigate the incident," the ECtHR established that the authorities conducted "limited" investigations into the incident and that "the specific context of the abuse" had not been taken into

[49] HCLU: Gyöngyöspata: Megérkezett a Kúria Ítélete, Online: https://tasz.hu/cikkek/gyongyospata-megerkezett-a-kuria-itelete
[50] 2003. évi CXXV. Törvény az egyenlő bánásmódról és az esélyegyenlőség előmozdításáról

account, which resulted in "shortcomings".[51] In April 2016, regarding a complaint concerning the Hungarian authorities' failure to carry out an effective investigation into allegations of verbal violence directed against the applicant (Council of Europe 12 Apr. 2016, para. 40), a Roma citizen, the ECtHR established that the applicant was not provided "adequate protection" and that the criminal-law mechanisms were implemented in a "defective" manner (Council of Europe 12 Apr. 2016, para. 91) This pattern demonstrates a racist police culture.

The most recent case involving discrimination against Roma found that between 2003 and 2017, segregated education took place in the school in Gyöngyöspata, and the practice of segregated education violated the rights of Roma students, so the maintaining municipality and tank district must pay them compensation. According to the judgment, 60 young Roma from Gyöngyöspata (or their families in the case of minors) were entitled to compensation totalling HUF 99 million (ca. 100.000 EUR).[52] During the court case, the Fidesz proganda machine started campaigning against the compensation. Viktor Orbán in his speech said: “If I lived there… I would ask how is that fair if an ethic community in my village receive a significant amount of money without any work.”[53] During a radio interview, he added: “It would offend Hungarians sense of justice if we gave money for nothing”. The Fidesz government did not acknowledge the human rights violations through discrimination and segregation; and they even blamed it on George Soros. Even though the political narrative of the Fidesz rarely targets the Roma population directly, the systemic discrimination is indisputable.

The European Roma Rights Centre (ERRC) indicates, in a submission prepared for three Hungarian cases before the ECtHR, that it "survey[ed] recent evidence that the national bodies in Hungary responsible for protecting Roma against violence suffer institutional racism, particularly institutional anti-Gypsyism" (ERRC [2015], para. 3). Members of the Roma community reported disrespectful behaviour, racist utterances and even physical violence from local policemen, as well as ethnic profiling and preferential treatment of non-Roma during official acts (Hera, 2015). The systemic discrimination of the Roma in Hungary has many effects on the whole society. If the

[51] Case No. HUN106145.E, Council of Europe 17 Jan. 2017, 1
[52] See Index: https://index.hu/belfold/2020/05/12/gyongyospata_iskolai_szegregacio_roma_diakok_karteritesi_per_itelet_kuria/
[53] See 444: https://444.hu/2020/01/09/orban-szerint-igazsagtalan-hogy-karteritest-kaptak-a-roma-gyerekek-akiket-eveken-at-elkulonitettek-az-iskolaban.

state openly fails to protect an ethnic community and demonstrates discriminatory practices on a regular basis, hostility emerges in the nation towards the same community. In order to de-radicalise those who sympathise with nationalist, far-right ideologies, states must intervene and align their policies with those EU and international laws that offer human rights protection from discrimination. However, to our freedom of information requests, the Hungarian Police forces confirmed that there are no ongoing de-radicalisation programmes or policies for officers. We received the similar answer from the Prison Services.

In their answer to our question submitted as a form of freedom of information request, the Hungarian Police Forces added that they organise trainings about Roma culture, customs and traditions, conflict management, conflict resolution and sensitization training to officers. Emphasis is placed on conflict and prejudice-free relations between the Police and the Roma minority; building relationships, dialogues between the parties and conflict-free local communities in order to ensure coexistence. They also reminded us that their operation follows the principles set up by the Rtv. (Police Laws).[54] Articles 15 and 16, the principle of proportionality, torture, ill-treatment and coercive interrogation and the prohibition of cruel, inhuman or degrading treatment provisions in the course of police measures and procedural acts validation should also be part of the pre-service briefing of the staff.

Conclusion

State-led de-radicalisation programmes, policies and legislation should be paramount in fighting against extremism, however, the Hungarian government unfortunately focuses on state-led radicalisation and hate incitement in order to gain political profit. Following their populist agenda, Fidesz government is uniting their voters base against 'common enemies' and the 'others'. Creating enemies seems to be their overarching goal of the Fidesz. Since 2010, values such as the rule of law and democracy have

[54] 1994. évi XXXIV. Törvény a Rendőrségről

been declining due to the discriminatory law-making and neoliberal practices. This report demonstrated those core constitutional principles that shall preserve the rule of law and promote human rights, while highlighting the fact that the Fidesz government's majority of legislative powers are often used to curb those rights and freedoms. Through case studies it was emphasised that the Hungarian government follows Russia's footsteps not only in anti-LGBTQ+ law-making, which could potentially lead to an increase of hate crime incidents and further human rights violations, but in Euro-scepticism, nationalist value system and populist illiberalism. Whereas the Hungarian Fundamental Law prohibits discrimination, there is a grave concern of systemic discrimination and segregation of the Roma population in the country. The report collected the relevant legal information in the field of radicalisation and de-radicalisation, concluding that in Hungary there is a lack of de-radicalisation process conducted by the state, while the state itself is to be blamed for the high level of radicalisation in the country.

ANNEXES

ANNEX I: OVERVIEW OF THE LEGAL FRAMEWORK ON RADICALIZATION & DE-RADICALIZATION

Legislation title (original and English) and number	**Date**	**Type of law** (i.e. statute, regulation, rule, etc…)	**Object/summary of legal issues related to radicalization**	**Link/PDF**
The Fundamental Law of Hungary, Magyarország Alaptörvénye	25 April 2011	Constitution	Article L of The Fundamental Law of Hungary discriminates against the LGBTQ community by stating that: “The family is hereby defined as a union "based on marriage between a man with a woman.” Article I, 3 of The Fundamental Law of Hungary allows legislators that human rights can be restricted. to allow the effective use of another fundamental right or to protect a constitutional value, to the extent absolutely necessary, proportionate to the objective pursued and with full respect for the essential content of such fundamental right”. The Seventh Amendment made homelessness illegal by forbidding “habitual residence in public spaces”, which was considered a direct violation of human rights.	https://net.jogtar.hu/jogszabaly?docid=a1100425.atv

Act on stricter action against paedophile offenders and amending certain laws to protect children 2021, LXXIX 2021. évi LXXIX. Törvény a pedofil bűnelkövetőkkel szembeni szigorúbb fellépésről, valamint a gyermekek védelme érdekében egyes törvények módosításáról	23. June 2021	statute	This statute amends other statute that provide protection for the children and those that are governing the criminal offence linked to paedophilia. It also introduces a ban on media contents that promote or depict any form of homosexuality or transgenderism. The law is deeply discriminative against the LGBTQ community and received international critique.	https://mkogy.jogtar.hu/jogszabaly?docid=A2100079.TV
The 'Soros Bill'	2015	Legislative package	The 'Act on the social responsibility of organisations supporting illegal migration; the Act on the immigration financing duty; and the Act on immigration restraining orders. The name of the Bill refers to George Soros, a Hungarian-American philanthropist accused by the ruling party Fidesz of "encouraging and facilitating illegal migration to Hungary".	
Act on Equal Treatment and the Promotion of Equal Opportunities 2003. CXXV. 2003. évi CXXV. Törvény az egyenlő bánásmódról és az esélyegyenlőség előmozdításáról	2003	statute	One of the case studies mentions the Roma residents of Gyöngyöspata, a segregated village in the rural Hungary were victims of police discrimination, right-wing extremist threat and also involved in a compensation case that stirred the water in the country. The Supreme Court of Hungary ruled that the failure to protect the Roma from racist harassment amounted to harassment under the Act.	https://net.jogtar.hu/jogszabaly?docid=a0300125.tv

295/2010. (XII. 22.) Government Decree on the designation of the Counter - Terrorism Agency and the detailed rules for the performance of its tasks 295/2010. (XII. 22.) Korm. Rendelet a terrorizmust elhárító szerv kijelöléséről és feladatai ellátásának részletes szabályairól	22.12. 2010	Government Decree	The Government Decree which created the Counter-Terrorism Agency (TEK) gives special authority to the agency. The fact that TEK agents do not require prior judicial warrants undermines the right to privacy protected by the ECHR and The Fundamental Law of Hungary.	https://net.jogtar.hu/jogszabaly?docid=a1000295.kor
XXXI 1993 Law promulgating the Rome Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950 and the eight additional protocols 1993. évi XXXI. Törvény, az emberi jogok és az alapvető szabadságok védelméről szóló, Rómában, 1950. november 4-én kelt Egyezmény és az ahhoz tartozó nyolc kiegészítő jegyzőkönyv kihirdetéséről	1993			

NATIONAL CASE LAW

Case number	Date	Name of the court	Object/summary of legal issues related to radicalization	Link/PDF
19.P.26.453/2007/126.	16 December 2008	Fővárosi Bíróság (District Court of Budapest)	The dissolution of the para-military group Hungarian Guards (Magyar Gárda).	
199/2020/7.	20 April 2020	Supreme Court of Hungary (Kúria)	A defamation case involving a journalist who was sentenced to pay damages because in his article he used the expressions 'filthy Hungarian migrants' and 'Hungarian bandits'.	
European commission v. Hungary, case C-286/12	7 June 2012	European Court of Justice	Regarding the forced retirement of nearly 300 judges is Hungary, the ECJ judgment declared the actions as discrimination at the workplace on the grounds of age that is unlawful based on the EU rules on equal treatment in employment.	
Szabó and Vissy v. Hungary (37138/14)	16 January 2016	European Court of Human Rights	About the Hungarian Constitutional Court decision regarding the operation of the Counter-Terrorism Agency (TEK). The ECtHR held that there are no sufficient checks and balances regarding some of the operation of the TEK and the governing jurisdiction does not respect Article 8 of the ECHR	

RB v Hungary 64602/12	12 April 2016	European Court of Human Rights	R.B., a woman of Roma origin, filed a complaint with the European Court of Human Rights alleging that the Hungarian authorities failed to adequately investigate harassment and violence aimed at her by demonstrators during an anti-Roma rally, and thus did not meet their positive obligation to protect her private life.	
8.B.101/2010/1010	6 August 2013	Főváros Környéki Törvényszék, Capital District Court	First degree case of the Roma Killings.	
Pfv.IV.21.274/2016/4	2016	Supreme Court of Hungary (Kúria)	The judgement related to the systemic discrimination against the village of Gyöngyöspata and the first case in Hungary establishing the fact of police discrimination against the Roma population of an entire settlement.	

OTHER RELEVANT ISSUES

	Constitutional provisions	**Statutory law (statues, rules, regulations etc.)**	**Important case law**	**Comments/issues relevant to radicalization**
Freedom of religion and belief	**Article VII of the Fundamental Law of Hungary**	Right to Freedom of Conscience and Religion, and on the Legal Status of Churches, Religious		Radicalisation issues based on religious beliefs are not common in Hungary.

		Denominations and Religious Communities (2011, as amended 2019)		
Minority rights	**Article XXIX para. (1) of the Fundamental Law**	Act CLXXIX of 2011 on the rights of nationalities		The government media has led campaigns which fuelled xenophobia and anti-Muslim sentiments.
Freedom of expression	**Article IX of the Fundamental Law**		Case of Mándli and Others v. Hungary (application no. 63164/16)	Freedom of expression and media plurality are a controversial issue in Hungary. While freedom of the press is protected by the Fundamental Law, Fidesz ha undermined this guarantee by politicizing media regulations. The majority of media outlets (almost 90%) are regulated by the government, raising a serious concern over freedom of expression and media plurality.
Freedom of assembly	**Article VI. of the Fundamental Law**			
Freedom of association/political parties etc.	**Article VIII. of the**			

	Fundamental Law			
Hate speech/ crime		**Criminal Code of 2012**	Case of Balázs v. Hungary *(Application no. 15529/12)*	Hate crimes are not prosecuted as an individual offence in Hungary, they serve as an aggravated circumstance. Police officers have discretion to decide whether there are any hate crime elements of an offence.
Church and state relations	**Preamble of the Fundamental Law**	**Act CCVI of 2011 (as in force on 16 April 2019) on the right to freedom of conscience and religion and the legal status of churches, denominations and religious communities**		Act CCVI of 2011 stripped hundreds of religious churches of their status as "churches" under domestic law.
Surveillance laws		**Act CXXV of 1995 on the National Security Services** **XXXIV of 1994 on the Police ("the Police Act")**	Szabó and Vissy v Hungary (Application no.: 37138/14)	Regarding surveillance for national security purposes, for the Counter-Terrorism Centre, there is no requirement for prior judicial authorisation.

Right to privacy	**Article 6 of the Fundamental Law**	**Act CXII of 2011**		

ANNEX II: LIST OF INSTITUTIONS DEALING WITH RADICALIZATION & COUNTER-RADICALIZATION

Authority (English and original name)	**Tier of government** (national, regional, local)	**Type of organization**	**Area of competence in the field of radicalization& deradicalization**	**Link**
Budapest Centre for Mass Atrocities Prevention	National and local	Civil organisation	Protection of human rights and the prevention of genocide and mass atrocities in any area of the world.	https://www.genocideprevention.eu/en/
Háttér Társaság	National	Civil organisation	Anti-LGBT hate crime awareness and law clinic.	https://hatter.hu
TASZ	National and regional	Civil organisation	Legal aid centre	https://tasz.hu/egyenlo-bator-szabad

ANNEX III: BEST PRACTICES/INTERVENTIONS/PROGRAMMES

National level

	Institution(s)	Aim	Source	Evidence of effectiveness / literature
1. 'Facing All the Facts'	CEJI, NKE	hate crime awareness / monitoring	link	link
2. 'Call It Hate: Raising Awareness of Anti-LGBT Hate Crime'	Háttér, HHC, TASZ	anti-LGBT hate crime awareness	link	link
'Mediation and Restorative Justice in Prison Settings'	Foresee	To test if restorative justice practices can help supporting victims of crime, raising responsibility-taking in offenders, supporting the prison staff and inmates in peacefully resolving their internal conflicts and reintegrating offenders into society after release.	link	link
Prevention of radicalization in the prison-system'	Foresee, Budapest Centre for the International Prevention of	Understanding of the reasons behind radicalization and to improve skills required to	link	link

	Genocide and Mass Atrocities, Menedék, NKE	recognise and prevent radicalisation through training activities also supporting and accelerating the reaction of staff.		

ANNEX IV: POLICY RECOMMENDATIONS

De-radicalisation initiatives and programmes should be developed by the government in order to stop the growing threat of right-wing radicalisation. In order to de-radicalise the society:

- those legislations that curb the human rights of different layers of the society should be reversed (e.g. homelessness should not be deemed illegal; and homosexuality should not be dubbed as paedophilia in legislations);

- bills which restrict NGOs from receiving foreign funding should be reversed (such as the Stop-Soros bill), organisations dedicated to help different minority groups should receive funding in order to create de-radicalisation programmes nationwide;

- mass media campaigns controlled by the government that fuel polarisation within the society (e.g. containing anti-migration, anti-LGBTQI+ and anti-EU campaigns) should be stopped immediately;

- there is a serious need to develop a monitoring body which identifies radicalisation hotspots in the country;

- there is a serious need to develop a monitoring body which tracks hate crimes;

- policing guidelines and legislation should be clear on hate crimes in order to identify it as a criminal activity.

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DeRadicalisation
in Europe and Beyond: Detect, Resolve, Reintegrate

De-radicalisation and Integration: Legal and Policy Framework in Iraq

Iraq/Country Report

WP4

December 2021

William K. Warda and Hamed Shihab Al Maffraji –
Hammurabi Human Rights Organization HHRO

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This document is available for download at https://dradproject.com/

Table of Contents

List of Abbreviations

ALQ: Al- Qaeda Organization.

CPA: The Coalition Provisional Authority

CTA: Counter Terrorism Apparatus in Kurdistan Region of Iraq.

GDF: Gross Domestic Product.

HHRO: Hammurabi Human Rights Organization.

IIDD: The Iraqi Institute for Development and Democracy.

IILHR: Institute of International Law and Human Rights

IJS: Iraqi Journalists Syndicate.

ISI: Islamic State in Iraq.

ISIL: Islamic State of Iraq and Levant.

ISIS: Islamic State of Iraq and al-Sham

KRI: Kurdistan Region of Iraq.

NINA: National Iraqi News Agency.

TAL: The Law of Transitional Administration.

USIP: United State Institute of Peace.

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About the Project

D.Rad is a comparative study of radicalisation and polarisation in Europe and beyond. It aims to identify the actors, networks and wider social contexts driving radicalisation, particularly among young people in urban and peri-urban areas. D.Rad conceptualises this through the I-GAP spectrum (injustice-grievance-alienation-polarisation) with the goal of moving towards the measurable evaluation of de-radicalisation programmes. Our intention is to identify the building blocks of radicalisation, which include the person's sense of being victimised, of being thwarted or lacking agency in established legal and political structures and coming under the influence of "us vs them" identity formulations.

D.Rad benefits from an exceptional breadth of backgrounds. The project spans national contexts including the UK, France, Italy, Germany, Poland, Hungary, Finland, Slovenia, Bosnia, Serbia, Kosovo, Israel, Iraq, Jordan, Turkey, Georgia, Austria and several minority nationalisms. It bridges academic disciplines ranging from political science and cultural studies to social psychology and artificial intelligence. Dissemination methods include D.Rad labs, D.Rad hubs, policy papers, academic workshops, visual outputs and digital galleries. As such, D.Rad establishes a rigorous foundation in order to test practical interventions geared to prevention, inclusion and de-radicalisation.

With the possibility of capturing the trajectories of seventeen nations and several minority nations, the project will provide a unique evidence base for the comparative analysis of law and policy as nation states adapt to new security challenges. The process of mapping these varieties and their link to national contexts will be crucial in uncovering the strengths and weaknesses in existing interventions. Furthermore, D.Rad accounts for the problem that processes of radicalisation often occur in circumstances that escape the control and scrutiny of traditional national frameworks of justice. The participation of AI professionals in modelling, analysing and devising solutions to online radicalisation will be central to the project's aims.

Executive summary

In its introduction, the report reviewed the main features of Iraq, especially its geographical nature, its diverse demographics and its modern political system, which played a role in extremist violence. It also dealt with the historical, economic, political and cultural background of radicalization in Iraq. It reviewed the most important historical events that bear manifestations of extremist violence. Then the report dealt with the constitutional organization of the state and the most important constitutional principles and clarified their positives and negatives impact on violent extremism.

The report also examined the legislative framework of Iraq after 2003, starting with the decisions of the civil governor of Iraq (Paul Bremer) in 2003-2004 and passing through the Constitution of the Republic of Iraq for the year 2005 and then the legislation of the Anti-Terrorism Law No. 13 of 2005.

The institutional framework at the federal level and the Kurdistan Region of Iraq, and attempts within this framework to combat terrorism were also discussed. The report did not neglect to address two case studies related to the national security strategy to combat terrorism. The report was reinforced with interviews expressing the views of a number of experts in the field of law, security and issues related to de- radicalization and terrorism.

The report prepared a bibliographical summary that includes tables containing an overview of the legal framework for extremism and its removal, the institutions that deal with this issue, a number of courts decisions and other issues related to extremism regarding some rights and the best practices followed for de- radicalization on the national, regional and local levels.

The report ends with a conclusion that includes some recommendations confirming that eliminating extremism requires action at the three levels (micro, meso, and macro), according to systematic strategies and plans.

1. Introduction

One of the main features of Iraq is that its geography is diverse and is divided into four main regions: the western and southwestern region of the desert, the highlands between the upper Tigris and Euphrates (two rivers), the mountainous highlands in the north and northeast and the alluvial plain on the Tigris and Euphrates rivers. Iraq has only one small sea port on the Arabian Gulf. The Iraqi sea coast is about 85 km, and Umm Qasr port is one of the most important Iraqi ports overlooking the Gulf. The total area of Iraq is 437,072 km^2, of which the land area is 432,162 km^2, and the water is 4,910 km^2. Iraq has a civilized heritage, and it is an extension of the civilization of Mesopotamia, in which great civilizations flourished, including the Sumerian, Akkadian, Babylonian, Assyrian and others where their influence spread to neighbouring countries starting from the fifth millennium BC. Iraq is rich in its natural resources; foremost of them is oil, where its rent forms the basis of the state's national income and the backbone of its budget. Without this oil, Iraq would have been one of the poorest countries in the world. Iraq is a country of diverse races, religions and sects and this feature is not new but it has been his feature since a long time. In the latest report of the Iraqi Ministry of Planning, the population of Iraq in the year 2021 reached 40 million and 150 thousand people.

Referring to the geographical and climatic nature of Iraq, as well as addressing the ethnic and religious diversity and its cultural and historical depth, concerns us greatly in the issue of extremism in Iraq.

Ethnically, Iraq has an Arab majority, and religiously with an Islamic majority, it is divided into two sects (Shiites and Sunnis). Ethnically Arabs, Kurds rank second and then Turkmens, Assyrians, etc. Religiously, there are Christians, Yazidis, Sabeans and others.

These features and this description of Iraq with the instability of the political system of the modern Iraqi state since its establishment until now, in addition to the wars that Iraq has witnessed in the last forty years and the negative and catastrophic consequences that followed on the people and the country, were among the most important causes of violence, extremism and terrorism.

Therefore, we will find in this report many and varied forms of violence and extremism, ranging from violence against children to violence perpetrated by the state.

Iraq has fought since 1980 fierce and grinding wars: the Iran-Iraq war 1980-1988, the Iraqi invasion of Kuwait on August 2, in 1990, then the second Gulf War launched by the international coalition against Iraq on January 17, in 1991, to force Iraq to withdraw its forces from Kuwait. Then came the economic blockade imposed on it from 1991 until the third Gulf War in 2003, which led to the fall of the previous regime, and the sectarian strife that followed between the Iraqi people during the years 2006-2008 and the emergence of terrorist groups in Iraq such as Al-Qaeda and others, all the way to the terrorist organization ISIS, which occupied a third of the area of Iraq and the fall of Nineveh Governorate, the second largest Iraqi governorate under its control in 2014. This was accompanied by the control of these terrorists over the areas of non-Muslim minorities, such as the areas of Christians, Yazidis and other minorities, who in turn suffered from violent extremism. All these events and facts made violence and extremism a prominent and "sustainable" phenomenon in Iraqi society, which means an existing and continuous phenomenon.

We will also present in this report strange types and forms of extremism that we possibly do not find in other countries or societies.

The most dangerous type of violence and extremism is the one that the state practices against its citizens, and also tries to enact laws for it. This is what we will highlight in this report as well as the attempts of some political forces to impose their will or point of view by means of persuasion or intimidation on people or society.

It is fanaticism, ignorance and backwardness that create a suitable environment for violence, extremism and terrorism, as well as political fanaticism inspired by religious beliefs with their various names. Therefore, after reviewing the background of extremism and violence and its types in Iraq, with identifying the side or the party that practices it, as well as the statement of laws, legislation and the constitutional organizing of the state, this report will attempt to set directions and mechanisms to limit and eliminate this phenomenon, realizing in advance the difficulty of achieving this.

The report used the historical descriptive method, by presenting the most important extremist historical events in Iraq, the analytical method was also used by analyzing the inputs and outputs and going to the reasons that led to these extreme results. The legal approach was also resorted to by researching the Iraqi constitutional and legislative framework in addition to presenting and analyzing the relevant laws.

The research team also used the opinions of some experts from law and security men to find out their opinions regarding extremist Radicalization and violence (terrorism) as well as the opportunities to De- radicalization and the existing challenges.

The structure of the report will be as follows: an introduction, an overview of the historical, social, economic, political and cultural background of extremism in Iraq, the constitutional organizing of the state and constitutional principles. Afterwards, the legislative framework to eliminate extremism and terrorism will be analysed as well as the institutional and policies framework in the field of combating radicalization and terrorism. One case study will be mentioned in order to understand the Iraqi counteractions against extremism and radicalization. In the end, some conclusive remarks will be provided, in addition to a list of bibliographic references and four thematic annexes.

2. Socio-economic, political and cultural context

Iraq is an ancient country where civilizations extend back to seven thousand years (five thousand years BC). Violence and extremism have been features of Iraqis since ancient times. The best embodiment of this is Sumerian words documenting Iraqi grief: “Has it been written on not to hear from this land, only lamentations and sorrows". These are the words of a Sumerian poet about four thousand years ago (Al Sabah newspaper, 2013, p. 6).

Therefore, violence and extremism have a historical depth, for the conflicts that Iraq went through in its ancient and Islamic history – all of which took place on its land or at its borders. In short, the Assyrians, Akkadians and Babylonians with the Jews and the Persians (Achaemenid, Parthians, Sassanids, Elamites and others), are examples of these wars. However, the worst of them are intra-Muslims wars in which they fought with each other, including the war of the Jamal[1] and the Siffin (35-38 AH), the Battle of Karbala (61 AH) in which Imam Hussein (peace be upon him) was martyred, the wars with the Kharijites, and then the Ottoman-Persian wars throughout the Ottoman-Persian time (the late

[1] The Battle of the Camel, a war that took place between the fourth Caliph of the Muslims, Ali bin Abi Talib and his aides in the year 36 AH, which ended with the victory of the Caliph’s army over his rebel supporters.

sixteenth/seventh centuries eighteenth/ nineteenth century AD).[2] And if we want to go further than that, it is the laws contained in the Code of Hammurabi, which is one of the first codified laws. They are a set of Babylonian laws numbering (282) legal articles recorded by King Hammurabi, the sixth king of Babylon (ruling from 1792 BC to 1750 BC) and wrote it down on a very well-known large cylindrical obelisk.[3] Although it includes some harsh laws that are not compatible with the current time in terms of respect for human rights, it led at the time to reduce acts of aggression and extremism outside the framework of the law.

Since it is not possible to mention all incidents of violence and extremism through the ages in this report, then we will mention some examples in addition to those aforementioned. There is the massacre (the battle) of Karbala[4] in (61 AH) (680 AD), in which Imam Hussein (peace be upon him) and many of his family members were slaughtered and he was beheaded and his body was mutilated, who is the grandson of the Muslim prophet Muhammad (peace be upon him) as well as some children who were with him were killed. This massacre was carried out by the army of the ruler of the Muslims at the time, Yazid bin Muawiyah, and Shiites in the world remember this incident annually in ceremonies of sadness and crying for forty days.

Also, this incident has great effects on violence and extremism phenomena, and there are extremist preachers to this day who are calling for revenge against the heirs of the killers of Imam Hussein (peace be upon him). This generates counter-reactions, perpetuating the cycle of violence and extremism.

Another example of violence and extremism, especially in our contemporary history and in light of the modern state of Iraq that was established in 1921, is the Simele massacre, which is the first of the massacres carried out by the Iraqi government on August7, in 1933 during the reign of King Faisal I, against the Assyrian Christians in the town of Simele, in addition to 63 Assyrian villages in the Mosul district at that time (the governorates of Dohuk and Nineveh currently), and more than (3000) Assyrians lost their lives. The Iraqi forces used excessive force and extreme violence in killing the Assyrian civilians, and even they were massacred, including women, men and children. This violence is based on ethnic and religious basis (Safi, M., 2018).

The state that ruled Iraq for nearly five centuries (1543-1920) was the Ottoman Empire, which is a Muslim state whose official doctrine is the Sunni sect[5]. Therefore, it was close to the Iraqis, who are the adherents of this sect and occupied high positions, whether in the army or other institutions, after they received a higher education, unlike the Shiites, most of whom lived in southern Iraq and who were not close to the Ottoman Empire. They were expelled because they adhered to the majority sect in Iran, (Ottoman) enemy and competitor. So, after the fall of the Ottoman Empire and the establishment of the Iraqi state in 1921, the supreme position in this country belonged to the Sunnis, whether in the military institution or the supreme political authority in the state. This does not mean that the people of other religions, doctrines, sects and races did not at all assumed some positions in the Iraqi state. Rather, this happened and some of them took positions, but they are less than those held by the Sunnis. For example,

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[2] These are wars that took place between the Ottoman Empire and the Persian Empire for power and expansion. Al Maref,: Al Khawarij, available at: https://www.m.marefa, [Accessed June 15,2021]. Also, Al Marefa, Wars of Ottoman-Persian, [online], available at: https://www.m.marefa [Accessed June 15,2021].

[3] The obelisk is in the Louvre Museum in Paris, in the Department of Mesopotamian Civilization. This obelisk includes laws, which appear to be very harsh and violent according to our current standards, but at the time they helped in deterring and limiting extremism outside the law.

[4] Karbala is one of the cities of Iraq and the symbol of Shiites, Imam Hussein is buried there.

[5] The main sects of Islam are the Sunni and Shi'ite sects.

there was the first finance minister of modern Iraq from the Jewish religion (Sasson Heskel 1860 - 1932) as well as the Christian Dr. Hanna Khayat (1884-1959) the first Iraqi Minister of Health, and the Turkmen had a share in the Iraqi army, and the Kurds and Shiites also held some institutional roles. Moreover, nine Kurdish officers held the position of Minister of Defence during the Royal Era (1921-1958), (Al Khattab F., 2020).

Contemporary Iraq has suffered from many crises at the level of integration or national unity since its founding in 1921, and still going on. The first head of the state, the King Faisal I (1921-1933), admitted this when he described the state of Iraqi society, at that early time of the emergence of the Iraqi state, with harsh descriptions.

Accordingly, the modern Iraqi state has inherited a multi-ethnic, religions, doctrines, and sects' composition of its population. Despite the long historical coexistence of these cleavages, this heterogeneity acted like time bombs undermining the unity of society, especially if they are exploited by politicians, special interests and abhorrent fanatics.

With the exception of the majority of the Arab Muslim population (Shiites and Sunnis), other religious and ethnic components are distributed over almost the entire area of Iraq. The geographical distribution of minorities, according to the Iraqi Ministry of Planning, appears in an estimated census conducted in 2017. In this regard, the components and minorities in Iraq can be distributed as follows:

Kurds: The Kurds constitute the second ethnic group in terms of population, about 15-19 percent of the population of Iraq that is within the same census is 37 million and 139 thousand and 519 people. 13.2 percent of the Kurdish population of Iraq is concentrated in the Northern governorates (Erbil, Sulaymaniyah, Dohuk and Halabja), while they constitute 25 percent of the population of Kirkuk province and about 6 percent of the population of Nineveh province. There are also Kurds in small numbers living in the provinces of Diyala, Wasit and Baghdad. In terms of religion doctrine, 97 percent of the Kurds are Muslims, of whom 80 percent is Sunni, 17 percent Shiites, in addition to 3 percent of different religions (Al-Khattab F., 2020), such as Kakai, Zoroaster and Circassian, *inter alios*.

Turkmens: They are the third minority in Iraq, and there is no official and accurate number for them, but government estimates indicate that they are among 5 percent of the population, which includes all ethnic minorities other than Arabs and Kurds. However, they constituted 2.3 percent of the population according to the census of 1957. The Turkmens are Muslims, distributed between Sunnis and Shiites in close proportions, and their presence is concentrated in the Kirkuk, which is a buffer governorate in northern Iraq between the Arab majority and the Kurds, the second nationality in the country (Al Khattab F., 2020).

Christians: Christians are the most important religious minority in Iraq, and a large part of them are the original inhabitants of Iraq and descendants of its ancient civilization. They are also among the oldest converters to Christianity in the world, as Christianity entered Mesopotamia in the first century AD.

The number of Christians in Iraq has greatly decreased during the years that followed the US invasion in 2003, and this decrease is estimated at 83 percent (Al-Khattab F., 2020). Most estimates indicate that their number has decreased to approximately 250-400 thousand people, down from a million and a half before 2003 (France24, 2020) and due to the lack of accurate official statistics specifying their numbers. One of the most important reasons for the decrease in the number of Christians in Iraq is the acts of violence they were subjected to after 2003, and the spread of manifestations of Islamic extremism, both Sunni and Shiite because of the dominance of political Islam after the invasion, which led to their displacement. Then the ISIS came to control Mosul in 2014 to expel tens of thousands of Christians from their homes, especially since its control included Christian-majority cities in Nineveh. The

Christians in Iraq are divided ethnically into three groups: the Assyrian Syriac Chaldeans, who speak the Syriac language; the second group are the Armenians and speak the Armenian language, and the third is a small group of Arab Christians, as they are divided to several churches (Warda W., 2013. p. 203).

Yazidis: They are a religious minority, and they divide themselves in terms of their national and ethnic affiliation, as some of them consider themselves Kurds, but a large portion of them considers themselves to be only of Yazidi nationality and others consider themselves as extension of the Assyrians and Babylonians. They are distributed throughout northern Iraq, specifically in the Sinjar district of the Nineveh Governorate, as well as in the neighbouring governorate of Dohuk, in addition to the Nineveh Plain area in the district of Sheikhan and the town of Bashiqa, as they neighbour Christians in most areas of the Nineveh Plain. Their numbers range between 500-700 thousand, and the Yezidis appeared in Mesopotamia more than four thousand years ago, and its followers say that it is the oldest religion in the world and its roots extend to Zoroastrianism. They differ in their religious and ideological origins. The Yazidis were subjected to the worst forms of violence, extremism and terrorism by the terrorist organization ISIS after occupying Nineveh Governorate in 2014.

The Sabaean Mandaeans: They are one of the important religious components in Iraqi society, and despite being a small religious group, they played a remarkable role in the development of spiritual and intellectual life in Mesopotamia. They were subjected to persecution in different areas throughout history during the Mongol invasion and the Ottoman conquest. As a result of these persecutions “they isolated themselves in the villages scattered at the areas extending from the south of the Euphrates to the Karun River in southwestern Iran, and this region, due to its special geographical conditions, was to a certain extent immune from the power and oppression of the rulers, and because they were a peaceful group, that had nothing to do but cultivate the lands and its issues. Its members master necessary crafts such as farming and fishing, and they do not covet anything more than to give them the opportunity to practice their own religious rituals without interference” (Sebahi A.,1996. p.9). The Sabaeans are still distributed today in the southern Iraqi regions in Basra, Maysan and Nasiriyah, and a number of them moved to Baghdad not a short time ago, where they are famous for practicing the profession of goldsmithing. It is believed that the Sabaeans-Mandaeans and their religion are linked to the Sumerian religion, a religion that did not retreat easily after the demise of the political influence of the Sumerians and the migration of more of them to different parts of the world and the transfer of power to the Semitic peoples. Some elements of this religion moved to the Babylonian religion, but its followers were practicing it in difficult areas out of sight like the marshes and mountains. Their number before 2003 was about 50,000, but the violence that prevailed in Iraq after 2003 decreased to nearly 5,000 people.

The Shabak: The Shabak is one of the minorities that has been living in northern Iraq for nearly five centuries. They live alongside other minorities, such as Christians, Yazidis, and Kakai’s in the Nineveh Plain area east and north of Mosul. Their real number in Iraq is unknown because the official Iraqi statistics did not mention anything about them, and apparently, they were calculated with the Arabs or the Kurds. In the 1977 and 1987 statistics, it was imposed on the non-Arab and non-Kurdish minorities, such as the Chaldean Assyrian Christians, the Syriac and the same for the Shabak to choose either the Arab or the Kurdish to fill the nationality field. The resident in the north has to choose Kurdish nationalism and whoever lives in the centre and the south has to register himself as an Arab and prevent them from showing their ethnic identity.

Therefore, the estimates available for their numbers are from media sources, as at one hundred and fifty thousand, living in separate villages belonging to the Hamdaniya district, Tal Kaif district, Bartella, Bashiqa and Nimrud districts, and a large number of them live in different neighborhoods of the eastern side of Mosul.
As for their origin, historians differed about whether they were of Kurdish, Persian or Turkish origin.
The Kaka'i: It is a Kurdish religious group that emerged as a Sufi[6] ethnic group in the seventh century AH, then it was marred by major transformations to become a special major creed, and the largest part of them resides in Iran. Their number in Iraq is about 200 thousand people (Al-Khattab F., 2020, p.93).
In addition to these components, there are minorities that are limited in number, and do not have a social and political presence, such as the Jews, who live under the care of the property of the Jews in Iraq, and the Bahais that are followers of a religion that believes in the unity of the human race, active for a limited period in Iraq during the nineteenth century before its centre moved abroad. The number of Baha'is in Iraq is about 1000 people.

Iraqis have coexisted harmoniously and integrated for hundreds of years according to this societal structure, and there was no thought of emigrating from Iraq, except for very few, but the parties and political forces were behind the fuelling of social, economic, cultural and political disparities and differences.
Modern Iraq did not witness political stability, and this instability was one of the main reasons for all the manifestations of violence and extremism. Political stability improves the state's economy, develops education and thus eliminates backwardness and ignorance. So, we see class differences and the inferior view of women, because tribal customs still dominate the majority of Iraqi society today, and on this basis women are deprived of inheritance and family money after marriage, leaving the house or leaving the head of the family, and in the event of the presence of children, the inheritance is divided among them, while the uncle has the right to dispose of the brother's property in the absence of sons. That is, the wife and daughters are not entitled to dispose of the property of the husband or the father (Al Muthanna I., 2019). Note that the Iraqi law in force (concerning personal status, Law no. 188 of 1959), gives women the right to inherit, but not the same as men, as women have half the share. In addition to the continuation of tribal values and norms – among which many have become incompatible with the spirit of the age and the civil state – and customary law that is applied between people and the various clan and tribal groups. Rather, the values, customs and norms of the countryside moved to the city despite the latter being more civilized and advanced. In the past,

[6]Ibrahim Hilal says about Sufism, (Despite the many definitions by which Islamic mysticism is known, that it is walking the path of asceticism, detachment from the adornment and formalities of life and taking oneself in a manner of austerity and types of worship, rituals, hunger, and staying up late in prayer or recitation of roses, until the physical aspect weakens and the psychological or spiritual aspect becomes stronger in him, he is the subjection of the body to the soul in this advanced way in order to achieve psychological perfection, and as they say to know the Divine Essence and its perfections, which is what they express by knowing the truth). A group of Muslims, especially Sunnis, believe that the Sufi method is contrary to what was brought by the Prophet Muhammad, because man is human and will remain human with the human characteristics with which he was born. Encyclopaedia of Differences - Al-Durar Al-Sunni, Chapter Ten: Sufism, Chapter Two: Defining Sufism, language and terminology, available at: https://dorar.net, [Accessed on August 14, 2021]. Likewise: It was mentioned in a report by the British Intelligence, that the Kaka'i is originally a Sufi method (Darwsha); Both in terms of organization or historical origin, and its founder, according to the report, is Sultan Ishaq bin Issa Al-Barzanji (14th century AD), and his shrine is still a shrine for the Kaka'is in the Sheikhan District/ Nineveh, available at: https://www.sites.google.com, [Accessed on August 10, 2021].

people of the city believed in the laws of the civil state, and then most of them adhered to the customary laws of the rural clans because of the influence of the countryside on the city.
The life of modern Iraq can be divided into two periods, which is the period of the monarchy from 1921 to 1958, and this period is more stable compared to the period of Republican Rule. Royal Iraq witnessed acts of violence and extremism whose motives were primarily political and military, and the most prominent stations of which were the Twentieth Revolution against the British occupation, which paved the way for the establishment of the monarchy, the Simil massacre against the Assyrians, as we mentioned, the Mays coup movement in 1941, whose officers were executed, as well as the November uprising in 1952 and the declaration of martial law, which was interspersed with the practices of political violence, terrorism and cruelty (Al-Shammari N., 2009, p.95). Among the most prominent of these practices and manifestations, the government at the time issued the death sentence on two detainees and the sentence was carried out publicly in the street as a directed message intended to incite terror and political violence (Al-Shammari N., 2009, p.93-94).
As for the second period, which is more violent and extreme than the first, it is the period of the Republican Rule that began with the coup of July 14, 1958, led by a group of officers that overthrew the monarchy and killed the young king Faisal II, the royal family and some statesmen.

After the aforementioned coup and the establishment of the republican regime, the situation was not better. The manifestations of violence and extremism increased and became collective, as happened in the two bloody massacres in Kirkuk and Mosul in 1959, where dozens of victims were killed, and the nationalists and Baathists accused the communists for it (Al-Shammari N., 2009, p.96). Then the Baathists came with a coup on February 8, 1963[7], they executed the Iraqi Prime Minister Abdul Karim Qassem and his colleagues in the radio and television building without trial, by firing squad and shown on television screens and various types of sadistic torture were used for their opponents (Al-Shammari N., 2009, p.97).
Here we want to be brief because the series of coups, violence and extremism continued for a long time until the Baathists took power again in 1968, then Iraq entered a war with Iran on 9 April 1980, which lasted for eight years. It left hundreds of thousands of Iraqi victims and thousands of disabled and prisoners. It also exhausted the Iraqi economy and societal values have deteriorated due to the spread of manifestations of backwardness, ignorance, low level of education, and the phenomenon of children not going to schools. All of this had negative effects on society, where unemployment, crime and material destitution and the accompanying manifestations of violence and extremism spread. Then came the Iraqi invasion of Kuwait on August 2, 1990, to increase the tragedy of the Iraqis in light of the catastrophic results of this invasion, the international community condemned this Iraqi act and took its legitimate decision to expel the Iraqi forces from Kuwait, and this is what actually happened, as its military forces were destroyed, in addition to the killing of tens of thousands of its soldiers. After that, a harsh embargo was imposed on Iraq, especially the economic embargo, which had catastrophic effects on society as well, leading to the destruction of the infrastructures in the field of health, education and services and to the weakness of the Iraqi economy, so that the purchasing value of the Iraqi dinar became very weak, in addition to the death of half a million Iraqi children due to the lack of medicines, equipment, medical and other

[7]This coup was carried out by the Arab Socialist Ba'ath Party (later Saddam's party) and they installed General Abd al-Salam Aref, an opponent of the former regime, as president of the republic, while appointing one of the party's leaders (General Ahmed Hassan al-Bakr) as prime minister.

supplies (Hmood A., 2009). Then came the American invasion of Iraq on 9 April 2003, and instead of the Iraqis breathing a sigh of relief, Iraq witnessed the most violent, extremist, terrorist and bloody chapter in its contemporary history, where all ethnic, religious and sectarian hatreds and legacies exploded. The truth must be said, that the political forces and parties of various affiliations, which the way was paved for them to take power in Iraq, were behind that. In addition, the US occupation has caused the emergence of extremist terrorist organizations such as Al-Qaeda in Iraq (Al Zaiat M., 2016). Because these organizations justified their existence to resist the American occupation of a Muslim country, in addition to that, the Americans dissolved the Iraqi army and all the previous security services and left Iraq's borders wide open to terrorists. Additionally, sectarian strife (Shiite-Sunni) emerged in the years 2006-2008 because of the behaviour of these political forces and parties, their lack of wisdom, and foreign, regional and international agendas, which claimed the lives of tens of thousands of Iraqis, both Shiites and Sunnis. The means of kidnapping, torture and material extortion were among the manifestations of this violence, extremism and terrorism. The manifestations of violence and extremism did not stop there, since the terrorist organization ISIS entered Iraq and occupied the Nineveh governorate, which has a population of more than 3 million people. Rather, this organization occupied one-third of the area of Iraq and captured, killed and slaughtered by sword its Muslim opponents. The same applied to followers of other religions, such as Christians and Yazidis through captivating and raping their women and daughters, even the youngest ones. Iraq's geography and population distribution have somehow helped extremism and terrorism.

Indeed, the population distribution did not help the Iraqis in full integration, since each component remained locked in the same place. Therefore, when ISIS entered, it singled out these components, and what was helpful is that these components were confined to certain specific areas.

3. Constitutional organisation of the state and fundamental rights

There is no consensus for the whole Iraqi people, with its various religious, sectarian and ethnic components on the basic principles of the Iraqi Constitution, which was issued in 2005, even though it was voted by the Iraqi themselves, as there is still a lack of acceptance by the people of non-Muslim religions on some of the basic articles contained in the Constitution. And they believe that it is aligned with the religion of the majority, which is Islam. Article 2 came from the basic principles in Part I of the Constitution, which states:

“First: Islam is the official religion of the state, and it is a basic source of legislation.

A. It is not permissible to enact a law that contradicts the constants of the provisions of Islam.

B. It is not permissible to enact a law that contradicts the principles of democracy.

C. It is not permissible to enact a law that contradicts the basic rights stipulated in this Constitution”.

This article causes unease among other religions, since it contradicts their religious constants as well. Also, they see that what is stated in paragraph (B) is fundamentally inconsistent with what is stated in paragraph (A) of the same article. The same is the case in the text of paragraph (C) because people of other religions see many legislations contradict their basic rights and freedoms granted to them by the Constitution. Article 2 also comes to confirm this confrontational contradiction between Islam and other religions through what is stated in it, which is the following:

"This constitution guarantees the preservation of the Islamic identity of the majority of the Iraqi people. It also guarantees full religious rights of all individuals to freedom of religious belief and practice, such as Christians, Yazidis and Mandaean Sabeans".[8]

It is noted that the Iraqi Constitution in its external form appears to be a *civil* Constitution *par excellence*, but when entering into the essence, it is a Constitution aligned with the Islamic religion, and even the aforementioned freedom of belief never equates with religious freedom, because the concept of religious freedom means that a person is free to choose his own belief. This does not exist in Iraq, especially among Muslims, because it is not permissible for a Muslim to change his religion, while non-Muslims are allowed to convert to Islam. Although many articles of the Iraqi Constitution that emphasize freedom of belief,[9] and the provisions of Article 372 of the Iraqi Penal Code No. 111 of 1969 (providing guarantees for the protection of sectarian beliefs) recognize the sanctity of buildings, books and religious symbols of different religions and sects, criminalizing acts that desecrate the sanctity religious minorities and their practices and traditions[10], this article is suspended. More than ten years ago, no one was held accountable for contempt of religions, knowing that every year Christians and Yazidis are subjected to severe abuse because of their religion from well-known personalities, the last of which was from the Mufti of the Republic, Abdul Mahdi Al-Sumaida'i who asked Muslims not to shake hands with Christians and congratulate them on Christmas. There are also laws that contradict those constitutional articles that refer to freedom of belief and religious practice. Rather, they contradict the concepts of Islamic Sharia itself, which affirms the principle of "there is no compulsion in religion".[11]

Baha'is, for example, are not allowed to practice their rituals and beliefs, according to unjust laws and instructions against them, especially Law No. 105, which was issued in the eighties during the era of Saddam Hussein's regime, in which Bahai activity was prohibited. There is Law No. 3 of 2016, the so called "Unified National Card Law" – especially article 26, first and second paragraphs – which affect non-Muslim Iraqis, and violate the Constitution in freedom of belief and the principles of equality guaranteed by the Constitution in many of its articles. Indeed, the abovementioned article 26, paragraph 1 states that a non-Muslim may change his religion in accordance with the provisions of the law. The concept of violation means that it is

[8] The Constitution of the Republic of Iraq 2005.
[9] Article Two: Second, stresses "to guarantee the full religious rights of all individuals to freedom of religious belief and practice, such as Christians, Yazidis, and Sabaean-Mandaeans. Article 14 states that Iraqis are equal before the law without discrimination on grounds of sex, race, nationality, origin, colour, religion or doctrine, belief or opinion and Article 37 that the state guarantees the protection of the individual from intellectual, political and religious coercion. Article 41 declares that: "Iraqis are free to abide by their personal status, according to their religions, sects, beliefs, or choices", and Article 42: "Every individual has freedom thought conscience and belief". Article 13 stipulates that the constitution is "the supreme and highest law in Iraq".
[10] See: Article 372 of the Iraqi Penal Code, L. No. 111 of 1969.
[11] The Noble Qur'an, Surah Al- Baqarah, Verse 256.

not permissible for a Muslim to change religion because the matter is considered apostasy according to Sharia principles. Paragraph 2 of the same article, additionally states that children who are minors shall follow religiously whoever of the parents has embraced the Islamic religion. For years, non-Muslim Iraqis have been trying to amend in order to ensure "children remain in their original religion, provided that they are given the right to choose their own after they reach the age of majority," especially since this article had negative social effects and consequences on Christians, Sabaeans Mandaeans and Yazidis, since minor children are registered in their civil records as Muslims according to the Islamic religion of one of the parents, without their knowledge and consent. This constituted – and still represents – a problem for thousands of Christian, Sabaeans, Yazidi and non-Muslim families in general. As non-Muslim minorities confirm, considering a minor as a Muslim contradicts the provisions of the laws in force as he/she is not legally competent to perform legal actions. Actually, the Iraqi Civil Code, in article 46, considers that whoever has not reached the age of majority (18 years) is deficient in eligibility. Considering a minor as a Muslim contradicts the (qur'anic) legal principle that states "there is no compulsion in religion".

Although the Personal Matters Law has given the judges in the Civil Status Court the right to be guided or consult the opinion of the spiritual leaders of each sect or religion (such as Christians, Yazidis, Jews and others) regarding their personal status, judges rarely resort to exercise this right except in rare cases (as divorce cases, for example). The justiciability of this right stems from the implementation of the provisions of Article 16 of Courts Statement No. 6 of1917, relating to the right of referral to one of the spiritual scholars, to consult their opinions and the provisions of their faith regarding certain issues. In most cases, judges make their decisions without referring to the spiritual scholars (Matti M., 2012, p.27). Therefore, a number of legal texts require reconsideration, especially those that are inconsistent with the rights of civil citizenship, equality, freedom of belief and personal rights which affect Christians, Yazidis and Mandaeans, such as Article 17 of the Personal Status Law in force, which states that "it is permissible for a Muslim to marry a Christian woman or a Jew or a Sabaeans woman, and it is not valid for a Muslim woman to marry a non-Muslim", as well as Article 18 of the aforementioned law, which stipulates:

"the Islam of one spouse before the other is subject to the provisions of Sharia in the maintenance of marriage, or the separation of spouses".

Thus, when the husband converts to Islam, a woman is allowed to remain on her religion, if it is from the aforementioned sects, and here the Yazidis are not included, so the Yazidi women must convert to Islam before marrying a Muslim. Whereas, if the wife converted to Islam, the husband had the choice between separation or Islam.

We believe that the existence of separate provisions legislation for minorities will create a complex legal system at the expense of appropriate judicial orders and equal treatment of all citizens. In our opinion, the lack of protection for non-Muslim minorities in the field of civil status stems from the absence of any relevant and effective laws governing their personal status. The Iraqi Civil Status Law includes other articles related to marriage (validity and dissolution of marriage, waiting period, etc.), the provisions of which violate the rights stipulated in Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination, to which Iraq is a party. They also contradict Article 14 of the Iraqi Constitution, which states equality before the law for all Iraqis without discrimination on the basis of sex, religion, sect, belief or opinion. Article 12 of the Personal Status Law states that it is a condition for the

validity of marriage that the woman is not legally forbidden to the one who wants to marry her. Article 13 declares that the reasons for prohibition is the belonging to a non-heavenly religion. Article 17 states that it is permissible for a Muslim to marry a non-Muslim (Christian woman or a Jew or a Sabaean woman) and it is not valid for a Muslim woman to marry a non-Muslim.

We note that both Articles 12 and 13 render any marriage of a man and a woman of a "non-heavenly" religion void, and Article 17 also makes any marriage between a Muslim woman and a non-Muslim man void. These provisions affect the right to establish marital relations for Muslims as well as for non-Muslim minorities and lead to discrimination against Muslim women and women of other religions. Therefore, it is necessary to reconsider Articles 12, 13, and 17 in order to make interfaith marriages possible. There are other articles of the Iraqi Civil Status Law in force and referred to divorce, annulment and waiting period, such as Article 34, which imposes divorce according to a certain belief, and Article 37 allows the husband to terminate the marriage by mere pronunciation, while Islamic methods such as Baha'is, for example, do not grant the husband this authority. The Kakai's, who are a Muslim minority in Iraq, do not recognize divorce. In the same way, Muslim sects and groups differ on the 'waiting period', which is recommended by Article 47 and that the wife must fulfil before she can marry again.

Articles 34, 37, and 47 of the Personal Status Law violate Article 27 of the International Covenant on Civil and Political Rights because they deny the right of religious minorities to "declare their religion" (IILHR,2011. P.45-46).

Because of the growing sense of injustice and discrimination against non-Muslims in Iraq, calls for a review of the Civil and Personal Status Laws increased, based on the right of civil citizenship and the principles of justice, equality and freedom of belief guaranteed by the Iraqi Constitution. Their emphasis on the need to expedite the treatment of the problem of Islamization of minors outside their will after the conversion of one of the parents to Islam, calling for the abolition of Paragraph 2 of Article Twenty-six of the Unified National Card Law or its amendment. Minorities also demand that amendments be made in The Amended Personal Status Law in force n. 188 of 1959, especially those articles that non-Muslim components suffer from, by adding a special chapter for non-Muslims to the law in force, including provisions pertaining to their personal status in matters related to family, marriage, divorce, child custody, inheritance, the succession, adoption, as approved by scholars, religious scholars and jurists from among the non-Muslim components themselves.

In the context of constitutional guarantees vis-à-vis minorities' rights, Article 125 of the Constitution,[12] providing for their administrative, political, cultural and educational rights, has never been implemented at the legislative level, still representing a mere "principle" on its own. However, on the one hand, neglecting attention to the rights of religious and national minorities may increase their sense of injustice and deepens the alienation in their mother country. On the other hand, some Iraqi Arabs believe that the Iraqi Constitution neglected that Iraq is part of the Arab nation too. Rather, the Constitution sufficed only with the Article 3 formula: "Iraq is a country of many nationalities, religions and sects, and it is a founding and effective member of the League of Arab States, committed to its charter, and part of the Islamic world".[13] Thus,

[12] Article 125 of the constitution states "This constitution guarantees the administrative, political, cultural and educational rights of the different nationalities, such as the Turkmen, Chaldeans, Assyrians and all other components, and this is regulated by law".
[13] The Iraqi constitution of 2005, Article 3.

from this group's point of view, this text is an attempt to separate Iraq from the Arab nation to which it belongs.

Likewise, with regard to housing, ethnic nationalism and separatism played a role in not giving the right to the Iraqis to own any area they choose to live in. Until recently, it was not allowed for Arabs to buy and own real estate in the Kurdistan region, and this was contrary to the Iraqi Constitution, especially article 1 of the basic principles, Chapter I.[14] This choice also violated Article 23 of the same Chapter.[15]

As for the political aspect, and despite what the Constitution stipulates that "the Republic of Iraq is a single, independent and complete federal state", however, on the land of Iraq and through the practices of the Kurdistan region, we see that Iraq is closer to a confederal state than to a federal one. The Kurdistan Regional Government is not under the control of the federal government, and the federal government does not control the border crossings in the region. A citizen from outside the Kurdistan region does not enter the region, except with the approval of the region's authorities according to a process that is similar to obtaining an entry visa and does not have the right to stay more than a month on the territory of the region. Moreover, the region's authorities also have offices and representation in consulates and representations inside Iraqi embassies abroad, which are supposed to be exclusively for the federal government.

In addition to many of the basic political issues that constitute a situation of almost permanent dispute between the federal government and the Kurdistan Regional Government of Iraq, such as control of border crossings, and disputed areas, meaning that there are areas that the Kurdistan Regional Government considers to be within the territory of the region, the repercussions accompanying this issue negatively affect the political relationship between the regional level and the centre. Indeed, there is a state of distrust, since each party doubts the intentions of the other, in detriment of Iraqi citizens as a whole. This is one of the main reasons for political and economic instability, affecting the factors triggering violence and extremism as well.

[14] "The Republic of Iraq is a single, independent, and complete federal state, its system of government is republican, representative (parliamentary) and democratic, and this Constitution is a guarantor of Iraq's unity".

[15] First: "Private property is safeguarded, and the owner has the right to benefit from, exploit and dispose of it within the limits of the law". Second: "It is not permissible to expropriate property except for the purposes of public interest in return for fair compensation, and this is regulated by law". Third (A): "An Iraqi has the right to own property anywhere in Iraq, and no one else may own immovable property except as exempted by law"; (B): "It is prohibited to own property for the purpose of demographic change". The policies of demographic change and the transfer of population from one region to another played a major role in the growth of extremism in Iraq, and this is why the Iraqi legislator was keen to include them in the constitution, because the ownership was used for future political goals to change the identity of the land, and the former regime (Saddam's regime) used this issue in changing the demographic structure of the city of Kirkuk, by housing Arabs from other regions and governorates in it and distributing lands to them at subsidized prices to change and increase the population ratio of Arabs in it in order to disenfranchise the Kurds' claim for it to be annexed to the Kurdistan region. Thus, the Kurds used the same policy after 2003, they pushed groups of residents of Kurdish origin to live in Kirkuk, and pushed women from other provinces to give birth to their children there, to favour the Kurds in the population, to prove the Kurdishness of Kirkuk. Such policies also took place in the Nineveh Plain between the two sides in anticipation of separatist policies and ambitions.

The aforementioned Iraqi Constitution dealt with and prohibited the issue of violence and extremism through what was stated in Article 7, with its first and second paragraphs.[16]

Undoubtedly, it stipulates the fight against terrorism and its affiliates, by banning the involved entities, but article 7 paradoxically paved the way for the emergence of phenomena of violence and extremism, up to terrorism, since it especially referred to "the Saddamist Baath in Iraq and its symbols and under any name". Instead of turning the page on the past, adopting a policy of tolerance and achieving transitional justice, this provision helped extremist groups to take revenge, which generated a feeling among a large and wide segment of those who were affiliated, most of whom were compelled to the previous regime. They felt injustice stemming from the new ruling political class policies by being targeted by political, economic and social harm, which prompted them to take positions and adverse reactions against the new Iraqi regime. Moreover, it made some of them sympathized with terrorist groups, and most of them had ended up affiliating with them. The Constitution also establishes a national body through the Article 135 provisions about The Supreme National Commission for De-Baathification. [17]

Eighteen years after since the fall of the previous regime, the commission is still working, and there has been no change in it except to change its name from the De-Baathification Commission to the Accountability and Justice Commission. In some cases, this body has even become a monitoring and punishment body for anyone who expresses their opposition to the new system.

Regarding to guarantees of freedom of expression and freedom of assembly and peaceful demonstration and despite the issuance of the Journalists' Rights Law of 2011, the second article of which came to indicate consistent with the aforementioned Article 38 of the Iraqi Constitution, journalists have been arrested and banned under the pretext of protecting national security, defamation, slander and others, especially after the series of demonstrations that the country witnessed on the twenty-fifth of February 2011 (NINA, 2011). Also, taking into account the youth demonstrations that started in October 2019, where more than 570 young men and women were killed and more than 11982 persons were wounded in various

[16] "First: It is prohibited to any entity or approach that adopts racism, terrorism, infidels or sectarian cleansing or incites, paves, lists or justifies it, especially the Saddamist Baath in Iraq and its symbols and under any name. This is not permissible within the political pluralism in Iraq, and this is regulated by law. Second: The state is obligated to fight terrorism in all its forms and works to protect its lands from being a headquarters, corridor or arena for its activities".

[17] "First: The Supreme National Commission for De-Baathification continues its work as an independent body in coordination with the judiciary authority and executive bodies within the framework of the laws regulating its work and is linked to the Council of Representatives; Second: The Council of Representatives may dissolve this body after the end of its mission by an absolute majority; Third: A candidate for the position of the President of the Republic, the Prime Minister and members of the Council of Ministers, the Speaker and members of the Council of Representatives, the President and members of the Union Council, corresponding positions in the regions, members of judicial bodies and other positions included in de-Ba'athification in accordance with the law, is required to be not included in the provisions of de-Ba'athification; Fourth: The condition mentioned in Third Clause of this Article shall continue to be applied unless the Commission stipulated in First Clause of this Article is dissolved; Fifth: Mere membership in the dissolved Ba'ath Party is not considered a sufficient basis for referral to the courts, and the member enjoys equality before the law and protection unless he is covered by the provisions of de-Ba'athification and the instructions issued thereunder; Sixth: The House of Representatives will form a representative committee from its members to monitor and review the executive procedures of the High Commission for De-Baathification and state agencies, to ensure justice, objectivity and transparency, and to consider their approval of laws. The decisions of the committee are subject to the approval of the Council of Representatives".

governorates of Iraq (HHRO, 2020, p.24), especially in the capital, Baghdad, and the southern governorates such as Basra, Nasiriyah, Najaf, Diwaniyah and others. Dozens of journalists and activists who were reporting the events were prosecuted, and a number of satellite news channels were attacked and destroyed without the perpetrators being held accountable, the most important of which is the Dijla satellite channel.

Also, despite the issuance of the amended Press and Publication Law No. 32 of 2012, which is read with Law No. 206 of 1968[18] on which the Iraqi judiciary relies in dealing with publishing issues and the issues of journalists and their trial, this law and amendment are not consistent with the media expansion and the atmosphere of openness and democratic transformations prevailing in the country. It has many kinds of shortcomings and articles that are compatible with the practices of the totalitarian regimes and there are red lines that a journalist or media person cannot cross, especially in criticizing or exposing violations or practices of influential groups, currents or parties for fear of being attacked, up to the point of death. The latter occurred to both the journalists Soran Mam Hama, assassinated in his home in Kirkuk because of his critical writings directed at politicians and security officials, as well as Sardasht Othman who was working in Erbil. His body was found dumped in one of the streets of Mosul, outside the area administered by the Kurdistan Regional Government of Iraq. Most accusations in the case of his assassination are directed at the Kurdistan Regional Government of Iraq for his harsh criticism of the senior officials of the regional government (Amnesty International, 2010).

Presenting the challenges of freedom of expression for journalists in Iraq is at the same time an expression of freedom of opinion for all citizens. Therefore, one of the dilemmas of the Iraqi media is under the control of a particular party, sect or race, and this has contributed to the escalation of political tension and led to the continuation of the security concern and confusion of the nascent political process, which was essentially based on sectarian and national quotas, and distributed positions and ministries in light of it.

It remains to point out here that, despite the remarks mentioned about these articles and paragraphs contained in the Constitution of the Republic of Iraq, this does not mean that this Constitution is devoid of civilized constitutional texts that are in line with human rights and the preservation of his dignity, but the reality is different from that, as we mentioned. Although some people in the inside look at them as normal and not of a great importance in their transgressions, but in the eyes of Western countries, they are crimes and a severe violation.

It must be mentioned that the Iraqi authorities have enacted the anti-terrorism law, which aims to eliminate and curtail terrorist operations and limit the forms of support and assistance to those who carry them out (Iraqi Waqaee Newspaper, 2005) moreover, some believe that this law is selective in the application (Al Shammari B., 2020). This will be explained in more detail later in the legislative framework.

[18] Amended Press and Publication Law no. 32 of 2012. Available at: https://www.wipolex-reswipo.net, [Accessed June 26, 2021].

4. Legal and policy framework in the field of radicalisation and counterterrorism

If we take the most important constitutional document in Iraq, which is the Iraqi Constitution of 2005, we find in it many contradictions and ambiguity, as it is in Paragraph 3 which was mentioned in this report, especially with regard to Islam being the official religion of the state, as well as the ambiguity and lack of clarity about the identity of Iraq, in addition to the multiplicity of interpretations of the fact that Iraq is a single federal state. The lack of clarity and accuracy in the aforementioned constitution made the issue of integration and coexistence a difficult task among the components of the Iraqi people.

One of the important criticisms directed against the Iraqi constitution is that it was issued in the presence of the American occupation of Iraq. From the critics' point of view, it is unfair +to acquiesce to a constitution set by the occupier, despite their knowledge that the experience of Iraq is not the first case. The existence of such opposition and criticism highlighted the presence of severe discrepancies and sharp differences among the components of the Iraqi people. There were those who accepted the American occupation, and others who opposed and considered it a desecration of its sanctities, so they had to resist and expel it.

The writing of the Constitution in these terms had contributed in one way or another to the manufacture of hatred, and then it became one of the factors or reasons that led to the spread of the phenomenon of extremism and terrorism. Because the constitution gave a large space and prominent attention to the rights of groups, the concept of citizenship has been somehow weakened. The constitution also gave the right to ban the Baath Party, to which most Iraqis belonged, at the same time affirming this ban should be regulated in accordance with the law.[19] Going back a little, when the United States of America nominated Paul Bremer as a civilian ruler over Iraq during the first year of the occupation, he issued a set of orders that have the force of law, contributed greatly to the emergence of the phenomenon of extremism and terrorism.[20]

He issued a set of decisions in 2003 that dissolved the Iraqi army and security services on the pretext of their loyalty to the former regime. These security services and the Iraqi army are able to maintain security and order, so it was possible to maintain them to achieve this goal. But the dissolution of these services created a security vacuum, which encouraged the search for local alternatives based on different sectarian, religious, ethnic, tribal or even personal bases, that match (resemble?) the entity and power of the state, and even the state has become a hostage to these (armed) groups, jeopardizing the idea of a basic and “central” institution (Al-Hariri J., et al, 2004, p.60-61).

[19] Article7, First. Iraqi Constitution, 2005. According to the Supreme National Commission for Accountability and Justice Law No. 10 of 2008, Article 2, the Supreme Commission for Accountability and Justice, as a financially and administratively independent body, has replaced the National De-Baathification Commission, and it enjoys all its constitutional powers and the same legal personality. It is linked to the House of Representatives and continues its work in coordination with the judiciary and other executive agencies. See the (Al-Waqai Al-Iraqiya Newspaper), No. 4061 on February 14, 2008. Available at https://www.iraqld.hjc.iq, [Accessed August 17, 2021].

[20] The coalition provisional authority orders (CPA orders), which the Iraqis call it (Bremer's orders), had the force of law, and some of them are still in force today.

When the Iraqi National Assembly issued the Anti-Terrorism Law No. 13 of 2005, jurists noticed flaws and loopholes. For example, law professor Dr. Amer Ibrahim Al-Shammari mentions that the Iraqi National Assembly legislated this law consisting of six articles under complex circumstances and American pressure on the Presidency Council at that time, and prepared the draft law hastily in accordance with Article 33, paragraphs (A, B) of The Law of Administration of the State for the Transitional Period (TAL). This law was cancelled based on the provisions of Article 37 of the aforementioned law after the promulgation of the Constitution of the Republic of Iraq for the year 2005. It was issued by the Presidency Council on 11/7/2005. Al-Shammari also mentions that the severity of the damage resulting from terrorist operations have reached that the point to threaten national unity and the stability of security and order per se, thus rendering ad hoc legislation against terrorism urgent, in order to limit them and whatsoever form of support and assistance. Despite the importance of this law and its necessity in combating terrorism, criminalizing it and punishing terrorists, it raised hundreds of thousands protests in Anbar, Nineveh, Kirkuk, Salah al-Din and Diyala, especially about procedural shortcomings, and the misuse of the expression “terrorist acts” inconsistent with the constants of the international legal rule. Despite this, Al-Shammari believes that this law has positive aspects, as it came in response to a need represented in combating terrorist crime that requires a legislative confrontation to eliminate it or reduce its impact by legal methods that the legal legislation may not be able to deal with in the same way the ordinary crimes are handled.[21]

According to a preliminary assessment of this law, there are broad provisions, especially in Article 4, which allow for broad interpretations or threaten public freedoms, since the law was drafted in a way that allows the prosecution of anyone who violates the system.

Article 4 of the law is considered the most widely used in the Iraqi judiciary, and it contains two criminal clauses:

The First item: “Anyone who commits, as a principal offender or co-offender, any of the terrorist acts mentioned in Articles Two and Three of this Law shall be punished with the death penalty. The instigator, the planner, the financier, and anyone who enables the terrorists to commit the crimes stipulated in this law shall be punished with the same penalty as the original perpetrator”.

As for the second item: “Whoever wilfully conceals any terrorist act or harbours a terrorist person with the aim of concealment shall be punished with life imprisonment” (Al Shammari A., 2021).

Article 4 of this anti-terrorism law (Law No. 13 of 2005) is the most controversial article in Iraq, and because of this, Iraqis call this law “Law 4 Terrorism”. After more than 15 years of its issuance, it seems that thousands of innocent people have fallen victim to this fourth article, according to observers. Iraqi sources say that the armed militia, in cooperation with some Iraqi security forces, took advantage of this law to blame journalists and activists of being opposers,

[21] The Chairman of the Security Council Anti-Terrorism Committee concerned with following up on counter-terrorism measures in all countries of the world referred to doubts about the seriousness of Iraq's implementation of Resolution No. 1373/2001 regarding the prosecution of terrorist crimes, freezing their financial assets and preventing terrorist financing. In his recommendation to the Council, he affirmed: “Iraq should review the Anti-Terrorism Law of 2005, and establish a mechanism to seriously combat terrorism in the local law by reconsidering the law to rid it of ambiguity, and proposing precise provisions and precise definitions of terrorist acts so that they do not slip in the future in political trials”.

as well as taking advantage of overcrowded prisons to conclude illegal contracts and deals (corruption operations). Therefore, Iraqi Prime Minister Mustafa Al-Kadhimi, who took over the government after the October 2019 demonstrations, visited prisons in May 2020, in addition to establishing a committee (also investigating the truth about the existence of secret prisons), but a serious investigation has not yet been issued. Regarding the same issue, the spokesman for the “Afad” Observatory, Iraqi journalist Ziad Sanjari, confirmed in an interview with “Al-Hurra” website that militias and parties dominate the prison file, and the laws in place have proven their failure, from the terrorism law to the general amnesty law, as citizens are arrested based on news without evidence. He revealed that the number of detainees exceeds the capacity of prisons, without taking into account health and humanitarian conditions, and depriving most of them of adequate ventilation and food. Al-Sanjari asserts that the observatory has documents that reveal corruption cases inside prisons, where bribes range between 50,000 and 300,000 US dollars to release the prisoner. It is noteworthy that 82,000 arrest warrants were recently issued in Nineveh Governorate, bringing the number of detainees to more than 70,000, stressing that prison administrations follow a policy of humiliation and systematic torture to extract confessions that serve the fabricated charges. In turn, the civil activist and blogger Seif El-Din Ali, in an interview with the Al-Hurra TV channel, considered that Article 4 of the Anti-Terrorism Law, which was established in 2005, is the largest criminal tool against the people, pointing out that “the problem is not only with the article, but also in its unjust application and punishment of innocent people based on it, while the militias are on the loose". Ali added that "when the October Revolution began in 2019, the government deployed military forces in Tahrir Square and the streets of the capital, Baghdad, and the protesting provinces, and they had an order to fire at the protesters under the legal cover (Law 4 Terrorism)”. He pointed out that the government at the time "classified the angry protesters as terrorists according to Article Two in its second clause, and Article III in its second clause, which resulted in hundreds of young people being tortured and more than 20,000 injured," and stressed that "those who were caught by the government, are now sentenced with this unjust article, and the death sentence may await them just because they blocked a street or burned down the headquarters of a militia". The human rights activist in the prison file, Marwa Al-Faraj, further explained that “Law 13/2005 was enacted because of the severe damage caused by terrorist operations at the time, and in order to protect national unity, stability and security, but in recent years, the authorities have started to exploit the law not only in order to arrest all whoever disagrees with them, but rather to evade international conventions on human rights”. She pointed out that the law is being applied arbitrarily, as the security forces exceed their powers and detain freedoms in an attempt to silence mouths. The best evidence for this is the ruling issued by the Federal Court of Cassation on November 24, 2019 as the criminal committee in the court issued a ruling that considers the actions attributed to the demonstrators to be ordinary crimes because there is no criminal intent (terrorist aims) against those who protested in the squares because of corruption and living conditions, which means that there is a real problem in implementing the law (Al Shammari A., 2021).

On the international level, specifically in 2014 (the year in which the terrorist organization ISIS-occupied a third of the area of Iraq), the Iraqi government stimulated the international community by sending messages to establish an international coalition to fight terrorism and increase security coordination and cooperation by supporting and arming Iraqi, considering Iraq at the forefront of countries that faced terrorism. Thus, the Iraqi government went to include a fixed clause for international bilateral cooperation in combating terrorism (Al Mokotour A., 2021).

Another controversial legislation that was supposed to be relied upon to eliminate extremism is Law No. 36 of 2015 regulating the work of political parties in Iraq to ensure political pluralism and achieve broader participation in public affairs.[22] Despite the basic principles included in a number of its articles, especially articles 5 and 6[23], most of the Iraqi political parties working and participating in the political process do not adopt the principle of cross-sectarian, ethnic and national citizens. We find that most of the parties are either Kurdish nationalist or Arab nationalist or completely Shiite Muslims or completely specific for Sunni, and there are nationalist Turkmen parties and Assyrian Christian parties which do not contain a person of another religion and so on. Indeed, some parties adopt purely sectarian or chauvinistic nationalist ideas. Also, the leaders of some of these parties do not abide by the text of Article Six, which calls for the adoption of democratic mechanisms to choose their party leaders. They are personal parties, i.e. loyalty is to the person of the party's Secretary-General who remains at the head of the party from the establishment *sine die*. In other words, they are more like totalitarian parties ruled by authoritarian, dictatorial leaders.

5. Institutional framework in the field of counterterrorism and de-radicalization

The authority in Iraq in all its forms, whether legislative, executive or judicial, is unable to manage diversity and pluralism, thus generating frustration among minorities. For example, important and sensitive positions are still held by the political entities that hold power who represent majority, whether it was in the previous regime period before 2003 or after 2003. Whereas, minorities' stances are not taken in due consideration and they do not hold influence in the political decision-making process. There is a spread feeling among minorities that laws and legislation in Iraq uniquely encounter the interests of the majority, massively affecting their beliefs.

Certainly, this may well foster a suitable environment for violence, terrorism and extremism in a society in which poverty prevails. The demonstrations that took place in October 2019 are one of the reasons for that. We document this from information issued by government agencies, which is very recent information. The Iraqi Ministry of Planning revealed, through the official spokesman, Abdul-Zahra Al-Hindawi, that poverty exists throughout Iraq and its governorates, but the poorest governorates are the governorates of the south (Al Ain News Network, 2021). This is due to the rampant financial or administrative corruption of the ruling political class, as well as the lack of long-term policies to face poverty.

The Corona pandemic also made matters worse in Iraq, as it has limited job opportunities, in addition to the crisis of the displaced from inside Iraq – whose number reached nearly 5 million, as well as refugees such as the Syrians, Iranians, Palestinians and others – which also contributed to the spread of violence and extremism along with the terrorist threat. Actually,

[22] Political Parties Law No. 36 of 2015, available at :https://arb.parliament.iq/archive/2015/08/27/20218/, [Accessed June 20, 2021].

[23] The party is established on the basis of citizenship in a way that does not contradict the provisions of the constitution. Second: The party may not be established on the basis of racism, terrorism, infidelity, sectarian, ethnic or national fanaticism. Third: It is forbidden to establish a party that adopts or promotes the thought or method of the dissolved Baath Party. Article 6 of the law states: "The political party adopts democratic mechanisms for selecting party leaders".

there are still fears about the existence of sleeper cells belonging to ISIS, which sows terror, fear and panic in the hearts of Iraqis, especially minorities whose children have suffered from severe violent acts. And not only from the criminals of this terrorist organization, but also from extremist armed groups, time to time arranging attacks, such as explosive devices in liquor stores whose owners and managers are from the Christian and Yazidi minorities. The last explosion occurred on 2nd February 2021 in a liquor store in one of Baghdad's main streets (Al-Nedal Street), and this is a decisive indication that minorities are vulnerable and suffer as targets of violence and extremism.

It is worth mentioning that political leaders, whether in the federal government or the Kurdistan region, as well as in local governments at the district and sub-district level, bear responsibility for violence and extremism. Especially with regard to the policies of changing the identity of the land and its ownership by changing the demographic structure in it, by pumping numbers and groups of the population belonging to a particular religion or nationalism with the aim of achieving future political interests, and this is what happened in Kirkuk and the Nineveh Plain, to "arabize"[24] or to "kurdificate"[25] these areas. For example, there is an insistence by the federal government or the Kurdistan Regional Government not to stop the demographic change policies in the minority areas. The federal government did not nullify the decisions of the previous dictatorial regime of the demographic change in the Nineveh Plain regions with Christian and Yazidi majority, but rather ignored the abuses taking place on their lands by illegal ways through fraud or forgery, especially the lands of the people who fled from it because of the wars, conflicts and acts of violence that have prevailed during the last two decades (HHRO, 2011, pp. 9-10). Also, the Kurdistan Regional Government did not act on the encroachments on the Christian villages in the Kurdistan region, where there are approximately more than 50 villages that are infringed on agricultural land and water by influential Kurds, and the regional government remains silent about them (HHRO, 2011, p. 24). It also did not pay enough attention to the complaints submitted by the Christian citizens to solve this problem. In fact, the regional government participated in the encroachment on Christian lands, which it exploited for the international airport in Erbil - Ankawa, without due compensation (HHRO, 2011, p. 24). Moreover, after 2003, the regional government made demographic changes in the Sheikhan district (60 km north of Mosul), which was mostly Yezidis, to turn the majority into a Kurdish Muslim (Dawood S., 2017). In Baghdad, there are thousands of Christian homes whose owners fled during the sectarian fighting in Baghdad in the years 2006-2008; they were seized by gangs, mafias and influential people (HHRO, 2013, pp. 12-15). The government is intentionally or unintentionally unable to restore them (Al Jaffal O., 2016), in addition to the inability of the government in Baghdad in protecting the Christians and Yazidis interests, as their shops and stores are exposed from time to time to armed attacks and bombings by extremist groups (Al- Hurra, 2021).

[24] "Arabization" means to change the ethnic identity of the non-Arab population through coercion or intimidation and consider them Arabs, and to pump a population of Arab nationalism into an area to increase the proportion of Arabs in it to prove its belonging to the Arabs. See Oguz S. (2016) 'Turkmens: Victims of Arabization and Kurdification policies in Kirkuk' [online] Available at: www.researchgate.net [Accessed August 31,2021].

[25] "Kurdification" means to make the non-Kurdish population Kurdish by means of coercion and intimidation, as well as acts of assimilation and national and ethnic assimilation by arbitrary ways, as well as pumping Kurdish groups into an area to achieve a majority population in it for the benefit of the Kurds. This operations are aimed at including them it in the Kurdistan Region in order to foster the separatist conflict of the Kurds between Baghdad and Erbil. Please see: Oguz S., 2016.

Likewise, what the leaders and government of the Kurdistan region have done is that the Kurdish language should be the dominant language in the region, with the abolition of the Arabic language which was previously spoken by the Kurds in addition to their language; this in itself weakened the integration of the region (Kurdistan) into the motherland (Iraq). As we know that integration would help in countering violence and extremism. Political dissonance based on ethnicity and sectarianism has negative effects on the public life of citizens. The political forces in Iraq today are ideologized according to their ethnic, religious or sectarian beliefs, meaning that race, religion or sect determines the goals and principles of these political forces and parties, even if these forces and parties are not revealing expressly about this, but they are being worked in an implicit or latent way. Additionally, there is a regional or international agenda that many of these forces or parties conduct in the light of their own directives to serve the interests of those external forces.

6. Case studies

Case study 1

A strategy to combat violent extremism leading to terrorism. (Al-Nahrain Centre for Strategic Studies, 2019)

After eliminating the terrorist organization ISIS in 2017 and expelling it from the areas it occupied in 2014, the Iraqi National Security Council prepared a strategy to combat violent extremism leading to terrorism. This study was issued in 2019, and it shows national vocation, meaning that it includes the whole of Iraq and does not exclude a district or a region from it. Further, it was a multi-dimensional strategy, indicating that it is not limited to security means and law enforcement procedures only, but depends on other means such as economic, social, cultural, youth engagement and other. This strategy was based on the 2015 National Security Strategy, which had identified the risks and threats that constitute an environment conducive to extremism and violence facing Iraq, requiring short and medium-term action plans, namely against financial and administrative corruption, political instability and poor education, in addition to weak social cohesion. It also stressed the United Nations General Assembly's efforts to combat terrorism, and the need to take unified measures to combat violent extremism too.

This strategy to combat violent extremism also showed the Iraqi government's realization that the battle with terrorism is still ongoing, and that the final victory can only be achieved by eliminating extremism and hatred, leading to a society that believes in coexistence and moderation. Starting from this realization, the Government of Iraq sets this strategy, to offer guidance for state institutions and civil society organizations, in order to achieve this goal, strengthening a national environment committed to the progress of society, the growth and integration of its forces and the preservation of its civilization and its basic values. The above

shall lead to the erosion of extremism and hatred, as well as to the prosperity of Moderate free thought and coexistence.[26]

This strategy envisages two parts. The first part deals with the social environment and the danger of extremism therein, as well as the danger of the growth of violent extremism in Iraqi society. The factors that contribute to the formation of an environment conducive to violent extremism and the tendency to violence and hatred of others were also identified. These factors were classified into ten axes: social, economic, security, political, legal, regional, extremist takfiri ideology and globalization, the repercussions of ISIS control over Iraqi cities and the repercussions of the war on ISIS. In the second section from the first part, threats and opportunities to successfully implement the strategy are addressed.

Addressing the drivers of extremism in Iraq is a difficult achievement, due to the presence of two main challenges: weak capabilities of state institutions concerned with the safety of the societal environment on the one hand, and the fact that there are influential factors in Iraqi society itself which contribute to the creation of a fertile ground for extremism, as well as Iraq's external environment, on the other hand. Nonetheless, there is the possibility and an opportunity for success in combating extremism by means of the strength of religious and moral values inherent in the hearts of Iraqis, the authenticity of Iraqi society and its history of coexistence and tolerance, in addition to the opportunities created by the brilliant victories that Iraq achieved over the terrorist groups of ISIS. The latter ended its military presence on the Iraqi lands, and optimism and popular welcome came with the policy of openness, moderation and reform adopted by the government.

As for the second part of this document, four strategic goals were identified: developing an environment that encourages fairness, moderation and coexistence, rejecting extremist thought and behaviour, accommodating youth energies, rehabilitation and social integration for groups that have been exposed to conditions conducive to violent extremism, preparing a citizen who believes in justice and moderation, and consolidating the national spirit.

As for the second section of the second part, the means of achieving this strategy were identified, by coordinating the use of the state's various means and directing it by including specific goals in the plans of seven sectors in the state, namely:

1. The means of educational, pedagogical and cultural institutions.

2. The means of youth and social institutions.

3. Media institutions.

4. Means of presidential institutions and the Ministry of Foreign Affairs.

[26] 24 experts and specialists from the Ministries of Interior, Higher Education, Education, Justice, Labour and Social Affairs, Youth and Culture, the Anti-Terrorism Service, the Intelligence Service, the National Security Service, the Endowment Offices and specialists from different universities participated in preparing this strategy, alongside the Al-Nahrain Centre for Strategic Studies, in addition to researchers and specialists from other sectors, and the participation of specialized civil society organizations, under the supervision and coordination of the National Security Advisory. This strategy was based on the 2015 National Security Strategy, General Assembly Resolution (68/127) entitled "Towards a World that Rejects Violence and Violent Extremism", Security Council Resolution 2178 in 2014 and the plan of the United Nations Secretary-General entitled "Plan of Action to Prevent Violent Extremism", which was submitted on January 15, 2016, and adopted by the United Nations General Assembly as references for this strategy.

5. The means of security, justice and judicial institutions.

6. Means of economic, financial and civil institutions.

7. The means of religious institutions.

This strategy also identified the implementing and supporting agencies for these means, as well as the duration of their implementation and of their impact.

Case study 2.

Extremism against Yazidi women

Before addressing the extremism to which the Yezidis, especially women, have been subjected, a brief overview of the nature of the Yezidis and their places of residence in Iraq must be given. As we mentioned previously they are a religious group and they divide themselves in terms of their national and ethnic affiliation, as some of them consider themselves Kurds, but a large portion of them considers themselves to be only of Yazidi nationalism and others as extension of the Assyrians and Babylonians. They are distributed throughout northern Iraq, specifically in the Sinjar district of the Nineveh Governorate, as well as in the neighboring governorate of Dohuk and the Nineveh Plain region, and their numbers range between 500-700 thousand. The Yezidis appeared more than four thousand years ago.[27] Its followers say that it is the oldest religion in the world and its roots extend to Zoroastrianism. Historically this religious philosophy and rituals are linked to nature, to the discovery of agriculture and the beginning of urbanization, with clear imprints of the ancient Mesopotamian religions such as Sumerian, Babylonian, Assyrian and Mitanni. The Yezidis sanctify the natural phenomena of the sun, moon, fire, earth, water and others (Baban S., 2020).

The Yezidis do not have a prophet or apostles like other religions, and the man is directly related to his Lord in his relationship with him; there is not a collective prayer in the rituals of Yazidis, but they pray alone in a secluded place directed to the movement of the sun in its rising and setting. The Yezidis sanctify the sun until now. The Yazidis have a supreme reference called ‘Baba Sheikh’, and he is their spiritual leader.

The Yazidis have been subjected in various ages to forms of extremism against them, but the harshest thing they have been exposed to throughout history is what happened to them by the terrorist organization ISIS. The latter occupied their lands in 2014, eradicated them, captivated their women and sold them to Daeshis (ISIS people). Some of them even became pregnant from ISIS persons, facing another kind of discrimination in addition to violence, since children would have not been accepted. Here came the wisdom of the religious leader of the Yezidis (Baba Sheikh), to remove this ban against children not born from both Yazidi parents, deciding to bring changes to former Yazidi beliefs and rituals.

Indeed, contrary to the accepted traditions, and in consultation with the Yezidi Spiritual Council, he announced that the women who were captured and enslaved by the Islamic State

[27] The Yazidi religion differs from other religions since it is not missionary and does not accept the admission of new people except those born of a Yazidi father and mother, with the internal caste marriage system, specific among the Yazidis.

were welcomed again as a Yazidi. When some of the Yezidi sheikhs rejected and resisted this change, the support provided by Baba Sheikh to these women settled the dispute. During the following months, the Yazidi religious leaders modified the rites of baptism for newborns. According to the new baptismal rites, the baptized are considered to have been reborn into the Yazidi religion, and some of these women have repeatedly performed baptismal rites in the hope of recovering from the trauma caused by what they have been exposed to (Wainscott A., 2019).

Baba Sheikh's behavior is an example of the unique contributions that actors in the religious arena can make during post-conflict and reconciliation phases.

Religious actors can take advantage of the existing organizational frameworks and ritual and rite, each in their sect or religion, to help traumatized victims recover from the impact of those traumas. They can use their leadership position to encourage their communities to support those who have experienced extreme violence. Also, religious actors can adopt bold positions even if they do not enjoy broad popular acceptance and soften the positions of those who oppose reconciliation in their societies. They can create new behavioral models that they wish the members of their communities would abide by. Additionally, their influence and their support for reconciliation will encourage other parties to participate in it. In short, religious actors can be important partners in rebuilding Iraq during the post-conflict phase. This is because they have influence on people, and they are able to contribute to shaping the behavior of their communities, depending on the impact of religious discourses and worship on the souls.

The conclusion from this case study is that it is worth engaging religious actors in Iraq as part of peace and reconciliation efforts, based on the uniqueness and importance of their role, and based on the huge resources they own. Although the involvement of religious actors in the reconciliation efforts is not in itself a guarantee of the success of these efforts, it is certain that their exclusion from reconciliation will lead to its failure (Wainscott A., 2019).

7. Conclusion

The report reviewed the historical, social, economic, political and cultural background, which paved the way for the phenomenon of violence, extremism and terrorism that we see today in Iraq. The mismanagement of the state, especially after the US occupation of Iraq in 2003, helped in this. The most controversial institutions were those that were formed after 2003, which are the De-Baathification Commission, which changed its name to the Accountability and Justice Commission, and its work to punish the former regime's loyalists, depriving them of employment opportunities in the civil and military institutions as well as of their rights. These strategies generated a harsh reaction among the people affected by them, leading some of them to work with extremist groups, including those who supported and sympathized with extremist organizations, increasingly fostering the phenomenon of extremism in Iraq. Further, Article 4 of the Anti-Terrorism Law No. 13 of 2005 was misused, as we explained in detail, since it was (ab)used against anyone opposing and criticizing the post-2003 regime.

Therefore, we recommend the fragile states, in which the situation is liable to explode, to avoid such policies, and to take Iraq as a "bad model" not worthy of circulation. It is important to follow other opposite models of countries and people that have suffered from injustice, persecution and extremism, but have tolerated when the oppressed majority took power in their country and resorted to reconciliation instead of revenge and retribution.

We also recommend not to adopt a scorched-earth policy when there is a danger of terrorism, as happened in the liberation of Nineveh Governorate and its cities that were occupied by the terrorist organization ISIS, as this policy touched the individual liberties of the citizens while their cities and homes were being destroyed, which affected the economic, environmental and "civilization" levels as a result.

The de-radicalization approach requires action at the three levels (micro, meso, and macro). For the micro, individuals must get rid of the religious, sectarian and ethnic group fanaticism, embracing the values of tolerance and coexistence instead, also correctly understanding the concept and meaning of freedom and its limits. The institutions and organizations at the level of meso should support this commitment, through independent educational institutions, both lower and higher, schools, universities, research centres and civil society organizations, especially human rights organizations. The latter should improve their role in spreading the spirit of tolerance and coexistence. As for the third level the macro, the state, with its main powers – the Federal government and the Kurdistan Regional Government – must also prove accountable in promoting national unity through actions, because they may have severe repercussions not only at the regional and national level, but at the international one as well.

As for the future plans for the legal and political framework on fighting extremism in Iraq, it is crucial to reconsider the decisions and laws that helped the phenomenon of extremism and terrorism growth, and to consider the abolishment of bodies and institutions that led to its rooting.

Nevertheless, some studies and strategies formulated by security institutions and research centres are available, though affiliated with institutions, such as the Al-Nahrain Center for Strategic Studies, which works within the Iraqi National Security Advisory. It arranged the national security strategy and the strategy for combating terrorism, but these studies are of no

value if they remain ink on paper, and did not see the light at the level of application and practical implementation.

Iraq has become a rare case in the phenomenon of extremism framework in its various forms, and this situation is not in line with the spirit of the age, civilization and civility. Though being aware that it is not the unique case, Iraq is one of the countries that occupy the first ranks in the spread of this phenomenon, requiring local, regional and international cooperation to combat and eliminate violence and extremism. Like cancer, it may spread to other parts of the region and the rest of the world. There must be effective and serious work to eradicate this danger that threatens societal as well as international peace and security.

Annexes

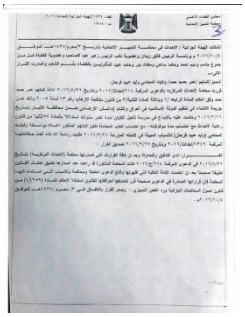
Annex I: Overview of the legal framework on radicalisation and deradicalisation

No.	Legislation title and No.	Date	Type of Legislation	Object	Link	Note
1.	Article Seven of the Iraqi Constitution, paragraphs A and B, Article 38 and Article 46.	2005	Constitutional provision	Banning incitement to radicalization and combating terrorism	https://iraqld.hjc.iq	
2.	Anti-Terrorism Law No. 13	2005	Statute	Eliminate terrorism and limit interaction with terrorists in any form of support and assistance	https://www.law.nahrainuniv.edu.iq	
3.	Law No. 31 Establishing the Anti-Terrorism Service	2016	Statute	To combat terrorism in all its forms and eliminate it	https://iraqld.hjc.iq	
4.	Law of Prohibiting the Baath Party, entities and parties, as well as racist, terrorist and infidel activities, No. 26 of 2016,	2016	Statute	Article Four: The Baath Party is prohibited from engaging in any political, cultural, intellectual or social activity, as well as the formation of any political entity or party that pursues or adopts racism, terrorism, infidels, or sectarian cleansing or incites against it.	https://arb.parliament.iq/archive/2016/07/30	
5.	The Iraqi Penal Code 111 of 1969, amended	1969	Statute	Articles 200, 201, 372: penalties for anyone who belongs to	http://wiki.dorar-aliraq.net/iraqilaws/law/20706.html	

				the Baath party, penalties for anyone who favors or promotes Zionist or Freemasonry principles and penalties for anyone who attacks religious landmarks and symbols of Iraqi religions and sects .		
6.	Parties Law No. 36 of 2015	2015	Statute	Article Five: The party is founded on the basis of patriotism, and it is not permissible to establish a party on the basis of racism, terrorism, infidels, or sectarian, ethnic or national fanaticism. It also prevents the establishmen t of a party that adopts or promotes the ideology or method of the dissolved Baath Party.	https://arb.parliament.iq/archive/2015/08/27/20218 /	
7.	Law No. 105 of 1970 Criminalizing Baha'i Activity	1970	Statute	Restricting freedom of belief and religion in Iraq	http://wiki.dorar-aliraq.net/iraqilaws/law/5080.html	
8.	List of broadcasting rules	2014	regulation	Part Two Article 1 Prohibition of incitement to violence and hatred	https://www.cmc.	

National Status Law (Court Decisions)

No.	Case number	Date	Name of the court	subject/summary of legal issues related to radicalization	Link/pdf
-1	2063/c1/2018	27/3/2019	Baghdad Appeals Presidency - Al-Karkh Federal - Karkh Criminal Court / First Commission.	The accused (A.M.) attributed the crime of belonging to an armed terrorist organization aimed at destabilizing security and stability in the country and participating in the bombing of a house in the Al-Rasheed - Al-Khatimiya district of the Baghdad governorate, killing a woman and wounding her husband on February 29, 2016 to achieve terrorist goals and objectives. The criminal was convicted according to Article 4/A and in terms of Article 2/1 and 3 of the Anti-Terrorism Law No. 13 of 2005 and determining his punishment accordingly and based on Article 132/1 penalties, and because the convict is a young man in the prime of his life and given the same opportunity for reform and that these reasons call for clemency and the decision was issued to life imprisonment by agreement based on Article 182/a of fundamentalism, in person, subject to discrimination, and subject to mandatory discrimination, and publicly understood on March 27, 2019	The researcher has a copy of the decision (unpublished) 

-2	1133/c1/2014	9/12/2014	9/12/2014 Central Criminal Court of Iraq / H1	The criminal (S.A.S.) was sentenced to death by hanging in accordance with Article 4 / and in the context of Articles 1 and 3 of the Anti-Terrorism Law No. 13 of 2005, and to prove the convict's affiliation with ISIS and his direct relationship with the so-called (Security Minister) of ISIS and his role in the transfer of weapons and the explosive devices from the outskirts of Baghdad, Fallujah and Saqlawiya to the city of Baghdad for use in terrorist operations	The researcher has a copy of the decision (unpublished) 
-3	214/Juveniles/2016	22/8/2016	Central Juvenile Court	Convicting the accused (A.H.H) in accordance with the provisions of Article 4/1 and in accordance with Article 2/3 of the Anti-Terrorism Law No. 13 of 2005 for the crime of belonging to the Islamic State in Iraq and the Levant (ISIS) within Anbar Governorate on 2/16/ 2016 and sentenced him to be placed in a school for the rehabilitation of boys for a period of ten years, citing Article 77/Second of the Juvenile Welfare Law, with considering the period of detention.	The researcher has a copy of the decision (unpublished(
-4	1284/c/2018	9/9/2018	Karkh Criminal Court / First Commission	Criminalizing the accused (A.H.M) in accordance with the provisions of Article 4 in reference to Article 2/2 of the Anti-Terrorism Law No. 13 of 2005, due to the sufficiency of the evidence obtained against him for the crime of blowing up a public utility that is used for public benefit, which is electric power and high-pressure towers. He was sentenced to life imprisonment, citing Article 132 of Penal Code No. 111 of 1969.	The researcher has a copy of the decision (unpublished) 

OTHER RELEVANT ISSUES

Subject	**Constitutional provisions**	**Statutory law (statues, rules, regulations etc.)**	**Important case law**	**Comments/issues relevant to radicalization**
Freedom of religion	**Articles 2, 10, 41,42, 43,**	**Below are the rules**		
Minority rights	Preamble, Articles 2,3, 4, 9, 14, 41,42,43, 125	Official Languages Law No. 7 of 2014		Legislative lack of religious freedom, as well as the absence of a law protecting political, administrative, national and linguistic rights in accordance with Constitutional Article 125
Freedom of expression	Article 38	Coalition Authority Order No. 19 of 2003 and Penal Code 111 of 1969		Legislative deficiency and the absence of a law on freedom of expression and a law on freedom of access to information
Freedom of assembly	Article 38	Penal Code Order No. 19 of 2003		There are articles in the Penal Code 111 of 1969, articles 220 to 222, that unreasonably restrict the right of individuals to freedom of expression and their right to peaceful assembly
Freedom of association / political parties etc.	Article 39 Article 7	Parties Law No. 36 of 2015		[1]Associations with unclear legislation
Hate speech/ crime	Articles 7, 38 and 46	Penal Code 111 of 1969, Anti-Terrorism Law No. 13 of 2005, Parties Law 36 of 2015 The list of the Media and Communications Authority in this regard,		

		Law of banning the Baath Party 26 of 2016		
Church and state relations	Articles 2, 10, 41, 42, 43.	The system of patronage religious sects (religious sects officially recognized in Iraq No. 32 of 1981 And Supplement to the System of Sponsoring Religious Communities (Religious Communities Officially Recognized in Iraq No. 32 of 1981, And the law Divan of Endowments for Christian, Yazidi and Mandaean Religions No. (58) for the year 2012		
Surveillance laws				
Rights to privacy				

Annex II: List of Institutions Dealing With Radicalization & Counter-Radicalization

The original name in Arabic and English	Governmental tierl (national, regional, (local	**Type of organization**	its area of specialization in the field of radicalization and DE radicalization	**Link**
جهاز مكافحة الارهاب Anti-Terror Apparatus	national	Military (security) national	To combat terrorist elements and combat terrorism	/http://isof-iq.com
جهاز الامن الوطني National Security Apparatus	national	security	Develop plans and strategies to combat terrorism	
مستشارية الأمن القومي National Security Advisory	national	security	The body implementing plans and strategies to combat terrorism	/https://nsa.gov.iq
امانة سر مجلس الامن الوطني The secretariat of the National Security Council	national	security	Supervising the strategic plans for national security to ensure and achieve the effectiveness of addressing threats to	

			national .security	
مركز النهرين للدراسات الاستراتيجية Al-Nahrain Center for Strategic Studies	national		Preparing research, studies and programs to combat terrorism and extremis m	/https://www.alnahrain.iq
جهاز المخابرات الخارجية external intelligen ce agency	national	security, external	Follow up on foreign terrorist elements	https://moi.gov.jo/Default/Ar
وكالة استخبارات الداخلية internal intelligen ce agency	national	Security, internal	Searching and investigati ng foreign terrorist elements	https://moi.gov.jo/Default/Ar
جهاز مكافحة الارهاب في اقليم كردستان CTA Kurdista n Counter-Terroris m Service CTA	regional	security	Fighting terrorist elements and fighting terrorism in KRI	
وزارة الخارجية العراقية – قسم مكافحة الارهاب Iraqi Ministry of	national	national, governme ntal	Coordinati on of internatio nal relations in the field of extremis	/ http://www.mofa.gov.iq

Foreign Affairs - Counter-Terrorism Section			m and terrorism	
وزارة العدل – مديرية الاصلاح (السجون) Ministry of Justice - Directorate of Reform (Prisons)	national	national, governmental	Rehabilitation of prisoners involved in terrorism	#/https://www.moj.gov.iq/reform
وزارة التربية والتعليم The Ministry of Education	national	national, governmental	Curriculum reform to achieve community peace and respect for human rights	http://epedu.gov.iq
وزارة الشباب والرياضة Ministry of Youth and Sports	national	national, governmental	Youth Rehabilitation	/https://www.moys.gov.iq
البنك المركزي central bank	national	national, governmental	Follow-up of currency smuggling to terrorist groups	/https://www.cbi.iq
وزارة المالية Ministry of Finance	national	national, governmental	Monitoring the movement of money and terrorist financing	http://www.mof.gov.iq/Pages/MainMof.aspx

الوقف السني Sunni Endowment	national	national, governmental	Spreading peace, rejecting hate speech, and building civil peace	/http://sunniaffairs.gov.iq/ar
الوقف الشيعي Shiite Endowment	national	national, governmental		/https://sed-iq.com
الوقف المسيحي والايزيدي والصابئي Christian, Yazidi and Sabian Endowment	national	national, governmental		http://www.cese.iq/index.html
مجلس القضاء الاعلى Supreme Judicial Council	national	national, governmental	Implementation of laws, decisions and rulings against those involved in extremism and terrorism	https://www.hjc.iq/index-ar.php
المفوضية العليا لحقوق الانسان High Commission for Human Rights	national	A non-governmental organization linked to the Iraqi parliament	Monitoring human rights violations	https://www.ihec.iq

Annex III: Best Practices of Deradicalization/Interventions/Programmes

National level

Practice to de-radicalize	Institution(s)	Aim	Source	Evidence of effectiveness / literature
1- National Security Strategy	National Security Service, 2015	Confronting the risks and threats that create an environment conducive to radicalization and violence in Iraq	Al-Nahrain Center for Strategic Studies 2019, the strategy to combat violent extremism leading to terrorism	The level of violence decreased as a result of assigning all ministries to implement the strategy activities of each relevant ministry
2- Survey of the general state of safety and security Six Iraqi provinces (Anbar, Baghdad, Diyala, Erbil, Karbala, Salah al-Din	Al-Nahrain Center for Strategic Studies, founded on June 17, 2012	Inducting researches and studies on radicalization and terrorism and ways to combat them. In addition to holding workshops, seminars, lectures and conferences to raise awareness, enhance community cohesion as well as to protect diversity in Iraq	Al-Nahrain Center for Strategic Studies 2019, the strategy to combat violent extremism leading to terrorism	Reducing the level of violence in the six mentioned governorates
3- A strategy to combat violent	The National Security	developme nt plans and	Al-Nahrain Center for Strategic Studies 2019, the strategy to	Ministries and institutions

	radicalizati on leading to terrorism 2019	Advisory and the ministries concerned with implementi ng the strategy	studies to combat termism	combat violent extremism leading to terrorism	carrying out their tasks and creating special programs in line with the strategy
4-	Counter-terrorism strategy201 6	Counter-Terrorism Apparatus	Military strike force to combat terrorism, and to carry out the pursuit of terrorists	Interview with security experts	Decreased armed activity of terrorist groups
5-	Welcoming the Yazidi women who were captured by ISIS in all parts of Iraq to return to their society and religion, which is contrary to the accepted traditions in the Yazidi society in the past.	The supreme spiritual institution of the Yezidis represente d by the spiritual leader of the Yezidis, Baba Sheikh (Khurtu Haji Ismail)	Introducing changes in Yazidi beliefs and rituals to serve to eliminate religious extremism towards other religions	Wainscott A., 2019: Engaging Iraqi religious leaders in the peace and reconciliation process during the post-ISIS era. United State Institute of peacemaking peace possible. No.154.NOV.2019, [online] Available at: https://www.usip.org, [Accessed July, 7, 2021].	Hundreds of Yazidis have been returned to their families because of this initiative and practice, which belongs to an Iraqi minority, but it has taken on a patriotic character and an example of tolerance and national reconciliati on far from retaliation and revenge
6-	Various security Activates of De-Radicalizati on	Ministry of Interior - Intelligence Service	Fighting terrorism in all its forms	Interview with security experts	There are indications of the weakness of the cells of terrorist groups

7- Various coordination programs and information exchange	Ministry of Foreign Affairs - Department of Combating Terrorism	Coordination with states, institutions and international and regional organizations to combat terrorism	Ministry of Foreign Affairs / Department of .Planning https://www.mofa.gov.iq,	The development of international cooperation with Iraq on the issue of combating extremism and terrorism (the Baghdad Conference for Cooperation and Partnership), a regional conference

Sub-national/Regional level

Practice to de-radicalize	Institution(s)	Aim	Source	Evidence of effectiveness / literature

Local level

Practice to de-radicalize	Institution(s)	Aim	Source	Evidence of effectiveness / literature
1-The programs of moderation and rehabilitation in color for juvenile (children) inmates in Nasiriya Correctional Facility and convicted of terrorist crimes 2019-2020	Ministry of Justice Department of Reforms in Nasiriya (prisons)	Rehabilitation of extremist juveniles in correctional institutions	Ali H., 2020. Rehabilitation of Juvenile Extremists in Correctional Institutions, Moderation and Color Therapy Programs, as an example, p. 11	Succeeding to moderate 500 inmates who have been recruited by ISIS (the Cubs of the Caliphate) and the color rehabilitation scheme targets extremist juveniles who

				accompany their ISIS mothers

Annex IV: Policy Recommendations

1. The necessity of reconsidering Article 4 of the Anti-Terrorism Law No. 13 of 2005 and it should be interpreted in its proper place, without politicizing or using it to liquidate opponents or as a pretext for sectarian, racial or ethnic considerations. The acts covered by the punishment according to this article should be defined very precisely, in order to be carried out fairly
2. A comprehensive review of the Constitution and addressing the legislative deficiency of some constitutional articles that should be regulated by laws, especially with regard to guaranteeing the rights of Iraqi minorities, freedom of expression, the right of peaceful assembly, the right to access information, religious freedom and others. A review of all laws fostering disagreement and dissatisfaction among minorities, and rendering them consistent with the concepts of democracy and respect for human rights.
3. Activating the role of national and community reconciliation in a way that leads to warding off terrorism and violent extremism. The importance of international cooperation and coordination and exchange of information between countries to end terrorism and the activities of extremist organizations and groups.
4. Benefiting from the experiences of others that went through similar conditions, which nonetheless found tolerance as the best way to live together again.
5. Abolition of the Accountability and Justice Law (De-Baathification) previously. The abolition of the Accountability and Justice Commission, and giving everyone the opportunity to rebuild their country.

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DeRadicalisation
in Europe and Beyond: Detect, Resolve, Reintegrate

De-radicalisation and Integration: Legal & Policy Framework

Israel/Country report

WP4

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De-Radicalisation in Europe and Beyond: Detect, Resolve, Re-integrate

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List of Abbreviations

Al Aqsa Intifada – the second intifada (27.9.2000 – 8.2.2005)
Arabs – Israeli civilians who live inside Israeli territory
BESA –The Begin-Sadat Centre for Strategic Studies
Hamas – Political party and organization in the Gaza Strip, operating as the "Izz al-Din al-Qassam" Brigade
Hazionot Hadatit- a joint party of three separate radical right-wing parties, all who define themselves as religious Zionists
IDF – the Israeli Defence Forces
IDI – The Israel Democracy Institute
INSS – The Institute for National Security Studies
Intifada – in Arabic “shaking off", the violent resistance of Palestinians against Israel
ISA – Israel Security Agency
ITIC –The Intelligence and Terrorism Information Centre, Israel
Kahana Chai – An outlawed radical right-wing movement
Knesset – The Israeli Parliament
Lahava – in Hebrew “Lemeniat Hiotbolelut Beeretz Hakodesh” or “The prevention of assimilation of non-Jews in the Holy Land"
Noam – An extreme right-wing political party
Noar Ha'Gvaot – “Youth of the Hills” - radical settlers of outposts in the West Bank
Otzma Yehudit – An extreme right-wing political party
Outposts – Illegal Israeli settlements in isolated locations in the West Bank
PIJ –The Palestinian Islamic Jihad movement, operated by "the Jerusalem Battalions"
Return Marches- Mass protests alongside the Gaza Strip border that have taken place since 2018
Settlements – Communities established by Israelis in disputed areas within the Israeli-Palestinian conflict
Tag Mechir – In Hebrew “price tag” and referring to acts of violence including vandalism and/or physical harm against Palestinians
The Israeli Tribes – a phrase used by Israeli President Reuven Rivlin in 2015, explaining how Israeli society is divided into four sectors (tribes in its Biblical interpretation): secular, national-religious, Arab, and Ultra-Orthodox. All differ from each other in their belief systems and are growing in different ways that will shape any future Israeli society in a joint process
The Knife Intifada – the third intifada, circa 2015
Tzuk Eitan – Protective Edge, a military operation carried out in 2014, by the IDF, along the Gaza Strip
West Bank – Disputed territory including Palestinian cities and Israeli settlements, also referred to as Judea and Samaria by Israeli settlers.
Zionism – A Jewish national ideology, embodied by the establishment of the Israel as a Jewish state, based on the word "Zion" (Jerusalem)

About the Project

D.Rad is a comparative study of radicalisation and polarisation in Europe and beyond. It aims to identify the actors, networks, and wider social contexts driving radicalisation, particularly among young people in urban and peri-urban areas. D.Rad conceptualises this through the I-GAP spectrum (injustice-grievance-alienation-polarisation) with the goal of moving towards measurable evaluations of de-radicalisation programmes. Our intention is to identify the building blocks of radicalisation, which include a sense of being victimised; a sense of being thwarted or lacking agency in established legal and political structures; and coming under the influence of “us vs them” identity formulations.

D.Rad benefits from an exceptional breadth of backgrounds. The project spans national contexts including the UK, France, Italy, Germany, Poland, Hungary, Finland, Slovenia, Bosnia, Serbia, Kosovo, Israel, Iraq, Jordan, Turkey, Georgia, Austria, and several minority nationalisms. It bridges academic disciplines ranging from political science and cultural studies to social psychology and artificial intelligence. Dissemination methods include D.Rad labs, D.Rad hubs, policy papers, academic workshops, visual outputs and digital galleries. As such, D.Rad establishes a rigorous foundation to test practical interventions geared to prevention, inclusion and de-radicalisation.

With the possibility of capturing the trajectories of seventeen nations and several minority nations, the project will provide a unique evidence base for the comparative analysis of law and policy as nation states adapt to new security challenges. The process of mapping these varieties and their link to national contexts will be crucial in uncovering strengths and weaknesses in existing interventions. Furthermore, D.Rad accounts for the problem that processes of radicalisation often occur in circumstances that escape the control and scrutiny of traditional national frameworks of justice. The participation of AI professionals in modelling, analysing and devising solutions to online radicalisation will be central to the project’s aims.

Executive summary

The aim of national reports is to give a conceptual account of how existing policies and laws address radicalisation, so as to pinpoint their most crucial aspects and best practices, finally developing evidence-based policy and legal guidelines within a state framework.

This report offers a descriptive, explanatory, assessment and policy-oriented analysis. Its findings are drawn from primary sources such as interviews, as well as secondary sources, including official statistics, state reports, academic research, publicly available data and legal materials. For the purpose of locating connections and gaps between legislation, policy and institutional framework we will look at central rules and practices, relevant to issues of ethno-nationalist and religious-based terrorism.

Through this, we will be better able to understand the state's preventive, punitive and integrational approaches toward de-radicalisation.

After discussing the current political culture and presenting the historic context of terrorism threats in Israel, the report will take a closer look at countries' legal organisations and main guiding principles vis a vis the handling of terrorism. In doing so, it will focus on three main themes: ethnicity, religion and nationality, since all three have a major impact on state approaches to radicalisation occurrences.

Additionally, the report will illustrate legislative frameworks including laws and regulations, implemented by state policies that include preventive, punitive and integrative approaches. The relevant institutions work through these state policies that are designed and affected by themes of ethnicity, religion and nationality. In doing this, the paper will present two central case studies, showing both the gaps and potential opportunities in law and policy implementation. Hopefully, the paper will also shed light on how the Israeli state's defence policy is structured and how human rights can be protected within a framework of national security.

1. Introduction

The years prior to Israel's official establishment in 1948 involve certain fundamental historic events, all underpinning its existence today as a national Jewish state. Pre-1948, the struggle of Jews was highlighted in the idea of 'Zionism' - the notion that Jews from across the world (the Jewish diaspora) could be 'gathered in', returning to 'Zion' (Jerusalem) after 2000 years of exile. The War of Independence in 1948 against its Arab neighbour-states, who refused to accept UN recognition of the Jewish state, as well as subsequent wars in the years that followed, only served to increase the tension between Arab and/or Palestinians and Jews, and emphasised other difficulties between the Jewish majority and the Arab minority.

This is the basis for Israeli society's fragile construction in current times, in which "nationalism, religion and ethnicity are the central fault lines in Israeli society, each division with a life of its own, translated into demands, struggles and identities" (Ben Porat and Yuval, 2020, p. 12). Beside protecting its international borders with Jordan, Egypt, Lebanon and Syria, Israel's central conflict involves a deep ethno-religious territorial disagreement that keeps both Israeli and Palestinian populations in a constant war.

Therefore, deradicalization processes have to tread a fine line between maintaining pluralism and equality on the one hand, whilst protecting citizens' safety on the other. Even though it has been customary to assume that the majority of violence in Israel and the territories derives from the national conflict, the goal of this report is to examine additional factors and to provide a wider discourse on Israel's democratic government, led by liberal values. This report will therefore look at Israeli democracy's legislation, policy and institutional initiatives over the past two decades, in terms of how they have dealt with terrorism

The first chapter opens with an introduction. The second chapter, will offer a brief review of the socio-economic, political and cultural context, trying to pinpoint the historical roots of injustice, grievance, alienation and polarisation amongst citizens. Through this, it will look at terrorism and political violence, ethnic and religious tensions, and the gaps between the periphery/centre according to the division of national territory and resources. In addition, this chapter will offer observations on the three central themes that direct policy and legislation today: ethnicity, nationality and religion, all influenced by the radicalisation processes in Israeli society in the last two decades.

The third chapter will present the logic behind the state's legal organization. This part will present the Declaration of Independence as its profound binding legal document, due to the fact that Israel does not yet have a permanent constitution. This part of the report will reveal the mechanisms of Israeli democracy, and provide an explanatory analysis of the relevant principles regarding radicalisation and deradicalization issues, with special attention paid to laws involving youths and counter-terrorism measurements.

The fourth chapter reviews Israeli basic laws that relate to the protection of human rights in the context of national security. It lays down the two ends of the paradigm used by legislators when it comes to handling radicalisation. The first prioritises state security, and how it characterises Israel as a militaristic society. The second end involves its democratic regime and Israel's obligation to universal human rights, derived from the state's own bitter collective memory. In this chapter, we will pinpoint central laws that show the significant place given to ethnicity, nationality and religion within the framework of Israeli legislation.

Chapter five presents the main policies and institutions targeting deradicalisation by the use of preventive, punitive and integrative approaches. This part will offer a review of the national policy framework, and critical analysis of primary, secondary prevention, and tertiary prevention policies. Section 5 will handle issues of civil rights and freedoms such as religious liberties, freedom of speech, on self-determination and sub-national identities, by pointing out central policy changes within the past two decades regarding deradicalization, followed by main institutions that have been established as a result of handling terrorism. This part of the report reveals that in Israel, policy is bound to national security needs in most cases, and so the central institutions operate in tandem with this approach.

The sixth chapter will offer a closer look at two in-depth case studies, based on regional and local counter-radicalization measures through prevention and integration. Both case-studies will explore t the processes inside Israeli society, connecting legal, policy and institutional frameworks and public discourse.

The final chapter will briefly summarise the findings of the report, highlighting the critical interactions between legal organization, policy and institutions and its practice in the past two decades. It will discuss whether deradicalisation is linked to national tensions, and argue that until the central question of Israeli Palestinian conflict is resolved, Israel will be unable to integrate Arab communities into modern society. Without dealing with the question of Palestinian identity, Israel might eventually find itself more divided since, alongside its national conflict, it has substantial domestic 'cracks' which may deepen and intensify national disputes. The two main threats Israel faces - Jewish and Palestinian terrorism – discussed in parallel, showing inconsistencies in the way the state is treating radicalization, alongside the great influence civic society and the judicial system has on subjects related to human rights and civic equality.

2. Socio-economic, political and cultural context

Ethnicity played a significant role in the way Israeli culture came to be seen in the state's early years. "The General Zionist Council" who led the fight for Jewish independence, as a response to antisemitism, was established by European Jewish immigrants who later became the founding fathers of the state (the majority of Jews who immigrated from other places then Europe arrived after 1948). The first Prime Minister, David Ben Gurion, argued in favour of the idea of a "melting pot" (Kibbutz Galuyot) of over 70 different nationalities, by defining a new kind of Israeli - the "Tzabar" or "Sabra".[1]

He argued that immigrants needed to adopt a new identity and speak Hebrew as their first language, leaving their traditional customs behind, specifically Jews who came from Muslim countries e.g., Libya, Morocco, Tunisia etc., who spoke Arabic. However, since early Israel was governed by a left-wing party called Mapei, led by Eastern European Jews, this resulted in huge gaps developing in the country. Central parts of Israel developed quickly, whilst peripheral areas in the north and south tended to be left behind (Kimerling, 2004). Immigrants who came predominantly from Arab countries were often sent to these peripheral areas and this only widened the socio-economic gap between Eastern European and 'Arab' Jews. It is important to understand that class differences in Israel are often defined in the above ethnic terms (Shwartz, 2014).

Even after Mapei was voted out of power and replaced by the right-wing Likud party – led by Menachem Begin in 1977 – and Likud started addressing these differences, discrimination

[1]Secular, Ashkenazi (originated in Europe), Jewish, socialist.

raised its head again when immigrants from Russia and Ethiopia began arriving, in the early 1990's. They contended that they were suffering from unfair treatment when it came to the allocation of public services. Even though the beginning of the 21st century marked a shift towards a more multicultural paradigm, these gaps still exist today. Good examples would be the struggle of the Ethiopian community who have been subject to against police brutality and institutional racism in the past few years (Ben Porat and Yuval, 2020) and Soviet Union immigrants who fought for years against religious coercion after being asked by rabbis to show evidence that they were truly Jewish and suffered from ethnic social discrimination (Shumsky, 2014). Nevertheless, none of this discrimination prevented Israel from remaining a militaristic society, in which serving in the army is compulsory for all citizens (Levy, 2011). The definition of Israeli identity is complex and sharpened by the influence the military have in the political sphere, e.g., most of Israel's past Prime Ministers had impeccable army credentials, showing how success in the military paves the way for future career success. It also persuades the majority of civilians, to support and join the IDF position and defines this as the "normative" path for citizens.

Religious practice is also still a fundamental issue in Israel society, showing many tensions between secular and ultra-orthodox citizens, who have dramatically differing views on the relationship between religion and state. Ben Gurion's vision of a 'Melting Pot' actually led to him making a political compromise, allowing the exemption of ultra-orthodox Jews from conscription. Today, that exemption still exists and has led to great resentment by other sectors of society who feel they have to carry the weight of military service on their shoulders. Moreover, as well as being exempt from Army service, many ultra-orthodox receive state welfare benefits, have built their own educational system and live within their own communities.

Whilst separated from much of mainstream Israeli society, they still maintain a certain political hold, which can be seen in the civic sphere. Public transport is not allowed in Israel on the Jewish sabbath, even though most Israelis are in favour of it operating, and civil marriage does not exist in Israeli society. These are two good examples of the ongoing discussion /argument as to what place religion has in a modern society, particularly when this society consists of citizens from a variety of religious backgrounds.

Religion Is also used by extremists who support violent actions linked to territorial disagreements, both by Palestinians and Jews. The settlements in the West Bank, which began in the 1970's after a change of political leadership and the Peace Agreement with Sadat/Egypt in 1978, led to a new ideological movement, represented by religious-Zionists who argued that Israel needed to maintain its hold on all occupied territories. Here it is important to mention the central political debate on territory in Israel, the general consensus being that the left wing supports 'land for peace' and the right wing opposes any territorial compromise.

By the 1990's, the settlers in the West Bank (which they named Judea and Samaria)) had evolved into a movement which independently decided to build more homes on disputed land, as their solution to repeated Palestinian terror attacks. At the same time, Prime Minister Yitzchak Rabin was instrumental in the signing of accords, both with Arab countries and the Palestinians, and this led to violent resistance among right-wing supporters. The signing of a regional peace agreement with Jordan in 1993 seemed, at the time, the largest attempt of its kind to solve the national Israeli–Palestinian dispute, but it actually resulted in the worst possible outcome—the assassination of Rabin in 1995 (Kariv, 2015).

Part of Rabin's suggestion, as part of the Oslo peace talks, was for Israel to withdraw from the Occupied Territories, despite settler resistance. The result was his murder. This, in turn, led to a deeper a political and social rupture between Israelis and Palestinians and also had an effect on "sub-tribes" of the Israeli population (Rubinstein, 2017). In the 26 years that have

passed, Israeli society has not become any closer to resolving issues such as security borders and mutual agreements on the definition of Palestinian and/or Arab territory. The religious aspect of the national conflict is also expressed in ownership of holy places related to Judaism and Islam, such as Jerusalem and its religious sites. Places like the Al-Aqsa Mosque, which shares mutual territory with the Western Wall and the Temple Mount has the power to ignite radicalisation, which has proved to be more violent and dangerous in the past two decades.

In September 2000, Ariel Sharon, the then head of the Likud right-wing opposition party, visited the Temple Mount, against the wishes of the Palestinians. With this act began the Second Intifada (also known as the 'Al Aqsa Intifada'). Jihadist Palestinian terror attacks occurred all across Israel, followed by IDF military operations in the West Bank. Over 450 Israelis died from the violence during 2002. The government, now headed by Sharon, then approved an extensive military operation in 2001 named "Protective Shield" within Palestinian cities in the West Bank (IDF, 2002). The rise of retaliatory actions by Jews against Palestinians and vice versa had begun. In 2013 ISA (the Israel Security Association) identified 25 Jewish terror attacks, as opposed to 16 in the year before, and the acts themselves were more vicious (ISA, 2015b). There were fewer "Tag Mechir" actions ('Price Tag'- revenge through vandalism and physical violence against Arabs/Palestinians/Muslims) carried out in 2014 (10 as opposed to 17 in the prior year), but again the methods were more brutal than before.

Some Israelis in the political elite refused to define them as Jewish terror acts, arguing that Jews were not capable of carrying out acts of terror. Some of these individuals were either members of the Israeli Parliament or important rabbis. Until 2014, Jewish terrorism was officially acknowledged by President Reuven Rivlin and other public figures from all sides of the political map, expressing concern over many cases of "Tag Mechir". These attacks were affiliated to several far right-wing extremists' groups and individuals.

Between 2008–2014, Israel underwent three rounds of widespread military actions, in response to missile attacks from the Gaza Strip. However, these operations had little effect, as a new type of Jihadist terror had arrived. During 2015–2016 over 250 knife attacks occurred within a period of six months, injuring and killing dozens of Israelis (Ben David, 2016). Most of the perpetuators of these attacks were from East Jerusalem (which is occupied by Israel), and whilst the attacks were committed by individuals, they were clearly linked to jihadist ideology based on family relations or financial/ ideological ties to terror organizations such as Hamas or PIJ (Bartal and Frish, 2017). Israel did manage to contain the events (Ben David 2016), but acknowledged that this was a new kind of terrorism, similar to ISIS attacks occurring at the same time in Europe (Levy, 2017). In 2018, the Israeli government named the phenomena 'lone wolf' in order to try and establish new counter-terrorism security strategies (Ministry of Internal Affairs, 2018).

All three elements of nationalism, religion and ethnicity issues make up the ideology and norms practised by Israeli political parties and the military elite. The right-wing supports the settlements at its core, while the left encourages human rights first and generally wishes to hand back territories. But the test of time has shown that all Israeli governments share the same belief - that there needs to be an eventual compromise. Unfortunately, the very definition of a Jewish state brings together elements of culture, religion and nationality (Shwartz, 2017; Hellinger, 2019), presenting many difficulties for non-Jewish citizens. The Arab speaking communities that live in Israel (Bedouins, Druze, Muslims, Christian-Arab) are left in a problematic position of being part of the ethno-religious Jewish state under its rules and particular customs on one hand, and identifying with the Arab world culture, or the political struggle of the Palestinians on the other.

Israeli-Arab citizens are also divided according to specific living areas according to an ethno-religious cultural basis. Bedouins have their own municipalities both within the north and the south of the country, and the Druze usually live in northern areas. In other cities and villages

spread out across Israel. similar gaps between the periphery and center applying - with the periphery suffering from lack of resources in education, health and security. The majority of the population there practices Islam, and need to make a compromise between ethno-religious centrism led by Islam and the Sharia law, and their civic status within a democracy who holds liberal values.

There is a tendency among scholars to identify most of Arab society as "Palestinian" but that does not necessarily reflect the position of all Israeli-Arab citizens, for example those who serve in the military. This tension is exacerbated within the Israeli legal framework, since legislation and policy are oriented towards Israel as a military power, as well as a democracy with liberal values. A military approach has to balance the emphasis between power/warfare, and liberal civic values of equality and non-violence. One of the military's primary tasks is maintaining control and preventing national conflict from radicalizing within domestic and international borders. If they fail, the cost can be seen in loss of human life, as well as fewer resources and civic rights for Arab citizens, who identify with the Palestinian struggle, as opposed to others who join the IDF, such as the Druze, Christians and Bedouins therefore defining themselves as more ‘Israeli’ than Palestinians.

Israel has a population of 9 million citizens, and almost 2 million Palestinians in the West Bank and Gaza Strip. They are under the jurisdiction of the Palestinian Authority, divided between the leadership of Fatah and Hamas and are not subject to Israeli laws. The Israeli state is made up of 255 municipalities, including 77 cities, 124 local councils and 54 regional councils (Central Bureau of Statistic, 2019). Out of these, 79 are Arab localities (containing 14% out of total population) and live in 3.4% of Israeli territory. 1,194,300 million citizens therefore live in crowded conditions (Shani, 2021). Most of the big cities include a heterogeneous population from different ethnic backgrounds, while other municipalities are divided between Arab and Jewish majorities. Different communities also have different practices. For example, in the city of Rahat, populated by Bedouins, the dominant language is Arabic, cultural facilities are more Islamic and tribal, as opposed to the nearby city of Beer Sheva, a mixed city with a Jewish majority. The same is true of ultra-orthodox municipalities such as Bnei Brak, Modi’in Illit, that base their communities’ activities on religious and cultural needs. The same is true of religious Zionists in the settlements (Yitzhar, Hebron or Alon Moreh) and even secular kibbutzim for that matter, who essentially set their own rules.

3. The constitutional organisation of Israel and constitutional principles in the field of (de-)Radicalisation

The State of Israel is at the centre of a worldwide controversy due to defining itself as a "dual" state: both democratic and Jewish. As a state, Israel is a young country, established and recognised formally in 1947 by UN as the home of the Jewish people, who were scattered across the globe after the Holocaust and World War II. The Zionist Council operated from western states and from within British Mandate in Palestine, adopting pluralistic practices (free voting between different political groups, freedom of speech, the right to an opinion) in its decision-making processes even before translating those into political state power and establishing itself as a modern democracy (Horowitz and Lisak, 1986).

On 14th May 1948 the Provisional Government of Israel laid down the basis for the future development of the new state and its democratic institutions, by declaring the Israeli state's basic values as manifested by its biblical prophets: freedom, justice and peace, with a commitment to the UN. "The Declaration of Independence" ("The Declaration") was the cornerstone for the creation of legislation and policy-making within Israel. The first prime

minister David Ben Gurion, hoped that over time, Israel would adopt a permanent constitution in the spirit of the declaration (section 12)[2], but it has not occurred yet.

Section 13 of the Declaration, helps in sharpening the dual perception of a Jewish democracy, its basis being an ethno-centred state (Yiftachel, Roohana and Ganhem, 2000)[3] and by that, prioritising its Jewish majority. Simultaneously, it promotes pluralistic values of secularism, religious freedom, self-determination and tolerance toward minority national identities (non-Jewish). Israel's self-perception is as a democracy with pluralistic values, and yet there is no mention of the word "democracy" in the Declaration itself. Even whilst it talks of basic values that define its institutions and policies, led by basic human rights, there is still an emphasis on Jewish dominance.[4]

The Declaration emphasises the obligation for universal human rights according to UN principles (sections 9, 13) but also points out the importance of religious and cultural values of the Jewish Bible within the Israeli state framework (sections 1, 11). It is used as a binding legal document presenting ethnic and socio-political borders in parallel to territorial ones: a Jewish state and the home of the Jewish people worldwide, that is ruled by a Jewish majority (section 11). It should be said, however, that the provisional government also made an offer to the Arab minority who live inside Israeli territory, promising them equality in citizenship and political representation (Section 16).[5]

The declaration also boasts a commitment to equality between religions, but since its establishment- the state has not made any real decision regarding the separation of religion and state. According to the Israeli Institute of Democracy (IDI), the existing arrangement has been preserved since the Ottoman era, and throughout the British Mandate period, and classifies citizens according to their membership in religious communities. It also grants religious autonomy to each community in defined areas, especially in matters of personal affairs. Decisions on questions of divorce and marriage are left in the hands of the religious communities and their courts. The Orthodox rabbinical establishment has decisive power on questions regarding Jewish religious customs and the Israeli Population Registry, supposedly a civic institution, also uses religious classifications in addition to the nationality ones (IDI, 2000). A good example of this is how Israeli Rabbinical courts have complete jurisdiction over marriage and divorce, granted to them by the jurisdiction of the Ministry of Religion (Administration of Rabbinical Courts, 2018), from the power of "The Chief Rabbinate of Israel

[2] […] a constitution which shall be adopted by the Elected Constituent Assembly not later than the 1st October 1948, the People's Council shall act as a Provisional Council of State, and its executive organ, the People's Administration, shall be the Provisional Government of the Jewish State, to be called "Israel", (The declaration of Independence, 1948).

[3] There is an ongoing debate over Israel characterization as ethno-democracy, or ethnocracy by political science scholars, due to the national conflict and the prioritization of the security needs over others

[4] "THE STATE OF ISRAEL will be open for Jewish immigration and for the Ingathering of the Exiles; it will foster the development of the country for the benefit of all its inhabitants; it will be based on freedom, justice and peace as envisaged by the prophets of Israel; it will ensure complete equality of social and political rights to all its inhabitants irrespective of religion, race or sex; it will guarantee freedom of religion, conscience, language, education and culture; it will safeguard the Holy Places of all religions; and it will be faithful to the principles of the Charter of the United Nations." (The Declaration of Independence, 1948, section 13)

[5] "WE APPEAL - in the very midst of the onslaught launched against us now for months - to the Arab inhabitants of the State of Israel to preserve peace and participate in the upbuilding of the State on the basis of full and equal citizenship and due representation in all its provisional and permanent institutions. " (The declaration of Independence, 1948)

Law, 1980". At the same time. civil and state courts are under the jurisdiction of the Ministry of Justice.

Today, Israel has yet to establish a permanent constitution (Mautner, 2019), but relies on certain laws ("Basic Laws") passed in the spirit of the Declaration of Independence. Basic Laws have a constitutional status and, to date, Israel has 13 current Basic Laws (the Knesset, 2021) regarding state institutions, human and civil rights and territorial boundaries. Each Basic Law contains dozens of sub-laws and hundreds of rules (regular laws) (Knesset Lexicon, 2021) on relevant issues (Rubinstein, 2005), that are open to changes, and can be cancelled or modified according to socio-political changes. Basic laws are permanent and cannot be dissolved or rejected, since they are expected to be part of the building of a future constitution. Such legislation lends itself to new change within constitutional-oriented laws, in the spirits of public acceptance, but also leaves basic law fragile and vulnerable to radicalisation.

Israeli state power is divided between three main state authorities: the government (legislation and implementation), Parliament (legislation and constitution), and the Judiciary (law, rulings and constitutional). The separation between the three is vital for democracy's survival, since they can act independently, but also affect and supervise each other, providing the necessary 'checks and balances'. The Basic Laws are legislated by the Israeli Parliament (the Knesset). This is made up of 120 members, representing a variety of parties with different ideologies, reflecting a number of communities within Israeli society. Some rules often express the specific needs of a certain group, regardless of other communities. On the one hand, this shows great pluralism, since there are parties that do not necessarily agree with the Declaration as a whole (Palestinian-oriented Arab parties), and some which see only parts of the Declaration as relevant (ultra-orthodox parties) (Braun, 2012).

The separation between the government and the Knesset authorities balances each other, but also decentralises power (Rubenstein, 2005) e.g., the government can initiate laws and change sub-laws, but eventually it has to obtain a majority vote in Parliament. It allows both institutions to be involved in legislation and supervise each other, but at the same time this creates deep political struggles that delay the forming of a constitution. Another crucial perspective point is that both institutional state branches are compelled to take into consideration and be open to criticism from the judicial system that can rule against certain laws, if they contradict the Declaration.

The cultural component within Israeli democracy is strengthened by the connection made within the Declaration, stating its values cannot contradict Jewish Biblical law and must reflect its essence. [6] The most vivid illustration of this can be found within the construction of judicial authority. Israel's judicial rulings present a compromise between a religious basis of Hebrew law and British common law within a democratic framework. The Declaration of Independence is the infrastructure for legislation, but also reflects the liberal spirit of the judicial system, in accordance with the British legal tradition at the turn of the 20th century (Mautner, 2019).

Accordingly, Israel's progress in the field of liberal values and human rights is expressed by the judicial system's rulings. These reflect the level of acceptance/rejection of liberal values by the state. The judicial system's liberal approach has also had an effect on liberal political

[6] Article 1 creates a direct link between the two: "ERETZ-ISRAEL [(Hebrew) - the Land of Israel] was the birthplace of the Jewish people. Here their spiritual, religious and political identity was shaped. Here they first attained to statehood, created cultural values of national and universal significance and gave to the world the eternal Book of Books (The Old Testament)."

culture, since it was first constructed during the British Mandate. The Supreme Court was an agent of the Zionist state, inserting liberal values to Israeli society, while maintaining a relation to biblical Jewish values (Hok Ivri, meaning "Hebrew Law"). At times it contradicted the agenda of the political elite, particularly David Ben Gurion, who held a more socialist-republican perspective of preserving the collective rights of the Jewish community. Ben Gurion was concerned about the overpowering of the judiciary by the government that he delayed enacting a permanent constitution. During the 1960's and 1970's the judiciary, through the Supreme Court, carried out a constitutional revolution, despite the Mapei party's attempt to preserve its hegemony, since it progressed liberal verdicts (Mautner, 2019). The following years were characterized by a significant change in the definition of the Supreme Court's position, from a state institution to a political oriented arbitrator, taking a clear stand in the liberal tradition, led by "judicial activism". This meant the Court was actively progressing secular values, human rights, individualism and moral issues, with the goal of maintaining a liberal spirit within legislation, and some say it still is.

The commitment of the Israeli state to the UN's human rights basic principles, expressed within the Declaration, has also affected its approach to warfare and socio-political decisions over the years. As the Ministry of Justice commented, "The State of Israel is a party to the seven main conventions in the field of human rights" (Office of Legal Counsel and Legislative Affairs, 2021): amongst them, is The International Covenant on Civil and Political Rights (ICCPR) (also referred to as "Israel Convention") entered into in 1992, including the right to life, the prohibition of discrimination, freedom of thought and conscience and more (United Nations Human Rights, 1966).

Another two vital covenants are the International Convention on the Elimination of All Forms of Discrimination (CERD), entered into by Israel on 2nd February 1979 (UNHRC, 1965), and the International Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), entered into by Israel in 1991. Another extremely important one is the International Convention against Torture and Cruel, Inhuman or Degrading Treatment or Punishment (CAT), also coming into power at the same year (UNHRC, 1984).

When it comes to children and young adults, Israel has signed the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (CRC-OP-AC), that came into force in 2005 (UNHRC, 2000). Another important obligation of Israel in the field of human rights when it adopting UN's Universal Periodic Review program (UPR) in 2008 (Office of Legal Counsel and Legislative Affairs, 2012), allowing other member states to universally review others and, by that strengthening, promoting and protecting human rights worldwide (UNHRC, 2021).

With that said, Israel has also signed the Geneva Conventions but restricted its commitments only to the territory that is officially recognised as "Israel". This means that international agreements, and Israeli law itself, do not apply in the West Bank and the Gaza strip since they lay outside the country's sovereign territory. Beyond the Green Line, territory is guarded by the military around the borders, and procedurally controlled by the Palestinian authority and Hamas. The IDF has an obligation to protect human rights (Kasher and Yadlin, 2006) but only within the context of warfare. It sees the national conflict as leaving Israel in a perpetual state of emergency and subject to immediate threat, and operates against all threats against terrorism that penetrate Israel.

4. The Legislative framework in the field of (de-) Radicalisation

The basic laws and sub-laws are assembled in the spirit of the Declaration, and encourage, for the most part, the values it presents. But they also define quite accurately its central problem with handling radicalisation while balancing two main goals, as a society dealing with terrorism: keeping citizens safe on the one hand, and guarding human and civil rights on the other (Kremnitzer, 2017, p. 11). It lays down the two ends of the paradigm used by legislators when it comes to handling radicalisation. The first prioritises state security, within the boundaries of a military society (Levy, 2007) since the majority of its citizens carry out compulsory service in the IDF (Security Service Law [combined version], 1986) derived from "Basic Law: the Military -1976" (The Knesset, 2021). The second involves its democratic framework and Israel's obligation to universal human rights, which is inextricably bound up with its own bitter collective memory of diaspora life, immigration, the Holocaust and antisemitism. In this section, we will pinpoint central laws that show the significance of ethnicity, nationality and religion within the framework of Israeli legislation.

Liberal rights are enhanced within a constitutional framework, and rest upon two major Basic Laws which, in turn, the judicial system relies on. (Sommer et al, 2005, p. 8). The first one is "Basic Law: Human Dignity and liberty - 1992", which aims to "protect human dignity and liberty, in order to enshrine in the Basic Law, the values of the State of Israel as a Jewish and democratic state (clause 1.a)" (The Knesset, 2021). It includes the prohibition of harming a human's body or dignity (clause 2), protection of property (clause 3), protection of life, body and dignity (clause 4), and the right to personal freedom e.g., "no one is allowed to take or limit a person's freedom in detention in extradition or otherwise" (clause 5).

Another central principle is the right to privacy of the individual (clauses 7a-d), including prohibition of searches of an individual's body and/or belongings. The law has a provision by which it is protected from change by virtue of emergency regulations, but in exceptional cases and under restrictive conditions (Ibid). it is limited to the needs of national security but by no other laws in Israel (clause 9). In this regard there is an ongoing debate regarding the lack of a specific law against the use of torture, but drawing on sub-laws and regulations of human rights instead. The Israel judicial system prohibits the use of inquiry methods which offend an prisoner's physical and mental health (Kremnitzer and Shany, 2018, p. 2). Israel has also joined the UN's "Convention against Torture and Cruel, Inhuman or Degrading Treatment or Punishment" in 1986 and began implementing it legally in 1991 (The Association for Civil Rights in Israel, 2000).

The second central law is "Basic Law: Freedom of Profession - 1994", and establishes citizens' and residents' right "[…] to engage in any occupation, profession or job." (Clause 3) (The Knesset, 2021). This law assists in preventing cases of discrimination in the workplace, but also allow citizens to work without ethno-religious limitations, in the spirit of the Declaration of Independence (clause 1). Something that is hotly debated in this regard is the question of freedom of speech. There is a persistent public and legal debate about the subject within the Supreme Court, suggesting two main views that contradict one another. One claims that freedom of speech is accumulated within the interpretation of the law, and the other disagrees, arguing that it is not a part of it (Somer et al. 2005, p. 9). This is possible because, as Supreme Court Judge Dalia Dorner stated, there is no law or basic law that protects the freedom of speech. Accordingly, it seems like the court is the only body that can do so (IDI, 2009). It allows

Judges to widen their interpretation and by that influencing reality on a practical level. e.g. the recent Supreme Court's decision to overturn the Ministry of Education's decision to deprive the state's Lifetime Achievement Reward to a scholar that expressed left-wing views (Shapira, Almog and Coujahinof, 2021).

"Basic Law: Israel - the state of the Jewish Nation - 2003" (the Citizenship Law), has been used within a framework of preventive actions taken by the government, due to terror attacks committed by Palestinians living in Israel at the time of the Second Intifada. It was passed as a Temporary Order and extended 17 times until recently (Hauzer tov, 2021). The law stated that Israel had decided to not allow family reunions between Palestinians and Israeli-Arab citizens, arguing that past terror attacks had been committed by individuals who arrived in Israel through marriage. The purpose of the Order was to restrict freedom of movement in order to prevent terror attacks. (Margalit, 2021). As a result, the policy was adopted by the Ministry of the Interior preventing families from being reunited in the last 19 years.

As the NGO "Adallah" explained, repeatedly submitting petitions to the Supreme Court: "The law prevents any new application by citizens for status to their spouses who are residents of the West Bank or Gaza Strip, and prevents any status in Israel from being granted to anyone who did not apply until May 2002. […] The new law is unconstitutional and contrary to the provisions of the Basic Law: Human Dignity and Liberty. The law violates the constitutional right to equality between the citizens of the State of Israel." (Adallah, 2003). As a result, in many cases, those who live in Israel remain without any civic status, and husbands and wives cannot be reunited since they are automatically associated with Palestinian terrorism, therefore being prevented from receiving basic state health and social rights.

This gap between human rights and counter-terrorism policy, is being filled by NGO's and the judicial system that is considered more human rights oriented (Abu, 2021).[7] The main problem with this policy, they argue, is that families of Israeli-Arab citizens are considered an automatic danger to national security simply by their national identification (Margalit, 2021). In a way, there is a reliance on the power of NGO's and so on their legal activity which has great impact on Israeli policy, but the place given to NGOs within the ministries is very much depended on the views of the elected government and its desire to progress non-biased policies that serves basic civic and human rights.

In 2016 the Ministry of the Interior decided to grant legal status to approximately 1600 family reunion requests out of 30,000, and showed willingness to discuss cases of humanitarian reasoning, even though it contradicted the Citizenship Law. Date from 2020 shows that only 13,000 Palestinians were granted residence permits in Israel (Margalit, 2021). The Supreme Court approved the constitutionality of the law by a narrow majority, twice, both in 2006 and 2012 (Margalit, 2021). With that, it showed that security in Israel is prioritised over civic rights. Recently, the law failed to pass in the Knesset, after some argued that the law's intention is to keep a Jewish majority in the state.

Recently, the provision failed to pass the Knesset after the establishment of a new government, but it is still considered essential in the political discourse (Hauser-Tov, 2021). This law links citizenship and terrorism, but raises a crucial debate as to whether it is still relevant to treat every family reunion as life-threatening. The explanation for the bill states that

[7] Abu Rachel (Alias), Interview with the author, Beer Sheva, August 2, 2021.

it is intended to prevent a situation where a person taking advantage of rights like freedom of movement, may carry out or assist terror attacks (Margalit, 2021).

There are significant implications for these such gaps, especially when it comes to one of the weakest sectors in all society - Palestinian women. NGOs fill this vacuum by assisting individuals who suffer as a result of this law. One NGO represents minority group women with legal difficulties regarding their civic status, therefore deprived of the support that would be given to them by the state (welfare, health, education etc.). The most problematic situations that can be seen are with Palestinian women who married Israeli-Arab citizens but do not have a statutory class. For example, a woman who married a Bedouin citizen who re-married shortly afterwards, left her to be considered as a second wife (Abu, 2021). Due to her illness, the woman who was left to treat their children alone on her own, suffered from a life-threatening disease but was denied treatment since she did not have an Israeli identification card. She was treated as having a "lack of status". Cases similar to this are treated mostly by civil rights activists who see people who do not have a legal status, so use the judicial system to represent them before state institutions. The cooperation of a few NGOs, each in their specialty, truly affects human rights in places where the state does not offer legal solutions by law.

What assists to raise critical issues both for the political leadership and public awareness is "Basic law: The State Comptroller -1958". This stipulates that the State Comptroller must investigate complaints from the public about bodies and persons, and is authorized to do so within state institutions (section 9), and also serve as an Ombudsman (State Comptroller, 2021). By publishing yearly reports, it reveals (at the very least) wrongdoings by state institutions and possible offences made by laws: "[..] the State Comptroller's criticism of the actions of the governing authorities directs the Public Complaints Commission to clarify individual complaints on the same issues as well as in deciding their case" (State Comptroller, 2021). To illustrate the importance of this e.g., the issue of public transportation infrastructure in Israel, the State Comptroller investigated incompatibilities between the state's budget and legislation and its implementation during 2017-2019. They found several differences between Arab and Jewish communities' budgets., especially in peripheral areas. This indicated wrongdoing by the government and its proxies (State Comptroller Transportation report, 2019, pp. 247-255).

"The Prevention of Terrorism Ordinance" (1948), was one of the first central orders used in Israel and is still used today as the foundation of the state's defensive and preventive actions against terrorism. Article 2 specifies the definition of one's affiliation to terror activities (Article 2). The ordinance was modified, after the government passed legislation entitled "The Anti-Terrorism Law, 2016". One of its most important claims, is the following: "[…] the State of Israel's commitment to the fight against terrorism in the spirit of international conventions." (Article A (1-2)). This order allows security mechanisms to work 'uninterrupted' when acting against terror-oriented actions, but within the confines of the state's obligations to human rights. In practice, however, Israel does not hold itself to those commitments outside its territory, as mentioned. Some civil right parties claim that the law itself holds a very blurry definition that might harm human right organizations, operating within the West Bank and the Gaza Strip, and also motivated by political reasoning then security necessity (Bender, 2016). But it is important to mention that in recent years, the ordinance was updated, and now it allows doubling the punishment against terror perpetrators with racist motives (Shafir, 2021). Additionally, financial policy was also updated regarding terror organizations in banks and

national institutions, legislated by the Bank of Israel, who now has regulations preventing money transfers based upon "the Law of Prohibition on Money Laundering - 2000" (Bank of Israel, 2021).

Another important correction was made within "Basic Law: The Knesset - 1958", implemented in 2002 (no. 35) and in 2017 (no. 46). This law has an important section dealing with the issue of "Prevention of Participation in Elections" (Book of Laws, 2017). Section 7a (A1-3) states that an individual or political party cannot run for Parliament, if they support one of the following criteria: 1. denial of the existence of the State of Israel as a Jewish and democratic state; 2. incitement to racism; 3. support of an armed struggle, of an enemy state or of a terrorist organization, against the State of Israel. Even though the radical right-wing Kahane movement was outlawed by Israeli authorities in the 1980's (see WP3.2), there have been numerous incidents of racist ideology being voiced, and this has only made it more difficult to walk the line between freedom of speech and incitements that offend state security.

"The Penal Code, 1977" (including more than 500 clauses), is used mainly as a set of guidelines for punitive issues that deal with a number of subjects. For example, clause 13b.1 protects Jews - and the state itself - from holocaust denial. This is not just prohibited but is defined as a felony and subject to criminal punishment. The law was modified over the years in a way that was relevant to radicalisation-related topics. For example, chapter VIII of "Violation of the Rules of Regime and Society" refers to actions that are not allowed when it comes to radicalisation parameters. Here, the law's approach to the line between incitement and free speech, under "Legal criticism and propaganda", suggests that incitement should be interpreted as "An act, speech or publication shall not be regarded as rebellion".

Incitement also has a tendency of undermining government, denouncing its law and institutions and different sections of the population, and/or persuading citizens and residents to follow a similar path (Section 138). In fact, section 144 consists of four articles dealing with: Incitement to racism or violence (A1); Hate Offenses (A2); Associations and congregations (B) and public disorders (C), also including the limitations on forbidden assemblies (section 145, Clause 1-5). Thus, limitations on freedom of expression are also accumulated under the penal code, which later sets the punishment for any involvement of this sort. These regulations are central to the question of pluralism within Israeli society and, therefore, have to protect sensitive boundaries that stand between freedom of speech and incitement to hatred.

Usually if a youth is caught in the act of criminal violence, legislation limits the optional punishment according to government law "Youth Law - 1971", which regulates all matters dealing with the Judiciary, punishment and treatment issues. The law obligates state institutions to address the importance of teenagers' rights, meaning an underage criminal should always be sentenced in a special District Court for Minors. Report 64c (2014) of the State Comptroller, agreed with the main changes that were made by law in 2008, and specifically with clause 14, which is responsible for protecting minors' rights by honouring their place and taking into their account future rehabilitation and integration into society (State Comptroller annual report, 2014, p. 401-402).

Even though Israeli laws and their sub-sections are used as a foundation for court rulings, sometimes there is no clear legislation on sensitive matters such as religion and state, security and human rights. The Basic laws emphasise the right to self-determination, even though it is not written specifically. A good example is the 1995 "State vs. Mizrahi Bank", where the Judge used the law in a significant way and set an example for further rulings, and by that empowered the legal system over the legislator, who followed a liberal agenda (Mautner, 2019).

Another example is the ongoing dispute over the religious aspects of Judaism. This issue has been accompanying Jewish leadership from its early years, and as such, made an impact on the value of freedom from religion. Secular values have been progressed by the Israeli judicial and political elite, from the state's first days. Indeed, at the opening ceremony of the Supreme Court, in September 1948 the Judges avoided using any religious language, and publicly stated that they were representing a secular liberal agenda which needed to separate religion from state, as much as possible (Mautner, 2019).

Israel has a law that allows, as mentioned, freedom of religion, such as "The Law of the Preservation of Holy Places" (1967) aiming to protect holy places (Regulations for the Protection of Holy Places for Jews, 1981) (Knesset, 2021). By that, harming in places of faith is prohibited by government law and is strengthened by the judicial system (8182/18 supreme court, 15 July, 2019). But as far as a definitive position on prioritizing freedom from religious limitations upon secular communities, the law remains unclear. "Basic Law: Human Dignity and Liberty-1992", affords an individual the right o to practice a religion, but does not deal with aspects of freedom arising from religious-based restrictions (Somer et al., 2005, p. 9-11). Consequently, the law can be interpreted as such, but it is still ambiguous.

Another good example is the issue of businesses operating on Saturday (Sabbath- Jewish national- day of rest), an ongoing struggle, particularly between secular citizens and municipalities like Tel Aviv, on the one hand, and the government and ultra-orthodox municipalities on the other. An excellent case in point is the question of whether public transport should be allowed to operate on the sabbath. Religious political parties are strongly opposed to this and secular parties far more in favour (Makor Rishon, 2021). The law, passed in 1991, currently prohibits the operation of public transportation on Saturday, impacting the lives of 25% of the Israeli population who do not own a motor vehicle (Dori, 2016). Some private initiatives are operating independently, and many local authorities want the law to be changed, but until it does, the courts are limited in their rulings on the matter.

On the matter of human rights, the Supreme Court emphasized its commitment to the subject on a verdict from 1999, when Judge Barak determined that "a reasonable inquiry is a torture-less one […]" (Kremnitzer and Shany, 2018, p. 3). Even so, in many situations of warfare in Israel, human rights remain compromised. Since that verdict, the judicial system has actually stepped back from the normative ruling made by that Judge Barak (p. 6). The tension between security institutions and the legal process was highlighted in "the Law of Israel Security Association - 2002" (ISA, 2021). This law exempts ISA agents from being criminally and civically responsible for any actions committed within duty (Kremnitzer and Shany, 2018, p.7). This law was passed during the Second Intifada, as were other laws deemed necessary to protect state security (e.g., The Citizenship Law).

Since the events of 2014-2015, a more punitive approach has been taken to youth participation in price-tag actions. An example of this can be seen in a ruling on March 29th, 2018 in the Lod District Court, which ruled against three youths from the settlement Nachliel. They were convicted in a plea bargain of arson and assault with aggravated racist motives and sentenced to 2.5 years in jail. The court stated: "[…] a series of violent and property offenses, most of which were racist and directed against Palestinians and their property, solely because of their religious or national affiliation. The minor involved in the affair committed offenses within the framework of a terrorist organization." (Breger, 2018). The conviction of the youngest (16 at the time of committing the act) for membership of an organized group,

pinpoints the first time the court made a connection between price-tag actions and terror organizations. As a result, it made a definitive association between racism and nationalism.

The court's rulings show its ability to support verdicts that can complement the law, in cases where the political leadership have avoided taking a firm position against terror actions, because of their own ethno-religious and national interests. When it comes to Jewish terrorism, as shown in earlier reports (WP3.2, WP3.1), radical right-wing politicians refuse to treat it as such, attempting to downplay its lawful meaning and by that trying to prevent future punishment (Ali, 2021).[8] In itself, this can encourage a discourse that legitimises violence and contradicts the law. The involvement of teenagers in this type of violence, is an example of a shift in the Israeli court's attitude toward "price-tag" actions.

This last example shows the extent of the shift that has occured in the past two decades, in order to prevent future radicalisation. On August 25th, 2019, prior to that year's second state elections, the Supreme Court decided to disqualify Baruch Marzel and Benzi Gupstein, two party members who intended to run for office, within Itamar Ben Gvir's party Otzma Yehudit (Jewish Power) (Liss, 2019). By rejecting the two's requests to be considered valid nominees, the Court's ruling grounded its position as to the limits on freedom of speech and assembly.

Gupstein is the Head of the LAHAVA organization (see WP3.1), a fanatical religious organisation which has not been outlawed but still poses a great threat to liberal rights, the Judges argued. They explained that he was consistently promoting incitement against the Arab population (5487/19, 25 August, 2021).[9] although the Attorney General stated that this, in itself, was not enough to conclude that the entire party list should be prohibited from running in the 22nd Knesset elections. The court relied on "Basic Law: The Knesset", clause 7a(a)(2) that concerns incitement to racism. The Judges did not accept Marzel's statements of remorse, which he hoped would mitigate his actions. Marzel eventually signed a document at the request of the committee chair, in which he renounced his offensive publications on social media but the judge disallowed it (Liss, 2019).

5. The policy and institutional framework in the field of (de-)Radicalisation

Israeli state's policy is actively exposed to a changing political climate since it does not have a constitution, and is still legislating Basic laws administered by elected political representees, thus leaving policy in the hands of the oriented political elite. Ministerial offices have responsibility for performative institutions, divided into four main fields: national state affairs, financial, social and administrative (Nachmias, Arbel-Ganz & Medini, 2010, p. 250-294). Currently there are 27 ministries, as opposed to 36 in the former government (the Knesset, 2021). Ministries' areas of responsibility change according to the elected political coalition, and therefore can create/eliminate ministerial offices coordinated to socio-political needs and oriented to institutional implementation. However, when it comes to handling terrorism, policy is bound up in most cases with national security needs, and so the central institutions operate

[8]Ali, Rafael (Alias), Interview with the author, Beer Sheva, June 26, 2021

[9]"Gupstein presents the Arab public in general as an enemy and as someone who should not have any contact with him who might be interpreted as coexistence [his remarks] reveal a new low point in the racist discourse the like of which we did not know before and Gupstein even stated that he has no regrets and does not back down from it".

in accordance with them. The following section will present the policy and institutions targeting terrorism and reveling the uses of both punitive and integrative approaches.

There is a fundamental struggle by the state and its operative branches to maintain the structure and values of democracy, in the light of Israeli-Palestinian conflict and other security threats. Policy is affected by a range of actors, including political parties, social movements and lobbyists, and also by local human right organizations that have a significant influence on the political elite, and on policies, as a result. The matter of ethno-religious dominance and its influence on policy, is also heavily bound up with the question of nationalism. Judaism, as culture, religion and nationality, sometimes creates difficulties at a micro level for non-Jews and non-religious citizens.

For example, in 2016, a 24-year-old man who was registered as a "Muslim" in the Interior Ministry's database requested that his status be changed. He explained that since he does not have any relation to religion, he therefore wished that 'religion-less' therefore be written in his identity card (Ephraim and Shumpalvi, 2016). After this request was refused by officials, in 2019 it was granted by the court. The fact that he had to turn to the judiciary illustrates the fact that whilst religious freedom is profoundly embedded in the declaration that the Israeli state. actively, there is a contradiction in how it is enacted. Nevertheless, change is coming, albeit slowly. Today, the Ministry of the Interior office has adopted a new policy of omitting details of an individual's religion on their ID card. This shows that protocol can, indeed, change over time, (Population and Immigration authority, 2021, pp. 3-6).

Another example is Arab municipalities that are dealing with a lack of infrastructure in roads and public transportation, rising violence (especially against women) and limitations on territory jurisdiction. In disputed areas such as East Jerusalem, where neighbourhoods are populated by a majority of Israeli-Arabs and Palestinians (non-citizens), violence and tension are more common. None of the Jewish localities suffer from such high levels of density and lack of land for development, which prevent the building of new neighbourhoods. In these neighbourhoods, there is no land for public institutions and employment areas (Shani, 2021). "Consequently, a complex situation arises in which the authorities' revenues fail to increase and their ability to provide basic services, such as hazard repairs, sanitation, and public building maintenance deteriorates even further." (Shani, 2021).

In recent data published in "the Israeli Voice Index", it was found that 54% of the Arab citizens within Arab localities trust the government more than their local officials, in comparison to 74.5% of Jews (Chadge-Yichya and Ron, 2021). It was also found that 80% of the municipalities did not act with financial transparency, but moreover- "[…] even when the state devotes resources, sometimes the authorities do not utilize it to the full or intelligently, which will ensure that the public resources do not go down the drain." An example of this can be found in some of the components of governmental operative decision no. 922[10], in which billions of shekels were allocated to the Arab authorities, but some of which did not fulfil their purpose" (Chadge-Yichya and Ron, 2021).

Above all, the most immediate threat to the Arab population is internal violence and criminal activity. More than 70 Arabs have been murdered since the beginning of 2021, meaning that every 3 days someone dies in relation to personal involvement in criminal activity (Shaalan, 2021). Haaretz reported that "The police attribute the increase in murder cases to the difficult

[10] Special plan that was offered by government and did not succeed in lowering the difficulties within the authorities since it is not yet to reach its fully implementation.

economic situation in the Arab public and the high unemployment rate among young people", and quoted a senior police official saying "A person who has no future and does not find employment in the fields he went to study is going to look for a livelihood in the criminal world" (Brainer, 2021). Just as alarming, almost 100 women have lost their lives in the past decade at the hands of their spouse or husband (Araaf, 2021). The murder of women shows just how patriarchal Arab society still is, since the common thread linking all of the victims was their will to be independent.

Another central aspect in the area of human rights is policy relating to religion freedoms, often exploited for political purposes by both Palestinian and Jewish extremists. One central issue involves actions and measures taken to secure the ability to pray in holy places, and it is very much affected by the national conflict in terms of territory (where you can pray) and nationality (who can pray). Policy is decided according to the Ministry for Religious Affairs, which has been through some changes during the years. the central one (2004) being to spread out services given to non-Jewish sectors to other governmental ministries according to their functional affiliation.[11] As a result it no longer has influence on disputed religious places, such as the Al Aqsa Mosque and Mount Temple in Jerusalem - Islam and Judaism 's most sacred houses of prayers. This case exemplifies the difficulty in holding on to a policy that is trying to calm ongoing tensions, between upholding the basic human right to practice a religion and security policy which prevents the same right.

It took more than 20 years to agree clear borders between Jewish areas of prayer and Muslim ones, after a Peace Agreement was signed in 1993 with Jordan. The decision to involve the Jordanian Wakf in the Al Aqsa Mosque dispute came about after the realization that there needed to be an involvement of a neutral institution to negotiate between Jewish religious Zionists who wished to pray on Temple Mount, and Israeli-Arab Muslim citizens who wished to pray in the same place. The riots that took place in the Second Intifada forced Israel to explore legal options to assist in preventing violence without harming the universal right to practice religion This later helped in agreeing a division of prayer hours to prevent clashes between Jews and Muslims. In 2015, the US Secretary of state John Kerry signed an agreement that agreed a status quo between Israel, Jordan and the Palestinian authority. Whilst it prohibited Jews from practicing rituals and praying at the Mount Temple, it afforded them to Muslims, it also regulated visits to the area by Israelis (Shragai, 2015). Unfortunately, since Israel and the Palestinian Authority are not co-operating on a regular basis, this has turned out to be a fragile arrangement.

The Temple Mount status quo has therefore reduced Palestinian and Israeli-Arab citizens' anger on the one hand, but deepened the feelings of injustice, grievance and polarization of religious Zionists, especially right-wing extremists who are not willing to accept the agreed terms. As of today, special approval is needed for Jewish citizens to pray inside Mount Temple, in an attempt to reassure Muslims that their basic rights will not be offended. In recent times, more and more radical right-wing politicians have been encouraging religious Zionists to pray there, therefore violating national policy (Gabay, 2021). It is creating a link between civil rights and nationality-based rights (as does the Citizenship Law), contradicting national policy and the Declaration itself and deepening social tensions. The last armed conflict (Guardian of the Walls – May 2021) was ignited next to Al Aqsa Mosque, then spread out to cities within Israel

[11] For example: the rabbinical courts were annexed under the Ministry of Justice, the care of holy places was transferred to the Ministry of Tourism, religious services for non-Jewish citizens were annexed to the Ministry of the Interior and more.

where Muslims and Jews lived in close proximity. It eventually reached a peak that ended with military intervention within the Gaza Strip, as the Hamas terror organization used the situation to encourage rocket attacks on Israel (Dekel, 2021).

Israel's current national policy responds to Palestinian terrorism as its first priority and lists it as the highest-level threat on the security scale, along with international-level attacks. Its secondary threat involves domestic terror acts committed by Jewish citizens with an affiliation to religious-nationalist right-wing extremism. Both situations came to a head in 2014-2015 and, subsequently, there has been a slight change in the power distribution between different actors, preventing future escalations. Even though policy puts great stock in a punitive approach, suggesting the military and other security mechanisms are the main actors involved in counter-terrorism initiatives, Israel still operates several integrative programs that might pave the route to a more inclusion-oriented policy within the country.

The disengagement agreements also brought about government decision no. 4780 in 2006, declaring Israel's policy toward the Palestinian Authority after the establishment of the Hamas government: "Following the Palestinian Authority elections, in which the Hamas […] a government that does not recognize the existence of the State of Israel and the agreements signed with it and does not renounce the path of terrorism" (Prime Minister's office, 2006). Israel has established principles that represent its contemporary approach towards its primary threat, [12]therefore any terror action that comes out of the Palestinian Authority is related to the Hamas regime. There was no change of policy in the following 15 years, while governments tried to deal with terror groups, "lone-wolf" knifers and suicide bombers from the West Bank, and rockets, explosive balloons and terror tunnels from the Gaza Strip. "Silence will be answered with silence", has been a sentence repeated by the political elite (Israel Hayom, 2012; Ushomirsy and Eichner, 2019), which means that when terrorism increases, so does the Israeli security forces defensive operations.

Clause 6 of the decision states that "Subject to security considerations, the crossings from Israel to the Gaza Strip will remain open to allow humanitarian aid to enter the Gaza Strip" (4780/6), but repeated military operations and daily "routine" counter-terrorism operations as a response to Hamas attacks, has taken a toll on civilians on both sides. This has led in recent years to a debate regarding the actual policy of the state. On one hand, there is the issue of rehabilitation of the Strip; on the other, there is the possibility of a military solution that might involve a ground invasion in order to neutralise/destroy Hamas's control.

It is important to mention that internal political disputes within Palestinians also make it more difficult to find a long-lasting solution. A point in question is what happened on June 24th, 2021, when Nizar Banaat, an activist that was a vocal critic of Palestinian Authority, was killed. He was arrested and severely beaten in his house in Hebron by Palestinian security officials (Hass, 2021a) before he died. Thousands protested for days afterwards, against the regime, claiming Banaat's death occurred simply because he was holding different opinions to that of

[12] 1. The Palestinian Authority is a terrorist authority hostile to Israel. 2. The State of Israel, for all its governing bodies, will not have relations with the Palestinian Authority and its governing bodies. 3. The Palestinian Authority is one authority and therefore there will be no other reference to the Chairman of the Palestinian Authority or the Ministry of the Presidency. However, there will be no personal disqualification of the Chairman of the Palestinian Authority. 4. Foreigners who visit the area and meet with Hamas officials will not be accepted, at the same visit, for meetings with Israeli officials 5. Israel, together with the international community, will coordinate the ways in which humanitarian aid is provided to the Palestinian population, not through governmental mechanisms.

the Palestinian Authority (PA). Other activists and journalists also fear violations of their human rights in the West Bank (such as freedom of speech) (Abu Maria, 2021) and are fearful that the Head of the PA, Abu Mazen, will punish subsequent protesters even harder, using even more violence (Hass, 2021b).

At the same time, Israel has built an updated framework of actions to combat the financial infrastructure of terror organizations, terrorist operatives and entities involved in terrorist financing, accumulated in decision no. 273 (Ministerial Committee for National Security (Cabinet), 2018). This financial policy is another tool that helps authorities prevent money transferring and illegal activities. e.g., in 2019 the court rejected an appeal of one of the biggest banks that violated this policy, and ordered them to pay a fine of more than 4 million NIS. The court emphasized the significance of abiding by the rules, together with international financial cooperation with the state (Bank of Israel, 2019).

In terms of Jewish terrorism, the state has also made a major shift, since the Ministry of Defense decided in 2013 to change its policy and declare "price-tag" actions to now be defined as "unpermitted assembling" under the anti-terrorism law, which up until then was preserved only to jihadist terrorism attacks (Zeitun, 2013). The Ministry of Defense has identified "[…] minor groups within them do not honour the regime of law and therefore attack the legal system as well as security forces. These are the ones that commit price-tag actions." (Yaalon, 2018, p. 240). Former Minister of Defence Meshe Bogi Yaalon, stated that […] "At the centre of the ideology of the "youth of the hills" lays the notion that the Jews are superior to the Arabs (p. 241). The disengagement created a crisis that increased the activity of radical marginal groups, and the local leadership failed to handle it alone. The infrastructure of radicals"[…] harms Arab property as a revenge for a previous terror action or against state actions, e.g., the evacuation of an outpost" (p. 241-242). Certain settlers are even offended by these radical actions. "I saw the connection between the merciful attitude (of the regime) toward price-tag actions of the youths of the hills and the disrespect for the rule of law, and the escalation within Jewish terrorism" (p. 243), says Yaalon.

Since some areas of the West Bank are under military jurisdiction, the IDF has also decided to enforce price-tag cases. One significant event has shown that the military operates in that field as well. In 2016, a soldier living in the Bat Ayin settlement was sentenced to 4 years in military prison, for passing on secret information to aid price-tag actions. The IDF stated that "the punishment expresses a strict attitude of the military prosecutor's office. Such offenses must be eradicated in the IDF and anyone who violates the trust given to him by the military system and harms security interests must be severely punished" (Zeitun, 2016). The court then gave its verdicts accordingly. e.g. in one of the Judges' explanations regarding an appeal that was rejected by price-tag offenders. Judge Mazuz emphasised that: "the ruling states that the uniqueness of a terrorist organization is reflected, among other things, in the fact that the motives of the organization's members are ideological, and their purpose is not purely criminal, but aimed at achieving a policy change goal." (Friedson and Ben Kimon, 2020). He added that the appellants undermined the democratic regime by carrying out revenge attacks on innocent people.

Alongside its security operative performance, primary prevention policy is being carried out by the Ministry of Education and municipal authorities and also by NGOs initiatives operating within schools, youth movements and in public spaces. Promoting the importance of civic society, helped the expansion of NGOs in the world, has had a significant impact on the field within Israel, by helping in maintaining human rights issues on public and political awareness.

Unfortunately, in the past decade Israel has regressed in its democratization, especially when it comes to inclusive attitudes (Chazan, 2019, pp. 149-150).

And yet, the third sector is very central within Israeli society, and specifically in these type of educational integration initiatives. NGOs working in different fields (humanitarian, education, citizenship, personal security, religion, etc.) in order to improve the social gaps between the population and the state, are dominant within Israeli society (Yishai, 1993; Hazan, 2018). The third sector has a significant influence, after state legislation was passed in 1980 regarding regulations of non-profit organizations, since it saw it as an interruptive operator against governments policies, and over the years have become part of its financiers (Limor, 2010, pp.15-16). In 2008, the government decided to publicly recognize the third sector as essential to Israeli democracy and, with that, established round-table discussions within the ministries as a new norm, alongside establishing a digital data-base of NGOs (p. 19). By then there were about 25,000 registered NGOs dealing with civil rights and basic social needs. Between 2015-2019, the majority of new established organizations were religion-oriented (Guidestar report, 2020, p. 14). even though in Israel there are 35,000 estimated active NGOs. In 2018, only 16,469 reported activity (p. 16), as the Israeli government mentioned. Of the active NGOs who receive financial assistance from the state (Knesset report, 2021, p. 5). Some are targeting anti-racism and advocating an anti-nationalism educational approach by teaching in schools but also performing social activism within the public sphere. Therefore, the following section will discuss the education's system modifications on the matter, presenting the government's openness and reliance on civic society.

The Ministry of Education has identified the escalation of socio-political public violent clashes between the Arab population and the police and violence between Jews and Arabs as beginning with the Second Intifada and so it decided to spearhead a policy of tolerance by implementing the law (Education Law - 2000). The outcome was the establishment of "The Society and Youth Administration" (SYA), who are responsible for the social-values education of all students of the State of Israel in light of the goals of education. The SYA "specializes in the development of social skills, strengthening education for values, fostering thinking and moral behaviour, education for involvement, solidarity and social responsibility" (SYA, 2021). Their goal is to implement a policy of deradicalization, by developing, teaching and assisting teachers in faculties to implement programs as part of educational pedagogy,[13] e.g., it has a bilingual program in Hebrew and Arabic, as well asadvanced training for school educational staff. This training examines in depth the events of the Intifada in coordination with civic society developments.

The Ministry of Education has also modified its policy of clarifying the use of educational programs from outside resources such as NGOs, referring to it as "round table between sectors", following permanent order no. 0149 (Ministry of Education, 2018). It is now set to develop and regulate a dialogue between representatives of the different sectors, involved in the educational activity, formulating policy designed to be learned and applied by the staff units, institutions, managers of the education and different sectors (first, second and third) working in the education system. Through this, the Israeli government has recognised that its policy has to take into account extensive civic activities.

[13]"Students of the State of Israel will be immersed in the cultural heritage of their people, will love their country, country and homeland, will be committed to its democratic values and laws, will act in a value and moral way, contribute to society and the state and lead a reformed society in the spirit of the Declaration of Independence.

Secondary prevention, involving youths that might turn to violence, usually works in the public education system by detecting populations "at risk" and working with educational youth villages to treat them with detailed attention. As described in section 2, Israel is suffering from inequality between the peripheral and central areas (i.e., including gaps in health, welfare, income and low infrastructure, etc.). Therefore, a substantial number of youths at risk groups are located in geographically peripheral areas. The relevant local municipalities are operating this policy by appointing special experienced educational officers responsible to direct youths into proper facilities that can give more appropriate treatment (Bikur Sadir, 2021). Israel has a state budget for youth educational villages, but it is insufficient. In 2020, the government decided to increase the budget under decision no. 682, in order to improve infrastructure and educational needs, but it has yet to be implemented. Youth villages usually deal with urban and peri-urban teens who are at risk by helping to keep them away from unsupportive families, violence and identity struggles (Yachdav, 2021). This applies to all Israeli civilians.

Tertiary prevention addresses radicalisation after it occurs, including different educational programs within prisons. A new approach, which began in 2001 has led to the establishment of the first separate juvenile (14-18 years old) prison in Israel (Shabas/Ofek, 2021). After moving to a separate location from the adult facility, in 2004, Israel opened its first juvenile prison, which serves as a punitive institution but also combines educational programs preparing youth for reintegration into civil society. Accordingly, "The prison staff undergoes special training for working with youth and operates according to an integrative-educational, therapeutic and rehabilitative concept, which sees the care of the youth as a social vocation.

The basic premise is that every boy is changeable and entitled to the opportunity to mend his ways and integrate into society" (Shabas/Ofek, 2021). In 2017, an article was published under the headline "I proved it is possible to be reborn", telling the story of a young prisoner who relied on Ofek's education programs and succeeded in turning his life around and joining the military (Ariel Amur, 2017). in 2018, the Ministry of Homeland Security was criticized severely by Members of Parliament, journalists and the National Council for the Child, all claiming that the authority does not adhere to national policy by its refusal to provide information on prison's work and youth-related subjects, i.e., human rights, prison abuse, proper facilities and prison protection. After this was revealed, it was found that, being the only imprisonment youth facility in the state, it houses much more residents than it should, and in addition no sexual assaults were reported during 2010-2016 (Curiel, 2018).

In 2019, the National Council for the Child examined, in its annual report the alternatives to imprisonment of minors. One of the Judges stated the courts are operating according to state policy, meaning: "Most children who come to the judicial system in a juvenile court in Israel do not face detention or imprisonment. We are talking about a population that goes to prison because attempts at rehabilitation in the community were unsuccessful. These are children who committed very serious offenses, causing serious harm to others. For them, significant work is being done to find an alternative to detention" (Alon, 2019). [T]

[T]his committee also exposed that whilst in 2014 about 150 boys were imprisoned in Ofek, in 2019 only about 70 were in prison. The most upsetting statistic was that, in fact, about 75% of the boys in Israel who sat in prison returned to prison for up to five years, while the corresponding figure for adults is about 40% (INCC report, 2019). This has deepened the debate regarding the necessity of this type of facility and on punitive approaches in general. Member of the Knesset, Gadi Yavarkan, offered to shut it down, arguing "there should be a youth prison in the country" In an effort to encourage alternatives to minor incarceration,

serious offences excluded (Yanovsky, 2020). Recent debate offers one position that endures closing Ofek prison on the claim that it does not serve its purpose since the majority of youths are going back to criminal activity. The other claims that the educational programs that the prison offers, make the youths find the way to re-integrate within society and should remain as an alternative. Nonetheless, in terms of policy the state prefers to avoid minor incarceration as much as possible, and detect youth at risk priorly to the time of committing a crime, by referring them to youth villages and other educational institutions to begin with.

As a militaristic society (Levy, 2007), Israel has several security institutions, each responsible for particular counter-terrorism policy implementation, under the budget and jurisdiction of the Ministry of Defence. The IDF is responsible for the main preventive and defensive activities on the international borders and beyond the borders of the Green Line (West Bank and the Gaza Strip). Alongside the IDF, intelligence units operate, and are divided up between a few institutions. Here we will review the dominant ones.

The Ministry of Homeland Security is in charge of enforcing order within the police force and also the national prison authority (Shabas in Hebrew). As for the question of integration, this section will take a look at the institution of the Presidency and initiatives it supports with regard to multi-cultaralism in Israel. In addition, we will look at civic society as another semi-institutional branch that operates in the light of all others. This section will show main trends and modifications, made within these institutions in connection to legislation and the socio-political atmosphere.

Two new institutions were created in the past decades, dealing with the prevention of terrorism. The first was the National Security Council (NSC), which operates according to government decision no. 4889 (1999) has been the Prime Minister and government's advisor in matters of security since 2008 (NSC, 2021). The second was the National Bureau for Counter-Terror Financing of Israel (NBCTF). It plays an essential role in coordinating and outlining enforcement policy at the national level, regarding financial infrastructure of terrorist organizations, terrorist operatives and entities involved in terrorist financing (NBCTF, 2021). it formulates national policy in the field of the fight against terrorist financing, manages declarations of terrorist organizations, initiating and managing seizure orders of terrorist property; establishes inter-ministerial forums and operates as an "integrated intelligence center" in the field of the fight against terrorist financing (NBCTF, 2021).

Accordingly, each year the Ministry of Defense updates its list of new terror organizations, and gives authority to the relevant administration to handle it operatively. The central one is the Israeli Security Authority (ISA) which has modified its policy in the past two decades because of radicalisation. For reasons of security, it does not publish operative information beyond regulations and provisions that have been established by law and known to the public (ISA, 2021).[14]The actions of the ISA can be reviewed by ex-operatives and past reports viewed,

[14]1.The institutional aspect - the status of the ISA and the manner in which its powers are determined, its subordination to the government, the status of the head of the Shin Bet. 2. The functional aspect - the designation of the ISA, its functions, general powers given to it (including the authority to conduct investigations), specific powers given to it (including - search powers, receipt of communication data, determination of security compliance). 3. The aspect of supervision and control - the status of the internal auditor, temporary reporting obligations to the Knesset, the Government and the Attorney General, the obligation to approve by external bodies regulations, rules and regulations, the establishment of an external achievement mechanism regarding determining security compliance. 4.

showing its key role in the field of radicalisation and it boasts a special unit named "The Jewish Division" (Levy, 2021). Its name has evolved over time, ever since Rabin's assassination by a religious right-wing fanatic. This unit specializes in surveillance of Jewish and non-Arab individuals that pose a threat to Israeli democracy, i.e. non-Arabs from both the right and left of the political spectrum. (Ali, 2021).

In the past decade, radical right-wing ideological-based terrorism has become more of a threat to Israeli society. July 2015 was a particularly dramatic month in this regard with three major events occurring, followed by huge counter-activity by the ISA.[15] These events provoked the ISA into acting more firmly and arrested many of the individuals involved in price-tag attacks. As a result, radical right-wing activists 'attacks came to a halt until 2017 (Ali, 2017).

In term of institutional responsibility, violent actions come under the jurisdiction of the ISA when characterized as terrorism, e.g., radical religious-Zionists groups such as the "Youth of the Hills". Accordingly, the interface between ideological movements and violent youths, whether urban or peri-urban, has an effect on future radicalisation. The proximity of the relationship between the "Youth of the Hills" and other violent groups within Israeli society, to ideological movements such as LAHAVA might create further violence that has all the features of terrorism.

When it comes to radical right-wing ideology, there are also lone wolf attacks, which are harder to prevent. In general, most of them are related in one way or another to a larger movement or as a result of ideological indoctrination. Moreover, within those groups, there is a "culture of silence" or a "code of honour", which makes prevention of the attacks and capture of the individuals that much harder. What assists the ISA is the law, which allows it to interrogate perpetrators and use a range of methods to prevent potential terror attacks from coming to fruition (Ali, 2021).

Regarding punitive actions, there is a lack of effectiveness when it comes to arresting and charging non-Arab terror perpetrators. This harms the ability of the ISA to foil future actions of other terrorists. If short jail sentences are handed down, for example, this will be interpreted by them as a low price to pay for committing these kinds of actions, therefore, perhaps, reasonable price to pay. The rule of law should not be ambiguous when dealing with Jewish citizens – it needs to apply to every citizen that commits an attack. Unfortunately, current punishments for non-Arab perpetrators are disproportionate to their crimes, therefore they are not deterred from future nationalist criminal activity.

Social media also helps promote aggressive and violent reactions within the Israeli population, and is usually more intense during military operations or when terror attacks are performed by the Palestinians. Today, the ISA has greater technological capabilities when it comes to locating radicalisation. It is working harder and acknowledges that it needs to take a new approach to actors within radical social groups. Even so, it is not enough just to rely on the security authorities to prevent outbreaks of violence. Rabbis, leaders of local municipalities and other civic and political leaders, must take a role in calming and restoring stability within

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Various provisions derived from the unique characteristics of the ISA 'operation - the status of the internal investigation, a restriction on the responsibility of the GSS employee or acting on his behalf, restrictions on ISA employees during and after their work, provisions regarding confidentiality.

[15] 1. The arson of a church, 2. Dawabsha family murder, and 3. Shira Banki's murder during the LBGTQ parade.

their communities. In addition, the reaction of the police towards settlers in the midst of the Gaza disengagement of 2005, have deepened mistrust of security authorities, which only serving to encourage the actions of the Hilltop Youth (Ali, 2021).

Being in charge of enforcement of law concerning public security and safety, makes the Israeli police subject to much. Even though it is supposed to provide the first response to emergency situations and prevent criminal offences, the police are also part of a wider discourse dealing with ethnicity, religion and nationality. The police play a significant role within society since relations between police and minorities operate within socio-political contexts (Ben Porat and Yuval, 2020, p. 2). Israel is a divided society, its status-quo dependent on religion (p. 52), and it has normalised the separation between nationalities.

Problems in the granting of citizenship for non-Jews are also a source of exclusion and inequality for Arabs (P. 54). According to scholars, the police differentiate between those they see as 'normative' civilians and those they perceive as a threat (p. 9). "Nationalism, religion and ethnicity are the central fault lines in Israeli society, each division with a life of its own, translated into demands, struggles and identities" (p. 12). Without a doubt, it is easier for Jews to secure citizenship than Arabs, since they are more likely to be regarded as a minority "threatening" the state. Security values emphasise social order and security […] justifying the suspension of citizenship and human rights (p. 27). This is true especially when it comes to Arab citizens, who are a national minority demanding equality and recognition, suffering from police neglect and insecurity (p. 3) and often regarded as "enemies" (p. 75). Police brutality is also present towards other minorities such as the ultra-orthodox, religious-Zionists, Ethiopians etc. Even though the police play a key role in enforcement, they struggle to do so because of a lack of public trust.

Something else that needs to be mentioned is the use of technology as a tool of recognizing and eliminating offensive content from online platforms. The State Attorney Cyber Unit prosecutes a few dozen digital offenses a year including those relating to incitement to terrorism, incitement to violence, publication of sexual content without the consent of the person being photographed etc. (Justice Department report, 2020). It is a new national unit established in 2015, in light of the need recognized by the State Attorney to concentrate on efforts dealing with crime and terrorism in cyberspace (State Attorney's office, 2021). Its 2019 report shows that there was a significant increase in the number of requests for the removal of offensive publications served to internet companies, and 90% were removed. About 76% of the requests involved terror organizations' publications, and 22% dealt with incitement to violence and terrorism (Justice Department report, 2020). This raises the question of boundaries between state initiatives that require the tracking of citizens, and to what degree the state should intervene in security issues.

In contrast to institutions that take a central part in punitive and protective operations, the understanding of a more integrative approach has led to the rise of new attitudes, materialized by state institutions. One that is central to the understanding of the changes in Israeli society is the institution of Presidency, which changed its historic function as a representative official. Former President Reuven Rivlin (2014-2021), was the first prominent political figure who pointed out the problem of Jewish terrorism, which threaten to deepen the ruptures in an already divided Israeli society, by price-tag actions. After his election in 2014, President Rivlin, who came from the "Likud" (right-wing) political party, supported a new integrative approach to deal with ethno-religious racism and violence towards Arabs and other minorities. In a 2015 conference, Rivlin presented a new paradigm that sees Israeli society as a combination of four

main sectors that should all receive equal civic rights, regardless of their identity (Israeli Hope Official website, 2015).[16]

Rivlin decided to oppose the idea of segregation between the majority of Jewish society and the minorities within it, the purpose being to change the discourse of hate, naming the program "Israeli Hope". Rivlin's goal was to establish a partnership between the main sectors, seeking to strengthen Israeli society through inclusion. At first, Rivlin's interpretation of Israeli society was disregarded by politicians and other opponents of the idea of inclusion. Added to this was the fact that some disagreed with this explanation of the construction of Israeli society.

Even so, in the last few years, Israeli Hope has become a program implemented in education institutions all over the country. It started with a variety of activities within academia, and over time managed to become part of annual visits to schools in Israel promoting the discourse of change, and the acceptance of all cultures within society (Amin, 2021).[17] In addition, in 2018 it managed to create a municipal forum that offered a key role to local municipalities and directors of Education Departments in changing and leading their educational systems' meaningful processes, focusing on local needs and challenges in the relations between the different sectors of the population (Israeli Hope Official website, 2021).

Another relevant development is the Education Award given each year to schools that are active in strengthening partnerships by inclusion, based on the realization of the importance of local authorities in the cooperation between youths from all parts of society (Amin, 2021). It did change the educational approach in some schools, e.g., in Haifa, where the first and only so far High School coordinator of Israeli Hope, explained that it is a role that must be built-in at all schools since it connects between different views. By choosing to dedicate a full day of schooling to a discussion on Israeli democracy, youth are talking about politics in depth as part of the program's goal (Saab, 2021).

Rivlin's idea of tolerance became institutionalised in a variety of fields such as: sport, employment, regional cooperation, and education within academia and public schools (Amin, 2021). With that said, it is crucial to highlight that despite the fact that it became the leading initiative in the field of integration, the Ministry of Education has not yet fully implemented it. According to an article published in Haaretz: "Some of the fruits of the policy can be found in the data in the follow-up report: only 21 schools (out of about 5,000) participated in the "Israeli Hope" program, which promotes coexistence between different groups in Israel; less than 14,000 high school students (out of about 970,000 participated in the joint study of schools from different streams of education; not a single meeting took place between ultra-Orthodox students and their peers from other sectors." (Kashti, 2021).

The last important aspect of this institutional framework in Israel is the respective central place NGOs hold, supported by state legislation and policy. Violence in recent years has also led to

[16] "Over the past few decades, demographic and cultural processes have been re-shaping Israeli society, changing it from a society comprising a clear majority with several minorities to a society comprising four principal sectors or "tribes" that are similar to one another in size: secular, orthodox, Haredi [ultra-orthodox], Arabs. This new social structure is reflected in the composition of the current first grade classes, where the Haredi and Arab educational streams together represent close to fifty percent of the total, indicating, in effect, a "New Israeli Agenda". In these circumstances there are no longer clear majorities and minorities in regard to basic ideological issues. We must now, therefore, move beyond the current approach of "majority and minority" and find a new approach based on partnership between the different population sectors that make up Israeli society" [From the President's address at the Herzliya Conference, June 2015].

[17] Amin Nelly (Alias), Interview with the author, Beer Sheva, June 2, 2021.

the creation of NGOs that recognise and fill the vacuum created between national conflict-oriented policy, and basic human rights, which otherwise might be filled by radical groups. "Tag Meir" is an NGO, first established in 2011 as a response to the increasing violence carried out by price-tag actions. Through its name ("tag of light" in Hebrew), it wishes to change the discourse around terrorism and ethno-religious radicalization, led by political entities that approach youths in order to promote racism instead of inclusion. The organization is active in few several fields, including the legal system and as such they participate in case laws dealing with Jewish terrorism and human rights offences.

One specific example relates to Rabbi Eliyahu, who was summoned to a disciplinary hearing by the courts after he was found to be inciting youths against minorities, using his religious status (Bloch, 2020).[18]The organization was a major partner in the petition submitted to court, stating: "Rabbi Eliyahu has consistently incited against the courts, leftists, Arabs, the proud community and on the other hand has sponsored the far right and Youth of the Hills in racism against the Arab sector from the heights of their status as rabbis on behalf of the kingdom." (Bloch, 2020). A central initiative act of Tag Meir since 2014 is a direct response to LAHAVA organization's yearly "Flag Parade"[19], taking place in the Muslim market of the Old City of Jerusalem. The parade's participants often chant racist slogans as they walk past the Al Aqsa Compound, and the fact that this parade takes place close to Ramadan only fans the flames of violence. Most participants are youth that identify with radical religious Zionists, such as the current member of the Knesset Itamar Ben Gvir. Tag Meir decided to organise a parallel parade in which flowers would be offered to Arab visitors and shop owners along the route.

Seven years later, the parade has organised the participation of hundreds of young people from all over Israel, and by that made the "flower parade" a new and integrative tradition (Mako, 2019). The recent parade of 2021 showed hundreds of youths participating in the alternative parade, sharing their experiences through social media, and inviting more teenagers to take part. (Tag Meir Facebook Video, 2021). Tag Meir is operating within schools and youth movements, and, as such, is pursuing an integrative approach, cooperating with official establishments as part of a normative framework.

6. Case Studies

Case study 1: The Anti-Racism Governmental Unit

Inequality has always been a major issue in Israeli society (Chazan, 2019). Recently, civic protests and social activism have become more prevalent, especially after the huge social protests of 2011, even if protestors didn't succeed in their mission of immediate change of the state's policy (Ram and Filc, 2013; Herzog, 2013). But on May 4th, 2015, an important shift occurred. A video documented an Israeli soldier, of Ethiopian heritage, being beaten by two policemen for no reason. It was shown on the nationwide news and soon went viral on social media (Yarkatzi, 2015). This led to enormous protests by thousands of youngsters between the ages of 14-24, decrying the fact that public spaces are not safe for people from the

[18]For example, Eliyahu refers to Arabs as "wild creatures": "What do you do with these wild creatures on the Temple Mount? They're just like a photographer in a shrine. The most upside-down place is there. The people hate peace. That's what King David calls it right? And we foolishly give them the right to rule there so why not exploit us, you have no "With more exploiters than them, just exploiters, give them money, give them food, give them electricity, give them water […] and they spit in your face and stab the best of our guys".

[19] Taking place on Jerusalem day- national day of celebrating the deliberation of Jerusalem.

Ethiopian community (Yarkatzi and Shimoni, 2015). The protest itself, which took place in central streets of Tel Aviv, provoked high levels of police violence in return, since it ended with 68 injuries and 43 arrests.

Up until then, the state of Israel did not consider racism to be an issue within its society (Akir, 2021).[20] Now, global awareness has raised the subject of police brutality and heavy-handed policing and revealed that the individual story of the Ethiopian soldier, was part of a much larger phenomenon of group-association based racism, taking place within official state institutions. The crucial aspect of this particular incident is the fact that even though the soldier's IDF uniform was supposed to "protect" him from random violence, did not prevent the policemen acting out of clear ethno-based discrimination motives (Akir, 2021).

As a result, in 2016 a governmental committee was appointed. "The Palmore Committee" was set up and asked to examine the question of police brutality within society. Its conclusions were that the state was being actively racist towards the Ethiopian community, followed by the establishment of a special governmental unit to handle institutional discrimination and respond properly to racism-based charges. The Anti-Racism Coordinating Government Unit (ARCGU) under the Ministry of Justice, was a result of protests of the Ethiopian community against racism and police brutality (ARCGU, 2019; Akir, 2021). The unit is now handling complaints and performing training for state institutions in issues of racism in public spaces and public institutions (Institutional racism) and racist behavior by law enforcement (racist behavior of public service workers). It works to eradicate racism against all individuals in Israel, regardless of their skin color, origin, nationality or religion (Akir, 2021).

The unit defines racism as an act of terror, since the result of it is fear and horror. Groups with similar characterizations that share the same vulnerability level, leave them in a state of constant anxiety and that is an obvious characterization of terrorism (Akir, 2021). The unit was established in February 2017, created as an institutional entity that could give a proper response to racism-based actions. Even though it started with its focus on the Ethiopian community, it has now expanded its investigations into including all types of racism performed on the basis of group association, e.g., ultra-orthodox on the basis of cultural-religious association. The unit is led by three main branches:

1. Public complaints - targeting institutional racism, and every event or occurrence involving government units and offices and individual employees committing racist practice. The unit is also involved in legal class-actions against public administrations following public complaints, e.g., a public transportation driver who refused to allow Ethiopians on to buses due to their skin colour, or Ultra-orthodox captured as "virus spreaders" in working places. It also ensures that governmental ministries publish clear guidance to their performative units whenever an issue of racism is revealed.

2. Progressing lateral moves - the unit is trying to influence state institutions and their approach towards racism as a strategy and therefore seeks to progress long-term changes on legislation and policy.

3. Training and improved knowledge - the unit has appointed 72 supervisors within government offices that offer professional training to employees on the matter. One its more recent initiatives offers education for teaching the history of racism through mandatory history classes in schools. The program presents racism as a result of culture and politics and by that

[20]Akir Yoni (Alias), Interview with the author, Beer Sheva, July 22, 2021.

educates the next generations. The Ministry of Education has agreed to the establishment of a 10-year plan which will train teachers in this subject. (Akir, 2021).

One of the central difficulties described by the unit's officials is the lack of regulative legislation, that "Even though the unit was established on the basis of a government decision we do not have the authority to enforce it" (Akir, 2021). The Punitive Law does not include clear punishment against all types of racism. The definition of racist actions by law in Israel, as a country of immigrants, is made within a security discourse, meaning it is too narrow to contain other types of racism that haves nothing to do with the national Israeli-Palestinian conflict.

In order to convict someone on a felony of racism in Israel, you have to prove special intent, which makes proving the accusation almost impossible. The state's laws show that a larger weight is given to the value of freedom of speech than to active legislation against racism. It could be possible to overcome this by creating an echelon within the punitive law, so perpetrators could be punished for all levels of racism. Another gap is between legislation and its implementation and enforcement. The lack of a constitution in Israel means certain sectors are given more resources and can promote laws that benefit their own interests.

The problem with this is the enforcement of such laws by different ministries has created great mistrust amongst the public. There is also an absence of an institutional entity responsible for the subject of human rights. There are a few commissioners that handle the subject of inequality but they are all subordinate to the State Attorney and therefore cannot truly criticize the state's actions (Akir, 2021). It challenges the state and have the ability to criticize and affect decision makers which is vital even if not leading to immediate changes. E.g., Basic Law "The nationality law - 2018" is racist by definition, and therefore offensive to people who are not Jewish, even though some adjustments were made.

Another difficulty lies in a lack of resources. It is an independent unit within the Justice Ministry, which only has five employees and options are limited. Racism against the Arab society is a problem they do not have enough resources to handle. Arab communities are suffering from racism, that is explained away by national and security considerations.

Case study 2: "City Without Violence" and the municipal model

Endless political disputes within a background of religion, ethnicity and nationality, have left Israel in a perpetual state of war. A national key initiative made in an attempt to decrease negative influences of socio-political tensions described earlier, is "City without Violence", implemented by the Ministry of Homeland Security. This national program is being carried out in municipalities across Israel, as an inter-ministerial institutional cooperation that operates under state policy in more than 150 localities throughout the country (Ministry of Welfare and social Security, 2019). This initiative involves working under the premise that geographical communities can reduce internal violence, by using social and technological mechanisms to detect radicalisation and prevent it. City without Violence operates with two main objects:

1. Information days for residents educating them about the phenomenon of violence and its consequences.

2. Surveys to examine local needs (Ministry of Welfare and Social Security, 2019).

The program's main purpose is to decrease situations of violence, delinquency, crime and anti-social behaviour in urban and public space in Israel (CECI report, 2018). It requires each municipality to appoint a trustee that defines the actions and regulations that the city is committed to, in order to implement non-violence practices (Lok, 2021). The implementation

requires government budgets transferred to municipalities accordingly. The budget is supposed to be divided between educational enforcement, welfare activities and more, and its yearly strategy is set in advance by its particular population's needs. As a result, each municipality has to map its violence to types and regions, taking into account local infrastructure to begin with. Some regulations are assembled in all municipalities and some are individually set (CECI report, 2018).

"City without Violence" is considered a municipal model for handling all types of violence committed by adults and youths. The model is based on the corporation and integration of all systems that deal with violence: education, welfare, security enforcement and health, and also third sector organizations (Wiseblay, 2010, p. 6). A special report made by the Knesset research division uncovered some difficulties in implementation of the program and the lack of sufficient data to examine its actual impact on youth criminal activity. It was first developed in 2004in the city of Eilat as a pilot study, due to increasing numbers of criminal activity among teenagers in Israel (Wiseblay, 2010, pp. 2-3). followed by additional 12 other localities who joined it in 2007.

In 2009, the program was extended to 66 additional municipalities, financed mainly by the Ministry of Homeland Security and local authorities (Wiseblay, 2010, p. 2). It significantly decreased the rates of youth involvement in criminal activities between 2004-2009 and some believe this is a result of this program. But some believe that it is underfunded because not all localities can join the program, due to a lack of unified authority to unite all inter-ministerial work (p. 13-14). In 2015, what started as a pilot under government decision no. 1561 within the territory of the settlements under the model of "youth endorses youth", continued as a permanent project. It targeted youth at risk that live within the West Bank area, recognized by the authorities as teenagers who were not part of the education system, motivated by ideological perceptions and characterized by their carrying out of dangerous activities to the community and towards themselves (CECI, 2018, p. 8). In 2016 special funds were given by the government for its implementation.

Government decision no. 3756 from 2018, is particularly interesting as it shows a central shift in strategy of the authorities. This resolution concerns the expansion of the "Community Adopting Youth" program within city without violence, to Judea and Samaria (the West Bank area) aiming, for the first time, to connect young people with a local educational framework (Prime Minister's Office, 2018). it was supported by a report that proved there had been a significant reduction in criminal activity of youths in the area, and accordingly was given more funding (CECI, 2018, p.4-6). Two additional important decisions have expanded the use of technology on the implementation of City without Violence (no. 3757; 3758).

Another significant development was made under decision no. 2710. In 2017 the Ministry of Public Security raised the budget given to mixed cities within the program, "for the purpose of expansion of the technological systems (which include a "seeing" center, cameras and sensors) in their field." (Ministry of Homeland Security, 2017). But despite its success in decreasing crime rates among youths, it is not clear whether this program will continue to work in its current format. In 2017 the Knesset authorized that a special new governmental authority will unite all different actors involving the struggle against violence and will work independently, ordered by "the law of the authority of the fight against violence, drugs and alcohol", updated in 2020 (Knesset book of laws, 2020).

7. Conclusion

Legal organization and basic democratic principles of the separation between state institutions (meaning that they can supervise one another) is very much present in Israeli society. Simultaneously, it seems that the central focus placed on ethnicity, religion and nationality, has a major influence on its policy framework and operative institutions, and so undermines the discourse of citizenship and equality.

The constant mindset of "fear of elimination", fuelled by political elites and the collective trauma of the Jewish nation's history, has had an enormous influence on Israeli legislation, policies and institutional framework, only making worse the problem of terrorism that is very present within everyday life. The lack of a permanent constitution has assisted the state in times of emergency (passing legislation to solve ad-hoc terror related threat), but has also used the same rules to undermine human rights, in contradiction to its commitments stated within The Declaration of Independence.

Citizenship and religion, two basic universal issues that are fundamental both to the population and the national state, apply to the most crucial "soft belly" spots within Israeli society. The fact that they are interconnected and also a result of the national conflict, emphasises that the lack of a permanent constitution in Israel makes it harder to define clear borders and boundaries between religion and state. The struggle to preserve human rights and also secure the Jewish nation's right to national freedom, leaves Israel further exposed to radicalisation from domestic sources. The boundaries that are set by religion, ethnicity and nationality make it difficult for the country to move towards inclusive approaches when it comes to deradicalization, for this requires solidarity between citizens and politicians, a change of discourse and a joint effort.

Core issues, such as the definition of citizenship, contributes to that as well as its inability to handle socio-economic gaps between its geographic and demographic peripheries and the centre, especially when it comes to the Arab population. Israel is a ruptured society, and has no way of integrating Arab communities without confronting the question of Palestinian identity, and including different ethnicities as part of its equal citizenship discourse.

The two main threats - Jewish and Palestinian terrorism - are handled in parallel ways, showing the great influence civic society has on human rights and civic equality as an answer to places that centralize ethnicity, religion and nationality differences. The fact that the state has a strong foundation of civic responsibility, suggests that citizens are active and are taking part in the democratic process. They have the ability to act with purpose and impact future changes. Widespread volunteer programmes are actually encouraging the government to take action in areas where otherwise there would be no proper response. Unfortunately, it also highlights the state's lack of ability to solve problems, using NGOs as a convenient "temporary" solution, that now seems like a permanent one for certain subjects for which the state has no resolution

The implications of these constant disputes, eventually leads to feelings of injustice, grievance, alienation and polarisation, not just by terror perpetrators that already find themselves excluded, but also by citizens that pay the price in the quality of their lives. Despite noticeable efforts by the state to fight racism at an institutional level and address integrative approaches to education, it seems that there are still serious gaps in the implementation of proposed policies. This has had a major effect on youths' perceptions of the way the

government is addressing these issues. Maintaining these conflicts on such a scale will surely have an effect on future generations of Jews and Arabs, even though it is quite clear that both groups are "here to stay".

COVID-19 brought the subject of surveillance into the public eye after the government decided to task Israel's secret security agency to use its power to track individuals during the first waves of the COVID-19 pandemic. The Supreme Court's position was identical to that of the ISA itself and the Court ruled that ISA's use of personal information in order to locate infected civilians was a violation of their basic right to privacy. They argued that such actions are against the law in Israel and also disproportionate compared to the behaviour of other western states at that time (Kabir, 2021). One of the judges even commented that "the time has come to get rid of this measure, as it is addictive and even encourages the creation of further abusive practices." (Herschkowitz and Altshuler, 2021).

This approach of the Judiciary only highlights the dispute that exists between state institutions. One encourages the use of preventative security measures, whilst the other wishes to prioritize the safety of civil and human rights. These opposing views highlight the constant tension that exists in Israel between democracy/liberal values and the war on terrorism/public safety. Of course, it is necessary to have a balance between the two, especially in places where the political elite might use their power. However, since Israel is constantly relying on security institutions to enforce its policy, it is necessary to provide 'checks and balances' in the form of different approaches, which are less punitive and more integrative.

8. Annexes

Annex I: Overview of the legal framework on radicalisation & de-radicalisation

Legislation title (original and English) and number	**Date**	**Type of law** (i.e. statute, regulation, rule, etc…)	**Object/summary of legal issues related to radicalization**	**Link/PDF**
The Declaration of independence	May 14th, 1948	Statute	This is the central legal basis for all legislation that follows, in the shape of basic laws until a future constitution is written. Here one can find Israel's definition as a Jewish democracy that is obliged to human rights according to UN	https://main.knesset.gov.il/About/Occasion/Pages/Declaration.aspx
Basic Law: Law of the return-1950	July 5th, 1950	Statute	This law relates to Jews that still live in the Diaspora, for their future immigration to Israel. It creates friction between the majority and non-Jewish minorities, who do not receive similar rights.	https://www.mfa.gov.il/mfa/mfa-archive/1950-1959/pages/law%20of%20return%205710-1950.aspx
Basic Law: Law of Citizanship-1952	April 8th, 1952	Statute	Provides detailed laws regarding the requirements of becoming a citizen: from the authority of return right (see above); by living in Israel; by birthright; by citizenship procedure.	https://www.knesset.gov.il/review/data/heb/law/kns2_nationality.pdf
Law: Compensation in acts of Hostility law-1970	July 30, 1970	Rule	Facilitates compensation in cases of harm caused by terror acts, and has been through multiple corrections along the years, the latest which was in 2018 (see link attached.)	https://main.knesset.gov.il/Activity/Legislation/Laws/Pages/LawPrimary.aspx?t=lawlaws&st=lawlaws&lawitemid=2000607
Basic Law: The Military -1976	March 31st, 1976	Statute	Gives the military authority. The law itself is very short, and is updated each year, if necessary, with minor changes.	https://m.knesset.gov.il/Activity/Legislation/Doc

				uments/yesod9.pdf
Law of Israel Security Association - 2002	February 21st, 2002	Rule	This law was passed in 2002 in the midst of the Second Intifada, and regulates Israel's intelligence agency services and authorities.	https://www.shabak.gov.il/SiteCollectionImages/%D7%90%D7%95%D7%93%D7%95%D7%AA/shabak-law.pdf
Basic Law: The Citizenship Law (temporary provision)-2003	August 6th, 2003	Temporary provision	This law was refined in the past 18 years, and recently did not pass the threshold, so is expected to be re-assigned with modifications	https://www.nevo.co.il/law_html/law01/999_180.htm
Basic Law: Freedom of Profession-1994	March 10th, 1994	Statute	This law establishes citizens' and residents' rights to engage in any occupation, profession or job, and is central to the issue of civic freedoms	https://m.knesset.gov.il/Activity/Legislation/Documents/yesod1.pdf
Law of the Preservation of holy places (1967)	June 28th, 1967	Rule	Regulates the prohibition on violation of holy places and monuments	https://main.knesset.gov.il/Activity/Legislation/Laws/Pages/LawPrimary.aspx?t=lawlaws&st=lawlaws&lawitemid=2000599
Regulations for the Protection of Holy Places for Jews-1981	July 16, 1981	Regulation	Deal with special regulations regarding Jewish sacred places of prayer e.g., the Western Wall.	https://www.nevo.co.il/law_html/law01/p224k1_002.htm
Basic law: The State Comptroller-1958	March 17th, 1958	Statute	Orders the state to maintain the institution of state comptroller, who supervises over state's actions.	https://www.mevaker.gov.il/he/Laws/Pages/14.aspx?AspxAutoDetectCookieSupport=1

The Penal Code, 1977	August 4th, 1977	Regulation	A guiding line for punitive issues in a very wide scope of subjects, e.g., protects Jews and the state itself from Holocaust denial, and sets it as criminal felony with a defined punishment. In general, it accumulates penalties over crimes including prohibition on racist motivations.	https://www.nevo.co.il/law_html/law01/073_002.htm#Seif498
Youth Law (Judgment, Punishment and treatment) - 1971	July 23rd, 1971	Rule	Regulates all matters concerning Judiciary, punishment and treatment issues, the law obligates state's institutions to address the importance of teenagers' rights, meaning an underaged criminal should always be judged by special minor's court, according to district.	Link
Basic Law: The Knesset - 1958	February 2nd, 1958	Statute	Regulates the Israeli Parliament's work and supervision responsibilities as a separate authority from the government and the judicial system.	https://m.knesset.gov.il/Activity/Legislation/Documents/yesod4.pdf
Basic Law: The Nationality law - 2018	July 6, 2018	statute	This is a disputed law that amplifies Jewish nationality majorities' mandate and ignores human rights and liberties as premised in the Declaration of Independence	https://fs.knesset.gov.il/20/law/20_lsr_504220.pdf
Law of the Fight against terrorism - 2016	June 23, 2016	Rule	The present rule annuls its prior law (1948) and redefine what is considered to be terrorism. Minister of defence is the authority in announcing and recognising terror organization in and outside Israel	https://fs.knesset.gov.il/20/law/20_lsr_343902.pdf
Prison Regulations - 1978	August 17th, 1978	Regulations	Offers definitions of regulations regarding incarceration	https://www.nevo.co.il/law_html/law01/056_007.htm#_ftn1
Law of prohibition on money laundering and terror funding-2000	August 17th, 2000	Rule	Includes prevention and punishment rules for capital felonies involving terror	https://www.boi.org.il/he/BankingSupervision/AntiMoneyLaunderingAndT

				errorFundingProhibition/Pages/Default.aspx
Education Law -2000	February 29, 2000	Rule	This rule has been established in 1953 but went through modifications in 2000 due to security issues	https://www.nevo.co.il/law_html/law01/152_024.htm
law of the authority for combating Violence, Drugs and Alcohol (Amendment), 2020	December 21st, 2020	Rule	A law that is still in legislation process, aims to unite all different actors involving the struggle against violence and work independently	https://fs.knesset.gov.il/23/law/23_lsr_593574.pdf
Basic Law: Human Dignity and liberty-1992	March 25th, 1992	Statute	This law includes the prohibition on harming a human's body or dignity, protecting property, life, body and dignity, and supporting the right to personal freedoms.	https://m.knesset.gov.il/Activity/Legislation/Documents/yesod3.pdf
Basic Law: Freedom of profession-1994	March 10th, 1994	Statute	This law enshrines the fundamental right to choose one's own occupation	https://main.knesset.gov.il/Activity/Legislation/Documents/yesod1.pdf
Basic Law: The Knesset-1958	February 12th, 1958	Statute	The first Basic Law that was legislated in Israel	https://main.knesset.gov.il/Activity/Legislation/Pages/BasicLaws.aspx

NATIONAL CASE LAW

Case number	**Date**	**Name of the court**	**Object/summary of legal issues related to radicalization**	**Link/PDF**
5100/94	June 9th 1999	Supreme	The High Court ruled that during the investigation of a suspect in violent activity against the state, the ISA is not authorized toto use physical pressure. It ruled in favor of the use of various methods of	http://www.hamoked.org.il/files/2011/264.pdf

			torture, such as "shaking", upholding the ISA position.	
9018/17	November 26th, 2018	Supreme	The High Court rejected a Palestinian's claim of torture in his investigation, leaving the use of torture in Israel in the hands of the security forces	Link
8182/18	July 15th, 2019	Supreme	The Court's decision regarding the regulations relating to the protection of Jewish holy places	https://supremedecisions.court.gov.il/Home/Download?path=HebrewVerdicts/18/820/081/a11&fileName=18081820.A11&type=2
5487/19	August 25th, 2019	Supreme	This verdict explained the disqualification of some political nominees for 2019 elections, because of racism and their anti-democratic philosophy. These candidates belonged to the radical religious-Zionist party "Otzma Yehudit".	link
1908/94	November 9th, 1995	Supreme	Issued the Mizrahi Bank ruling, which stated that the Basic Laws of the State of Israel are in fact a kind of "constitution" that prevails over "ordinary" laws. It gave the Court the power to invalidate and interfere with Knesset laws. In addition, it clarified, interpreted and established the constitutional authority of the Supreme Court for anjudicial review of laws, which the Knesset established in the Basic Laws enacted in 1992 - Basic Law: Human Dignity and Liberty and Basic Law: Freedom of Occupation	https://www.nevo.co.il/psika_word/elyon/padi-nh-4-221-l.pdf
830/07	January 11th, 2012	Supreme	Citizenship law, joint NGO's appeal on previous rulings, rejecting the request to cancel the law claiming against its racist	link

			basis. the court rejected this as well, and decided not to intervein in the citizenship law following state security situation and policy.	
3793/18 9057/18 5591/19	February 2nd, 2020	Supreme	The Court rejected the appeal of three offenders convicted in 2018 by the District Court of Lod for price-tag actions (see section 4.2). The Court added that price-tag attacks an indicate an affiliation to terror organizations	link
7150/16	September 21nd, 2020	Supreme	A joint petition submitted to the supreme court by four NGOs: Tag Meir, the reformist centre of religion and state, the Israeli civil rights association, and among them and the pre-existing unit against racism who became later on a governmental unit (see section 6.1). here the court decided on disciplinary hearing against the Rabbi of the city Tzfat on charges of racism and incitement.	link
13173/01 /19	March 24nd, 2019	District of Tel Aviv-Jaffa	The court granted a citizen's request to be 'religion-less' ('without religion') in his identification details, after being refused this request by th e Ministry of Internal Affairs	link

OTHER RELEVANT ISSUES

	Constitutional provisions	**Statutory law (statues, rules, regulations etc.)**	**Importa nt case law**	**Comments/issues relevant to radicalization**

Freedom of religion and belief	Section 13, The declaration of Independence ("[…] it will guarantee freedom of religion […] it will safeguard the Holy Places of all religions")	Basic Law: Human Dignity and liberty-1992	72982/10/18	There is no clear law that permits civic rights, but only a general accumulation of variety of freedoms (such as religion), that is open to interpretations. In 2016 a la suggestion was made, named "freedom of religion, from religion and freedom of consciousness", with the purpose of guaranteeing religion freedoms was submitted to vote, but has not made any progress since. The Case law refers to District Court who ruled a citizen could be registered as religion-less
Minority rights	**Sections 15-16.** ("We call on the Arab people of the State of Israel to maintain peace and take part in the building of the state on the basis of full and equal citizenship and on the basis of appropriate representation in all its institutions, temporary and permanent, even in the context of the bloody attack on us.")	Basic Law: Human Dignity and liberty-1992; Basic Law: Freedom of profession-1994 Basic Law: Israel- the state of the Jewish nation-2018	5555/18	The Nationality Law passed in 2018, and has increased distrust of minorities towards the Israeli state, since it promotes the superiority of the Hebrew language and Jewish culture over others, such as Arabic. In this situation, minority rights were claimed to be compromised, even though the judicial system refused to intervene to date. Being a basic Law, the Supreme Court rejected 15 motions applied by NGOs supported by some Parliament members, asking that the law be annulled.
Freedom of expression and assembly	**Section 13, The declaration of Independence** ("[…] Israel will foster the development of the country for the benefit of all its inhabitants. […] it will guarantee freedom of […] conscience, language, education and culture […] it will be faithful to the principles of the Charter of the United Nations")	Basic Law: Human Dignity and liberty-1992	5078/20	The Association for Civic Rights in Israel points out in their report from 2017: "the reduction of freedom of expression in Israel, as part of the reduction of the democratic space. This year the public took over the right to demonstrate across the country, making the protest on various issues present and effective in the public space. However, the High Court still has to defend the basic right to demonstrate and protest, in the face of unfounded and illegal demands made by the police against demonstrators. The government has also continued attempts to censor cultural works and silence artists for political reasons." The Supreme Court applied and

				authorized protests against government corruption during 2020-2021, under noise restrictions. By that it encouraged freedom of speech as well free assembly, even though the government tried to object and eliminate the scale demonstrations across the country.
Hate speech and Freedom of association	**Section 13, The declaration of Independence** ("[…]it will ensure complete equality of social and political rights to all its inhabitants irrespective of religion, race or sex")	The aw of Parties, 1992	5487/19	The law permits political association with corrections that were inserted during 2002, 2017, 2020, regarding the prohibition of engagement with terrorism or anti-state incitement, as was shown in the case of radical religious Zionists.
Church and state relations	**Section 10, The declaration of Independence** ("It is the natural right of the Jewish people to be as much a people as possible and a nation standing on its own two feet in its sovereign state.")	The Chief Rabbinate of Israel Law, 1980	7339/15	There is no separation between religion and state, and it sometimes affects civil matters, such as non-religious marriages. There are a few standing law suggestions, among them one named "Law of civic marriage-2020", This was an attempt to try to separate he Orthodox procedures common in Israel, and liberal rights of other communities who contradict its premises, such as the LGBTQ community. The Supreme Court rejected a request of same-sex marriage, claiming that proper legislation is required to have the authority to accept requests of this kind.

Annex II: List of institutions dealing with (de-) radicalisation

Authority (English and original name)	**Tier of government** (national, regional, local)	**Type of organization**	**Area of competence in the field of radicalization& deradicalization**	**Link**

Israel Security Association	National	Security intelligence state division	Pre-locating Jewish and Palestinian terrorist attacks	ISA
The Anti-Racism Coordinating Government Unit	National	Justice department State unit	Enforcement of initiatives to counteract institutional racism and xenophobia, integrational initiatives in education	ARCGU
Israel Defence Forces	National	Security operations state division	Prevention of terror escalation	IDF
Israeli House of the President	Regional and local	Educational state unit	Israeli hope program, integrative discourse in education, academia, employment and sports.	Israeli Hope
The National Security Council	National	Security state unit	Responsible on behalf of the Prime Minister, for the inter-organizational and inter-ministerial staff work on matters relating to foreign affairs and security. Proposes to the Prime Minister an agenda and subjects for discussion on terrorism, amongst other things	NSC
National Headquarters for Economic Warfare against Terrorism	National	Financial prevention state unit	Unifying and concentrating national efforts to counter financial infrastructure of terrorist organizations, perpetrators and parties involved in the financing of terror	NBCTF
State Attorney Cyber-Unit	National	Cyber prevention state unit	Prevents offenses against computer and information; Classic offenses fully copied to the computer space; Expression offenses in the computer space	SACU
The Society and Youth Administration	Multi-level	Educative integration, state unit	Specializes in the development of social skills, strengthening education for values, fostering thinking and moral behaviour, education for involvement, solidarity and social responsibility	link

the National Council for the Child	Multi-level	NGO	A unique activity in its combination of assisting children who turn to them with specific and concrete issues, and broad activity in the field of legislation and policy design, in a way that achieves results for hundreds of thousands of children in Israel. Among other things, the staff of the Referral and Assistance Center include social workers, and in appropriate inquiries there is also close involvement of other units in the Child Welfare Council, such as the Child and Justice Center (Legal Department) or the Child Victims of Violence and Violence Program .	link
The Reform Centre for Religion and State	National	NGO	The Reform Center deals with the protection of Israeli democracy, arguing against anti-democratic legislation through the writing and distribution of position papers, participation in coalitions with other organizations in civil society, as well as working with partners from the party system and Diaspora Jewry. Also, it fights racism, especially that which stems from religious motives, and is one of the great threats to Israeli society today. It fights racism on two levels - the fight against racist incitement perpetrated by religious extremists, and work to create a common society in Israel.	Link
The a=Association for Civil Rights in Israel	Multi-level	NGO	Established in 1972, the ACRI is Israel's oldest, largest human rights organization, and the only one dealing with the entire spectrum of rights and civil liberties issues in Israel and the Occupied Territories. An independent and non-partisan	ACRI

			organization, ACRI's mandate is to ensure Israel's accountability and respect for human rights, and is committed to promoting and defending the human rights and civil liberties of all, regardless of religion, nationality, gender, ethnicity, political affiliation, sexual orientation, or socioeconomic background.	
Tag Meir	National and local	NGO	Tag Meir sees the battle against racism as part of a wider campaign to support democratic values and Jewish values of loving one's neighbors and seeking justice for all. Whatever their politics, the majority of Israelis oppose acts of violence against innocent people who are being used as pawns in a political fight that has little or nothing to do with them.	Link
The Israel Democracy Institute	National	NGO	The Israel Democracy Institute is an independent center of research and action dedicated to strengthening the foundations of Israeli democracy. IDI works to bolster the values and institutions of Israel as a Jewish and democratic state. The institute partners with government, policy and decision makers, civil service and society, to improve the functioning of the government and its institutions, confront security threats while preserving civil liberties, and foster solidarity within Israeli society.	IDI
Movement for Quality Government in Israel	National	NGO	The Movement for Quality Government in Israel (MQG) is an independent, non-partisan, grassroots, non-profit organization that has been defending Israeli democracy since 1990. With tens of thousands of members	MQG

			and continuously growing, MQG has evolved into one of Israel's largest and most effective public interest organizations. it actively promotes the rule of law and better government.	
Adalah- the legal center for Arab minority rights in Israel	Multi-level	NGO	Adalah ("Justice" in Arabic) is an independent human rights organization and legal center. It was founded in November 1996 as a joint project of two leading Arab NGOs - The Galilee Society and the Arab Association for Human Rights (HRA), and it became an independent NGO in 1997; promoting and defending the human rights of all individuals subject to the jurisdiction of the State of Israel (e.g., Palestinian residents of the Occupied Territories). Adalah is the first Palestinian Arab-run legal centre in Israel, and the sole Palestinian organization that works before Israeli courts to protect the human rights of Palestinians in Israel and in the Occupied Territories.	Link
Sikkuy - The Association for the Advancement of Civic Equality	Regional and local	NGO	Sikkuy is a shared Jewish and Arab non-profit organization that works to advance equality and partnership between the Arab-Palestinian citizens of Israel; work with local Arab municipalities and the leadership of Arab society and engage in advocacy vis-à-vis government ministries, public bodies, the media, and the public at large, promoting policy change that will bring about full and substantive equality and a shared society	Link
HaMoked Lehaganat Haprat (Center for the Defence of the Individual)	National and regional	NGO	An Israeli human rights organization with the main aim of assisting Palestinians of the occupied territories whose rights are violated due to Israel's policies.	Link

			This site contains information relating to these human rights violations. It gives the texts of Israeli laws and regulations, including those of the Military Government; international conventions; petitions to the Israeli High Court of Justice; claims for compensation for damages; decisions by Israeli and other courts; and other official documents and reports.	
Givat Haviva	National	NGO	Givat Haviva is a non-profit organization founded in 1949 as the national center of education of the national kibbutz. It encourages divided communities to work together to achieve their common goals, through a process of interaction, support and mutual empowerment .This is done by leading inter-community ventures ;Guided tours and capacity-building activities ;Convening seminars, workshops and conferences to develop practical ideas that support change ;And translating these ideas into reality .Givat Haviva, as a leader in its field, has won the UNESCO Peace Education Award for its many years of activity in promoting Jewish-Arab dialogue.	Link
AJEEC – the Arab Jewish Center for Equality, Empowerment and Cooperation	Multi-level	NGO	AJEEC-NISPED is a non-profit organization dedicated to social change and Arab-Jewish partnership, based in Beer Sheva. Founded in 2000, the organization works to promote sustainable development among communities in transition as a foundation for the establishment of prosperous and equal communities living in peace. Programs operate inside of Israel, with partners from the wider Middle East and for beneficiaries from across the developing world. Activities in Israel focus on community	Link

			development among the Arab Bedouin residents of the Negev, who are part of the broader Arab population in Israel. It works to create meaningful partnerships between the Arab and Jewish populations and to advance social and economic justice for all of the country's residents	

Annex III: Best practices/interventions/programmes

National level

Name of the Project	Institution (s)	Aim	Source	Evidence of effectiveness / literature
1. Israeli Hope	House of the President with Universities and local authorities	Change the discourse of inequality within Israeli society by operating in four dimensions: Academia, employment, sports and education.	State	This initiative has expanded since 2016 to public schools, especially within mixed cities, which are given awards for encouraging inclusive discourse, particularly between Jews and Arabs: https://www.haaretz.co.il/blogs/sherenf/BLOG-1.9667546 in addition, the municipality increases the number of local authorities participating and gives them the tools to fight racism and exclusion within their communities: https://www.israeli-hope.gov.il/en/node/413
2. The Anti-Racism Coordinating Governmental Unit (ARCGU)	Ministry of Justice	Handling complaints and performing trainings for state institutions in issues of racism in public spaces and public institutions (Institutional racism)	Government decision no. 1958	The unit has opened the first channel of communication between government and public, by accepting and handling complaints about racism. In addition, it adheres to a number of institutional practices, such as disciplinary actions against officials who perform racist behavior. In addition, the justice department has pinpointed unit's activities as part of its preventive social initiatives. The unit's annual reports are used by state officials

		and racist behavior by law-enforcement (racist behavior of public service workers).		https://www.calcalist.co.il/local_news/article/rjhyblpjt https://www.mako.co.il/news-law/2021_q1/Article-647f4993a1b8771026.htm

Local level

Name of the Project	Institution(s)	Aim	Source	Evidence of effectiveness / literature
1. City without violence	Municipalities under government supervision	Decrease violence in cities by using preventive technology and educative explanatory initiatives to the public	State ministries	2010 report, submitted by the Israeli Parliament's (Knesset) research division, explaining how the project succeeded in lowering crime rates and recommending that it be expanded to more municipalities in Israel https://fs.knesset.gov.il/globaldocs/MMM/c3546b58-e9f7-e411-80c8-00155d010977/2_c3546b58-e9f7-e411-80c8-00155d010977_11_9484.pdf

Annex IV: Policy recommendations

- **NGO**- deep-in the ties and support on non-profit educational organizations in order to implement government policies that the municipalities are struggling with. It is also suggested that state's comptroller will appoint a team that will gather all essential activities that are made by civic society, on the purpose of highlighting constant injustices from local communities.
- **Integrational approach**- Israel should foster more integrational approaches in addition to its progress within intelligence and security authorities. It is simply not enough to rely on security institutions and operations, since it preserves the tension between human rights and security protection.
- **Judicial system**- even though it helps in matters of civic rights it is in fact also bound up with national, ethnic and religious considerations. In addition, citizens ability to reach out to the Supreme Court is dependent on resources and usually rely on NGOs assistance. Therefore, it is crucial to make the legal system more accessible to individuals and groups. The ccourt's long lasting bureaucracy procedures might make the use of it as redundant, an effective tool to population at risk.

- **DE-radicalisation authorities** – Israel should define its particular institutions that are dealing with this field and strength them by legislation, e.g., define jurisdictions and authorities under permanent law, instead of the current fluidity of different rules under multiple ministries and governmental units.
- **Constitutional work and policy**– Israel need to establish a permanent constitution in order to better handle social ruptures that are created as a result of the absence of a unify constitutional frame. This raises difficulties on policy stability and by as a result creates that preserves mistrust in state institutions, that use ethnicity, religion and nationality as political leverage.

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Glossary and List of Abbreviations

Law Decree (art. 77 Cost.): A law decree is an act having force of law and an act of primary legislation. According to art. 77 of the Italian Constitution “The Government may not, without an enabling act from the Houses, issue a decree having force of law. When the Government, in case of necessity and urgency, adopts under its own responsibility a temporary measure, it shall introduce such measure to Parliament for transposition into law. During dissolution, Parliament shall be convened within five days of such introduction. 20 Such a measure shall lose effect from the beginning if it is not transposed into law by Parliament within sixty days of its publication. Parliament may regulate the legal relations arisen from the rejected measure.”

Legislative Decree (art. 76 Cost.): A legislative decree is an act with the force of law issued by the government and, following the exception to the general rule established by art. 70 of the Constitution, it shall be compliant with all the limits provided by the parliamentary delegation.

Corte Cost.: Constitutional Court

Sent.: Judgement

L.: Law

D. Lgs.: Legislative Decree

D.L.: Law Decree

Ddl: Draft Bill

Cost.: Constitution

Art.: Article

Arts.: Articles

Cass.: Court of Cassation

CVE: Countering Violent Extremism

RAN: Radicalisation Awareness Network

About the Project

D.Rad is a comparative study of radicalisation and polarisation in Europe and beyond. It aims to identify the actors, networks, and wider social contexts driving radicalisation, particularly among young people in urban and peri-urban areas. D.Rad conceptualises this through the I-GAP spectrum (injustice-grievance-alienation-polarisation) with the goal of moving towards measurable evaluations of de-radicalisation programmes. Our intention is to identify the building blocks of radicalisation, which include a sense of being victimised; a sense of being thwarted or lacking agency in established legal and political structures; and coming under the influence of “us vs them” identity formulations.

D.Rad benefits from an exceptional breadth of backgrounds. The project spans national contexts including the UK, France, Italy, Germany, Poland, Hungary, Finland, Slovenia, Bosnia, Serbia, Kosovo, Israel, Iraq, Jordan, Turkey, Georgia, Austria, and several minority nationalisms. It bridges academic disciplines ranging from political science and cultural studies to social psychology and artificial intelligence. Dissemination methods include D.Rad labs, D.Rad hubs, policy papers, academic workshops, visual outputs and digital galleries. As such, D.Rad establishes a rigorous foundation to test practical interventions geared to prevention, inclusion and de-radicalisation.

With the possibility of capturing the trajectories of seventeen nations and several minority nations, the project will provide a unique evidence base for the comparative analysis of law and policy as nation states adapt to new security challenges. The process of mapping these varieties and their link to national contexts will be crucial in uncovering strengths and weaknesses in existing interventions. Furthermore, D.Rad accounts for the problem that processes of radicalisation often occur in circumstances that escape the control and scrutiny of traditional national frameworks of justice. The participation of AI professionals in modelling, analysing and devising solutions to online radicalisation will be central to the project’s aims.

Executive summary

The report aims to investigate the Italian framework on radicalisation and assess responses towards the phenomenon at the formal institutional level and in praxis.

Italy does not devote any specific legislation to (de)radicalisation, instead relying on its counterterrorism agenda and provisions. This approach has led to a repression-oriented response rather than a structured preventive system. Similarly, no policies exist that address extremism or radicalisation through national and governmental plans. Thus, the institutional actors that deal with the phenomenon are the same as those involved in the counterterrorism network. Moreover, the decentralised structure of the state fosters asymmetries vis-à-vis responses and strategies at the subnational and local levels.

Due to the case-by-case action carried out and the fragmented picture on the topic, a substantive role is played by the courts on the one hand and non-institutional actors on the other.

Italy should rethink its whole approach, especially with regard to the need for a general and uniform legal framework, policies and practices.

1. Introduction

The concept of extremism, as well as the notion of terrorism itself, have undergone massive transformations in the last 20 years, both linked to global events and local dynamics. Despite the increasing concern surrounding the issue, clearly expressed at an international and supranational level, as yet Italy lacks a solid agenda on the topic.

As far as the constitutional framework is concerned, several principles are related to the field of radicalisation, that is to say, all the principles protecting fundamental rights as well as those promoting formal and substantive equality. At the legislative level, on the other hand, there is a draft bill – which has never been approved or enacted, however – providing detailed and comprehensive regulations on the main issues related to radicalisation(s). Currently, amendments to criminal law on terrorist associations and organised activities dating back to 1970s constitute the core of the Italian repressive response to the matter. At case law level – with some exceptions – the courts have not been so "creative" as to provide guiding principles to overcome the structural shortcomings. Nevertheless, on some occasions the courts' activism has proven to be essential and decisive.

Thus, strategies have been fragmented. Neither the theoretical framework and nor the "tools" address the topic in a concrete and effective way, mostly leaving the management of the phenomenon to the final phase of repression and punishment. This is confirmed on one hand by the generally repressive legislation and on the other by the (unofficial) practices developed in prison settings. These focus on specific aspects and depend on each penitentiary environment, and privilege a case-by-case approach rather than a structured system. Additionally, contributions at the regional and sub-national levels appear asymmetrical throughout Italy. Furthermore, more consideration and focused attention are given to violent actions in a jihadist[1] milieu in comparison with other typologies of extremism. This is also confirmed by the concern over guaranteeing freedom of religion and maintaining a firm control over proselytism, which became the privileged lenses for de-radicalisation strategies.

At the same time, other forms of extremism – currently underestimated, but historically significant – have forcefully re-emerged, progressively strengthening their public profile, through polarisation of the political debate and the creation of attractive ideologies, addressing specific targets and sources of grievance. Nonetheless, extremisms in general seem to catalyse new attention and greater awareness, both at the institutional and civil society level.

In the following sections of this report, the socio-economic, political and cultural contexts will be assessed (Sec. 2), as well as the constitutional principles concerning (de)radicalisation in a broader sense and the legislative framework on the topic (Sec. 3). Moreover, the report will provide an overview of the policies and the institutional actors involved in counteractions (Sec. 5). Additionally, two case studies will be analysed in order to highlight programmes or practices that are worthy of

[1] Throughout the report, we assume "jihadism" as a biased term. However, we will nonetheless rely on this concept owing to its appropriation by violent groups, as well as its huge shared meaning among scholars, experts, and institutions. On the point, see Sedgwick, M. (2015) "Jihadism, Narrow and Wide: The Dangers of Loose Use of an Important Term", *Perspectives on Terrorism*, vol. 9, no. 2. In addition, see the clear and valuable picture proposed by Manduchi, P. and Melis N. (eds) (2020) *Ǧihād: definizioni e riletture di un termine abusato*, Milan: Mondadori. However, radical Islamists seem to have voluntarily "adopted the stigma" as a counter-discourse in order to nurture the myth of the clash. On the reversed stigma, see, in general, Göle, N. (2003) "The Voluntary Adoption of Islamic Stigma Symbols", *Social Research*, vol. 70, no. 3, pp. 809–828. Similar considerations can be made about the term "Islamism".

dissemination (Sec. 6). As will be pointed out in the conclusive remarks (Sec. 7), Italy should rethink its whole approach, through focused legislative and regulatory interventions, since the issue is not duly taken into real consideration, especially concerning the need for general and uniform practices which are able to guide, if not yet to standardise, an efficient system of prevention.

Finally, four annexes are provided on the legal and policy framework (no. I), institutional actors (no. II), best practices and policy recommendations (nos. III and IV).

2. The socio-economic, political, and cultural context

Italy has a history of extremism, political violence, and terrorist organisations with diverse ideologies and methodologies, as well as local separatist or independentist movements and groups. It is by no means easy to build a static picture of extremisms in Italy since it is shaped by a complex net of actors and immense dynamism, depending on the historical and political circumstances. Thus, the meanings, definitions, and physiognomy of concepts and categories have changed considerably over time and the Italian legal system has ended up dealing with the different phenomena according to contingencies, as we will see in the following sections of this report.

Since WW2, Italian history has experienced three main strands and patterns of radicalism. The political strand concerns right wing, leftist, and anarchist terrorism; the others relate to independentist movements and radical ecologism.

At the end of the 1950s, Italy was in the midst of intense reconstruction activity, which however failed to tackle unresolved problems such as unemployment and the North-South divide. Henceforth, a long succession of tensions occurred, which heightened between 1968 and 1970. The 1960s to 80s were a crucial moment in Italian history, corresponding to the serious political violence of the well-known Anni di Piombo (Years of Lead). A vivid event in the Italian collective memory is the so-called Piazza Fontana massacre at the end of 1969, in Milan. Several previous minor attacks had been recorded throughout Italy, most of which were attributed to right-wing extremism. Revolutionary leftist groups – for instance the well-known Brigate Rosse (BR – Red Brigades) – were born as well, which aimed to strike the bourgeois system through political violence. At the end of the 1990s, there was a new resurgence in political terrorism, which then reappeared sporadically until the early 2000s.

The history of anarchist movements in Italy is quite complex too. We cannot recall the whole development here, but their activity was certainly intense from the 1990s to the end of the 2000s. Many of the attacks were claimed by the Federazione Anarchica Italiana (FAI – the Informal Anarchist Federation). An anarchist organisation from the “anonymous” network known as Solidareità Internazionale (International Solidarity) had a leading role in a series of incidents from 1998 to 2000 in the city of Milan.

In addition to political terrorism, the escalation of terrorist attacks linked to criminal organisations such as the Mafia, Camorra, Cosa Nostra, and 'Ndrangheta is sadly an all too well-known part of Italian history. While it is quite a dissimilar phenomenon which requires different investigation, its relevance in the political framework has nevertheless to some extent affected contemporary Italian approaches to countering radicalism, leading to their mainly repressive pattern.

Separatist and independentist claims, varying greatly in their extremist or radical vocation, as well as recently emerging polarisations, are other elements partially linked to social or political transformations within Italian society which deserve attention. As far as the first point is concerned,

throughout Italy, there have been various regional and local movements, with a more or less strong political pattern. A well-known case is that of South Tyrol, whose struggles against the "central" national state, involving the deep-rooted issue of a linguistic minority as well as claims related to particularism and the critique of indiscriminate assimilationism, date back to the 1950s. Similar situations have been seen in Sardinia and Sicily, which suffer from a profound social and economic cleavage from the rest of the peninsula, not just owing to their "physical" and geographical distance from the mainland. This particular element has also become a leading theme in a sort of particularism in reverse, since many northern regions on the contrary perceive the difference between an efficient, industrious, productive, and dynamic North and a lazy, "parasitic", disadvantaged, and static South, as systemic and irremediable. This stereotypical "us vs them" dichotomy is still far from being overcome, and has indeed become a leitmotif in both some political movements and political party propaganda. The case of Lega Nord is probably the most eminent (and popular) one. This party abundantly spread this rhetoric in its early agenda, with the secessionist goal to set the North free from the other regions' deficiencies. Obviously, this was not really attainable, whereas a sort of "financial autonomy" could have been. Later, the Lega party abandoned its harsh tones against the system and the South to become one of the most important parties in Italy. Notwithstanding its inclusion in the "establishment", its propaganda has endured strengthening polarisation narratives vis-à-vis European policies and the increasing presence of Muslim communities in Italy. More recently, it has adopted a strong political campaign against migrants.

As far as radical ecologism is concerned, this report must include the case of the NO-TAV movement in Val di Susa. It was established in the early 1990s to fight against the realisation of a high-speed railway line between Turin and Lyon (TAV) during the same period. It is still very active on the issues of territorial particularism and environmental protection, conceiving the TAV project to be an environmental aberration. Its methods do not gather unanimous consent, since some observers deem the movement to embody a form of eco-extremism, whereas, according to others, they are legitimate in challenging the indiscriminate exploitation of natural resources and the landscape for economic and "capitalistic" interests and purposes.

Notwithstanding the portrayed picture, in the recent period, the topic that has produced the most macroscopic polarisation and a very animated dispute within Italian society is forced migrations, despite Italy's own history of emigration. Additionally, multicultural dynamics differ across the national territory and exchanges with Islam are certainly a core issue, since Islamophobic narratives are not uncommon. Furthermore, a certain tendency to nostalgically hark back to the fascist experience has always been quite visible in far-right milieus. However, there is no doubt that in the last few years, their claims have become more evident and concrete in the public space too: they are starting to play a substantive role in the political forum, though not yet an "institutionalised" one. In actual fact, the increasing narratives on the defence of national sovereignty, identity, and borders are prompted by rather different sources, from the harsh economic crisis to racist public discourse. In the present situation, all of these factors are being used as leverage to further entrench the already severe social fractures via discriminatory and "separatist" propaganda.

Among these social cleavages, urban and peri-urban contexts are almost totally neglected, but according to the interviewed experts, situations of marginality exacerbate resentment and grievance. The low percentage of violent "events" in Italy has been conventionally linked to the absence of situations comparable to the French *banlieues*, places which recall situations of marginalisation and alienation in the collective imaginary. However, in the experts' opinion, this social immobility is going through major changes in the Italian case, since dynamics of conflict and grievance are increasingly evident in urban contexts such as Porta Palazzo in Turin or San Siro in Milan, which have demonstrated similar traits to the abovementioned French experiences. Additionally, San Siro has

always recorded a strong "Islamist" presence and the first counteractions against jihadism in Italy took place in that neighbourhood. Recently, the case of 200 teenagers shooting a video clip for a song – in San Siro and during the Covid lockdown – came to light since it sparked urban guerrilla warfare with the police.[2] As critically explained by the interviewed experts, the event did not necessarily involve religious, cultural, or ethnic minorities. According to one of the interviewees, indeed, it was quite a paradigmatic event, the embryonic phase of a potentially extremist dynamic with nothing "Islamic" about it. Instead, the participants could potentially become part of very well-known roll-back phenomena which embrace extreme ways of claiming and expressing grievances. Contrary to the "lumpen-Islamism" narrative (Roy, 1992), in Italy these topics have become the very core of populist movements and alt-right discourses, gaining centrality in their propaganda, as well as in their agendas. These trends have a massive effect in heightening social and cultural conflicts, and narratives which foster polarisation among the "subalterns" themselves, through an "us and them" rhetoric against foreigners, minorities, and under-represented or targeted groups

On the same premises, we can highlight the underrating of current political phenomena, such as nationalist extremism and white supremacist groups – often linked to the alt-right milieu as well – which are not addressed as "urgencies", but only as mere distortions or a degeneration of the Italian political discourse in a general sense. In addition, strengthened and fostered by the social media, the public debate on equal fundamental and civil rights is strongly polarised. What is more, there is increasing hate speech based on discrimination on the grounds of gender identity and sexual orientation. In a quite paradigmatic way, the current ongoing Italian political quarrel about the enactment of specific provisions to protect targeted groups (LGBTQI+ and disabled people) from verbal and physical abuse (so-called ddl Zan)[3] has not gathered unanimous consent, leading to divisions and further polarisation, also at the political party level.

3. The constitutional organisation of the state and constitutional principles in the field of (de-)radicalisation

The Italian Constitution was issued in 1948, in the aftermath of the fall of the fascist regime, the end of the monarchy, and the establishment of the Italian Republic. It was shaped by ideological compromises between the liberal, social-communist, and Catholic cultures that characterise the whole Italian system.

The Italian form of government is a typical parliamentary system. The government is appointed by the President of the Republic and must gain the confidence of the Parliament (art. 94). The President of the Republic is the head of state. This figure represents national unity (art. 87), embodies balance, and guarantees the constitutional framework as a whole. Powers are separated and the judiciary is independent (Title IV Cost.).

Article 1 to article 12 of the Constitution declare fundamental principles, some of which closely affecting the research topic. The core values of the Constitution are embedded in article 2 in conjunction with article 3: the inviolability of fundamental rights and the provision of solidaristic duties

[2] https://www.today.it/cronaca/scontri-polizia-milano-video-rapper-neima-ezza.html.
[3] Amendments to arts. 604-bis and 604-ter of the Criminal Code on violence or discrimination on the grounds of sexual orientation, sexual or gender identity", C. 569, https://documenti.camera.it/leg18/pdl/pdf/leg.18.pdl.camera.569.18PDL0012340.pdf.

(art. 2), in addition to the principle of formal and substantial equality. Italian citizens – actually implying "everyone", as the Constitutional Court[4] ruled – are endowed with equal dignity without discrimination on the grounds of sex, race, language, religion, political opinions, or personal or social conditions. Furthermore, the state is held to promote "reverse-discriminations" so that every person may achieve the fullest development and effective participation in the political, economic, and social life.

Article 5 declares the republic to be as one, while still recognising and promoting regions and local (also cultural) identities, through the principles of autonomy and decentralisation. These are also taken up in detail in Title no. V of the Constitution.

Due to several constitutional reforms, legislative authority is *equally* attributed to both the state and the regions in compliance with the constitutional provisions and the constraints deriving from EU legislation and international obligations (art. 117.1).The interactions between regions and all local divisions with respect to the central state should be fair and coordinated, taking into account the overlapping and transversal powers they are vested with (art.117.2), especially as far as integration processes are concerned. In addition, according to article 116, some regions present specific features[5] and are entitled to greater autonomy. In addition, the Constitution promotes and protects all linguistic minorities[6] living in the national territory (art. 6).

As far as freedom of religion is concerned, Italy is a secular state:[7] article 19 declares that everyone, either alone or in communities, be recognised the right to express his/her belief privately or in public, unless it may offend the common morality. As is well known, though, for historical, cultural, and merely "geographical" reasons, the Catholic Church has always had a privileged role in the relationship with the Italian state. This different interaction is also enshrined at the constitutional level among the fundamental principles in article 7, which declares the mutual independence and sovereignty of the state and the Church regarding their governmental affairs. Nonetheless, article 8 of the Constitution declares that all religions are equally free before the law and that they have the right to set out their interests accordingly, as long as they are compliant with the Italian legal system. Their relationship with the state is regulated by law through specific agreements sealed with each representative of the single faith. Their "institutionalisation", therefore, depends on an official procedure, but few of them have stipulated any kind of agreement.[8] The case of the Islamic communities is quite well known. Notwithstanding their huge presence in Italy, the mechanism based on single-voiced interlocutors raises more than one issue, also enhancing "fierce competition among traditions that coexist within a very tight space" (Silvestri, 2010). In particular, the question is how

[4] Corte Cost. sent. no. 120/67 and no. 104/1969.
[5] Friuli Venezia Giulia, Sardinia, Sicily, Trentino-Alto Adige / Südtirol, and Valle d'Aosta / Vallée d'Aoste present particular forms and conditions of autonomy, according to the respective special statutes adopted by constitutional law.
[6] Currently, there are twelve languages specifically recognised by the state in L. no. 482/1999 (Law on the protection of historical linguistic minorities) and L. no. 38/2001 (Law for the protection of the Slovenian linguistic minority in the Friuli Venezia Giulia region). Indeed, art. 6 of the Italian Constitution protects them as linguistic minorities, but it should be intended in conjunction with art. 9, protecting the historical heritage of the nation in a broader sense, a formula which also encompasses its linguistic specificities. In addition, the aforementioned laws aim to protect linguistic and cultural identity. The linguistic minorities are also protected by criminal law, via art. 23 L. no. 38/2001 and art. 18 bis L. no. 482/99.
[7] See also Corte Cost. sent. no. 203/1989.
[8] At the moment, agreements are in force with: Waldensian Table (L. no. 449/1984, amended several times, in 1993 and by L. no. 68/2009); Assemblies of God in Italy – ADI (L. no. 517/1988); Union of Seventh-day Adventist Christian Churches (L. no. 516/1988, amended in 1996 and by L. no. 67/2009); Union of Jewish Communities in Italy – UCEI (L. no. 101/1989, amended in 1996 with L. no. 638); Christian Evangelical Baptist Union of Italy – UCEBI (L. no. 116/1995, L. no. 34/12); Lutheran Evangelical Church in Italy – CELI (L. no. 520/1995); Sacred Orthodox Archdiocese of Italy and Exarchate for Southern Europe (L. no. 126/12); Church of Jesus Christ of Latter-day Saints-Mormons (L. no. 127/12); Apostolic Church in Italy (L. no. 128/12); Italian Buddhist Union – UBI (L. no. 245/12); Italian Hindu Union (L. no. 246/12); Italian Buddhist Institute Soka Gakkai – IBISG (L. no.130/2016).

Islam, acephalous by definition and without a dogmatic tradition or hierarchies, at least for Sunni Islam, should – or can – be represented, and by whom.

Personal liberty is inviolable (art. 13). It can only be restricted in two specific circumstances, that is, in the event of a motivated act of the judicial authority and only in cases and ways provided for by the law. Accordingly, any physical and moral violence is prohibited. The right to privacy is (indirectly) enshrined in articles 14 and 15, whereas the following article protects freedom of circulation.

The freedom of assembly and association is undoubtedly involved in the radicalization issue but no particular constitutional restrictions are envisaged. The provisions, however, have counter-authoritarian tones, since articles 17 and 18, respectively, provide citizens with specific "negative" guarantees as well. Specifically, assemblies shall take place freely but peacefully and all forms of weapons are banned; no authorisation is required for associations, but their purposes should not be forbidden by criminal law. Furthermore, secret associations and those pursuing political purposes through military-oriented methods, even indirectly, are banned. Moreover, article 20 prevents the religious character or purpose of an association or institution from becoming the grounds for legislative limitations, taxation, recognition, or activity. According to article 49, all citizens have the right to freely associate in political parties and to democratically participate in the national political life, but some restrictions are addressed to those performing a relevant public role, such as judges, military and police officers, diplomats, and institutional representatives (art. 98). Furthermore, it is explicitly forbidden to reorganise the fascist party (XII Transitional and final provisions).

Similarly, freedom of speech and expression (art. 21 Cost.) is fully granted and the Italian Constitutional Court has considered it as the "cornerstone of a democratic state".[9] Exceptions are set for discriminatory, racist, and hate speech, and apology (support) of fascism. The sole constitutional limit to freedom of speech and expression is the prohibition of publications, shows, and all other manifestations contrary to morality, and it is up to (criminal) law to establish adequate and thorough measures to prevent and suppress abuses.

4. The legislative framework in the field of (de-)radicalisation

Basically, the constitutional framework endows Italian citizens and, in some cases, despite the literal formulation, "everybody" with a set of highly protected rights, typical of a pluralist constitutional state. As has been shown, freedom of religion is considered of utmost importance and is strengthened by a "negative" preventive guarantee that it cannot be grounds for discrimination and, at a positive level, by the substantive promotion of an intercultural state.[10] In addition, pluralism reflects the broader picture of the Italian Republic, also reflected in the official promotion of local identities,[11] as well as linguistic minorities.

As far as freedom of expression in concerned, its full guarantee is provided for in article 21 of the Constitution, with just a few specific cases listed as exceptions to the general principle. On the topic, however, normative interventions have built up across the years, particularly regarding some exceptions to the general principle. Owing to the lack of a clear definition of "hate speech", the jurisprudence has addressed individual cases, emphasising the differences in situations,

[9] Corte Cost. sent. no. 9/1965; no. 84/69; no. 168/1971, no. 126/85.
[10] For a detailed picture, see the previous section and in particular footnote no. 8.
[11] For an insight see the previous section, footnotes no. 5 and 6.

circumstances, and relevance of the behaviour per se. In Italy, crimes related to "opinions" are strictly linked to the apology of fascism, instigation, and reiteration of the typical practices of the fascist regime, plus specific provisions aimed at preventing racial, ethnic, and religious discriminations, through the repression of propaganda about the superiority of the race, as well as the incitement to commit violence on racial, ethnic, or religious grounds.[12] These provisions were rendered a criminal offence and an aggravating circumstance (art. 604 bis and ter of the Criminal Code) by D. Lgs no. 21 of 2018. They are listed in the section of the Criminal Code pertaining to crimes against "personality", making it clear that the state basically aims to protect individuals belonging to a particular group, who could become the target of discrimination or violence.[13]

In addition, in line with the outlined framework, L. no. 115 of 2016 turned holocaust, genocide, crimes against humanity, and war crime negationism into special aggravating circumstances, to counteract increasing anti-Semitic speech.[14] In this case, ideology or ideas are not actually sanctioned in themselves, but some of them can be, if the context and the capacity – in a public place, in a square – to incite civil strife or to foster nostalgic emotions about the fascist regime are taken into account. This interpretation was formulated by the Constitutional Court right at the beginning of the Italian Republic, when it clarified that a certain type of speech which does not appear relevant per se, becomes "offensive" if linked to a precise circumstance and background.[15] Hence, courts engaging in the interpretation, delimitation, and ceaseless balancing of fundamental principles have set out different positions regarding the topic. For example, they have ruled that displaying symbols recalling racist groups or associations is only sanctionable when it can be traced back to a form of organised phenomenon. In the same way, fascist ideology is punishable if it bears some features capable of reconstituting organised – and therefore politically relevant – forms of activism (Cass. no. 11028/2016; Cass. no. 37577/2014). In the same way and following a similar reasoning, ideas linked to discrimination and racial hatred become (criminal and) relevant if they can lead to the risk of persecution or oppression or if they can foster violent actions towards targeted groups. As will become clearer about proselytism or religious propaganda, the criminal threshold is significantly brought forward in this case too, even though the specific behaviour must prove capable of influencing others, result in emulation, and be effective in communicative terms. As the courts' reasoning is strongly anchored on case-by-case circumstances, sanctions were made, for example, against the speech of an eminent Italian party member whose ideas about the Roma and Sinti communities were considered racist at their very core, rather than the expression of a political ideal(ogy).[16] Basically, in this case, the hate speech was evaluated as a sort of "high value" "state hate speech" (Stradella, 2008).

Undoubtedly, the approach is quite fragmented: on the one hand, this appears defensible, since the retrogression of fundamental rights, principles, and freedoms must necessarily be strictly, rigorously – but at the same time – individually balanced, avoiding undue sacrifices. In the case of religious extremism, as will be shown in the next section, the primary criterion called into question is "state security", for which, however, there are no specific constitutional provisions in the Italian legal

[12] In particular, the Scelba Law (L. no. 645 of 1952) implemented the twelfth transitional provision of the Constitution, paving the way for Law no. 654 of 1975 (Reale Law), later amended by the important Law no. 205 of 1993 (Mancino Law).
[13] On the topic, see Nocera, A. (2018) "Manifestazioni fasciste e apologia del fascismo tra attualità e nuove prospettive incriminatrici", *Diritto Penale Contemporaneo*, https://archiviodpc.dirittopenaleuomo.org/d/5987-manifestazioni-fasciste-e-apologia-del-fascismo-tra-attualita-e-nuove-prospettive-incriminatrici.
[14] Introduction of art. 3 bis to L. no. 645/1952.
[15] For a reconstruction of hate speech in Constitutional Court rulings, according to different "speakers" see Monti, M. (2015) "Libertà di espressione e hate speech razzista: un'analisi mediante le categorie di speakers", www.dirittifondamentali.it - Università degli studi di Cassino e del Lazio Meridionale, http://dirittifondamentali.it/wp-content/uploads/2019/04/articolo_matteo_monti_libert%C3%A0-di-espressione_rev.pdf.
[16] Nocera, A. "Manifestazioni fasciste e apologia del fascismo tra attualità e nuove prospettive incriminatrici, Diritto Penale Contemporaneo",cit.

system. In the case of racist or hate speech, on the other hand, it brings into question the protection of the democratic structure of the state per se (Colaianni, 2019).

Lastly, the legislative framework on privacy is embedded in D. Lgs. no. 196/2003, the so-called Code of Privacy, which was recently amended in compliance with the European GDPR (General Data Protection Regulation) by D. Lgs no. 101/2018. The Ombudsman for the Protection of Personal Data[17] (GPDP, *Garante per la protezione dei dati personali*), an independent authority, had been already created in 1996.[18] In Italy, the right to privacy as well as individual fundamental rights is strongly protected from undue private or public interference, since surveillance is strictly restricted to criminal and judicial investigations. Nonetheless, even in this case, full protection of the individual identity and the data gathered following a criminal investigation is granted, in order to balance all the fundamental principles at stake.[19] Additionally, individual personal data are only made available to public institutions after a judicial authority grants permission to do so.

What is more, concurrently with the need to deal with new threats, in Italy the concept of security has become increasingly crucial, encompassing public order as well.[20] Thus, the notion of security has become an umbrella term for legislative drafting techniques (the so-called "Pacchetti" or "Misure di Sicurezza" – security packages or measures), and is overwhelmingly emphasised at a semantical level. Massive use is also made of law decrees to stress the "need" and the "urgency" for measures. Thus, for instance, various laws issued since 2001[21] – quite "multi-partisan" in nature, since "security" has become a transversal topic among differently oriented political parties – have underlined this aspect.

The national framework legislation on radicalisation and de-radicalisation

Italy has paid specific attention to the repression of violent and extremist behaviours, for historical reasons as well as by political choice. It should be noticed, however, that violent actions motivated by radical religious ideologies are quite a recent issue, and the related legislation develops from the repressive framework outlined to deal with internal political terrorism. Therefore, an "urgency" rhetoric has led to a focus on criminal responses, in addition to some kind of preventive approach, creating a hybrid "preventive criminal law" (Colaianni, 2019) consisting of stratified legislative and case law responses due to the lack of a systematic approach or a coherent structure. Moreover, it should be underlined that judicial activism is not very pervasive, indeed, it is quite an exception in the general Italian trend and in this "age of balancing" (Pino, 2017).

The national framework does not devote any specific legislation to (de)radicalisation. Instead, it consists of a plethora of provisions enacted following escalations in extremism. In several cases, the legislation has been drafted in connection with precise emotional and alarmist waves, on the one hand entailing an emergency structure and, on the other, a quite clear repressive pattern. Hence, the current set of laws mainly focuses on a counterterrorism agenda, with some insights dedicated

[17] https://www.garanteprivacy.it/.
[18] L. no. 675/1996.
[19] See, in particular, D. Lgs. no. 51 of 18 May 2018, issued following EU Directive 2016/680, concerning the protection of individuals with regard to the processing of personal data by authorities for the prevention, investigation, assessment, and prosecution of crimes or criminal sanctions, as well as the circulation of data regime.
[20] See the new formulation of art. 117.2 letter h) of the Constitution.
[21] L. no. 128/2001 (legislative interventions on the protection of citizens' *security*); L. no. 125/2008 (conversion into law, with amendments, of Law Decree no. 92 of 23 May 2008, containing urgent measures on public *security*); L. no. 94/2009 (provisions on public *security*); L. no. 48/2017 (conversion into law, with amendments, of D.L. no. 14 of 20 February 2017); L. no. 132/2018 (conversion into law, with amendments, of D.L. no. 113 of 4 October 2018, containing urgent measures on international protection, immigration, and public *security*).

to foreign fighters and the actions of so-called "lone actors". According to some observers, we are looking at a political criminal law, a criminal law against "the enemy" (Ferrajoli, 2006), stemming from the vulnerability perceived after terrorist attacks in Europe.

In reconstructing the advancements of the legislative background, not surprisingly the first act dates back to 2001. In addition, several reforms have taken place during these two decades of the twenty-first century.

L. no. 438/2001, issued with some urgency following the 9/11 attacks against the Twin Towers in the United States, provided some measures to prevent and contrast international terrorist crimes. Since then, and after attacks in Europe, massive reforms have been carried out: D.L. no. 144/2005 (converted into law by L. no. 155/2005), D.L no. 7/2015 (converted into law by L. no. 43/2015), and L. no. 153/2016. Thus, looking at the supranational and international framework, new types of offences have been introduced, namely conduct for terrorist purposes, art. 260 sexies of the Criminal Code; enlistment, art. 270 quater of the Criminal Code; training, art. 270 quinquies;[22] the organisation of transfers, art. 270 quater.1; financial support, art. 270 quinquies.1; seizures to prevent financial support, art. 270 quinquies.2; and acts of nuclear terrorism, art. 280 ter. In particular, L. no. 43 of 2015, enacted following the attacks in Paris of the same year, focused more on singularities linked to so-called Islamic radicalism, specifically responding to the phenomenon of foreign fighters and lone actors. By providing for preventive measures, the intervention aimed to prohibit leaving the national territory to support the jihadist network, and to ensure, on the contrary, that those suspected of sympathising with the cause left. The more pragmatic provision of the crime of financial support provided by L. no. 153 of 2016[23] was enacted from the same perspective.

Before these reformist seasons, Italian legislation had already shown quite a strong and effective counterterrorist strategy, but it gradually adapted to the new challenges, even though radical religious "intentions" have never turned into violent actions or incidents on Italian soil. According to the interviewed experts, this specific element should be ascribed to an efficient intelligence network in addition to the expertise acquired in dealing with political terrorism, providing Italy with robust tools and strategies to face the threats of violent or extremist actions. Nonetheless, the absence of a well-defined preventive framework at the legislative level is reflected in criminal law-oriented responses, on the one hand enhancing personal preventive measures[24] and on the other jeopardising freedom of expression. Furthermore, the provisions enacted during the last decade also involve the preparatory phase of criminal association, greatly anticipating the criminal law thresholds.

This implies that anybody presenting a radical "manner" of proselytism or indoctrination – in an almost pre-Orwellian sense (Colaianni, 2019), underlining the relevance of the "psychological" element (Marino, 2017) – can be put under surveillance. This drafting technique has raised many objections, especially relating to the very legitimacy of this repression. Hence, the jurisprudence has filled the gap to ensure a fair balance between all the fundamental rights at stake. The challenge posed by Islamic radicalism, in particular, on the one hand, stems from the elusive links of the associations – also considering the spread of the radical message through online contexts – and on the other, from understanding how sharing "ideas", even if close to a conservative conception of the faith, could actually constitute a form of "preparatory" indoctrination for a violent action.

Thus, the case law on the subject, somewhat vague in its *ratio decidendi*, bears witness to the struggle that jurisprudence has had to face, both at a level of definitions and judgement. With regard

[22] Amended by L. no. 155/2005 with the aggravating circumstance of the use of IT tools.
[23] The national provisions on the financing of terrorism are enshrined in D. Lgs. no. 109/2007, "Measures to prevent, counter, and suppress the financing of terrorism and the activity of countries that threaten international peace and security".
[24] By L. no. 43/2015.

to Islamic radicalism and the connection with religion, as well as to the features of an organisation or an association for criminal purposes, top Italian judges seem to have considered the action of the Islamic State to be openly inspired by "Islamic jihad" (Cass. no. 24103/2017). In addition, concerning the character of organisations connected to so-called Islamic terrorism the same Court of Cassation has ruled that:

- a form of organisation is inherent in the "cellular" structure and the "fluidity" of its actions
- this structure is able to recruit followers, and influence them through an intense ideology inciting them to commit jihad, through their own autonomous choices, rather than a centralised plan of violent acts notwithstanding the lack of a "static organisational set-up" (no. 51654/2018)
- religion may be a strong enough ideology to create bonds of mutuality – as the sum between ideological-religious relationships and the associative bond in carrying out acts of violence. Indeed, it can constitute a much stronger tie than others (Cass. no. 50189/2017)
- despite the evanescent nature of terrorist networks, as well as the puzzling nature of the organisation, sharing the "message", through the dissemination of propaganda documents, assistance to members, or training, can become relevant conduct even if there is no evidence that the activity of a certain "cell" or its specific purposes are aimed at international terrorist activities (Cass. no. 46308/2012)
- "participation in a jihadist-type terrorist association" can also be attained and developed through spontaneous membership and *progressive* inclusion in the organisation, which thus becomes a form of structured association by virtue of ideological-religious ties.

Since these are extremely early forms in which criminal repression can be applied, judges have attempted to shape a compromise framework between all the principles entailed. While ideology may appear a relevant factor per se, it was also deemed necessary for the typology of the organisational structure to be actually (and effectively) capable of carrying out violent acts (Cass. no. 48001/2016).
Criminal law is supported by administrative law, especially in the field of immigration which deals with expulsion from the national territory for reasons of public order, state security, and the prevention of terrorism.[25] Administrative law is definitely more immediate than criminal law, but, at the same time, it does not share the same formal guarantees (Mazzanti, 2017). It is based on assessment of the threat for state security as well, according to L. no. 152/1975 (art. 18), thus this framework is added to the Consolidated Law (TU) on immigration provisions (Mazzanti, 2017).

Lastly, the first Italian bill on the topic (the Dambruoso-Manciulli bill) deserves a mention. Drafted in 2017, it was specifically devoted to radicalisation, and at the same time aimed to propose solutions regarding de-radicalisation strategies (Provisions for the prevention of radicalization and jihadist extremism).[26] The Dambruoso-Manciulli bill openly declares that a repressive approach cannot be an adequate response and provides for preventive strategies, as well as counteraction policies and re-educational goals. Nonetheless, it is based on a "jihadist" extremism approach, which may appear partial, since the terms "radicalization" or "extremism" could have fully encompassed all the different facets of the phenomenon. The draft envisages the creation of coordinated networks of counter-radicalisation centres at a regional level (CCR – Centri di coordinamento regionali sulla radicalizzazione, Regional Centres against Radicalisation and special commissions) and supervision at the national level (CRAD – Centro nazionale sulla radicalizzazione, National Centre against

[25]Art. 3, L. no. 155/2005.
[26] C. 3558-A.

Radicalisation). Moreover, it sets out information and awareness campaigns in institutions, schools, and prisons, focusing on counternarratives in order to support the macro-level strategies.

Moreover, the prevention essentially seems to have two guiding principles: the balance between secularism and the protection of freedom of religion, also as a strategy to deal with grievances stemming from exclusion and to avert polarisation through religious stances; and the importance of interreligious and intercultural dialogue, which may be a suitable tool in preventive plans – especially at the counternarrative level – but may be unsatisfactory, for instance, in disengagement and de-radicalisation processes. The creation of an exclusive link with religious extremism can lead to insufficient responses to the specific character of (other) violent discourses. The Dambruoso-Manciulli bill was recently replaced by the Fiano bill.[27] While quite similar in its content, so far it has never been thoroughly discussed or approved.

The sub-national level

At the regional level, it is worth noticing the Lombardy region L. no. 24/2017.[28] Article 1 declares that "in compliance with the constitutional principles established by article 117 of the Constitution, the act is aimed at strengthening the assistance for victims of terrorist acts and at promoting training and research activities to understand and prevent phenomena and processes of violent radicalisation". The regional aid is addressed to citizens and business owners, whereas the training activities involve schools, universities, and local police officers as well as associations dealing with integration programmes, in order to provide them with concrete and effective tools (art. 2). Paragraph one of article 6 encourages the promotion of initiatives for the prevention of extremisms, including "religious" extremism, through legality and respect for differences, with the support of the institutions and the media. Paragraph 3 is concerned with coordinated actions between non-profit entities, associations, and educational and training institutions, to encourage active cooperation between interpreters, local police forces, and stakeholders.

The Friuli Venezia Giulia regional law no. 11/2012, instead, provides "Rules for the support of the rights of the person and the full intellectual, psychological, and moral freedom of the individual" while funding plans for the "Support network against abuses and harassment in groups".

Other regional interventions are worth mentioning, but they provide general tools to deal with violence and hatred and lay down plans in support of victims suffering from violent actions. In these cases, no reference is made to categories such as "extremism", "jihadism", or "radicalisation", whereas "security" constitutes their common theme.[29]

In Emilia Romagna and Liguria (L. no. 24/2003 and L. no. 28/2004, respectively), regional provisions have been enacted regarding the promotion of an "integrated security system" and both stress the relevance of social inclusion as a privileged strategy for problematic areas. These interventions are conceived to prevent sexual violence and harassment, exploitation of and violence against minors, violence and discrimination on political, gender, xenophobic, or racist grounds, cultural and ethnic

[27] "Provisions for the prevention of radicalisation and violent jihadist extremism", C.243, https://www.camera.it/leg18/126?tab=&leg=18&idDocumento=0243. Deputy Emanuele Fiano has also proposed adding art. 293bis to the Criminal Code (Introduction of the offence of fascist and Nazi-fascist propaganda), AC3343, https://www.camera.it/leg17/126?pdl=3343-A.

[28] http://normelombardia.consiglio.regione.lombardia.it/NormeLombardia/Accessibile/main.aspx?exp_coll=lr002017110600024&view=showdoc&iddoc=lr002017110600024&selnode=lr002017110600024.

[29] Regarding security, other regions (for example Campania, Calabria, and Sicily) have combined the focus on legality with the fight against organised crime, probably due to the specific local situations.

conflicts, and to promote preventive actions, reconciliation, and conflict mediation practices, as well as educational programmes. Additionally, the aforementioned regional laws also provide for training activities addressed to public officers and the creation of a collaborative network with local associations and advocacy groups, through support from public institutions.

In Piedmont, regional law no. 23/2007 (enacted in 2009) also relates to regional policies on integrated security. Its main goals are to provide encouragement, training, and updating of specific expertise in the field of cultural mediation and social conflicts and help for victims of violence and crimes based on sexual orientation or racial discrimination, *inter alia*. Among its priorities, the region carries out prevention actions to detect sources of discomfort, grievance, and social exclusion, through the provision of targeted policies (art. 5.2, o). Finally, the cases of Umbria (L. no. 13/2008) and Valle D'Aosta (L. no. 11/2010) deserve a mention. Both envisage initiatives in schools aimed at developing civil, constitutional, and democratic awareness, as well as respect for diversity. In addition, they emphasise the importance of, and support for, social reintegration activities in prison, and the development of prevention and mediation strategies to solve social and cultural conflicts, while also providing psychological assistance, care, and help to those suffering from sexual and racial discriminations.

5. The policy and institutional framework in the field of (de-) radicalisation

In Italy there is no national plan addressing radicalisation or extremisms in a broader sense. The management of these issues is attributed to the actors involved in counterterrorism activities, such as governmental departments and security forces. Additionally, as will be further explained, a substantive role is played by the third sector and NGOs, often working in support of the public institutions. As the interviewed experts pointed out, their coordinated actions are implemented at an unofficial level, owing to the lack of a formal legal framework or structured system.

Some efforts devoted to trying to shape an Italian framework on radicalisation deserve a mention. So far, the Italian Government Commission on Jihadism and the Stati Generali dell'Esecuzione Penale (States General on the Execution of Criminal Sentences)[30] concerning the prison environment have been the most important panels on the topic held at an official level.

Made up of 19 experts from different disciplinary and professional areas (a sociologist, a political scientist, legal scholars, journalists, and counterterrorism operators) and chaired by Lorenzo Vidino, in 2016 the ad hoc commission on jihadism provided some guidelines on action to fight radicalisation, according to the Italian system. Unsurprisingly, the first bill on the topic was produced in the following year. The guidelines set out at the government level were mentioned by the interviewed experts as a valuable strategy, in terms of both radicalisation and de-radicalisation. The first data to emerge

[30] The Ministry of Justice hosted a permanent panel of experts, judges, and penitentiary officers from May 2016 to April 2017, in order to discuss shortcomings and critical issues of the Italian penitentiary system – underlined several times by the EU as well – through thematic work tables, https://www.giustizia.it/giustizia/it/mg_2_19_1.page, https://www.giustizia.it/resources/cms/documents/sgep_tavolo7_relazione.pdf. See also a study conducted by the Dipartimento dell'Amministrazione penitenziaria's (DAP – Department of Penitentiary Administration) Istituto Superiore di Studi Penitenziari (ISSP – Higher Institute for Penitentiary Studies), Ministry of Justice, *La radicalizzazione del terrorismo islamico. Elementi per uno studio del fenomeno di proselitismo in carcere*, Quaderni ISSP, no. 9, 2012, https://www.giustizia.it/resources/cms/documents/radicalizzazione__del__terrorismo_islamico.pdf

was about jihadism in Italy: there is no common profile or clear-cut prototype of the "home-grown terrorist", due to quite diverse social, cultural, personal, and religious backgrounds. A second important finding concerned the peculiarity of the Italian case, as one of the few European countries not to have suffered from jihadist incidents (Vidino, 2017). The commission found that the reasons lie in the demographic characteristics of Italy and the well-established anti-terrorism system, which have proved effective against a "massive recruitment network". Therefore, two privileged (and "classic") places able to nurture radicalisation dynamics come back into the picture: the online context, that is, the Internet, and the offline one, that is, prisons, recalling the case of Anis Amri as a paradigmatic evolution of the phenomenon.[31]

The commission underlined, through the experts' unanimous opinion, the inadequacy of action based solely on repression, adding the widely shared view according to which hard tools – such as arrests and expulsions – must be preceded by policies aimed at preventing radicalisation itself. An Italian CVE strategy should involve a plurality of public and private actors, in a multi- and transdisciplinary system, and encompass, among others, a coherent normative technique, intelligence activity, criminal investigations, schools, social and health services, civil society, associations, and Islamic communities. The guiding principles should emphasise the "safeguarding" phase, dealing with individual processes that lead to extremism, with the aim of safeguarding the individual him/herself, by identifying a "threshold" that must not be overstepped. Other suggested principles are embodied in *transparency* and *territoriality*: in the first case, it is necessary for all of the actors to act transparently and make clear the goals they intend to pursue and the strategy they intend to implement; in the second case, since radicalisation is a phenomenon highly influenced by local factors, varying massively both within the national, but also in the regional sphere and from one city to another, from one district to another. CVE initiatives must necessarily take these variables into account. According to the commission's outcomes, these strategies can become a way to achieve "threat reduction" but never total "threat elimination".

Other advice given to frame an Italian policy strategy concerns the prison environment. The recommendations were drafted in occasion of panel no. 7, on foreigners and criminal procedures, of the Stati Generali dell'Esecuzione Penale. Its outcomes suggested some guidelines to be further developed into counter-radicalisation strategies. In the first place, specific emphasis was once again devoted to religion, particularly concerning the imam's profile and the freedom of religion per se. In this regard, the report shows how in most cases the role of imam is performed by the prisoners themselves and, on the other hand, that it is essential to strengthen the role of cultural mediation in prisons. These elements were also confirmed by the interviewed experts, whose concern about the fact that the decentralisation of authority and supervision functions in prisons can lead to degenerative dynamics was quite evident.

The report suggests strategies already informally implemented by DAP (Penitentiary Administration Department), consisting of the intensification of courses to learn about proselytism and its potential radical twists, addressed to prison staff, department heads, and prison administration officers. These have implied, for instance, encouraging prisoners to engage in counselling activities with educators and social workers, as well as with the professional figures provided for by article 80 of L. no. 354/75, such as psychologists, psychiatrists, experts in clinical criminology, and transcultural therapists. The enhancement of education, school, and professional courses is duly underlined, as well as the involvement of society, that is, volunteer assistants, cultural mediators, and prayer guides (imams). The advice also concerns the creation of permanent technical panels involving local authorities,

[31] Anis Amri is the "lone wolf" who on 19 December 2016 carried out the attack against the Christmas market in Berlin. His process of radicalisation was traced back to his stay in Sicilian prisons.

public health centres, associations, and Islamic communities, especially regarding the creation of job opportunities. Another suggestion addresses the creation of de-radicalisation models in prisons, with the support of the aforementioned interlocutors. Another aspect worth noticing is the agreement between the Unione delle Comunità Islamiche in Italia (UCOII – Union of Islamic Communities in Italy) and DAP to allow the promotion of suitably trained imams. This can be marked as a very good practice deserving in-depth discussion between local authorities and public administrations, also "from the point of view of easier access to alternative measures to detention".

The institutional framework reflects the Italian security-oriented approach and the picture clearly shows a counterterrorist pattern as a result of the substantive and concrete transposition of the legislative framework.

The main actors in (de)radicalisation are the Ministry of Justice, the Ministry of Defence and the members of the armed forces, with their "special" groups, such as the Raggruppamento Operativo Speciale (ROS – Special Operational Group), and the Ministry of the Interior,[32] the police in its broadest sense, including some inner branches such as the Divisione Investigazioni Generali e Operazioni Speciali (DIGOS – General Investigations and Special Operations Division). The Direzione centrale della polizia di prevenzione (DCPP – Central Police Department for Prevention) is given an essential task in countering terrorism, acting at a national and international level against political and cyber terrorism. Of its four inner branches, the Service Agency for the Fight Against Extremism and National Terrorism and the service addressing the same phenomena abroad are of utmost importance, since they deal with leftist, right-wing, and anarchist antagonism, extremism, and radicalism, as well as with international terrorism, international cooperation, radicalisation, and extremist prevention. In this connection, the DCPP is in charge of coordinating DIGOS and Nucleo operativo centrale di sicurezza (NOCS – Central Operational Security Unit) actions. The work of the public security forces is supported by massive intelligence operations, one of the major actors in the Italian counteraction strategy against terrorism and extremism.

Intelligence services have to provide the police criminal investigation departments with all the information and results gathered on facts related to crimes. Accordingly, the police forces have to cooperate with the intelligence services too.[33] Clearly, the judiciary is also directly involved as a pivotal institutional subject in countering radicalisation activities and not surprisingly – as will be shown in Section 6 – it is a major source in framing de-radicalisation strategies and methods too. Additionally, public security authorities and intelligence forces all act at a coordinated level, through a strategic committee called the Comitato di Analisi Strategica Antiterrorismo (CASA – Counterterrorism Strategic Analysis Committee). Chaired by the head of the DCPP, its work encompasses all the issues related to national defence, though it mainly focuses on threats with a terrorist core. It was constituted in 2004 and consists of the preventive and judicial branches of the Criminal Investigation Department, as well as several other security actors, such as the Servizio per le informazioni e la sicurezza democratica (SISDe – Information and Democratic Security Service) and Servizio per le informazioni e la sicurezza militare (SISMi – Military Information and Security Service). CASA is also engaged in monitoring preventive functions and is authorised to conduct specific investigations on suspicious financial activities, as well as to keep check on online extremist propaganda. Its activities are coordinated at both the national and international levels.

[32] See also The National Operative Plan for Legality 2014-2020, https://www.interno.gov.it/it/temi/sicurezza/programma-operativo-nazionale-legalita-2014-2020.
[33] https://www.interno.gov.it/it/temi/sicurezza/antiterrorismo.

Another crucial role is played by abovementioned DAP,[34] one of the four branches of the Ministry of Justice, which addresses specific issues and regularly provides policies and guidelines through its circulars.[35] Moreover, the Garante nazionale dei diritti delle persone private della libertà personale (National Prisoners' Ombudsman) is a pivotal independent body in charge of detecting vulnerable situations and dealing with all the issues related to prisoners' rights and dignity. In this connection, it constantly provides state-of-the-art reports,[36] aiming at strengthening and improving the detainees' mental and physical well-being. Its regional and local divisions can be found throughout Italy.

As far as counteractions against financial support for terrorist activities are concerned, a Comitato di Sicurezza Finanziaria (Financial Security Committee) has been working at the Ministry of Economy and Finance since 2001 and an Unità di Informazione Finanziaria (UIF – Financial Intelligence Unit) was set up in 2008 at the Bank of Italy. A major role in detecting illegal funding for terrorism purposes is played by the Guardia di Finanza (financial police),[37] who are authorized to make investigations in support of other public security forces. In particular, the financial police help the latter in prevention strategies against terrorism, by freezing financial and economic resources and keeping check on suspected financial activities *inter alia*, in compliance with the judicial authorities. They also take part in the national coordination envisaged through the CASA committee.

Notwithstanding the effectiveness of the Italian strategy, a systemic approach to the topic is needed. The policy framework lacks specific counteractions exclusively focused on radicalisation phenomena and a legal basis for the coordinated activities, beyond the counterterrorism agenda. In addition, the institutional responses should provide for preventive tools as well, in order to promote an alternative paradigm to deal with all kinds of extremism. A security-oriented pattern, strongly affected by counterterrorism policies, may prove to be insufficient in the absence of a structured strategy encompassing all the facets of radicalisation. All of the above surely requires a formal and official framework, able to guide all the actors involved at the substantive level.

The sub-national level

At the regional level, a good policy frame can be found in the convention between the Lombardy region and the regional education office, for implementation of the project to provide "education on differences to fight all forms of violent extremism"[38] (2019-2020-2021, Regional Law no. 24/2017, art. 6, paragraph 4). The project provides specific guidelines and promotes special programmes in several schools in the region (in Como, Milan, and Bergamo). First and foremost, they envisage in-depth teaching staff training, but they are also addressed to students and their parents, in order to help boost their knowledge about phenomena of violent extremism in general. This goal is pursued through a multi-agency approach and "integrated" methodologies. For instance, it has involved the creation of interactive and conceptual mapping strategies, the definition of a vocabulary about key concepts of violent extremism, and the search for similarities in contexts and situations, to "cognitively" create a common understanding of words and their meanings. The programme guidelines consider it pivotal to pay attention to specific skills in the school framework and beyond, and also within families, in order to prevent the onset of extremism through shared intervention strategies (pt. 2). Other goals consist of teacher training, with the development of intercultural skills

[34] L. no. 395/1990.
[35] For an updated list of all the DAP interventions see http://www.ristretti.it/areestudio/giuridici/circolari/.
[36] https://www.garantenazionaleprivatiliberta.it/gnpl/it/rapporti.page. On prisoners at risk of radicalisation see, for instance, the Liguria region report https://www.garantenazionaleprivatiliberta.it/gnpl/resources/cms/documents/fa303d27bc12d77fcf5b02003ac0c1bd.pdf.
[37] https://www.gdf.gov.it/chi-siamo/organizzazione/compiti-istituzionali/antiterrorismo.
[38] https://usr.istruzione.lombardia.gov.it/2018/6/?cat=42; https://usr.istruzione.lombardia.gov.it/wp-content/uploads/2019/05/m_pi.AOODRLO.REGISTRO-UFFICIALEU.0010066.24-05-2019-1.pdf; http://www.istruzione.lombardia.gov.it/protlo_15787_16_settembre_2016/.

in educational work, the chance to arrange courses regarding non-violent lexicon, and management strategies in working with intercultural groups, in addition to prevention-oriented activities aimed at the students (for instance, the development of "digital citizenship" skills and media education and "reflexivity" in the use of technology). The project is also concerned with improving knowledge about different religions and cultures, fostering the creation of conditions of well-being in schools, meant as an effective "prevention strategy to deal with any form of discomfort". An aspect worthy of dissemination is its implementation of methodologies to obtain interpretative tools and to select cases by assessing "alarm bells" that may point to potential extremist attitudes (pt. d.1 and d.2). At the same time, the activation of local support networks and the creation of regulatory tools to encourage the construction of prevention strategies are also considered an agenda priority (pt. e-f).

Similar policies have also been implemented in the regions of Emilia Romagna, Lazio, Tuscany, and Umbria, while the case of the Marche region[39] deserves attention to some further details, thus becoming a case study on its own (see Sec. no. 6.2).

The local level

At the local level, the city of Turin (Piedmont) is quite an interesting and "proactive" reality, having issued "guidelines for the establishment of a multi-agency panel for the prevention of violent extremism".[40] The Turin city council, via the Commission on Legality, approved a resolution in September 2020 which drew up strategies to implement the guidelines, also in collaboration with the RAN networks. The goal is to share useful information and skills for prevention purposes, to offer support in disengagement processes, and to render civil society resilient to the phenomenon. The approach is one of safety, rather than security, through collective and multi-agency action. The project is fundamentally based on multiple agency, in addition to well-defined procedures and action plans, relying on good and effective communication between the social and political actors. The plan itself, moreover, is based on "rigorous analysis", as literally declared in the document, and linked to the development of a prevention strategy at a local level, stemming from empirical data and not "social alarms fed by political parties or the media". Similarly, the panel focuses its attention on the use of a common language and a strong counternarrative, via social media promotion campaigns. The guidelines provide for a holistic approach, to be accomplished through the creation of smaller groups based on expertise and skills, with a fair proportion of need- and stakeholders, even with "potentially divergent interests and needs", such as prison departments and the prisoners' ombudsman. They also involve the establishment of "priority areas" and services, helplines, and mentoring activities, as well as specific support for child refugees and reintegration plans for prisoners.

Due consideration is attributed to the role of case-reporting, focusing on family backgrounds and the potential detection of dysfunctional relationships, to be assessed through the careful activity of a professional network. Turin intends to create a protocol for action as well, in collaboration with other public authorities, in order to construct an effective response in the event of terrorist attacks, severe hate crimes, or actions linked to violent extremisms, to be dealt with by shared emergency interventions and methodologies. With its efficient and unbiased approach, it is undoubtedly a leading example of good policy-framing, since it is the first reality, in Italy, to create de-radicalisation programmes as well.[41] This plan for the prevention of extremism becomes the "fourth pillar" among

[39] https://www.usrmarche.it/moodle/pluginfile.php?file=%2F1517%2Fmod_resource%2Fcontent%2F1%2Fm_pi.AOODRMA.REGISTRO%20UFFICIALE%28U%29.0004572.08-03-2019.pdf.
[40] http://www.comune.torino.it/cittagora/wp-content/uploads/2020/07/Linee-guida-istituzione-tavolo.pdf; http://www.comune.torino.it/cittagora/in-breve/a-torino-un-tavolo-di-lavoro-per-la-prevenzione-degli-estremismi-violenti.html.
[41] C4C, TRIVALENT, PACTESUR, see the following paragraph.

other previous initiatives: guidelines for policies concerning interculturality,[42] a plan to deal with violence against women, a local action plan against racist hate crimes – which at the same time declared "anti-racism" as a "common good"[43] – and a protocol to facilitate and foster religious pluralism in prisons.[44] So far, we cannot predict the effectiveness of these measures, but they undoubtedly reflect a good policy framework worthy of dissemination and circulation.

The role of associations, NGOs, and the third sector

In the end, a huge amount of (informal) work is carried out by the third sector, associations, NGOs, and advocacy groups, which, notwithstanding the lack of official institutional coordination, also play an essential role in support of the former, which rely massively on their "day-to-day" practices and advice. Indeed, they are perceived as fundamental actors in framing an effective preventive strategy in Italy and, despite the unofficial nature of their activity, they cooperate with the institutions, through the organisation of panels, commissions, and committees, in which they take part as privileged interlocutors. In the interviewed experts' opinion, the provision of a legal basis for their actions, as well as a mechanism for their institutionalisation would constitute a decisive step in the advancement of a preventive framework, as will be further shown in the conclusive remarks and in the Policies Annex (IV) of this report.

Important and active support comes from several Islamic associations, which are involved in projects, programmes, and meetings, creating a prototype for institutional collaboration in drafting protocols and action plans. Worth noting is the Patto nazionale per un Islam italiano (National Pact for an Italian Islam),[45] sealed in 2017 between the Ministry of the Interior's Consiglio per le relazioni con l'Islam italiano (Council for Relations with Italian Islam) and representatives from many Islamic associations. Similar agreements have been formulated at the regional and subnational level as well.[46] However, they are not legal agreements in a strict sense as envisaged by article 8 of the Constitution (see Sec. 3). In this framework, an important activity is performed by the Confederazione Islamica Italiana[47] (CII – Italian Islamic Confederation) and the UCOII. Among the various associations and NGOs, remarkable local experiences involving foundations and organisations with different advocational aims can be reported in addition to the major role played by transnational and international realities such as Amnesty Italia and Action Aid.[48] Furthermore, the main research of two important institutes focuses on the topic of radicalisation and de-radicalisation: Istituto per gli Studi di Politica Internazional (ISPI – Institute for International Political Studies),[49] which devotes several monographic reports and an in-depth analysis to the issue and Centro Studi Internazionali (CeSI – Centre of International Studies).[50] As far as the dissemination of in-depth information is

[42] http://www.comune.torino.it/ucstampa/cartellestampa/bm~doc/la-politica-interculturale-della-citt-di-torino.pdf.
[43] http://www.comune.torino.it/ucstampa/2020/article_152.shtml.
[44] http://www.comune.torino.it/giunta_comune/intracom/htdocs/2018/2018_05625.pdf.
[45] The exact name in English is the "National Pact for an Italian Islam, Expression of an Open and Integrated Community, Adhering to the Values and Principles of the Italian Legal System". See the English version at https://www.interno.gov.it/sites/default/files/patto_nazionale_per_un_islam_italiano_en_1.2.2017.pdf.
[46] See, for instance, the Interfaith Committee in Turin, now a permanent body, which was created for the twentieth Olympic Games in 2006 and the Patto di condivisione from 2016, http://www.interculturatorino.it/approfondimenti/comitato-interfedi-della-citta-di-torino/; http://www.comune.torino.it/ucstampa/2016/article_47.shtml. The city of Florence also drafted a Patto di cittadinanza in 2016, https://ucoii.org/tag/patto-di-cittadinanza/.
[47] http://www.conf-islamica.it/confederazione-islamica-italiana/.
[48] See, among others, the Fondazione Internazionale Oasis for interreligious dialogue (https://www.oasiscenter.eu/it/chi-siamo); Centro Studi Sereno Regis (https://serenoregis.org/); Un Ponte Per (https://www.unponteper.it/it/); Laici Terzo Mondo (http://www.ltmong.org/); Antigone (https://www.antigone.it/); and Cooperativa Sociale Odissea (http://www.cooperativaodissea.org/).
[49] https://www.ispionline.it/.
[50] http://www.cesi-italia.org/.

concerned, the activity of the Osservatorio sul Radicalismo e il Contrasto al Terrorismo (ReACT – Observatory on Radicalism and the Fight Against Terrorism),[51] should be mentioned.

Last summer, the first national network dealing with hate speech and hate phenomena was born;[52] the founders and involved organisations come from the world of advocacy and associations.[53] Their goals consist of "contributing to the monitoring and prevention of hate speech and phenomena and fighting them, as well as counteractions against disinformation as their pre-eminent source". The network also aims to create and promote counternarratives and alternative narratives to hate phenomena and speeches, thus providing complementary and/or additional activities to those carried out individually by each member of the network itself (art. 2).[54] The network is also concerned with explaining how effective counternarratives[55] should be framed – suggestions that can be circulated in any counter-information campaign against any type of extremism – by presenting good practices that can be disseminated in order to reach a diverse public. In addition, the national network has drafted some guidelines about how to recognise and deal with hate speech online through effective tools.[56]

(De-)radicalization programmes

Notwithstanding the lack of a national plan to deal with radicalism and structured de-radicalisation counteractions, some programmes have been implemented through the collaboration and coordinated activities of several actors. Among them, the most relevant are:

- **C4C** is the first programme ever tested in Italy (in 2013). The Counternarration for Counterterrorism,[57] mainly carried out in schools, stems from previous experiences, for instance, by the Associazione Italiana Vittime del Terrorismo (AIVITER – Italian Association of Victims of Terrorism) and Memoria Futura (Future Memory), in order to develop their own good practices.[58] With the active participation of Ce.Se.Di, the metropolitan city of Turin's education services centre, it aims to train and inform students about issues generally neglected by classical teaching, and hence boost their knowledge. C4C investigates all the facets of extremism and its manifestations, with an innovative focus on disengagement. Hence, it deals with sensitive, hotly debated, contemporary issues, such as "humanitarian wars", or the violation of human rights in Guantánamo. Not surprisingly, the programme was led by the good practices envisaged by RAN, and it is considered a model worthy of

[51] www.osservatorioreact.it/category/radicalizzazione/.
[52] https://www.retecontrolodio.org/.
[53] Action Aid Italia Onlus; Amnesty International Italia; ARCI; ASGI; Associazione Carta di Roma; Associazione Giulia Giornaliste; Associazione Lunaria; Centro per le Scienze Religiose – Fondazione Bruno Kessler; Centro per le Tecnologie dell'Informazione e della Comunicazione – Fondazione Bruno Kessler; Cestudir – Centro studi sui diritti umani; CNR Palermo; Consiglio Nazionale Forense; Cospe Onlus; Dipartimento di Diritto Pubblico Italiano e Sovranazionale – Università Statale di Milano; Dipartimento di Psicologia dello Sviluppo e della Socializzazione – Università di Padova; Dipartimento di Scienze Politiche e Sociali – Università di Firenze; Dipartimento di Scienze Umane – Università di Verona; Dipartimento di Sociologia e Diritto dell'Economia – Università di Bologna; Alessandra Vitullo, Dipartimento di Sociologia e Scienze Sociali – Università di Milano Bicocca; Dipartimento di Sociologia e Ricerca Sociale – Università di Trento; Federico Faloppa, Department of Languages and Cultures – University of Reading, UK; Avv. Monica Gazzola, Foro di Venezia; Pierluigi Musarò, Dipartimento di Sociologia e Diritto dell'Economia, Università di Bologna; No Hate Speech Movement Italia; Osservatorio di Pavia; Pangea Onlus; Avvocatura per i diritti LGBTI – Rete Lenford; Vox – Osservatorio Italiano sui Diritti.
[54] https://www.retecontrolodio.org/protocollo-d-intesa/.
[55] https://www.retecontrolodio.org/contronarrazioni/.
[56] https://www.retecontrolodio.org/linee-guida/.
[57] http://www.congress-intercultural.eu/it/initiative/196-progetto---%EF%BF%BDcontro-narrativa-per-la-lotta-al-terrorismo--%EF%BF%BD--c4c-.html.
[58] http://www.congress-intercultural.eu/it/theme/7-buone-prassi.html.

circulation and dissemination, especially for the development of critical analysis tools, already at school level.

- **PACTESUR** Protect Allied Cities against TErrorism in Securing Urban aReas.[59] Once again, this project involves the city of Turin with the collaboration of Associazione Nazionale Comuni Italiani (ANCI – National Association of Italian Municipalities), the cities of Nice and Liège, and local and other EU member state police officers. Started in 2019, it aims to create general action guidelines and to assess the best way to achieve "fair" communicative standards, which can guide the activities of all local and regional authorities, in order to provide beneficial and uniform tools in the field of public safety, beyond a mere security-oriented approach.
- **TRIVALENT** Terrorism pRevention via rAdicalisation countER-NarraTive.[60] This project (2017–2020) is also funded by the EU and can count on the collaboration between Italian academics, the Ministry of the Interior, the Ministry of Justice, and police officers from other member states. Once again, the Italian city at the centre of the project is Turin. Its goal is to develop counterviolence measures at a cultural and communication level. It is worth noting the awareness-raising and training of public security agents, who are called to participate and are directly involved in the work carried out by national, local, and territorial civil society structures, consequently providing their action with specific guidelines.
- **YEIP**, Youth Empowerment and Innovation Project[61] (2017–2020). This project raises awareness among the young generations about the consequences and risks of radicalisation, through a full preventive approach. This project is also grounded on transnational networks, from Italy involving the Liguria region, research centres, and the Anziani E Non Solo cooperative from Carpi (Emilia-Romagna region). Supported by regional and national institutions, it is partnered by the Ministry of Labour and Social Policies, with which it signed a protocol for action. Some meetings and initiatives – which disseminated good practices especially aimed at schools and teaching staff – were also officially supported by the Ministry of Education, University and Research (MIUR).
- **FAIR** (2017-2019), Fighting Against Inmates' Radicalisation.[62] This project was coordinated by the Nuovo Villaggio del Fanciullo foundation[63] based in the city of Ravenna (Emilia-Romagna) and the InEuropa association, with the support of European partners. The main purpose was to train prison staff, in particular to gain appropriate tools and methodologies to support the most vulnerable or marginalised inmates within the prison community, while learning to cope with vulnerabilities and the attractiveness of extremist narratives. An additional project goal was to make a critical assessment of prison environments in general and alternatives to prison, while framing individualised paths to deal with disengagement and de-radicalisation that encompassed strategies and models of reintegration into the socio-political sphere.

6. Case Studies

The selected case studies show two examples of well-shaped programmes stemming from different sources. Case study 1 concerns two examples of case law, in which the rehabilitation aim of criminal

[59] https://www.pactesur.eu/the-project/; https://www.anci.piemonte.it/workshop-pactesur-il-16-maggio-a-torino/.
[60] https://trivalent-project.eu/.
[61] https://www.regione.liguria.it/homepage/salute-e-sociale/cooperazione-allo-sviluppo/programmazione/progetto-yeip-coop-svil.html.
[62] http://fair-project.eu/it/.
[63] https://www.villaggiofanciullo.org/progetti/progetti-europei/progetto-fair.

law was achieved through a new kind of response. They envisaged ad hoc de-radicalisation programmes, tailored according to individual specificities using quite different methodologies. Case study 2 relates to an experimental project carried out in schools in the Marche region, addressing radicalisation through the support of experts and specialists, in order to raise awareness on the topic among teachers and the young generations, especially with relation to the online context. The first cases were chosen for the effective response provided by the courts, which implemented a multi-agency approach – strongly recommended by the interviewed experts as well – as an efficient counter-radicalisation strategy. The second case is considered worthy of dissemination owing to its advanced focus on all kinds of extremism, and ability to detect all its different facets, through a quite innovative approach in comparison with "traditional" educational programmes in schools.

Case Study 1

The juvenile court of Trieste and the tribunal of Bari: two different (judicial) counternarrative and disengagement methods

It is no coincidence that one of the selected case studies involves case law. Due to the lack of coherent guidelines and policies at the national and regional level, each place deals with its challenges according to its specific requirements. Beyond the legislation framework briefly recalled in Section 4, with its strong repressive and urgency-oriented pattern, the courts have developed different and non-standardised criteria, evaluating each background and *modus operandi* in a (necessarily) heterogeneous way. These cases are a good example of how the courts sometimes provide a more prompt and effective response vis-à-vis the normative vacuum in Italy as well. Indeed, in Italy the "juristocracy" (Hirschl, 2004) has been performing an increasing remedial role.

These examples of case law were selected, on the one hand, for their heterogeneity, which enables us to appreciate the intersection between different layers of analysis, and on the other – quite paradoxically – for their intrinsic comparability, as they are both examples of *ius praetorium*, provided by the courts' (pro)activism. They also share the same basic rationale, largely focusing on the "reintegration" process, whereas the implemented methodologies and strategies diverge in many crucial aspects. Despite sharing common ground and similar solutions, that is, the creation of individualised programmes, their guiding principles appear quite the opposite regarding:

a) Methodology: Case 1.1) sets out a path aimed at disengagement through a religious-oriented counternarrative,[64] case 1.2) tailors a "constitutionally compliant" (Martucci, 2017) solution within the secular spectrum and the "rule of law";
b) Personal background: Case 1.1) involves a foreign minor, case 1.2) an Italian man.
c) Local area: Case 1.1) concerns a court based in the north-east, case 1.2) a court based in southern Italy.

Indeed, as is often observed, courts are places in which fundamental rights are effectively "granted" by definition. In case law 1.1), due to the involvement of a minor, this becomes even more significant, on the one hand for the re-educational perspective – meant as reintegration into the social and political environment – and on the other, for the greater discretionary power and tools the juvenile courts are provided with, in balancing best interests with the wider protection of public security.

[64] For a focus on this case study, see also Lanzetti, A. "Le strategie di contrasto alla radicalizzazione violenta: il caso studio" https://www.startinsight.eu/react2021-caso-studio-lanzetti-it/. Some newspapers reported the case as well, https://www.corriere.it/esteri/18_aprile_07/minorenne-faceva-propaganda-isis-telegram-sara-deradicalizzto-0eb0369a-3a24-11e8-a94c-7c30e3109c4d.shtml.

The case law concerns B.A., an Algerian boy who was just fourteen years old when placed under supervision by security officers. He came under investigation on suspicion of instigating terrorist actions (art. 414 Criminal Code) through the use of "virtual" means – an aggravating circumstance – due to a connection with the Islamic State via Telegram channels. The intelligence activities and CASA investigations considered the sharing of jihadist propaganda, instructions for home-made weapons, and logistic support for the jihadist cause a well-founded terrorist threat and not just radical ideas coming from a young boy. In here, we find all the "traditional" elements of the mainstream narrative: an introverted foreign boy, the Islamic State's fascinating propaganda, the plan to become a lone wolf against a school. B.A.'s personal situation was described as one of "discomfort, loneliness, and emotional vacuum", thus, during the preliminary judiciary investigations, it was decided to directly assign the case to the juvenile social services and to envisage a clear-cut programme for his "rehabilitation" and social reintegration.

The case is interesting since the juvenile court implemented an approach that is strongly recommended by the experts: individualisation of the programme content by the juvenile social services, in collaboration with psychologists, and an institutional and public-oriented vision of the whole framework, as well as the involvement of institutions and civil society actors (Caparesi and Tamborini, 2019). It is an approach that can be considered holistic, capable of conveying different professional skills, each as a part of the patchwork solution to address the individual critical aspects and all the vulnerabilities concerned in the particular situation. Hence, in addition to psychological support, a "spiritual" guide was also designated to address the boy's lack of empathy and the absence of emotions towards the consequences of such an action. The boy's job was to engage in a discussion about Islam and theological scholarships, to learn to detect the abuse of the teachings of Islam perpetrated by violent groups, and to subvert the mystification provided by Takfirist narratives. This is undoubtedly the most interesting part, which also marks the main difference from case 1.2), because of the choice of a religion-oriented approach, although of a hybrid or mixed kind, owing to the presence of a civil mentor and a phycological counsellor as well. Aware of the insufficiency of a partial vision, the court order managed to achieve effective and substantial inclusion via equal participation in civil society. The boy was kept offline all the time and performed activities in favour of disabled people, victims of violence, with quite different social and cultural backgrounds. The aim was to give him an active and concrete experience and interaction with intercultural dynamics in everyday life, rather than to implement a simple disengagement action.

There is more than one lesson to be learned. It can definitively be deemed a strategy worthy of dissemination, both owing to its extreme attention towards the individual and the "biographic" elements that can often make the difference (Orsini, 2017), even in the progressive development of more "radical" attitudes (Dambruoso and Caringella, 2018), and to the solution, via empirical tools, of the aspects that a problematic background had exacerbated. Quite important, in addition, is the close, focused, and constant work coordinated by the juvenile court, in which the role of intelligence was just a small part of the action, before it was handed over to civil society and its public and private actors. That is to say, "security" was just a part of the answer and not the only answer per se. Moreover, the proactive and brilliant solution provided by an Italian court prevented the conviction of a young boy – who had never denied his responsibility – and enabled his concrete interaction, rather than mere integration, into the same society he wanted to fight, creating new bonds of mutuality and civil commitments. At the end of the programme, which lasted until May 2020, the judge ruled that the offence was extinct.

Case law 1.2)[65] stems from the legislative framework concerning criminal preventive measures against "socially dangerous" individuals.[66] Preventive measures can address individuals who, according to preliminary judicial investigations, are considered "dangerous" for society and its safety, in order to prevent the commission of unlawful actions. Thus, they are issued at the *ante-delictum* stage. They can also be "atypical" in their content, and hence able to respond effectively to new challenges or to the specificities of each case. The pragmatic role played by "criminal preventive measures" is quite symptomatic of the urgency to intervene already at an early stage.

This case is quite different from the previous one, pertaining to an Italian man under "special" surveillance, after an investigation conducted by DIGOS for suspected international terrorism and apology of terrorism. In case law 1.2), we again find progressive "indoctrination" via online propaganda, thus confirming the well-known role this virtual context can play. However, another element was marked as highly significant: the conversion to Islam. While irrelevant in itself, it was considered the first stage of a progressively strong extremist attitude, especially in connection with a harsh critique towards the Italian state and its institutions.

Moreover, the court evaluated that limiting his freedom of circulation or merely imposing "good-behaviour" obligations would prove insufficient. Hence, a sort of "on-the-case" re-educational programme was put together by the General Prosecutor. Once again, a multi-agency approach was chosen, but with a social, cultural, and "constitutional" design and a secular-oriented counternarrative. The General Prosecutor of Bari himself – as authorised by the judge of preliminary investigation – tailored its content while taking into account the specific features of the situation, in collaboration with the University of Bari, which would draw up all the guidelines regarding the de-radicalisation process, together with the support of a mediator and not a religious mentor. Indeed, a mediator was considered more suitable in and for a secular legal framework, on the assumption that a programme based on dissertations about Islamic theology would paradoxically result in a violation of the freedom of religion (Martucci, 2017), through an imposed "version" selected by the public institutions, also considering that Islam does not have a single voice. This "neutral" approach was considered more compliant with the secular pattern of the Italian system and when balancing all the fundamental principles at stake "religion" was left out of the picture.

As such, the case of the Tribunal of Bari appears quite an exception to the general Italian trend since it emphasises "other" elements in certain unlawful behaviours, commonly (and instrumentally) linked to a static concept of "religion". Therefore, "a civil constitutional ethics based on rights, aimed at establishing a just and democratic society"[67] was chosen as a guiding principle. It embodied a fair and effective strategy regardless of the kind of extremism, since it was able to adapt to its different aspects and to adjust its responses according to the different facets. The Court of Bari overturned (and "overruled") quite a strong set of prejudices and biases. Not only did this strategy undermine the religion/foreigner, foreigner/terrorist, and disengagement as the sole detachment from "religion" equations, but, by overcoming several stereotypes, it proved capable of providing effective and

[65] On the topic, see Valente, V. (2017) "Misure di prevenzione e de-radicalizzazione religiosa alla prova della laicità (a margine di taluni provvedimenti del Tribunale di Bari)", *Stato, Chiese e Pluralismo Confessionale*, no.37; Martucci, L.S: (2018) "Laicità e diritti nei programmi di deradicalizzazione dal terrorismo religioso", Dirittifondamentali.it, no.2, http://dirittifondamentali.it/wp-content/uploads/2019/06/Martucci-Laicit%C3%A0-e-diritti-nei-programmi-di-deradicalizzazione.pdf.

[66] Category referred to lett. d), art. 4, Legislative Decree no. 159/11 (as recently amended by L. no. 161/2017), those "who, operating in groups or individually, carry out preparatory, relevant, direct acts (...) to the commission of crimes with terrorist purposes, including international ones, or to take part in a conflict in foreign territory in support of an organisation that pursues the terrorist purposes as referred in art.270 sexies of the Criminal Code".

[67] Martucci, L.S. "Laicità e diritti nei programmi di deradicalizzazione dal terrorismo religioso", cit., p.11.

individualised responses within the legal framework and its own fundamental principles, thus achieving a fair, proportional, and non-discriminatory balance between them.

Case Study 2

The school programme against radicalisation in the Marche region

This programme, considered "a further improvement" of other regional experiences mentioned in Section 5, has been carried out since February 2020 through collaboration between the regional office for education and the Exit cooperative based in Udine. It was supervised by Dr Cristina Caparesi, a psychologist with several years of expertise in the field of sectarianism, extremism, and radicalization. According to Dr Caparesi, who was interviewed for this report, schools can – and do – play a crucial role in primary prevention, since they are able to "educate" everyone who attends them. Thus, this programme aims to provide teachers with a basic sensitiveness in order to prevent radicalisation by focusing on recurrent features, and to teach more about monitoring strategies. In addition, in Dr Caparesi's opinion, schools can provide for secondary prevention as well, particularly in early approaches, since teachers are able to detect at-risk situations and can offer specific "on-the-case" support, especially in situations in which extremist views can turn into radicalised ones.

Thus, also modelled on a multi-agency approach – with the involvement of social and clinical psychologists, political and intercultural pedagogues – the programme aims to develop teachers' general knowledge on the topic and improve basic skills in order to organise preventive activities and *ad hoc* interventions. The programme is structured at two main levels, depending on the school staff it is addressed to and the degree of assessment of different kinds of extremism.[68] The first one provides essential tools to manage the emergence of "radical" behaviours which deserve attention, while focusing on analogies and differences between different kinds of extremism. Additionally, it pays close attention to radicalisation and its ideological core, while leaving aside mainstream narratives and stereotypes about culture and religion. At the second level, the acquired knowledge becomes more technical, since attention is paid to the increase in often underestimated dynamics, such as conspiracy theories and Shoah negationist trends. However, both levels aim to increase pluralist methods to develop non-violent and non-conflictual communication, through supervised discussion on controversial and polarising issues. Furthermore, the programme raises awareness on prevention and the contrastive methodologies already activated in European systems, with quite an innovative "comparative" attitude which should also be implemented in school education. Additionally, it duly analyses and acknowledges online and offline recruitment mechanisms (grooming), detects risks, and protects vulnerable students, by learning to identify the role played by radical narratives and trying to manage sensitive and polarising topics for debate in the classroom in "peaceful way". Among the abovementioned objects, the programme helps teachers select sensitive topics and provide students with practical exercises and activities to prevent online radicalisation, to be modulated according to each individual teaching methodology.

The programme has led to the elaboration of an "observation" grid, the so-called "GREG-4D model" based on a "quantitative and qualitative" assessment of specific radicalisation "indicators". This tool gives a privileged point of view on "what" has to be monitored, "how" and for "how long" a certain extremist behaviour occurs. As far as teenagers and young people are concerned, these markers involve:

1. Vulnerabilities and general risk *factors*
2. Polarisation factors and "dichotomic" *thinking*

[68] The first level is aimed at teachers, whereas the second one is for head teachers.

3. Mobilisation factors that can lead to violent *actions*
4. *Protective* factors which can help support cases at risk of radicalisation, while focusing on positive elements in the individual background, instead of on the dangerous behaviour per se.

The programme was implemented in Emilia-Romagna in 2021 as well. Its effectiveness, the proposed innovative pattern, and the multidisciplinary environment have led to a successful model that deserves dissemination.

7. Conclusion

The Italian approach in shaping de-radicalisation responses is undoubtedly still under construction. The tendency to reshape the existent criminal law framework to face new challenges has led to a fragmented picture. On the one hand, the political pattern in extremisms is almost neglected, on the other, the role of religion seems overemphasised. Consequently, freedom of religion is given privileged focus as a self-sufficient strategy, especially in the prison's context, showing a partial vision that fails to consider political (or other different) data as the other side of the coin. Hence, normative choices focused on emergency and security measures, and the build-up of different kinds of regulations at all levels, fail to give a systemic response to all the facets of the issue, revealing the shortcomings of a fragmented legislative technique. Even though the parliamentary debate seems inert on the topic at the national level, this does not necessarily mean that the phenomenon is unknown. More simply and more likely, it is probably perceived as complex – as the multidisciplinary panels with experts testify – and seen more as an "urgency", rather than a real *priority*. At the subnational level, the background appears quite similar: widespread regional autonomy often leads to extremely diversified local policies, making for a fuzzy picture. In some cases, we see quite advanced policy-framing strategies, as well as good efforts to formulate structured programmes, but in others it is difficult to collect data, due to the lack of any form of regional action, or its lack of publicity. Much of the work is assigned to civil society, the third sector, associations, and solidaristic cooperation between citizens. In this connection, at the macro level, the Dambruoso Manciulli bill has certainly proved "far-sighted" in providing a coordinated system which links the regional and local levels to the national scale. All the interviewed experts highly recommend developing this point further.

Additionally, situations able to foster an escalation in violence have not gone completely unnoticed, such as football or other sports matches, or particular public events. This form of awareness, however, only grasps the macroscopic level of the phenomenon, when extremist ideologies or ideas have already turned into a concrete threat. According to one of our interviewees, indeed, any kind of environment can be the ideal milieu for the spread of extremism: football supporters clubs, fast food restaurants, meeting points, migrants' detention centres, mosques, and so on. Quite a striking recurrent narrative is that the latter are no longer the cornerstone of "religious radicalisation" dynamics, as they perhaps were twenty years ago. While cases of imams being expelled from Italy are still reported, due to their propaganda or radical ideas, more attention should be paid to the enlarged space of metropolitan cities and their social segmentations.

Indeed, according to the interviewed experts, in urban and peri-urban spaces some social conflicts already experienced in other European countries are becoming increasingly evident in Italy as well. Nonetheless, the causal link between radicalisation, marginalisation, and integration issues, as well

as the equation with indigence or situations of hardship, have been critically assessed as "weak".[69] This necessarily requires additional investigations, since the alienation-grievance paradigm cannot be used to sum up such a complex phenomenon and it can also prove to be inconsistent with specific experiences and local dynamics, fostering the urgency for further research.

Then, as far as the role of the courts is concerned, they definitely have provided interesting and proactive solutions, at both top and local jurisdiction levels. However, the implication is that each forum can choose its own "parameters". This seems quite inevitable, since the judicial response *has to* be different, depending on the circumstances and features of each case. The pathological aspect, though, is grounded on the fact that the good action prototypes come from case law, urging the question of whether a remedial perspective can become a sustainable long-term model. Similar remarks concern the prisons context. Here a more individualised approach is needed, since the mere promotion of freedom of religion per se is considered by experts quite a naïve way to deal with disengagement and envisage de-radicalisation programmes. Furthermore, as will be further suggested in the policies annex, the penitentiary environment needs specific interventions, both in terms of staff training and criteria concerning allocation choices, since the latter are still partially affected by overcrowding.[70] Undeniably, the allocation and so-called preliminary "triage" deserve greater attention (Delvecchio, 2017), since an individual assessment of the general background of prisoners involving different actors and expertise takes place at this early stage.[71]

To conclude, right-wing extremism, and white and national supremacism seem to be the main phenomena requiring monitoring in the current Italian scenario, in addition to "conspiracy theories" and the spread of misleading fake news that can increase polarisation on debated issues.[72] These micro-dynamics are often neglected, however. In addition, how certain narratives can generate more and more conflictual counternarratives is also ignored. This trend can be found in very different realities in the European context, and in the USA too. Extremist trends show dynamic and ever-changing geographies. During the Covid–19 pandemic, some polarisations seemed quite close to breaking out,[73] due to the fiery public debate and the contestation of "public opinion", but also in clear, open, and violent dissent vis-à-vis governmental policies.

[69] See, for instance, *Youth, Wealth and Education Found to be Risk Factors for Violent Radicalisation*, https://www.eurekalert.org/pub_releases/2014-03/qmuo-ywa031714.php.

[70] See, on the topic, the well-known *Torreggiani and Others v Italy* 43517/09 (ECHR, 8 January 2013).

[71] For a comprehensive analysis, see F. Delvecchio*, il Detenuto a rischio radicalizzazione e i rimedi della prevenzione terziaria: triage iniziale, scelta allocativa e ruolo degli operatori penitenziari*, Diritto Penale Contemporaneo, 6/2017, https://archiviodpc.dirittopenaleuomo.org/upload/9718-delvecchio617.pdf. This procedure presents some caveats as well (art. 14 Law on the penitentiary system and art. 24 Regulation on the penitentiary system). Indeed, as the author underlines, it is not just the fulfilment of a bureaucratic requirement, but a precise choice that can greatly affect the prisoner's whole prison experience, also considering that this choice undergoes no review.

[72] B. Lucini (2020), *Extremist Avantgarde and Fake News in Time of Pandemic*, https://www.itstime.it/w/extremist-avantgarde-and-fake-news-in-time-of-pandemic1-by-barbara-lucini/. The misleading narratives about migrants as jihadists, or in current times, as being responsible for the spread of Covid–19 are emblematic, see https://www.amnesty.it/migranti-casi-dimportazione-e-covid-19-si-evitino-stigma-e-discriminazione/. The Italian Carta di Roma association was specifically created to debunk this fake news: https://www.cartadiroma.org/. Its name recalls the Ethics Protocol for Correct Information on Immigration Issues document (Charter of Rome), signed by the Consiglio nazionale dell'Ordine dei Giornalist (CNOG – National Council of Journalists) and the Federazione Nazionale della Stampa Italiana (FNSI – National Federation of the Italian Press) in June 2008, https://www.unhcr.org/it/risorse/carta-di-roma/.

[73] "Estrema destra ed estrema sinistra in tempi pandemici: alcune riflessioni", https://www.startinsight.eu/react2021-destra-sinistra-lucini-it/.

Annexes

Annex I: Overview of the legal framework on radicalisation & de-radicalisation

Legislation title (original and English) and number	Date	Type of law	Object/summary of legal issues related to radicalization	Link
Legge sull'ordinamento penitenziario (Law on the penitentiary system) 354/1975	26.07.1975	Statute	Penitentiary system	link
Regolamento sull'ordinamento penitenziario (Decree of the President of the Republic n. 230/2000, Regulation on the penitentiary system and privative measures of liberty) 230/2000	30.06.2000	Regulation	Penitentiary system	link
Disposizioni urgenti per contrastare il terrorismo internazionale (Urgent Provisions to Counter International Terrorism) 438/2001	15.12.2001	Statute	Counter-terrorism agenda	link
Disposizioni urgenti per contrastare il terrorismo internazionale (Urgent Provisions to Counter International Terrorism 155/2005	31.07.2005	Statute	Counter-terrorism agenda	link
Disposizioni urgenti per contrastare il terrorismo internazionale (Urgent Provisions to Counter International Terrorism 43/2015	21.04.2015	Statute	Counter-terrorism agenda	link
Norme per il contrasto al terrorismo (Counter-terrorism law) 153/2016	28.07.2016	Statute	Counter-terrorism agenda	link
Modifiche al titolo V della parte seconda della Costituzione (Amendments to the Title V of the Constitution 3/2001)	18.10.2001	Constitutional Law	Decentralization, State and sub-national levels	link

NATIONAL CASE LAW

Case number	Date	Name of the court	Object/summary of legal issues related to radicalization	Link
1146	1988	Constitutional Court	Fundamental Principles (1-12 Cost.) cannot be amended in any case, since they are the very core of the Italian Republic	link
24103	2017	Court of Cassation	Islamic State and Jihad. Proselytism	link
51654	2018	Court of Cassation	International Terrorist associations and local cells	link
50189	2017	Court of Cassation	Definition of criminal offence and participation in terrorist association	link
46308	2012	Court of Cassation	Jihadist Ideology and criminal offence	link
48001	2016	Court of Cassation	Indoctrination and criminal offence	link

OTHER RELEVANT ISSUES

	Constitutional provisions	Statutory law (statues, rules, regulations etc.)	Important case law	Comments/issues relevant to radicalization
Freedom of religion and belief	arts. 8, 19, 20 Cost.			
Minority rights	arts. 3, 6 Cost.	l. n. 482/1999, Law on the protection of *historical* linguistic minorities) l. n. 38/2001 Norme a tutela della minoranza linguistica slovena nella regione Friuli-Venezia Giulia (Law for the protection of the Slovenian linguistic minority in the Region Friuli-Venezia Giulia).		
Freedom of expression	arts. 21 Cost.	l. n. 645/1952 Introduction of the criminal offence of apology for fascism		
Freedom of assembly	art. 17 Cost.			
Freedom of association/political parties etc.	arts. 18,49, XII transitional and final provision Cost.		Constitutional Court sent. n. 203/1975	Political Participation

Hate speech/ crime	arts. 2, 3, 21 Cost.	d.lgs. n. 21/2018 Introduction of art. 604 bis "Propaganda and incitement to crime on the grounds of racial, ethnic and religious discrimination" and 604 ter of the Criminal Code as an aggravating circumstance l. n. 115/2016 Introduction of the aggravating circumstance of Holocaust, genocide, crimes against humanity and war crimes negationism		
Church and state relations	arts. 8, 19 Cost	Lateran Treaty l. 810/1929) Villa Madama Agreement 121/1985	Constitutional Court, sent 203/1988	Italian secularism
Surveillance laws	art. 117.2 let. d) and h)	New organization of the Public Security Administration l. 121/81.		
Right to privacy	arts. 14, 15 Cost.	d. lgs. n. 196/2003 Privacy Code, as amended by d. lgs 101/2018		

Annex II: List of Institutions dealing with radicalisation & de-radicalisation

Authority (English and original name)	**Tier of government** (national, regional, local)	**Type of organization**	**Area of competence in the field of radicalization& deradicalization**	**Link**
Ministry of Justice Ministero della Giustizia	National	Ministry	Department of Penitentiary Administration	link link
Ministry of Defense Ministero della Difesa	National	Ministry	Armed Forced ROS (Special operational group, Raggruppamento Operativo Speciale) Prevention, Investigations	link link link
Ministry of the Interior, Ministero dell'Interno	National	Ministry	Departiment of public security Prevention and counteractions Police, DIGOS (General Investigations and Special Operations Division, Divisione Investigazioni Generali e Operazioni Speciali) Dipartment of the civil liberties and immigration Integration strategies	link link link link
Ministry of Labour and Social Policies, Ministero del Lavoro e delle Politiche sociali	National	Ministry	Inclusion, National Plan of social policies	link
Ministry for Education, University and Research Ministero dell'Istruzione, dell'Università e della Ricerca	National	Ministry	Integration of foreign students, support for project in schools, support for programs	link
Bureau for the promotion of equal treatment and the removal of discrimination based on race or ethnic origin, Ufficio per la promozione della parità di trattamento e la rimozione delle discriminazioni fondate sulla razza o	National	Independent authority (Department of Equal Opportunities of the Presidency of the Council of Ministers)	Improving social inclusion, counter actions against discrimination	link

sull'origine etnica, UNAR				
Observatory for security against discriminatory action, Osservatorio per la sicurezza contro gli atti discriminatori, OSCAD	National	Ministry of the Interior		link
National Prisoners' Ombudsman, Garante nazionale dei diritti delle persone private della libertà personale	National	Independent body	Protection of prisoners' rights and dignity, guarantee of the detainees' phyco-physic well-being	link
Counter-terrorism Strategic Analysis Committee, Comitato di Analisi Strategica Antiterrorismo, C.A.S.A	National	Committee	Preventive, security, special investigation on financial activities, monitoring the propaganda on the web, coordination with international level	link
Information system for the Republic security Sistema di informazione per la sicurezza della Repubblica	National	Bodies and Authorities	Intelligence, prevention	link
Council for the relationships with Italian Islam	National	Council (Ministry of the Interior)	Inter-cultural and interreligious dialogue, integration, drafting of agreement and protocols	link
Italian Islamic Confederation, Confederazione Islamica Italiana, CII	National	Association, third sector	Intercultural and Interreligious dialogue, integration, advocacy, participation in projects and programs, counternarrative, arrangement of project	link
Union of the Islamic communities and organizations in Italy, Unione delle comunità e organizzazioni islamiche in Italia, UCOII	National	Association, third sector	Promotion of interreligious dialogue, counternarratives, Drafting of protocols and agreement at a local level	link
Antigone	National	Association, third sector	Advocacy and promotion of prisoners' rights and dignity	link
National Network against hatred, Rete nazionale contro l'odio	National	Association, third sector	Guidelines drafting, advocacy, counternarrative against hate speech, discrimination and polarizing fake news	https://www.retecontrolodio.org

Carta di Roma Association, Associazione Carta di Roma	National	Association, third sector	Counternarratives and debunking of fake news and misleading discourses against migrants, monitoring of national press, deontology and ethics in journalism and reporting	https://www.cartadiroma.org
Institute for International Political Studies, Istituto per gli Studi Internazionali, ISPI	National		Research and analysis, is a privileged interlocutor as one of the most important study centres in Italy	link
Centre of International Studies, Centro di Studi Internazionali, Ce.si	National		Research and reporting	link
Observatory on Radicalism and the Fight against Terrorism, Osservatorio sul radicalism e il contrasto al terrorismo, ReACT	National		Information and updates	link

Annex III: Best Practices/Interventions/Programmes

National level

	Institution(s)	Aim	Source	Evidence of effectiveness / literature
1.Juvenile Court of Trieste	Judiciary	Young foreign boy disengagement, through religious counternarrative and social activities in a multicultural environment	link link link	Extinction of the criminal offence, through the effectiveness of the individualized program, carried out with a multi-agency approach and taking into consideration specific biographical aspects that led to radicalization through Isis Telegam channels
2.Tribunal of Bari, decree n. 71/17	Judiciary	Italian man disengagement through an individual program, in addition to a special preventive measure as a socially dangerous person	link link link	Individual program carried out through a civil mentoring and a mediator, in order to strengthen Italian constitutional values and trust towards democracy, rather than relying on a religious counternarrative, chosen by institution, as a tool non-compliant with the secular Italian legal system
TRIVALENT, "Terrorism pRevention via rAdicalisation countER-NarraTive"	EU, the Ministry of the Interior, the Ministry of Justice, police offices of other member states, Turin Metropolitan City and Italian academics	Develop counterviolence measures at a cultural and communication level. Awareness-raising and training of public security agents, in order to provide them with guidelines for a common action	link	

Sub-national/Regional level

	Institution(s)	Aim	Source	Evidence of effectiveness / literature
1. Training and research activities to understand and prevent the phenomena and processes of violent radicalization, l. n. 24/2017	Lombardy Region	Promotion of initiatives for the prevention involving schools, universities, local police officers as well as associations dealing with integration programs of extremisms, including the 'religious' one, through legality and respect for differences, with the support of institutions and media	http://normelombardia.consiglio.regione.lombardia.it/NormeLombardia/Accessibile/main.aspx?exp_coll=lr002017110600024&view=showdoc&iddoc=lr002017110600024&selnode=lr002017110600024	
2. Convention between the Lombardy region and the regional education office for the implementation of the project "education to differences to fight all forms of violent extremism	Lombardy Region and regional education office	In-depth teaching staff training, also addressed to students and their parents, in order to help them in advancing their knowledge about phenomena of violent extremism in general	http://www.istruzione.lombardia.gov.it/protlo_15787_16_settembre_2016/ https://usr.istruzione.lombardia.gov.it/2018/6/?cat=422 https://usr.istruzione.lombardia.gov.it/wp-content/uploads/2019/05/m_pi.AOODRLO.REGISTRO-UFFICIALEU.0010066.24-05-2019-1.pdf	
3. Marche Region	Region	Development of a general knowledge on the topic and at the improvement of essential basic skills to arrange preventive activities and *ad hoc* interventions	https://www.usrmarche.it/moodle/pluginfile.php?file=%2F1517%2Fmod_resource%2Fcontent%2F1%2Fm_pi.AOODRMA.REGISTRO%20UFFICIALE%28U%29.0004572.08-03-2019.pdf	
YEIP, "Youth Empowerment and Innovation Project"	Liguria Region and the cooperative "Anziani E Non Solo" from Carpi (Emilia Romagna) with the partnership of the Ministry of Labour and Social Policies	Raise awareness among new generations about the consequences and risks of radicalization, through a full preventive approach	link	

Local level

	Institution(s)	Aim	Source	Evidence of effectiveness / literature
1.Turin preventive strategy, guidelines for the establishment of a multi-agency panel for the prevention of violent extremism	Turin Metropolitan City	Local strategy also in collaboration with the RAN network, in order to share useful information and skills for prevention purposes, to offer support in disengagement processes and to render civil society resilient to the phenomenon. The approach is that of safety, rather than security, through a collective and a multi-agency activity	http://www.comune.torino.it/cittagora/wp-content/uploads/2020/07/Linee-guida-istituzione-tavolo.pdf	
2. C4C, first program ever tested in Italy: "Counternarrative for counterterrorism"	Turin Metropolitan City	Carried out in schools, , it aims at training and informing students about all the facets of extremism and its manifestations, also dealing with sensitive, debated, contemporary issues	link	
3.PACTESUR	Turin Metropolitan City and Anci (National Association of Italian Municipalities), in collaboration with City of Nice and Liege	Addressed to local and other member state police officers, it was aimed at creating general guidelines for actions and to assess the best way in getting 'fair' communicative standards, which could lead the activities of all local and territorial authorities	link	
FAIR, "Fighting Against Inmates Radicalization"	"Nuovo Villaggio del Fanciullo" foundation based in the city of Ravenna (Emilia-Romagna) and the "InEuropa" association with the support of European partners	Train the prison staff, especially in gaining appropriate tools and methodology to support the most vulnerable or marginalized inmates within the prison community, learning to cope with vulnerabilities exposed to the attraction of an extremist message	link	

Annex IV: Policy recommendations

- Three essential soft skills are needed: community policies – detecting sources of grievance or specific at-risk cases – a multi-agency approach – accredited experts from different professional areas – and community intelligence – a preventive strategy that has proven to be effective.
- A *holistic* approach, which takes into account every single aspect of extremism, should be implemented in combination with a *mixed* legal approach which has uniform premises and guidelines for action but is flexible and can be adapted according to the cases and circumstances; however, it must not result in a fragmentation of responses.
- Soft programmes able to support intelligence and anti-terrorism networks should be envisaged, since a hard approach does not suit the Italian case. To this end, the experts highly recommend setting up special centres and facilities.
- It is highly recommended to create legal grounds for the action: that is, so that all the actors involved can work freely and professionally in activities that deal with community "safety", while determining responsibilities and solving the problem of "accountability".
- A coordinated institutional network should be created between all the actors who already deal with the issue in informal ways. The current Italian situation still allows a case-by-case approach, but experts recommend creating an official institutional network, so that solutions do not have to be found from scratch each and every time. This prevents the circulation of good practices, since most cases are confidential due to fact that they typically pertain to criminal investigations and procedures or are related to sensitive cases. The current projects are mostly developed thanks to European support and funding, and enable monitoring activities to be carried out. Nevertheless, research centres and stakeholders sporadically meet to discuss and share ideas.
- Training courses should be arranged to develop specific expertise and professional roles with a multidisciplinary background: they should be permanently on offer in prefectures at the local level, in order to respond to the critical issues in each territory, and provide the first level of coordination between the local and the regional, and, then, the national tier of government.
- The CCR and CRAD network set out in the Dambruoso-Manciulli bill establishes a "rational, replicable, and logical action" compliant with an effective counteraction against any kind of extremism.
- The penitentiary environment needs specific interventions, both in terms of staff training and criteria concerning allocation choices. The so-called preliminary "triage" deserves greater attention. The advice is not to draft static and inflexible principles and guidelines – mostly based on stereotypical parameters such as a person's appearance: clothes, a long beard, lukewarm or conservative beliefs – but to ensure fair allocation procedures, with an individualised rationale.

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DeRadicalisation
in Europe and Beyond: Detect, Resolve, Reintegrate

De-radicalization and Integration Legal & Policy Framework

Jordan/Country Report

WP4

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D.Rad Research Teams

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About the Project

D.Rad is a comparative study of radicalization and polarization in Europe and beyond. It aims to identify the actors, networks, and wider social contexts driving radicalization, particularly among young people in urban and peri-urban areas. D.Rad conceptualizes this through the I-GAP spectrum (injustice-grievance-alienation-polarization) with the goal of moving towards measurable evaluations of de-radicalization programmes. Our intention is to identify the building blocks of radicalization, which include a sense of being victimized; a sense of being thwarted or lacking agency in established legal and political structures; and coming under the influence of “us vs them” identity formulations.

D.Rad benefits from an exceptional breadth of backgrounds. The project spans national contexts including the UK, France, Italy, Germany, Poland, Hungary, Finland, Slovenia, Bosnia, Serbia, Kosovo, Israel, Iraq, Jordan, Turkey, Georgia, Austria, and several minority nationalisms. It bridges academic disciplines ranging from political science and cultural studies to social psychology and artificial intelligence. Dissemination methods include D.Rad labs, D.Rad hubs, policy papers, academic workshops, visual outputs and digital galleries. As such, D.Rad establishes a rigorous foundation to test practical interventions geared to prevention, inclusion and de-radicalization.

With the possibility of capturing the trajectories of seventeen nations and several minority nations, the project will provide a unique evidence base for the comparative analysis of law and policy as nation states adapt to new security challenges. The process of mapping these varieties and their link to national contexts will be crucial in uncovering strengths and weaknesses in existing interventions. Furthermore, D.Rad accounts for the problem that processes of radicalization often occur in circumstances that escape the control and scrutiny of traditional national frameworks of justice. The participation of AI professionals in modelling, analyzing and devising solutions to online radicalization will be central to the project’s aims.

Executive Summary

Although Jordan suffered from violent attacks since the 1970s, radicalization as a major issue emerged in 2001 after the 9/11 attacks and Amman Hotels attacks in 2005. At the same time, Jordanians have suffered for long decades from the lack of economic prosperity, unemployment, unequal opportunities, widespread corruption, nepotism, lack of respect for the rule of law and the failure of the government to prevent such injustices. This has fostered insecurity among Jordanians, especially the youth, creating a dangerous and vulnerable social and political environment.

The latter raised the government and the public opinion's awareness of the danger of radical movements in the country and led to the adoption of several legal measures to tackle radicalisation and terrorism.

However, it has become clear that an exclusively legal approach is not sufficient and since 2005 civil society has been urged to take part in countering extremism. Awareness programs, workshops, and trainings have been organised, but they do not seem to help much, especially because they often lack a strategic vision.

1. Introduction

This report attempts to present a conceptual account on how existing policies and laws address radicalisation, to pinpoint their most critical aspects and best practices, and finally to develop evidence-based policy and legal guidelines in Jordan. It also aims to give an overview of how these legislatives and policy frameworks are connected with the socio-economic, political and cultural context of the country, depict the constitutional organization and principles of the state along with the relevant legislative, policy and institutional framework in the field of radicalization. Through this overview, the report covers the most relevant legislative and policy practices addressing the issue of radicalization and de-radicalization. Finally, the report presents two in-depth case studies that best outline deradicalization measures conducted under the supervision of the state's military and police institutions in order to assert internal peace in Jordan. The methodology followed in this report is based on desk research that highlights the legal and policy framework. Furthermore, to enhance the information concerning the legal and policy practices, the researchers have conducted five interviews with relevant stakeholders involved in law-making and in policy-making. The reserachers interviewed a lawyer who has been working as a defense attorney for some cases related to extremist thoughts, a retired judge who has worked at the state security court, a legal activist in an NGO specializing in Human rights, two specialist researchers in the field of extremism and terrorism, and finally a police officer working in correction and rehabilitation centers. Through this report, it was of importance to highlight some paradoxes that roam around the phenomenon of terrorism and extremism. For example, the majority of individuals with extremist views do not turn to the act of terrorism. Thus, after analyzing the legal framework of radicalization and de-radicalization as well as the institutional policy framework relevant to these issues, the report suggests to call for differantiating between extremism of opinion and extremism of action in the legal context. This suggestion comes after realizing that "Opinion" was considered a synonym for terrorism or an inevitable precursor to its occurrence, and therefore those with extremist ideas were treated as potential terrorists.

After the introduction, the report's methodology goes as follows: the second section covers the development of radicalization through highlighting the socio-economic, political and cultural context in Jordan. The third section introduces the constitutional organisation and the constitutional principles of the state. It depicts the constitutional entrenchment of religious, political and national values/principles/rights related to D.Rad policy-fields. The fourth section depicts the legislative framework on the field of radicalization and de-radicalization, the national framework legislation on religious freedom and on freedom of speech or expression. The fifth section covers the policy and institutional framework on the field of radicalization and de-radicalization. Section six prsents two case-studies – community peace center and Dialogue program for inmates of extremist (takfiri) thought in reform and rehabilitation centers— and is followed by the conclusion.

2. The Socio-Economic, Political and Cultural Context

This section of the report aims at contextualizing the phenomenon of radicalization in Jordan from 2001-2021 politically and socially through tracing the connection between radicalization and injustice, grievance, alienation and polarization. In 1946, Jordan was officially declared an independent country known as the Hashemite Kingdom of Jordan. From that time until now, Jordan is a constitutional, hereditary monarchy with a parliamentary form of government. The king remains the country's ultimate authority and wields power over the executive, legislative, and judicial branches. Jordan's central government is headed by a prime minister appointed by the king, who also chooses the cabinet. According to the constitution, the appointment of both prime ministre and cabinet are subject to parliamentary approval. There are two houses in the Jordanian government; The House of Senates (Majlis Al-Ayyan) which is regarded as the upper chamber, and the House of Representative (Majlis Al-Nuwab), elected by the people, as the lower chamber. The Senates are appointed by the king for four years term, the House of Representatives is elected by the nation every four years. A small number of seats in the House of Representatives are reserved for Christians and Circassians. Jordan is divided into 12 administrative governorates which in turn are divided into districts and subdistricts, each of which is headed by an official appointed by the minister of the interior. Cities and towns each have mayors and partially elected councils.

Jordan has a population of around 11 million inhabitants as of 2021. 98% of Jordanians are Arabs while 2% are of other ethnic minorities like Druze, Armenians, Circassians and Chechens. Around 3 million are non-citizens including refugees and legal and illegal immigrants from Palestine, Syria, Iraq and other countries. Islam is the official religion of Jordan and Arabic is its official language.

Jordanians have suffered for long decades from the lack of economic prosperity which affects on the macroeconomy (UNDP 2015, 8), unemployment, unequal opportunities, and frustration with governance (Higher population Council, 2018). This is actually caused by the widespread of corruption, nepotism, lack of respect for the law and the failure of the government to prevent such injustice. This has bred insecurity for Jordanians, especially for the youth, creating a dangerous and vulnerable environment (Abu Rumman 2018). When asked to elaborate on the issue of governance in general in the Arab world, Jordanian researcher Hasan Abu Hanya states, "When I go to Europe or when I first begin my speeches, the question I am often asked by the people in the West is, 'Why do people become extremists?' But in the Arab world, the question should be, 'Why *don't* they become extremists? In the Arab world, there are political motivations. The economic situation is worse than in the Western world. There is no security. We have the Palestinian issue, sectarianism, oppression, corruption and abuses of power. I love when people ask why? Why this person who is oppressed, marginalized, suffers from poverty, and social injustice - why is he not an extremist?"[1]

[1] Hasan Abu Hanya, Jordanian Counter-Terrorism Researcher/Author, Interviewed by Anne Speckhard, Amman, Jordan (November 10, 2016).

In other words, the feelings of injustice, grievance, alienation and polarization among Jordanian Youth have been invisted to recruit followers to join radical movements.

Radicalization and terrorist movements operating in Jordan, involving Jordanians who play prominent ideological and leadership positions in Al-Qaida, Al-Nusra and ISIS, have a decades-long history.[2] One aspect of radicalization in Jordan that should not be overlooked is the widespread of the support for Palestinian resistance against Israeli occupation. The resistance adopted a violent form including the use of suicidal attacks in Israel targeting civilians. In the minds of Jordanians this is considered a legitimate resistance of an occupation not a terrorist act. This has paved the way for the acceptance of the brutality of groups like Al-Qaeda and ISIS.

Overall, the regional instabilities and the repeated influx of migrants and refugees from turbulent countries like Iraq and Syria, the long occupation of Palestine by Israel, the lack of socio-economic development in the country and the lack of confidence in the government's effort to achieve it, along with the Salafi influence in Jordan have all combined to foster a fertile environment for radicalization and extremism. Since the U.S. led occupation of Iraq in 2003, political and religious radical resistance emerged. This resistance, however, turned into lethal organizations, setting up their terrorist's centres in Iraq and later in Syria following the eruption of the Syrian civil war in 2011, culminating in the creation of ISIS.

Although Jordan was a target of multiple violent attacks since the 1970s,[3] radicalization as a phenomenon in Jordan was highlighted in 2001after the 9/11 attacks and Amman attacks in 2005. Prior to those particular dates, it was the responsibility of the state represented by its official institutions to combat radicalization. After 2005, however, the civil society was urged to take part in countering radicalization. In 2005, the series of attacks targeting different Hotels in Amman marked a turning point in the history of radicalization in Jordan and raised the awareness of the government and the public of the danger of radical movements in the country. Between 2005 and 2015 no major terrorist events took place. 2015 to 2016 registered the highest level of attacks because ISIS has become a major threatening power in the region recruiting many individuals and resulted in developing sleeping cells (the Karak Cell, Irbid Cell and Salt Cell). Most of the radical events are taking place in the main cities on the urban part of the country mainly the capital Amman, Irbid, Mafraq, Karak, Balqa, Madaba and Jerash. The terrorist attacks occurring inside Jordan aimed at police Intelligence and American military working with Jordanians. Despite the fact that Jordan is a country with relatively political stability and one of the trusting U.S and coalition partners against ISIS and the Islamic State, it remains an active contributor of foreign fighters to the conflict in neighbouring Syria and Iraq. Jordan is ranked among the top ten providers of foreign fighters in the world calculated on per capita basis, especially

[2] The D. Rad 3. 2 Country Report provided a list of the radicalized Jordanian figures who have held leading positions in different terrorist organization from Al-Qaida to ISIS. Also, refer to Haqqi info, available at: http://haqqi.info/en/haqqi/research/jihad-jordan-drivers-radicalization-violent-extremism-jordan

[3] The D. Rad 3. 1 Country Report lists the major terrorst attacks since 1970s until now. Yet, to mention recent attacks: the assassination of the American Diplomat, Lawrence Foley, in 2002; Amman Hotels' attacks in 2005; a suicide bomb at a military unit serving a refugee camp in 2016; Fuheis festival explosion of a police vehicle in 2018, to mention a few.

per million of its citizens (Speckhard 2017). The Jordanian government does not disclose regular and detailed information about the involvements of its citizens as foreign fighters in Syrian and Iraqi conflict; therefore, one must rely on independent sources and expert statements and testimonies to calculate the numbers of Jordanians going to Syria and Iraq. Retired Jordanian intelligence (GID) and Policy experts estimate that between 2011 and 2015 upwards of 3000 to 3950 individuals have travelled to the conflict zone. It is estimated that from 250-1.500 have been killed. Regardless whether those fighters will stay or return, they will continue to pose a threat to Jordan's national security.[4] Unfortunately, current developments in the course of Covid-19 pendermic have deepened the historical roots of radicalization (injustice, grievance, alienation and polarization). However, it is too early to make assumptions about the connection between radicalization in the context of Covid-19.

3. The Constitutional Organization of the State and Constitutional Principles in the Field of (de-) radicalization

Constitutional life is not new to Jordan. Rather, it almost accompanied the establishment of the Jordanian state at that time when Jordan was gained a de facto recognition as the Emirate of Transjordan (Emirate of East Jordan) on April 11, 1921 which was also a British protectorate until May 25, 1946. The Hashemite Emir Abdullah Bin Hussein Bin Ali was placed as the Emir of Transjordan and established the first government in the history of the Emirate on April 11, 1921 assigning Rashi Talei as Prime Minister. This government continued to function until June 23, 1921. Transjordan was recognized by the British as an independent government on May 21, 1923 and this recognition paved the way for drafting a basic law as a constitution which was completed in 1924. However, issuing the constitution was not implemented until 1928 due to the prevailing conditions in the region, the British Mandate, the French/English dispute over the region, to mention a few. On the other hand, it is worth noting that the basic law, the constitution, was, at that time, not responsive and ineffective to accommodate the longings and aspirations of the citizens to establish a democratic independent state due to the circumstances the region has been going through[5]. These circumstances continued until 1946 when the state has gained its dependence and became the Hashemite Kingdom of Jordan. The basic law, the constitution, did not come into existence until 1947. Although the constitution achieved advanced developmental steps, it did not contain all elements of the envisioned democratic state and failed to satisfy the citizens' longings and needs to establish a democratic structure.

The Israeli occupation of Palestine in 1948 has led to declaring the unity between the East (Jordan) and the West (Palestine) banks on April 24, 1950. This declaration took place at the Jericho Conference which resulted in the formation of the first parliament. The said Council, which represented the two banks equally, approved the unity of the two banks on the condition that the Palestinian identity must be preserved. Also, in

[4] Anonymous, Retired Intelligence (GID) Officer, Interviewed by Anne Speckhard, Amman, Jordan (November 10, 2016). Note that according to some sources, the Jordanian government estimates are that as of 2015, 500 of the foreign fighters have been killed while 500 have returned. See Suha Ma'ayeh, "Islamic State Lured a Son of Jordan's Elite," *The Wall Street Journal,* December 1, 2015; URL: http://www.wsj.com/articles/islamic-state-lured-a-son-of-jordans-elite-1449015451.

[5] https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/49373/95326/F1397197777/JOR49373.pdf

implementation of the foregoing, the Jordanian government formed a committee to draft a constitution. It had a contractual or semi-contractual nature with the approval of representatives representing the people on both sides (Jordanians and Palestinians). Thus, the constitution was issued in 1952 during the reign of King Talal after the assassination of the late King Abdullah, and thus the kingdom entered a new stage of its political development. The Jordanian Constitution, then, has become one of the best Arab constitutions in the modern era and a pioneering step in developing political action. It was published and issued on January18, 1952 presenting its clear ground rules on governance and orientation towards democracy:

First:

- The regime is parliamentary, monarchic and hereditary, noting that parliamentary is before monarchy in this significance text in order to ensure the unity between the people and their leadership.

Second:

- The nation is the source of authority.
- The nation practice its powers in the manner prescribed in the constitution

Articles 25-26-27[6] also clarified the texts calling for the separation of the three legislative, executive and judicial powers while maintaining a flexible balance that guarantees cooperation among them without overpowering one another[7]. In other words, a summary of 1952 Constitution goes as this:

The Constitution of 1952 created a constitutional monarchy with a monarch, prime minister, council of ministers, bicameral legislature, judiciary, and high tribunal. Under this constitution, Islam became the national religion, and Arabic the national language. However, it also recognizes religious and ethnic pluralism by banning discrimination based on race, language, or religion. While it recognized many personal freedoms such as the freedom of worship, expression, assembly, and the press, these freedoms were subject to possible limitation by law.[8]

Thus, the issuance of this constitution crowned a long and important stage in the life of the Jordanian people. In 1957, an alleged Jordanian military coup attempt has resulted in forcing the Arabist government of Suleiman Nabulsi to resign due to political clashes between the government and the royalist/palace supporters? King Hussein, back then, imposed martial law and some measures were taken like military curfews and severe press censorship which significantly curtailed the constitutional democracy of the state. In April 1989, protests and riots in the southern part of Jordan were ignited due to governmental practices such as increasing prices and cutting food subsidies. Some of the demonstrators' demands were that the martial law must be lifted, the parliamentary elections which had been paused since 1967 should be resumed, and restrictions on freedom of press and expression must be removed. King Hussein

[6] For further information on the articles of 1952 Constitution, please refer to https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/49373/95326/F1397197777/JOR49373.pdf.
[7] http://www.cco.gov.jo/en-us/About-Us/Constitutional-Overview.
[8] https://constitutionnet.org/country/constitutional-history-jordan.

responded to these demands and the National Charter was drafted in 1990[9] "where a spectrum of Jordanian elites agreed on a program of liberalizing political institutional reforms" (Lucas p.25). It is worth noting that the assigned committee for drafting the national charter included sixty members covering the wide political opinion in Jordan[10]; yet, it was believed that the majority of the selected committee were supporters of the system (Lucas p.33). The National Charter began with a historical background and then contained 8 chapters. The second chapter stated the recommendations of the committee to bolster the democratic structure of the Jordanian state and society. Chapter two ensures "establishing, through a special law, an autonomous body to update and develop legislation based on studies and research conducted for that purpose. This body shall report to parliament and the Council of Ministers" (National Charter). It also recommended "establishing a Constitutional Court with the following jurisdiction:

a. Interpreting the provisions of the Jordanian Constitution in matters referred to it by the Council of Ministers.
b. Deciding on matters referred to it by the courts with regard to constitutional issues arising from cases entertained before these courts.

c. Deciding on disputes and challenges pertaining to the constitutionality of laws and decrees which are brought before it by interested parties" (National Charter). However, the Constitutional court was not founded until 2011 following the constitutional amendments happening in that year. These amendments were so extensive that they included more than a third of the provisions of the Constitution and contained, in their entirety, important amendments with regard to the texts of the authorities' management and method of work, as well as in the parts related to basic human rights and the human rights system in its international concept. The Constitutional Court has broad powers and enjoys complete independence. It is responsible for interpreting the constitution and controlling the legality of political performance, which brought about a new and important development in the Jordanian political life and the trend towards consolidating the democratic process. The Constitutional Court includes a president and nine members according to a royal decree issued on October 6, 2012. Judge Taghreed Hikmat, member of the Constitutional court, stated that "The two constitutional provisions and the law affirm that the court is a judicial body, and the rules pertaining to judges are applied to the members of this court, such as non-dismissal, disciplinary guarantees, among others. In the outcome, Jordanians saw the creation of a court that is independent and self-standing, meaning that it is not considered part of the judicial authority."[11] The interpretation of the text of the Constitution was entrusted for the first time in the history of the Jordanian state to the Constitutional Court "after it was assumed by the Special Bureau[12] in the early years of the Jordanian state (the emirate) and the Kingdom under the Basic Law of Transjordan in 1928" (Hikmat)[13]. Since its establishment, Jordan has not been characterized as a religious state

[9] For more information about the Jordanian National Charter, please see http://www.kinghussein.gov.jo/charter-national.html.
[10] According to Russell E. Lucas (p.34), the committee included: 16 conservatives, 15 Liberals, 8 Independents, 8 Islamists, 8 Arab Nationalists, and 5 Leftists.
[11] https://www.jordannews.jo/Section-36/Opinion/The-state-s-centenary-and-constitutional-life-in-Jordan-2686.
[12] It refers to the Royal Court that was founded when Jordan was an emirate.
[13] https://www.jordannews.jo/Section-36/Opinion/The-state-s-centenary-and-constitutional-life-in-Jordan-2686

but a civil state although not in the Western sense. Jordan managed to keep balance between civil and religious regulations. According to Hani Shboul (2018), Jordan "has not established on a religious basis, nor has its legitimacy been based on a 'religious ideology'. However, in contrast, it was not established on the basis of radical secularism, which entangles a confrontational spirit with conservative and religious trends in the society." However, this did not prevent the regime to follow a conservative system due to the lineage of the royal family to Prophet Mohammad and the Hashemite tribe and the permanence of the historical legacy that it bears which confirms its symbolic legitimacy. Jordan was not established on religious foundations, and its legitimacy was not based on a revolutionary or sectarian "religious ideology," or even on the claim to establish an Islamic state, as the Islamic movements in the country want. Rather, it was clear from the beginning that its founder, Prince Abdullah I, was keen to clarify its civil and political nature as he dedicated in the independence declaration ceremony (May 15, 1923)[14] by saying, "I announce on this occasion that the basic law for the region will be prepared and the electoral law will be amended to suit the spirit, class and environment of the country"[15] (Abu Ruman and Abu Hanieh 23). Thus, Jordan could be characterized as a conservative secular state manifested in various fields, constitutionally, politically, religiously, culturally, and even socially. According to Abu Ruman and Abu Hanieyeh, "in the Constitution, there are no gray areas, as Article 2 of the Constitution clearly states that "Islam is the religion of the state and the Arabic language is its official language." This clearly expresses the balances absorbed by the "conservative secular" pattern in Jordan as the article avoided any specific expressions that could give a religious character to the political system. The Jordanian case is totally different from the case in Iran in which its constitution states the Twelver Shiism doctrine[16] or Saudi Arabia[17] and Israel which did not establish constitutions at all, but rely on the divine books" (Abu Ruman and Abu Hanieh 23). In other words, Jordan has not founded its constitution on the Islamic Sharia law[18]. Furthermore, Abu Ruman and Abu Hanieh illustrated that "the balance appears in the articles of the Jordanian constitution when it comes to explaining the second article. For example, Article (6-1) states that "Jordanians are equal before the law and there is no discrimination between them in rights and duties, even if they differ in race, language or religion." This indicates that what defines the relationship between the individual and the state is citizenship. Another constitutional balance appears in Article 14 which states that "the state protects the freedom to practice the rites of religions and beliefs in accordance with the customs observed in the Kingdom, unless they are contrary to public order or contrary to morals" (Abu Ruman and Abu Hanieh 24). Some areas in the articles of the constitution might appear as making the religious character prevail against the civil political system. Article (105) grants only Sharia (Islamic) courts the right to judge in matters related to Muslims' personal status and matters related to the

[14] The King Declared: "I announce on this occasion that the basic law for the region will be prepared and the electoral law will be amended to suit the spirit, class and environment of the country"[14] (Abu Ruman and Abu Hanieh 23).

[15] https://library.fes.de/pdf-files/bueros/amman/09373.pdf.

[16] The Iranian constitution declares that Islam is the official religion while its legal system follows the Ja'afari (Twelver), also called Shia Islam.

[17] Saudia Arabia's legal system is derived from the Quran and the Sunna, i.e, Islamic Sharia law.

[18] Sharia Law follows the doctrines found in Quran and sunnah while Shia Islam or the Ja'afari (Twelver) refers to its adherents' belief in twelve divinely ordained leaders, known as the Twelve Imams who are believed to be the spiritual and political successors to the Islamic prophet Muhammad.

personal status of Muslims like Blood money[19] and Islamic endowments while Article (106) stipulates that Sharia courts apply the provisions of the Shari'a (Islamic law) in their judgments. On the other hand, Article 109 of the Constitution states that "the councils of religious sects are formed in accordance with the provisions of the laws that are issued for them, and in these laws the powers of the aforementioned councils regarding issues of personal status and endowments established for the benefit of the relevant sect are determined. As for the personal status issues of this sect, they are the personal status issues of Muslims within the jurisdiction of the Shari'a courts." We can inspect that the provisions of the constitution seem clear by emphasizing the civil nature of the political system, the principle of citizenship in terms of rights and duties, the distinction between religious, civil and political affairs, and the respect for different religions, whether in terms of freedom of worship or any related affairs. On the other hand, the political system is characterized as being strategically conservative. This appeared since the foundation of Jordan as an Emirate when the Emir, Abdullah I, was keen on the separation and clear distinction between the political and religious aspect. In 1923, he formed a council called "the Shura Council" headed by the Chief Justice (Abu Ruman and Abu Hanieh 24). One of the council's tasks was to formulate and interpret laws and regulations but it was abolished in 1927 and the National Conference and subsequent parliaments were formed, which established the secular nature of the system of the government. All of that did not prevent the emergence of the conservative nature of the state that is not hostile to religion or Islam. On the contrary, Abdullah I insisted to show a great deal of respect for Islamic rituals and feelings, to attract many Islamic scholars, and to include them in his council. As for the judiciary, the Jordanian model is based on the separation between the civil and the religious. In its early juridical steps, the state continued to implement the Ottoman laws, especially the Ottoman family law, but some Western-influenced laws appeared to gradually replace the Ottoman laws, and the state's laws later took a civil character, whether through what was issued by parliaments or done by governments in their absence. Yet, there appeared some contradictions and differences in the contents of some of these laws with the Islamic legislation, but with avoiding the existence of a direct collision between state policies and Islamic law. These laws have also been careful as much as possible to limit the space of differences between them and the Islamic laws in a way that does not affect the balance between the civil nature of the state and the respect for the Islamic religion. In this sense, the religious and civil affairs were completely separated through the judiciary by dividing the courts into Sharia (Islamic) courts and Regular courts. The Sharia courts are subject to the personal status law, as stated in Article (50) of the Transjordan Basic Law proclaimed on April16,1928: "Shari'a courts alone have the right to Judicial in personal matters for Muslims in accordance with the provisions of the Sharia Procedures Decision dated 25/10/1333 AH."[20] This is an Ottoman law issued in 1914 amended by any law, regulations, or any temporary law, and it alone has the right to judge in various articles by establishing any endowment or interest for Muslims before a court Legality and in the internal management of any endowment. Despite the obvious interest of the Emir Abdullah I in religious matters, most of that was in relation to public behavior, customs and

[19] According to Islamic law, anyone causing the death or injury of another person accidentally or intentionally is required to pay a form of financial compensation called "blood money" to the victim's family. The blood money was an additional punishment to a three-month jail sentence.

[20] AH stands for After Hijrah which is the Islamic calendar.

traditions. According to Abu Ruman and Abu Hanieh, Abdullah I, in his directive to one of the prime ministers, emphasized that senior officials should abide by the obligatory prayers, regularly perform the Friday and Eid prayers, none of them should violate the fasting of Ramadan, and that the people of villages, mayors and heads of clans work with this duty in their villages and among their clans. He also stated that they abstain from intoxicants and gambling, and that the government should consider reducing the import of alcohol after its consumption became horribly widespread in the country (26). He also sent a directive to Prime Minister Tawfiq Abu Al-Huda regarding the dress code of women in public life and of female students in schools which reflects the Islamic dress code for women. However, all these directives were devoid of deterrent penalties and remained only advice, and no official law was issued in the Official newspapers. This indicates that King Abdullah I's interest in religious matters was a personal one and citizens were not forced to abide by what he personally believed. On the other hand, during King Hussein bin Talal's reign, the state has clearly sided politically with conservative currents in the face of extremist secular currents, and concluded a kind of political deal with the Muslim Brotherhood[21] to emphasize the state's legitimacy in the face of discourse that questions it and accuses it of subordination for the west (Abu Ruman and Abu Hanieh 26). The intense conflict between the state and the secular-left currents, since the beginning of the fifties until the seventies, pushed the regime to open the doors for religious discourse in the face of the nationalist and leftist tide and to have a huge impact on social, religious and cultural aspects. Yet, with this clear respect for religious rituals and feelings at that time, the state's policy has maintained a clear distance from the ideologies of Islamic groups or from engaging in policies that are subject to religious considerations in determining political interests. For example, despite the opposition of religious movements in general, especially Islamic movements, to the Jordanian-Israeli peace treaty, the regime insisted on proceeding with the signing of this treaty. The regime avoided the issuance or existence of any fatwa[22] from within the religious establishment that opposes the signing of this treaty from the Jordan side. The regime managed to distance the official position from entering into a doctrinal and religious debate about the legitimacy of the treaty. As we can tell from what have been discussed earlier, the state institutions were religiously neutral and did not seek to impose Islamic manifestations on the society. At the same time, it did not clearly promote Westernization, and none of the political crises and internal and regional conflicts were reflected in this consistent policy of the state over the past decades. The "religious neutrality" of the state was also reflected in managing the religious policies in general. The state did not seek to preach or encourage a particular doctrine, nor did it adopt a position directly, neither politically nor culturally, between internal Islamic trends, which at certain stages reached severe conflicts and clashes. It is worth noting that these clashes appeared between the traditional Sufi trend[23], which was prevalent in social circles, and the Salafi trend, which began to increase its presence since the beginning of the eighties of the last century. In the mid-nineties, Prince Hassan opened up to global Shiite trends especially after

[21] Musim Brotherhood is religiopolitical organization founded in 1928 at Egypt, by Hassan al-Banna. It was brought from Egypt to Jordan by Abd Al-Latif Abu-Qura[21] and was allowed to operate by the Jordanian Monarchy in 1948 although other political parties were banned from operating in the country from 1957-1992.

[22] Fatwa, in Islam, is a formal ruling or interpretation on a point of Islamic law given by a qualified legal scholar (Britannica) Available at: https://www.britannica.com/topic/fatwa.

[23] Sufism, or tasawwuf in the Arabic-speaking world, is an Islamic mystic form that emphasizes introspection and spiritual connectedness with God.

the Al al-Bayt University was established in the context of presenting Jordan as a model of moderation, dialogue and openness to other religious sects. The official refusal to recognize the Shiite presence in Jordan remained clear, despite the claim of some Jordanian Shiites that there are thousands of original Jordanian families embracing the Shiite sect for decades, especially in the northern cities. As a result, due to the public opposition to "Jordanian Shiites," the Intelligence Department established a unit to combat the spread of Shiism. According to (Abu Ruman) this Shiite situation extended to reach the rejection of the idea of religious proselytization among the various religions and sects in Jordan in order not to affect civil peace. According to this policy, the state also prevents Muslims to proselytize among Christians and the same applies to Christians among Muslims, a policy that reflects the conservative nature of the Jordanian model.

Perhaps the common denominator among the countries affected by the Arab Spring in the pre-revolutionary period is the practice of their authoritarian governments in a highly centralized governance; this resulted in the deprivation of citizens from the participatory exercise and citizenship rights, and the concentration of power and resources in the hands of an undemocratic central authority, which in turn led to unequal development. In countries witnessing conflict, where the legitimacy and authority of the state is threatened, local authorities often seek to fill the vacuum in the areas of security and service provision. But the question is: To what extent can reforms in the field of local governance and decentralization, in countries surrounded by external conflicts such as Jordan, promote good participatory governance, if the central authority still retains its authoritarian nature and refuses to transfer power in a real way?

The legal framework for decentralization in Jordan was approved in 2015 through two laws - the decentralization law that regulates elections and the powers of newly established provincial governments, and the municipality laws that organize municipal councils in the capital and other cities and towns. Decentralization is defined as transfering “of responsibility to democratically independent lower levels of government, thereby giving them more managerial discretion, but not necessarily more financial independence” (OECD). Decntralization includes political decentralization[24], fiscal decentralization[25], and administrative decentralization[26].

Before 2015, the government used to appoint municipal councils and mayors. Officials have promoted the new federal structure as a way for Jordanians to have a greater say in how they govern by allowing local elected officials to play a role in making decisions about how capital investment money is spent on development. This would allow Jordan to transition “from a highly centralized to a progressively deconcentrated system with more powers vested at the Governorate and Municipal level” (OECD)[27]. In 2017, the Inter-Ministerial Committee on Decentralization and the Executive Committee was assigned by the government in order to guide the decentralization reforms and to prepare for local elections in Jordan. This committee includes six ministries

[24] political power is moved either to regional or local bodies that are elected, or to administrative actors who are appointed and supervised by elected bodies (OECD)
[25] It is directly linked to budgetary practices (OECD).
[26] Transfering the position of the decision-making authority and responsibility for the delivery of select public services from the central government to other levels of government or agencies (OECD).
[27] https://www.oecd-ilibrary.org/sites/b4ce5ba1-en/index.html?itemId=/content/component/b4ce5ba1-en

under the leadership of the ministry of interior and focuses on reforming seven domains: legislation, institutional capacity, awareness raising, institutional and organizational structures, evidence and procedures, financing, local development and services and information technology (OECD).

In principle, the decentralization law appears to give local officials a broad role. Article 3 of the amended law on Municipalities (2015)[28] provides for the formation of an "Executive Council" in each governorate, headed by the Mayor, with the latter being responsible for overseeing the implementation of "general policy in the state", dealing with emergency situations, and protecting public property (Sowell).[29] The Mayor is also authorized to "approve deployment of local security forces" although he does not have direct security control (Sowell). The Executive Council has additional powers, the most important of which is preparing the governorate budget and proposals for capital investment. The law also provides for the formation of new provincial councils, with 15 percent of their members to be appointed by the government and the rest to be elected, and they have legislative and supervisory powers that allow for the imposition of controls on the executive councils (Sowell). However, "the delegation of local authority is narrowly drawn, and three elements of the legislation indicate that the role of these councils will be weaker than what government representatives claim (Sowell).[30]

Beside the limitations imposed by formal legal provisions, two additional factors may contribute to explaining the lack of popular enthusiasm for "decentralized elections." First, the powers of local authorities are based on the delegation of parliamentary powers although these powers are already quite limited. The Parliament does not have the power to initiate legislations, as this power is under the hands of the cabinet, and any amendments made by the Parliament can be overturned by the Senate, which is entirely appointed by the Jordanian monarch. For example, the 2017 budget was approved and turned into a law in the same form that the government presented to the Parliament and without any amendment to it. Accordingly, the 'powers' given to local officials may make them act as local advisory councils and nothing more (Sowell).

[28]Hashemite Kingdom of Jordan Amended Law on Municipalities 2015 Law No. 41 of 2015. Available at: https://www.iec.jo/sites/default/files/2020-09/2015%20Municipalities%20Law%20EN%202017-07-09%20%281%29.pdf.

[29] https://carnegieendowment.org/sada/72905.

[30] Kirk H. Sowell states that "while these councils can draft proposals for capital spending, control of both security and civilian ministries (such as education and health) remain in Amman. The budgets and proposals are further required to be "within the parameters set by the Ministry of Finance's Budget Division." Also, not only is a portion of the council appointed, but the executive council is entirely appointed—the governor, deputy governor, district officials, heads of each ministry's local executive offices, plus three municipal executive directors appointed by the Ministry of Municipal Affairs. The law also does not give councils authority to raise revenue, such as through taxation or fees, making them dependent on the central government."

4.The Relevant Legislative Framework in the field of Radicalization

The national framework legislation on religious freedom and religious groups can be identified as follows: The state religion is Islam and, as mentioned earlier, Sharia practices did/does not hinder establishing a democratic independent state. This is manifested in the constitution which provides for the freedom to exercise the rights of one's religion and belief in accordance with the customs observed in the kingdom, as long as it does not violate public order or public morals. Although the constitution does not prohibit Muslims from converting to another religion which is part of the civil legislation, the government prohibits conversion from Islam and proselytizing of Muslims[31] since it is not permitted under Islamic Sharia law. This may call into question the country's freedom of religion and multi-faith identity. The government accords primacy to Islamic Sharia which forbids Muslim's conversion to another faith and considers converts apostate (non-Muslims, however, are allowed to convert to Islam). The government's decision, in this case, may be analyzed as a way to avoid overwhelming attitudes towards the citizen's religious/cultural identity and as a way to secure the country from unnecessary religious conflicts and to maintain internal security.
The government published the International Covenant on Civil and Political Rights (ICCPR) in the state Newspaper, which, according to Article 93.2 of the constitution, gives the covenant the force of law (Department of State, 2008, 558). Freedom of religion is identified in Article 18 of the ICCPR (Department of state 558). However, "The government continued to deny official recognition to some religious groups, and continued to monitor citizens and foreign residents suspected of proselytizing to Muslims"[32] while "Members of unregistered groups faced legal discrimination and administrative hurdles" (ibid).

Regarding freedom of speech and Press, the constitution provides for these rights but, practically, the government did/does not respect these rights. Highlighting the assassination of Nahed Hattar[33], many activists believe that Freedom of opinion and expression in Jordan is not at all protected and that the state is failing in protecting these right on the one hand, and criminalizing hate speech that enhances the adherence of freedom of opinion and expression on the other. Thus, the long-standing contradiction in respecting freedom of speech and press goes hand in hand with the increase of hate speech. Some legal activists called for a specific legislative framework that protects freedom of speech and criminalizes hate speech while others considered those demands risky and may constitute a pretext for the state to restrict freedom of expression noting that international laws signed by Jordan criminalize hate speech, but the state

[31] Conversion from Islam puts converts under risk of losing their civil rights. Please check https://2009-2017.state.gov/documents/organization/171737.pdf.
[32] https://jo.usembassy.gov/wp-content/uploads/sites/34/2016/08/JORDAN-2015-International-Religious-Freedom-Report.pdf.
[33] Nahed Hattar shared a caricature on his facebook page in 2016 in which he depicted Abu Saleh, a Daesh financier, enjoying his time with two women and ordering a corporeal God to bring him wine, clean his tent, and knock before he enters his tent. This cartoon incited controversy among Jordanians and Hattar was arrested after being accused of inciting "sectarian strife and racism".

does not respect it (Al-Sheikh)[34]. This allows us to consider that the problem does not lie in the legal framework, but in the executive authority, which does not follow up, from the standpoint of public rights, those individuals who incite violence and hatred.

On the other hand, internet freedom draws the attention to an overwhelming problem. There is no specific legislative framework that addresses internet freedom. And since the problem is not in text of the law but in its implementation, internet freedom, like freedom of speech, puts the government in a confusing situation. The state, the government and its agencies use laws as a tool to restrict freedoms in general; they are not democratically implemented, but undesirably prescribed in a selective manner.

The Legislative Framework in the field of Radicalization and De-Radicalization

Jordan has ratified many international agreements related to combating terrorism, such as the Arab Convention on Combating Terrorism, the International Convention for the Suppression and Financing of Terrorism of 2003, the Convention relating to crimes and some other acts committed on board aircraft, the Convention for the Prevention of Unlawful Seizure of Aircraft, the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, and the Protocol Concerning the Prevention of Unlawful Acts of Violence at Airports Serving Civil Aviation.

Anti-Terrorism Law no. 55 of the year 2006 is part of the Jordanian Penal Code of 1960 and is accorded to article 31 of the constitution[35]. It was adopted after Amman hotel bombings in 2005. According to this law, terrorist act is defined as "any deliberate action committed by any means, leading to killing or physically hurting any person, or causing damages to public or private property, or to the means of transportation, the environment, the infrastructure, or the utilities of international organizations or diplomatic missions, and aimed at breaching public order and jeopardizing the safety and security of society, obstructing the application of the Constitution's provisions, affecting the policy of the State or the government, or forcing them to perform or refrain from performing a specific deed, or disrupting national security through intimidation, terrorization, or violence" [36]. However, according to some lawyers and legal activists, there may be some confusing issues when it comes to laws related to extremism and radicalization, not terrorism.

Originally, the law criminalizes the call to extremist ideology or the use of weapons. Yet, in practical application, the law criminalizes the idea without resorting to the legal text. Article No. 3 of Anti-Terrorism Law states that:

a. Performing any direct or indirect act towards providing or collecting or raising funds for the purpose of committing a terrorist act, while being aware that they would be entirely or partially used for this act, and whether or not this act was actually performed inside the Kingdom or against its citizens or interests abroad.

b. Recruiting people inside or outside the Kingdom to join groups that aim at performing terrorist acts inside the Kingdom or against its citizens or interests abroad.

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[34] https://alghad.com/%D8%AD%D9%82%D9%88%D9%82%D9%8A%D9%88%D9%86-%D8%AD%D8%B1%D9%8A%D8%A9-%D8%A7%D9%84%D8%B1%D8%A3%D9%8A-%D9%88%D8%A7%D9%84%D8%AA%D8%B9%D8%A8%D9%8A%D8%B1-%D9%81%D9%8A-%D8%A7%D9%84%D8%A3%D8%B1%D8%AF%D9%86./

[35] Please check Anti-Terrorism Law at: https://ihl-databases.icrc.org/ihl-nat/a24d1cf3344e99934125673e00508142/4d39e76935f76f4fc125767e00320698/$FILE/Anti-Terrorism%20Law.PDF.

[36] *Ibid.*

c. Establishing a group, organization, or society with the aim of committing terrorist acts inside the Kingdom or against its citizens or interests abroad, or joining such a group.

There is no statement in this article which criminalizes someone who carries extremist ideology or anyone promoting the idea. Yet, the courts did not differentiate between embracing the ideology, performing the terrorist act or promoting it. In a case in which Lawyer Adel Saqf Al-Hait was the defense attorney, he stated that his client was being criminalized for embracing the ideology. In fact, the accused did not promote an ideology, and it was not proven that he was. Nevertheless, the police arrested him because he frequently went to a mosque and sat with a group of people who promoted radicalized ideology. Thus, according to Lawyer Saqf Al-Hait, embracing an extremist ideology is not criminalized by law, and this is not only in Jordan but in the whole world. This law was amended in 2014, redefining terrorism to expand the criminalization of a number of acts as terrorist acts. It also increased the penalties for terrorist acts, imposed severe penalties on any act considered by the law to be a terrorist act, and criminalized persons who form groups with the intent of terrorism. Amending the law for a third time (with the Law Amending the Prevention of Terrorism Law of 2016) gave broad powers to administrative rulers and security and military agencies to arrest people under the pretext of countering terrorist acts and radicalization.

At the level of executive procedures, the Jordanian government issued instructions to all banks operating in the Kingdom, including compliance with checking their customers' accounts and making sure that balances are frozen at the government's request when there is any kind of suspicion regarding money laundering. Co-operation with other countries and with (Interpol) have been established through many bilateral agreements for security measures. The security services monitor the sale and purchase of raw materials used in the manufacture of dangerous materials to ensure that they are not used for terrorist purposes.[37]

5. The institutional framework in the field of (de-) radicalisation

The national plan to confront extremism was prepared by the government in 2014, in which it determined the responsibility of ministries and public institutions to achieve this goal as well as to address the manifestations of extremism and radicalization that began invading the region, targeting mainly young people as a result of global, regional and local conditions. The plan sees that confronting extremism and intellectual extremism requires joint efforts that include all aspects related to this phenomenon—educationally, culturally, politically, socially, economically and religiously. The plan emphasized the necessity of enlightenment. An open and tolerant religious culture would pave the way for pluralism and acceptance of the other, whether this other is perceived as an opinion, an individual, a society, a religion or a culture. It also stressed the importance of publicizing the idea of a democratic political Jordanian society. Wherever this ideology weakens, the culture of violence and extremism in its various forms flourishes. The plan finally called for inculcating the values of tolerance,

[37] https://www.petra.gov.jo/Include/InnerPage.jsp?ID=117655&lang=en&name=news.

pluralism, and a culture of respect for human rights and acceptance of others, and consolidating them through institutions concerned with guidance and education[38].
The governmental strategy for combating terrorism and intellectual extremism is based on three dimensions, namely the measures represented by the military actions carried out against terrorist and extremist groups, the security and intelligence dimension with other countries that have good foreign relations with Jordan, while the last dimension is represented by the intellectual one which aimed at immunizing the individual and society from extremist thought.[39]

5.1 The role of the Jordanian Armed Forces in combating extremism and terrorism

The armed forces play their role in combating extremism and terrorism according to their own preventive strategy:
First: the military basis. It is the preventive and cautionary measures by which military force is used. The stationed security forces borders to prevent illegal entry into the state, guard and secure all camps and military units, carry out military operations against terrorist cells, collaborate with regional and international countries, and build international alliances.
Second: Internal security. It includes the exchange of information and coordination between all security and military agencies, at all levels, as well as with regional and international countries, and strengthening the deep defensive security deterrence of terrorist activity and extremist ideology.
Third: the ideological basis. The role of this strategy is summed up in immunizing the members of the armed forces against extremist ideology, spreading a culture of kindness, and combating a culture of violence[40]
On the institutional level, the Directorate for Combating Extremism and Terrorism was established in 2014 to follow up the implementation of the national plan to counter extremism and any amendments that may occur or replace it. In 2017, the Jordanian Center for Combating Intellectual Extremism within the Jordanian Armed Forces was established, which is an academic center specialized in preparing studies of extremist thought and combating it.[41]

6.Two in depth Case Studies

6.1 Community Peace Center

In 2015, the idea of establishing a Community Peace Center emerged as one of the strategic plan projects of the Public Security Directorate in combating extremist ideology. As a unit, it unifies efforts directed at combating extremist ideology and dedicates the concept of institutionalization in raising awareness, prevention and treatment of the dangers of this ideology. Its sustainability is based on maintaining a participatory

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[38] https://alghad.com/%D8%A7%D9%84%D8%BA%D8%AF-%D8%AA%D9%86%D8%B4%D8%B1-%D8%A7%D9%84%D8%AE%D8%B7%D8%A9%D8%A7%D9%84%D9%88%D8%B7%D9%86%D9%8A%D8%A9%D9%84%D9%85%D9%88%D8%A7%D8%AC%D9%87%D8%A9%D8%A7%D9%84%D8%AA%D8%B7%8%B1/

[39] https://petra.gov.jo/Include/InnerPage.jsp?ID=158247&lang=ar&name=news.

[40] https://unipath-magazine.com/ar/%D9%85%D9%86%D9%87%D8%AC-%D8%A7%D9%84%D8%A3%D8%B1%D8%AF%D9%86%D9%84%D9%85%D9%83%D8%A7%D9%81%D8%AD%D8%A9-%D8%A7%D9%84%D8%A5%D8%B1%D9%87%D8%A7%D8%A8./

[41] https://petra.gov.jo/Include/InnerPage.jsp?ID=158247&lang=ar&name=news.

work and opening channels of communication and collaboration with the local community in highlighting the importance of having a moderate religious thought at the national level.
The center aims to combat extremism in all its forms, immunize society from the dangers and effects of radicalization, open channels of dialogue with adherents of extremist thought to change their behavior and rehabilitate them, create a society that rejects extremism. It also monitors social media and ensures that there are no messages that promote extremism. The center's objectives include working to safeguard people with special needs since this group is targeted for recruitment by terrorist groups.
The media spokesman for the Public Security Directorate in Jordan, Lt. Col. Amer Al-Sartawi, stated that "the center, in cooperation with various ministries and authorities in Jordan, holds awareness and education workshops in order to confront terrorist ideology." Al-Sartawi added that the center classifies cases according to the "degree of risk", and then deals with them with "strict confidentiality" according to the highest professional and technical standards. Al-Sartawi pointed out that the Community Peace Center is constantly working on forming a public opinion against extremist ideology that targets society. Al-Sartawi noted that the cases that the center deals with are subject to a program aimed at correcting their extremist thought, but if any of the cases constitute a security risk, they are referred to the judicial authorities to take the necessary action against them[42].
On the other hand, the center collaborates with other non-state institutions like the Institute for Non-Violence Action (NOVACT) and Woemn Against Violence Institution in order to promote and support non-violent movements through social activities directed to youth and women.

6.2 Dialogue program for inmates of takfiri thought in reform and rehabilitation centers

In 2009, the Correction and Rehabilitation Centers Department arrested 36 inmates who converted to the extremist (takfiri[43]) ideology in prison. They are inmates who were tried mainly on cases such as robbery, thefts and other criminal cases. According to the director of reform and rehabilitation centers, Colonel Sharif Al-Omari, there is no connection between the criminal takfiris with the Islamic groups known as the groups of organizations who are convicted and arrested on cases affecting state security. There remains a list of concerns about the recurrence of the takfiri ideology within the reform and rehabilitation centers. It is worth mentioning that Ahmed Fadil Al-Khalayleh (Abu Musab Al-Zarqawi), who was imprisoned in the mid-nineties for cases not related to terrorism at the time, adopted extremist ideology after spending time with the spiritual guide of Salafi groups Abu Muhammad Al-Maqdisi. While the number of convicts and detainees in cases affecting state security (organizations) is 100 inmates, Colonel Al-Omari indicated that this group of inmates have a special isolation classification from the rest of the inmates in application of the policy of classification and isolation and due to the nature of their crimes, they enjoy all the rights that are provided to other inmates.
Accordingly, the Committee for Dialogue with the Inmates to combat Extremist (takfiri) Thought, headed by His Highness Prince Ghazi bin Muhammad, and the membership of the Director of the Correctional and Rehabilitation Centers Department, Preventive

[42] So far, we don't have specific analysis or data on the results achieved by the center other than what is announced formally by officials.
[43] Takfiri is an Arabic and refers to a Muslim who accuses another Muslim to be an apostate.

Security, the Ifta Department, and the Community Peace Center, has been formed. Its mission is to "dialogue with inmates who possess extremist ideology, whether they are detainees or those who have been convicted, and enlighten them about the moderate doctrines of Islam. According to the Director of Correction and Rehabilitation Centers, Brigadier General Anwar Qudah, the members of this committee are made up of professors in Islamic Sharia sciences from Jordanian universities, whose mission is to "interview the inmates of the takfiri thought, dialogue with them, and present the legal evidence that refutes this thought." So far, they have managed to "return a number of those who adopt extremist ideology to their senses and keep them away from the takfiri ideology." He refused to mention the number of these inmates, fearing that "this would impede the progress of the committee's plan and might push some of the inmates to stop the dialogue."

7. Conclusion

The legal and policy framework of radicalization and de-radicalization can be characterized as ambiguous and still needs more development. This is manifested in the application of the legal text which allows authorities to (mis)use the legal text, prescribed as confusing, as a pretext to assure the internal security in the country.

Furthermore, there were concerns that the amendments that followed the anti-terrorism law may lead to restricting freedom of speech and press as well as increase extremist thought in the state. According to the latter, the mistrust between the government and the citizens increases because the state institutions sometimes violate human rights standards when arresting demonstrators, activists, or whoever writes opposing posts on social media (Amnesty International, 2019). They abuse their power in absence of legislative power and through relying on cybercrime law and anti-terrorism law which, according to the public opinion and human rights activists, violates freedom of expression on social media as well as individual's rights of privacy (Samaro and Sayadi, 2019).

On the other hand, Jordan identified the basic elements of its strategy to combat terrorism in three areas: confronting extremist ideologies, strengthening social cohesion, and building social resilience. It is also based on three axes, namely security, military and ideological.

It is clear that the state and its military and security institutions have the authoritative control in managing de-radicalized initiatives and efforts conducted through their institutions. They include policing measures, preventive measures, and spreading awareness measures. After the Syrian crisis in 2011 and the unexpected expansion of terrorism and radicalization, Jordan sought to combat forms of extremism by activating non-governmental organizations and civil society associations to assist the regime in preventing terrorism and countering radicalization due to their vital role in this sense. Yet, all non-state actors are linked to the state and "are created by a royal decree and presided by royal authorities, being this very common phenomenon in Jordan" (Casajuana and Delgado, 2018, p. 10).

From the conducted interviews, it was noticed that the problem doesn't lie in the legal texts. It has to do with the application and the utilization of those texts. Also, awareness

programs and workshops are insufficient and lack professional strategic plans. Originally, we find that there is reluctance among many young people to attend workshops about de-radicalization. The interviewed stakehoders agreed that young people need programs that simulate their thinking, such as awareness trips that combine the entertainment and educational aspects. But at the present time, there is not enough interest on the part of the state to focus on student activities and student clubs in universities to combat radicalized ideology.

When it comes to preventive measures, the state laws related to cyber-crimes law, some limitations justified by law for freedom of speech, press and assembly, along with the recent martial law are all in-state actions taken to prevent radicalization. On the other hand, the military state institutions with its programs presented in the case studies rely on spreading awareness programs, workshops, and trainings for different groups in the country to highlight the hazardeous conditions that accompany any extremist or radicalized thought or action. In addition, the state awareness programs focus on youth citizens and extremist convicts to mitigate the spread of any unpleasant extremist thought.

We believe that spreading awareness programs and enacting laws are not enough to counter radicalization for the latter increases the mistrust gap between Jordanians and the government and limits their freedom rights enacted by the same laws. Countering radicalization should start from modifying the educational system which should focus on the Islamic moderation, Islamic tolerance, respect and acceptance of the other. On the other hand, state institutions should create and supervise activities and events, like camping and sports, in order to raise nationalism among youth people and to infuse civic engagement as well.

Annexes

Annex I: Overview of the legal framework on radicalisation and deradicalisation

Legislation title (original and English) and number	Date	Type of law	Object/summary of legal issues related to radicalisation	Link/PDF
Article (147/1) of Penal Code No. (16) of 1960 (16) المادة (1/147) من قانون العقوبات رقم لسنة 1960	1960	General Law/Criminal Law	Defining acts of terrorism Terrorist acts mean all acts that aim to create a state of panic and are committed by means such as explosive devices, inflammable materials, toxic or incendiary products, and epidemiological or microbial agents that are likely to create a public danger.	https://maqam.najah.edu/legislation/33/
Anti- Terrorism Law No. (55) of 2006 Amended in 2014 قانون منع الإرهاب رقم (55) لسنة 2006 وتم تعديله عام 2014	2006 Amended in 2014	General law/Criminal law	The law was amended but only to broaden its already vague definition of terrorism. Article 2 defines a terrorist act as, among other things, any act that would "cause disorder by disturbing the public order". Furthermore, under its article 3, certain acts criminalised under the Penal Code are also considered acts of terrorism, including "disturbing relations with a foreign country". These provisions leave room for interpretation and are not limited to precise threats and clear types of violent attacks.	http://www.lob.jo/?v=1.13&url=en/LegislationDetails?LegislationID:2919,LegislationType:2,isMod:false
Article (12/1) of **Cybercrimes law No. (27) of 2015** قانون الجرائم الالكترونية رقم (27) لسنة 2015	2015	General law/ Criminal law	Anyone who gains access to the information network or information system by any means without a permit or in violation of or exceeds the authorization with the aim of accessing data or information not available to the public that affects the national security, foreign relations of the Kingdom, public safety or the national economy shall be punished by imprisonment for a period of no less than four years. months and a fine of	http://www.lob.jo/?v=1.13&url=ar/LegislationDetails?LegislationID:3184,LegislationType:2,isMod:false

			not less than (500) five hundred dinars and not more than (5000) five thousand dinars.	
Martial Law Article 1	2020	General Law	Imposing restrictions on people's freedom of assembly, movement, residence, and arrest or detention of suspects, or those who pose a threat to national security and public order.	http://www.pm.gov.jo/content/1588539907/%D8%A3%D9%88%D8%A7%D9%85%D8%B1-%D8%A7%D9%84%D8%AF%D9%81%D8%A7%D8%B9.html

NATIONAL CASE LAW

Case number	Date	Name of the court	Object/summary of legal issues related to radicalisation	Link/PDF
Case 1785 / 2016	20-10-2016	Jordan Court of Cassation	Article (7) of the Prevention of Terrorism Law, in view of the seriousness of the crime to the safety, security and stability of society, in order to	http://www.jc.jo/ar/decision/item/krar-rkm-1785-2016-fsl-20-10-2016-1[44]

[44] The name of the suspect is hidden for national security purposes. The suspect threatened to kill people whom he considered apostates and escaped to a mosque to hide there.

			preserve its components, facilities, institutions and public and private properties, and in order to protect lives and not expose them to terror and threat.	
Case Confidential	31-1-2017	Jordan Court of Cassation	Carrying out terrorist acts, using weapons that led to the death of a person, in violation of the provisions of the Prevention of Terrorism Law, and in accordance with the same articles, he was sentenced to death by hanging and confiscation of seizures.	https://aawsat.com/home/article/843061/%D9%85%D8%AD%D9%83%D9%85%D8%A9-%D8%A7%D9%84%D8%AA%D9%85%D9%8A%D9%8A%D8%B2-%D8%A7%D9%84%D8%A3%D8%B1%D8%AF%D9%86%D9%8A%D8%A9-%D8%AA%D8%B5%D8%A7%D8%AF%D9%82-%D8%B9%D9%84%D9%89-%D8%A5%D8%B9%D8%AF%D8%A7%D9%85-%D9%82%D8%A7%D8%AA%D9%84-%D9%86%D8%A7%D9%87%D8%B6-%D8%AD%D8%AA%D8%B1[45]

[45] This case refers to Riyad Ismail, the one who assassinated Nahed Hattar. There is no public record of the case number nor public legal information about the case except what was reported by local and international news-reports.

OTHER RELEVANT ISSUES

	Constitutional provisions	Statutory law (statues, rules, regulations etc.)	Important case law	Comments/issues relevant to radicalisation
Freedom of religion and belief	Constition 1952			Article 2 Islam is the religion of the State and Arabic is its official language. Article 7 Personal freedom shall be guaranteed. Article 14 The State shall safeguard the free exercise of all forms of worship and religious rites in accordance with the customs observed in the Kingdom, unless such is inconsistent with public order or morality. Article 15 (i) The State shall guarantee freedom of opinion. Every Jordanian shall be free to express his opinion by speech, in writing, or by means of photographic representation and other forms of expression, provided that such does not violate the law. (ii) Freedom of the press and publications shall be ensured within the limits of the law. (iii) Newspapers shall not be suspended from publication nor shall their permits be revoked except in accordance with the provisions of the law. (iv) In the event of the declaration of martial law or a state of emergency, a

				limited censorship on newspapers, publications, books and broadcasts in matters affecting public safety and national defence may be imposed by law. (v) Control of the resources of newspaper shall be regulated by law.
Equality rights	**Constitution 1952**			Article 6 (i) Jordanians shall be equal before the law. There shall be no discrimination between them as regards to their rights and duties on grounds of race, language or religion.
Freedom of expression/ assembly and establishing political parties	Constitution 1952			Article 16 (i) Jordanians shall have the right to hold meetings within the limits of the law. (ii) Jordanians are entitled to establish societies and political parties provided that the objects of such societies and parties are lawful, their methods peaceful, and their by-laws not contrary to the provisions of the Constitution. (iii) The establishment of societies and political parties and the control of their resources shall be regulated by law

Annex II: List of institutions dealing with radicalisation and deradicalistion

Name of the initiative	Scale	Agents	Area of competence and target groups	Link
Ministry of Interior's Directorate of Combating Extremism and Violence	National	Ministry of Interior	National Program for the Prevention of Violent Extremism (Now also in hands of Prince Rashid Special Forces office)	https://kja.at/praevention/netzwerk-deradikalisierung-praevention/
Public Security Directorate's Community Peace Center	National	Public Security Directorate Cooperation with several other NGOs in the field	Preventive radicalization program with local communities and civil society and a prison-based deradicalization program	https://www.psd.gov.jo/index.php/ar/2015-03-30-15-41-09
NOVACT Institute for Non-Violent Action	local	MOU with governmental institutions and NGOs	Promote international peace building actions in conflict situations. Support nonviolent movements or peaceful civil resistance Develop Civil and Nonviolent Peacekeeping Operations Workshops and awareness sessions on violent and non-violent extremism	https://novact.org/about-us/?lang=en
Women Against Violence Association	local	NONE	Women empowerment through non-violent actions Workshops and interviews on radicalization and terrorism against women	http://womenav.org/
Penal Reform International	International	Amman	Develop gender-sensitive and	https://www.penalreform.org/where-we-work/mena/

			child-friendly justice systems Promote non-custodial sanctions, particularly for vulnerable groups Support countries to adopt national and integrated plans for reform Build regional human resource capacity through networks of expertise Promote the abolition of the death penalty. Workshops, awareness sessions, and rehabilitation for radicalized and terrorist offenders	
Sharafat for Globalization and Terrorism Studies Center	national	Amman	Research center on (de)radicalization	https://www.shorufatcenter.com/

Annex III: Best Practices/Interventions/Programmes

	Institution(s)	Aim	Source	Evidence of effectiveness / literature
1. Community Peace Center	Public Security Directorate	Combating extremist ideology and raising awareness, prevention and treatment. Maintaining a participatory work and opening channels of communication and collaboration with the local community towards a moderate religious thought.		
2. Dialogue program for inmates of takfiri thought	Correctional and Rehabilitation Centers Department	Dialogue with inmates who show extremist thoughts, in order to enlighten them about a moderate religious doctrine		

Annex IV: Policy recommendations

- State institutions should work on a clear strategic plan to counter radicalization as the strategic plan which was drafted in 2016 suffers from a severe weakness in understanding the causes and reasons through which extremist ideology appears.

- State institutions should increase collaboration with national and international organisations to work on the strategic plan to combat radicalization and then implement the strategic positive measures related to deradicalisation.

- The state's legal institution should improve the legal framework to promote basic liberties within the Human Rights instead of merely focussing on biases related to public security and national security.
- Jordan should cooperate with the countries in the region to develop a regional agreement to combat radicalization and terrirorism of which the relevant laws would be modified and activated.

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DeRadicalisation
in Europe and Beyond: Detect, Resolve, Reintegrate

De-radicalization and Integration Legal & Policy Framework

Kosovo/Country Report

WP4

December, 2021

Teuta Avdimetaj, Kosovar Centre for Security Studies

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De-Radicalisation in Europe and Beyond: Detect, Resolve, Re-integrate
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List of Abbreviations

EC – European Commission

EP – European Parliament

EU - European Union

EULEX - European Union Rule of Law Mission in Kosovo

GoK – Government of Kosovo

ICITAP – International Criminal Investigative Training Assistance Program

IS - The so called 'Islamic State'

KCS - Kosovo Correctional Services

KCSS - Kosovar Centre for Security Studies

KFOR - NATO Force in Kosovo

KPS - Kosovo Probation Services

MCSC - Municipal Community Safety Councils

MIA - Ministry of Internal Affairs

MLSW - Ministry of Labour and Social Welfare

MoJ - Ministry of Justice

NATO - North Atlantic Treaty Organization

P/CVE - Preventing and Countering Violent Extremism

R&R - Rehabilitation and Reintegration

SPVERLT 2015-2020 - The Strategy on Prevention of Violent Extremism and Radicalisation Leading to Terrorism 2015-2020

UN - United Nations

UNMIK - United Nations Interim Administration in Kosovo

UNSCR 1244 - United Nations Security Council Resolution 1244

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About the Project

D.Rad is a comparative study of radicalization and polarization in Europe and beyond. It aims to identify the actors, networks, and wider social contexts driving radicalization, particularly among young people in urban and peri-urban areas. D.Rad conceptualizes this through the I-GAP spectrum (injustice-grievance-alienation-polarization) with the goal of moving towards measurable evaluations of de-radicalization programmes. Our intention is to identify the building blocks of radicalization, which include a sense of being victimized; a sense of being thwarted or lacking agency in established legal and political structures; and coming under the influence of “us vs them” identity formulations.

D.Rad benefits from an exceptional breadth of backgrounds. The project spans national contexts including the UK, France, Italy, Germany, Poland, Hungary, Finland, Slovenia, Bosnia, Serbia, Kosovo, Israel, Iraq, Jordan, Turkey, Georgia, Austria, and several minority nationalisms. It bridges academic disciplines ranging from political science and cultural studies to social psychology and artificial intelligence. Dissemination methods include D.Rad labs, D.Rad hubs, policy papers, academic workshops, visual outputs and digital galleries. As such, D.Rad establishes a rigorous foundation to test practical interventions geared to prevention, inclusion and de-radicalization.

With the possibility of capturing the trajectories of seventeen nations and several minority nations, the project will provide a unique evidence base for the comparative analysis of law and policy as nation states adapt to new security challenges. The process of mapping these varieties and their link to national contexts will be crucial in uncovering strengths and weaknesses in existing interventions. Furthermore, D.Rad accounts for the problem that processes of radicalization often occur in circumstances that escape the control and scrutiny of traditional national frameworks of justice. The participation of AI professionals in modelling, analyzing and devising solutions to online radicalization will be central to the project’s aims.

Executive Summary

This report provides an overview of Kosovo's legal and strategic framework in the field of radicalization and de-radicalization. In doing so, it looks into the broader constitutional provisions as well as specific laws that may directly or indirectly relate to the fields of radicalization and deradicalization. Given that the issue of radicalization presents an evolving threat, the report also takes into consideration the evolution of the policy framework in efforts to address it. Specifically, it accounts for key government policies that sought to manage the threat of radicalization and violent extremism, including an early counter-terrorism focused approach and the gradual shift from punitive measures to an integrative approach. The latter is comprised of rehabilitation and reintegration programs that present the cornerstone of current policymaking regarding the threat of radicalization and violent extremism. These programs are especially relevant in the context of a relative high number of conflict-zones returnees that were formerly associated with violent extremist groups as well as individuals who have been formerly incarcerated on terrorism-related changes. To obtain a better understanding of R&R programs, this report includes one case study on the reintegration programs being implemented by the Division for the Prevention and Reintegration of Radicalized Persons and another case study on rehabilitation programs currently underway within Kosovo's prisons. Overall, a number of lessons emerge which lay out the challenges that Kosovo faces in addressing the threat violent extremism while highlighting the contextual factors in shaping up its counter-radicalization policy.

1. Introduction

The purpose of this report is to provide a conceptual account on how existing policies and laws address radicalization in Kosovo, with the goal of identifying some of the key critical aspects as well as best practices to inform the development of evidence-based policy and legal guidelines. Kosovo is one of the youngest countries in Europe, both in terms of its population and its statehood. It is a parliamentary republic whose recent history is marked by a legacy of conflict, a period of post-conflict reconstruction, state-building, and ongoing efforts to strengthen democratic institutions and international subjectivity. A critical period in Kosovo's recent history has been the Kosovo War (1998-1999), which ended with NATO's humanitarian intervention to stop the ethnic cleansing by Serbia's Milosevic regime against the majority-Albanian population. The terms of ending the war fell within the status-neutral framework of the UN Security Council Resolution 1244 (UNSCR) which, among guidelines for military withdrawal, placed Kosovo under an interim UN administration while establishing provisional institutions of local self-government in Kosovo (United Nations Resolution 1244, 1999). Following the proposal of UN Special Envoy Maarti Ahtisaari and the recommendations it set forth towards status settlement, in 2008 Kosovo declared its independence from Serbia.[1] To supervise the implementation of the Ahtisaari Plan[2], the Kosovo authorities invited and welcomed an international civilian presence, an EU-led rule of law mission or EULEX (Muharremi, 2010, p.341). The international supervision of Kosovo's independence ended in 2012 and the mandate of EULEX[3], although it has been repeatedly extended, changed over time with diminishing executive powers over Kosovo's justice system.

Since declaring its independence, Kosovo has been working to consolidate its international standing and implement internal reforms. More than 110 United Nations (UN) members and 22 members of the EU have recognized Kosovo's independence, however, non-recognizing states continue to prevent the country from membership in international organizations such as the UN, excluding it from important international platforms and contributions. In spite of these challenges, Kosovo remains committed in its pursuit for full integration in the international community, including membership into NATO, the EU, and the UN. In various assessments, Kosovo is consistently ranked as one of the most pro-American and pro-EU countries in the world, with an overwhelming 93 percent of the population supporting EU accession and 94 percent regarding the United States as the most important economic partner (Western Balkans Regional Poll, 2020, p.58). Against this backdrop, Kosovo's constitutional and legal framework reflects efforts to ensure that its legislation is in line with EU acquis, with special focus on safeguarding the rights of minorities and accounting for existing social cleavages.

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[1]In April 2007, UN Special Envoy Martti Ahtisaari submitted to the UN Security Council his Comprehensive Proposal for the Kosovo Status Settlement, also known as the "Ahtisaari Plan". On February 17, 2008, the Kosovo Assembly declared the independence of Kosovo in line with the Ahtisaari recommendations.

[2]The focus of Ahtisaari Plan has been on protecting the rights, identity and culture of Kosovo's non-Albanian communities while producing a framework for their participation in public life. The same Plan also proposed for Kosovo to become independent but with supervised international independent for a certain period of time.

[3]EULEX's current mandate is until 14 June 2023 based on Council Decision CFSP 2021/904, undertaking monitoring activities with limited executive functions.

Although Kosovo has not been immune to the global threat of radicalization and violent extremism, it has taken several steps to address it - including the adoption of new legislation and amendments to existing ones, expansion of international partnerships, and a broadening of partnerships within the civil society. The notion of radicalization is widely used, however, it remains poorly defined and thus not consistently applied throughout relevant regulatory frameworks and by government and non-government actors alike. In this report, radicalization is understood as a process involving the increasing rejection of established law, order, and politics and the active pursuit of alternatives, in the form of politically-driven violence or justification of violence. Herein, a key challenge lies in determining how individuals or groups come to adopt beliefs that not only justify violence but compel it, and how they shift or not from thinking to action (Borum, 2012, p.8).

Moreover, given that there are multiple pathways to radicalization and that many people who hold radical beliefs do not necessarily engage in violence, effective policies that seek to prevent extremism or to target de-radicalization must account for the interaction of different factors that are at play in an individual's radicalization process (Ibid.). For instance, tying de-radicalization efforts narrowly to cognitive aspects may not only be ineffectual but also confront policymakers with the challenge of balancing security concerns with the need to uphold fundamental rights and civil liberties such as freedom of expression. Adding to the complexity is the imperative to take into consideration the diverse and evolving group of purveyors as well as targets of violent extremism which are not confined to offline or physical environments but increasingly extend to online spaces. Specifically, the online space consists of various media outlets, forums, and social networks that transcend national borders and present a medium of exchange that is far more challenging for policymakers to monitor, regulate, and effectively leverage for prevention purposes. Extremists exploit the online space to spread hateful narratives and extremist propaganda, facilitate recruitment into violent extremist groups, share information regarding operations, and raise funds (Ganesh and Bright, 2020). Thus, how to address radicalization online through the national legal framework remains an important regulatory question which mirrors ongoing discussions about platform governance in general (Ibid.). The following parts of the report include a) the socio-economic, political and cultural context in Kosovo, b) the constitutional organization of the state and constitutional principles on the D.Rad field of analysis, c) the relevant legislative framework in the field of radicalization, d) two in depth case studies, and e) conclusion.

2. The Socio-Economic, Political and Cultural Context

Kosovo is one of the youngest countries in Europe, both in terms of its population and its statehood. It is estimated that 53 percent of Kosovo's population are under the age of 25 (Sassi and Amighetti, 2018). Kosovo is a parliamentary republic whose majority population consists of Albanians, followed by Serbs as the largest minority group who, together with other ethnic minorities, make up from 7 to 12 percent of the population (Fazliu, 2017, p.1.). With the purpose of guaranteeing the ethnic minorities' rights and language rights in particular, the official languages in Kosovo are Albanian and Serbian, while the language rights of other ethnic minorities such as Turks, Bosniaks and others are also recognized at the municipal level (Doli et. al, 2010, p.10). Based on the 2011 census, out of 1.7 million people, around 90 percent of Kosovo's population are from the Muslim background, with the rest identifying as Orthodox Christians and Roman Christians (Kosovo Agency of Statistics, 2011). Most Kosovo Albanians are considered Muslim and most Kosovo Serbs are Orthodox-Christians, though there are also Albanian-Catholic, Protestant, and Jewish

communities. However, it is important to note that Kosovo's secular character is inscribed in its constitution, ensuring that matters of religion remain separate from the state. Even though Kosovo's economic growth in the last decade has outperformed that of its neighbors, it has not been sufficient to secure enough formal jobs, especially for women and youth, or to significantly reduce the high rates of unemployment (World Bank in Kosovo, 2020). Thus, in the third quarter of 2020, unemployment remained high at 25 percent of the labor force or 46.9 percent among youth (Ibid.). Kosovo is the only country in the Western Balkans that still does not enjoy visa-free travel with the EU, even after the European Commission (EC) and the European Parliament (EP) have repeatedly reaffirmed Kosovo's fulfillment of the necessary criteria which include benchmarks around public order and security, border and migration management, and fundamental rights related to freedom of movement. The lack of visa liberalization further limits opportunities for growth and development, while keeping Kosovo as the most isolated country in the region.

Based on the World Bank's Human Capital Index (HCI), a child born in Kosovo today can expect to achieve 57 percent of a fully educated adult in optimal health, which presents a score that is lower than the average for the Europe and Central Asia region (World Bank in Kosovo, 2020). Nevertheless, this score is slightly higher than the average for the World Bank's Upper middle-income group of countries, in which Kosovo is included (Ibid.). In terms of education, a child who starts school at age 4 in Kosovo can expect to complete 13.2 years of school by their 18th birthday; however, taking into consideration what children actually learn, they face a learning gap of 5.3 years (Ibid.). In regards to health outcomes, the HCI shows that across Kosovo, 91 percent of 15-year-olds will survive until age 60 while 99 out of 100 children born in Kosovo survive to age 5, noting that the HCI for girls is higher than for boys (Ibid.).

In order to understand what factors drive phenomena such as radicalization within the country, accounting for the socio-economic, political and cultural environment remains critical. Radicalization is a complex process influenced by a combination of factors at the individual, community, national, and international level, whose emergence is also tied with context-specific elements that directly or indirectly relate to historical grievances, polarization, and alienation. In the recent years, specifically at the height of the Syrian Civil War between 2012-2016, Islamist radicalization as manifested through the foreign fighter phenomenon has garnered most of the public's and the institutions' attention. However, ethno-national radicalization in Kosovo is currently viewed as a threat on the raise (Avdimetaj, 2021, p.15) that corresponds not only with local inter-ethnic dynamics but also with global trends (Ashby, 2021).

Islamist radicalization has been attributed to a range of factors, including social alienation linked to weak institutions and rising inequality between ruling elites clustered in the urban areas and the socially marginalized in the rural parts of the country (Kursani, 2015); altruistic motivations, trauma, deprivation, social disenfranchisement (Speckhard, 2017), and lack of prior religious knowledge (Kursani, 2017). Others have also noted the activity of grass-root local Islamist organizations that became influential as Kosovo's Islamic Association faced a breakdown in authority and a crisis of legitimacy (Kraja, 2021). The role of religion needs to be understood in a nuanced manner. Albanians in Kosovo integrated Islam as an identity and territorial marker to ensure their group survival, partly influenced by the secular attitudes of socialist Yugoslavia and especially since they were targets of discrimination and state reprisals due to their ethnic identity (Kraja, 2021). Although most Kosovo citizens primarily identify with their ethnic identity, while the population underwent major changes in the past three decades often witnessing their political will frustrated, some consider that Albanians

in Kosovo are experiencing a religious reawakening (Kraja, 2021). Others tie this trend to various humanitarian organizations that penetrated the rural Kosovo with a religious agenda at the end of the war in 1999, filling a vacuum left by secular authorities and Western aid organizations (Kursani 2015; Kraja, 2021). However, as Kraja argues, “since the end of the war with Serbia in 1999 when the territory became a UN protectorate, Kosovo’s authorities and its international overseers have tried hard to construct and forge the identity of the new country as a liberal, multi-confessional democracy”, and Kosovo Albanians take pride in their historical religious tolerance as their ethnic identity trumped any religious identification during their struggle against the Serbian regime (Kraja, 2021). On the other hand, ethno-national radicalization is considered as a rising challenge, partly because it has been overshadowed by the disproportionate focus on Islamist extremism and because it has been left unaddressed.

Historical grievances are linked with Kosovo’s violent past under the rule of former Yugoslavia spanning decades, at a time when the Albanian population faced suffering from institutional discrimination and neglect (Kraja, 2021). These grievances grew among the Albanian population in the 1980s and 1990s when Serbia sought to alter Kosovo’s ethnic composition, fueled further by “the widespread repression in the late 1990s when Kosovo Albanians were subjected to apartheid-like rules and eventually mass killings, rapes and ethnic cleansing during the war in 1998 and 1999” (Kraja, 2021, p.15). Thus, among the Kosovo-albanians, ethno-nationalism is consistently understood as being reactive primarily to the actions of Serbia’s political leadership, meaning that the more radical and ultranationalist they are in their discourse and actions - the more reactive the Kosovo Albanian side becomes (Avdimetaj, 2021, p.22). Ethnic tensions remain present between the Kosovo Albanians and the Kosovo Serb minority, particularly in the northern part of the country where Serbs resist integration into Kosovo’s institutional structures and instead opt for direct influence and guidance from Belgrade (Avdimetaj, 2021, p.23). Such tensions precipitate harsh rhetoric and dehumanization of various ethnic groups or the “other” and exacerbate political polarization. Ethno-nationalism among the Kosovo Serbian population is considered a rising threat and it is being influenced largely by external factors such as Serbia’s political leadership, far-right groups in Serbia, as well as links of local actors with international far right groups across Western Europe (Avdimetaj, 2021, p.15). These external groups have managed to extend their influence in Kosovo and, in spite of some differences, they share ethnically-based politics, references to the 1990s wars, glorification of war criminals and ethnic cleansing from the 1990s, an urge to redraw boundaries on ethnic lines, anti-NATO and anti-EU politics, pro-Russian attitudes and links, as well as links with organized crime (Kelly, 2019, p.2).

3. The Constitutional Organization of the State and Constitutional Principles in the Field of (de-)radicalization

The Constitution of the Republic of Kosovo was ratified in April of 2008 following Kosovo’s declaration of independence and it presents the foundational legal document for the country’s legislation. Many of its principles derive from the “Ahtisaari Plan” with a focus on guaranteeing minority rights and ensuring a safe and secure environment for all citizens of Kosovo, regardless of their background. Taking into consideration the social cleavages and

the legacy of war, the constitution of Kosovo has been based primarily on an international design that sought to ground Kosovo as a multiethnic state through power-sharing principles (Korenica and Doli, 2011, p.4). Specifically, in its drafting, special consideration was accorded to the provisions pledging the respect of ethnic minority rights, both by enabling a more-than-equal representation to ethnic minorities in the Kosovo institutions and by providing guarantees for their cultural and linguistic identity (Doli et. al, 2010). At the same time, such provisions are considered to make the constitutional organization in Kosovo more rigid and changes to vital laws more difficult. The Constitution establishes Kosovo as a parliamentary republic with the Assembly exercising legislative power, the Government being responsible for implementation of laws and state policies while subject to parliamentary control, and the President representing the unity of the people (Constitution of the Republic of Kosovo, 2008). The unicameral Assembly contains 120 seats, out of which, ten are reserved for the Serbian minority, four for the Roma/Ashkali/Egyptian minority, three for the Bosniak minority, two for the Turkish minority, and one for the Gorani minority (CSIS European Election Watch, 2021). The reserved seats in the parliament are often linked with a single majority religious group such as Muslims or Orthodox Christians, and in this vein, the constitution sets forth that the adoption, amendment, or repeal of all laws pertaining to religious freedom or cultural heritage will require double majority approval, meaning approval by a majority of the assembly members that represent minority communities as well as by a majority of all parliamentarians (International Religious Freedom Report: Kosovo, 2020).

Since during the Kosovo War religious sites became a target of retaliation, to avoid religious favoritism the international community introduced a model of strict separation between state and religion (Mehmeti, 2019, p.185). Article 8 of the constitution declares Kosovo a secular state that maintains neutrality in matters related to religion (The Constitution of the Republic of Kosovo, 2008). The constitution declares the right for freedom of conscience and religion for all residents, including the right to change, express, or not express religious belief; practice or abstain from practicing religion; and join or refuse to join a religious community, with limitations for reasons of public safety and order or for the protection of the health or rights of others (Constitution of the Republic of Kosovo, 2008). In particular, the right to freedom of expression may be limited in order to prevent violent and hostile provocations which allows courts to ban organizations or activities that encourage racial, national, ethnic, or religious hatred (Constitution of the Republic of Kosovo, 2008). The preservation and protection of cultural and religious heritage is foreseen by the constitution, which prohibits discrimination based on religion as part of *Article 24* on *Equality Before the Law*. However, apart from the guarantees over freedom of religion, relevant legislation has not advanced in the recent decades with the current Law on Religion being considered as too broad and failing to regulate the status of religious communities (Mehmeti, 2019, p.185)[4]. There are efforts underway to amend the law which would permit religious groups to acquire legal status, but the law has not been voted by the parliament due to lack of quorum and boycotts by Kosovo Serb parliamentarians (International Religious Freedom Report: Kosovo, 2020). Failure to proceed with changes in the law are also considered as illustrative of Kosovo's complex.

The strong protections that Kosovo's constitution provides for minority groups ensure the preservation of cultural autonomy, as demonstrated through language-specific rights. In

[4] The Law on Religion No. 02/L-31contains key provisions related to Freedom of Religion (Article 1), Protection from Discrimination (Article 2), Religious Equality (Article 3), Protection by Penal Law (Article 4), Religious Neutrality (Article 5) which states that there is no official religion in Kosovo, Freedom of the Religious Association (Article 6), Self-determination and Self-regulation (Article 7), Places of Worship (Article 8) , Freedom of information (Article 10) within the boundaries of the Constitution and the law, and exemption from taxes (Article 12).

addition to having Albanian and Serbian as official languages used equally throughout the state, the legislation stipulates that languages spoken by at least three percent of the population are considered "languages in official use" (Dewar, 2020, p.41). Moreover, languages spoken by at least five percent of the population are to be considered official languages of the municipalities where the demographic fulfill this requirement (Ibid.). Thus, these provisions cover not only minorities that make the most part of the country but also smaller groups through a decentralized approach to ensuring that language rights as important aspects of cultural identity are preserved. Although the overall legal protections for human rights and democratic values in Kosovo are considered strong, there are often discrepancies in their implementation on the ground. Provisions related to religion, secularism, and minority rights are particularly relevant in the D.Rad fields of analysis as the misuse or lack of adherence to these rights can give way to grievances that fuel radicalization among or between various religious or ethnic communities.

4. Legislative Framework in the Field of Radicalization

The constitution of Kosovo provides key provisions guaranteeing the rights of all Kosovo residents regardless of their background. These include the right to freedom of expression, freedom of religion, freedom of association, and right to privacy which are especially relevant in cases when individuals who hold radical views, express them, or act on them tread the line between what is considered permissible under established law. Thus, based on the constitution (Article 43), rights may be limited if deemed necessary to "safeguard public order, public health, national security or the protection of the rights of others" (Constitution of the Republic of Kosovo, 2008). For instance, based on Article 36, every person enjoys the right of protection of personal data with the collection, preservation, access, correction and use of personal data being regulated by law (Ibid). Further, according to the constitution, a resident of Kosovo has the right to have her/his private and family life respected, the inviolability of residence, and the confidentiality of correspondence, telecommunication and other communication, with searches of any private dwelling or establishment that are deemed necessary for the investigation of a crime to be conducted only to the extent necessary and only after approval by a court with a justification (Ibid., Article 36). Moreover, by constitution, "secrecy of correspondence, telephony and other communication is an inviolable right", which may only be limited temporarily by court decision if it is necessary for criminal proceedings or defense of the country as defined by law (Ibid.). Similar considerations are also applicable in provisions related to hate speech enshrined in the constitution as part of Article 40 on Freedom of Expression as "the right to express oneself, to disseminate and receive information, opinions and other messages without impediment" with limitations when such freedom infringes upon the rights of others to prevent encouragement or provocation of violence and hostility on grounds of race, nationality, ethnicity or religion (Constitution of the Republic of Kosovo, 2008). In this regard, to avoid arbitrariness, the deliberate prohibition of incitement of hatred is articulated as a limitation corresponding to circumstances that are embedded in the context in which it occurs such as when national security or social cohesion is threatened (Januzi, 2021, p.18).

Since radicalization broadly defined remains an opaque concept, cases related to expressions of radical views or actions are often categorized as acts of terrorism and regulated as such. According to the U.S. State Department, Kosovo's legislative framework is "sufficient to prosecute individuals suspected of committing or supporting terrorist

activities" (U.S. Department of State: Kosovo, 2020). It is important to mention that there are ongoing efforts to align Kosovo's legislation with the EU acquis since Kosovo's strategic objective is to become a member state of the European Union. In 2016, Kosovo signed the Stabilization and Association Agreement (SAA) which presents the first contractual relationship between the EU and Kosovo and the framework under which all reforms towards EU accession take place. Thus, within the SAA framework, EU laws and directives related to terrorism are also being transposed into Kosovo's legislation. The Criminal Code and the Criminal Procedure Code are central to the legislative framework related to radicalization or more specifically terrorism-related cases. The Criminal Code has been amended in 2019 to make the work of judges and prosecutors more effective, including in the field of terrorism and its prevention. It is comprehensive in providing the basis and limits for criminal sanctions and criminal acts that directly or indirectly relate to terrorism are detailed in the provisions of the Chapter XIV on Criminal Offenses Against the Constitutional Order and Security (Criminal Code of the Republic of Kosovo, 2019, p.46). These include articles on definitions for terrorism provisions, commission of the terrorist offense, assistance in the commission of terrorism, facilitation and financing of the commission of terrorism, recruitment and training for terrorism, incitement to commit a terrorist offense (Ibid). Terrorism-related offenses receive severe punishments, with punitive verdicts on acts such as commission of terrorism ranging from 15 years to life-long imprisonment (Criminal Code of the Republic of Kosovo, 2019, p.47)

Concealment or failure to report terrorists or terrorist groups, traveling for the purpose of terrorism, preparation of terrorist offenses or criminal offenses against the constitutional order and security, and inciting discord and intolerance are also relevant provisions that are foreseen with the Kosovo's criminal code. The Criminal Code also includes provisions related to incitement to hatred, establishing it as an aggravating circumstance if the criminal offense is a hate act (Ibid.). Further, the Law on Protection Against Discrimination ensures that persons with characteristics protected by law shall not be discriminated but this law is not applicable to the prohibition of discriminatory language as rhetoric, but rather of discrimination as a practice in employment, access to public services etc. (Januzi, 2021, p.19). The Criminal Procedure Code lays out the rules of criminal procedure which are mandatory for the proceedings of the courts, the state prosecutor and other participants in criminal proceedings (Criminal Procedure Code of the Republic of Kosovo, 2019). It categorizes terrorism-related offenses as serious crimes and foresees that intrusive covert and technical measures of surveillance and investigation (Article 88) may be order and justified in cases suspected for the preparation of terrorist offences or criminal offenses against the constitutional order and security in Kosovo (Ibid.).

To fulfill the gap in legislation that would enable the prosecution of foreign fighters, in 2015, the Kosovo Assembly adopted the Law on the Prohibition of Joining Armed Conflicts Outside State Territory under which individuals affiliated with extremist organizations returning to Kosovo are being tried (Law on the Prohibition of Joining Armed Conflicts Outside State Territory, 2015). By adopting this law, Kosovo became one of the first countries in Western Balkans to make joining foreign conflicts punishable with up to 15 years in prison. Moreover, the law is broad enough in defining a range of criminal offenses related to participation in foreign conflicts as well as the type of entities that these individuals can join. In this vein, the law makes an important distinction to exclude citizens of Kosovo that hold citizenship of a foreign country and are part of army or military formations in the respective country under the control of internationally recognized governments or international organizations (Ibid., Article 2). The law also includes stipulations on public calls to incite others to commit criminal offences, whether at a gathering, through publications, audiovisual recordings, social

networks or any other form of communication (The Law on the Prohibition of Joining Armed Conflicts Outside State Territory, 2015). In more recent years, there have been increased attempts to tackle terrorism-related offenses through the disruption of financing of terrorist activities based on international anti-money laundering and counterterrorist finance standards. The Law on Prevention of Money Laundering and on Countering the Financing of Terrorism and the Law on Extended Powers for Confiscation of Assets provide more detailed procedure than those laid out in the Criminal Code, including for offences related to armed conflicts outside the state territory. Overall, it can be argued that Kosovo has an adequate legal framework in addressing cases of radicalization, however, the implementation of the laws remains more challenging. This is due to the still relatively early experience of the Kosovo judiciary and prosecution to deal with cases of radicalization and the need to balance the upholding of fundamental rights with security concerns. As a result, there are inefficiencies in trying terrorism-related cases which often result in an inconsistent determination of sentencing through various cases, early releases, and a lack of post-release supervision (U.S. Department of State: Kosovo, 2020).

5. Policy and Institutional Framework in the Field of Radicalization

The issue of radicalization in Kosovo has not been acknowledged or addressed as such up until the country was faced with the threat of the foreign fighter phenomenon which peaked between 2012-2016 following the onset of the Syrian Civil War. In its initial reaction between 2015 and 2016, Kosovo's institutions opted for a punitive approach through law enforcement activities which led to the arrests of more than 100 individuals, including imams, the closing of more than 15 non-government organizations suspected of supporting extremism, and a state of alert through surveillance and monitoring of the suspects (Stakeholder interview 01, 2021). Some of the arrests or raids conducted were highly publicized and the communities from which the detainees originated raised concerns of being stigmatized and labeled as hotspots of radicalization. In the more recent years, Kosovo's policy response has marked a shift from its narrow focus on counter-terrorism measures towards preventing and countering violent extremism and radicalization. Changes in the policy approach are primarily reflected through the existing strategic documents and the institutional framework. Similar to conceptual and policy shifts in EU member states, Kosovo has sought to adopt an approach that deals not only with the consequences of radicalization but also strengthens efforts to prevent it. Kosovo adopted the Strategy Against Terrorism in 2009, which is the country's first counter-terrorism strategy covering the period from 2009-2012 (National Strategy Against Terrorism, 2009). Since the Government did not perceive terrorism as an imminent threat to Kosovo, the document contains few references to violent extremism; instead, the adoption of the strategy is viewed more as an attempt by the Kosovo Government to follow the example of other Western Balkan countries and initiate policy processes within the framework of fulfilling criteria for the visa liberalisation process with the EU (Qehaja et. al, 2017, p.6). The Government of Kosovo (GoK) renewed the strategy in June 2012 with minor changes, extending the period it covers from 2012-2017 (Ibid.).

In line with international political and security dynamics, as the issue of radicalization was gaining traction, the need became clear to adopt a strategy that specifically focuses on preventing and countering violent extremism. As a result, in 2015, the Strategy on Prevention of Violent Extremism and Radicalisation Leading to Terrorism 2015-2020

(SPVERLT 2015-2020) was adopted which identified three main sources of violent extremism in Kosovo: nationalism-based extremism, religiously-motivated extremism and politically-motivated extremisms (Ibid. p.6). Further, the strategy identified as threats potential activities of Serbian nationalist groups in the northern part of Kosovo, and the fact that a number of Kosovo citizens had joined religiously-motivated terrorist groups in Iraq and Syria, outlining that internal drivers as well as external factors as contributing factors (Ibid.). It is important to note that the issue of islamist radicalization is central to the strategy, despite acknowledging high levels of religious tolerance in Kosovo (SPVERLT 2015-2020). This disproportionate focus on Islamist radicalization not only risks making direct links between religion and terrorism, but also comes at the expense of leaving other, equally or more threatening phenomena, unaddressed. It can be argued that the disproportional policy attention that this type of threat has garnered throughout these years is partly the result of the transnational nature of the foreign fighter phenomenon and partly due to the donor driven agenda.

SPVERLT 2015-2020 also accounts for key factors leading towards violent extremism such as pull factors (lack of perspective), push factors (ideology), economic and social factors and low institutional capacity and integrity (Ibid. p.7). Thus, for prevention purposes, the strategy identified the following key strategic objectives: a) early identification of the causes, factors and target groups; b) prevention of violent extremism and radicalization; c) intervention with the aim of mitigating the risk of violent radicalization; d) de-radicalization and reintegration of radicalized persons (Qehaja et. al, p.6). Although the strategy provides a foundation for preventive activities, its implementation has been marred by a lack of adequate financing and challenges in responding to the community needs, mainly since the document was drafted and adopted under pressing deadlines without a broader consultation with communities (Ibid.5). As a result, the strategy does not comprehensively reflect community needs, making its implementation more challenging.

Given the relatively young age of those affected by radicalization, in terms of primary prevention, the strategy accounted for an analysis of existing programs within the primary and secondary education for the purpose of promoting tolerance, critical thinking, capacity building and operationalization of inter-institutional mechanisms of schools for prevention of violent extremism and radicalism (Ibid.). For instance, a Handbook for the Prevention of Violent Extremism has been developed to raise institutional awareness, foster community cooperation, and more specifically, strengthen the role of teachers as frontline workers that could potentially identify radicalization at an early stage (Ministry of Education, Science, and Technology, 2017). As part of secondary prevention, in 2016, the municipality of Gjilan piloted a P/CVE Referral Mechanism in line with the Action Plan of the SPVERLT 2015-2020 to prevent predominantly young individuals from traveling to foreign conflict zones (OSCE Secretariat, 2019, p.102). The referral mechanism consists of local members of the community such as psychologists, teachers, community police and legal advisors who work on early detection of violent extremism (Perteshi and Ilazi, 2019). Although the mechanism has limited resources and intervention programs to offer, as of 2018 it has handled at least ten cases which according to its members have resulted in steering those referred away from violent extremism (OSCE Secretariat, 2019, p.102). Depending on the case, the mechanism receives referrals from members and families in the community and creates a group of two to three members to work on each case (Ibid). Tertiary prevention policies include a focus on rehabilitating and reintegrating (R&R) individuals formerly associated with extremist groups, some of whom continue to serve their sentence in prison. Kosovo has made important strides in this regard as it also took proactive measures in repatriating Kosovo citizens from the foreign conflict zones, who in addition to going through the judicial

process are also subject of R&R programs. However, challenges persist especially due to the limited resources and capacities, lack of previous experience in dealing with cases of rehabilitation and reintegration of radicalized persons, as well as inefficiencies in policy response due to political instability, lack of inter-institutional coordination, and lack of a strategic communication for keeping the public informed in a timely manner (Perteshi and Ilazi, 2019). These programs will be explained in more detail in the following section as case studies.

Frequent changes in the government[5] undermined the effectiveness of policies directed at tackling radicalization, however, in spite of having different political parties at the helm of the government - most of them have been quite consistent in terms of their approach towards radicalization. Regardless of having different political orientation, consecutive governments have sought to address the challenge of violent extremism and radicalization and take necessary measures to lower the threat. Although political leadership can be viewed as critical in shaping up the legislative and institutional framework in Kosovo, international partnerships and cooperation as well as Kosovo's strategic orientation towards Euro-Atlantic integration have provided the thrust to move processes forward. Importantly, changes in Kosovo's legislation to accommodate an easier prosecution of cases related to radicalization have been made while taking into consideration their alignment with EU acquis and international best practices and standards. In October 2019, the Kosovo authorities and the EU signed a bilateral Implementing Arrangement for the Joint Action Plan on Counter-Terrorism for the Western Balkans covering 2019-2020 (EU Country Report: Kosovo, 2020, p.45). This document identifies priority actions in the area of counter-terrorism cooperation as well as prevention on countering violent extremism through EU support (Ibid.). Moreover, in July 2020 Europol and the Kosovo Police concluded a Working Arrangement which filled an existing gap in international security cooperation as Kosovo was the only country in the Western Balkans without any structured and formalised cooperation with Europol (Ibid., p.42). This arrangement provides the basis for enhanced cooperation between Kosovo Police, Europol and EU Member States, especially in addressing terrorism and extremism (Ibid.).

A range of Kosovo institutions are involved in the field of radicalization and de-radicalization. The Office of the Prime Minister provides the political leadership for key P/CVE processes in Kosovo and it established the position of an appointed *National* CT/CVE Coordinator in an effort to enhance inter-institutional coordination. However, this position was terminated in February 2020, and in July 2020 the Government appointed the Minister of Internal Affairs (MIA) as the National Coordinator for the Prevention of Violent Extremism and the Fight against Terrorism - with the purpose of enhancing interinstitutional coordination with clarified structure and reporting lines (Ibid., p.44). The Ministry of Justice, the Ministry of Social Welfare, the Kosovo Police, the Kosovo Intelligence Agency, the Financial Intelligence Unit (FIU), the prosecution service, including the Special Prosecution Office are also key institutions in the field of (de)radicalization (Ibid.). The Ministry of Justice oversees the legal procedures related to conflict-zone returnees as well as key processes related to rehabilitation efforts through its agencies such Kosovo Correctional Services (KCS) which are tasked with carrying out rehabilitation programs for the general prison population but also for the violent extremist offenders (VEOs) (Ilazi and Perteshi, 2019). Another agency within its purview is the Kosovo Probation Services (KPS) which plays an important role in monitoring the process of individuals under probation. At the local level, there are a number of existing mechanisms that can deal with P/CVE issues such as Municipal Community

[5] On February 14, 2021, Kosovo held the fifth parliamentary election in 13 years since independence in 2008 and the second such election in the past two years.

Safety Councils (MCSC) but they are not equally active across the regions and their potential for involvement in R&R programs is not utilized to the full extent (Ibid.). This further strengthens the need for greater decentralization efforts related to the field of (de)radicalization which would empower local actors to be more involved (Stakeholder Interview 02, 2021). This is particularly important given that radicalization is an evolving threat and existing strategies and actions plans need to be sufficiently agile to respond to shifting needs/dynamics, regularly reviewed and based on structured risk assessments.

6. Case Studies

In response to the threat of radicalization, various government and non-government initiatives have been developed to prevent and counter violent extremism. While there are numerous projects being implemented by local organizations within the framework of P/CVE, often in partnership with international organizations, processes related to the reintegration and rehabilitation of individuals who are considered radicalized or to have been affiliated with extremist groups - continue to be rather centralized. Thus, this section will explore into more detail two government-led programs, one dealing primarily with reintegration of radicalized individuals and the other with rehabilitation. Although the threat of radicalization can involve a diverse set of perpetrators across the extremist ideological spectrum as well as various targets, most available P/CVE programs in Kosovo address islamist radicalization as manifested more visibly through the foreign fighter phenomenon. Between the period of 2012-2016, an estimated 359 Kosovo citizens (257 men, 52 women and 50 minors) left for conflict zones in the Middle East, whereas 81 children were born in the conflict zone (EU Country Report: Kosovo, p.45). Often those who left are broadly categorized as foreign fighters, without distinguishing the varying roles that men, women, and minors in the conflict have played. In 2019, the GoK with U.S. assistance organized an operation led by the Inter-Institutional Committee for the Handling of Violent Extremism to repatriate 110 individuals (4 men, 32 women and 74 children) from Syria and Iraq back to Kosovo (Ibid.). In doing so, Kosovo became one of the first countries not only in Western Balkans but also in the world to pursue a policy of repatriation in response to the foreign fighter threat. Overall, it is estimated that around 242 Kosovo citizens have returned (124 men, 38 women, 80 children), 96 have died, and 102 remain in theatre (Ibid. p.45). In terms of returning patterns, it should be noted that many men returned by 2015 and by 2017 there were 117 returnees; whereas, in 2019 the majority of returnees have been women and children (Kursani, 2017, p.7).

Thus, the following case studies deal with reintegration and rehabilitation programs of individuals mainly linked with islamist radicalization and those who have returned from foreign conflict zones through formal or informal channels.

A) Reintegration programs implemented by the Division for Prevention and Reintegration of Radicalized Persons (DPRRP)

Expecting the eventual return of Kosovo citizens from the foreign conflict zones, the Ministry of Internal Affairs as early as 2017 began drafting plans for a new institutional set up to deal with the challenge – resulting in the creation of the *Division for Prevention and Reintegration of Radicalized Persons (DPRRP)* which functions with a temporary mandate and deals

primarily with returnees. The work of the Division is based on the existing legal and strategic framework related to radicalization in Kosovo (See Annex 1), including the National Strategy for the Prevention of Violent Extremism which broadly delegates the roles and responsibilities in the field of reintegration. Moreover, the MIA relies on an internal document - the Program on Integration which is not publicly available but according to a representative from the Ministry it defines the target groups for reintegration programs, specifies the inclusion of institutions and their mandates related to reintegration, including the type of services that they offer (Stakeholder Interview, 02). Moreover, the program foresees areas in which improvement is needed and capacities must be strengthened. The division is primarily responsible for coordinating the institutional response in the reintegration process of repatriated individuals and other returnees, including coordination between relevant line ministries, KCS, KPS, local municipalities, community police etc. According to a representative of MIA, the first phase in the enrollment of returnees in reintegration programs is the assessment for reintegration, which includes an evaluation of the context of return, psycho-social assessments, health needs, education needs and capabilities, potential for employment opportunities etc. (Stakeholder Interview, 02). This early assessment is done in consultation with security institutions who - in conjunction - determine how often follow up assessments need to be carried out.

The reintegration programs implemented through DPRRP do not target specific geographical areas, rather individuals who fit the targeted profiles among the following categories: individuals who have traveled to the foreign conflict zones, families who have traveled to the foreign conflict zones, family members of those who have traveled to foreign conflicts but who themselves never left, conflict-zone returnees, individuals who are considered as radical (e.g. by calling for violence) but who never joined the foreign conflict, individuals sentenced for terrorism-related offenses, individuals with radical tendencies who were formerly incarcerated but now are free, receiving communities etc. (Ibid.). Based on these early assessments, individual plans are designed that account for the need for psychological services, faith-based or ideology-based re-education, vocational training, medical assistance, support for receiving communities etc. Reports of social workers on those individuals who are released from prison provide also information related to previous criminal record, interventions deemed necessary and, monitoring and surveillance of those under probation to ensure a safe environment (Ibid.). In terms of reintegration initiatives that the division has been implementing include a Training of Trainers (ToT) program on fostering critical thinking for frontline workers to strengthen community resilience and prevent radicalization. Although, in the early phases of repatriation of returnees most processes were coordinated by DPRRP with little involvement from civil society, various NGOs are increasingly playing a role in supporting reintegration programs through means such as design and implementation of reintegration activities, research studies, vocational trainings for women returnees, mental health support, recreational activities for children, as well as public awareness campaigns for receiving communities.

The Division plays an important role in pushing forward reintegration programs, however, its work faces numerous challenges. For instance, the Division lacks a structured approach to measure the impact of its work. In absence of a concrete tool for the monitoring and evaluation of how reintegration programs are being implemented, the division relies on the quality of relations with program beneficiaries, absence of complaints by involved parties, and level of cooperation with key stakeholders as a proxy way to measure its success (Ibid.). A persistent challenge is the lack of adequate budgeting and staffing of the division as a result of which its work remains dependent on donor funds, which in the long run may not be sustainable (Ibid.). For instance, case officers lack information and experience in dealing

with returnees and that is problematic especially at municipal level where they do not have dedicated funds for reintegration services. An added identified need is for municipalities to prepare local strategies and action plans for reintegration programs that are in line with the national strategic framework.

A mental health practitioner involved in reintegration activities with returnees notes additional challenges. In an interview, they mention that there are gaps in current legislation as the reintegration work draws heavily on the Strategy for the Reintegration of Repatriated Persons which does not include provisions for those individuals who have been part of foreign conflicts (Stakeholder Interview 02, 2021). Further, the existing general reintegration provisions are applicable only to adult population groups, without considering the needs of children returnees for whom there is no specific legislation in place (Ibid.). For instance, there is no legal basis to regulate how the process of informal schooling that children returnees have had to go through to catch up (Ibid). There is also a strong need to focus on adopting a trauma informed approach which prepares frontline workers such as teachers or social workers on how to approach children returnees (Ibid.). The interviewee also highlighted some cases in which legislation challenges the integration of children returnees. For instance, a number of female child returnees wear the *hijab* or the headscarf that covers the hair and is worn on religious grounds. However, the wearing of the headscarf in public schools has been banned in Kosovo since 2010. Thus, whether or not these girls are allowed to attend school is mainly left at the discretion of the school principal (Ibid.). In many cases, children returnees are also grouped together in a classroom without the possibility to equally interact or socialize with the rest of their classmates - effectively "being walled in" and more vulnerable to stigma (Ibid.).

Yet, in spite of these challenges, a number of lessons can be drawn from the work of the Division and Kosovo's experience with reintegration programs in general. To begin with, establishing a separate mechanism such as the Division facilitates reintegration not only by improving coordination among institutions but also serving as a focal point for targeted groups. Moreover, as the MIA representative notes, "families have been key in enabling us to do our work" underscoring the value of establishing trust and good rapport with program beneficiaries such as family members of the returnees. It is important to also know based on the identified needs which institutions and NGOs to include at what stage, which ensures a more efficient allocation of resources. Overall, a key lesson highlighted remains the need to adopt an individualized approach based on the diverse needs of returnee categories. For instance, providing specialized mental health support and counseling for children, vocational training for women returnees, and religious counseling in specific cases.

B). Rehabilitation programs implemented by the Kosovo Correctional Services

A major part in Kosovo's response to the threat of radicalization has been its punitive approach which resulted in the arrest and imprisonment of more than 100 individuals on terrorism-related offenses. The Kosovo Correctional Service (KCS) is the institution that, in cooperation with other Justice partners and in compliance with the laws, works to correct and re-socialize the prisoners, including violent extremism offenders (VEOs) (ICPA, 2021). A representative of the KCS interviewed for the purposes of this report highlights that the role of KCS is to work towards the rehabilitation and reintegration of all prisoners regardless of their background (Stakeholder Interview 01, 2021). It is important to note that

rehabilitation programs are mostly confined within the prison system with limited engagement of local NGOs. They are available to incarcerated men and women but they draw mostly from general rehabilitation programs available to all inmates and are limited to academic or vocational training (Avdimetaj and Coleman, 2021, p.4). In 2014, the KCS began receiving male inmates who had returned from the foreign conflict zones and were formerly part of extremist organizations such as IS. Although KCS had previous experience with religiously radicalized individuals or VEOs who were incarcerated, the battle-hardened conflict-zone returnees presented a new set of challenges (Ilazi et. al, 2021). Through the support of the U.S. Justice Department's ICITAP, the KCS conducted an internal assessment which found that the incarcerated conflict-zone returnees were not separated from the general prison population (Ibid). The separation of VEOs from the general population, depending on the context, is often considered as a good prison management practice (UNOCD, 2016, p.45). The same assessment also pointed out the need to develop the capacities of KCS personnel in dealing with conflict-zone returnees (Ilazi et. al, 2021).

In 2016, KCS struck an agreement with ICITAP to develop specific training programs on how to address this challenge and, in 2017, KCS and ICITAP adopted a strategic plan which included the development of crucial components related to the process of rehabilitation, including the development of an Assessment and Classification Unit and the Correctional Intelligence Unit (Stakeholder Interview 01, 2021). Within this strategic framework, the Extremist Management Unit was also formed to manage, among others, the allocation of the VEOs within the prison. Based on the strategic plan, KCS separated the VEOs from the general population to prevent them from influencing the others, especially from an ideological point of view (Ibid.). Moreover, the VEOs have been categorized based on the level of risk they pose, proxied by the type of sentencing that they have received. Namely, inmates who are sentenced with more than five years in prison are housed in the High Security Prison whereas those with lower sentences are located in the Correctional Center Dubrava (Ibid.). Since the VEOs are separated from the general prison population and grouped with one another, there are also concerns that they may mobilize to create disruptions inside the prison or organize acts of violence outside of it. However, according to the KCS representative, the current prison management system seems to be functioning well and, with the exception of a few individual raids where materials containing radical content have been confiscated, there has not been any blockage or organized rebellion (Ibid.). For these purposes, regular risk assessments are considered critical. Since 2000, KCS has mainly relied on a general risk assessment tool but following the agreement with ICITAP, efforts are underway to tailor risk assessments to the characteristics of VEOs. After a year of designing and organizing consultations with international and local stakeholders, the specialized risk assessment tool for VEOs is currently completing its testing period and will soon provide insights into whether it fits the needs of the KCS (Ibid).

To avoid making the VEOs feel targeted or singled out and therefore risk their voluntary participation, ongoing rehabilitation and reintegration programs are available to the entire prison population (Ilazi et. al, 2021). These programs include courses to support completion of high school, vocational training in areas such as carpentry, water supply systems and welding, as well as anger management training which was particularly well received by the inmates (Stakeholder Interview 01, 2021). Generally, the VEOs have been interested to be part of the R&R programs, with the expectation of a few individuals at the High Security Prison who, even though are well-behaved and cooperative, they opt out from any of the organized initiatives (Ibid.). Another important component of rehabilitation efforts for radicalized individuals is the focus on de-radicalization aspects, or attempts to influence inmates to renounce their extremist belief systems. However, at present, de-radicalization

programs that target mainly cognitive aspects of rehabilitation remain limited in Kosovo's prisons (Avdimetaj and Coleman, 2020).

Altering an individual's belief system is a complex if not an impossible undertaking, thus, de-radicalization programs are difficult to implement as well as assess for impact. In 2018, the Ministry of Justice and the Islamic Community of Kosovo (ICK) cooperated to implement a program in the KCS which fell within de-radicalization efforts and foresaw ICK to hold religious lectures in KCS (Ilazi et. al., 2021). The purpose of this program was to debunk radical, religiously laced ideologies that influenced individuals to join the foreign conflicts in Syria and Iraq (Ibid). However, according to the KCS representative, the project fell through because there was no interest by inmates to participate in it (Stakeholder Interview 01, 2021). Others note that a contributing factor to the inmates' lack of interest has been the public attention that this program received, with public statements being made that the imams who would conduct the deradicalization lectures have been verified by the Kosovo Intelligence Agency (Ilazi et. al., 2021). In this way, the religious representatives were perceived to be colluding with the security institutions and deemed not credible by the inmates. As of 2018, KCS started to put into practice its strategic plan but due to a limited budget and political instability linked with frequent changes in government - its implementation has been significantly delayed (Stakeholder Interview 01, 2021). For instance, currently there is no comprehensive way to assess the actual impact of rehabilitation programs and no follow up for individuals who are released from prison to facilitate their reintegration in society (Ilazi et. al, 2021). According to the KCS representative, the low recidivism rates is one of the ways that they can assess the impact of rehabilitation programs and that focusing on a fair treatment based on law is considered important to not aggravate the various grievances that the inmates hold (Stakeholder Interview 01, 2021).

Conclusion

In conclusion, this report sought to provide an overview of the legal and policy framework of Kosovo in the field of radicalization and de-radicalization. Even though existing legislation does not make any direct references to the concept of (de)radicalization, looking into provisions regarding fundamental rights and protections as well as criminalization or related acts of terrorism allows a better understanding of how they are currently being applied in Kosovo. In regards to the protection of fundamental rights, the constitution provides strong guarantees, especially when it comes to regulating the rights of ethnic minority groups. Related laws supplement the constitutional provisions, however, when it comes to fields such as freedom of religion there is a need to amend the current law and address its deficiencies. Specifically, the draft law which is yet to be approved by the parliament foresees procedures how to regulate the legal status of religious communities in Kosovo which as of now prevents them from carrying out even basic functions. However, the amendment of this law should be carried out following a consultation process with the various religious communities in Kosovo to ensure that it is non-discriminatory to their concerns or needs.

In general, Kosovo's legal and policy framework is considered to provide a sufficient basis to prosecute cases on terrorism-related offenses. The law which criminalizes the joining and participation of Kosovo citizens in foreign conflicts can be considered one of the more effective laws in preventing radicalization as, in conjunction with other measures, is

attributed to have stemmed the flow of foreign fighters. Moreover, the same law fills an important gap in the Criminal Code while facilitating the prosecution of conflict-zone returnees. Kosovo's punitive approach resulted in the arrests of more than 100 individuals, often followed with high publicity which in some instances had a stigmatizing effect on associated communities from which the detainees originated from. Thus, greater caution should be exercised in carrying out similar rule of law operations to prevent the stigmatization or alienation of entire communities. Existing legislation must also be supplemented when it comes of the implementation of integrative approaches focusing on rehabilitation and reintegration of former violent extremist offenders and other individuals formerly affiliated with extremist groups. Specifically, there is a need to adopt strategic documents at the national and municipal level which would lay out how various stakeholders can contribute to the R&R processes and prioritize fields of action. The adoption of such legislation is especially relevant for providing guidelines on how to reintegrate and rehabilitate children returnees as a separate category in these intervention programs. Kosovo's institutions are currently implementing R&R programs which place a great focus on cooperation between various stakeholders and trust-building measures with targeted groups. However, processes of R&R are long-term efforts and in this regard there is a need to adopt monitoring and evaluation tools that are currently lacking. Only though structured and regular ways to assess the impact of existing programs, will it be possible to have a clear idea of the actual effects of programs tackling radicalization.

Annexes

Annex I: OVERVIEW OF THE LEGAL FRAMEWORK ON RADICALIZATION & DE-RADICALIZATION

Legislation title (original and English) and number	**Date**	**Type of law** (i.e. statute, regulation, rule, etc…)	**Object/summary of legal issues related to radicalization**	**Link/PDF**
KUSHTETUTA E REPUBLIKËS SË KOSOVËS CONSTITUTION OF THE REPUBLIC OF KOSOVO N	JUNE 15, 2008	CONSTITUTION	The Constitution as the highest act of the Republic of Kosovo contains the main and general provisions regarding the nature of Kosovo's governing system, the relationship between its individuals/citizens with the government/ state, and their rights. It lays out the fundamental rights related to freedom of expression, freedom of religion, the right to privacy, the right for assembly which are directly or indirectly related to legal considerations on radicalization cases.	https://gzk.rks-gov.net/ActDetail.aspx?ActID=3702
KODI NR. 06/L-074 KODI PENAL I REPUBLIKËS SË KOSOVËS CODE NO. 06/L-074 CRIMINAL CODE OF THE REPUBLIC OF KOSOVO	DECEMBER 13, 2018	CODE	The Criminal Code of the Republic of Kosovo regulates a variety of issues related to radicalization, primarily by providing the basis and limits for the criminalization of related acts. Criminal offenses and criminal sanctions are foreseen only for those actions that infringe and violate the freedoms, human rights and other rights and social values guaranteed and protected by the Constitution of the Republic of Kosovo and international law to the extent that is not possible to protect these values without criminal sanctions of the state of Law.	https://gzk.rks-gov.net/ActDetail.aspx?ActID=18413

Ligji Nr. 05/L -002 PËR NDALIMIN E BASHKIMIT NË KONFLIKTE TË ARMATOSURA JASHTË TERRITORIT TË VENDIT LAW No. 05/L -002 ON PROHIBITION OF JOINING THE ARMED CONFLICTS OUTSIDE STATE TERRITORY	MARCH 25, 2015	STATUTE	With the aim of protecting the state interests and national security, this Law supplements the Criminal Code by criminalizing the joining or participation of Kosovo citizens in a foreign army or police, in foreign paramilitary and parapolice formations, in organized groups or individually, in any form of armed conflict outside the territory of the Republic of Kosovo. The law foresees punishments with up to 15 years in prison.	https://gzk.rks-gov.net/ActDetail.aspx?ActID=10763
LIGJI NR. 03/L-047 PËR MBROJTJEN DHE PROMOVIMIN E TË DREJTAVE TË KOMUNITETEVE DHE PJESËTARËVE TË TYRE NË REPUBLIKËN E KOSOVËS LAW NO. 03/L-047 ON THE PROTECTION AND PROMOTION OF THE RIGHTS OF COMMUNITIES AND THEIR MEMBERS IN KOSOVO	MARCH 13, 2008	STATUTE	Persons belonging to communities in the Republic of Kosovo shall be entitled to enjoy individually or jointly with others the fundamental and human rights and freedoms established in international legal obligations binding upon the Republic of Kosovo.	https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2531

Ligji Nr. 02/L-31 PËR LIRINË FETARE NË KOSOVË LAW No. 02/L-31 ON FREEDOM OF RELIGION IN KOSOVO	AUGUST 24, 2006	STATUTE	The establishes that everyone has the right to freedom of thought, conscience and religion. This right includes the freedom to have, not to have, to retain or to change one's religion or belief and the freedom, either alone or in community with others, in public or in private, to manifest one's religion or belief, in worship, teaching, practice and observance.	https://gzk.rks-gov.net/ActDetail.aspx?ActID=2442
Ligji Nr. 02/L-37 PËR PËRDORIMIN E GJUHËVE Law No. 02/L-37 ON THE USE LANGUAGES	JULY 27, 2006	STATUTE	The purpose of this law is to ensure the use of the official languages, as well as languages of communities whose mother tongue is not an official language, in Kosovo institutions and other organizations and enterprises who carry out public functions and services. It provides the basis for stronger protections of individual and collective cultural autonomy.	https://gzk.rks-gov.net/ActDetail.aspx?ActID=2440
Ligji Nr. 05/L-021 PËR MBROJTJEN NGA DISKRIMINIMI LAW NO. 05/L-021 ON PROTECTION AGAINST DISCRIMINATION	JUNE 26, 2015	STATUTE	The law provides a general framework for preventing and combating discrimination based on nationality, or in relation to any community, social origin, race, ethnicity, colour, birth, origin, sex, gender, gender identity, sexual orientation, language, citizenship, religion and religious belief, political affiliation, political or other opinion, social or personal status, age, family or marital status, pregnancy, maternity, wealth, health status, disability, genetic inheritance or any other grounds, in order to	http://old.kuvendikosoves.org/common/docs/ligjet/05-L-021%20a.pdf

			implement the principle of equal treatment.	
LIGJI NR. 03/L-073 PËR ZGJEDHJET E PËRGJITHSHME NË REPUBLIKËN E KOSOVËS LAW NO. 03/L-073 ON GENERAL ELECTIONS IN THE REPUBLIC OF KOSOVO	JUNE 5, 2008	STATUTE	The purpose of this law is to regulate: a) the electoral system for election of the Assembly of the Republic of Kosovo; b) the recognition and the protection of the voting rights and the voter eligibility criteria; c) the code of conduct of political entities, their candidates and supporters. Related provisions are relevant in ensuring the right to vote as a key right in a democracy.	https://gzk.rks-gov.net/ActDetail.aspx?ActID=2544
LIGJI NR. 03/L-072 PËR ZGJEDHJET LOKALE NË REPUBLIKËN E KOSOVËS LAW NO. 03/L-072 ON LOCAL ELECTIONS IN THE REPUBLIC OF KOSOVO	JUNE 5, 2008	STATUTE	The purpose of this Law is the organization and holding of elections for Municipal Assemblies and Mayors of Municipalities of Kosovo. It established all political parties with equal rights before the law.	https://gzk.rks-gov.net/ActDetail.aspx?ActID=2549
LIGJI Nr. 03/L-118 PËR TUBIMET PUBLIKE		STATUTE	This Law regulates the right of public gatherings, of freedom of speech in public gatherings, the right to protest, the right for public manifestations, time of organizing, duties and	https://gzk.rks-gov.net/ActDetail.aspx?ActID=2633

LAW No. 03/L-118 ON PUBLIC GATHERINGS	DECEMBER 4, 2008		responsibilities of organizers. In regards to radicalization, this law enables individuals who hold grievances towards certain government policies to use their right to protest and influence policy.	
LIGJI Nr. 05/L -096 PËR PARANDALIMIN E PASTRIMIT TË PARAVE DHE LUFTIMIN E FINANCIMIT TË TERRORIZMIT LAW No. 05/L-096 ON THE PREVENTION OF MONEY LAUNDERING AND COMBATING TERRORIST FINANCING	MAY 25, 2016	STATUTE	This Law stipulates measures, competent authorities and procedures for detecting and preventing money laundering and combating terrorist financing. It provides important provisions in tackling financing of terrorism, however, the law provides several limitations for the functioning of CSOs, and it is urged to be amended so that it is also more in line with EU acquis.	https://gzk.rks-gov.net/ActDetail.aspx?ActID=12540
LIGJI NR. 04/L-149 PËR EKZEKUTIMIN E SANKSIONEVE PENALE LAW NO. 04/L-149 ON EXECUTION OF PENAL SANCTIONS	JULY 29, 2013	STATUTE	This law regulated the execution of penal sanctions, sanctions on offences and measures of mandatory treatment, and application of detention measures. These are relevant in determining the procedures for the reintegration and re-socializing formerly detained individuals so that they can safely rejoin the society.	https://gzk.rks-gov.net/ActDetail.aspx?ActID=8867

LIGJI Nr. 2004/32 PËR FAMILJEN I KOSOVËS LAW No.2004/32 FAMILY LAW OF KOSOVO	JANUARY 6, 2006	STATUTE	This Law regulates the engagement, marriage, relations between parents and children, adoption, custody, protection of children without parental care, family property relations and special court procedures for disputes of family relations. It is particularly relevant in current reintegration efforts for conflict-zone returnees and their family members, who often have to deal with complex family situations such as related to custody rights etc.	https://gzk.rks-gov.net/ActDetail.aspx?ActID=2410
LIGJI Nr. 06/L-082 PËR MBROJTJEN E TË DHËNAVE PERSONALE LAW NO. 06/L –082 ON PROTECTION OF PERSONAL DATA	JANUARY 30, 2019	STATUTE	This law determines the rights, responsibilities, principles and punitive measures with respect to the protection of personal data and privacy of individuals. This Law determines responsibilities of the institution responsible for monitoring the legitimacy of data processing and access to public documents	https://gzk.rks-gov.net/ActDetail.aspx?ActID=18616
LIGJI NR. 02/L-17 PËR SHËRBIME SOCIALE DHE FAMILJARE LAW NO. 02/L-17 ON SOCIAL AND FAMILY SERVICES	OCTOBER 14, 2005	STATUTE	This Law sets out and regulates for the provision of social and family services to persons who are in need and families who are in need in Kosovo. It also provides a basis for addressing the needs of conflict-zone returnees currently undergoing reintegration programs and deemed eligible for the provision of social and family services.	https://gzk.rks-gov.net/ActDetail.aspx?ActID=2447

LIGJI NR. 03/L-212 I PUNËS LAW NO.03/L –212 ON LABOUR	NOVEMBER 1, 2010	STATUTE	This Law aims at regulating the rights and obligations deriving from employment relationship, as defined by this Law. It is relevant in reintegration and resocialization programming for former radicalized individuals.	https://gzk.rks-gov.net/ActDetail.aspx?ActID=2735
LIGJI Nr. 04/L-138 PËR ARSIMIN DHE AFTËSIMIN PROFESIONAL LAW No. 04/L-138 FOR VOCATIONAL EDUCATION AND TRAINING	FEBRURY 28, 2013	STATUTE	The Purpose of this Law is to regulate the national vocational education and training system in accordance with the needs of the economic and social development of the Republic of Kosovo. It is relevant to current reintegration efforts for conflict-zone returnees who are also benefiting from vocational training programs to ensure their self-sustenance.	https://gzk.rks-gov.net/ActDetail.aspx?ActID=8676
LIGJI PËR KOMPETENCAT E ZGJERUARA PËR KONFISKIMIN E PASURISË SË FITUAR ME VEPËR PENALE NR. 06/L-087 LAW OF EXTENDED POWERS ON CONFISCATION OF ASSETS NO. 06/L-087	DECEMBER 26, 2018	STATUTE	This law extends confiscation to defendants but also to third parties when they are not bona fide buyers of the asset. The adoption of the law is important in broader efforts to tackle the financing of terrorism as well as organized crime.	https://www.kuvendikosoves.org/Uploads/Data/Documents/Ligjinr06L-087_nW8p4KGefs.pdf

OTHER RELEVANT ISSUES

	Constitutional provisions	Statutory law (statues, rules, regulations etc.)	Important case law	Comments/issues relevant to radicalization
Freedom of religion and belief	Article 38, 39	Law No. 02/L-31, all provisions Law No. 03/L-047 Article 7 Law No. 04/L – 149 Article 89 Law No. 06/L –082 Article 8	//	The right for freedom of conscience and religion is enshrined in the constitution for all residents. It includes the right to change, express, or not express religious belief; practice or abstain from practicing religion; and join or refuse to join a religious community. These rights are subject to limitations for reasons of public safety and order or for the protection of the health or rights of others. In spite of the current legal provisions in places related to freedom of religion and belief, the Kosovo Assembly is yet to adopt the Law on Religious Freedom with incorporated amendments based on the recommendations of the Venice Commission. The Constitution: https://gzk.rks-gov.net/ActDetail.aspx?ActID=3702 Law No. 02/L-31 on Religious Freedoms https://gzk.rks-gov.net/ActDetail.aspx?ActID=2442 Law No. 03/L-047 Law No. 03/L-047 on the Protection and Promotion of the Rights of Communities and Their Members in Kosovo https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2531 Law No. 04/L – 149 for the Execution of Penal Sanctions https://gzk.rks-gov.net/ActDetail.aspx?ActID=8867

				Law No. 06/L –082 on Protection of Personal Data https://gzk.rks-gov.net/ActDetail.aspx?ActID=18616
Minority rights	Article 57, 58, 59, 60, 61, 61	Law No. 03/L-047, all provisions. Law No. 02/L-37, Article 1, 2, 4, 8,		The constitution provides strong safeguards for the rights of non-majority ethnic communities in Kosovo, including through reserved seats in public institutions at the central and local level. The constitutional provisions are followed by a well-established legal framework and adequate plans of action. Yet, in terms of implementation, there is a need for greater inter-institutional coordination to ensure that minority rights and the legal framework in general is equally respected throughout the country. The Constitution: https://gzk.rks-gov.net/ActDetail.aspx?ActID=3702 Law on Languages No. 03/L-047 https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2531 Law on Protection of Personal Data No. 02/L-37 https://gzk.rks-gov.net/ActDetail.aspx?ActID=2440
Freedom of expression	Article 40	Law No. 02/L-37, Article 3 Law No. 06/L –082 Article 16		There is an adequate legal framework regulating freedom of expression, which is further supported by a pluralistic media environment. Limitations to freedom of expression are applied in cases when it is deemed necessary to prevent violent or hostile reactions based on certain background characteristics, such as race, nationality, ethnicity, or religion – which could lead to hate and increased social polarization. The constitution: https://gzk.rks-gov.net/ActDetail.aspx?ActID=3702

				Law No. 02/L-37 on the Use of Languages https://gzk.rks-gov.net/ActDetail.aspx?ActID=2440 Law No. 06/L –082 on the Protection of Personal Data https://gzk.rks-gov.net/ActDetail.aspx?ActID=18616
Freedom of assembly	Article 43	Law No. 03/L-118, All provisions		The constitution guarantees the freedom of assembly and association, which is particularly important in ensuring that citizens feel safe to freely express their views and objectives such as through protests. The constitution: https://gzk.rks-gov.net/ActDetail.aspx?ActID=3702 Law No. 03/L-118: https://gzk.rks-gov.net/ActDetail.aspx?ActID=2633
Freedom of association/ political parties etc.	Article 44	LAW NO. 03/L-047 Article 11 LAW NO. 03/L-073 Article 2 LAW NO. 03/L-072 Article 3 LAW NO. 03/L-212 Article 88		The freedom of association/political parties allows members of different communities to organize around a political orientation and mobilize citizens through the right to vote. The existing legislation enables citizens to elect their government representatives in fair and periodic elections, which are organized through secret ballots. The constitution: https://gzk.rks-gov.net/ActDetail.aspx?ActID=3702 Law No. 03/L-047 https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2531 Law No. 03/L-073 https://gzk.rks-gov.net/ActDetail.aspx?ActID=2544 Law No. 03/L-072 https://gzk.rks-gov.net/ActDetail.aspx?ActID=2549 Law No. 03/L-212 https://gzk.rks-gov.net/ActDetail.aspx?ActID=2735

Hate speech/ crime	Article 40			The constitution provides for "the right to express oneself, to disseminate and receive information, opinions and other messages without impediment" with limitations when such freedom infringes upon the rights of others to prevent encouragement or provocation of violence and hostility on grounds of race, nationality, ethnicity or religion. Hate crime is also foreseen as an aggravating circumstance by the Criminal Code of Kosova. The constitution: https://gzk.rks-gov.net/ActDetail.aspx?ActID=3702 Criminal Code: https://www.refworld.org/docid/6012e70d4.html
Church and state relations	Article 8			The constitution establishes Kosovo as a secular state that is neutral in matters of religious beliefs. The constitution: https://gzk.rks-gov.net/ActDetail.aspx?ActID=3702
Surveillance laws	Article 36			Although there is no specific legislation on surveillance, related provisions can be found in the constitution as part of the Right to Privacy as well as in the Criminal Procedure Code where terrorism-related offenses are categorized as serious crimes whose investigation may require that covert and technical measures of surveillance (Article 88).Moreover, surveillance and interceptions are included in the Law on the Kosovo Intelligence Agency and the Law on the Interception of Electronic Communications. The constitution: https://gzk.rks-gov.net/ActDetail.aspx?ActID=3702

				Criminal Code: https://www.refworld.org/docid/6012e70d4.html Criminal Procedure Code, Article 88: https://www.ecoi.net/en/file/local/1267798/1226_1362067275_kosovo-cpc-2012-en.pdf The Law on the Kosovo Intelligence Agency: https://www.aki-rks.org/HTML_ENG/2008_03-L063_en.pdf The Law on Interception of Electronic Communications: https://cps.rks-gov.net/wp-content/uploads/2020/08/LAW_NO._05_L-030_ON_INTERCEPTION_OF_ELECTRONIC_COMMUNICATIONS.pdf
Right to privacy	Article 36	Law No. 06/L –082 Article 78		By constitution everyone enjoys the right to privacy which includes secrecy of correspondence, telephony, and other communication. Such a right may only be limited by court decision if it is necessary for criminal proceedings or defense of the country as defined by law. The Constitution https://gzk.rks-gov.net/ActDetail.aspx?ActID=3702 Law No. 06/L –082 https://gzk.rks-gov.net/ActDetail.aspx?ActID=18616

ANNEX II: LIST OF INSTITUTIONS DEALING WITH RADICALIZATION & COUNTER-RADICALIZATION

Authority (English and original name)	**Tier of government** (national, regional, local)	**Type of organization**	**Area of competence in the field of radicalization& deradicalization**	**Link**
Division for Prevention and Reintegration of Radicalised Persons (DPRRI) Divizioni për Parandalim dhe Riintegrim të personave të radikalizuar (DPRPR)	National	Division within the Department for Public Safety, Ministry of Internal Affairs	DPRI has been established to coordinate, communicate, monitor, and evaluate the process of reintegration for radicalized persons.	https://mpb.rks-gov.net/f/78/Divizioni-per-Parandalim-dhe-Riintegrim-te-Personave-te-Radikalizuar
Kosovo Police Policia e Kosovës	National	Law enforcement	The Investigation Department works towards awareness raising, early identification, targeting and treating individuals and criminal groups. Prevention of serious crimes, including terrorism involves: prevention of radicalism and Violent Extremism, conducting proactive and reactive investigations. Its Directorate Against Terrorism seeks to prevent and disable terrorists from recruiting, planning attacks or building legitimacy within Kosovo through investigations, collection of intelligence, maintenance and analysis of intelligence, use of secret investigation measures, conducting of clandestine operations, etc.	https://www.kosovopolice.com/en/departments/investigation-department/
Kosovo Intelligence Agency (KIA	National	Security and Intelligence Agency	KIA seeks to identify threats detrimental to the security of Kosovo through the collection and analysis of information related to, among	https://www.aki-rks.org/

Agjencia Kosovare e Inteligjencës (AKI)			others, incitement, aiding and abetting or advocating terrorism; acts of organized violence or intimidation against ethnic or religious groups in Kosovo.	HTML_ENG/home.html
Kosovo Correctional Services (KCS) Shërbimi Korrektues I Kosovës	National	Agency, Ministry of Justice	KCS aims works towards the correction and re-socialization of prisoners by respecting their fundamental rights regardless of race, language and religion as well as providing a safe environment for staff, prisoners, and society	https://shkk.rks-gov.net/en/shkk/480/historiku/480
Kosovo Probation Services (KPS) Shërbimi Sprovues I Kosovës	National	Agency, Ministry of Justice	KPS organizes, applys and supervises the execution of the alternative punishments and the social re-integration of the convicted persons (probation duties); prepares social inquiries and pre-punishment reports for the committals of criminal acts; evaluates criminal risk and assesses the treatment needs of the committers of criminal acts	https://md.rks-gov.net/page.aspx?id=2,19

ANNEX III: BEST PRACTICES/INTERVENTIONS/PROGRAMMES*

National level

	Institution(s)	Aim	Source	Evidence of effectiveness / literature
1.				
2.				

Sub-national/Regional level

	Institution(s)	Aim	Source	Evidence of effectiveness / literature
1.				
2.				

Local level

	Institution(s)	Aim	Source	Evidence of effectiveness / literature
1.				

* Current programs lack structure and impact assessments. Therefore, they have not been included in this Annex.

2.				

ANNEX IV: POLICY RECOMMENDATIONS

1. Amend and adopt the legislative and strategic framework as necessary to correspond with the shifting threat of radicalization and violent extremism. A number of current guiding and strategic documents related to radicalization are tilted towards addressing islamist radicalization. Thus, given the evolving nature of radicalization and violent extremism in line with domestic and international dynamics, it is important for the legislative and strategic framework to reflect the shifting character of the threat.

2. Strengthen prevention of radicalization and violent extremism by expanding cooperation with international and local partners. In spite of marked progress in addressing radicalization, the institutions of Kosovo still face deficiencies in terms of the lack of resources and capacities. Expanding partnerships with local and international organizations is one way in which efficiency could be improved in efforts to prevent radicalization and violent extremism.

3. Adopt an individualized, gender-sensitive, and trauma-informed approach to the process of rehabilitating and reintegrating individuals who have been formerly associated with violent extremist networks. It is well established that the needs and challenges of individuals who have been radicalized or those who have returned from the foreign conflict zones differ based on the personal characteristics such as gender, age, and level of exposure to trauma. Thus, a customised approach is necessary to facilitate rehabilitation and reintegration.

4. Adopt separate legislation to regulate the process of reintegration for children who have returned from the foreign conflict zones. There is currently a lack of dedicated legislation that regulates how the process of rehabilitation and reintegration for children who have been formerly affiliated with extremist organizations. This legal basis in needed to improve current approaches that have to rely on general legislation that may not fully correspond to the specific needs of children.

5. Establish standardized protocols that regulate the work of key institutions involved in the process of rehabilitation and reintegration of radicalized persons with the purpose of improving information-sharing and inter-institutional coordination. This is particularly relevant in the work of KCS, KPS, as well as DPRRI which would facilitate the safe transition of an individual from the prison context back into society.

6. Institute consistent and comprehensive monitoring and evaluation tools to assess the impact of intervention programs to counter radicalization, specifically programs related to rehabilitation and reintegration of persons formerly affiliated with extremist groups. Without systematic and standardized assessments, it is difficult to evaluate whether a certain intervention is working and if /what changes may be necessary to adjust the course of action.

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About the Project

D.Rad is a comparative study of radicalisation and polarisation in Europe and beyond. It aims to identify the actors, networks, and wider social contexts driving radicalisation, particularly among young people in urban and peri-urban areas. D.Rad conceptualises this through the I-GAP spectrum (injustice-grievance-alienation-polarisation) with the goal of moving towards measurable evaluations of de-radicalisation programmes. Our intention is to identify the building blocks of radicalisation, which include a sense of being victimised; a sense of being thwarted or lacking agency in established legal and political structures; and coming under the influence of “us vs them” identity formulations.

D.Rad benefits from an exceptional breadth of backgrounds. The project spans national contexts including the UK, France, Italy, Germany, Poland, Hungary, Finland, Slovenia, Bosnia, Serbia, Kosovo, Israel, Iraq, Jordan, Turkey, Georgia, Austria, and several minority nationalisms. It bridges academic disciplines ranging from political science and cultural studies to social psychology and artificial intelligence. Dissemination methods include D.Rad labs, D.Rad hubs, policy papers, academic workshops, visual outputs and digital galleries. As such, D.Rad establishes a rigorous foundation to test practical interventions geared to prevention, inclusion and de-radicalisation.

With the possibility of capturing the trajectories of seventeen nations and several minority nations, the project will provide a unique evidence base for the comparative analysis of law and policy as nation states adapt to new security challenges. The process of mapping these varieties and their link to national contexts will be crucial in uncovering strengths and weaknesses in existing interventions. Furthermore, D.Rad accounts for the problem that processes of radicalisation often occur in circumstances that escape the control and scrutiny of traditional national frameworks of justice. The participation of AI professionals in modelling, analysing and devising solutions to online radicalisation will be central to the project’s aims.

Executive Summary

This report considers the evolution and main stages of the Polish national counter-radicalization framework and its effectiveness. Preventing extremism plays a vital role in ensuring an open and tolerant society. An important aspect of many forms of extremism is the use of harmful activities such as terror attacks and threats of violence. Resorting to these measures affects not only the immediate victims of violent extremism, but also other citizens by inhibiting them from enjoying their fundamental freedoms. On the other hand, policing extremism can affect human rights too, and counter-terrorist measures may lead to limiting fundamental rights. Examined in this report are some of the key constitutional concepts for discussing legal context of radicalization in Poland: freedom of religion, freedom of expression, freedom of assembly, freedom of association and non-discrimination.

1. Introduction

In the context of violent extremism fundamental constitutional freedoms play a central role. The purpose of this report is to give a conceptual account on how Polish policies and laws address radicalisation. This aim has been defined within Work Package 4 Guidelines under the Horizon 2020 project D.Rad 'De-Radicalization in Europe and Beyond: Detect, Resolve, and Re-Integrate'. The methodology involved legal research, two case studies and interviews with policy stakeholders. The report followed the structure as outlined in Work Package 4 and it is composed of an introduction, a section on contextual background that includes socio-economic, political and cultural aspects. Next, it describes the constitutional organization of the state and constitutional principles such as secularism, religious freedom, self-determination and sub-national identities.

In the fourth section of the report the relevant legislative framework in the field of radicalization is presented, which includes its evolution, discussion on fundamental freedoms, principles informing legislation, hate speech and hate crime regulations, as well as paradigmatic case law on radicalization.

Next, the fifth section discusses the relevant policy and institutional framework in the field of radicalization: evolution and main stages of the policy framework, political and social cleavages the policy framework responds to, the role of local municipalities and the third sector. Moreover, this section discusses primary prevention (that prevents radicalisation before it occurs), secondary prevention (seeking to achieve early detection of cases), and tertiary prevention policies (to prevent recurrence, such as prison rehabilitation programs).

Two types of prevention presented in the fifth section are discussed in detail in part six where they are presented as case-studies. The last part of the report are the conclusions emphasizing the most important findings. In addition, the report is equipped in annexes presenting: overview of the legal framework, national case law, list of institutions dealing with radicalization and deradicalization, best practices on national, sub-national and local level, as well as policy recommendations.

2. The socio-economic, political and cultural context

Poland is considered to be a country of a low level of risk of terrorist attack, which is mostly being seen within the context of jihadist terrorism (Internal Security Agency, 2020). However, the attacks in Norway (2011) and Christchurch (2019) have directed attention of Polish services towards radical right-wing perpetrators. Indeed, in 2019 the Internal Security Agency prevented a mosque attack prepared by a Polish group related to Nordic Resistance Movement who were inspired by terrorist attacks committed by Anders Breivik, Philip Manhaus and Brenton Tarrant. On the other hand, feelings of injustice and grievance about the attitudes towards Muslims within some segments of Polish society may lead to alienation and radicalization. There have been instances of two Polish teenagers contacting ISIS in order to carry out a terrorist attack in a public place as a revenge for anti-Muslim attitudes among the Polish society. However, more prevalent are the right-wing groups that promote fascist or Nazi system of the state, which is forbidden under Polish law. One of these organizations – 'Pride and Modernity' – has recently been delegalized by the Regional Court, and the leaders of the Polish branch of 'Blood and Honour' have been arrested for promoting Nazism and inciting hatred on the basis of race, nationality, and ethnicity. These kinds of radicalization have an important impact on the Polish society leading to further polarizations, grievances and alienation.[1]

An important role within the Polish radicalization context plays the fact that Poland is a highly homogenous country, which might be conductive to nationalism. According to the last census 97.1 percent of the respondents claim sole or partial Polish nationality, and 98.19 percent declare that they speak Polish at home (Central Statistical Office, 2011). The largest numbers of respondents claimed Silesian nationality, then Kashubian, German, Ukrainian and Belarusian (Central Statistical Office, 2016). Poland is also one of the most religious countries in Europe, where only 3.1 percent do not belong to any religion (Central Statistical Office, 2016). As one of the most Catholic countries in the world, 92.8 percent of Poles identify themselves as Catholics (Central Statistical Office, 2016). Other denominations include Orthodox Christianity (507,196 members), Jehovah's Witnesses (116,935 members), Protestants (61,217 members) and Greek Catholics (55,000 members) (Central Statistical Office, 2016). Believers of Islam, Judaism, Hinduism and Buddhism constitute less than 0.1% of the population (Central Statistical Office, 2016).

Although Poland has a small Muslim population, polarisation of political debates on Muslim minorities and Muslim immigration is high. In particular the heated debates played a role in politics in 2015 when the Law and Justice party won both the presidential and parliamentary elections (Dudzińska and Kotnarowski, 2019). This was when the European Commission proposed allocating 40,000 refugees between EU member states and it was suggested that voters were clustered according to their views on Muslim immigration (Markowski, 2015). While in other countries fear of immigration might be related to economic reasons, it seems that in Poland it is rather related to xenophobia, and in particular to Islamophobia (Dudzińska and Kotnarowski, 2019). In the last decade Polish society has become wealthier with a steady and high, compared to other European countries, economic growth. Between 1990 and 2019

[1] For an overview on trends of radicalisation see Maria Moulin-Stozek (2021): *Trends of Radicalization.* D3.2 Country Report. Horizon 2020 project 'De-Radicalisation in Europe and Beyond: Detect, Resolve, Re-integrate' (959198).

Poland's Human Development Index value increased by 22.6 percent from 0.718 to 0.880 (United Nations DP, 2020). With 0.880 value, the Index in 2019 positioned Poland at 35 out of 189 countries and territories (United Nations Development Programme, 2020). In terms of unemployment, due to growing Gross Domestic Product over the past several years, there has been a lowering trend and the current rate is 3.04 percent (Statista, 2020).

3. The constitutional organization of Poland and constitutional principles in the field of (de-)radicalization

Polish history has been touched by a continual struggle for independence and preservation of national culture and language. Freedom, religion and national identity played an important role during resistance in the period of partitions and during communism. This historic past has an important influence on the development of constitutional ideas on individual freedom, freedom of association, freedom of assembly, freedom of expression, religious freedom and the constitutional model of the relationship between church and state. The value of freedom is emphasized in the currently binding Constitution of 1997[2] that exchanged the so-called 'Small Constitution' of 1992[3] and the communistic Constitution of 1952.[4]

The constitutional organisation of the state in Poland
The Polish Constitution establishes a dual executive system of government, in which the President is the head of state and the Prime Minister is the head of the Government. Executive power is vested in the President and the Government, while Legislative power is vested in the two chambers of the Parliament, Sejm (the lower chamber) and Senate (the upper chamber). The President is the supreme representative of the Republic of Poland and the supreme commander of the Armed Forces. The Government is led by the Prime Minister and consists of the Council of Ministers. Poland has a four-tier court system that includes the Supreme Court of Poland, the common courts, administrative courts and military courts. In addition, there is the Constitutional Tribunal and the State Tribunal[5]. Judges in Poland are nominated by the National Council of the Judiciary and are appointed by the President.

Legal protection of human freedom is fundamental for guarding against violent extremism. In the Polish Constitution it is guaranteed in Article 31 sec. 1. The state has a special obligation to ensure safety for the citizens while guaranteeing the respect of human and civil rights (Article 5). Self-determination of the state, that might be targeted by the terrorists is regulated in Article 4 sec. 1: 'Supreme power in the Republic of Poland shall be vested in the Nation.' However, the idea of sovereignty should not impede accessing and following regional and

[2] Constitution of the Republic of Poland as adopted by the National Assembly on 2 April 1997, Dz.U. 1997, No. 78, item 783 [Konstytucja Rzeczypospolitej Polskiej z dnia 2 kwietnia 1997 r.], hereinafter Constitution. Available in English at the Polish Parliament website: https://www.sejm.gov.pl/prawo/konst/angielski/kon1.htm.

[3] Constitutional Law on relations between legislative and executive power in the Republic of Poland and on local government, Dz.U. 1992 No. 84 item 426 [Ustawa Konstytucyjna z dnia 17 października 1992 r. o wzajemnych stosunkach między władzą ustawodawczą i wykonawczą Rzeczypospolitej Polskiej oraz o samorządzie terytorialnym].

[4] Constitution of the People's Republic of Poland as adopted by the National Assembly on 22 July 1952, *Dz.U. 1952* No. 33 item 232 [Konstytucja Polskiej Rzeczypospolitej Ludowej uchwalona przez Sejm Ustawodawczy w dniu 22 lipca 1952 r.].

[5] Judicial body, which rules on the constitutional liability of people holding the highest offices of state.

international treaties and international human rights laws. In addition to domestic provisions, these international provisions protect individuals and groups from extremism.

The attachment to freedom is expressed also in the Constitution within the guarantee of freedom of religion and belief to everyone (Article 53.1). In the context of prevention radicalization, it is necessary to eliminate discrimination on the ground of religion or belief, religious intolerance and violence towards religious believers and non-believers. Freedom of religion and belief includes: 'freedom to profess or to accept a religion by personal choice as well as to manifest such religion, either individually or collectively, publicly or privately, by worshipping, praying, participating in ceremonies, performing rites or teaching' (Article 53.1). No one may be compelled to participate or not participate in religious practices (Article 53.6) or be compelled by organs of public authority to disclose their philosophy of life, religious convictions or beliefs (Article 53.7). The text of Article 53 makes it clear that it would be against the Constitution to interpret religious freedom in a way that it only applies to followers of a particular religion. Article 53 also clearly explicates that religion is a choice.

Correspondingly, the Article 25 sec. 2 of the Polish Constitution established the principle of ideological impartiality of public authorities: 'public authorities in the Republic of Poland shall be impartial in matters of personal conviction, whether religious or philosophical, or in relation to outlooks on life, and shall ensure their freedom of expression within public life'. The relations between the Republic of Poland and churches and religious organizations are determined by agreements concluded between their appropriate representatives and the Council of Minister (Article 25 sec. 4). The relations with the Roman Catholic Church are determined by Concordat – international treaty concluded with the Holy See and relevant statutes (Article 25 sec. 3).

Fundamental for preventing radicalization, besides religious freedom, are rights of national and ethnic minorities. According to the Polish constitution minorities should have 'the freedom to maintain and develop their own language, to maintain customs and traditions, and to develop their own culture' (Article 35 sec. 1), and 'the right to establish educational and cultural institutions, institutions designed to protect religious identity, as well as to participate in the resolution of matters connected with their cultural identity' (Article 35 sec. 2). Moreover, national and ethnic minorities are equal before the law (Article 32 sec. 1) and enjoy full public rights and the access to the public service (Article 60). It is against the Constitution to discriminate in political, social or economic life for any reason (Article 32 sec. 2).

Decentralisation
Two pivotal constitutional provisions that discuss decentralization are Articles 15 and 165. The principle of decentralization is expressed in Article 15, while Article 165 vests the legal personality, rights of ownership and other property rights on units of local government, as well as establishes their protection by the courts. The principle of subsidiarity is expressed in the Preamble of the Constitution: '(…) hereby establish this Constitution of the Republic of Poland as the basic law for the State, based on (…) the principle of subsidiarity in the strengthening the powers of citizens and their communities.' Units of local government perform public duties aimed at satisfying their needs (Article 166 sec. 1 of the Constitution), but might also perform other public duties if specified by statute (Article 166 sec. 2 of the Constitution). The state has a three-level

territorial division with the following units: communes, counties and voivodships[6]. The body of government administration and the government's representative in the voivodship is the voivode.

Although Polish constitutional law secures freedom of expression (Article 54 of the Constitution), in a democratic state it does not prevent from excluding extreme speech from this guarantee. In the Polish Constitution under Article 13 political parties and other organizations whose programmes are based upon totalitarian methods and the modes of activity of Nazism, fascism and communism, as well as those whose programmes or activities sanction racial or national hatred, the application of violence for the purpose of obtaining power or to influence the State policy or provide for the secrecy of their own structure or membership, are forbidden. Based on Article 188, the conformity to the Constitution of the purposes or activities of political parties is the competence of the Constitutional Tribunal.

The legal protection of human freedom enshrined in Article 31 sec. 1 can be limited. One of the reasons for introducing restrictions is the necessity to ensure security (Article 31 sec. 3). In the event of restriction of constitutional freedoms for instance in the face of terrorist threats, regardless of their level, legal standards should be characterized by due correctness, precision and clarity. For many years national security services have been operating under limited prosecutorial and judicial control (Paprzycki, 2009). However, the Constitutional Tribunal issued judgements ensuring that counter-terrorist operational control undertaken by the security services are conducted in conformity with the Constitution. For example, in the judgement of 20 April 2004 (K 45/02) the Tribunal stated that, as part of investigative measures, the powers of the Internal Security Agency officers to issue 'specific behaviour orders' were justified. However, the legislator should unambiguously delineate the limits of permissible interference by an officer and provide for appropriate procedural measures enabling the verification of the legitimacy of the issued order. The Constitutional Tribunal has also ruled on 14 December 2017 (K 17/14) that a provision authorizing, *inter alia*, officers to carry out a personal inspection, search people and vehicles, without specifying the limits of these activities, is inconsistent with the Constitution. The contested provisions were amended.

[6] Act of 24 July 1998 on the introduction of the basic three-tier territorial division of the state (Ustawa z dnia 24 lipca 1998 r. o wprowadzeniu zasadniczego trójstopniowego podziału terytorialnego państwa Dz.U. 1998 nr 96 poz. 603 ze zm.).

4. Legislative framework in the field of (de-)radicalization

Legislative framework on fundamental freedoms

Fundamental freedoms perform a central function in any democratic society, and besides constitutional law, they are also regulated in other types of legislation. In addition to the constitutional guarantees on religious freedom, they are also laid down in the Law on guarantees of the freedom of conscience and religion of 1989.[7] According to Article 1 'The Republic of Poland shall secure to every citizen freedom of conscience and religion. The latter shall include freedom to choose one's religion or beliefs and freedom to manifest one's religion or beliefs, either alone or in community with others, in private and in public (…)' Freedom of conscience and religion is also under protection of the Criminal Code[8] and the Civil Code.[9]

Similarly, besides the Civil Code, and the Criminal Code, freedom of speech or expression is guaranteed in other statutes such as: Act of 4 February 1994 on authorship law and related rights,[10] Act of 26 January 1984 Press Law [11] or Act of 14 December 1982 on the protection of the state and official secrets[12]. Because of an overlap between the Act of 26 January 1984 Press Law and the Civil Code, those whose freedom of speech was affected can at the same time seek protection under both acts[13]. Under the Act of 10 June 2016 on anti-terrorist operations,[14] the Internal Security Agency can order the blocking or demand that the electronic open source service administrator block access to information data with no possibility for the administrator to appeal. Websites can be blocked for up to five days prior to obtaining permission, and up to 30 days after the permission is granted.

There is a repressive type of censorship in Poland, i.e. after the publication of the work (Stożek, 2014) and it includes acts such as: public insult due to national, ethnic, racial, religious affiliation or because of non-denominational status, praising or encouraging to commit a crime, promoting a fascist or other totalitarian system of the state, slander and

[7] Act on guarantees of the freedom of conscience and religion of 17 May 1989 (Ustawa z dnia 17 maja 1989 r. Prawo o gwarancjach wolności sumienia i wyznania, Dz.U. 1989 nr 29 poz. 155 ze zm.).

[8] Act of 6 June 1997 Criminal Code (Ustawa z dnia 6 czerwca 1997 r. Kodeks karny, Dz.U. 1997 nr 88 poz. 553 ze zm.).

[9] Act of 23 April 1964 Civil Code (Ustawa z dnia 23 kwietnia 1964 r. Kodeks cywilny Dz.U. 1964 nr 16 poz. 93 ze zm.).

[10] Act of 4 February 1994 on autorship law and related rights (Ustawa z dnia 4 lutego 1994 r. o prawie autorskim i prawach pokrewnych, Dz.U. 1994 nr 24 poz. 83 ze zm.).

[11] Act of 26 January 1984 Press Law (Ustawa z dnia 26 stycznia 1984 r. Prawo prasowe, Dz.U. 1984 nr 5 poz. 24 ze zm.).

[12] Act of 14 December 1982 on the protection of the state and official secrets (Ustawa z dnia 14 grudnia 1982 r. o ochronie tajemnicy państwowej i służbowej, Dz.U. 1982 nr 40 poz. 271 ze zm.).

[13] Judgement of the Supreme Court of 10 September 1999, ref. no. III CKN 939/98, OSNC 2000, No. 3.

[14] Act of 10 June 2016 on anti-terrorist operations (Ustawa z dnia 10 czerwca 2016 r. o działaniach antyterrorystycznych (Dz. U. z 2016 r. poz. 904 ze zm.).

defamation, insulting religious feelings, public insult of the President of the Republic of Poland and other constitutional organs of the Republic of Poland.[15] There are movements and campaigns that question some of these limitations e.g. 'Delete 212 of the Criminal Law Code' campaign called for the abolition of Article 212 of the Criminal Law Code, i.e. the offense of slander.[16] As a general rule, however, even extreme opinions are considered within the limits of freedom of speech[17]. The Supreme Court in its jurisprudence requires from professionals, a level of reliability, proper collection of sources of information and verification of acquired knowledge (see e.g. IV KK 296/17). A different type of censorship applies as far as obtaining a radio or television license is concerned, which is required on the basis of Broadcasting Act of 29 December 1992.[18]

As in other countries, in the Polish legal system entities providing services by electronic means are responsible for monitoring information transmitted or stored. This responsibility is limited by technical possibilities of the provider. In addition, if the act has been committed outside of Poland, it must me also classified as a crime in the country where it took place. This has practical consequences. For example, after the official Polish *Red Watch* website with neo-Nazi content was closed, it reopened in Dallas and is still being updated.

The Polish statutory laws allow to freely associate (Act of 7 April 1989 Law on associations,[19], Act of 6 April 1984 on foundations[20], and Act of 27 June 1997 on political parties[21]), but at the same time allows to eliminate those associations, political parties and organisations that violate laws e.g. promote hatred. For instance, in addition to Article 13 of the Constitution of the Republic of Poland, the provision of the Article 29(1)(3) of the Act of 7 April 1989 of the Law on associations provides that a court or the public prosecutor may dissolve an association if its activities demonstrate serious or persistent violations of the law. A similar action is possible in case of political parties. The register of parties is kept by the District Court in Warsaw. Based on the Article 14 of the Act of 27 June 1997 on political parties, if this court is in doubt whether the aims of a political party are consistent with the Constitution, it lodges a query to the Constitutional Tribunal for an evaluation of constitutionality of the purposes and activities of that political party. A similar review is possible in the case of changes in the political party's statute. If the Constitutional Tribunal finds unconstitutionality of the purposes and

[15] See Act of 6 June 1997 Criminal Code (Ustawa z dnia 6 czerwca 1997 r. Kodeks karny Dz.U. 1997 nr 88 poz. 553 ze zm.).

[16] Helsinki Foundation for Human Rights, 'Delete 212 of the Criminal Law Code' campaign, available at: https://www.hfhr.pl/podsumowanie-kampanii-wykresl-212-kk/.

[17] Similarly, European Court of Human Rights, see e.g. Kurski v. Poland (Application No. 26115/10, Judgment of 5 July 2016).

[18] Broadcasting Act of 29 December 1992 (Ustawa z dnia 29 grudnia 1992 r. o radiofonii i telewizji Dz. U. 1993, nr 7, poz. 34 ze zm.).

[19] Act of 7 April 1989 Law on Associations (Ustawa z dnia 7 kwietnia 1989 r. Prawo o stowarzyszeniach Dz. U. 1989, nr 20, poz. 104 ze zm.).

[20] Act of 6 April 1984 on foundations (Ustawa z dnia 6 kwietnia 1984 r. o fundacjach Dz. U. 1984, nr 21, poz. 97 ze zm.).

[21] Act of 27 June 1997 on political parties (Ustawa z dnia 27 czerwca 1997 r. o partiach politycznych Dz.U. 1997 nr 98 poz. 604 ze zm.).

activities of a political party, the District Court in Warsaw rejects its registration or deletes it from the register.

Minority rights are regulated in the Act of 6 January 2005 on national and ethnic minorities and regional language.[22] The Act guarantees the equal protection of national and ethnic minorities. It obliges government agencies, including local ones, to take appropriate measures to promote the full and effective equality of minority groups in economic, social, political, and cultural life, as well as to protect members of minorities from discrimination, hostility, or violence. The Act does not include punitive measures against hate speech and adopts a more 'positive approach' in its prevention. In 2010 Poland also adopted Act of 3 December 2010 on equal treatment[23], which provides an exhaustive list of protected characteristics: gender, ethnic origin, nationality, religion and religious denomination, political view, disability, age, and sexual orientation. In Article 3.3. it defines harassment as 'any unwanted conduct whose aim or effect is violating the dignity of a natural person and creating around them an intimidating, hostile, degrading, humiliating or offensive atmosphere.' Based on Article 13 those affected can bring civil law claims and seek damages and/or compensation, but it was repeatedly raised on the European and international level that this regulation fails to provide effective protection to individuals who have been victims of discrimination on various grounds.[24]

In the context of radicalization freedom of a peaceful assembly plays an important role, especially as far as 'Independence March' is concerned. The participants have engaged in hate speech, and there were even incidents of presenting racist banners. The Act of 24 July 2015 Law on Assemblies,[25] gave priority to cyclical assemblies and contains vague terms (e.g. events of great importance and significance for the history of Poland), which has been criticized. There are also difficulties in assigning individual responsibility and, to appropriately respond to assemblies that lose their peaceful character (Stożek, 2016). Moreover, according to the Act of 10 June 2016 on anti-terrorist operations,[26] if a third or fourth level state of alarm is announced, the Minister of Internal Affairs may prohibit public assemblies. There is no process of verification of the decision to declare a state of alarm.

Polish surveillance laws, when it comes to intelligence agencies, typically highly affect right to privacy, which has been criticized by political opposition and human rights organizations.[27] Surveillance is regulated i.a. in the Act of 24 of May 2002 on the Internal Security Agency and

[22] Act of 6 January 2005 on national and ethnic minorities and regional language (Ustawa z dnia 6 stycznia 2005 r. o mniejszościach narodowych i etnicznych oraz o języku regionalnym Dz.U. 2005 nr 17 poz. 141 ze zm.).

[23] Act of 3 December 2010 on equal treatment (Ustawa z dnia 3 grudnia 2010 r. o wdrożeniu niektórych przepisów Unii Europejskiej w zakresie równego traktowania, Dz. U. 2010 Nr 254 poz. 1700 ze zm.).

[24] See, e.g., the Concluding Observations of the UN Human Rights Committee on Poland, 23 November 2016; https://www.refworld.org/docid/5975bfbb4.html.

[25] Act of 24 July 2015 Law on Assemblies (Ustawa z dnia 24 lipca 2015 r. Prawo o zgromadzeniach (Dz.U. 2015, Nr 51, poz. 1485 ze zm.).

[26] Act of 10 June 2016 on anti-terrorist operations (Ustawa z dnia 10 czerwca 2016 r. o działaniach antyterrorystycznych (Dz. U. z 2016 r. poz. 904 ze zm.).

[27] See e.g. Human Rights First, Poland's Anti-Terror Law Recommendations for U.S. officials attending Warsaw NATO Summit 2016, available from: https://www.humanrightsfirst.org/resource/poland-s-anti-terror-law.

the Foreign Intelligence Agency,[28] Act of 10 June 2016 on anti-terrorist operations,[29] Act of 6 April 1990 Police Law[30]and Code of Criminal Procedure.[31]

Legislative framework on (de-)radicalization

The evolution and main stages of the legal framework legislation on radicalization and de-radicalization can be defined by two milestones in Polish legislation in counterterrorism. First milestone was when in 2002 the Internal Security Agency was established based on the Internal Security Agency and Foreign Intelligence Agency Act.[32] The second legislative milestone was the enactment of the Act of 10 June 2016 on anti-terrorist operations,[33] which also amended 31 other acts regulating this issue.

After democratic transition in Poland, prevention of extremism had to respond to post-communist reality in which organised crime was rampant, in particular in the area of financial crime. Poland had to transform its national security system. At that time migration increased, as well as international cooperation. In 1990 the Office for State Protection ('Urzad Ochrony Panstwa') was created. The office was staffed mainly by the officers who served in the communist special services i.e. 'Security Service' ('Sluzba Bezpieczenstwa'). Although it was supposed to be an apolitical institution, in practice it has often been accused of engaging in political disputes or being used for political purposes.

As a response Office for State Protection was liquidated, and in 2002 Internal Security Agency and Foreign Intelligence Agency were established. Based on Art. 21 of the Internal Security Agency and Foreign Intelligence Agency Act of 24 May 2002[34], the Internal Security Agency officers have both operational and investigative power. The same Article in par. 3 vested on

[28] Act of 24 of May 2002 on the Internal Security Agency and the Foreign Intelligence Agency (Ustawa z dnia 24 maja 2002 r. o Agencji Bezpieczeństwa Wewnętrznego oraz Agencji Wywiadu Dz. U. z 2010 r. Nr 29, poz. 154 ze zm.).

[29] Act of 10 June 2016 on anti-terrorist operations (Ustawa z dnia 10 czerwca 2016 r. o działaniach antyterrorystycznych (Dz. U. z 2016 r. poz. 904 ze zm.).

[30] Act of 6 April 1990 Police Law (Ustawa z dnia 6 kwietnia 1990 r. o Policji Dz.U. 1990, Nr 30, poz. 179 ze zm.).

[31] Criminal Procedure Code of 6 of June 1997 (Ustawa z dnia 6 czerwca 1997 r. Kodeks postępowania karnego (Dz.U. z 1997 Nr 88, poz. 555 ze zm.).

[32] Internal Security Agency and Foreign Intelligence Agency Act of 24 May 2002 (Ustawa z dnia 24 maja 2002 r. o Agencji Bezpieczeństwa Wewnętrznego oraz Agencji Wywiadu (Dz. U. z 2010 r. Nr 29, poz. 154 ze zm.)

[33] Act of 10 June 2016 on anti-terrorist operations (Ustawa z dnia 10 czerwca 2016 r. o działaniach antyterrorystycznych (Dz. U. z 2016 r. poz. 904 ze zm.).

[34] Internal Security Agency and Foreign Intelligence Agency Act of 24 May 2002 (Ustawa z dnia 24 maja 2002 r. o Agencji Bezpieczeństwa Wewnętrznego oraz Agencji Wywiadu (Dz. U. z 2010 r. Nr 29, poz. 154 ze zm.)

the officers also the same investigative powers as the police has under the Code of Criminal Procedure.[35]

In this legislative stage it was highlighted that Poland needs further legal changes to shape the Polish system of national security to a qualitatively new level (National Security Bureau, 2007). Subsequently, in 2016 Poland implemented its first counterterrorist law – Act of 10 June 2016 on anti-terrorist operations.[36] In this act some of the rules for undertaking anti-terrorist activities by Polish services were specified, as well as cooperation between different institutions dealing with radicalization. The Act significantly increased powers of services, which has been criticised for affecting human rights (e.g. broader access to information about citizens).[37]

During this stage of legal framework other significant regulations with regard to violent extremism were also amended: the Act of 13 April 2016 on the safety of trade in explosives precursors[38], Act of 6 June 1997 Criminal Code [39] in the scope of strengthening the legal tools related to counteracting financing of terrorism and against foreign fighters, and the Act of 1 March 2018 on counteracting money laundering and financing of terrorism.[40]

A common form that political extremism can take are hate crimes. In Poland hate speech and crimes against minority religious groups tend to increase after a terrorist attack occurs in another country. There is no legal definition of a hate crime under Polish law. Polish legal system uses definition developed by the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (Karsznicki, 2012). Based on this definition any criminal act can be classified as hate crime if the victim, premises or other purpose of the crime are selected on the basis of their actual or presumed connection with a group that can be distinguished on the basis of presumed race, nationality or ethnic origin, language, colour, religion, sex, age, physical or mental disability, sexual orientation or other similar characteristics.

Bias motivation in hate crimes are gathered since 2015 in an electronic database of the Police and the Ministry of Interior and Administration. The most common crimes with bias motivation were: Art. 119 §1 of Criminal Code (hereinafter: kk) (unlawful threat), Art. 126a kk (publicly calling to destroy in full or in part, any ethnic, racial, political or religious group, or a group with a different perspective on life, Art.195 §1 kk (malicious interference with a the public performance of a religious ceremony of a church or another religious association), Art. 196 kk

[35] In particular *see* Article 312 in connection with Article 311 of the Code of Criminal Procedure (Ustawa z dnia 6 czerwca 1997 r. – Kodeks postępowania karnego (Dz.U. z 1997 Nr 88, poz. 555 ze zm.).

[36] Act of 10 June 2016 on anti-terrorist operations (Ustawa z dnia 10 czerwca 2016 r. o działaniach antyterrorystycznych Dz. U. z 2016 r. poz. 904 ze zm.).

[37] See e.g. Human Rights First, Poland's Anti-Terror Law Recommendations for U.S. officials attending Warsaw NATO Summit 2016, available from: https://www.humanrightsfirst.org/resource/poland-s-anti-terror-law.

[38] Act of 13 April 2016 on the safety of trade in explosives precursors (Ustawa z 13 kwietnia 2016 r. o bezpieczeństwie obrotu prekursorami materiałów wybuchowych Dz. U. 2016 poz. 669 ze zm.).

[39] Act of 6 June 1997 Criminal Code (Ustawa z dnia 6 czerwca 1997 r. Kodeks karny Dz.U. 1997 nr 88 poz. 553 ze zm.).

[40] Act of 1 March 2018 on counteracting money laundering and financing of terrorism (Ustawa z 1 marca 2018 r. o przeciwdziałaniu praniu pieniędzy oraz finansowaniu terroryzmu Dz.U. 2018 poz. 723 ze zm.).

(offending the religious feelings of other persons by outraging in public an object of religious worship or a place dedicated to the public celebration of religious rites), Art. 256 §1 kk (publicly promoting a fascist or other totalitarian system of state or inciting hatred based on national, ethnic, race or religious differences or for reason of lack of any religious denomination), Art. 257 kk (publicly insulting a group within the population or a particular person because of his national, ethnic, race or religious affiliation or because of his lack of any religious denomination).[41]

Similarly, as on the international level,[42] it is well-established in the Polish case law that a conviction can be made for both online and offline hate speech. Moreover, in 2014 the General Prosecutor issued Guidelines for conducting criminal proceedings in hate crimes,[43] which have to be followed not only by the prosecutors, but also by the police and the officers of the Internal Security Agency. Poland has ratified the Council of Europe Convention on Cybercrime, as well as its Additional Protocol concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems, and some changes towards online contexts have already been executed in the Polish legislation. For example, the Criminal Law Code[44] has been amended by adding Art. 256 §2 kk: publicly promoting a fascist or other totalitarian system of state or inciting hatred based on national, ethnic, race or religious differences or for reason of lack of any religious denomination through media.

Polish legislation on radicalization is guided by the punitive approach. As Poland is a country with a low risk level of a terrorist attack, there are few people observed for terrorist reasons. This is a reason why the criminal justice system does not prioritise programs aimed at integration. Prevention of radicalized action is mostly narrowed to criminalization and prosecution.

The main document that responds to radicalization and extremism is the Criminal Law Code.[45] Terrorist offence is regulated in Art. 115 par. 20 of the Code: it is an act committed with the aim of: 1) seriously terrorizing a large number of people, 2) forcing a public authority of the Republic of Poland, or another state or international organization, to take or not to take a certain course of action, 3) cause a serious disturbance in the political system or economy of the Republic of Poland or another state or international organization. A threat to commit such an act is also penalized. Other acts may involve offences against public safety regulated in Chapter XX of the Criminal Law Code (see Art. 163, 164, 165, 165a, 166, and 167). Those terrorist acts that are related with war crimes are regulated in Chapter XVI and include assaults on government representatives (Art. 134 and Art. 136). Terrorist offences are regulated also

[41] Ministry of Justice, 'Informator Statystyczny Wymiaru Sprawiedliwości'. Available at: https://isws.ms.gov.pl/pl/baza-statystyczna/opracowania-wieloletnie/. (Accessed: 1 March 2021).

[42] See UN Human Rights Council, Resolution 20/8 on the Internet and Human Rights, A/HRC/RES/20/8, June 2012, that recognized that the 'same rights that people have offline must also be protected online'.

[43] General Prosecutor, Wytyczne Prokuratora Generalnego w zakresie prowadzenia postępowań o przestępstwa z nienawiści, Warszawa, dnia 26 lutego 2014 r. (ref. no. PG VII G 021/54/13).

[44] Act of 6 June 1997 Criminal Code (Ustawa z dnia 6 czerwca 1997 r. Kodeks karny, Dz.U. 1997 nr 88 poz. 553 ze zm.).

[45] Id.

in other acts. For example, the 2011 amendment to the Act of 3 July 2002 Aviation Law[46] introduced in Article 2 the definition of the term 'act of unlawful intervention in civil aviation', which specified its meaning to include also an attack of a terrorist character.

In order to prevent terrorism and extremism relevant institutions have powers and competences, and some of them have special powers. The use of these powers may sometimes collide with constitutional civil rights and freedoms. In extreme circumstances a state of emergency[47] may be introduced, which may involve severe restrictions of freedom and human and civil rights. In regular circumstances organs that prevent extremism use their powers based on the Code of Criminal Procedure[48] (hereinafter: kpk) such as: interrogation (Art. 177 kpk), search and seizure (Art. 217 kpk) or bodily examination (Art. 207 kpk). Commonly used in investigative work is the right to demand the necessary assistance from state institutions, government administration and local government bodies as well as entrepreneurs providing services of general interest (Art. 15 § 2 kpk). In responding to terrorism special legal instruments might be employed such as: undercover agents, special investigating methods, sting operations etc. Competences of the Agency of Interior Security were further increased in Act of 13 May 2011 amending the Act of 29 November 2000 Atomic Law[49] giving the officers of the Agency the right to carry out inspections at nuclear power plants. The combating of terrorism financing is regulated in the Act of 1 March 2018 on counteracting money laundering and financing of terrorism[50] with regards to the standards for the prevention procedures.

Paradigmatic case-law on radicalization

Some of the cited above legal provisions have been clarified in paradigmatic case-law on radicalization. Poland is a civil law country, but lower courts tend to follow higher courts' decisions. Case-law of international courts and international standards are typically not revoked. With regards to hate crimes, the National Council of the Judiciary specified that the

[46] Act of 3 July 2002 Aviation Law (Ustawa z dnia 3 lipca 2002 r. Prawo lotnicze, Dz.U. 2002 nr 130 poz. 1112 ze zm.).

[47] Act of 29 August 2002 on Martial law and on the competences of the Supreme Commander of the Armed Forces and the rules of his subordination to the constitutional organs of the Republic of Poland (Ustawa z dnia 29 sierpnia 2002 r. o stanie wojennym oraz o kompetencjach Naczelnego Dowódcy Sił Zbrojnych i zasadach jego podległości konstytucyjnym organom Rzeczypospolitej Polskiej Dz. U. 2002 Nr 156, poz. 1301 ze zm.); Act of 21 June 2002 on the emergency state (Ustawa z dnia 21 czerwca 2002 r. o stanie wyjątkowym Dz. U. 2002 Nr 113, poz. 985 ze zm.).

[48] Criminal Procedure Code of 6 of June 1997 (Ustawa z dnia 6 czerwca 1997 r. Kodeks postępowania karnego (Dz.U. z 1997 Nr 88, poz. 555 ze zm.).

[49] Act of 29 November 2000 Atomic Law (Ustawa z dnia 29 listopda 2000 r. Prawo atomowe Dz.U. 2001 Nr 3 poz. 18 ze zm.).

[50] Act of 1 March 2018 on counteracting money laundering and financing of terrorism (Ustawa z dnia 1 marca 2018 r. o przeciwdziałaniu praniu pieniędzy oraz finansowaniu terroryzmu Dz.U. 2018 poz. 723 ze zm.).

courts need to follow general provisions of the Criminal Code with regards to the character of crime, circumstances of the crime, as well as intent and motivation of the perpetrator.[51]

In the Polish legal system, it is not punishable to identify with a radical subculture or have views that accept the totalitarian system of the state, or views that accept national, racial, religious hatred (Judgment of the Appellate Court in Wrocław of March 7, 2013, ref. no II AKa 398/12). The condition for the criminality is expressing those views in public. The Supreme Court clarified definition of incitement to hatred as 'statements of this type that evoke feelings of strong aversion, anger, lack of acceptance, even hostility towards individual people or entire social or religious groups, or due to the form of expression, maintain and intensify such negative attitudes and thus emphasize the privilege, superiority of a specific nation, group ethnicity, race or religion' (Decision of the Supreme Court of 5 February 2007, ref. no. IV KK 406/06). Regional Court in Białystok further specified that incitement to hatred on the basis of national, ethnic and racial differences should be understood as 'inciting, spreading hatred, strong dislike, hostility, anger, non-acceptance, and even feelings of rage' (Judgment of 30 June 2016, ref. no VIII Ka 157/16).

The Supreme Court left no doubt that the formulation 'propagating totalitarian system of state' refers to both online and offline context (Resolution of the Supreme Court of 28 March 28, 2002, ref. no I KZP 5/02). However, there is an inconsistency in the jurisprudence about the use of symbolism (cf. the judgment of the Court of Appeals in Katowice of August 4, 2005, II AKa 251/05, where wearing jackets with patches on the sleeves and collars depicting the swastika, does not fulfil features of the criminal offence with the judgment of the District Court in Brzeziny, II K 242/18, the armband with swastika placed on the left sleeve of the jacket was considered such an offence). The case-law also indicated that there is a need to raise awareness among the public about justifying restrictions on freedom of expression (see e.g. judgment of the Regional Court in Wrocław of 3 April 2017, ref. no IV Ka 222/17, judgment of the Court of Appeals in Katowice of 24 September 2013, ref. no. II AKa 301/13). It is not clear what is the impact of this case-law on the legal and policy framework and there is no evidence as to whether the judgments are being followed by the law enforcement.

[51] National Council of the Judiciary, Opinion of the National Council of the Judiciary of 14 October 2016, GMS-WP- 173-213/16, available at: http://orka.sejm.gov.pl/Druki8ka.nsf/0/92A49B71D291ABF3C125805A004C4D5B/$File/878-001.pdf

5. Policy and institutional framework in the field of (de-)radicalization

In Poland constitutional issues of religious freedom, freedom of expression, freedom of association did not undergo an important evolution since the democratic transition. There is no one particular dedicated body that would protect minorities from violations of their fundamental rights, and often responsibility to tackle those issues is allocated to different institutions. This is problematic in terms of creating policy frames to properly respond to violations of fundamental rights both by the extremist organizations or by the state. Protection of those rights, if their violations constitute hate crimes, lies mostly with the police. A 'hate crime' refers to both an act of physical violence, as well as speech. Hate speech is also prosecuted, because the dissemination of ideas of racial superiority and incitement to violence is universally considered to be a contributor to violent conflicts. In preventing those violations, the police forces located in the local level cooperate with the National Police Headquarters. Local police prepare monthly reports on hate crimes that are evaluated on the government level. In addition, the Cybercrime Department at the National Police Headquarters monitors the internet websites for hate speech. There are also NGOs monitoring and collecting information on hate crimes, but there is little official cooperation between the third sector and the police.

A severe weakness of Polish approach to radicalization and de-radicalization is that the governance is scattered among different institutional bodies, which have been listed in Appendix 2 with their area of competence. It ranges from institutions such as Ministry of Justice, Polish Armed Forces, Ministry of Interior Affairs, Border Guard, Prison Management Office, National Security Bureau, General Inspector of Financial Information, Government Protection Bureau, Prison Management Office, Government Centre for Security and other bodies. Extremism is countered on central, regional and local levels. For example, the Office for Anti-Terrorist Operations ('Biuro Operacji Antyterrorystycznych') of the Police Headquarters in Warsaw operates on the governmental level, the Regional Police Headquarters have their own Anti-Terrorist Units, while on a local level Independent Anti-Terrorist Sub-Units ('Samodzielne Pododdzialy Antyterrorystyczne') operate.

Currently, the main agent that is responsible for prevention of terrorism and extremism is the Internal Security Agency. The Agency was created, together with the Foreign Intelligence Agency ('Agencja Wywiadu'), on 24 May 2002 based on the Internal Security Agency and Foreign Intelligence Agency Act of 24 May 2002[52]. While the role of the Internal Security Agency is to gather and analyse intelligence within the country, Foreign Intelligence Agency is gathering information from the abroad. The Agency is supervised by a number of institutions that include i.a. the President, the Parliament, the Constitutional Court and the Commissioner for Human Rights. As mentioned in the previous section policy implementation as well as national legal framework are criticized for giving too much power to the services and affecting

[52] Act of 24 of May 2002 on the Internal Security Agency and the Foreign Intelligence Agency (Ustawa z dnia 24 maja 2002 r. o Agencji Bezpieczeństwa Wewnętrznego oraz Agencji Wywiadu Dz. U. z 2010 r. Nr 29, poz. 154 ze zm.).

individual rights.[53] The use of these powers includes also use of technology for detecting radicalization: for example operational control of mobile communication for an individual number of the telephone (IMEI), tracking the spectrum of telecommunications frequencies or any other technological information that can be obtained (Gładysz, 2018).

The Internal Security Agency has a special unit – the Terrorism Prevention Centre of Excellence ('Centrum Prewencji Terrorystycznej', hereinafter CPT ABW) – whose role is to coordinate the exchange of information among the services and prevent terrorism. The Center runs currently the following de-radicalization programs: POWER 'Increasing the competences of the state security services, employees of public administration and research and development centres and the development of their cooperation in the area of national security', and INDEED 'Strengthening comprehensive approach to preventing and counteracting radicalisation based on evidence-based model for evaluation of radicalisation prevention' which aims to strengthen the skills of social workers, education workers, representatives of law enforcement agencies, prison service, probation officers and decision-makers in the assessment of the effectiveness of preventive actions.[54] All de-radicalization programs are included in Appendix 3.

De-radicalization projects are also run by NGOs. The most important NGO in the field is the Institute of Social Safety which works mostly in secondary prevention – with people at risk. For example, the project 'Do one brave thing' aims to identify the warning signs of radicalization and challenge them among peers and community. [55] Similarly, the project 'We make young people in Poland immune to radicalization and extremism' provides training for young people in opposing radicalization among family and friends, and equips with the knowledge and skills to recognize the process of radicalization and violent extremism.[56] Another project PRECOBIAS 'Prevention of Youth Radicalisation Through Self-Awareness on Cognitive Biases', teaches how acceptance of extremist content is possible through cognitive errors such as the authority effect, confirmation effect, group effect and other.[57]

Secondary prevention programs in Poland tend to focus on a specific group which is particularly prone to right-wing radicalization – football fans. These projects are carried out by the government, NGOs and even football fans themselves. For example, the project 'Football Fans Together' ('Kibice Razem') promotes positive initiatives among football fans against xenophobia, violence, racism and intolerance.[58] The project was commissioned by the Minister of Sport and Tourism and it has already 18 local branches. 'Etnoliga' is another initiative of football fans developed by the 'Foundation for Freedom.' It is a community of football players who would like to play sport in an environment that is free from racism, sexism

[53] See e.g. Human Rights First, Poland's Anti-Terror Law Recommendations for U.S. officials attending Warsaw NATO Summit 2016, available from: https://www.humanrightsfirst.org/resource/poland-s-anti-terror-law.

[54] CPT ABW website: https://tpcoe.gov.pl.

[55] The Institute of Social Safety website: https://www.fundacjaibs.pl/do-one-brave-thing/.

[56] The Institute of Social Safety website: https://www.fundacjaibs.pl/projektu-w-ramach-funduszu-obywatelskiego/.

[57] The Institute of Social Safety website: https://www.fundacjaibs.pl/projekt-ue-precobias/.

[58] https://kibice-razem.pl/.

and homophobia.[59] Similarly, 'Let's Kick Racism out of Football Stadiums' ('Wykopmy Rasizm ze Stadionów'), initiated in 1996 by 'Never Again' Association, promotes anti-racist attitudes. It is described in detail in the next section as a Case Study 2.

Primary prevention programs are carried out particularly in those parts of Poland where national minorities reside and which are specially affected with xenophobia. Often, those local projects involve cooperation between the government, local municipalities and third sector. There are, for example, programs such as 'Partnership for Active Estates' ('Partnerstwo na Rzecz Aktywnego Osiedla') which teaches local residents and children about national minorities through integration meetings, sport and culinary events. Other primary prevention programs include teaching empathy and opposition to racism and xenophobia such as project 'Refugees — my neighbours', that started in 2012 by Polish Migration Forum, or 'From tolerance to integration' that fosters intercultural relations in places where refugee centres operate.[60] Other primary prevention projects are directed to students and include moral education, multicultural education, teaching about creating positive relations with other people, incorporating elements such as naming and accepting feelings, controlling emotions and managing verbal and physical aggression. These programs are geared towards different age groups, from nursery to high school students.

[59] https://www.etnoliga.org/en/.

[60] https://integrujemy.wordpress.com/about/.

6. Case Studies

Case Study 1

De-radicalization in the prison system[61]

One of the critical institutions that need to respond to radicalization by carrying de-radicalization is the prison system. In the Polish prison system there are currently prisoners serving sentences who are highly radicalised and even those who committed acts of terrorism of various kinds. The Polish prison system systematically works towards responding to the issue of de-radicalization. As the phenomenon of radicalization is changing, the Central Prison Management is collaborating with relevant institutions. The prison staff regularly participates in trainings on terrorist prevention organized, among others, by the Terrorist Prevention Centre of the Internal Security Agency, but also at different trainings and conferences (national and international) on preventing and counteracting radicalization and violent extremism.

In the field of de-radicalization the Prison Service performs its tasks in accordance with the Act of 6 June 1997 - Executive Penal Code[62] and the Act of 9 April 2010 on the Prison Service.[63] The Code does not separate persons deprived of their liberty for offenses related to terrorist activity, so no separate procedures are applied towards radicalized inmates. Activities towards those inmates follow the same procedures as those for the general population of prisoners, which include: rehabilitation, organizing work conducive to acquiring professional qualifications, cultural and social activities, education, classes in the field of physical culture and sports. Those perpetrators that need it, receive specialized therapeutic help such as alcohol or drug therapy or psychiatric treatment.

The Polish Executive Penal Code is particularly suited for carrying de-radicalization activities. The main objective of the execution of the penalty of deprivation of liberty is based on the premise of rehabilitation, and not isolation. According to the Article 67 of the Executive Penal Code purpose of imprisonment is 'to arouse in the convict the will to cooperate in shaping his socially desirable attitudes, in particular a sense of responsibility and the need to respect legal order and thus refraining from returning to the offense.' Of course, fulfilling this aim – permanently changing personality of prisoners, their attitudes towards society and law and their social readaptation and reintegration – requires systematic interventions tailored to individual needs.

In fulfilment of this requirement, the penitentiary activities undertaken by the Prison Service are individualized and adapted according to the diagnosed deficits constituting the cause of why the convict entered into conflict with the law. For example, in the context of radicalized inmates, there is a number of programs that aim to prevent aggressive and self-aggressive behaviours such as: psycho-corrective programs, constructive coping with negative emotions,

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[61] Information on de-radicalization in Polish prisons is not available, and this case study has been prepared based on information received from Lieutenant Colonel Beata Adamczewska from the Central Prison Management.

[62] Act of 6 June 1997 Criminal Executive Code (Ustawa z dnia 6 czerwca 1997 r. Kodeks karny wykonawczy Dz.U. 1997 nr 90 poz. 557 ze zm.).

[63] Act of 9 April 2010 on Prison Service (Ustawa z dnia 9 kwietnia 2010 r. o Służbie Więziennej Dz.U. 2010 nr 79 poz. 523 ze zm.).

and workshops that help to deal with stress. One project – Aggression Replacement Training is directed for those inmates who have committed a violent crime. The program is implemented in three modules implemented alternately: social skills training, anger control training, moral reasoning training. In 2020 Polish penitentiary units carried out 303 cycles of Aggression Replacement Training in which 2,597 convicts took part. A similar project for preventing aggressive behaviour is based on the Duluth model (most common model of violence prevention), and another project – 'Stop Violence – Second Chance Program' follows the same idea. Both programs focus on understanding violence as learned behaviour that is socially shaped and culturally strengthened. Their goal is to reduce violent behaviour among participants, take responsibility for one's actions and to learn to deal with difficult situations in a non-violent manner. Program Duluth consists of 2 individual and 24 group sessions. In 2020 Polish prison system conducted 58 cycles of the program, in which 506 inmates participated, and 86 cycles of the 'Stop Violence – Second Chance Program', in which 603 inmates participated. In addition, prisons and pre-trial detention centres carry out programs preventing violence, which are created by the penitentiary staff of individual penitentiary units.

Prisoners may also participate at workshops helping them with their mental health (with the use of selected relaxation techniques), and educational projects about law or health. Preparing for life after leaving the penitentiary institution, such as helping prisoners to find a job and possibility to participate at vocational training are further important features of the Polish rehabilitative approach. Apart from the group programs, prisons conduct individual interventions aimed at providing information or emotional support. Penitentiary psychologists also conduct individual consultations.

Although the Polish system does not have a specific program for radicalized inmates, because of other existing projects such as Aggression Replacement Training, Duluth or 'Stop Violence – Second Chance Program', as well as a range of individual interventions and projects carried out in individual prisons, it can respond to the needs of those prisoners who are alienated and prone to polarisation. However, the problem of the effectiveness of prison programs in terms of reducing the level of return of convicts to crime remains. Needless to say, the Polish Supreme Audit Office noted that the rehabilitation programs carried out in Polish prisons, although they contain all formal elements, are of poor quality – out of 93% of the evaluated programs, 39 were found to lack correct assessments, methods and tools for measuring their effectiveness (Supreme Audit Office, 2014). The lack of quality needs to be still addressed by the Polish prison system to properly respond to the needs of radicalized inmates and prevent their return to crime.

Case Study 2

De-radicalization in the football stadiums

Radicalization in the Polish context is connected with the community of Polish football fans/hooligans. As in other countries, also in Poland, skinhead subculture played an important role in the creation of the hooligan groups. The differences between football fans, ultras, hooligans and criminal gangs are sometimes difficult to capture. Criminal gangs might use the football club as a way to recruit members. Hooligans, when they come to a football game, are generally not interested in the result of the game and do not cheer their team. Instead, they focus on organizing and provoking clashes with the hooligans of the opposing teams. Football stadiums are also used to promote nationalist, racist, xenophobic, anti-Semitic views, and to promote totalitarian regimes (Jurczak and Duda, 2010). These views are shouted during games or presented on the banners. According to the 'Never Again' Association, whose aim is to prevent xenophobia and intolerance, racism is not only a problem among hooligans. It affects also the players, managers, referees, and couches[64]. Groups of football fans regularly participate in 'Independence Marches' that take place every year on 11th of November. During the marches not only radical, but also xenophobic speech is present.

There are several important initiatives to 'de-radicalize' football stadiums. Signing a declaration 'No for racism in sport' by various sports clubs under the auspices of the Ministry of Sport was an important step forward. In this declaration racism was not only condemned, but also specific measures have been implemented. For example, people who possess or distribute racist, antisemitic and xenophobic symbols, banners and leaflets are denied access to sports facilities. Another important project 'Let's Kick Racism out of Football Stadiums' ('Wykopmy Rasizm ze Stadionów') was initiated in 1996 by 'Never Again' Association.

The campaign is addressed to fans, players, coaches, referees, sports activists and journalists.[65] It promotes anti-racist attitudes among football fans by removing, in collaboration with the Polish Football Association, fascist and racist symbolism from stadiums. The project aims to popularize positive cheering and remove flags, banners, chants, shouts and slogans that are discriminatory. So far, since 2009, in collaboration with the UEFA, the project coordinated anti-racist educational activities related to the preparations for Euro 2012 in Poland and Ukraine, and throughout the Eastern European region. Moreover, the project regularly monitors racist incidents and publishes anti-fascist magazine for football fans. Working together with the media, the project organizes conferences and workshops, and even released a CD with songs about combating racism in the stadiums and a DVD with educational materials. Other notable initiatives of this project include the development, together with the Polish Football Association, of rules for fighting racist and neo-fascist symbolism at Polish stadiums and a training brochure for referees, football activists and journalists entitled 'Racist symbols'.

The Association 'Never Again' has also co-established a network, *Football Against Racism in Europe* (FARE), (https://www.farenet.org/), whose aim is to prevent discrimination in football in all its forms: racism, sexism, homophobia and nationalism. In 2002 FARE received a *Free Your Mind* award for promotion of social ethics by MTV Europe. Because of the growing

[64] https://www.nigdywiecej.org/o-nas/nasze-inicjatywy/wykopmy-rasizm-ze-stadionow

[65] Id.

problem of radicalization and xenophobia in football and its impact on the rest of the society, more effort and initiatives such as project ‘Let’s Kick Racism out of Football Stadiums’ are necessary.

7. Conclusion

The most important fundamental values that define the identity of democratic societies include: rule of law, human and civil rights, the division of powers into legislative, executive and independent judiciary, freedom to choose one's worldview, religion, freedom of association and freedom of political parties. Fundamental freedoms play an important role in countering radicalization responses. Citizens need to be able to engage with the society, rather than be excluded from it and have appropriate means to express their grievances through free media, right to associate, or to peacefully assemble.

As this report shows the Polish legal and policy framework needs to be improved to appropriately respond to radicalization and de-radicalization. There is little research available on the topic, but the available information indicate that the legal framework does not fully comply with international human rights standards. While Poland is a country of low risk of terrorism, as far as radicalization is concerned, hate crimes are an issue of pressing concern. There should be state campaigns to raise awareness, including expanding the training available for law enforcement officers, prosecutors and judges. At present, it seems that state institutions do not consider hate crimes as an issue of importance. The existing protections are limited and often ineffective. Charges in hate speech might be dropped because the incidents are based on the argument that the social harm caused by them is low. The courts, while suspending the execution of imposed penalties, should consider imposing criminal measures such as an obligation to refrain from being in specific environments or places or obligation to work for social purposes, e.g. for the community the perpetrator's act was directed against. However, the problem of hate speech cannot be solved solely by means of criminal repression. It is foremost important to raise awareness and support educational activities in cooperation with civil society.

Another issue is the functioning of state institutions responsible for the prevention of radicalization. The expanding powers of services and police may result in an increased opposition against the government and act as a prompt for violent extremist actions. To be fully effective there needs to be a level of transparency and collaboration between various bodies involved in preventing radicalization, including cooperation with non-governmental organizations and the media. Furthermore, more research is needed on the role of the state and in particular on the impact of the constitutional crisis on radicalization.

List of Cases

Constitutional Tribunal

Judgment of September 21, 2015 K 28/13

Ruling of 20 April 1993 U 12/92

Judgment of 21 October 1998, K 24/98

Judgment of 7 April 2003 P 7/02

Judgment of 24 February 2004 K 54/02

Judgment of 20 April 2004, K 45/02

Judgment of 20 June 2005, K 4/04

Judgment of 20 March 2006, K 17/05

Judgment of 2 December 2009, U 10/07

Judgment of 30 July 2014, K 23/11

Judgment of 10 December 2014 K 52/13

Judgment of 14 December 2017, K 17/14

Supreme Court

Judgment of 10 September 1999, ref. no. III CKN 939/98

Judgment of 10 September 1999, ref. no. III CKN 939/98

Decision of 5 February 2007, ref. no. IV KK 406/06

Decision of 5 February 2007, ref. no. IV KK 406/06

Regional Administrative Courts

Judgment of the Administrative Court in Warsaw of June 13, 2011, II SAB / Wa 64/11

Decision of the Administrative Court in Gdańsk of March 12, 2018, III SA/Gd 121/18

Decision of the Administrative Court in Poznań of April 3, 2018, II SA / Po 225/18

Courts of Appeal

Judgment of the Court of Appeal in Wrocław of March 7, 2013, II AKa 398/12

Judgment of the Court of Appeal in Katowice of August 4, 2005, II AKa 251/05

Judgment of the Court of Appeal in Katowice of 24 September 2013, ref. no. II AKa 301/13

Judgment of the Court of Appeal in Warsaw of 30 May 2018, II AKa 432/17.

Annexes

Annex I: Overview of the legal framework on radicalization & de-radicalization

Legislation title (original and English) and number	Date	Type of law (i.e. statute, regulation, rule, etc…)	Object/summary of legal issues related to radicalization	Link/PDF
Law on the Counter-Terrorism Operations of 10 June 2016 Ustawa z dnia 10 czerwca 2016 r. o działaniach antyterrorystycznych (Dz. U. z 2016 r. poz. 904 ze zm.).	10 June 2016	Statute	Counterterrorism	https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20160000904
Act of 24 of May 2002 on the Internal Security Agency and the Foreign Intelligence Agency Ustawa z dnia 24 maja 2002 r. o Agencji Bezpieczeństwa Wewnętrznego oraz Agencji Wywiadu (Dz. U. z 2010 r. Nr 29, poz. 154 ze zm.).	24 May 2002	Statute	Internal Security Agency and the Foreign Intelligence Agency activities in counterterrorism	https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20020740676
Criminal Law Code of 6 of June 1997 Ustawa z dnia 6 czerwca 1997 r. Kodeks karny (Dz. U. 1997 Nr 88, poz. 553 ze zm.)	6 June 1997	Statute	Regulates terrorist offences	http://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=wdu19970880553
Criminal Procedure Code of 6 of June 1997 Ustawa z dnia 6 czerwca 1997 r. Kodeks postępowania karnego (Dz.U. z 1997 Nr 88, poz. 555 ze zm.)	6 of June 1997	Statute	Regulates terrorist operations	http://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=wdu19970890555
Act on the Military Counterintelligence Service and the Military Intelligence Service of 9 June 2006 Ustawa z dnia 9 czerwca 2006 r. o Służbie Kontrwywiadu Wojskowego oraz Służbie Wywiadu Wojskowego (Dz. U. 2006 Nr 104, poz. 709 ze zm.)	9 June 2006	Statute	Military activities in counterterrorism	http://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20061040709&type=3

Act of 6 April 1990 on the Police Ustawa z dnia 6 kwietnia 1990 r. o Policji (Dz. U. 1990 Nr 30, poz. 179 ze zm.)	6 April 1990	Statute	Police activities in counterterrorism	https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU19900300179
Act of 29 August 2002 on Martial law and on the competences of the Supreme Commander of the Armed Forces and the rules of his subordination to the constitutional organs of the Republic of Poland Ustawa z dnia 29 sierpnia 2002 r. o stanie wojennym oraz o kompetencjach Naczelnego Dowódcy Sił Zbrojnych i zasadach jego podległości konstytucyjnym organom Rzeczypospolitej Polskiej. (Dz. U. 2002 Nr 156, poz. 1301 ze zm.)	29 August 2002	Statute	Martial law	https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20021561301
Act of 21 June 2002 on the emergency state Ustawa z dnia 21 czerwca 2002 r. o stanie wyjątkowym (Dz. U. 2002 Nr 113, poz. 985 ze zm.)	21 June 2002	Statute	State of emergency	https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20021130985
Act of 24 August 2001 on the Military Police and the Military Law Enforcement Bodies Ustawa z dnia 24 sierpnia 2001 r. o Żandarmerii Wojskowej i wojskowych organach porządkowych (Dz. U. 2001 Nr 113, poz. 1353 ze zm.)	24 August 2001	Statute	Military Police and the Military Law Enforcement Bodies competences in counterterrorism	http://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20011231353
Act of 13 April 2016 on the safety of trade in explosives precursors Ustawa z 13 kwietnia 2016 r. o bezpieczeństwie obrotu prekursorami materiałów wybuchowych Dz. U. 2016 poz. 669 ze zm.	13 April 2016	Statute	Trade in explosives precursors	http://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20160000669

Act of 1 March 2018 on counteracting money laundering and financing of terrorism Ustawa z 1 marca 2018 r. o przeciwdziałaniu praniu pieniędzy oraz finansowaniu terroryzmu Dz.U. 2018 poz. 723 ze zm.	1 March 2018	Statute	Counteracting financing of terrorism	https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20180000723

CASE LAW

Case number	Date	Name of the court	Object/summary of legal issues related to radicalization	Link/PDF
K 45/02, OTK-A 2004/4/30	20 April 2004	Constitutional Tribunal	Internal Security Agency officers' investigative powers	https://sip.lex.pl/#/jurisprudence/520201144/1?directHit=true&directHitQuery=K%2045~2F02
K 17/14, OTK-A 2018/4	14 December 2017	Constitutional Tribunal	Internal Security Agency officers' investigative powers	https://sip.lex.pl/#/jurisprudence/522501035/1?directHit=true&directHitQuery=K%2017~2F14
IV KK 406/06	5 February 2007	Supreme Court	Clarification of the definition of incitement to hatred	https://sip.lex.pl/#/jurisprudence/520339003/1?directHit=true&directHitQuery=IV%20KK%20406~2F06
I KZP 5/02	28 March 2002	Supreme Court	Propagating totalitarian system of state' refers to both online and offline contexts	https://sip.lex.pl/#/jurisprudence/520145418/1?directHit=true&directHitQuery=I%20KZP%205~2F02
VIII Ka 157/16	30 June 2016	Regional Court in Białystok	Clarification of the definition of incitement to hatred	https://sip.lex.pl/#/jurisprudence/522201580/1?directHit=true&directHitQuery=VIII%20Ka%20157~2F16
IV Ka 222/17	3 April 2017	Regional Court in Wrocław	Importance of general prevention in punishing hate speech	https://sip.lex.pl/#/jurisprudence/522389578/1?directHit=true&directHitQuery=IV%20Ka%20222~2F17
II AKa 301/13	24 September 2013	Appellate Court in Katowice	Hate speech needs to include public exhortation of other people to feel and perpetuate negative emotions, aversion and hostility	https://sip.lex.pl/#/jurisprudence/521515984/1/ii-a-ka-301-13-realizacja-znamion-przestepstwa-zniewazenia-i-nawolywania-do-nienawisci-na-tle...?keyword=II%20AKa%20301~2F13&cm=SREST

OTHER RELEVANT ISSUES

	Constitutional provisions	Statutory law (statues, rules, regulations etc.)	Important case law	Comments/issues relevant to radicalization
Freedom of religion and belief	Article 53 of the Constitution	Act on guarantees of the freedom of conscience and religion of 17 May 1989 (Ustawa z dnia 17 maja 1989 r. Prawo o gwarancjach wolności sumienia i wyznania Dz.U. 1989 nr 29 poz. 155 ze zm.) Act of 6 June 1997 Criminal Code (Ustawa z dnia 6 czerwca 1997 r. Kodeks karny Dz.U. 1997 nr 88 poz. 553 ze zm.) Act of 23 April 1964 Civil Code (Ustawa z dnia 23 kwietnia 1964 r. Kodeks cywilny, Dz.U. 1964 nr 16 poz. 93 ze zm.)	Ruling of the Constitutional Tribunal of 20 April 1993 U 12/92 Judgment of the Constitutional Tribunal of 10 December 2014 K 52/13	Freedom of conscience and the freedom to accept and profess religion have an absolute dimension, but the freedom to manifest religion may be limited e.g. in case of a terrorist threat.
Minority rights	Article 35, 32 and 60 of the Constitution	Act of 6 January 2005 on national and ethnic minorities and regional language (Ustawa z dnia 6 stycznia 2005 r. o mniejszościach narodowych i etnicznych oraz o języku regionalnym Dz.U. 2005 nr 17 poz. 141 ze zm.).	Judgment of the Constitutional Tribunal of September 21, 2015 K 28/13	Minorities are protected from discrimination, hostility, or violence

		Act of 3 December 2010 on equal treatment (Ustawa z dnia 3 grudnia 2010 r. o wdrożeniu niektórych przepisów Unii Europejskiej w zakresie równego traktowania, Dz. U. 2010 Nr 254 poz. 1700 ze zm.).		
Freedom of expression	Article 54, 14, and 73 of the Constitution	Act of 26 January 1984 Press Law (Ustawa z dnia 26 stycznia 1984 r. *Prawo prasowe,* Dz.U. 1984 nr 5 poz. 24 ze zm.) Act of 6 June 1997 Criminal Code (Ustawa z dnia 6 czerwca 1997 r. Kodeks karny Dz.U. 1997 nr 88 poz. 553 ze zm.) Act of 23 April 1964 Civil Code (Ustawa z dnia 23 kwietnia 1964 r. Kodeks cywilny, Dz.U. 1964 nr 16 poz. 93 ze zm.) Act of 4 February 1994 on autorship law and related rights (Ustawa z dnia 4 lutego 1994 r. o prawie autorskim i prawach pokrewnych, Dz.U. 1994 nr 24 poz. 83 ze zm.)	Judgment of the Supreme Court of 10 September 1999, ref. no. III CKN 939/98, OSNC 2000, No. 3. Decision of the Supreme Court of 5 February 2007, ref. no. IV KK 406/06	Repressive type of censorship in Polish law includes i.a. praising or encouraging to commit a crime, or promoting a fascist or other totalitarian system of the state.

		Act of 14 December 1982 on the protection of the state and official secrets (Ustawa z dnia 14 grudnia 1982 r. o ochronie tajemnicy państwowej i służbowej, Dz.U. 1982 nr 40 poz. 271 ze zm.) Broadcasting Act of 29 December 1992 (Ustawa z dnia 29 grudnia 1992 r. o radiofonii i telewizji (Dz. U. 1993, nr 7, poz. 34 ze zm.).		
Freedom of assembly	Article 57 of the Constitution	Act of 24 July 2015 Law on Assemblies (Ustawa z dnia 24 lipca 2015 r. Prawo o zgromadzeniach (Dz.U. 2015, Nr 51, poz. 1485 ze zm.).	Judgment of the Constitutional Court of 28 June 2000, K 34/99, (OTK 2000, Nr 5, poz. 142). Polish Supreme Court Judgment of 5 January 2011 (III RN 38/00) Judgment of the Supreme Administrative Court of 25 May 2006, I OSK 329/06.	According to the Act of June 10, 2016 on anti-terrorist activities, assemblies might be prohibited if a third or fourth level state of alarm is announced.

Freedom of association	Article 12, 58, 59 of the Constitution	Act of 7 April 1989 Law on Associations (Ustawa z dnia 7 kwietnia 1989 r. Prawo o stowarzyszeniach Dz. U. 1989, nr 20, poz. 104 ze zm.). Act of 6 April 1984 on foundations (Ustawa z dnia 6 kwietnia 1984 r. o *fundacjach* Dz. U. 1984, nr 21, poz. 97 ze zm.). Act of 27 June 1997 on political parties (Ustawa z dnia 27 czerwca 1997 r. o partiach politycznych Dz.U. 1997 nr 98 poz. 604 ze zm.).	Judgment of the Constitutional Tribunal of 24 February 2004 K 54/02 Judgment of the Constitutional Tribunal of 7 April 2003 P 7/02	Those associations, political parties and organisations that promote hatred or extremism might be dissolved.
Hate speech/crime	Article 13 of the Constitution	Criminal Law Code (Ustawa z dnia 6 czerwca 1997 r. Kodeks karny Dz. U. 1997 Nr 88, poz. 553 ze zm.).	Decision of the Administrative Court in Poznań of April 3, 2018, II SA / Po 225/18 Decision of the Administrative Court in Gdańsk of March 12, 2018, III SA/Gd 121/18 Judgment of the Administrative Court in Warsaw of	Polish legal system uses definition of a hate crime developed by the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (ODIHR OSCE)

			June 13, 2011, II SAB / Wa 64/11	
Church and state relations	Article 25 of the Constitution	Concordat of 10 February 1925 **(**Konkordat pomiędzy Stolicą Apostolską a Rzecząpospolitą Polską, podpisany w Rzymie dnia 10 lutego 1925 r., ratyfikowany zgodnie z ustawą z dnia 23 kwietnia 1925 r. Dz.U. 1925 nr 72 poz. 501)	Judgment of the Constitutional Court of 2 December 2009, U 10/07	Freedom of religion and belief is guaranteed, but the Catholic Church has a has a dominant position in the faith structure, both factually and within the law (see e.g. concordat)
Surveillance laws	Article 7 of the Constitution	Act of 24 of May 2002 on the Internal Security Agency and the Foreign Intelligence Agency (Ustawa z dnia 24 maja 2002 r. o Agencji Bezpieczeństwa Wewnętrznego oraz Agencji Wywiadu (Dz. U. z 2010 r. Nr 29, poz. 154 ze zm.). Act of 6 April 1990 Police Law (Ustawa z dnia 6 kwietnia 1990 r. o Policji Dz.U. 1990, Nr 30, poz. 179 ze zm.).	Judgment of the Constitutional Tribunal dated 20 April 2004, K 45/02 Judgment of the Constitutional Tribunal of 14 December 2017, K 17/14	Surveillance laws should be characterized by due correctness, precision and clarity.

Right to privacy	Article 47, 48, 49, 50 and 51 of the Constitution	Act of 29 August 1997 on the protection of personal data (Ustawa z dnia 29 sierpnia 1997 r. o ochronie danych osobowych, tekst jednolity Dz.U. z 2002 r. Nr 101, poz. 926 ze zm.) Criminal Procedure Code of 6 of June 1997 (Ustawa z dnia 6 czerwca 1997 r. Kodeks postępowania karnego Dz.U. z 1997 Nr 88, poz. 555 ze zm.)	Judgment of the Constitutional Tribunal of 21 October 1998, K 24/98 Judgment of the Constitutional Tribunal of 20 March 2006, K 17/05 Judgment of the Constitutional Tribunal of 20 June 2005, K 4/04 Judgment of the Constitutional Tribunal of 30 July 2014, K 23/11	Surveillance laws need to be amended to properly protect the right to privacy.

Annex II List of institutions dealing with (de-)radicalization

Authority	Tier of government	Type of organization	Area of competence in the field of radicalization & deradicalization	Link
Internal Security Agency Agencja Bezpieczeństwa Wewnętrznego	National	Government	Main actor in Poland responsible for prevention of internal political violence.	https://www.tpcoe.gov.pl/
Foreign Intelligence Agency Agencja Wywiadu	National	Government	Gathers intelligence in other countries	https://aw.gov.pl/
Military Counterintelligence Service and the Military Intelligence Service Służba Kontrwywiadu Wojskowego oraz Służba Wywiadu Wojskowego	National	Government	Military special services	http://www.sww.gov.pl
Office of Terrorist Operation at the Central Police Headquarters Centralny Oddzial Kontrterroryst	National	Government	Coordination of counterterrorism of the police forces	https://policja.pl/pol/boa

yczny Policji 'BOA'				
Ministry of National Defence Ministerstwo Obrony Narodowej	National	Government	Responsible for internal security.	https://www.gov.pl/web/obrona-narodowa/departament-polityki-bezpieczenstwa-miedzynarodowego
Armed Forces Wojsko Polskie	National	Government	Protection the national independence and the integrity of its territory	https://www.wojsko-polskie.pl/sgwp/
Military Police Żandarmeria Wojskowa	National	Government	Competences in security and public order	https://www.wojsko-polskie.pl/kgzw/
Central Anticorruption Bureau Centralne Biuro Antykorupcyjne	National	Government	Combating activities detrimental to the economic interests of the state	https://antykorupcja.gov.pl
Terrorist Prevention Office at the Border Protection Straz Graniczna	National	Government	Initiatives on prevention of illegal trade of strategic goods, fissile and radioactive materials	https://www.strazgraniczna.pl/
Government Protection Bureau Biuro Ochrony Rządu	National	Government	Antiterrorism and VIP security services for the Polish government	https://www.bor.gov.pl/
General Prosecutor Prokurator Generalny	National	Government	Prosecution of criminal acts	https://pk.gov.pl/
General Inspector of Financial Information	National	Government	Prevention of financing of radical organizations	https://www.mf.gov.pl

Generalny Inspektor Informacji Finansowej				
General Inspector of Fiscal Audit Generalny Inspektor Nadzoru Finansowego	National	Government	Prevention of financing of radical organizations.	https://www.mf.gov.pl
Office for Foreigners Urzad do Spraw Cudzoziemcow	National	Government	Cooperation in countering extremism among migrants	https://udsc.gov.pl/en/
Office of Electronic Communication Urząd Komunikacji Elektronicznej	National	Government	Responsible for telecommunications	https://uke.gov.pl/en/
Civil Aviation Authority Urzad Lotnictwa Cywilnego	National	Government	Aviation security	https://www.ulc.gov.pl
Terrorism and Organised Crime Unit, Department of Public Order, Ministry of the Interior and Administration Departament Porządku Publicznego, Ministerstwo Spraw Wewnętrznyc	National	Government	Public order and interior terrorism	https://www.gov.pl/web/mswia/departament-porzadku-publicznego

h i Administracji				
Prison Management Office Cenralny Zarzad Sluzby Wieziennej	National	Government	Administration of the prison system	https://www.sw.gov.pl/centralny-zarzad-sluzby-wieziennej
National Security Bureau Biuro Bezpieczenswa Narodowego	National	Government	Executing security and defence tasks	https://en.bbn.gov.pl/
Interministerial Group for Terrorist Prevention Międzyresortowy Zespołu ds. Zagrożeń Terrorystycznych	National	Government	Coordination of relevant ministries in terrorist prevention	https://www.gov.pl/web/premier/miedzyresortowy-zespol-do-spraw-zagrozen-terrorystycznych
National Atomic Energy Agency Państwowa Agencja Atomistyki	National	Government	Responsible for nuclear security	https://www.paa.gov.pl/
Ministry of Justice Ministerstwo Sprawiedliwości	National	Government	Responsible for the justice system	https://www.ms.gov.pl/
Government Centre for Security Rządowe Centrum Bezpieczeństwa	National	Government	Supraministerial structure which aims to optimize and standardize the perception of threats by individual government departments	https://rcb.gov.pl

Annex III: Best practices/interventions/programmes[66]

National level

Name of the project	Institution(s)	Aim	Source	Evidence of effectiveness / literature/ outcomes
POWER	Internal Security Agency	*Increasing the competences of the state security services, employees of public administration and research and development centers and the development of their cooperation in the area of national security*	https://tpcoe.gov.pl/cpt/projekty-ue/1706,CPT-ABW-z-UE-na-rzecz-prewencji-terrorystycznej.html	Conducted trainings for nearly two thousand officials and employees of public administration, both at the government and local government level. No evaluations available.
INDEED	Internal Security Agency	*Strenghtening comprehensive approach to preventing and couteracting radicalisation based*	https://tpcoe.gov.pl/cpt/projekty-ue/1706,CPT-ABW-z-UE-na-rzecz-prewencji-terrorystycznej.html	No information on the outcomes or evaluations.

[66] This table has been adapted based on Appendix 4. Main de-radicalization programs in Poland reported in: Maria Moulin-Stozek (2021): *Stakeholders of (De)-Radicalization.* D3.1 Country Report. Horizon 2020 project 'De-Radicalisation in Europe and Beyond: Detect, Resolve, Re-integrate' (959198).

		on evidence-based model for evaluation of radicalisation prevention		
CHAMPIONs *Co-operative Harmonised Action Model to Stop Polarisation in Our Nations*	The Institute of Social Safety	Integration of de-radicalization experts through an online platform to solve local issues	https://www.fundacjaibs.pl/champions/ https://www.championsproject.eu/pl/	No information on the outcomes or evaluations.
'Do one brave thing'	The Institute of Social Safety	Training for people aged 18-30 how to recognize the phenomenon of radicalism, both online and offline.	https://www.fundacjaibs.pl/do-one-brave-thing/ https://onebravething.eu/pl/	No information on the outcomes or evaluations.
PRECOBIAS *Prevention of Youth Radicalisation Through Self-Awareness on Cognitive Biases*	The Institute of Social Safety	Teaching young people how cognitive errors can lead to an easier acceptance of extremist content.	https://www.fundacjaibs.pl/projekt-ue-precobias/ https://www.precobias.eu	Executive Report https://www.precobias.eu/wp-content/uploads/2020/08/PRECOBIAS-867186-D2.1-Executive-Report.pdf Scientific Paper https://www.precobias.eu/wp-content/uploads/2021/02/PRECOBIAS-Scientific-Paper-Discourse-Patterns-

				used-by-extremist-Salafists-on-Facebook.pdf
'We make young people in Poland immune to radicalization and extremism'	The Institute of Social Safety	Equip people aged 18-30 with the knowledge and skills to recognize the process of radicalization and violent extremism.	https://www.fundacjaibs.pl/projektu-w-ramach-funduszu-obywatelskiego/	No information on the outcomes or evaluations.
'Let's Kick Racism out of Football Stadiums'	'Never Again' Association	Promote anti-racist attitudes among football fans	https://www.nigdywiecej.org/o-nas/nasze-inicjatywy/wykopmy-rasizm-ze-stadionow	Removing, in collaboration with the Polish Football Association, fascist symbolism from stadiums.

Local level

Name of the Project	Institution(s)	Aim	Source	Evidence of effectiveness / literature /outcomes
'Partnership for Active Estates'	Ministry of Administration and Digitisation, Voivode	Civic education on diversity for local residents and students	https://www.prezydent.pl/archiwum-bronislawa-komorowskiego/witryna-obywatelska/witryna-obywatelska/projekt,284.html	Integration of the local community, - intergenerational cooperation, - increasing the sense of acceptance for the diversity and multiculturalism among local people.

'Football Fans Together'	Ministry of Sport and Tourism	Education of football fans against violence, racism and intolerance. It aims to develop empathy, civic virtues and 'positive patriotism' without xenophobia.	https://kibice-razem.pl/	Currently there are 18 local branches of the project.
'Etnoliga'	Foundation for Freedom	Creating an environment where people can play football free from racism, sexism and homophobia.	https://www.etnoliga.org/en/	Not applicable

Appendix IV: Policy recommendations

- Legislation should be amended to comply with the international human rights standards.
- More independent criminological research is needed on hate crimes against minorities.
- Better cooperation among different bodies registering hate crimes should be established, cooperation with NGOs should be initiated.
- Better monitoring of situation of minorities should be implemented.
- Knowledge about hate crimes with information where to look for help, in particular among foreigners, should be disseminated.
- Free legal assistance to victims of hate crimes should be offered.
- Trainings, in particular police officers and prosecutors, should be expanded.
- Better governance over issues related to xenophobia, racism and hate crimes against minorities needs to be established.
- 'Exit programs' to help people who want to leave the violent neo-fascist and neo-Nazi groups should be introduced.
- More primary and secondary de-radicalization programs should be implemented both in schools and in the broader community.
- Historical awareness, in particular about the Holocaust and fascism, needs to be raised.
- Quality of prison rehabilitation for radicalized inmates needs to be improved by the Central Prison Management.
- Services should make data on their investigations and operations more transparent.
- Collaboration with sport clubs in preventing racism and xenophobia in sport should be expanded.
- The spread of racism, fascism and xenophobia via the internet should be countered.
- Media should be involved in counteracting racism and xenophobia.
- Self-regulation mechanisms of combating hate speech in the media should be improved.

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DeRadicalisation
in Europe and Beyond: Detect, Resolve, Reintegrate

De-radicalization and Integration Legal and Policy Framework

Serbia/Country Report

WP4

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This document is available for download at https://dradproject.com/

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List of Abbreviations

ACFC - Advisory Committee on the Framework Convention for the Protection of National Minorities

AD - Anti-Discrimination

BCBP - Beogradski centar za bezbednosnu politiku [Belgrade Centre for Security Policy]

BCHR - Belgrade Centre for Human Rights

BIA - Bezbednosno-informativna agencija [Security Intelligence Agency]

BYRVE - Building Youth Resilience to Violent Extremism

CeSID - Centar za slobodne izbore i demokratiju [Centre for Free Elections and Democracy]

CIA - Central Intelligence Agency

CoE - Council of Europe

COVID-19 - Coronavirus Disease 2019

CPT - European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment

CSO - Civil Society Organisation

CT - Bureau of Counterterrorism

CVE - Countering Violent Extremism

DRL - Bureau of Democracy, Human Rights, and Labour

DS - Demokratska stranka [Democratic Party]

DSS - Demokratska stranka Srbije [Democratic Party of Serbia]

EU - European Union

FRY - Federal Republic of Yugoslavia

GDPR - General Data Protection Regulation

GNI - Gross National Income

GONGO - Government-Organised Non-Governmental Organisation

HCHR - Helsinki Committee for Human Rights

HDI - Human Development Index

HO - Helsinški odbor za ljudska prava u Srbiji (Helsinki Committee in Serbia)

ICG - International Crisis Group

IHDI - Inequality-adjusted Human Development Index

ISIS - Islamic State of Iraq and Syria

KLA - Kosovo Liberation Army

LGBT - Lesbian, Gay, Bisexual, Transgender

MEM - Militant Extremist Mindset

MOI - Ministry of Interior

MOJ - Ministry of Justice

NATO - North Atlantic Treaty Organisation

NGO - Non-Governmental Organisation

ODIHR - Office for Democratic Institutions and Human Rights

OHCHR - Office of the High Commissioner for Human Rights

OIRF - Office of International Religious Freedom

OSCE - Organisation for Security and Co-operation in Europe

PCI - Penal Correctional Institution

PIN - Psychosocial Innovation Network

RATEL - Regulatorna agencija za elektronske komunikacije i poštanske usluge [Regulatory Agency for Electronic Communications and Postal Services]

REM - Regulatorno telo za elektronske medije [Regulatory Body for Electronic Media]

RSF - Reporters without Borders [Reporters Sans Frontières]

RTS - Radio Television of Serbia

S/CT - Office of the Coordinator for Counterterrorism

SFRY - Socialist Federal Republic of Yugoslavia

SNS - Srpska napredna stranka [Serbian Progressive Party]

SOCTA - Serious and Organised Crime Threat Assessment

SORS - Statistical Office of the Republic of Serbia

SPC - Srpska Pravoslavna Crkva [Serbian Orthodox Church]

SPS - Socialist Party of Serbia

SRS - Srpska radikalna stranka [Serbian Radical Party]

STRIVE - Strengthening Resilience to Violent Extremism

TES - Service for Combating Terrorism and Extremism

UN - United Nations

UNDP - United Nations Development Programme

UNESCO - United Nations Educational, Scientific and Cultural Organisation

US - United States

USAID - United States Agency for International Development

VEP - Violent Extremist Prisoner

WPFI - World Press Freedom Index

About the Project

D.Rad is a comparative study of radicalisation and polarisation in Europe and beyond. It aims to identify the actors, networks, and wider social contexts driving radicalisation, particularly among young people in urban and peri-urban areas. D.Rad conceptualises this through the I-GAP spectrum (injustice-grievance-alienation-polarisation) with the goal of moving towards measurable evaluations of de-radicalisation programmes. The intention of the project is to identify the building blocks of radicalisation, which include a sense of being victimised; a sense of being thwarted or lacking agency in established legal and political structures.

D.Rad spans national contexts including the UK, France, Italy, Germany, Poland, Hungary, Finland, Slovenia, Bosnia, Serbia, Kosovo, Israel, Iraq, Jordan, Turkey, Georgia, Austria, and several minority nationalisms. It bridges academic disciplines ranging from political science and cultural studies to social psychology and artificial intelligence. Dissemination methods include D.Rad labs, D.Rad hubs, policy papers, academic workshops, visual outputs and digital galleries. As such, D.Rad establishes a rigorous foundation to test practical interventions geared to prevention, inclusion and de-radicalisation.

With the possibility of capturing the trajectories of seventeen nations and several minority nations, the project provides a unique baseline for the comparative analysis of law and policy as nation states adapt to new security challenges. The process of mapping these varieties and their link to national contexts will be crucial in uncovering strengths and weaknesses in existing interventions. Furthermore, D.Rad accounts for the problem that processes of radicalisation often occur in circumstances that escape the control and scrutiny of traditional national frameworks of justice.

Executive Summary

The report offers a description and analysis of the legal and policy framework on radicalisation and de-radicalisation in the Republic of Serbia. The topic has been analysed in the wider context of human rights and freedoms relevant for de-radicalisation policy fields, such as religious freedom, secularism, sub-national identities etc. When it comes to the methodology, the report relies upon desk research, interviews with relevant stakeholders, and two in-depth case studies.

To understand current radicalisation trends and patterns, and how they influenced legislative framework, it is important to analyse the events starting from the 1990s. Briefly, the breakup of Yugoslavia was accompanied by violent conflicts between the former republics, leading to the Kosovo war and NATO bombing in 1999. Furthermore, after the fall of Slobodan Milosević regime in 2000, Serbia has started democratic reforms. However, Kosovo independence in 2008 remains to be the most pressing issue that can easily ignite ethnic tensions. Post-Milosevic time maybe brought some democratic progress but was altered when the Serbian Progressive Party came to power in 2012 giving a rise to autocratic tendencies. As a result, Serbian society is highly polarised, and the political climate has been radicalised in the recent years. Erosion of human rights and freedoms, low trust in state institutions among minority groups, youth unemployment, identity crisis, and social isolation are just a few factors that strongly shape current radicalisation trends. The synergy of different radicalisation drivers creates a breeding ground for potential extremism in Serbia.

The Constitution, adopted in 2006, is the supreme legal act and all laws must be in line with it. The rule of law and division of power are some of the most important constitutional principles. As per the *Constitution of the Republic of Serbia 2006*, Serbia has no mandatory religion, and it is a secular state. In addition, the supreme legal act bans all types of discrimination as well as instigating ethnic, religious, racial, or other hatred. However, even though almost a third of all articles deal with human and minority rights and freedoms, the provisions regulating restrictions of these rights and freedoms are vague and leave room for misinterpretation. The principle of division of power to legislative (National Assembly), executive (Government and President), and judiciary branch is often questioned in practice as the role of the President is far stronger than the ceremonial one envisaged in the Constitution. Serbia is a unitary state and, according to the Constitution, it has two autonomous provinces (Vojvodina and Kosovo and Metohija) and local self-government units, which deal with the relevant matters on a regional and local level, including the protection of human and minority rights. The important constitutional case law refers to the prohibition of neo-Nazi organisations.

Regarding the legal framework on (de)radicalisation-relevant human rights and freedoms, like *inter alia* the right to privacy, freedom of speech or expression, freedom of assembly, it is important to emphasise that the analysis of the framework's evolution implies that the restrictions over the rights and freedoms are often vague, broad, and not proportionate to the purpose in a democratic society. This represents a potential radicalisation driver due to increased grievances. In terms of policies and practices that address these rights and freedoms, important issues have been identified, such as those concerning close state-church relations, exercising religious rights by minority religious groups, high media politicisation, non-transparent media ownership, a

decline of media freedom, unsafe environment for independent journalists, limitations of freedom of assembly, lack of unique strategy for the protection of minorities, and privacy limitations. The inconsistent implementation of policies has been identified as one of the main challenges.

Concerning the radicalisation leading to extremism and terrorism, Serbia's normative framework is rather punitive and restrictive than preventive and integrative. The criminalisation of offences related to terrorism has been broadened in recent years and the life sentence has been introduced for the most severe forms of this crime. Serbia has made significant efforts to meet the EU standards in this field. The *Act on Organisation and Competences of State Authorities in Suppressing Organised Crime, Terrorism and Corruption 2016* is the main law establishing the institutional framework in this area. In terms of hate speech and hate crime, the normative framework includes anti-discrimination, media, and criminal laws. In 2009, the general anti-discrimination law was adopted, which was an important step towards prohibiting hatred-driven discrimination. In addition, the *Criminal Code 2005* introduced a relevant provision on hate crime in 2012. Regarding the important case law on radicalisation, the landmark case concerns the sentences for terrorism imposed on the fighters who came back to Serbia from Syria.

The policy framework on (de)radicalisation has been rounded off with the adoption of the National Strategy for the Prevention and Countering of Terrorism in 2017. Previously, the efforts in this field mostly relied upon strategies aimed at preventing money laundering and financing of terrorism as well as on anti-discrimination strategy. When it comes to programmes and practices in the field of primary, secondary, and tertiary prevention, it should be noted that they are not sufficient. The State lacks resources for carrying out projects. In addition, data concerning the state projects is scarce, but this report explores several state initiatives concerning youth education, hate speech, and de-radicalisation in prisons. Existing projects are mainly implemented by CSOs with the financial support of international stakeholders and organisations. Sub-national policies are very important, especially in at-risk communities. Local strategies and action plans focus mostly on creating a favourable environment for youth empowerment. The report will present several sub-national initiatives implemented in different parts of the country.

When it comes to the institutional framework, it is important to mention the National Strategy for the Prevention and Countering of Terrorism for the 2017-2021 period and its Action Plan as these policy documents define competences of institutions in the field of radicalisation prevention and de-radicalisation. According to these documents, the institutional framework is inclusive.

Two case studies presented in the report offer valuable insights into regional and local integration measures. The rationale for selecting the projects was their multisectoral approach to preventing youth radicalisation.

1 Introduction

The Republic of Serbia is located at geostrategic and geopolitical crossroads in the Balkans region, which significantly contributed to its turbulent history characterised by radical political and societal changes. The radicalisation potential in Serbia is greatly shaped by past events that generated internal divisions, the most recent being the Yugoslav wars in the 1990s. Following the ousting of Slobodan Milošević, Serbia started comprehensive democratic reforms. The country has been granted the status of EU candidate in 2012. In line with the efforts to comply with the EU standards, visible improvements in national legal and policy framework have been made through different reforms. However, many setbacks, particularly those in the field of human rights and freedoms, remain to be obstacles to democratic progress and thus a risk factor for radicalisation and violent extremism.

The main goal of the report is to provide insights into the legal and policy framework on radicalisation and de-radicalisation in Serbia in order to understand its evolution and dynamics, highlight best practices and urgent questions, *inter alia*. The focus is on the national (macro) level, but the regional and local integration measures will be described and assessed as well. Furthermore, the report has taken a wider stance on this issue by also discussing the legal and policy framework on human rights and freedoms that are considered to be the most relevant for understanding the radicalisation and de-radicalisation processes.

When it comes to the basic terms in this report—radicalisation and de-radicalisation, the author opted for definitions given in the Serbian Anti-Terrorism Strategy and United Nations 2008 Report on radicalisation and extremism, respectively. As per the *National Strategy for the Prevention and Countering of Terrorism for the 2017-2021 period*, radicalisation is "the process during which a person is brought into the situation when he begins to approve of extremist beliefs, accepts violent extremism and/or terrorism as a possible and justified method of action, with the possibility, at the end of this process, that he shares values, supports or participates in activities of terrorists". De-radicalisation is a reverse process that encompasses "programmes that are generally directed against individuals who have become radical with the aim of re-integrating them into society or at least dissuading them from violence" (United Nations, 2008, p. 5).

In terms of the methodology of the report, the author performed desk research on legal and policy framework in the field of (de)radicalisation. Primary sources, such as legal acts, courts' decisions, policy documents, were used at large depending on their public availability. The author also consulted research reports, scientific articles, newspaper articles, official websites, among other sources.[1] Lastly, two in-depth case studies dealing with radicalisation prevention and integration focusing on youth were presented.

In order to provide a comprehensive analysis of the topic, the body of the report is structured into five main sections. The first section offers a brief description of the Serbian society by presenting the most relevant indicators and cleavages as well as radicalisation-related context. The second section outlines the constitutional history, organisation of the state, constitutional principles, rights and freedoms of relevance for (de)radicalisation fields of analysis, and it includes the constitutional case law as well. The third section provides an overview of the evolution, dynamics, and basic principles of the national legal framework on

[1] The author supposed to conduct at least three interviews with relevant stakeholders, however, after the series of the *off the record* talks, unfortunately none of the stakeholders were able to participate in the interviewing process

human rights and freedoms and the national legislation on (de)radicalisation, including the relevant case law. The fourth section outlines the evolution and dynamics of national policies regarding human rights and freedoms, the national policy framework on (de)radicalisation, the sub-national policies, and the relevant institutional framework. The fifth section explores two case studies focusing on the prevention of youth radicalisation and integration measures on the regional and local level in Serbia. The report also contains appendices that offer an overview of the legal and policy framework on radicalisation and de-radicalisation (see Appendix 1), a list of institutions dealing with the topic of the report (see Appendix 2), the best practices and programmes (see Appendix 3), and finally, policy recommendations (see Appendix 4).

2 The Socio-Economic, Political and Cultural Context

This chapter outlines the essential characteristics of Serbian society and radicalisation-related context by focusing primarily on relevant indicators and descriptions of main social, political, and cultural cleavages and drivers of radicalisation.

2.1. Brief Description of the Society

Based on latest Census in 2011, out of 7,186,862 inhabitants[2][3], Serbs comprised the largest ethnic group (83.3%), followed by Hungarians (3.5%), Bosniaks (2%), Roma (2%). Similarly, 88% of the total population reported Serbian language (official) as their mother tongue, followed by Hungarian (3.4%), Bosnian (1.9%), and Romani (1.4%) (Statistical Office of the Republic of Serbia [SORS], 2017a). In terms of religion, Orthodox Christians comprise the vast majority with 91.2%, followed by Catholics (5%) and Muslims (3.1%) (SORS, 2017b). The population-related figures show that Serbian society is multi-ethnic, multireligious, and multicultural country, with Serbian identity being the dominant one.

Regarding the human development dimension elaborated in the 2020 Human Development Report, Serbia ranked 64th in the world with an HDI value being 0.806 (very high human development category) (UNDP, 2020). Since the 1990s implosion of human development in the country, Serbia's HDI value has increased by 11.6% as life expectancy at birth (76 years) and education index (0.783%) increased (UNDP, 2020). Still, Serbia is positioned lower than EU member states. It is mainly due to the decrease in Serbia's GNI per capita in the last twenty years. GNI per capita (constant 2017 PPP$) is 17,192 (UNDP, 2020). The value of the Gini index is 36.2 (UNDP, 2020), one of the highest in Europe (Bertelsmann Stiftung, 2020). Human development loss due to inequalities is 12.5%, which is why Serbia's IHDI value is 0.705 (UNDP, 2020). The comparison between HDI and IHDI values implies that the inequalities in Serbia are high, particularly the inequality in income.

Regarding the decent standard of living, it should be noted that 24.3% of inhabitants live below the national poverty line, and 0.3% of the total population lives in multidimensional poverty[4] (UNDP, 2020). The low employment rate is the critical issue behind these figures. For instance, the employment rate is 47.9%, 12.7% of the total labour force is unemployed (UNDP, 2020), and the female's unemployment rate is higher than male's (Central Intelligence Agency [CIA], 2021). The very high unemployment rate for youth (aged 15-24) — 30% (UNDP, 2020) is a challenging issue that raises concerns in Serbian society. It increases dissatisfaction and the feeling of social injustice among young people. A large percentage of (young) people at risk of social exclusion are a red alert for the Government.

In terms of polarisation, it should be noted that the ethnic issues (Kosovo's independence and relations with neighbouring countries) remain the main axis of division in Serbian society (Center for Free Elections and Democracy [CeSID], 2016). The rise in polarisation over socio-

[2] According to July 2020 estimates of the Statistical Office of the Republic of Serbia, the country had 6,945,235 inhabitants in 2019 (SORS, 2020).

[3] Urban areas are more populated (56.4% of the total population), especially Belgrade (the capital) with 1.4 million inhabitants (CIA, 2021).

[4] Multidimensional Poverty Index MPI is an international measure of acute multidimensional poverty covering over 100 developing countries. It complements traditional monetary poverty measures by capturing the acute deprivations in health, education, and living standards that a person faces simultaneously.
OPHI (2018). Global Multidimensional Poverty Index 2018: The Most Detailed Picture to Date of the World's Poorest People. Oxford Poverty and Human Development Initiative, University of Oxford. Retrieved from: https://ophi.org.uk/global-multidimensional-poverty-index-2018-the-most-detailed-picture-to-date-of-the-worlds-poorest-people/ (accessed 30 October)

economic issues is pronounced. Political polarisation is deeply embedded in the relations among the political elite. Though the Serbian party system is highly fragmented, the striking dominance of one political party (Serbian Progressive Party – SNS) exacerbates cleavages. SNS (ruling party) and its leaders attack opposition regularly, deepening the cleavage and leading to a series of protests (Bertelsmann Stiftung, 2020). These events lead to the "radicalisation of Serbia's political climate" (Damnjanović, 2020). Besides Kosovo and relations with neighbouring countries, parties are deeply polarised over EU membership, relations with the US, Russia, and China, migration management, suppression of organised crime, among other issues (Morelli and Garding, 2018; Bertelsmann Stiftung 2020).

2.1 Radicalisation-Related context

When it comes to current radicalisation patterns in Serbia, it is necessary to glance back at the past. During the 1990s, ethnic intolerance, separatist aspirations, political instability, international isolation, sanctions, and violent episodes were the main determinants of life in Serbia. Consequently, xenophobic views plummeted among the Serbian population (Bakić, 2013). In this period, Serbia participated in four ethnic wars (Vujačić, 2012), which exacerbated existing cleavages between ethnic and religious groups. Following the bloody breakup of SFRY (1991) and wars of Yugoslav succession (Azinović, 2018), Serbia entered the vicious circle of violence, which continued with the Kosovo war and NATO bombing in 1999 (Morelli and Garding, 2018). Following a series of demonstrations, on 5 October 2000, Slobodan Milošević's regime was overthrown (Bertelsmann Stiftung, 2020). It was a crucial event towards the comprehensive political, economic, and cultural transformation of Serbia. In 2003, Serbian Prime Minister Zoran Djindjić was assassinated. The assassination had a political background resulting from close links of the political elite with organised crime (Bakić, 2013). It "limited the government's capacity to sustain its initially dynamic policy of economic and political reform" (Bertelsmann Stiftung, 2020) and "produced major disillusionment with politics" (Bakić, 2013, p. 2). The State Union of Serbia and Montenegro (2003-2006), the successor of FRY (1992-2003), dissolved following the referendum in Montenegro, and Serbia became independent on 5 June 2006 (Morelli and Garding, 2018; Bertelsmann Stiftung, 2020). In February 2008, Kosovo (under international administration based upon UN Security Council Resolution 1244/1999) declared unilateral independence, igniting ethnic tensions and deepening frustrations in the Serbian society (Vujačić, 2012; CeSID, 2016; Morelli and Garding, 2018; Bertelsmann Stiftung, 2020). Kosovo's independence is not recognised by the Serbian government. This question represents the most challenging policy issue in recent years. Since SNS rose to power in 2012, Serbia has been sliding into authoritarianism (Morelli and Garding, 2018; Bertelsmann Stiftung, 2020; Damnjanović, 2020), as it is explained in the following sections. Additionally, for the first time in the last twenty years, Serbia has the lowest democracy score (48/100 - transitional or hybrid regime) published by Freedom House in *2020 Nations in Transit* (Damnjanović, 2020).

In terms of adverse radicalisation effects, the activities of far right and Islamist extremists are concerning. Being deeply embedded in the Serbian society and having a long tradition, far-right extremism peaked during Milošević's rule that enabled their legitimisation (Petrović and Stakić, 2018). Following the 2000s political changes, right-wing extremists focused more on an internal enemy, like Roma people, minorities, LGBT, migrants (Petrović and Stakić, 2018). The wars between former republics ignited extreme nationalism. Young people who grew up during the turbulent 1990s are easily radicalised in the atmosphere of national frustration and social dissatisfaction and therefore, easily attracted to extremist far-right movements and neo-

Nazi organisations, such as *Nacionalni stroj*, *Otačastveni pokret Obraz*, *Krv i čast* (Bakić, 2013; Petrović and Stakić, 2018). The radicalisation of football hooligans has a long history. It is a critical security issue, mostly because of their close ties to right-wing extremist movements and susceptibility to accepting their ideologies (Bakić, 2013; Međedović, Kovačević and Knežević, 2020). According to the official data, 5,000 extremists act in Serbia within more than 30 extremist organisations (Petrović and Stakić, 2018, p. 9). Regarding the activity of far-right political parties, the Serbian Radical Party (SRS) and Dveri are troublesome (Petrović and Stakić, 2018).

The youth from South and South-West Serbia, especially Sandžak region, are more susceptible to Islamic radicalisation and extremism, mostly due to predominant religious identity, poor civic education, low trust in state institutions, worsening socio-economic situation, higher than average rates of poverty, the tremendous unemployment rate among youth (60-70%) and risk of social exclusion, the perception of isolation and discrimination by Serbian authorities for being Muslims (CeSID, 2016; Petrović, 2018; Petrović and Stakić, 2018). Extremist organisations exploit grievances by mostly relying upon identitarian factors (Petrović and Stakić, 2018; Kostić, Simonović and Hoeflinger, 2019). Additionally, two critical drivers lead to the expansion of radicalisation in Serbia, especially in the communities of the South-West region. Firstly, the fact that the Islamic community divided itself into the Islamic Community in Serbia and the Islamic Community of Serbia eroded its legitimacy and created a critical vacuum used by extremist and terrorist groups for attracting members (Petrović and Stakić, 2018). Secondly, due to different treatment of foreign fighters, Muslims perceive Serbian authorities to be anti-Muslim (Petrović and Stakić, 2018; Kostić, Simonović and Hoeflinger, 2019), which can result in accepting extremist views and taking radical actions. Those who returned from Ukraine had the status of foreign fighters in a conflict, while those who returned from Syria/Iraq were prosecuted as terrorists.

Specific challenge poses the recent trend of Roma radicalisation. The growing number of Roma Muslims (most notably on the outskirts of Belgrade, Novi Sad, and Smederevo) follow the radical interpretation of Islam, and many of the abovementioned drivers of radicalisation are present in their communities, especially poverty (Petrović, 2016; 2018; Petrović and Stakić, 2018).

Radicalisation can also lead to terrorism. Historically, Serbia confronted various kinds of terrorism, mainly ideology-driven, like bombing of the cinema “20. oktobar” in Belgrade on 13 July 1968 (Cvetković et al., 2018). These glimpses of separatism culminated in the 1990s, following the emergence of the Kosovo Liberation Army (KLA) (Gibas-Krzak, 2018), separatist militia that sought the separation of Kosovo from the Federal Republic of Yugoslavia during the 1990s and the eventual creation of Greater Albania throughout promotion of the Albanian culture, ethnicity, and nation. It was considered a terrorist group until the breakup of Yugoslavia (Ozardem, 2003). Moreover, the violent attacks continued even after the war in Kosovo. “According to the official statistics of the Ministry of Interior of the Republic of Serbia for the period from 1991 to 2004, 10,954 terrorist attacks were conducted with 6,590 persons being killed“ (Cvetković et al., 2018, p. 283). In recent years, the terrorist threat comes from foreign fighters who returned to Serbia from conflict areas, like Syria. According to the latest *Country Report on Terrorism* published by the United States Department of State, the risk of a terrorist attack in Serbia is low, but the threat of self-radicalisation to terrorism (especially racially and ethnically driven terrorism) is an issue of concern (Bureau of Counterterrorism [CT], 2020). The same trend of increased self-radicalisation that can lead to terrorism has

been highlighted by the Serbian Department for Combating Terrorism of the Ministry of Interior (Cvetković et al., 2018).

The abovementioned indicators and the latter chronological description of critical events from the 1990s onwards provide an understanding of the domestic radicalisation context. To summarise, the radicalisation patterns and trends have been shaped by post-war fragile society, governance issues, corruption, erosion of human rights, destruction of the welfare system, privatisation, ethno-religious tensions, rejection of diversity, loss of hope due to lack of opportunities, poverty, unemployment, and especially by the identity crisis. These drivers, mutually interlinked and context-dependent, created the perfect breeding ground for self-radicalisation and non-violent extremism that can lead to violent extremism and terrorism.

3 The Constitutional Organisation of the State and Constitutional Principles

A highly decentralised state union formed in 2003 by Serbia and Montenegro dissolved in 2006 following a referendum in Montenegro. As Serbia and Montenegro, the last remnants of former Yugoslavia, became independent, each country needed a constitution. The National Assembly of Serbia adopted the proposed text of the Constitution on 30 September 2006. Following the referendum held on 28 and 29 October, the Constitution was endorsed on 8 November 2006 (CIA, 2021). After Milošević's ousting from power on 5 October 2000, significant efforts were made to adopt a new constitution enshrined with democratic values and principles. The last draft of the 2006 Constitution was prepared and adopted quickly, as noted in the *Opinion on the Constitution of Serbia* given by the European Commission for Democracy through Law (Venice Commission, 2007). The Constitution was the result of political agreements and compromises between ruling parties (DSS, DS) and other relevant parties at that time, such as SRS, SPS (Venice Commission, 2007; Janjić, 2019). There was an absence of democratic legitimacy in the process of enacting the Constitution (International Crisis Group [ICG], 2006; Janjić, 2019). Despite adopting the critics from the Venice Commission in 2005 and meeting European standards in different aspects, many provisions remained contradictory, unclear, and below the standards (ICG, 2006; Venice Commission, 2007).

The *Constitution of the Republic of Serbia 2006* is the supreme legal act in Serbia, and the legal framework has to be in accordance with the Constitution. In the first section, the *Constitution of the Republic of Serbia* sets forth 17 constitutional principles fundamental for democratic states, such as the rule of law (art. 3) and division of power (art. 4). In the second section of the *Constitution*, the provisions regulate human and minority rights and freedoms. Of the total 206 Articles of the *Constitution*, approximately one-third deals with fundamental rights, which is remarkable. The Venice Commission (2007) highlighted the issues of implementation of the rights and interpretation due to complex drafting.

We shall briefly outline just a few provisions of special interest for the topic of this report. Article 1 of the *Constitution of the Republic of Serbia* highlights the Serbian ethnicity by stating that Serbia is “a state of Serbian people and all citizens who live in it”, which is seen negatively by advocates of minority rights who demand the change of that provision (Janjić, 2019). Art. 5 stipulates the free political will of citizens to establish political parties. Paragraph 3 emphasises the prohibition of the political parties that promote national, religious, or racial hatred and violation of human and minority rights. As the ban limits several freedoms (expression, assembly, and association for political parties), it is necessary to subject the application of the provision to art. 20, which regulates the restrictions of human and minority rights. Art. 20(1) proclaims that these rights may be restricted “to the extent necessary to meet the constitutional purpose of restriction in a democratic society and without encroaching upon the substance of the relevant guaranteed right”. The issue is that the *Constitution of the Republic of Serbia* does not provide a list of the legitimate aims and binds the restriction to any purpose. Art. 10 stipulates the official language (Serbian) and script (Cyrillic). As noted by the Venice Commission (2007), the 1990 Constitution had greater protection of linguistic rights of minorities in comparison to the 2006 Constitution as it had the Latin script in official use. Art. 10 is also contradictory in terms of keeping the attained level of human and minority rights guaranteed in art. 20(2). Art. 11 emphasises that Serbia is a secular state, and that no religion

can be established as mandatory. Art. 43(3) proclaims that freedom of thought, conscience, and religion guaranteed to all people may be restricted "if that is necessary in a democratic society to protect lives and health of people, morals of democratic society, freedoms and rights guaranteed by the Constitution, public safety and order, or to prevent inciting of religious, national, and racial hatred". Similarly, art. 44 stipulates the separation of churches and religious communities from the state and proclaims the ban of religious communities by the Constitutional Court in case of violation of the rights and incitement to racial, national, and religious hatred. Particularly crucial are arts. 14 and 22 which guarantee the protection of minorities to keep their identity and equally exercise their rights. Art. 21(3) prohibits all types of discrimination, especially based on "race, sex, national origin, social origin, birth, religion, political or other opinion, property status, culture, language, age, mental or physical disability". Discrimination against national minorities is prohibited under art. 77. Similarly, the promotion of respect for ethnic, religious, cultural, or linguistic diversity is stipulated by art. 48. Art. 49 is vital as it prohibits "any incitement to racial, ethnic, religious or other inequality or hatred". The *Constitution of the Republic of Serbia* guarantees the right to freedom and security (art. 27), freedom of movement (art. 39), freedom of thought and expression (art. 46), freedom of assembly (art. 54), and freedom of association (art. 55), but also proclaims necessary restrictions of these freedoms for purposes defined in the respective articles. In the case of associations, the ban will be issued by the Constitutional Court for inciting hatred, violating human and minority rights, or aiming at the violent overthrow of the constitutional order (art. 55(4)). The new *Constitution of the Republic of Serbia* abolished the death penalty (art. 24) and introduced the Civic Defender (art. 138), which are some of the practices of good governance.

Serbia is a parliamentary republic (CIA, 2021). According to art. 4 of the *Constitution of the Republic of Serbia*, the state power is divided between legislative, executive, and judiciary branches, with the latter being independent. As noted by the International Crisis Group (ICG, 2006), the provisions regulating the division of powers are controversial, especially when it comes to the control powers of the legislature over the judiciary. The same art. 4(2) of the *Constitution of the Republic of Serbia* further states that division will be based on mutual control, which is contradictory to the independent judiciary.[5]

Unicameral National Assembly, as the supreme representative body, exercises constitutional and legislative power and its 250 deputies are elected by secret ballot on direct elections (arts. 100 and 101). The executive branch is bicephalous - shared between the President and the Government (arts. 111-135), though the latter has greater executive power (art. 122). President is directly elected for a 5-year term (currently Aleksandar Vučić), while the National Assembly elects the Prime Minister (currently Ana Brnabić) (CIA, 2021). Among other competences, the Government creates and pursues the state policy, directs and supervises the public administration (art. 123), and it is accountable to the National Assembly (art. 124). The judiciary branch comprises courts of general and special jurisdiction, with the Supreme Court of Cassation being the Supreme Court in the country (art. 143). The Constitutional Court is an autonomous state body dedicated to the protection of "constitutionality and legality, as well as human and minority rights and freedoms" (art. 166).

[5] For the purposes of this report the essence of the mentioned controversy is reflected in the provisions that are contradictory and mean interference in independence, and here we insist on the division of power, independent judiciary, etc. According to ECtHR's case law and the Venice Commission's opinions.

Serbia is a unitary state, but the *Constitution of the Republic of Serbia* guarantees the right to provincial autonomy and local self-government (arts. 12 and 176). As stated in art. 182, Serbia has the Autonomous Province of Vojvodina and the Autonomous Province of Kosovo and Metohija, the latter having substantial autonomy regulated by the special Law. As per art. 188, the City of Belgrade, towns, and municipalities comprise local self-government units. Central, provincial, and local levels of government are foreseen, and their functions are set out in a series of laws. Autonomous provinces and local authorities regulate matters of provincial and local interest, respectively, which is specified by the Law. The *Constitution of the Republic of Serbia 2006*, in general, stipulates the competences of autonomous provinces (art. 183) and municipalities (art. 190), *inter alia*, in the fields of education, culture, sports, health care, social and child welfare, public informing, protection and improvement of human and minority rights on the provincial and local level, respectively. As noted by Venice Commission (2007, p. 18), "the constitutional regulation of the division of competences between the State, autonomous provinces and units of local self-governance is quite complicated and leaves quite a wide scope for interpretation and specification through legal acts of lower rank". Following the adoption of the Constitution, several laws on decentralisation were enacted.

3.1 Constitutional Case Law

Regarding constitutional case law, two landmark cases will be briefly described. In June 2011, the Constitutional Court issued a Decision in the case *VIIY-171/2008* (2011) on prohibiting the secret political organisation *Nacionalni stroj*. The Constitutional Court's Decision encompassed the prohibition of registering *Nacionalni stroj* in the official registry of political organisations as well as the prohibition of work, promotion, and dissemination of ideas set out in the organisation's documents. The Court also determined that the implementation of this Decision will be an obligation for all state bodies and other organisations within their competences. The Constitution itself prohibits secret associations (art. 55(3)). The neo-Nazi organisation was established with aims prohibited under art. 55(4)—the violation of guaranteed human and minority rights and incitement to racial and national hatred (*VIIY-171/2008,* 2011). This decision was vital for future case law in similar cases as the Constitutional Court, prior to this Decision, had declared itself incompetent regarding the prohibition of informal organisations. Similarly, in 2012, the Constitutional Court issued a Decision *VIIY-249/2009* (2012) prohibiting the work of civic association *Otačastveni pokret Obraz* and ordering its deletion from the Register of Associations kept by the Business Registers Agency for inciting national and religious hatred and violating human and minority rights (*VIIY-249/2009,* 2012). The public reacted positively and welcomed the ban of these organisations.

4 The Relevant Legislative Framework in the Field of Radicalisation

This chapter examines national legal instruments on specific human rights and freedoms relevant for understanding the process of radicalisation, the national legal framework on (de)radicalisation, and the relevant radicalisation case law.

4.1 National Legal Framework: Overview of (De)Radicalisation-Relevant Human Rights and Freedoms

As mentioned in the previous chapter, these rights and freedoms, if not met, represent a breeding ground for radicalisation. Nevertheless, restrictions over these rights due to counter-radicalisation actions represent a significant challenge. The evolution and dynamics of the legal framework are described in this section.

4.1.1 Religious Freedom

From 1946 onwards, Yugoslav constitutions guaranteed religious liberty with notable restrictions regarding religious practices and gatherings. The 1953 Act on the Legal Status of Religious Communities was the first legal act to regulate their status as legal entities, but the restrictions and constant state control over religious matters increased as the legislator was led by the vision of religion-free public space (Božić, 2019). Similarly, the 1977 Act on the Legal Status of Religious Communities introduced more rigorous constraints on citizens' religious rights and free expression of religious beliefs (Božić, 2019). The 1977 Act was repealed in 1993, and the *Act on Churches and Religious Communities 2006* finally filled that legal vacuum. The *Act on Churches and Religious Communities 2006* stipulates, *inter alia*, the freedom of conscience and religion (art. 1), the freedom of association and assembly for religious purposes (art. 5), the autonomy of Churches and religious communities (art. 6). The Act prohibits religious discrimination (art. 2) and determines that religious freedom can only be restricted in cases prescribed by the Constitution and laws, if necessary for the protection of public safety, public order, freedoms and rights of others, especially if used for inciting religious, racial and national intolerance (art. 3). However, various provisions of the Act regarding the division between traditional and non-traditional churches (arts. 11-17) and the registration process (arts. 19-24) are considered discriminatory towards minor religious communities (Petrović, 2007; Đukić, 2019). There were several initiatives before the Constitutional Court for determining the unconstitutionality of some provisions or even the entire Act (*Iy₃-455/2011,* 2013; Đukić, 2019). Similarly, as noted by European Commission (2020) in its *Serbia 2020 Report*, the Act needs to be amended following international standards.

4.1.2 State and Church Relations

Socialist Yugoslavia was anticlerical, and that sentiment was present until the 1990s when religion started filling the ideological gap strengthening the trend of desecularisation, especially from the early 2000s onwards. The *Act on Churches and Religious Communities 2006* prescribes the absence of state religion (art.2(3)). The cooperation between Churches, religious communities, and the State is defined to improve religious freedoms, including the financial support of the State (art. 30). In the initiatives for determining the unconstitutionality of the Act, the principle of a secular state was also questioned, *inter alia*, regarding the

religious instruction in public schools. According to the Constitutional Court's Decision in the case *Iy3-455/2011* (2013), the normative framework follows the constitutional principle of separation between State and Church, as it is the system of cooperative separation.

4.1.3 Freedom of Speech or Expression

Freedom of expression and media freedom, as its integral part, represent strong indicators of a democratic society. Serbia's normative framework in this field has come a long way in the efforts to comply with the EU framework. In post-Milošević Serbia, the media system has passed through three main stages (Reporters without Borders [RSF], 2019). The first stage started with repealing the infamous 1998 Information Act in February 2001 used by authorities to suppress the freedom of expression and punish opposition media and journalists[6] (Istinomer, 2017). In 2003, a set of media laws was adopted establishing a media market with both public and commercial media. In the second stage that took place in the period 2005-2011, media laws were amended, and regulatory bodies were established. However, this phase brought high politicisation of the media and subsequently limited their autonomy (RSF, 2019). The role of regulatory bodies was further weakened, and media privatisation was delayed. When adopting the 2005 amendments, the authorities did not take into consideration the requests of journalists, and the adopted amendments resulted in lowering already reached standards of media freedom (Istinomer, 2018). The Association of Journalists of Serbia warned that the amendments to the Act were intentionally placed as the first item on the agenda of the Extraordinary Session of the National Assembly as they had been written in secret, without public debate or consultation with journalists (Istinomer 2017; 2018) and were declared unconstitutional by the Constitutional Court (Istinomer, 2017; 2018). A third stage is characterised by adopting several media laws in 2014 in line with the EU framework: the *Public Information and Media Act 2014*, the *Electronic Media Act 2014*, and the *Public Media Services Act 2014*. The *Public Information and Media Act 2014*, amended in 2015 and 2016, is an "umbrella" law in this field. It also regulates the online space, but only media portals registered in the Media Register (art. 29). There is a lack of regulation regarding forums, online platforms, or social networks. These laws were adopted with an emergency procedure, without necessary debate and transparency in the process (Istinomer, 2017). Though the 2014 media laws are less restrictive and more liberal concerning media concentration, they still failed to adequately regulate several vital questions, such as non-transparent government advertising (Belgrade Centre for Human Rights 2016 [BCHR], 2016). In its *Serbia 2020 Report*, European Commission (2020) noted that the implementation of the media laws should be one of the priorities to ensure media freedom.

4.1.4 Freedom of Association and Political Participation

The *Associations Act 2009*, last amended in 2018, generally guides the establishing of independent associations freely organised by citizens united in reaching mutual goals. However, if the association aims at "violently destroying the constitutional order and violating the territorial integrity of the Republic of Serbia, violating guaranteed human or minority rights or inciting and encouraging inequality, hatred and intolerance based on racial, national, religious or other affiliation or orientation, as well as sex, gender, physical, mental or other characteristics and abilities" (art. 3(2)), the Constitutional Court will prohibit the association's

[6] Aleksandar Vučić, the president of Serbia, was the Minister of Information at that time and he proposed this Act to the National Assembly.

work (art. 50). As it is in line with the highest EU standards, the Associations Act is very liberal (BCHR, 2020).

For the first time following the Second World War, Serbia had multi-party elections in 1990. Political association and participation were guided by the Political Organisations Act 1990, whose provisions were partly anachronistic, and the Political Parties Act 2000 (Stojiljković, 2007). In 2009, a new *Political Parties Act 2009* was adopted regulating the establishment and the registration of political parties, among other relevant issues. "The activities of a political party may not be aimed at violently destroying the constitutional order and violating the territorial integrity of the Republic of Serbia, violating guaranteed human or minority rights or inciting and inciting racial, national or religious hatred" (art. 4(2)). In such cases, the Constitutional Court will decide on the prohibition of the work of a political party (art. 37) and the party will be deleted from the Register of political parties (art. 39). The *Act on financing political activities 2011*, last amended in 2019, is significant for regulating the financing of political parties, that is, transparency of funding sources and control of campaign funding.

4.1.5 Freedom of Assembly

In April 2015, the Constitutional Court issued a Decision in the case *Iy3-204/2013* (2015) declaring the 1992 Public Assembly Act (last amended in 2005) unconstitutional. As stated in the Decision, the 1992 Act was not in accordance with the 2006 Serbian Constitution and, therefore, it could not protect the freedom of assembly (*Iy3-204/2013,* 2015). Some provisions were considered too restrictive. Following a legal vacuum, the new *Public Assembly Act 2016* was enacted in January 2016. By adopting it, Serbia just formally accomplished its obligation under Chapter 23 Action Plan (BCHR, 2017). According to European Commission (2020), the normative framework on freedom of assembly is mainly following European standards, which is not the case with the ODIHR Guidelines on Freedom of Peaceful Assembly. The 2016 Public Assembly Act seems even more controversial and restrictive than its predecessor in various provisions (BCHR, 2017; 2020). The principles of necessity and proportionality are being questioned. The new law does not stipulate that the restrictions have to be necessary and proportionate to the purpose in a democratic society. The grounds for restricting freedom of assembly are broader than those set in the 2006 Constitution, and they do not meet international legal standards (BCHR, 2020). The *Public Assembly Act 2016* stipulates *in abstracto* prohibitions regarding public assembly times (art. 7), venues (art. 6), an overly demanding procedure for organisers (art. 11), very high fines for organisers (arts. 20-23), among other non-reasonable restrictions. The reasons for the prohibition of an assembly are numerous and it seems that the legislator envisaged only two options—non-interference in the freedom of assembly and its prohibition, without mentioning less restrictive measures that could be taken before resorting to the prohibition as the last option in a democratic society. State authorities are given space for arbitrary actions and disproportionate interference in the freedom of assembly (BCHR, 2017; 2020).

4.1.6 Rights of National Minorities

Following the Yugoslav wars in the 1990s and democratic changes in 2000, Serbia took necessary steps to comply with the international standards in this area and certain normative progress has been made (Vujačić, 2012). Legal framework[7] is primarily based on the *Protection of the Rights and Freedoms of National Minorities Act 2002*, the *National Councils*

[7] Certain rights of the minorities are regulated in more detail by several sectoral laws, such as those regulating education, culture, discrimination, information, political parties, local self-government.

of National Minorities Act 2009, and the *Official Use of Scripts and Languages Act 1991*[8]. The *Protection of the Rights and Freedoms of National Minorities Act 2002*, considered to be an "umbrella" law for the protection of minorities, defined basic principles (arts. 3-8): prohibition of discrimination; measures to ensure equality; freedom of national choice and expression; cooperation with compatriots in the country and abroad; obligation to respect the constitutional order, principles of international law and public morals; and protection of acquired rights. These three acts were last amended in 2018. As noted by the European Commission (2019) in its *Serbia 2019 Report*, the 2018 amendments to the laws on minorities made some progress and the normative framework is mainly in compliance with the European standards and minority protection framework. However, the issues arise from its ineffective implementation.

4.1.7 State Surveillance Laws, Data Protection and the Right to Privacy

The *Personal Data Protection Act 2018* is the main act governing the protection of a person's privacy right by regulating the collection and processing of personal data, including the lawful interception of communications and surveillance. The provisions of this act are mostly copied from the EU Directive and GDPR (Djeric, Radovic and Petrovic, 2020), without taking into consideration the specificities of the Serbian legal system and enforcement context (BCHR, 2020). The legislator stated two reasons for adopting the new Act: first, the previous Personal Data Protection Act (adopted in 2008) proved inadequate in protecting this right in all areas and, second, the legal framework had to be harmonised with the EU standards (BCHR, 2020, p. 94). The right to privacy is also regulated by sectoral laws in particular areas, such as employment, education, health, pension. Violation of the right to privacy is incriminated under the *Criminal Code 2005*. There is a lack of special regulations regarding online privacy, so the general rules prescribed by the Personal Data Protection Act apply to some extent (Djeric, Radovic and Petrovic, 2020; DLA Piper 2021).

Provisions concerning lawful surveillance can be found in several acts, such as the *Personal Data Protection Act 2018, the Electronic Communications Act 2010, the Criminal Procedure Code 2011, the Police Act 2016, the Act on the Military Security Agency and the Military Intelligence Agency 2009, the Security Information Agency Act 2002*. As stated in the *Criminal Procedure Code 2011*, the competent criminal court issues the order for interception and surveillance of electronic communications (and other special investigative measures) performed by the Military Security Agency, the Security Intelligence Agency, or the police. The State Prosecutor is authorised to collect personal data for criminal prosecution. The abovementioned Acts governing the powers of the police and security agencies contain similar provisions: in cases when no other means can be used or such use would include disproportionate difficulties, the special measures of surveillance are requested by the director and approved by the president of the Supreme Court of Cassation. The *Electronic Communications Act 2010* defines the obligation of service providers to enable the lawful interception based on the court decision and for a limited period if such interception is "necessary to conduct criminal proceedings or for the protection of national security" (art. 126(1)). Similarly, according to the *Personal Data Protection Act 2018*, privacy restrictions are allowed if they do not interfere with the essence of fundamental rights and freedoms and they must be necessary and proportionate in a democratic society to protect the objectives, such as, among others, national security, defence, public safety, criminal prosecution, judicial

[8] If members of a national minority comprise more than 15% of the total population of the municipality, their language and script must be in official use in the local self-government unit (art.11).

independence, other important general public interests, particularly significant state or financial interests of the Republic of Serbia (art. 40). Such a broad and vague list is often criticised for leaving room for misuse by authorities (Djeric, Radovic and Petrovic, 2020).

4.2 National Legal Framework on Radicalisation and De-Radicalisation

The following section will focus on the evolution and dynamics of the legal framework regarding terrorism, hate crime and hate speech (see Appendix 1).

4.2.1 Radicalisation to Extremism and Terrorism

For many years Serbia has been dedicated to countering terrorism and, over time, its legislative approach in this field has become more restrictive and punitive (in 2019 life sentence was introduced), thus broadening the criminalisation of numerous offences concerning terrorism. Since becoming a country candidate for the EU membership in 2012, Serbia has taken numerous steps to harmonise its legal framework with the EU and other relevant international standards in preventing and countering radicalisation, violent extremism, and terrorism. The *Country Reports on Terrorism 2019: Serbia*, published by the Bureau of Counterterrorism (CT) of the United States Department of State, identified the radicalisation to terrorism as one of the main concerns, especially racially and ethnically driven terrorism (CT, 2020). Thus, in this section, we shall provide a brief overview of relevant national laws on terrorist offences.

Serbian *Criminal Code 2005* dealt with domestic and international terrorism solely in two provisions until the adoption of the 2012 amendments that led to the harmonisation with the 2005 CoE Convention on the Prevention of Terrorism and the 2002 EU Council Framework Decision on Combating Terrorism (2002/475/JHA) (CT, 2013). In 2017, the EU adopted a new directive on terrorism (Directive 2017/541), and Serbian parliament amended national laws according to new directive. Therefore, the *Criminal Code 2005*, last amended in 2019, criminalised the act of terrorism in Article 391 stipulating that the person who engages in terrorism will be sentenced to imprisonment from six months to fifteen years (depending on the exact activity stated in the article and whether the act was perpetrated in a group) or even a life sentence in case of intentionally killing one or more persons in the commission of a terrorist attack. Besides the offence of terrorism, the Code sanctions public incitement to the commission of terrorist offences (art. 391a), recruitment and training to commit acts of terrorism (art. 391b), the use of a lethal device (art. 391c), destruction and damage to a nuclear facility (art. 391d), financing terrorism (art. 393), and terrorist association (art. 393a). Significant progress was made in 2014 when the *Criminal Code 2005* introduced two new criminal offences: participation in war or armed conflict in a foreign country (art. 386a), which stipulates the sanction of imprisonment from six months to five years, that is, from one to eight years if the crime was perpetrated within a group; and organising participation in war or armed conflict in a foreign state (art. 386b), which stipulates the imprisonment from two to ten years for organisers, even if the perpetrator is not Serbian citizen.

The *Act on Organisation and Jurisdiction of Government Authorities in Combating Organised Crime, Corruption and Other Serious Crimes 2002*, last amended in 2013, governed the suppression of domestic and international terrorism until 1 March 2018, when the implementation of the new 2016 act started. The *Act on Organisation and Competences of State Authorities in Suppressing Organised Crime, Terrorism and Corruption 2016*, last amended in 2018, is the main act that establishes the institutional framework for detecting

terrorist crimes, prosecuting, and sentencing the responsible persons and entities. Though the Act covers the offences related to terrorism as per the provisions of the Criminal Code, there is an important gap. As already said, the Code regulated the offences related to foreign fighters back in 2014, but this Act does not mention them at all. Similarly, the Act does not explicitly mention the Criminal Police Directorate's Service for Combating Terrorism and Extremism, instead, the competences for countering terrorism are given to the Criminal Police Directorate's Service for Combating Organised Crime (arts. 4 and 6).

The *Act on the Prevention of Money Laundering and the Financing of Terrorism 2009* regulated, for the first time, terrorist financing by defining the preventive and repressive measures in line with international standards in this field. The Act ceased to apply in 2014 and a new Act regulating the matter was adopted three years later with the implementation starting in April 2018. The *Act on the Freezing of Assets with the Aim of Preventing Terrorism and Proliferation of Weapons of Mass Destruction 2015*, last amended in 2018, and the *Act on the Prevention of Money Laundering and the Financing of Terrorism 2017*, last amended in 2020, determined the competencies of Serbia's financial intelligence service - the Administration for the Prevention of Money Laundering (under the Ministry of Finance) in the field of prevention and detection of terrorist financing and money laundering. According to the *Act on the Prevention of Money Laundering and the Financing of Terrorism 2017*, the National Money laundering and terrorism financing risk assessment should be updated at least once in three years (art. 70). The *Act on the Freezing of Assets with the Aim of Preventing Terrorism and Proliferation of Weapons of Mass Destruction 2015* provides the legal basis for adopting domestic lists of terrorists, implementing the UN lists of designated individuals, groups or entities, as well as the procedure of freezing the assets of terrorists. However, independent human rights experts have pointed out that the anti-terrorist laws, especially those related to preventing terrorist financing, are misused by the state authorities to intimidate and subtly eliminate undesirable NGOs, that is, those critical of the government's policies and practices. They further stated "that such use of the Serbian Law on the Prevention of Money Laundering and the Financing of Terrorism interferes with and limits the freedoms of expression and association of people belonging to these groups, and their right to take part in the conduct of public affairs" (Office of the High Commissioner for Human Rights [OHCHR], 2020). Civil society organisations are significant stakeholders in addressing the grievances and other drivers of radicalisation and extremism, thus the mentioned state's actions will undermine the efforts to counter-terrorism.

By adopting the *Act on the Export and Import of Arms and Military Equipment 2014, the Act on the Export and Import of Dual-use Goods 2013* (last amended in 2019), and the *Act on Arms and Ammunition 2015* (last amended in 2020), significant progress has been made in controlling the trade of weapons and military equipment, thus preventing terrorists from obtaining weapons and means for committing terrorist attacks, controlling and monitoring the trade of weapons and military equipment.

The *Act on Border Control 2018* and the *Act on Foreigners 2018* (amended in 2019) are also relevant as they regulate the protection of the State border and illegal migration and provide further harmonisation with the EU standards.

The *Security Information Agency Act 2002* (art. 12), the *Act on the Military Security Agency and the Military Intelligence Agency 2009* (art. 6), and the *Police Act 2016* (arts. 11, 19, 22) are also important laws as they define competences of the police and security agencies in the prevention, detection, and suppression of extremism and terrorism, as well as the cooperation

in this field. The *Act on the Enforcement of the Prison Sentence for Criminal Offences of Organised Crime 2009*, last amended in 2010, refers to the terrorism offences as defined in the Criminal Code 2005 before the 2014 amendments on terrorism, thus it is outdated but still in force. The *Act on Execution of Criminal Sanctions 2014*, last amended in 2019, governs the enforcement of criminal sanctions, including terrorism-related sentences, and defines the competences of the Administration for the Enforcement of Penal Sanctions (under the MOJ).

4.2.2 Hate Crime and Hate Speech

The provisions of criminal, anti-discrimination, and media laws are relevant for prohibiting and sanctioning hate crime and hate speech. As in the case of the terrorism-related legal framework, the actual progress in this field has been made since Serbia became a candidate country for the EU membership.

Ethnically driven violence and hate crimes peaked during the Yugoslav wars in the 1990s. “Ethnic hate crimes in fragile post-conflict societies such as Serbia are cause for additional concern and attention” (Jokanović, 2018, p. 34). Thus, the adoption of the *Protection of the Rights and Freedoms of National Minorities Act 2002* was an important step towards prohibiting discrimination and improving the protection of national minorities.

Similarly, the radicalisation of supporters' groups which began with the breakup of Yugoslavia in the 1990s has become a serious security issue, especially because of their violent mindset, intolerance towards particular groups (such as Roma), and their links to extremist and criminal organisations (Međedović, Kovačević and Knežević, 2020). The *Act on Prevention of Violence and Misconduct at Sports Events 2003*, last amended in 2018, provides definitions of misconduct and violence at sports events, which include incitement to hatred on the grounds of national, religious, racial, or other characteristics that may lead to physical violence (art. 4).

However, until the adoption of the general anti-discrimination law in 2009, isolated anti-discrimination provisions included in sectoral laws regulated the matter in certain fields, such as education or employment, or towards particular groups of people, like national minorities. The *Act on the Prohibition of Discrimination 2009* is a systemic law governing the general prohibition of all forms of direct and indirect discrimination, as well as the procedure of protection against discrimination. Principles of non-discrimination and equality are enshrined in the law. The Act introduced the Commissioner for the Protection of Equality who acts upon complaints received from citizens. Article 2 defined basic terms, like discrimination and discriminatory treatment, and enumerated a wide range of grounds for prohibiting discrimination, *inter alia*, nationality or ethnic origin, language, race, religious or political beliefs, citizenship, sexual orientation, gender identity, and other personal characteristics. Furthermore, the Act prohibits hate speech (art. 11) and association aimed at inciting racial, national, religious, and other intolerance or hatred (art.10). Hatred-driven discrimination is treated as a severe form of discrimination (art. 13). According to the European Commission (2020, p. 36), the anti-discrimination legislation complies with the international standards, but further necessary alignments with the EU legislation are severely delayed.

Another important law related to the prohibition of hatred-driven acts, freedom of expression, and freedom of assembly is the *Act on Prohibition of Manifestations of Neo-Nazi or Fascist Organisations and Associations and Prohibition of the Use of Neo-Nazi or Fascist Symbols and Insignia 2009*. “Manifestation, featuring symbols or insignia or any other action of members or supporters of neo-Nazi and fascist organisations and associations, is considered to be any organised or spontaneous public appearance which provokes, encourages or

spreads hatred or intolerance towards members of any nation, national minority, church or religious communities" (art. 5). However, this article does not mention the LGBT community even though its members are often targeted by far-right extremists and neo-Nazi organisations. The registered organisation or association will be deleted from the register if conducting or participating in any of the abovementioned activities (art. 2). Monetary sanctions are envisaged as well (arts. 7 and 8). The Act also addresses the incitement to hatred by spreading neo-Nazi or fascist propaganda materials using computer systems (art. 6).

Speaking of *online context*, it is important to mention the *Act on Organisation and Jurisdiction of Government Authorities for Fight Against High Technological Crime 2005*, last amended in 2009. Despite not explicitly mentioning discrimination or hate speech, this Act is relevant for the online spreading of hate speech as it applies, *inter alia*, to criminal offences against human rights and freedoms (art. 3(3)), when computers, computers systems, data, networks, and their products, constitute the object or means of committing the criminal offences (art. 2(1)).

Though the issue of crimes committed out of hatred was not a novelty in Serbia, the legal basis for criminal prosecution of hate crimes was set in 2012 by introducing Article 54a in the *Criminal Code 2005* following the 2012 amendments. Article 54a of the Code (*Special circumstances for determination of a sentence for a hate crime*) stipulates that the Court will take as an aggravating circumstance the fact that the crime was committed out of hatred towards another person on the grounds of national or ethnic origin, race, religion, sexual orientation, gender identity. Primarily, art. 317 (*Incitement to national, racial, and religious hatred and intolerance*) and art. 387 (*Racial and other discrimination*) address hate speech. Additionally, art. 344a (*Violent behaviour at a sporting event or public gathering*) also sanctions the incitement to racial, religious, national, or other hatred at sporting events or public gatherings resulting in violence. The violation of the abovementioned crimes will be punished by imprisonment. In order to provide a better understanding of article 54a of the Code, the Public Prosecutor's Office, the OSCE Mission to Serbia and civil society representatives jointly developed the *Guidelines for the prosecution of hate crimes in the Republic of Serbia* aiming to improve detection and prosecution of hate crimes (Kilibarda et al., 2020).

Provisions of media laws are vital for fighting hate speech. The *Public Information and Media Act 2014* and the *Electronic Media Act 2014*, both last amended in 2016, explicitly address and prohibit hate speech in art. 75 and art. 51, respectively, though other provisions indirectly refer to discrimination and spreading of hate speech as well. The acts define restrictions on freedom of speech in case of violating provisions relevant for curbing hate speech. Though the registered online media platforms are subjected to the national law, forums, blogs, social networks, and other platforms are not regulated by national laws, instead, the companies owning those platforms provide terms of use that more or less prohibit hate speech. Media self-regulation is also important, and the journalists act upon the *Serbian Journalists' Code of Ethics* adopted in 2006, which contains several provisions on hate speech, including the online sphere (Press Council, 2015).

4.2.3 Relevant Case Law

In Serbia's law system, judicial decisions are subordinate to statutory law, that is, they are not binding precedents. However, they significantly impact and shape public opinion. We shall briefly describe two landmark cases concerning terrorism, hate crime and hate speech, respectively, that produced different reactions in public. One deepened the existing polarisations, the other raised awareness on the importance of the issue.

Individuals from the Sandžak region, South-West Serbia, were recruited in 2013 by extremists to fight in Syria and Iraq (CT, 2014). The Ukrainian conflict also attracted many foreign fighters from Serbia. The phenomenon of foreign fighters became a growing contemporary threat at the time of arrival of large number of people on the move (refugees and other migrants) from the Middle East and the so-called Balkan migration route became very popular. As already said in previous sections, Serbia amended its Criminal Code in 2014 and introduced new articles in order to criminalise foreign fighters. The changes were brought in due to several reasons, such as the danger of additionally radicalised returnees who, upon their return from conflict areas, might spread the ideology of violence and extremist ideas in Serbia misusing grievances to recruit and train people (mostly in Sandžak); possible infiltration of terrorists into massive refugee and migrant flows on the Balkan route; the pressure of international community to amend anti-terrorism laws (Petrović, 2018; Petrović and Stakić, 2018; Kostić, Simonović and Hoeflinger, 2019).

However, the Serbian courts treated the fighters who came back from Ukraine and Syria differently. “This difference in treatment presents not only a legal issue, but a social and political one that, with time, could evolve into a serious security threat” (Petrović and Stakić, 2018, p. 33).

The Special Department for Organised Crime of the Higher Court in Belgrade ruled on 4 April 2018 that Abid Podbićanin, Sead Plojović, Izudin Crnovršanin, Tefik Mujović, Ferat Kasumović, Goran Pavlović, and Rejhan Plojović were guilty of terrorism (art. 391(1) of the *Criminal Code 2005*) and terrorist association (art.393(1)) (Viši sud u Beogradu, 2018). Besides being guilty on these charges, some of them were found guilty of other terrorist-related crimes such as terrorism financing, recruitment and training for the commission of terrorist acts, public incitement to the commission of terrorist acts (Viši sud u Beogradu, 2018). They were sentenced to 69 years and 6 months in prison in total and individual sentences ranged from 7 years and 6 months to 11 years. Three of them were convicted *in absentia* (CT, 2019). The verdict was headline news in the media.

On the other hand, the majority of fighters who returned from Ukraine’s battlefields reached an agreement with the Prosecutor’s Office and after pleading guilty, received suspended sentences, but the details on those settlements are not publicly available (Azinović and Bećirević, 2017; Petrović and Stakić, 2018, p. 33). Precisely, out of 28 verdicts issued by October 2018, 26 resulted in settlements, four individuals received prison sentences and the rest obtained suspended sentences (Kostić, Simonović and Hoeflinger, 2019, p. 15).

To sum up, the first group who fought in Ukraine was prosecuted under the provisions of the Code regulating foreign fighters, while the second group that fought in the Middle East was prosecuted and convicted on terrorism charges. The penalties for the two types of crimes significantly differ. The overwhelming difference in the treatment of Ukrainian and Syrian fighters led to the situation where the Muslims from Sandžak and South-West Serbia perceived the verdicts as an act of discrimination by Serbian authorities based on their ethnicity and religion, which served as a justification for extremist narratives (Petrović and Stakić, 2018; Kostić, Simonović and Hoeflinger, 2019). Though the research on radicalisation and extremism in Serbia is scarce, incoherent, and fragmented, one conclusion is prominent: the trust in Serbian institutions is extremely low among these national minorities in Sandžak (Petrović and Stakić, 2018). Those groups are especially at risk of radicalisation, and the feelings of isolation and discrimination are significant drivers of radicalisation impaired with the strong religious identity and powerful propaganda of Islamists. “In addition, of great

concern is the fact that there is a trend of spreading non-violent extremist and radical beliefs among Serbian citizens, especially among young people and the Roma population" (Petrović and Stakić, 2018, p. 4).

Separately, the first ruling taking into account hate crime provision (art. 54a of the *Criminal Code 2005*) was issued in 2018, that is, six years after its introduction in the Criminal Code. The case concerned domestic violence motivated by hatred, which was considered as an aggravating circumstance during sentencing. An LGBT person suffered violence from his father for his sexual orientation. Belgrade First Basic Court issued a judgment No. 7 K. 1435/18 of 17 October 2018 (became final on 2 November 2018) sentencing the father to "a suspended one-year sentence, three years on probation, and…a one-year restraining order" (BCHR 2019, p. 277). The suspended sentence for the perpetrator was deemed light by some activists (Bureau of Democracy, Human Rights, and Labor [DRL], 2020). Others have welcomed the verdict stating that the competent institutions have sent the message that the violence is punishable (N1 Beograd, 2018). Similarly, the verdict for hate speech against the Albanian minority issued by the Higher Court in Belgrade against the editor-in-chief of tabloid Kurir was confirmed by the Appellate Court in Belgrade on 25 April 2018 (DRL, 2020).

As the rulings were issued in 2018, it is early to assess their overall impact on legal and policy framework. Since then, there were no significant changes to the legal framework on terrorism, except the introduction of a life sentence in the *Criminal Code 2005*. As per policy and practice, state and non-government campaigns and projects were carried out aiming to raise awareness among youth about the dangers of radicalisation, which will be discussed in the next chapter. Regarding hate crime and hate speech, there were a few rulings in the last two years, which is an improvement, though the legal framework needs to be enhanced to better align with the EU requests in this field. As per policy, many campaigns for countering hate speech rocketed in the same period, so it can be partly due to the sentence that raised awareness on the seriousness of the issue and placed it in the spotlight.

5 The Relevant Policy and Institutional Framework in the Field of Radicalisation

This chapter examines national policy framework on specific human rights and freedoms relevant for the process of radicalisation, the national and sub-national policy framework on (de)radicalisation, as well as the relevant institutional framework.

5.1 National Policy Framework: Overview of (De)Radicalisation-Relevant Human Rights and Freedoms

In this section, we shall briefly outline the government's policies and practices regarding relevant human rights and freedoms, focusing on the evolution and dynamics of the policy framework.

5.1.1 Religious Freedom and State–Church Relations

The process of desecularisation, which marked the period of late 1980s and early 1990s, particularly came to the light in the early 2000s with visible steps towards clericalisation of the Serbian society. The increasingly prominent role of the Serbian Orthodox Church (SPC) in the state affairs and public policy domains, on one side, and remarkable readiness of main political actors, mainly the country's presidents, for close (political) cooperation with the church, clearly show two processes occurring in Serbian society – clericalisation of the society and instrumentalisation of the church, that is, its politicisation (Vukomanović, 2005).

The cooperation between the state, churches and religious communities is managed by the Directorate for Cooperation with Churches and Religious Communities established in 2012 in the Ministry of Justice (MOJ) as the Ministry of Religion had previously ceased to exist. The Ministry of Religion has traditionally existed for decades, but since 2012 the issue of religion became just a department within MOJ. Besides the cooperation, the Directorate pursues the government's goals in developing religious freedom and assisting the churches and religious communities in exercising their legally guaranteed rights. According to the Directorate, "the earlier ideological and restrictive attitude of the state towards religion has been changed, and churches and religious communities have been recognised as important factors in society and their autonomy and equal treatment have been guaranteed" (Uprava za saradnju s crkvama i verskim zajednicama, no date).

Even though the Serbian government in general respects religious freedom, the issues arising from non-transparent and inconsistent registration in the Register of Churches and Religious Communities (maintained by MOJ) produce significant impediments for some religious groups to exercise their rights (European Commission, 2020; Humanists International, 2020; Office of International Religious Freedom [OIRF], 2020). The registration is not compulsory for carrying out religious services, but some unregistered religious groups faced difficulties when conducting business, owning property, holding a bank account (Humanists International, 2020; OIRF, 2020). Another issue identified in the report of the European Commission (2020) is the lack of religious services in minority languages across Serbia. The government continues with the restitution of confiscated properties claimed by churches and religious communities (OIRF, 2020).

In 2001, elementary and secondary schools introduced religious instruction as an elective subject provided by traditional churches and religious communities (BCHR, 2020;

Vukomanović, 2005). Some religious communities, the ones that might be described as non-traditional, claim that the government favours certain religious groups over others, particularly highlighting the preferential treatment of SPC regarding, *inter alia*, religious instruction (Humanists International, 2020). The Directorate for Cooperation with Churches and Religious Communities stated that there was no interest among parents of children in public schools for religious classes of other religions except the seven traditional religious groups (OIRF, 2020).

Various reports identified important issues regarding religious freedom and state-church relations in Serbia, such as the government's preferential treatment of the SPC; religiously-motivated attacks experienced by some non-traditional or minor religious communities; lack of official governmental registry on religious-motivated violence and inadequate response of police and prosecutors to these incidents; social discrimination that stemmed from the negative media portrayal of some religious communities and systemic religious privileges; interference of secular authorities in religious matters and religious authorities into state's policy affairs (Humanists International, 2020; OIRF, 2020).

Traditionally, the SPC has enjoyed the greatest trust of citizens who might expect from the SPC to give its opinion on important social matters and that is why political leaders tend to have its affection and support (Vukomanović, 2005; Janjić, 2020). President Vučić personally announced the death of the Patriarch Irinej to the public stating that the Patriarch had entrusted him with safeguarding Serbian interests (Janjić, 2020).

5.1.2 Freedom of Speech or Expression

As a candidate for EU membership, Serbia has to make significant progress regarding freedom of expression. Since the democratic changes in the early 2000s, the media sector underwent three main stages of reforms: 1) setting up the market for commercial media and establishment of regulatory bodies (2000-2005); 2) increased politicisation, delayed privatisation of media outlets, and weakened regulatory bodies (2005-2011); 3) compliance with the EU standards in the media sector, adoption of the media strategy, other regulatory reforms (since 2014) (RSF, 2019). The 2011 Media Strategy expired in 2016 and the new Media Strategy was adopted in January 2020. As noted by the European Commission (2020), though the last year's recommendations have not been fully addressed, the Media Strategy was prepared transparently and in compliance with the EU standards, but it has not been implemented yet. The Strategy identified main challenges, such as, *inter alia*, non-transparent media ownership, allocation of funds, especially at the local level, lack of criteria for evaluating media pluralism (European Commission, 2020).

The severe deterioration of media freedom in Serbia has been identified in many reports, which often emphasise that the media freedom started intensively declining since the SNS came to power in 2012 and Vučić became the most important political actor on the Serbian political scene (RSF, no date; Russell, 2019; Damnjanović, 2020). This drastic decline is also obvious from the international rankings of Serbia. For comparison purposes, Serbia ranked 54th in the 2014 World Press Freedom Index (WPFI) and since then it has been dropping down being currently 93rd in 2020 WPFI (RSF, no date). Similarly, in its *Freedom in the World 2020* report, Freedom House (2020) evaluated political rights and civil liberties and Serbia was downgraded from *Free* to *Partly Free*, identifying serious deterioration of media freedom. Similar concerns have been expressed in the reports of the European Commission (2019; 2020) as no progress has been made to improve the environment for freedom of expression. The Regulatory Body for Electronic Media (REM) is criticised for not being independent

(Freedom House, 2020), remaining passive, and not safeguarding media pluralism (DRL, 2020; European Commission, 2020).

Independent journalists are being attacked, intimidated, threatened and this negative trend has been more prominent in 2020 than in previous years, but what worries is that the authorities have not responded to this rising issue adequately as perpetrators are rarely discovered and convicted (RSF, no date; Russell, 2019; Damnjanović, 2020; DRL, 2020; European Commission, 2020; Freedom House, 2020; Humanists International, 2020; Human Rights Watch, 2021). Legal harassment and pressures of independent media and civil society for criticising the government policy are widespread (Russell, 2019; Damnjanović, 2020; DRL, 2020; European Commission, 2019; 2020). Furthermore, president Vučić publicly accused N1 television of constantly attacking the authorities, which afterwards led to a series of threats to N1 (Russell, 2019, p. 3).

Besides the unsafe environment for independent journalists, the media ownership concentration and related lack of transparency, restrictions on the freedom of expression, strong state influence in the media sector, and allocation of budgetary funds are some of the most important issues that need to be addressed urgently (RSF, no date; Russell, 2019; DRL, 2020; European Commission 2019; 2020). The state is still the owner of the most significant national media outlets. However, privatisation is not the only key to the problem as the owners of outlets are pro-government with strong links to the ruling party (RSF, no date; Russell, 2019; Damnjanović, 2020; DRL, 2020; European Commission 2019; 2020). The media sector is vulnerable to political pressures and influences, mainly due to economic reasons (European Commission, 2019; Russell, 2019, BCHR, 2020; Freedom House, 2020). The control over media outlets exercised by Vučić is unprecedented, as there are almost no independent media with significant reach to the public to create the counterbalance (Damnjanović, 2020; European Commission, 2020). Furthermore, the issue of biased coverage, especially of the protests against Vučić's rule, infuriated the protesters causing them to storm the RTS building following the refusal of the media outlet to allow them to express their opinion (Russell, 2019; Damnjanović, 2020). Media is extremely important in shaping public opinion. Having that in mind, it is worrying that the SNS campaign blurred the line between the official duties of Vučić as the country's president and his role of SNS leader, especially in the context of the response to the COVID-19 crisis (European Commission, 2020). Pro-government media coverage sidelined the opposition thus severely compromising the diversity of political views (European Commission, 2020, p. 33).

5.1.3 Freedom of Association and Political Participation

During the 1990s, political pluralism and citizens' associations started rapidly growing as a result of adopted legal solutions, but the actual development of civil society was suppressed by the authoritarian regime (Milivojević, 2006). The cooperation between CSOs and the state improved when Djindjić was the Prime Minister, but after his assassination, the cooperation stagnated. Real partnership and dialogue between the Government and the CSOs have not been established despite consultations being more constant now (Milivojević, 2006, p. 37).

Serbia lacks a proper legal and policy framework for the development of civil society (Russell, 2019; European Commission, 2020). No real progress has been made recently to enable an adequate environment for developing and financing CSOs as the new strategy[9] and action

[9] The National Strategy for an Enabling Environment for Civil Society Development in the Republic of Serbia for the period 2015-2019 expired.

plan have not yet been adopted (European Commission, 2019; Građanske inicijative, 2019a) though some small steps have been taken (European Commission, 2020). The database of CSO focal points in public institutions and local self-governments was created by the Government's Office for Cooperation with Civil Society (European Commission, 2020, p. 13). The basic document establishing modalities of cooperation are the 2014 Guidelines for the involvement of civil society organisations in the regulatory process that highlighted the importance of including CSOs in reform processes (Kancelarija za saradnju sa civilnim društvom, no date-a). In January 2020, following the proposal of the Office for Cooperation with Civil Society, the Government adopted Guidelines for inclusion of civil society organisations in working groups for drafting policy documents and drafts, that is, draft regulations (Kancelarija za saradnju sa civilnim društvom, no date-b). Using the urgent procedure for adopting laws, not taking into consideration the suggestions of CSOs, and treating them as a formality are important obstacles to the participation of CSOs in the reforms (Rusell, 2019; European Commission, 2020).

In 2019, Serbia had more than 33,300 CSOs (Russell, 2019) and it is estimated that there are 1,500 new CSOs every year (Damnjanović, 2020). NGOs in general can operate freely (Freedom House, 2020). However, the environment for exercising the freedom of association is not favourable for CSOs trying to raise awareness about political and civil rights, or other sensitive topics standing critically towards government (Građanske inicijative, 2019a; Russell, 2019; European Commission, 2020; Freedom House, 2020). It is an "increasingly polarised environment that is not open to criticism" (European Commission, 2020, p. 13). Smear media campaigns against CSOs continue and many CSOs and individual activists have been facing harassment and attacks by right-wing extremists as well (Freedom House, 2020; Građanske inicijative, 2019a). According to NGOs in Serbia, the government uses numerous GONGOs, many of which are not in the register of associations, in order to simulate the support of civil society for the government's stances (Russell, 2019, p. 7; BCHR, 2020). The deterioration of the civic freedoms was detected on CIVICUS Monitor that evaluates the conditions for exercising freedoms of expression, peaceful assembly, and association. In March 2019, Serbia was added to the watchlist of CIVICUS Monitor and in October 2019, CIVICUS downgraded the rating of Serbian civic space from *Narrowed* to *Obstructed* and the status has not been changed since then (CIVICUS, 2019). As per the 2019 CSO Sustainability Index, deterioration of Serbian civic space continued with restrictions on civic freedoms which is why „Serbia has the lowest level of overall CSO sustainability and reported further deterioration in 2019" (USAID, 2020).

When it comes to political parties, citizens are generally free to establish a political party and there are no formal obstacles for their work but the issue arises from the weak implementation of campaign financing regulations (Bertelsmann Stiftung, 2020; Freedom House, 2020). However, despite the existence of numerous registered political parties, the Serbian political scene is dominated by one party—ruling SNS, without a viable opposition whose electoral prospects have been unfairly reduced by the SNS and its coalition (Russell, 2019; European Commission, 2020; Freedom House, 2020). Since coming to power, the SNS "has steadily eroded political rights and civil liberties, putting pressure on independent media, the political opposition, and civil society organisations" (Freedom House, 2020). Legally, the role of the country's president should be ceremonial, however, in practice president Vučić has concentrated power in his hands establishing himself as "the main policy and decision-maker" (Bertelsmann Stiftung, 2020). The aforesaid seriously questions the state of political pluralism in Serbia.

5.1.4 Freedom of Assembly

In general, freedom of assembly is freely exercised by citizens and respected by the government (Bertelsmann Stiftung, 2020; DRL, 2020; Freedom House, 2020). Notwithstanding, the right to peaceful assembly was limited by the government in many cases, especially regarding the assemblies marked as gatherings posing high-security risk (Građanske inicijative, 2019b; BCHR, 2020; DRL, 2020). The restriction placed on freedom of assembly of the LGBT population without a legal basis is perhaps the most obvious example. Two unsuccessful attempts to organise the Pride Parade in 2001 and 2009 represent a violation of the freedom of assembly committed by authorities, which was recognised in the Decision of the Constitutional Court (Jančić, 2013; *Уж-5284/2011,* 2013). Also, the Public Assembly Act 2016 was criticised by CSOs for being overly restrictive, but the greater issue is the selective enforcement of the Act by state authorities depending on who the organiser is, which is particularly obvious in relation to the opposition protests (Građanske inicijative, 2019b).

One of the reasons CIVICUS put Serbia on the watchlist in 2019 and downgraded its rating to *Obstructed* is due to freedom of assembly being seriously jeopardised by the government's actions (CIVICUS, 2019). As a response to constantly shrinking civic space, the representatives of 20 CSOs created the platform *Three Freedoms for Preserving the Space for Civil Society in Serbia* in order to promote fundamental freedoms, including freedom of assembly, and to register violations of these basic rights in a democratic society (Građanske inicijative, 2019a).

Massive anti-government protests, that marked the end of 2018 and continued in 2019, were mostly organised by the association *One out of Five Million* (BCHR, 2020; DRL, 2020; Freedom House, 2020). The citizens expressed their dissatisfaction with media persecution, erosion of civil and political rights and democratic practices by the ruling party, *inter alia*. The authorities put strong pressure on those protests and many people did not participate in the protests out of fear of losing jobs in public administration (Bertelsmann Stiftung, 2020). Those protests were mainly peaceful as well as other civic events, though there were attempts of far-right groups to disrupt them (BCHR, 2020). Pride Parade was held in 2019, mostly without incidents, nevertheless, the police conduct was criticised in relation to counter-protests held at the same time (BCHR, 2020).

The European Commission (2020) emphasised the issue of restricted freedom of assembly (among other rights and freedoms) in relation to the COVID-19 state of emergency. Serbian government adopted a decree restricting basic freedoms in the state of emergency and notified the Council of Europe about those derogations as per article 15 of the European Convention on Human Rights, but without informing on actions conducted, as required under the same article (European Commission, 2020, p. 30). Citizens organised massive anti-lockdown protests in the midst of the COVID-19 pandemic due to perceived double-standards of the government in relation to re-imposing curfew right after holding elections, ahead of which all the restrictions had been lifted (CIVICUS, 2020). The issues arose from the response of the authorities to the protests against the government's policies and the SNS (DRL, 2020; Freedom House, 2020). Security forces violently attacked protesters and journalists covering the events, which was severely criticised by human rights defenders (CIVICUS, 2020).

5.1.5 Rights of National Minorities

The national minority issue lied at the roots of Yugoslav wars in the 1990s (Vujačić, 2012). Despite the normative protection, ethnic intolerance had severe repercussions on a mutual relationship between the national majority and national minorities, leading to severe restrictions and violations of minority rights (Vujačić, 2012; Janjić, 2017). Constant ethnic and political tensions remained even after the wars ended, which created a barrier for establishing integrative minority policy. The democratic transition in the early 2000s opened the door to a new minority policy based on the integrative approach (Vujačić, 2012; Janjić, 2017). However, following the draft of the Minority Rights and Freedom Act 2002, it was clear that the future policy will be based on segregative multiculturalism (Vujačić, 2012).

In the last twenty years, major advancements have been made regarding the protection of minority rights, their cultural autonomy, and participation in decision-making (Vujačić, 2012, p. 160). Though the legal framework is generally following the EU standards (Advisory Committee on the Framework Convention for the Protection of National Minorities [ACFC], 2019; European Commission, 2020), the policy framework suffers from some shortcomings—the most important being the lack of inclusive minority strategy (Janjić, 2017). In 2012, the government established the Office for Human and Minority Rights responsible for the policy, supporting and monitoring minority rights and communities, including some religious rights of minorities (DRL ,2020; OIRF, 2020). In 2015, the government established the National Minority Council in charge of inter-ethnic relations and monitoring of the protection of minority rights (BCHR, 2020). Following the recommendation of CoE's Advisory Committee, the government adopted the 2016 Action Plan for the Exercise of the Rights of National Minorities (Đurić and Vujić, 2018). In its *Fourth Opinion on Serbia*, the ACFC (2019) highlighted the issue of uneven protection of minorities throughout Serbia, especially between the Autonomous Province of Vojvodina and other regions of Serbia, where the protection needs to be improved. Another issue is the insufficient participation of minorities in decision-making which contributed to their underrepresentation in the public administration (ACFC, 2019; European Commission, 2020). On the other side, the improvement is visible in the area of education. As an alternative to religious instruction, the government organised civic classes in public schools offering information regarding different minority cultures, multiethnic relations, and tolerance to prevent violence and discrimination towards minorities (DRL, 2020). Furthermore, the Ministry of Education, Science and Technological Development provided textbooks in minority languages for primary schools, but their provision for secondary schools is still limited (European Commission, 2020).

As noted by the Commissioner for the Protection of Equality, NGOs, and, *inter alia*, independent human rights observers, the Roma are the national minority in the most unfavourable socio-economic position due to poverty, discrimination, social exclusion, and systemic segregation in different areas, such as housing, employment, education (Zaštitnik građana, 2019; BCHR, 2020; DRL, 2020; European Commission, 2019; 2020; Freedom House, 2020; Humanists International, 2020; Kilibarda et al., 2020). To tackle these issues and improve the overall status of the Roma minority, the government has taken some steps on a strategic level in line with the recommendations of the Protector of Citizens, such as the adoption of the first Strategy for Improving the Position of Roma for the period 2009-2015 and the Action Plan for its implementation, the adoption of the Strategy for Social Inclusion of Roma Men and Women for the period 2016 - 2025 and the Action Plan (2017-2018), as well as the Decision on the establishment of the Coordination Body for monitoring the

implementation of the 2016 Strategy (Zaštitnik građana, 2019). As noted by the European Commission (2020), serious delays have been identified concerning the adoption of the Action Plan for 2019-2020 under the Strategy for Roma Inclusion.

5.1.6 State Surveillance, Data Protection and Privacy

Serbia is a country with a weak democratic tradition and a history of privacy violations by state authorities (Perkov, 2020). As seen in the previous sections, Serbia has been downgraded in many international rankings due to a highly unfavourable situation for exercising political and civil rights and freedoms, such as freedom of expression. Though the normative framework demands from authorities to previously obtain a court order, in many situations the government did not comply with the provisions regulating lawful surveillance, especially the Ministry of Interior (DRL, 2020). In this section, we shall highlight just a few cases.

In 2018, the Ministry of Health's application for scheduling doctor appointments allowed a private firm to collect personal data, which constituted a severe privacy intrusion as that access was not in accordance with the law (DRL, 2020).

Another issue is the non-transparent selection process of the Commissioner for Access to Information of Public Importance and Personal Data Protection in 2019, who was appointed with a delay of several months (Kilibarda et al., 2020).

In 2019, as a part of the *Safe Society* project, the government installed biometric video-surveillance cameras, without prior public debate, and only afterwards provided the Commissioner with an impact assessment, which should have been done before the installation of the surveillance cameras according to the law (European Commission, 2020, p. 32; Perkov, 2020). The impact assessment has severe shortcomings regarding human rights protection (European Commission, 2020), particularly since the cameras, supplied by Huawei, provide facial and licence plate recognition (Perkov, 2020). The purpose of this massive surveillance is not clear, and it is not in line with the principles of proportionality and necessity in a democratic society.

"The extent of government surveillance on personal communications was unknown. Civil society activists alleged extensive surveillance of citizens' social media feeds and public identification of anonymous social media users critical of the government" (DRL, 2020). Serbian NGOs warn that the situation regarding state surveillance has deteriorated, and this negative trend is visible, *inter alia*, in decreased transparency of the (incomplete) reports on retained data that service operators (especially state-owned Telekom) and state authorities send to the Commissioner (BCHR, 2020, p. 90). The competent parliamentary Committee, criticised for its ineffective work, reviewed the reports provided by security agencies on their work and adopted them without criticism stating that special measures had been conducted in accordance with the law (BCHR, 2020; DRL, 2020).

During the state of emergency, as noted by the European Commission (2020, p. 32), "the government established a centralised information system in which health institutions with hospitalised persons suffering from COVID-19 as well as testing laboratories have been keeping personal data". The Ministries of Health and Interior received the personal data regularly.

5.2 The National Policy Framework on Radicalisation and De-Radicalisation

This section of the report highlights the evolution of the policy on radicalisation, prevention activities, and the policy implementation issues.

5.2.1 Strategic Framework

In 2001, following the 9/11 terrorist attacks, the Government of Yugoslavia signed the UN Convention[10] concerning the funding of terrorism and reiterated its intentions to support international efforts on countering terrorism (S/CT, 2002). The State Union of Serbia and Montenegro implemented the Ministry of Defense's 2005 strategy which was underpinned by the global war on terror as one of the guiding principles (S/CT, 2006). In 2007, police carried out a raid of the mountain cave in Sandžak, near Novi Pazar, and discovered a training camp for Muslim fighters. Weapons, explosives, other equipment, and propaganda materials were found on the site. Later that year police killed the local leader named Ismail Prentić and arrested 15 people (S/CT, 2008), whose trial began in 2009 under terrorism charges, *inter alia,* (S/CT, 2009) and concluded in 2010 with 12 people being convicted and two acquitted (S/CT, 2010). This case had enormous media coverage and significantly shaped Serbian counter-terrorism policy.

Even though Serbia has adopted many relevant strategies in the last couple of years in order to align its legal and policy framework with EU standards in this field, it is possible to differ three key phases in the evolution of the policy framework: identifying the threat of extremism in main national and defense strategies (2009); addressing the issue of discrimination in anti-discrimination strategy (2013) and adopting the youth strategy (2015); and finally addressing radicalisation and extremism in the key strategy on preventing and countering terrorism (2017). We shall focus on the key documents, while other relevant strategies will only be mentioned.

The first main strategic documents in the field of security were adopted in 2009 - the *National Security Strategy of the Republic of Serbia 2009* and the *Defense Strategy of the Republic of Serbia 2009*. Both strategies recognised religious, political, and national extremism as an important security threat, as its roots arise from past ethnic conflicts. In that context, the *National Security Strategy 2009* highlighted the need for cooperation between the state, churches, and religious communities, as well as the need for integration of minorities into Serbian society. The strategies did not explicitly mention radicalisation. In 2019, the Government adopted the new *National Security Strategy of the Republic of Serbia 2019* and the *Defense Strategy of the Republic of Serbia 2019,* which again highlighted the threat of national and religious extremism, especially as a generator of separatism. The *National Security Strategy 2019* identified the risk of religious radicalisation in the context of the migration crisis and rising tensions between local population and migrants, and the expansion of radical Islamism.

In 2012, the Government adopted *Strategy for the Development of Education until 2020*, which envisaged, *inter alia*, inclusive education, not only in terms of reducing social isolation and making education available to all people but also in preventing stereotypes and discrimination

[10] "The Government of the Federal Republic of Yugoslavia announced its support for international efforts to combat terrorism immediately after the September 11 attacks. Belgrade, already a party to six of the UN antiterrorism conventions, by year's end signed the convention on funding of terrorism and reportedly intended to sign four more in the near future."

by raising awareness of the importance of mutual respect and developing the tolerance of diversity. The Strategy and its Action Plan are being implemented with delays (European Commission, 2020).

An important step towards promoting the culture of tolerance was made in 2013 with the adoption of the *Strategy for Prevention and Protection against Discrimination 2013,* adopted for a 5-year period, which laid down the objectives for combating discrimination in all its forms, especially against marginalised and vulnerable groups. The main principles promoted in the Strategy are principles of equality, equal rights, and prohibition of discrimination. The Strategy aims*, inter alia*, to eradicate hate speech, prevent the spreading of prejudices and stereotypes, particularly against vulnerable groups such as Roma, and undertake actions to enable inclusive social integration. Furthermore, the Strategy warns about the activities of extremist and sport fan groups against the LGBT community and minority groups, highlighting the need of improving the policy framework to combat those negative trends. One of the major issues in the policy implementation is the significant delay in the adoption of new strategies as existing ones have already expired, which is also the case with the Anti-Discrimination Strategy which expired in 2018 (European Commission, 2020). "This strategy had been only partially implemented: the July 2019 evaluation report noted that the authorities had implemented 59% of the measures provided in the AD Strategy, while 16.2% had not been implemented at all and 11.7% of them had been only partially implemented" (Kilibarda et al., 2020, p. 7). Besides this general AD Strategy, Serbia has adopted sector-specific strategic documents addressing discrimination in particular fields, such as education, and against particularly vulnerable groups, like Roma[11].

In 2015, another important document was adopted - the *National Youth Strategy for the 2015-2025 period* - *whose* aims are, *inter alia*, social inclusion of vulnerable and marginalised youth at risk of social isolation, as well as the development of security culture among youth. In the context of the latter, several specific goals were envisaged in the document, such as creating continuous, gender-sensitive, inclusive programmes and projects that would address a wide variety of security risks and threats; establishing programmes aimed at accepting diversity, gender equality, and respect of human and minority rights (young people tend to be violent towards LGBT community, Roma, their peers, and they also show violent behaviour as members of sports fan groups); enhance reintegration programmes for young perpetrators of criminal acts; improve programmes for young people who were victims of violence. The Strategy recognised numerous security challenges, risks, and threats to young people, including intolerance to differences, violent behaviour, and extremism. The principles of equal opportunities for all and prohibition of discrimination are enshrined in the Strategy. In this context, it is significant to mention that the Strategy identifies the specific issues targeting rural youth and, therefore, seeks to develop and strengthen the programmes focused on young people in rural areas of Serbia.

In 2015, the Ministry of Interior issued the first national *Serious and Organised Crime Threat Assessment* (SOCTA), which is an important strategic document that, among other serious crimes, deals with the issue of foreign fighters, warning that the terrorists use the same routes

[11] The trend of Roma radicalisation is on the rise and addressing this issue is important, especially as many drivers of radicalisation are present in the Roma community (poverty, discrimination, and other factors) (Petrović 2016, 2018; Petrović and Stakić 2018). The institutional framework for their integration is still unavailing, without efficient national and local coordination, and the introduction of legal grounds for local Roma coordinators is delayed (European Commission, 2020).

as irregular migrants, often infiltrating among them (Ministarstvo unutrašnjih poslova Republike Srbije, 2015).

However, the "umbrella" strategy in the field of preventing radicalisation was adopted in 2017 the *National Strategy for the Prevention and Countering of Terrorism for the 2017-2021 period* - with an Action Plan for its implementation which is an integral part of the Strategy. For the first time, Serbia merged radicalisation, violent extremism, and terrorism in a single strategy (CT, 2017), focusing on four priority areas: prevention, protection, criminal prosecution while maintaining respect for human rights, and system response to a terrorist attack. The *National Strategy for the Prevention and Countering of Terrorism* put significant emphasis on the prevention and inclusion of local authorities and civil society, that is, a wider social community. The principle of proportionality between the seriousness of the threat and engaged resources is guiding the development of measures. For the purpose of this report, the first two priority areas are particularly important. The first priority area (*Prevention of terrorism, violent extremism, and radicalisation leading to terrorism*), focused on preventing the drivers of radicalisation and its early identification, contains five strategic goals, such as developing security culture (particularly of youth); early identification of factors conducive to radicalisation and violent extremism; discouraging youth' participation in terrorism through eliminating conditions that lead to radicalisation; developing radicalisation-resilient high-tech systems and digital platforms; developing strategic communication. The second priority area (*Protection by detection and elimination of terrorism threats and system weaknesses*), focused on early detection, complements the preventive actions by conducting activities focused on preventing the spreading of radicalisation and extremism, with de-radicalisation and reintegration programmes being the focal points. Policy-makers started from the fact that the terrorism threat in Serbia was realistic and it could come from ethno-nationalists and separatists, religiously-driven extremists, anarchical, left and right-wing organisations. The *National Strategy* recognised radicalisation and violent extremism as growing security issues, especially in the context of the threat represented by foreign fighters from Serbia and the fragile security situation in Kosovo and Metohija. As per the *National Strategy for the Prevention and Countering of Terrorism*, active civil society, inter-religious and inter-ethnic tolerance, and protection of minority rights represent an advantage, while the misuse of social networks and digital platforms for spreading extremist views, as well as the inadequate social integration of some groups, represent a disadvantage and weakness. As radicalisation and violent extremism are complex phenomena, the Strategy relies upon the comprehensive cooperation between government and non-governmental actors. Accompanying Action Plan for the Implementation of *National Strategy for the Prevention and Countering of Terrorism* outlined measures sorted by priority areas and strategic goals, indicators for monitoring the implementation, the institutions in charge of those activities, and the budget. Those measures, *inter alia*, aim to promote intercultural dialogue, increase employment[12], raise awareness of the general population through media campaigns and public debates, improve education programmes regarding the identification of radicalisation, ensure integration into institutions of groups at high risk of radicalisation, encourage scientific research in this field, strengthen the role of local authorities in the prevention, improve the cooperation with CSOs, rehabilitate individuals at risk of radicalisation, raise awareness about the dangers of using digital

[12] Regarding social policy and labor, Serbia made limited progress due to inconsistent implementation of social welfare and employment legislation throughout the country, inadequate budget allocations for labor policies, and insufficient financial and institutional resources for targeting youth (European Commission, 2019; 2020).

platforms for spreading extremist views, develop and implement programmes for de-radicalisation and reintegration.

By adopting the Anti-Terrorism Strategy in late 2017, Serbia became the last country in the region to do so (Azinović and Bećirević, 2017). However, even though the Strategy tends to be in line with international standards, the major critics coming from CSOs emphasise the biased approach of policy-makers. Namely, the Strategy addresses Islamic extremism and terrorism but does not particularly address the issue of far-right extremism and other forms of violent extremism, including hooliganism (Azinović and Bećirević, 2017; Petrović and Stakić, 2018; European Commission, 2020). According to the European Commission (2020, p. 46), "the strategy has yet to be extended in order to cover all forms of radicalisation and violent extremism" and the authorities have to ensure regular reporting concerning its implementation.

The *Strategy for the Fight against High-Tech Crime for the 2019–2023 period* is also significant for preventing radicalisation and suppressing extremist actions in an online sphere. It complements the Anti-Terrorism Strategy as it contributes to the realisation of one of the preventive goals regarding the strengthening of high-tech systems and networks resilient to radicalisation and extremism. The Strategy establishes an institutional framework for the fight against high-tech crime, including the suppression of hate crime/ hate speech on the Internet, prevention of spreading of harmful online content aimed at provoking national, racial, or religious hatred, xenophobia, extremist and terrorist propaganda.

The *Strategy for the Development of the System of Execution of Criminal Sanctions until 2020* is important for planning de-radicalisation programmes. The Strategy envisaged twelve priority areas with accompanying tasks. For the purpose of this report, we shall highlight five of them: ensuring respect for prisoners' human rights and protection of particularly vulnerable categories (including individualised and specialised treatments for certain vulnerable categories in order to improve their reintegration); treatment (focus is on different educational, and therapeutic programmes and training for prisoners in order to preserve their mental health, contribute to positive changes in their behaviour and prepare them for reintegration); professional training of convicts for work; alternative sanctions and post-penal social reintegration; and training of prison staff. The application of treatment depends on individual needs, risk assessment, and the capacity for change of a convict. The Strategy does not explicitly mention de-radicalisation. As it was adopted in 2013 for the period until 2020, the Strategy expired and a new one has not been adopted yet.

In the context of de-radicalisation, it is important to mention the *Rulebook on treatment, treatment programme, classification, and additional classification of prisoners 2015*, issued by the Minister of Justice. The document stipulates the procedure for determining individual needs and capacities for change in order to implement a reintegration programme that would best suit a convict.

Other relevant strategies in this field are, inter alia, *Migration Management Strategy 2009, Strategy for Countering Irregular Migration in the Republic of Serbia for the 2018-2020 period, National Strategy for Combating Violence and Misconduct at Sports Events for the 2013–2018 period, National Strategy for Combating Organised Crime 2009, Employment Strategy in the Republic of Serbia for the 2021-2026 period, the Strategy for Integrated Border Management in the Republic of Serbia 2017-2020, the Strategy on the Control of Small Arms and Light Weapons in the Republic of Serbia for the 2019–2024 period, the Community Policing Strategy 2013, Strategy against Money Laundering and Terrorism Financing for the 2020-2024 period, Strategy for Social Inclusion of Roma for the 2016–2025 period.*

As a candidate for EU membership, Serbia made significant efforts in aligning its legal and policy framework with the EU standards. However, the main issues arise from inconsistent, inefficient, and delayed implementation of the laws and policy documents, as well as inadequate monitoring (European Commission, 2020).

5.2.2 Primary, Secondary and Tertiary Prevention

Hereby we shall make a brief review of the current state in the area of prevention by highlighting just a few projects conducted mostly by state authorities. See Appendix 3 for some of the best practices, interventions, and programmes regarding radicalisation and de-radicalisation.

Serbia has taken some steps in the field of prevention; however, those efforts are not enough, especially in the light of primary and tertiary prevention. NGOs are the main bearers of projects and good practices, while state activities are insufficient. State institutions lack resources and comprehensive national programmes for combating radicalisation and violent extremism (CT, 2017). Azinović (2018, p. 11) evaluated the state responses of the Balkan countries and concluded that "none of the countries … [has] fully implemented comprehensive programmes aimed at preventing and countering radicalisation, beyond mostly repressive, top-down, securitised initiatives that fail to involve society at large". Similarly, national and local CSOs in Serbia have stated that "little attention has been paid to the study of factors and conditions that favour the emergence and spread of extremism and radicalisation. The insufficient knowledge of the drivers of violent extremism as a consequence also has poorly developed preventive mechanisms" (Beogradski centar za bezbednosnu politiku [BCBP], 2019).

When it comes to the prevention in the field of education, the Ministry of Education, Science and Technological Development of the Republic of Serbia has started implementing the national project *Development of Capacities for the Prevention of Violent Extremism through Education in Secondary Schools in the Republic of Serbia- Laying the Foundations* during the school year 2019/2020, together with UNESCO. The trainings of secondary school students and teachers were conducted in Novi Sad, Belgrade, Obrenovac, Niš, Leskovac, Vranje, Novi Pazar, Kosovska Mitrovica (Ministarstvo prosvete, nauke i tehnološkog razvoja, 2020). The Report on its implementation is not available so we cannot discuss its overall impact. Also, there is no information on the current status of the project. The importance of this project comes from the fact that it is the first project of the Ministry that specifically focuses on the prevention of radicalisation and violent extremism, particularly ideologically-driven violence in educational institutions (Ministarstvo prosvete, nauke i tehnološkog razvoja, 2020). On one side, implementation of the national project represents progress in this field, but on the other side, the Ministry of Education should have conducted this type of project much earlier. It is necessary to step up state efforts in the area of formal education and expand curriculum with topics on radicalisation and extremism prevention, including primary schools as well. According to European Commission (2020), significant efforts have been made in the field of combating discrimination, segregation, and violence in education institutions, but the implementation of the measures for disadvantaged students has to be further strengthened.

Notably, the activities on preventing and eliminating hate speech, especially among youth, are more present. The Ministry of Youth and Sports joined the CoE's youth campaign *No Hate Speech Movement* through the national action *Say No to Hate Speech on the Internet*. Within the national campaign, a wide range of activities and initiatives were carried out, including the establishment of the National Committee, though its activities have not been visible in the last

several years. The aim of the Campaign was two-folded: to raise awareness of the rising issue of hate speech on the internet, and educate youth to recognise hate speech in an offline and online context (Ministarstvo omladine i sporta, 2014). The campaign targeted the youth, especially recognising the importance of educating youth in political associations and sports fan groups. As part of this National Campaign, the National Youth Council of Serbia and the Media Diversity Institute for the Western Balkans organised in 2017 the training for peer educators *Let's Stop Hate Speech* in order to widen their understanding of freedom of expression and hate speech (Krovna organizacija mladih Srbije, 2017). *Tips on how to fight against hate speech* have been presented to the participants, whose follow-up responsibility was to organise an activity, such as lecture in school or any other activity for the public spreading of knowledge received during the training on preventing and eliminating hate speech (Krovna organizacija mladih Srbije, 2017). Other significant activities are the projects and programmes conducted by the Ministry of Trade, Tourism and Telecommunications under the joint slogan *Pametno i bezbedno – Smart and Safe,* aimed at raising digital security culture, *inter alia*, and targeting particularly youth, women, and disabled people. The *Smart and Safe* platform offers the possibility of reporting adverse content, including the spreading of hate speech (Ministarstvo trgovine, turizma i telekomunikacija, no date).

Similarly, as in the case of primary prevention (education programmes), the state activities in the field of secondary prevention, which are focused on at-risk categories, such as youth and marginalised groups, are also insufficient, but the progress in this area is more visible thanks to the increased efforts of national and local CSOs supported by international organisations.

In cooperation with the Ministry of Interior and Organisation for Security and Co-operation in Europe (OSCE) Mission to Serbia, Government's Office for Cooperation with Civil Society conducted the training *Supporting prevention of violent extremism and terrorism in Serbia* in November 2019 within the project of the same title. The training was organised for CSOs, mainly those working with youth, in order to strengthen these organisations in the fight against radicalisation, extremism, and terrorism, as envisaged in the main strategic documents. The training included practical examples and case studies concerning risks posed by radicalisation and extremism (Ministarstvo unutrašnjih poslova, 2019). These prevention activities carried out by the Service for Combating Terrorism and Extremism (TES) of the Ministry of the Interior are envisaged in the Action Plan for the Implementation of the National Strategy for the Prevention and Countering of Terrorism (Ministarstvo unutrašnjih poslova, 2019). Within the project *Supporting prevention of violent extremism and terrorism in Serbia*, TES prepared brochure *Prevencija radikalizacije i terorizma* (Prevention of radicalisation and terrorism), available only in Serbian, printed with the support of OSCE Mission to Serbia. The brochure offers elementary knowledge on different types and forms of radicalisation, extremism, and terrorism, as well as indicators for early detection, and it is "designed for education, social and health workers, police officers, religious leaders, tax, administrative and other inspectors, and any other persons, who, on a daily basis while performing their duties, deal with citizens directly" (Organisation for Security and Co-operation in Europe [OSCE] Mission to Serbia, 2020).

Novi Sad School of Journalism is a CSO that conducted several national projects relevant for radicalisation and de-radicalisation. One of the projects is the *Enhancement of media reporting on violent extremism and terrorism*, which aimed at improving media reporting by raising awareness regarding radicalisation, extremism, terrorism, and other sensitive topics. (Novosadska novinarska škola, 2019). Media unprofessionalism regarding sensitive topics is

an important driver of radicalisation in Serbia. In its *Serbia 2020 Report*, the European Commission (2020, p. 35) warned that "hate speech and discriminatory terminology are often used and tolerated in the media and are rarely tackled by regulatory authorities or prosecutors", which is why the independent role of REM needs to be strengthened. Furthermore, during the COVID-19 emergency in Serbia, there was a general rise in hate speech and discriminatory actions, as warned by the Serbia Equality Commissioner, which in part is due to inadequate implementation of hate crime legislation (BCHR, 2020; European Commission, 2020).

The activities in the field of tertiary prevention are still underdeveloped. Following the recommendation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), Serbia has made a progress regarding treatment programmes in prisons (this activity is ongoing) and implementation of alternative measures to detention (European Commission, 2020). "According to government officials, the threat of radicalisation to violence in Serbia's prisons is minimal, and de-radicalisation is handled on a case-by-case basis through the Administration for Enforcement of Penal Sanctions" (CT, 2018).

When it comes to the existing reintegration programmes, the publicly available data is scarce. In September 2020, anger management workshops within the psychosocial support programme launched in the Penal Correctional Institution (PCI) in Niš were held online for the first time due to the situation with the COVID-19 (Ministry of Justice, 2020). However, the specificity of this programme in comparison to similar workshops organised in prison facilities throughout Serbia is that it trains prisoners for becoming trainers to other inmates. The programme aims to improve the mental health of the convicts, increase their self-esteem, enable better stress management, create positive changes in their behaviour, *inter alia*, which eventually reduces the recidivism rate and enables better reintegration into society (Ministry of Justice, 2020). Convicts train other inmates in the presence of the staff from the Department of Treatment and Alternative Sentencing of the Administration for the Enforcement of Penal Sanctions, which has been conducting this programme for years (Ministry of Justice, 2020).

The important progress in this field has been made in 2020 thanks to the activities carried out under the regional project *Enhancing penitentiary capacities in addressing radicalisation in prisons in the Western Balkans*, which is a part of *Horizontal Facility for the Western Balkans and Turkey 2019-2022* programme (the joint European Union and CoE programme), implemented by the CoE. In May 2020, the *Basic Screening Tool for Identification of Violent Extremist Behaviour in prisons* was developed by the Working Group[13] with an aim of early detection of radicalisation among prisoners (CoE, 2020a). The tool offers a wide range of behavioural indicators that will be applied to all prisoners from their admission and during their imprisonment (CoE, 2020a). As the use of this tool is not restricted to prisoners imprisoned for terrorism-related acts, the potential for prevention and early identification of radicalisation is very high. In October 2020, the Working Group's third session was oriented towards the methodology of individual treatment and rehabilitation programmes. The Group discussed the main weaknesses of current treatment and rehabilitation programmes for violent extremist prisoners (VEP), concluding that communications techniques, like Motivational Interviewing, and the trust between rehabilitation staff and a prisoner, are vital for successful rehabilitation (CoE, 2020b). On 24 November 2020, the fourth session of the Working Group resulted in a

[13] The representatives of the Ministry of Justice, the Ministry of Interior, prison management, and staff comprise the Working Group. They were supported by one international consultant.

finalised *Rehabilitation Program and Treatment Plan for Violent Extremist Prisoners (VEPs) in Serbia*. It was concluded that the training of the staff has to be improved in order to match the adopted tools, which is why in the early 2021 *Train-of-Trainers program* will be carried out for prison staff in Serbia (CoE, 2020c).

However, Serbian prisons are overcrowded, and many prisoners are being in pre-trial detention for a prolonged time, which "contributes to overcrowding and plays a role in inter-prisoner violence, which may complicate de-radicalisation efforts" (Azinović and Bećirević, 2017, p. 42). The increased use of alternative sanctions and remand measures would improve the situation in prisons. When it comes to probation, despite employment services and CSOs being engaged, insufficient human and financial resources represent a significant barrier to a successful implementation of post-penal programmes, which eventually leads to higher rates of recidivism (European Commission, 2020).

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To sum up, some of the main policy implementation issues arise, *inter alia*, from the overlapping between strategies, failure to meet deadlines and conduct measures outlined in strategies and action plans, insufficient financial and institutional resources, inadequate budget allocations, delays in adopting accompanying action plans to strategies, delays in adopting strategies once they have expired, lack of effective coordination and cooperation between state bodies among themselves and with NGOs. Also, research on the topic remains fragmented and scarce which leads to underdeveloped programmes for preventing radicalisation. Besides not being quite neutral, the counter-terrorism policy tends to be more punitive than preventive.

5.3 The Sub-National Policies

When it comes to the prevention of youth radicalisation, the *National Strategy for the Prevention and Countering of Terrorism for the 2017-2021 period* envisaged the important role of local self-government units in reaching the goal of creating an environment that will demotivate young people from participating in terrorism-related activities. The Action Plan, as an integral part of the Strategy, outlined the measures for increasing the awareness of youth and their security culture and improving their social integration. Some of the local activities envisaged in the Action Plan are inter-religious and inter-cultural dialogue relying upon adequate media coverage and participation of citizens at the local level; implement local programmes for social and institutional integration of at-risk social groups; improve legal tools for the cooperation with civil society at the local level; increase the engagement and coordination in preventing radicalisation, extremism, and terrorism of local self-government units. As noted in the *Serbia 2020 Report* of the European Commission (2020), even though local coordination mechanisms of youth policy have increased, many local action plans have expired. The local youth unemployment and youth emigration rate remain very high (European Commission, 2020, p. 104).

As already mentioned in this report, the Sandžak region has been recognised as being the most radicalisation and extremism prone area due to the presence of numerous drivers of radicalisation (Cultural Centre DamaD, 2015; Petrović and Stakić, 2018). In the light of that notion, a large number of projects and programmes have been implemented in the region. The CSOs are very active in this area, especially in Novi Pazar, with the significant financial support of international organisations.

When it comes to strategic documents at the local level, due to space constraints, we shall quickly present the Security Strategy of Novi Pazar and the Action Plan. In 2016, the City Safety Council prepared the first *Novi Pazar City Safety Strategy for the 2016-2020 period*, aiming to map and reduce different security challenges, risks, and threats to the local community by engaging a wide variety of local actors. In the light of radicalisation, it is important to mention the fifth strategic priority (*Safe life for the youth of Novi Pazar*) and one of the strategic goals under this priority oriented towards raising the security culture of youth in order to discourage them from accepting radicalised and extremist views. In 2017, *the Action Plan for the Implementation of Novi Pazar City Safety Strategy for the 2016-2020 period* was adopted and, regarding radicalisation and extremism, the Action Plan envisaged, *inter alia*, "establishing a local referral mechanism (mechanism of coordination and cooperation between institutions, media and civil society) for the provision of services (assistance and support) and preventive work with children and youth at risk of extremism and radicalism…[and] organising education and public campaigns to inform citizens about security and safety challenges and threats, including extreme radicalism".

We will provide a brief overview of just a few already conducted and ongoing projects at the sub-national level (regional and local) relevant for radicalisation and de-radicalisation.

Cultural Centre DamaD is one of the most active NGOs in the field of (de)radicalisation in the Sandžak region. DamaD has implemented many projects and one of them is the project *Security Risks in Sandžak - an Integrated Response of the Community*, supported by the Swiss Embassy in Belgrade. The 2015 *Integrated Response of the Community to Human Security Challenges in Novi Pazar* was published within the project resulting from comprehensive research (Cultural Centre DamaD, 2015) on radicalisation and extremism in Novi Pazar. The first section explores this issue through a human security perspective focusing on youth, their perceptions, risks, and threats posed by radicalisation and extremism, as well as their manifestations at the local level. Some of the most important issues mapped by the research are severe political, religious, and ethnic polarisation, lack of human security (high levels of deprivation, unemployment, corruption), increased intolerance and hate speech, social isolation and exclusion (Cultural Centre DamaD 2015, pp. 43-44). The second section provided insight into the institutional capacities of Novi Pazar for preventing radicalisation and extremism. "Overall, institutional capacities for preventing extremism and radicalism are rather limited. On the one side, the policy framework is only partially targeting these threats, while on the other side institutions are faced with numerous obstacles in their daily work" (Cultural Centre DamaD 2015, p. 73). The third section offers a youth vulnerability assessment framework and multisectoral approach in order to guide local stakeholders in identifying and supporting vulnerable youth.

In the period between December 2017 and March 2018, the Media Diversity Institute Western Balkans (2018) carried out the project *#YouthAgainstHate*, within the project *CVE in Serbia: Early warning and prevention*, supported by OSCE Mission to Serbia. The *#YouthAgainstHate* project was implemented at the local level – in local Belgrade communities, with an aim to improve youth resilience to offline and online hate speech. The focus is on the link between marginalisation, discrimination, and hate speech as drivers of radicalisation (Media Diversity Institute Western Balkans, 2018). The project included different activities, such as training a group of youth peer-educators, organising debates with key stakeholders, educational activities with school children (Media Diversity Institute Western Balkans, 2018).

From March to April 2018, OSCE Mission to Serbia and the Serbian Ministry of the Interior conducted regional pilot training courses on early identification and prevention of violent extremism and terrorism, as a part of the project *Supporting the prevention of violent extremism and terrorism in Serbia* (OSCE Mission to Serbia, 2018). The courses were organised for 70 local police officers, including the ones from local police branches for combating extremism and terrorism, in Novi Sad, Belgrade, Niš, and Novi Pazar.

Dialogue for the Prevention of Extremism is an ongoing project of NGO Sombor Educational Center. The project aims to prevent and reduce extremism among youth in Sombor local community. It will be implemented by June 2021. Qualitative and quantitative research will be carried out through a survey of around 400 young people from Sombor and three focus groups with relevant stakeholders, citizens, and the result—set of recommendations (measures and activities for local stakeholders)—will be presented at the local conference (Somborski edukativni centar, 2021). The project *Dialogue for the Prevention of Extremism* is supported within the project *Communities First: Creation of a Civil Society Hub to Address Violent Extremism - From Prevention to Reintegration*.

5.4 Institutional Framework

The *Act on Organisation and Competences of State Authorities in Suppressing Organised Crime, Terrorism and Corruption 2016* listed the following institutions as competent for detecting, prosecuting and sanctioning perpetrators of terrorism and related crimes: Prosecutor's Office for Organised Crime, Ministry of Interior – the organisational unit responsible for combating organised crime, Special Department for Organised Crime of the Higher Court in Belgrade, Special Department for Organised Crime of the Appellate Court in Belgrade, Special Detention Unit of the District Prison in Belgrade (art. 4). The implementation of this Act starting from 2018 helped to resolve the main problems at the time—frictions over competencies and overlapping authorities (CT, 2015). “The Government of Serbia has also established interagency working groups to handle security at both the strategic and operational levels. The Operational working group consists of TES, the Security Information Agency, and the Prosecutor’s Office” (CT, 2018). However, as noted by the European Commission (2020, p. 42), “the operational autonomy of the prosecution and police from the security services in criminal investigations is not ensured either in law or in practice”.

A key role in combating extremism and terrorism is given to the Service for Combating Terrorism and Extremism (TES) within the Criminal Police Directorate of the Ministry of Interior. “The service was established in December 2013, with the expansion of the Department for Monitoring and Investigation of Terrorism, established in 2007 […] The service consists of the Department for the Fight against Terrorism and the Department for the Fight against Extremism, as well as four field departments in Belgrade, Novi Sad, Niš and Novi Pazar” (Ministarstvo unutrašnjih poslova, no date). The TES established a specialised unit in 2018, focused on the Internet use by terrorists, “and, for the first time, used an online undercover agent in a counterterrorism case” (CT, 2019). However, the 2016 Act listed only the Service for Combating Organised Crime as competent authority, without mentioning the TES, which is an important gap that needs to be addressed.

Regarding hate speech in the online sphere, the *Act on Organisation and Jurisdiction of Government Authorities for Fight Against High Technological Crime 2005* defined the competent authorities in this field: Special Prosecutor’s Office for High-Tech Crime, Department for High-Tech Crime of the Ministry of Interior, Department for High-Tech Crime

of the Higher Court in Belgrade in the first instance, and the Appellate Court in the second instance (arts. 4-11). Also, national regulatory bodies—Regulatory Authority of Electronic Media (REM) and Regulatory Agency for Electronic Communications and Postal Services (RATEL), whose competences were defined in the *Electronic Media Act 2014* and the *Electronic Communications Act 2010*, respectively, have important roles in curbing the hate speech in Serbia. However, REM received critics for being passive and biased, especially during electoral campaigns (European Commission, 2020)

As seen from previous paragraphs, the mentioned institutions act mostly repressively as their primary focus is on combating and sanctioning terrorism. With the adoption of the *National Strategy for the Prevention and Countering of Terrorism for the 2017-2021 period* and its integral Action Plan, the strategic basis for inter-agency cooperation was set and the roles of competent institutions were specified in the fields of radicalisation and extremism as well. The Strategy and its Action Plan are inclusive and include the participation of CSOs as well. As per both documents, practically all ministries, their bodies, specialised agencies, and working groups are involved in carrying out activities on preventing extremism and suppressing terrorism. The *National Strategy for the Prevention and Countering of Terrorism for the 2017-2021 period* and Action Plan define institutions' activities according to priority areas, which is why our focus will be on institutions envisaged in the entire priority area 1 and priority area 2 (in the part concerning de-radicalisation). Priority area 1 (*Prevention of terrorism, violent extremism and radicalisation leading to terrorism*) includes institutions like the Ministry of Culture and Information, the Ministry of Labour, Employment, Veteran and Social Policy, the Ministry of Education, Science and Technological Development, the Ministry of Youth and Sports, the Ministry of Interior, the Ministry of Justice, the Ministry of Trade, Tourism and Telecommunications, the Ministry of State Administration and Local Self-Government, the Office for Cooperation with Civil Society. Though some of these institutions have also repressive roles such as Ministries of Justice and Interior, this area emphasises the preventive measures that include raising public awareness, improving educational programmes, understanding radicalisation to early identify the signs, helping people who are at special risk of being radicalised due to their social and economic conditions, improving knowledge on high-tech threats, and many other activities. Therefore, media, schools, and social workers have important tasks in preventing radicalisation, especially among youth as a particularly sensitive group. The activities in priority area 2 (*Protection by detection and elimination of terrorism threats and system weaknesses*) are mostly carried out by the Security Information Agency (BIA) and the Ministry of Interior. When it comes to de-radicalisation, the Ministry of Justice and the Ministry of Labour, Employment, Veteran and Social Policy carry out activities aimed at suppressing radicalisation in prisons and developing and implementing effective de-radicalisation, rehabilitation, and reintegration programmes. The activities in priority areas 3 and 4 are mostly carried out by the Ministry of Justice, Prosecutor's Office for Organised Crime, and the Ministry of Interior, as the focus is on criminal prosecution and sanctioning for the crime of terrorism. For the list of relevant institutions in the field of radicalisation prevention and de-radicalisation, see Appendix 2.

According to the *National Strategy for the Prevention and Countering of Terrorism for the 2017-2021 period,* implementing authorities must develop their internal action plans within six months for carrying out their activities set forth in the general Action Plan and the funds for the implementation will be secured partly from the state budget and partly from domestic and international grants and funds.

The Strategy envisaged the establishment of a national body in charge of the coordination of the policy on preventing and countering radicalisation, extremism, and terrorism. With significant delay, in 2019 the director of the police of the Ministry of Interior was appointed as the National Coordinator (CT, 2020, European Commission, 2020). Monitoring of the implementation and regular reporting need to be strengthened (European Commission, 2020).

The Ministry of State Administration and Local Self-Government is coordinating the cooperation between central, regional, and local authorities. As mentioned in the *National Strategy for the Prevention and Countering of Terrorism for the 2017-2021 period*, the Government's Office for Cooperation with Civil Society is in charge of ensuring and improving the cooperation between the state authorities, local self-government, and civil sector through, *inter alia*, consultations, sectoral meetings and round tables, awarding grants. The measures and activities envisaged in strategies and action plans highlight the participation of the wider social community, but in practice the state authorities are not opened to accepting their suggestions and comments, that is, their role is just a formality. NGOs claim that the cooperation is not satisfactory, and it is rather a formal fulfilment of the imposed obligations (Kostić, Simonović and Hoeflinger, 2019). Within the project *Communities First: Creation of Civil Society Hub to Prevent and Counter Violent Extremism—from prevention to reintegration*, the publication *Civil Society Organisations in Preventing and Countering Violent Extremism in Serbia: mapping report* mapped 44 NGOs relevant for dealing with radicalisation and extremism in Serbia. Important conclusions regarding how the NGOs view their cooperation with the State can be drawn based on this research: "Most CSOs agree that the state does not cooperate with CSOs…There are no other models of cooperation, unless CSOs and state bodies are both participating in a project conducted by international organisations or institutions and donors" (Kostić, Simonović and Hoeflinger, 2019, p. 22). Only a few CSOs are satisfied with their cooperation with local and/or central authorities. Additionally, significant remarks were given by the local and regional CSOs during the sectoral meeting with the competent authorities. The meeting was organised by the Office for the Cooperation with Civil Society and OSCE Mission to Serbia to inform the CSOs on the implementation of the activities envisaged in the main strategic documents and action plans regarding the prevention of radicalisation and extremism, and to discuss possible ways of CSOs participation (BCBP, 2019). The remarks of the CSOs could be summarised as following: the cooperation between the state authorities and CSOs is under-developed, insufficient, and inconsistent; the role of CSOs in de-radicalisation is neglected by the competent authorities; the state is not aware of the importance of knowledge and experience of CSOs working in this field (BCBP, 2019).

6 Case Studies

In this chapter, we shall present two projects implemented on a regional and local level in Serbia to prevent and combat radicalisation through measures fostering social integration.

6.1 Regional Case Study: *Youth for Change*

From August 2019 to September 2020, under the STRIVE Global Programme, NGO Psychosocial Innovation Network (PIN) implemented the project *Youth for Change: Building the resilience of Serbian youth through engagement, leadership and development of their cognitive and social-emotional skills* in two regions of Serbia - Belgrade and Sandžak, with Novi Pazar and Sjenica being the target cities in this region. The cities were selected with an aim to ensure religious and ethnic diversity and obtain different views from both majority and minority groups in the country (Psychosocial Innovation Network [PIN], 2020a). The target groups were young people aged 15-18 as they are at high risk of radicalisation and extremism. Regarding their socio-demographic characteristics, the vast majority were females (in both regions), predominantly Orthodox Serbs in the Belgrade area and Muslim Bosniaks in the Sandžak region (PIN, 2020a).[14]

As described in previous sections of the report, Yugoslav wars in the 1990s created a breeding ground for many extremist movements, particularly in less developed parts of the country. One of the least developed regions is Sandžak, a multiethnic and multireligious region in South-West Serbia (Petrović and Stakić, 2018). Muslims are the dominant religious group in the region. The youth in Sandžak are characterised by "more traditional patterns of thought, long-established value systems and customs, and a more patriarchal, homophobic, and violent behavior" in comparison to the youth from the capital Belgrade and other parts of the country (Ludescher, 2021). The social, economic, and political situation in the region is favouring the negative trend of rising extremism. According to available data, Serbian citizens who went to Syria and joined ISIS were mostly from the Sandžak region (CT, 2014; Petrović, 2018). Furthermore, the highest unemployment rate throughout the country is in Sandžak, especially among youth (CeSID, 2016; Petrović and Stakić, 2018). Besides youth unemployment, other important radicalisation drivers are political apathy among young people, feelings of discrimination and social isolation, low trust in state institutions, high religious identification, further exacerbated by the ongoing refugee crisis (CeSID, 2016; Petrović and Stakić, 2018; Ludescher, 2021). A specific driver in this area is the divide in the Islamic community (Kostić, Simonović and Hoeflinger, 2019). Moreover, "there are often tensions between the different ethnic groups, especially during times of political turmoil and election cycles" (Ludescher, 2021).

The rationale for selecting this project for a case study was the multifaceted, multisectoral, comprehensive, and evidence-based approach to preventing youth radicalisation. The project covered both the attitudes of the national majority and national minority in different regions of the country, which resulted in valuable insights and recommendations. The project had two phases, which will be presented below, predominantly addressing the fields of education and community engagement. Furthermore, the aims of the project were, *inter alia*, developing different skills important for building youth resilience, tackling down stereotypes, prejudice, and intolerance, promoting inclusiveness, facilitating the social integration of young people

[14] The EU funded the project and Hedayah supported it.

and strengthening peer support, offering alternative narratives and a place where youth can express the challenges they face, as well as providing exit strategies (Ludescher, 2021). The added value of this project is that contributes to the realisation of goals envisaged in the National Anti-Terrorism Strategy, especially addressing specific goals related to eliminating hate speech, creating conditions that will decrease youth participation in extremist groups, improving knowledge, and raising awareness on radicalisation influences via social networks.

The researchers relied upon previous good practices and prepared a baseline study. This study included the questionnaires filled out by 288 students from both regions to determine their skills, beliefs, attitudes, and whether they feel isolated or integrated into their local communities, intending to identify risk factors and radicalisation potential. To assess the susceptibility to radicalisation, the researchers used a battery of psychological instruments and a three-dimensional Militant Extremist Mindset (MEM) scale that evaluates 1) the readiness to accept, use or justify violence; 2) belief in God and divine power; and 3) belief that the world is bad and desolate (PIN, 2020a, p. 5). The findings of this study can be summarised as following: Serbs and Bosniaks have in general positive attitudes towards each other and there were no extreme attitudes regarding rejection of a certain group, but young people from both regions tend to mostly communicate with their own ethnic group; youth from both regions expressed higher level of animosity and distance towards Roma population, while the group from Belgrade expressed a higher level of rejection towards Albanian ethnic group and Bosniaks from Sandžak towards Croats as well; belief in divine power is present in both groups to some extent, but far more in the Sandžak region; youth from both regions perceived to a larger extent the world as hostile and miserable, but this belief was more present among young people who were exposed to violence in their surroundings (home and school), especially in Belgrade area; limited pro-violence tendencies were identified in both regions, though youth from Belgrade had a higher level of acceptance of violence, which is linked to psychological factors and the feeling of social isolation (PIN, 2020a). The baseline study results provided recommendations on necessary interventions addressing social isolation, inter-group relations, issues in the family and school environment, and negative attitude towards the world (PIN, 2020a, p. 7).

Following the best practices from previous programmes and baseline study results, PIN developed a programme specifically tailored to Serbian context titled *Building Youth Resilience to Violent Extremism (BYRVE) Program*, which encompassed ten modules: *Identity; Strengthening self-confidence; Assertive communication; Constructive problem solving; Perspective-taking and conflict resolution; Empathy and acceptance; Stereotypes and prejudice; Discrimination; Cultural similarities and differences; Culture and identity* (for more details on each module, see PIN, 2020b). It could be noted that the focus is on self-confidence and identity that is, building inclusive social identity and respect for inter-group differences. The psychoeducational workshops aimed at developing and strengthening a set of skills (cognitive, emotional, social) important for preventing youth radicalisation and making young people more resilient to negative influences (PIN, 2020b). The workshops gathered over 250 students aged 15-19, which is the most vulnerable and susceptible group to violence and adopting extremist views as they are in search of their identity and therefore easily influenced (Petrović and Stakić, 2018; Ludescher, 2021). The students from four secondary schools participated in ten 45-minute workshops for five months.

The methodology for evaluating the effectiveness of the BYRVE Program relied upon the comparison between the experimental group (166 students participated in BYRVE workshops)

and the control group (122 students did not participate in the programme) (PIN, 2020e, p. 6). Out of 288 students who participated in the baseline study, 251 participated in the end-line study and the comparison could be made for 111 students (PIN, 2020e, p. 6). As noted by the researchers, the response-rate between experimental and control groups differed significantly in the Sandžak region. When comparing the results of baseline and end-line study between experimental and control groups, several important conclusions can be drawn: the workshops resulted in a significant decrease of the pro-violence attitudes of youth in both regions, which is especially visible in the Belgrade group; a decrease in right-wing authoritarianism was detected; an increase in accepting different ethnic groups was identified - Belgrade youth had higher acceptance level of Albanians and Bosniaks in Sandžak had a higher level of acceptance of Croats (PIN, 2020e). However, the programme did not produce important changes regarding youth's attitudes for the other two MEM dimensions (divine power and vile world) as these are deeply rooted and not easily changed beliefs. As highlighted by researchers, the progress regarding isolation and loneliness was not present mainly due to the restrictions imposed due to the COVID-19 pandemic (PIN, 2020d). "Based on program evaluation results, it can be concluded that students found the entire BYRVE program to be useful, pleasant, interesting, and adjusted to their needs and expectations" (PIN, 2020e, p. 57), and the modules dealing with identity and cultural awareness were evaluated with highest marks. In that context, one of the participants said: "The workshop was useful because it helped me see situations from a different perspective" (PIN, 2020d, p. 12).

While BYRVE workshops gathered a large number of students, another important activity carried out within the second phase of the project included only 18 students. This activity is called *Youth Leadership Program* and the students who attended it had previously participated in the workshops. They were elected by their colleagues from workshops through a participatory election process and "involving them in the process of a democratic election was an opportunity for them to experience and understand democratic values as well as taking an active role in the program" (Ludescher, 2021). Due to the situation with the COVID-19, a special training developed for this Leadership Program was conducted online through nine modules: *Self-expression and public speaking; Communication; Goal setting and personal motivation; Small group facilitation skills; Organising and planning skills; The power of peer and community-based support; Responsibility; and Understanding and countering violent extremism* (for more details on each module, see PIN, 2020c, pp. 5-26). The online training lasted five days (Monday-Friday), each online session lasted for an hour, and two webinars were held per day. Moreover, the participants filled out tests before and after the Online Youth Leadership Program in order to measure the training impact and also to measure the level of their satisfaction and evaluate the training (PIN, 2020c). The results showed an improvement of 25% as the knowledge on the topics increased, especially regarding radicalisation and community engagement (PIN, 2020d, p. 17). The training showed the gaps in formal education regarding these topics, which is why it is important to develop more similar programmes and include them in the formal and informal education of adolescents. The focus was on training these 18 young people to become community leaders who will make positive changes and help prevent the radicalisation of youth by engaging different actors (their peers, teachers, and other relevant local stakeholders) in activities aimed at raising awareness on radicalisation and violent extremism as well as providing alternative narratives to extremist ones (PIN, 2020d). "Ability to influence others, ability to motivate others… ability to be a role model for others… respect for cultural and individual differences among peers and the wider community" were some of the goals of the youth leadership training (PIN, 2020c, p. 4). The programme

was evaluated positively by students - all modules received high marks (over 4.6 out of 5) (PIN, 2020d, p. 18). Instead of organising youth events in their local communities, the youth leaders filmed a video on the project sharing their knowledge and experience (Ludescher, 2021). The reason for such change in the activities was the situation with the COVID-19. The video is available online, which enables better visibility of the project and reach to the target population (PIN, 2020d).

Based on the assessment of students' progress and evaluation of the programmes, the researchers concluded that the project was very successful. The workshops were gender-sensitive, inclusive, and interactive, including role-plays, presentations of participants, brainstorming, learning games, and other techniques (PIN, 2020d). They were thoughtfully prepared having in mind different ethnic, religious, and social backgrounds of students and experts established a good relationship with participants as everyone had the same opportunity to actively engage in the activities. Therefore, the programmes offered participants constructive ways of dealing with grievances and responding to peer pressure, and empowered them to understand and accept cultural differences, *inter alia*, which is vital for the prevention of youth radicalisation and building resilience to extremism. Based on the project insights, it is recommended that some modules, such as *Identity, Discrimination, Culture and Identity*, be discussed in more detail and that more time be dedicated to sensitive topics. In general, 45-60 minutes were not enough, so the time spent on each module should be doubled at least (PIN, 2020d). To conclude, the project offered valuable insights into radicalisation tendencies among youth in both regions thanks to the baseline study carefully prepared for the target groups and regions. The project did not just apply previous good practices, but it also tailored programmes to the Serbian context and regional/ local specificities. Both programmes resulted in significant progress regarding the prevention of youth radicalisation and building their resilience. The participants were thrilled with the modules and activities. As the video was made available online, the project's visibility increased.

6.2 Local Case Study: *Promoting Tolerance*

The project *Promoting Tolerance: All Together in Sandžak* was implemented by the Helsinki Committee for Human Rights (HCHR) on a local level in three cities of the Sandžak region—Sjenica, Tutin, and Novi Pazar, having high school students and their parents, teachers, pedagogues, and psychologists (employed in high schools) as target groups. The project, which lasted 12 months (March 2019-February 2020), encompassed a wide variety of activities that aimed at early identification of radicalisation and extremism among young people and building their resilience through understanding the mentioned phenomena in the general context of discrimination, stereotypes, human rights and freedoms (Helsinški odbor za ljudska prava u Srbiji [HO], 2020).

The rationale for selecting this project for a case study has been its multi-sectoral and holistic approach that targets youth at the local level in the context of secondary prevention to radicalisation leading to extremism, also involving their parents, school educators, and religious leaders in order to empower them to better identify the early signs of radicalisation and tackle down the drivers. The project is thoroughly prepared and includes different educational activities and local community engagement in building the resilience of young people in the multicultural region of Sandžak, which is especially important having in mind a strong Muslim community (as opposed to dominant Orthodox religion in the rest of the country) and the fact that young people went to Syria mostly from these cities. The mentioned activities

address the issue of radicalisation in a wider context of human rights and focus particularly on identity policies as a radicalisation factor, which is an added value of this project. The outcomes of the project are focused on empowering adults (parents, school educators, religious leaders), strengthening youth's self-confidence and critical thinking through the promotion of values and acceptance of ethnic and religious diversity, raising general public awareness regarding radicalisation and the relevance of identity-building concept (Helsinki Committee for Human Rights [HCHR], 2020, p. 1). Also, the project directly benefits more than 5,000 high school students, 24 teachers, and 15 psychologists in high schools trained in preventing radicalisation and countering extremism, as well as 12 religious leaders participating in the promotion of diversity and tolerance (HCHR, 2020, p. 1).

As the social, economic, and political context concerning the Sandžak region has been described in the previous case study, there is no need to further dwell on that aspect. Regarding identity politics, the Sandžak question was prioritised during Yugoslav disintegration in the 1990s (HO, 2020). The Sandžak region remains to be treated as a high-security risk area, especially due to Wahhabis and people who joined ISIS during the Syrian conflict. The negative portrayal of Bosniaks in the media is an important radicalisation factor, as well as the different treatment of pro-Ukrainian fighters and anti-Syrian fighters from Sandžak by Serbian courts (HO, 2020). The political scene is characterised by open hostility between Sulejman Ugljanin and Rasim Ljajić, the main political figures in the region together with Muamer Zukorlić, due to which many young people cannot actively engage in political life (HO, 2020, pp. 16-17).

The project included capacity building activities and community outreach events (HCHR, 2020; HO, 2020):

- three three-day seminars *Understanding and prevention of violent extremism* held between November 2019 and January 2020 for 67 school educators and parents on countering violent extremism (the UNESCO's Teacher's Guide was translated into Serbia, Croatian, and Bosnian);
- a workshop for developing creativity, critical thinking and self-confidence of youth was held; young people from Novi Pazar prepared and distributed leaflets and promotional videos for the theatre play *Nathan the Wise* carried out by these young people in front of 250 people in Novi Pazar, Sjenica, and Tutin; the theatre play was developed by these people using the real life experiences of extremism in their local communities and the main theme was the suffering of the Jews during the Second World War in Novi Pazar;
- young people promoted tolerance through different street performances (such as free hugs campaign, and they also organised Human Rights Week and painted five murals with messages promoting tolerance, empathy, solidarity, and human rights;
- the youth involved in the project also produced a video on the theatre rehearsal and they prepared a documentary *Let Us Understand Each Other* dealing with gender stereotypes in the local community;
- the youth organised a debate with their peers on different vital topics for countering extremism, and the topics of LGBT community and hate speech gained special attention; a workshop was organised following the debate in order to enable young people to gain knowledge on cultures of different ethnic groups that live in their local communities and to evaluate the tolerance of youth to diversity.

The findings and recommendations of seminars for adults and youth activities can be summarised as follows (HO, 2020):

- though the participants of seminars (parents, school educators) were motivated for participating in such activity, many had a high level of knowledge and experience on extremism, so future similar seminars should focus more on those with a greater need for such content; organising separate seminars for more advanced participants is useful;
- seminars' participants rated their prior knowledge as average, by the evaluation showed that their prior knowledge had been lower than self-estimated;
- interactive nature of seminars was positively evaluated as the participants showed great interest in active participation;
- organising three seminars in three different cities, that is, outside the place of living or working of participants, turned out to be a positive practice that should be applied in the future;
- different approaches and methods of various educators during seminars turned out to be a successful way of keeping the attention and engaging the participants in the discussion, but it was also a way of reducing the resistance of some participants regarding sensitive topics;
- the seminar has shown that the topic of radicalisation and extremism remains highly sensitive in these local communities; the resistance of participants was presented during all three seminars in open discussions, but in informal settings (during coffee breaks) and isolated smaller groups, many needed to speak up about these issues in their cities which is why these unofficial debates should be encouraged in the future;
- Muslim participants have been dissatisfied with the fact that the far-right extremism is being neglected and that only Islamic extremism is being highlighted as the main issue; in that context, many participants denied having radicalisation and extremism issues in their communities as they were afraid that the prejudice might be intensified;
- it is recommended that the role of the local coordinator be more prominent and active in terms of the participation in the seminar and identifying cases of local radicalisation and extremism;
- during the third seminar, one participant who identified himself as the member of SNS fiercely denied the existence of extremism in Serbia claiming that the social, political, and economic situation in Serbia is excellent, including the highest possible respect of human rights and freedoms; also, he started expressing prejudice towards Roma people and the LGBT community; this event caused that other participants be less active in debates;
- in general, the participants of seminars were very satisfied and evaluated the programme with high marks (4.7 out of 5); on average, around 80% of participants said that the seminars completely met their expectations and the progress was visible in terms of acquired knowledge; the most important session dealing exclusively with Islamic extremism was rated lower than others, which was expected due to expressed resistance of participants;
- post-seminar evaluations showed a significant increase in understanding and identifying radicalisation and extremism based on early signs, meaning that the goals of the seminar programmes were reached in terms of raising awareness; however, the number of participants who denied the existence of Islamic extremism increased after

these programmes, which implies that the resistance increased; a 3-day seminar is surely not enough time to change the rigid attitudes of some participants;
- the programme of seminars encompassed a wide variety of radicalisation and extremism examples and cases, without stigmatising certain group;
- participants emphasised the rise of non-violent extremism in their communities, stressing the role of the media in such negative tendencies;
- the seminars showed that the participants have prejudice against different social groups, Roma and LGBT community especially (though it was not the topic discussed in detail in the seminar), so the sensitive topics should be discussed in more detail in future seminars;
- the workshops for youth showed that young people lack critical thinking, particularly due to the activities of religious leaders and religious instruction in schools; in that context, the youth often gave learned responses - the answers that were considered acceptable in their cultural and religious surroundings;
- during the workshops (including the theatre rehearsal), the youth (especially males) had strong psychosomatic reactions to some topics considered sensitive in their communities (such as the position of women in the society or the right to abortion) or contradictory to religious dogma; these young people have an inside “fight” between their personal beliefs and imposed clericalised identity;
- young people were thrilled with art as a way of exposing and understanding different issues in their community; the creativity of workshops was particularly praised by young participants;
- as per the answers of the youth involved in the project, they learned to accept diversity and to be more tolerant towards different ethnic groups in their communities, as they learned a lot about their history, religion, culture;
- the workshops influenced young people to take part in other activities promoting tolerance and organised events on similar topics;
- intensive mentorship during workshops leads to positive results;
- the groups of young people should be mixed, including different religions, ethnicities, sexual orientation of participants;
- it is very useful to mention the real-life examples of extremism in the local communities as it raises awareness significantly; the examples should not prioritise the concrete type of extremism or stigmatise any group; despite the resistance of some participants, it is a good strategy;
- it is very important to choose the terms used in the agenda wisely as the words *radicalisation prevention* and *violent extremism* resulted in less interest of locals to apply for these activities.

7 Conclusion

This report has explored how national legal and policy frameworks address the issues of radicalisation and de-radicalisation, with a primary focus on youth in Serbia. Even though important steps have been taken to align national laws and policies with international standards, the delayed and inconsistent implementation of legal acts and policies is a barrier to real progress in this field. Additionally, it is important to emphasise that many policy documents are not adopted after their expiration resulting in a vacuum in state policy on radicalisation. The lack of implementation reports prevents from getting the whole picture of what has been and what has not been done in this field.

The normative and policy frameworks regulating human rights and freedoms have mostly been aligned with the EU standards, but the issues come from inadequate implementation. However, there is a significant space for improvement as important provisions do not meet international normative standards. In the case of religious freedom, minority religious groups perceive the 2006 Act on Churches and Religious Communities as discriminatory towards them, especially the provisions regulating the registration and division between traditional and non-traditional churches. In practice, there are claims that the SPC enjoys the Government's preferential treatment in many fields, such as in the case of religion classes in schools. Another issue is the lack of a state registry on religiously motivated violence. When it comes to minority rights, the legal framework is in accordance with the international standards, but the lack of inclusive minority strategy remains to be one of the main policy issues. Furthermore, as identified in this report, provisions regarding the restrictions of human rights and freedoms remain vague and, in some cases, overly restrictive. Those provisions tend to be far-reaching as the grounds for restricting and limiting rights and freedoms are broadened, which is not in accordance with the Serbian Constitution. For example, this is the case with the freedom of assembly where basic principles of proportionality and necessity are brought into question and a lot of space has been left to arbitrary state actions. This also refers to the surveillance provisions and the right to privacy, mainly due to an extensive and unclear list of cases allowing privacy restrictions and thus interfering with fundamental rights and freedoms in a disproportionate manner. In the body of this report, several cases of unlawful privacy intrusion have been pointed out. One of the critical questions is the actual purpose of massive surveillance and the instalment of thousands of biometric cameras. As presented in this paper, many stakeholders expressed their concern over the deterioration of democracy in Serbia and its decline in international rankings. Some of the main indicators of a democratic society are media freedoms, which note a dramatic decline in recent years. Despite the adoption of new and less restrictive media laws in 2014, high politicisation and lack of media autonomy remain to be one of the most critical issues. Also, the new Media Strategy was recently adopted but it has not been implemented yet. No significant progress has been made in order to improve the overall environment for freedom of expression. Political pressures and the influence of the ruling party in the media are worrying. Attacks and threats against independent journalists are some of the most urgent issues to be addressed. However, the authorities have not responded adequately. Another important issue is the lack of adequate normative and policy framework regarding civil society development and cooperation with the state in practice. The NGOs trying to raise awareness about unlawful restrictions and violations of political and civic rights and freedoms are often targeted by authorities through smear media campaigns. The political pluralism in Serbia is questioned as the power is concentrated in one ruling party. As the general environment is not conducive to the unhindered exercise of rights and freedoms, the

radicalisation potential is on the rise. These are some of the most prominent conclusions regarding the overall respect of human rights and freedoms.

The evolution of the legal framework on radicalisation leading to extremism and terrorism implies that the current laws are more punitive and restrictive. The Criminal Code has been amended to encompass a broader range of crimes related to terrorism and the life sentence was also introduced for the most serious forms of terrorism. In 2014, the Criminal Code criminalised foreign fighters by introducing two new crimes. This action was partly taken due to the pressure of the international community and the implementation of these articles was controversial. As a matter of fact, not only did it not significantly reduce the radicalisation, but it led to deeper grievances of certain ethnic and religious groups. As thoroughly described in the section dealing with case law on radicalisation (see section 4.2.3), the fighters who came back to Serbia after having fought in Syria were convicted of terrorism and terrorism-related offences and they received high prison sentences. However, the fighters who came back to Serbia from Ukraine reached agreements with the Prosecutor's Office and received suspended prison sentences for the crimes sanctioning participation in foreign conflicts. These actions raised the question of different treatment of foreign fighters and thus discrimination. Reportedly, Muslims in Serbia and the region considered it as discrimination towards them because of their ethnicity and religion. Though the research on the topic of radicalisation and extremism in Serbia is still scarce, the results without a doubt indicate that such actions are strong radicalisation drivers, particularly in the context of the low trust in state authorities and divided Islamic community in the country. Therefore, the standardisation of institutional practice in this aspect is necessary. Furthermore, the authorities' approach to extremism is one-sided, that is, the focus is almost solely on tackling Islamic extremism, while the far-right extremism is on the margins of their interest. This further deepens polarisations and grievances, especially as it is known that the far-right extremism has deep roots and its focus is on an "internal enemy", such as Roma people. What further exacerbates the situation is the negative media portrayal of some ethnic, religious, or social groups (such as Muslims in Sandžak region as terrorists) that differ from the dominant group, which tends to increase grievances, social exclusion, feelings of isolation, alienation, and discrimination, and subsequently radicalisation potential.

Another example of negative practice could be attributed to the implementation of the laws focused on the prevention of money laundering and financing terrorism as state authorities are allegedly misusing them to curb the activities of NGOs who criticise the government's actions. This negative practice undermines the efforts on countering radicalisation and thus it is another important source of radicalisation as civil society is an important partner in tackling grievances and other radicalisation factors.

The important progress in the policy area was made in 2017 with the adoption of the National Strategy for the Prevention and Countering of Terrorism. This policy document for the first time included the platform for countering radicalisation and extremism. It envisaged a number of preventive activities and de-radicalisation programmes. However, the critics of civil society highlight the issue of a biased approach to extremism as the strategy is not inclusive, precisely, it does not address far-right extremism.

Though the approach to this issue is mostly based on repressive actions, there are important initiatives in the prevention field. Ministries in charge of education and youth implemented national-level projects in order to engage youth in activities aimed at understanding, recognising, and preventing radicalisation. However, formal education does not address this

issue in a comprehensive manner, that is, there is a lack of radicalisation-related content in school curricula on different levels of education. The activities aimed at raising awareness on hate speech and hate crime are frequent and important results have been achieved in tackling youth discrimination. These national initiatives include peer educators which turned out to be a very positive practice that empowers youth, and it should be included in future actions as well. Serbia has made progress in terms of reintegration and de-radicalisation programmes in prisons, including training of prison staff.

The official data regarding the activities of local self-government in this field are infrequent. However, the regions and cities identified as being extremism prone have strategies and action plans aimed at engaging all important local stakeholders in preventing radicalisation and terrorism, especially among youth. This is the case with the Sandžak region. Many NGOs have implemented projects in this area, and it seems that local authorities have better cooperation with them than the national authorities.

As per the 2016 Act on Organisation and Competences of State Authorities in Suppressing Organised Crime, Terrorism and Corruption, National Anti-Terrorism Strategy and its Action Plan, the institutional framework is envisaged as comprehensive and inclusive. Practically all ministries, departments, agencies, and other state bodies are supposed to participate in prevention and countering radicalisation, reintegration, and de-radicalisation. Close cooperation with the civil society sector has been envisaged as well. However, the CSOs claim that in most cases their cooperation is insufficient and treated as a pure formality by authorities. The role of NGOs in tackling these issues is very important as the largest number of projects were implemented by these organisations and their expertise and experience are significant for effective actions in this field.

The case studies presented in this report have shown that multilevel and multisectoral approaches give the best results, especially in a multicultural society such as the one in Serbia. Both case studies addressed education and community engagement of young people on a regional and local level, respectively. These projects revealed that addressing identarian drivers of radicalisation is a good way of dealing with grievances in multi-ethnic communities. Furthermore, empowering young people through developing different cognitive, emotional, and social skills was recognised as an effective approach to building extremism resilience. The workshops were creative, diverse, interactive, gender-sensitive, and inclusive, which is why both programmes received extremely high marks during evaluations. The multilevel approach enabled better insights into the diversity of each region and local communities thus resulting in effective programmes tailored to regional/local specificities, which significantly contributed to generating progress in preventing radicalisation and building resilience of youth. Also, multilevel and multisectoral approaches are effective strategies for countering radicalisation as the interaction of multiple drivers is what leads to extremism.

Proportional balancing between countering radicalisation and protecting fundamental rights and freedoms remains to be one of the greatest challenges to law and policymakers.

Annexes

Annex I: OVERVIEW OF THE LEGAL FRAMEWORK ON RADICALISATION & DE-RADICALISATION

Legislation title (original and English) and number	Date	Type of law	Object/summary of legal issues related to radicalisation	Link/ PDF
Krivični zakonik *(Criminal Code 2005)* Nos. 85/2005, 88/2005-corr., 107/2005-corr., 72/2009, 111/2009, 121/2012, 104/2013, 108/2014, 94/2016, 35/2019	2005, last amended in 2019	Code	broadened legal protection and range of terrorist-related offences; a life sentence for most severe forms of terrorism; criminalisation of foreign fighters since 2014; legal basis for criminal prosecution of hate crimes set in 2012 - art. 54a (*Special circumstances for determination of a sentence for a hate crime*); hate speech addressed in art. 317 (*Incitement to national, racial, and religious hatred and intolerance*) and art. 387 (*Racial and other discrimination*); the incitement to racial, religious, national, or other hatred at sporting events or public gatherings sanctioned in art. 344a (V*iolent behaviour at a sporting event or public gathering*)	link
Zakon o organizaciji i nadležnosti državnih organa u suzbijanju organizovanog kriminala, terorizma i korupcije (*Act on Organisation and Competences of State Authorities in Suppressing Organised Crime,*	2016, last amended in 2018	Statute	the institutional framework for detecting terrorist crimes, prosecuting, and sentencing the responsible persons and entities; the gap - it does not address the issue of foreign fighters	link

Terrorism and Corruption 2016) Nos. 94/2016, 87/2018 - other law				
Zakon o sprečavanju pranja novca i finansiranja terorizma (*Act on the Prevention of Money Laundering and the Financing of Terrorism 2017*) Nos. 113/2017, 91/2019, 153/2020	2017, last amended in 2020	Statute	defined the competencies of the Administration for the Prevention of Money Laundering (financial intelligence service) in the area of prevention and detection of terrorist financing and money laundering *Note:* independent human rights experts warn that Serbian anti-terrorist laws, particularly those concerning preventing terrorist financing and oney laundering, are misused by the state authorities for intimidating NGOs with critical stances	link
Zakon o ograničavanju raspolaganja imovinom u cilju sprečavanja terorizma i širenja oružja za masovno uništenje (*Act on the Freezing of Assets with the Aim of Preventing Terrorism and Proliferation of Weapons of Mass Destruction 2015*) Nos. 29/2015, 113/2017, 41/2018	2015, last amended in 2018	Statute	legal basis for adopting domestic lists of terrorists, implementing the UN lists of designated individuals, groups or entities, as well as the procedure of freezing the assets of terrorists	link
Zakon o izvršenju krivičnih sankcija	2014, last amended in 2019	Statute	determined the competences of the Administration for the Enforcement of Penal Sanctions; directs the	link

(Act on Execution of Criminal Sanctions 2014) Nos. 55/2014, 35/2019			enforcement of criminal and terrorism-related sentences	
Zakon o sprečavanju nasilja i nedoličnog ponašanja na sportskim priredbama (*Act on Prevention of Violence and Misconduct at Sports Events 2003*) Nos. 67/2003, 101/2005 - other law, 90/2007, 72/2009 - other law, 111/2009, 104/2013 - other law, 87/2018	2003, last amended in 2018	Statute	regulates the issues related to misconduct and violence at sports events, including the incitement to hatred on different grounds resulting in physical violence	link
Zakon o zaštiti prava i sloboda nacionalnih manjina *(Protection of the Rights and Freedoms of National Minorities Act 2002)* Nos. 11/2002, 1/2003 - Constitutional Charter, 72/2009 - other law, 97/2013 - Constitutional Court's Decision, 47/2018	2002, last amended in 2018	Statute	an important step towards prohibiting discrimination and hatred against national minorities, and improving the protection of national minorities	link

Zakon o zabrani diskriminacije (*Act on the Prohibition of Discrimination 2009*) No. 22/2009	2009	Statute	main systemic law stipulating general prohibition of discrimination in all forms, including the prohibition of hate speech and incitement to intolerance and hatred	link
Zakon o zabrani manifestacija neonacističkih ili fašističkih organizacija i udruženja i zabrani upotrebe neonacističkih ili fašističkih simbola i obeležja (*Act on Prohibition of Manifestations of Neo-Nazi or Fascist Organisations and Associations and Prohibition of the Use of Neo-Nazi or Fascist Symbols and Insignia 2009*) No. 41/2009	2009	Statute	prohibits promoting and spreading of neo-Nazi or fascist ideas, propaganda, symbols, as well organising such manifestations; addresses online incitement to hatred by spreading neo-Nazi or fascist propaganda materials; stipulates only four grounds for prohibiting hatred or intolerance (towards members of any nation, national minority, church or religious communities)	link
Zakon o organizaciji i nadležnosti državnih organa za borbu protiv visokotehnološkog kriminala (*Act on Organisation and Jurisdiction of Government Authorities for Fight Against High*	2005, last amended in 2009	Statute	relevant for detecting and sanctioning the spreading of hate speech in online space; defines the institutional framework for the fight against high-tech crime	link

Technological Crime 2005) Nos. 61/2005, 104/2009				
Zakon o javnom informisanju i medijima (*Public Information and Media Act 2014*) Nos. 83/2014, 58/2015, 12/2016 - authentic interpretation	2014, last amended in 2016	Statute	explicitly prohibits hate speech in art. 75; defines restrictions on freedom of speech when violating provisions relevant for suppressing hate speech	link
Zakon o elektronskim medijima (*Electronic Media Act 2014*) Nos. 83/2014, 6/2016 - other law	2014, last amended in 2016	Statute	explicitly prohibits hate speech in art. 51; defines restrictions on freedom of speech when violating provisions relevant for suppressing hate speech	link

NATIONAL CASE LAW

Case number	Date	Name of the court	Object/summary of legal issues related to radicalisation	Link/ PDF
VIIу-171/2008	02 June 2011	Constitutional Court	prohibition of the secret political organisation *Nacionalni stroj*, its registration in the official registry of political organisations, promotion and spreading of its programme goals and ideas directed to the violation of guaranteed human and minority rights and incitement to racial and national hatred	link
VIIу-249/2009	12 June 2012	Constitutional Court	due to violating guaranteed human and minority rights and inciting national and religious hatred, the work of civic association *Otačastveni pokret Obraz* was prohibited an its deletion from the Register of Associations was ordered	link
Case title: *Vehabije* [Wahhabis], Case number: n/a	04 April 2018	Higher Court in Belgrade (Special Department for Organised Crime)	Abid Podbićanin, Sead Plojović, Izudin Crnovršanin, Tefik Mujović, Ferat Kasumović, Goran Pavlović, and Rejhan Plojović were found guilty of terrorism and terrorism-related crimes and senteced to nearly 70 years in prison	link
7 K. 1435/18	17 October 2018 (became final on 2 November 2018)	Belgrade First Basic Court	domestic violence towards an LGBT person motivated by hatred, which was considered as an aggravating circumstance during sentencing	link (p. 277)

OTHER RELEVANT ISSUES

	Constitutional provisions	Statutory law (statues, rules, regulations etc.)	Important case law	Comments/issues relevant to radicalisation
Freedom of religion and belief	arts. 5, 11, 21, 43, 44, 45, 48, 49, 55, 57, 79, 81, 202	*Act on Churches and Religious Communities 2006*	*Іу₃-455/2011,* 2013	minor religious groups consider discriminatory law provisions on a division between traditional and non-traditional churches as well the provisions on the registration process
Minority rights	arts. 1, 3, 5, 14, 18, 19, 20, 21, 22, 48, 55, 75, 76, 77, 78, 79, 80, 81, 100, 105, 108, 114, 166, 170, 180, 183, 190, 200, 201, 202, 203	*Official Use of Scripts and Languages Act 1991* *Protection of the Rights and Freedoms of National Minorities Act 2002* *National Councils of National Minorities Act 2009*	n/a	the normative framework is mainly in compliance with the European standards and minority protection framework; the issues mostly arise from its ineffective implementation
Freedom of expression	arts. 46, 47, 50, 51, 79	*Public Information and Media Act 2014* *Electronic Media Act 2014* *Public Media Services Act 2014*	n/a	the 2014 media laws are less restrictive and more liberal, but they failed to adequately regulate some important issues, like non-transparent government

				advertising; media outlets remain highly politicised
Freedom of assembly	art. 54	*Public Assembly Act 2016*	*Уж-5284/2011,* 2013	the normative framework on freedom of assembly is mainly following European standards, but it is not in line with ODIHR Guidelines on Freedom of Peaceful Assembly; the 2016 Act seems to be more controversial and restrictive than its predecessor; the principles of necessity and proportionality are brought into question; the grounds for restricting freedom of assembly are broader than those set in the 2006 Constitution
Freedom of association/ political parties	arts. 2, 5, 21, 55, 80, 167, 195	*Associations Act 2009* *Political Parties Act 2009* *Act on Financing Political Activities 2011*	n/a	the Associations Act is very liberal and in line with the highest EU standards; if violating guaranteed human or minority rights and inciting racial, national, or religious hatred, associations and

				parties will be prohibited
Church and state relations	arts. 11, 44	*Act on Churches and Religious Communities 2006*	*Iy₃-455/2011,* 2013	the normative framework follows the constitutional principle of separation between State and Church; it is the system of cooperative separation; initiatives for determining the unconstitutionality of the 2006 Act also questioned the principle of a secular state
Surveillance laws and Right to privacy	arts. 41, 42	*Security Information Agency Act 2002* *Criminal Code 2005* *Act on the Military Security Agency and the Military Intelligence Agency 2009* *Electronic Communications Act 2010* *Criminal Procedure Code 2011* *Police Act 2016*	n/a	PDPA 2018 mostly copied from the EU Directive and GDPR without taking into consideration the specificities of the Serbian legal system and enforcement context; a lack of special regulations regarding online privacy; as per PDPA, privacy restrictions are allowed if they do not interfere with the essence of fundamental rights and freedoms and they must be necessary and proportionate - a

		Personal Data Protection Act 2018		broad and vague list leaves room for misuse by authorities; the competent court issues the order for interception and surveillance of electronic communications (and other special investigative measures) performed by the Military Security Agency, BIA, or the police

Annex II: LIST OF INSTITUTIONS DEALING WITH RADICALISATION & COUNTER-RADICALISATION

Authority (English and original name)	Tier of government (national, regional, local)	Type of organisation	Area of competence in the field of radicalisation & deradicalisation	Link
Služba za borbu protiv terorizma i ekstremizma (Service for Combating Terrorism and Extremism)	national	Service within the Criminal Police Directorate of the Ministry of Interior *Four field departments in Belgrade, Novi Sad, Niš and Novi Pazar	prevention and detection of terrorism and extremism, including the prevention of terrorist and extremist propaganda and recruitment activities; apprehension of perpetrators of these crimes; continuous education regarding terrorism and extremism (seminars, professional and scientific gatherings)	link
Ministarstvo unutrašnjih poslova (Ministry of Interior)	national	Ministry	improve the normative and institutional framework in this field; inform the public on high-tech communication dangers when used for spreading extremist propaganda; in line with the right to privacy and freedom of expression, organise a system for monitoring and blocking the online illegal content concerning radicalisation and extremism; formation of a national network for raising awareness on radicalisation	link
Ministarstvo kulture i informisanja	national	Ministry	raise public awareness by organising round tables, media campaigns, public	link

(Ministry of Culture and Information)			gatherings; in line with human rights and freedoms, improve the legal framework for preventing the misuse of media and Internet for radicalisation, hate speech, terrorist recruitment; strengthen strategic communication with the public by sending supportive messages to groups at high risk of radicalisation; provide the public with real information on those who have joined the terrorist organisations and their faith to demotivate new recruitments and reduce radicalisation; promote dialogue between different cultural and religious groups (relying upon media support)	
Ministarstvo prosvete, nauke i tehnološkog razvoja (Ministry of Education, Science and Technological Development)	national	Ministry	improve education programmes with radicalisation and extremism relevant content focusing on early recognition of radicalisation, adequate response to violent extremism, supporting tolerance and inclusive society; initiate scientific research in the field of radicalisation, extremism, and terrorism; exchange knowledge and opinions with policy makers	link
Ministarstvo za rad, zapošljavanje, boračka i socijalna pitanja	national	Ministry	implement measures of active employment policy directed to youth and vulnerable groups particularly; participate in	link

(Ministry of Labour, Employment, Veteran and Social Policy)			preparing effective programmes for de-radicalisation, rehabilitation and reintegration	
Ministarstvo omladine i sporta (Ministry of Youth and Sports)	national	Ministry	support peer education programmes; prepare projects aimed at helping young people to recognise and protect themselves from radicalisation; offer educational and sports programmes and events	link
Ministarstvo pravde (Ministry of Justice)	national	Ministry	participate in promoting dialogue among different religious and cultural groups; prepare effective de-radicalisation, rehabilitation, and reintegration programmes relying upon best practices; ensure effective implementation of programmes in prisons to suppress radicalisation	link
Ministarstvo državne uprave i lokalne samouprave (Ministry of State Administration and Local Self-Government)	national, regional, and local level	Ministry	prepare programmes to ensure that vulnerable individuals and groups are represented in institutions; ensure the greater role of local self-government in radicalisation and extremism prevention	link
Ministarstvo trgovine, turizma i telekomunikacija (Ministry of Trade, Tourism and Telecommunications)	national	Ministry	improve digital communication with target groups; inform the public about risks of spreading extremist views using high-tech systems; participate in improving normative framework regarding the prevention	link

			of using public media and Internet for spreading radicalisation, hate speech, terrorist recruitment; ensure that illegal radicalisation-related content on the Internet is being monitored and blocked, respecting the boundaries of the right to privacy and freedom of expression	
Kancelarija za saradnju sa civilnim društvom (Office for Cooperation with Civil Society)	national	Government office	ensure strong cooperation of the state and civil society in preventing radicalisation; establish effective mechanisms at institutional and operational level for cooperation with CSOs; organise consultations, round tables and other activities that foster communication with CSOs	link
Nacionalno koordinaciono telo za sprečavanje i borbu protiv terorizma (National Coordination Body for the Prevention and Countering of Terrorism)	national	Coordination body of the Government	ensure strong policy in the field of radicalisation and extremism prevention; ensure effective implementation of the National Strategy for Prevention and Countering of Terrorism, as well as evaluating and reporting on its implementation; coordinate efforts in preventing and countering radicalisation, extremism, and terrorism	link

Annex III: BEST PRACTICES/INTERVENTIONS/PROGRAMMES

National level

Title	Institution(s)	Aim	Source	Evidence of effectiveness / literature
1. *Enhancement of media reporting on violent extremism and terrorism*	CSO Novi Sad School of Journalism	raising awareness about media unprofessionalism regarding sensitive topics like radicalisation, extremism, and terrorism, including deconstruction of fake news and improvement in media reporting on these topics	link	link
2. *BEHAVE – SEE Beyond Hate: Learning and Acting to Counter Hate Speech Online in South East Europe*	CSO Novi Sad School of Journalism, in partnership with the Peace Institute (Ljubljana), Faculty of Social Sciences (University of Ljubljana) and Center for Peace Studies (Zagreb)	identifying good practices in countering online hate speech in Serbia, Croatia, and Slovenia; understanding online hate speech, developing critical thinking and addressing hate narratives in media, focusing particularly on youth; improving competencies of high school teachers in addressing online hate speech	link	link 1 link 2
3. *Virtual Becomes Reality* *this initiative is part of CoE's	CSO Libero	prevention of digital violence; educational programmes	link	n/a

campaign *No Hate Speech Movement*		focused on children and youth		
4. *Resilience: Civil Society for Media Free of Hate and Disinformation*	CSO Novi Sad School of Journalism	improving capacities of media CSOs and stakeholders to better understand and cope with disinformation and hateful propaganda, building people's resilience to disinformation and offering joint solutions	link	link 1 link 2
5. *Say No to Hate Speech on the Internet* (*Reci ne govoru mržnje na internetu*) *this action is part of the CoE's youth campaign *No Hate Speech Movement*	Ministry of Youth and Sports	raising youth's awareness about hate speech and educating them to recognise offline and online hate speech	link	n/a
6. Trening *Zaustavimo govor mržnje* (Training *Let's stop hate speech*) *this action is part of Serbian National Campaign against Hate Speech	Krovna organizacija mladih Srbije i Institut za medije i različitosti Zapadni Balkan	raising youth's awareness of hate speech consequences; offering broader understanding of freedom of expression and hate speech; training for peer educators	link	n/a

7. *Pametno i bezbedno – Smart and Safe*	Ministry of Trade, Tourism, and Telecommunications	raising digital security culture, focusing particularly on children and youth, and reporting adverse digital content, including the spreading of hate speech	link 1 link 2	n/a
8. *Anonimna mržnja* (*Anonymous Hatred*)	CSOs Belgrade Centre for Human Rights and LIBER New Media Centre	raising public awareness about online hate speech and suggesting the mechanisms for countering hate speech, particularly the responsibility and punishment policy	link	link
9. *Development of Capacities for the Prevention of Violent Extremism through Education in Secondary Schools in the Republic of Serbia - Laying the Foundations*	Ministry of Education, Science and Technological Development	prevention of radicalisation and violent extremism, particularly ideologically driven violence in educational institutions	link	n/a
10. Training *Supporting prevention of violent extremism and terrorism in Serbia* * this activity is part of the project of the same title	Ministry of Interior and Organisation for Security and Co-operation in Europe (OSCE) Mission to Serbia	empower CSOs, mainly dealing with youth, for countering radicalisation, extremism, and terrorism; educate police officers, religious leaders, education workers, social and health workers, and all persons who are involved in	link	link

		countering radicalisation, extremism, and terrorism on a daily basis while performing their jobs (brochure prepared)		
11. *Enhancing penitentiary capacities in addressing radicalisation in prisons in the Western Balkan* * a part of *Horizontal Facility for the Western Balkans and Turkey 2019-2022* programme (the joint EU and CoE programme)	Ministry of Justice, Penitentiary and probation services	provide tools for identification of radicalised prisoners, develop instruments and programmes for rehabilitation and treatment, organise trainings of prison and probation staff on prison radicalisation and VEPs	link 1 link 2	link 1 link 2 link 3
12. Project *Communities First: Creation of a Civil Society Hub to Address Violent Extremism—From Prevention to Reintegration* * regional project implemented in Western Balkans	CSO Cultural Centre DamaD, in cooperation with regional partners	strengthen the capacities of CSOs in Western Balkans in the prevention and countering of radicalisation and violent extremism, including reintegration; improve dialogue with state authorities and implement effective programs in the mentioned fields	link	link

Sub-national/Regional level

	Institution(s)	Aim	Source	Evidence of effectiveness / literature
1. *Building Youth Resilience to Radicalisation & Violent Extremism (BYRVE)* and *Youth Leadership Program* * both programmes were implemented as part of the project *Youth for Change: Strengthening the resilience of young people in Serbia through engagement, leadership and development of their cognitive and socio-emotional skills*	CSO Psychosocial Innovation Network (PIN)	developing different cognitive, emotional, and social skills relevant for preventing radicalisation and building youth resilience to radicalisation and extremism; providing alternative narratives to violence; implemented in two regions: Belgrade area and Sandžak region (in the cities of Novi Pazar and Sjenica)	link 1 link 2 link 3 link 4	link 1 link 2
2. Combating of discrimination, online hate speech and toxic narratives in multicultural	CSO Monitor from Novi Pazar	building and strengthening the resilience of youth and communities to hate speech and discrimination, especially in online context and in multicultural environment; creating a	link	n/a

regions of Serbia * supported through a joint project of the EU and CoE *Promotion of Diversity and Equality in Serbia*		network of local trainers among youth		
3. Regional pilot training courses * as a part of the project *Supporting the prevention of violent extremism and terrorism in Serbia*	OSCE Mission to Serbia and Ministry of the Interior of the Republic of Serbia	educate police officers on early identification and prevention of violent extremism and terrorism	link	n/a

Local level

	Institution(s)	Aim	Source	Evidence of effectiveness / literature
1. Project *Security Risks in Sandžak—an Integrated Response of the Community*	CSO Cultural Centre DamaD	research on radicalisation and extremism in Novi Pazar (Sandžak region); identification of radicalisation potential among youth through human security perspective; analysis of institutional capacities of Novi Pazar for radicalisation	link 1 link 2	link

		prevention; youth vulnerability assessment framework; multisectoral approach for guiding local stakeholders		
2. Project *#YouthAgainst Hate* * within the project *CVE in Serbia: Early warning and prevention,* supported by OSCE Mission to Serbia	Media Diversity Institute Western Balkans	building youth resilience to offline and online hate speech; understanding the link between discrimination, marginalisation, and hate seech as drivers of youth radicalisation; implemented in local Belgrade communities	link	n/a
3. Project *Dialogue for the Prevention of Extremism* * supported within the project *Communities First: Creation of a Civil Society Hub to Address Violent Extremism—From Prevention to Reintegration*	CSO Sombor Educational Center	prevent and reduce extremism among youth in Sombor	link	n/a
4. Project *Promoting Tolerance: All Together in Sandžak*	CSO Helsinki Committee for Human Rights	early identification of radicalisation and extremism among youth, building youth resilience in the broader context of human rights and freedoms; implemented	link	link

		in the Sandžak region (in the cities of Novi Pazar, Sjenica, and Tutin)		
5. Anger management workshops for convicts within the psychosocial support programme (in prison facilities) * in 2020, due to the COVID-19 situation, the workshops were held online for the first time	Penal Correctional Institution (PCI) in Niš, in cooperation with the local Human Rights Centre	reduce the recidivism rate and enable easier reintegration into society by increasing prisoners' self-esteem, improving their mental health and stress management; train convicts for becoming trainers to other inmates	link	n/a

Annex IV: POLICY RECOMMENDATIONS

- Foster scientific research on radicalisation factors, especially among vulnerable groups and youth, in order to develop effective programmes in this field;
- Develop unified/ inclusive policy document(s) that will address all forms of radicalisation and extremism, without putting an emphasis only on terrorism as a result of radicalisation process; current policies are not focused on radicalisation process which is why the emphasis is on repressive and punitive actions instead on preventive and inclusive measures;
- Include more radicalisation-relevant topics in school curricula for an early age;
- Amend laws in order to effectively deal with broad and vague grounds for restricting or limiting human rights and freedoms;
- Ensure timely adoption of policy documents—many strategies and actions plan have expired and new ones have not been adopted;
- Ensure consistent and timely implementation of policies;
- Ensure regular reporting on the implementation of policies—many reports on implementation are missing which prevents from getting the complete information on what has been done;
- Improve the overall environment for exercising human rights and freedoms; media freedom is in severe decline; reports of operators on retained data are often incomplete and not regular;
- Address the issue of media freedom deterioration—high politicisation remains to be the greatest obstacle to progress;
- Address identarian drivers of radicalisation as the practice has shown that it is an effective way of dealing with grievances in multi-ethnic communities;
- Foster multilevel approach as each region and local community has its specificities—locally tailored measures would give better results;
- Create supportive conditions for discouraging radicalisation; the emphasis should be on active employment policy (especially for youth), raising awareness of the importance of media professionalism when reporting on different ethnic or religious groups as negative media portrayals have been associated with the feelings of isolation and discrimination, which raise radicalisation potential;
- Empower CSOs dealing with radicalisation and extremism prevention;
- Strengthen the cooperation between authorities, CSOs, religious groups;
- Build the capacities of local self-government units in radicalisation prevention.

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DeRadicalisation
in Europe and Beyond: Detect, Resolve, Reintegrate

Deradicalization and Integration Legal and Policy Framework

Slovenia/Country Report

WP4

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Gregor Bulc – Apis Institute

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This document is available for download at https://dradproject.com/

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List of Abbreviations

CRS Constitution of the Republic of Slovenia

IPRS Information Commissioner of the Republic of Slovenia

KZ Criminal Code of the Republic of Slovenia

MDSPT Interdepartmental Working Group for Counterterrorism

MDSTG Interdepartmental Working Group on Combating Transnational Threats

OVS Intelligence and Security Service (of the Ministry of Defence)

RCC Roman-Catholic Church

RS Republic of Slovenia

SNV National Security Council

SDVS Council for Dialogue on Religious Freedom

SOVA Slovenian Intelligence and Security Agency

SOVKC Council for Open Issues with the Catholic Church

SRS Socialist Republic of Slovenia

UGDT Office of the State Prosecutor-General

URSIKS Administration of the Republic of Slovenia for the Execution of Criminal Sanctions

UOIM Government Office for the Support and Integration of Migrants

UVS Office for Religious Communities

VČP Human Rights Ombudsman (of the Republic of Slovenia)

VDT Supreme State Prosecutor's Office

VSRS Supreme Court of the Republic of Slovenia

ZNE Advocate of the Principle of Equality

About the Project

D.Rad is a comparative study of radicalisation and polarisation in Europe and beyond. It aims to identify the actors, networks, and wider social contexts driving radicalisation, particularly among young people in urban and peri-urban areas. D.Rad conceptualises this through the I-GAP spectrum (injustice-grievance-alienation-polarisation) with the goal of moving towards measurable evaluations of de-radicalisation programmes. Our intention is to identify the building blocks of radicalisation, which include a sense of being victimised; a sense of being thwarted or lacking agency in established legal and political structures; and coming under the influence of “us vs them” identity formulations.

D.Rad benefits from an exceptional breadth of backgrounds. The project spans national contexts including the UK, France, Italy, Germany, Poland, Hungary, Finland, Slovenia, Bosnia, Serbia, Kosovo, Israel, Iraq, Jordan, Turkey, Georgia, Austria, and several minority nationalisms. It bridges academic disciplines ranging from political science and cultural studies to social psychology and artificial intelligence. Dissemination methods include D.Rad labs, D.Rad hubs, policy papers, academic workshops, visual outputs, and digital galleries. As such, D.Rad establishes a rigorous foundation to test practical interventions geared to prevention, inclusion, and de-radicalisation.

With the possibility of capturing the trajectories of seventeen nations and several minority nations, the project will provide a unique evidence base for the comparative analysis of law and policy as nation states adapt to new security challenges. The process of mapping these varieties and their link to national contexts will be crucial in uncovering strengths and weaknesses in existing interventions. Furthermore, D.Rad accounts for the problem that processes of radicalisation often occur in circumstances that escape the control and scrutiny of traditional national frameworks of justice. The participation of AI professionals in modelling, analysing and devising solutions to online radicalisation will be central to the project’s aims.

Executive Summary/Abstract

This report focuses on the legal aspects of the phenomenon of radicalisation, de-radicalisation, and counter-radicalisation in Slovenia. The socio-political and cultural context of the country is presented, as well as its constitutional framework and key legislation on (de- and counter-) radicalisation and fundamental freedoms. The report emphasizes the fact that according to internationally established indicators, Slovenia is one of the safest countries in the world. Slovenian legislation rarely employs terms such as radicalization, de-radicalization, extremism, etc. Moreover, the report finds that Slovenia, unlike some other European countries, has not established preventive counter-radicalization programmes or curative de-radicalization schemes. The report features an analysis of Article 297 of the Criminal Code prohibiting incitement to hatred and discrimination based on personal circumstances, i. e. sanctioning what is known as hate speech. The report argues that hate speech is the best indicator of radicalisation in Slovenia where despite the absence of extreme violence and terrorist attacks, xenophobic, homophobic and Islamophobic speech is on the rise, as are anti-immigrant far-right groups. In conclusion, the report maintains that an amendment of Article 297 is needed, suggesting the possible short- and long-term strategies of counter-radicalisation of Slovenian society.

1. Introduction

This report[1] focuses on the legal aspects of the phenomenon of (de- and counter) radicalisation in one of the safest countries in the world,[2] Slovenia. The political, economic, and cultural context is presented first, followed by the constitutional, legislative and policy frameworks for regulating radicalisation. It focuses on the fundamental individual rights deriving from the constitution and on the most important laws that protect these rights, with an emphasis on criminal law. In the central part, the report highlights key state institutions that directly or indirectly deal with (de-)radicalisation and addresses the issue of preventive counter-radicalisation activities in organizations that are on the frontline of the fight against radicalisation.

The report also focuses on the long-lasting debate in Slovenia on the (in)effectiveness of Article 297 of the Criminal Code that regulates hate speech. The reason for addressing this specific article in detail is that hate speech is arguably the best indicator of radicalisation in the country where, on the one hand, there is the almost complete absence of extreme violence and terrorist attacks, but on the other hand, according to local scholars, incitement of hatred against minorities is rampant, and according to Europol's latest report, anti-immigrant and anti-Muslim far-right groups pose a considerable threat.

In methodological terms, the report is based on an analysis of legislation, a review of relevant literature and official statistics, as well as two standardized interviews with legal experts. One of them is an expert on various forms of discrimination and hate speech, currently employed by a state institution that monitors and issues regular recommendations for changes in legislation in the field of discrimination. The other is a professor of law at the University of Ljubljana and a political activist for the rights of LGBTIQ+ persons. The experiences of both interlocutors range from the non-governmental and activist sectors to government services and academic writing, which gives their inputs extra depth and weight.

Both interviewees agreed with our assessment that there have been no cases of violent extremism by left-wing groups in Slovenia so far and that there has been no case of extreme violence conducted by individuals who were radicalized based on religion. However, they agree that examples of public activity by right-wing extremist groups, as well as individual xenophobic, homophobic, and Islamophobic hate speech, are as striking as the absence of hate speech convictions. Accordingly, the report interrogates the arguments in favour and against the amendment of hate speech legislation, in particular Article 297 of the Criminal Code.

The structure of the report is as follows. The following chapter presents the political, cultural and media history of Slovenia along with its present situation in the light of

[1] The author would like to express sincere gratitude to Romana Zajec for her precise revision of and invaluable comments on previous drafts of this report.

[2] According to the Global Terrorism Database (GTD 2021), there have been no terrorist incidents in Slovenia in the last 20 years. The Global Terrorist Index for Slovenia has been zero from 2013 to 2020 (see GTI 2021) while the Global Peace Index (GPI 2021) ranks Slovenia as one of the top 10 most peaceful countries in the world between the years 2009 and 2021.

the issue of (de-)radicalisation. In the third chapter, we deal with the constitutional order of the country and the protection of human rights and fundamental freedoms in the Slovenian Constitution and legislation in detail. The fourth chapter deals with the legislative framework for the fight against terrorism and radicalisation, as well as presenting the powers of state institutions and bodies. Here, the report notices the different perspectives and interpretations of Article 297 of the Criminal Code, which seems to have difficulties defining the kind of speech that is allowed and prohibited in Slovenia. The fifth chapter focuses on the institutional framework of preventive action in cases of radicalised individuals and groups and draws attention to insufficiencies of implementation of counter-radicalisation procedures in practice. The sixth chapter notices the absence of counter- and de-radicalisation initiatives and programmes in Slovenia, while the concluding chapter argues for a three-part strategy of counter-radicalisation with an emphasis on short-term and long-term legislative solutions.

2. Political, socio-economic, and cultural context

Slovenia is an EU Member State encompassed by Western Europe and the Balkans with a population of 2 million. Its Human Development Index value for 2020 was 0.92, positioning it among the top 25 countries in the world. With a parliamentary democracy and a proportional electoral system, its governments are coalitions of small political parties, mostly of centrist-left and liberal leanings. Slovenia was part of the multi-ethnic Austro-Hungarian Empire until 1918 when it became part of the multi-ethnic Kingdom of Yugoslavia. After resisting and defeating the Axis forces during WWII, Yugoslav peoples adopted a milder form of socialist governance and a one-party system. In 1991, after a short 10-day war, Slovenia declared its independence from Yugoslavia and joined the EU and NATO in 2004. Furthermore, it joined the Schengen area in 2007, and the OECD in 2010. Apart from the short 10-day armed conflict with the Yugoslav People's Army in 1991, the country has been peaceful since the end of WWII. It boasts one of the lowest respective rates in homicide, major assault, rape and kidnapping in the EU (see Vuga Bernšak and Prezelj 2020: 67, footnote 2; Eurostat 2020). Never a coloniser nor violently colonised, Slovenia's population is relatively homogeneous both religiously (69% Roman-Catholics) and ethnically (83% Slovenian). Despite its social, cultural, and political connections with the Balkans, Slovenia managed to avoid ethnic and religious conflicts with other ex-Yugoslav nations in the 1990s.

The latest Census (2002b) lists 69.1% of the population of Slovenia as Catholic, 1.1% Evangelical, 0.6% Orthodox Christian and 0.6% Muslim. The tiny Muslim minority originates from Bosnia and Herzegovina and is regarded as moderate (Prezelj and Kocjančič 2020, p. 31). Both Slovenian Muslims and ethnic Slovenians consider themselves to be South Slavs; both have lived in the same country for at least 80 years, and both speak similar Slavic languages. Although Slovenia is dispatching its soldiers to NATO missions in the Middle East, it has traditionally never been in conflict with a Muslim-majority country, while Muslims from non-European countries have not been likely to settle in Slovenia (ibid.). There are around 3,000 Catholic churches in Slovenia with approximately 378 Catholics per

church. Hypothetically speaking, if the state was obliged to build places of worship for various religious groups (which it is not) and wanted to ensure the same ratio for Slovenia's Muslims (which it is not obliged to do), 125 religious objects would have to be made available to them (see Dragoš 2005, p. 299). However, they have had none up until 2019, when the first mosque in Slovenia gained all the necessary permissions to open.

According to the latest Census (2002a), 17 percent of the population are ethnic minorities, including 120,000 ex-Yugoslav minorities (39,000 Serbs, 36,000 Croats, 32,000 Bosniaks/Muslims, 6,000 Albanians, 4,000 Macedonians, 3,000 Montenegrins), 6,000 Hungarians, 3,000 Roma,[3] and 2,000 Italians. In terms of immigration, Slovenia is a chosen destination for employment and family reunification reasons (Bajt 2019: 313). Most foreign work permits are issued to citizens of ex-Yugoslav states (Ministry of the Interior 2019). Asylum seekers have not been common at all, while granted asylum applications even less so. According to official government data (Statistični urad 2020), there have been periods of increased numbers of applicants in 2003-2005 and 2016-2019, but the country's demographic situation remained intact. In the year 2019, there were 680 persons in Slovenia with the internationally recognised protected status, plus 311 asylum-seekers and 97 persons who waited to file an application (Bajt 2019: 313) – altogether approximately 1,000 persons in a nation of two million. However, moral panic and xenophobia have been common public reactions to migrants, particularly during the 1990s Balkan wars, as well as during the years 2001, 2015 and 2016 (see Jalušić 2002; Bajt 2016). In 2015, Slovenia was one of the countries that created a humanitarian transit 'corridor' from Greece to Austria and opened its borders to migrants. Around 450,000 migrants entered and also exited Slovenia - on foot. However, the government's presumably humanitarian approach in the summer turned towards "crimmigration"[4] in the winter (Bajt 2019: 305-306). This resulted in securitization, surveillance, and militarization of migration, including the construction of razor-wire fences along the Slovenian-Croatian border (ibid.: 311-312), where they remain to this day.

The rise of the Islamic State (ISIS) has arguably increased security concerns among political elites in Slovenia as the Balkan region has become considered a radicalisation threat. According to estimates, approximately 10 people from Slovenia, being recruited through Bosnia, have fought for ISIS (Prezelj and Kocjančič 2020, p. 34). Around 1,000 other persons from the Balkan region travelled to Syrian conflict areas between 2012 and 2016 (Azinović, 2017: 9; Prislan et al. 2018: 260). However, Azinović (2017) argues that the Balkans produced a smaller percentage of 'foreign fighters' than other European countries with significant Muslim minorities. Although Lobnikar et al. (2019) and Prislan et al. (2018, p. 260) warn of an expected return of a significant number of Balkan 'foreign fighters', Azinović (2017: 11) anticipates they will remain in the Middle East – elaborating that, unless another

[3] Roma frequently do not report their nationality accurately to census takers, and Amnesty International estimated that the true number of Roma was 7,000 to 12,000 (US Dept. of State 2007).
[4] Legal scholars like Juliet Stumpf (2006), who coined the term, and Katja Franko Aas (2011, 2019), who applied it to Europe, describe criminalization as regulative strategies conflating migration and crime. Severely reducing rights of migrants and increasingly defining them as criminals, crimmigration in practice means that immigration law gains several characteristics of criminal law.

uncontrolled wave of migrants along the 'Balkan route' obscures returnees, "their return to the region en masse seems rather far-fetched" (Azinović 2017: 11).

The Slovenian public sphere, in particular political and media spheres, functions within what could be termed a left wing-right wing divide. Rather than focusing on economic policies, the divide reflects attitudes towards tradition (conservative v liberal), living environment (rural v urban), religion (clerical v agnostic), nationality (ethnic nationalism v multiculturalism), the Second World War era (Home Guard collaborators[5] v Tito's partisans) and socialist times (totalitarian communist dictatorship v socialist welfare state). Up until the 2008 elections, the political party system in Slovenia was considered very stable, as only one new party (or even none in 2004) per election managed to cross the parliamentary threshold while remaining under the 10% vote share (Malčič and Krašovec 2019: 116). After the 2008 elections, new political parties gained more influence and power and the whole system became much more volatile (ibid.: 122). Nevertheless, in terms of ideological orientation, the political system remained rather stable. Specifically, the nationalistic far-right Slovenian Democratic Party (SDP) and xenophobic far-right Slovenian National Party (SNP) are more or less a mainstay in the parliament; a radical left-wing party that would promote a violent revolution or a construction of a (one-party) socialist political system through undemocratic means has never existed, let alone been elected. Although the Levica party (founded in 2014 and meaning literally 'The Left') has been regularly portrayed as extreme left, it is obvious that neither their actions nor programme distinguish them from 20th-century social-democratic parties (Dragoš 2018: 108, footnote 1). Ironically, the party called Social Democrats, the actual successor party of the League of Communists and another mainstay in Slovenian politics, had long ago embraced the neoliberal agenda wholeheartedly (ibid.) and became a party of extreme centre (see Ali 2015).[6] Ideologically, all other parliamentary parties in Slovenia in the last 20 years have belonged to the (extreme) centre, either as liberal (left-wing) neoliberals or conservative (right-wing) neoliberals.

The media also seem to be divided in this way. It is indicative that there are two national journalist associations - there is the "right-wing" Union of Slovene Journalists (Združenje novinarjev in publicistov, ZNP) and the "left-wing" Slovene

[5] In Slovenia, the Home Guard (originally Domobranstvo or Domobranci) is a colloquial shorthand term for various local groups that collaborated with Fascist and Nazi occupying forces and fought against their compatriots who joined the resistance movement, known as the Partisans, during the Second World War. After the war, many members of the Home Guard were extrajudicially executed on orders from Communist authorities while many escaped to foreign countries. In a narrow sense, the Slovene Home Guard (SHG) was a specific anti-Partisan military group that pledged allegiance to Hitler. Established in 1943 after Italian armistice, it was trained by the Nazis in counter-guerrilla warfare and was very successful in fighting the resistance groups in the regions of Dolenjska and Notranjska. Politically, the SHG was connected to the Slovenian Roman-Catholic Church (RCC) and the right-wing political parties of the time.

[6] In his eponimous book, Tariq Ali (2015) describes "extreme centre" as a consequence of the fall of the Berlin Wall, when not only communism as an idea but also the efficacy of practical socialist solutions in global North completely collapsed. The extreme centre is a description of a political system where even the least radical social democratic ideas are abandoned by the left-wing parties in Europe and the rest of the Western World. Under these conditions, social democratic parties, let alone socialist parties become redundant. After 1990s, in contemporary capitalist societies in the global north, political differences between the right and the left imploded and power became an end in itself, argues Ali, leading to symbiosis between power and money which reached extreme proportions.

Association of Journalists (Društvo novinarjev Slovenije), the latter having a larger membership base. Many political parties, their (former) members and staunch supporters are involved in media ownership, directly controlling media content (Ramet and Kuhar 2015: 18; Milosavljević and Biljak 2020: 7). With regards to radicalisation, it is important to note that agents affiliated with the far-right SDP party have become strategic owners of print media (Demokracija), television (Nova24TV) and several radio stations and online portals, all of which extensively use discourses of homophobia, xenophobia, racialisation, Islamophobia and othering, while their aggressive anti-communist rhetoric emphasises the alleged grip that corrupt informal power groups of socialist 'old boys' have over the country (see Grodeland 2007; Žerdin 2012; Novak and Fink-Hafner 2019: 9).

Janez Janša, the long-time president of SDP, three-time PM and former communist turned anti-communist, has arguably been Slovenia's most divisive and polarising politician. Janša's obsessive and toxic tweeting earned him the nicknames "Twitler" and "Marshall Twito" (see Vladisavljević 2021). Boasting more than 82,000 followers, his tweets are "often full of sarcasm and denunciations of political opponents and the mass media, along with expressions of racist, xenophobic, and sexist views" (Pajnik 2019, p. 23). Investigative journalists have discovered links between SDP, neo-Nazi groups, Identitarians[7] and other right-wing extremist groups on several occasions (Delić 2011; 2015a; 2015b; RTV SLO 2014; Valenčič 2010; 2011; 2021). For instance, while the Identitarian Movement is classified as right-wing extremist in Germany and banned in France (Darmanin 2021), the movement's books are published in Slovenia by SDP-related publisher Nova Obzorja [New Horizons] (Kršinar 2020). Denying these connections as false, Janša and other SDP members have rather been presenting themselves as victims of "communist", "leftist-fascist", "leftist-jihadist", "extreme leftist" and "radical leftist" conspiracies.

Apart from the Left party, other liberal and left-leaning political parties are critical towards each other and rather disconnected from left-wing grassroot civil movements. Left-wing extremism in Slovenia exists in the rhetorical assessments of far-right parties, far-right media and far-right Twitter accounts rather than in reality. However, one has to note that in the time of the last two of Janez Janša's governing coalitions, there were incidents of offensive speech and intrusions into the privacy of politicians by left-wing protesters. They were nevertheless legal and within the framework of the right to assembly and the right to protest. On the other hand, there are strong indications that in the last few years violent far-right groups are on the rise in Slovenia. According to the most recent Europol (2020) Te-Sat report on radicalisation and terrorism, the main security threat in Slovenia is the "paramilitary groups pretexting the state's impotence to protect the population against the perceived threat from Islam and immigration" (ibid., p. 18). The only significantly visible and radicalised social group that analysts might detect in addition to the far-right groups is the vaccine scepticism movement, which has become increasingly vocal during the Covid-19 pandemic and some of its members even managed to forcefully enter the national public TV building in September 2021.

[7] Identitarianism is a pan-European far-right political ideology and movement that asserts the right of Europeans to territories supposedly belonging exclusively to them. The movement initially originated in France under the names of the Identitarians (originally Les Identitaires) and Generation Identity (youth wing of the former). After 2000 it spread to other European countries (see McAdams 2021: 90-95).

3. The Constitutional organization of the State and constitutional principles

The League of Communists of Yugoslavia[8] disintegrated in January 1990, rendering dysfunctional the key political mechanism that maintained the Yugoslav federation connected in a single state. In March 1990, as explained in the authoritative textbook on the Slovenian Constitution (Kocjančič et al. 2009: 72-84), the Parliament of the Socialist Republic of Slovenia (SRS) adopted an amendment to the Constitution of the SRS, which deleted the adjective "Socialist" from the name of the republic and completely redefined the basic principles of the said constitution. This resulted in significant changes to the constitutional order of the federal unit. In April of the same year, multi-party elections took place and were won by a coalition advocating the accelerated independence of the Republic of Slovenia (RS) from Yugoslavia. The desire of the majority of people residing in Slovenia for independence was confirmed by the plebiscite in December 1990. On the basis of the referendum, on 25 June 1991, the parliament adopted the basic constitutional charter on the independence of the RS. Thus, the constitution of Yugoslavia ceased to apply to Slovenia, which however was not approved by the federal government. In a brief 10-day military confrontation with the Federal Yugoslav People's Armada (YPA), Slovenia's defence of the new sovereignty was successful.[9] On 23 December 1991, the new Constitution of the Republic of Slovenia (CRS) was adopted, which included the basic constitutional charter on the independence of the RS at the very beginning of the preamble. There was not much continuity between the previous and the new Constitution, as the new one removed restrictions on private property and other socialist interventions in economic relations and also ensured multi-party political competition. Slovenia thus became a parliamentary republic, significantly limiting the role of the president of the republic.

What many immediately notice in the CRS is the separation between ethnic Slovenes and Slovene citizens as CRS privileges the former over the latter. Namely, the Preamble to the Constitution states that "we Slovenes [not citizens or inhabitants of Slovenia] have established our national identity and asserted our statehood" (CRS 1991), while Article 5 assures that "Slovenes not holding Slovene citizenship may enjoy special rights and privileges in Slovenia" (ibid.). In practice, this means that anyone who is of Slovenian ethnic origin living wherever in the world is in a much more privileged position to acquire a Slovenian passport than anybody who is not ethnically Slovenian, for instance residents of Slovenia of non-Slovenian ethnic origins. Slovenia's citizenship has therefore been defined according to the principle of ius sanguinis (Zorn 2005, p. 136; Bajt 2010, p. 208). It is this principle of "Slovenianisation" of an ethnically diverse Slovenian society that has been

[8] Established in 1919 and known until 1952 as the Communist Party of Yugoslavia, the League of Communists of Yugoslavia was the ruling party of Socialist Fedarative Republic of Yugoslavia.

[9] According to a Slovenian governmental source (Svajncer 2001), the YPA had 44 casualties and 146 wounded, and the Slovenian side 19 casualties and 182 wounded. Also, 12 foreign citizens were killed.

predominantly used by politicians and media when addressing or discussing the community of Slovenian residents.

There are no sub-national entities defined in the CRS and self-determination is mentioned only in relation to the Slovenian people, i. e. the nation in ethnic terms rather than civic terms. Although it seems that the English translation of the word "narod" as "nation" does point to inclusivity of the concept of "narod" in the CRS, the word "narod" is much more exclusionary than the word "nation" suggests, emphasizing the ethnic origin of the group rather than allowing for its ethnic diversity.[10] In CRS, ethnic minorities have no right to self-determination. However, some of them have other constitutional minority rights (see Articles 5, 11, 62a, 64, 65 and 80). The CRS privileges the indigenous or "autochthonous" (as it terms them) Italian and Hungarian minorities, guaranteeing them one respective MP each. No comparable special provisions are reserved for other minorities, which are arguably also autochthonous. Article 65 (and the special act ZRomS-1, 2007) provides specific provisions relating to the Roma community, which for instance guarantees one council representative in municipalities where Roma are considered "autochthonous". Neither relevant minority rights nor minority political representation is granted to ex-Yugoslav or any other minorities, although these do enjoy all civil rights and liberties afforded to Slovenian citizens (see US Department of State 2007 and 2020). In terms of religion, the CRS (Article 7) is clear that while separated from the state all the religious communities "shall enjoy equal rights", which is not necessarily the case on the day to day administrative and practical level. The state of Slovenia seems to privilege the Roman-Catholic Church (RCC) not only through the Agreement between the Republic of Slovenia and the Holy See (BHSPV 2004) as a peculiar legal document,[11] but also through the arguably systemic discrimination of minority religious groups since there seem to be legal loopholes that allow for the possibility of governmental discrimination between religions. For instance, the current government abolished the governmental Office for Religious Communities (UVS) and dissolved the governmental Council for Dialogue on Religious Freedom (SDVS), instead establishing the Council for Open Issues with the Catholic Church (SOVKC).

[10] The predominant use of the word "narod" in Slovenian language, which translates in English to "people", "nation" or similar, does not signify a civic nation, i.e., an ethnically, racially, and religiously diverse group of people living in a particular country. The word "narod" in Slovenian, as in other South Slavic languages, is rather a synonym of the word "ljudstvo", which translates in English to "ethnicity", "folk" or "people". Similarly, the word "narodnost", although translated in the CRS as "national origin" or "nationality", predominantely signifies an ethnic origin rather than a civic origin or a citizenship. The Slovenian word for a state or a country is "država", while citizens are termed "državljani" and citizenship "državljanstvo". A nation-state is predominantely referred to as "nacionalna država" rather than "narodna država", the latter connoting an exclusive ethnic state for a single people. Hence, also in this (social) linguistic sense the Slovenian language privileges the ethnic rather than the civic meaning of the word "narod" ("nation"). The English translation of the word "narod" as merely a civic "nation", like in the official translation of CRS, can therefore be rather misleading for those not familiar with nuances of the Slovenian language.

[11] There were constitutional scholars like Krivic (2001) who opposed the Agreement between Slovenia and the Holy See as unconstitutional. It took a Constitutional Court decision to confirm that it is not inconsistent with either the constitutional principle of sovereignity (Artile 3 of the CRS) nor the sepration between state and church (Article 7 of the CRS). Interestingly, there are other churches and religious groups that have signed bilateral agreements with the state of Slovenia. However, the key difference is that the RCC/Holy See has an international status of a state and the agreement with it is part of international law, while the agreements with the other churches are part of domestic legislation and regulations.

The fundamental rights of individuals are protected in various ways. Most importantly, the protection of fundamental rights is guaranteed in the CRS (Article 14 to 65). Slovenia has also ratified the European Convention on Human Rights (ECHR) and the Lisbon Treaty, which granted the Charter of Fundamental Rights of the EU (CFR) the legal value of an EU treaty. In terms of (de-)radicalisation, arguably the most important fundamental rights in the CRS are detailed in Article 14 (equality before the law), Article 39 (freedom of expression) and Article 63 (prohibition of incitement to discrimination, intolerance, violence, and war). Article 14 states that "everyone shall be guaranteed equal human rights and fundamental freedoms irrespective of national origin ["narodnost", sic!], race, sex, language, religion, political, or other conviction, material standing, birth, education, social status, disability, or any other personal circumstance". Article 39 guarantees "freedom of expression of thought, freedom of speech and public appearance, freedom of the press, and other forms of public communication and expression".

Naturally, the freedom of expression is not absolute and is curtailed by Article 63 proclaiming unconstitutional "any incitement to national ["narodnega" sic!], racial, religious, or other discrimination, and the inflaming of national ["narodnega" sic!], racial, religious, or other hatred and intolerance [as well as] any incitement to violence and war". The freedom of expression is further restricted in the Criminal Code of the Republic of Slovenia (KZ) by several provisions stipulating that certain types of expression are criminal offences, in particular, public incitement to hatred, violence or intolerance (Article 297) and criminal offences in the field of protection of honour and good name (insult under Article 158, defamation under Article 159 and insulting accusation under Article 160). Also, in the Protection of Public Order Act (ZJRM) freedom of expression is restricted in particular by Article 7 (indecent behaviour) according to which one shall be fined when due to their offensive speech the reputation of a person or a group is harmed.

Constitutional speech provisions and restrictions are important not least due to political elites' and ethnic Slovenes' attitude towards minorities since the inception of independent Slovenia. Proclaiming Slovenian identity as strictly ethno-nationalistic rather than multicultural, populist politicians in the late 1980s and early 1990s started demonising minorities. One of the first culminations of such attitudes was the government's illegal "Erasure" in February 1992 of over 1% of the population. Approximately 25,000 inhabitants of Slovenia who were predominantly members of ex-Yugoslav and Roma minorities were stripped of all fundamental rights through the undisclosed and unlawful removal from the register of permanent residents (Dedić et al. 2003; Vezovnik 2013). For years, the state was hiding the magnitude and severity of the Erasure from the general public. Nevertheless, in 1999 and 2003 the Constitutional Court of the Republic of Slovenia (CCRS) ruled that the Erasure was illegal.[12] However, it took years for the state to start remedying the situation as right-wing politicians actively ignored the CCRS verdict, accusing the Erased of being disloyal to or even aggressive towards the project of independent Slovenia and hence should have moved "back home" "to the South". In 2012, the European Court

[12] The Constitutional Court reached decisions in more than 15 cases connected to the Erasure, whether they were dealing with issues of the constitutionality of particular laws or individual appeals. However, the two decisions, U-I-284/94 from the year 1999 (CCRS 1999) and U-I-246/02 from 2003 (CCRS 2003), were the most relevant for the future of the Erased of Slovenia as they ruled the Erasure unlawful.

of Human Rights (ECtHR) declared in the Judgement in the Case of Kurić and others v. Slovenia, application no. 26828/06 that Slovenia was responsible for violating the human rights of the Erased (see ECtHR 2012).[13] Notwithstanding the CCRS decisions and ECtHR judgements, the majority of the Erased have not been adequately compensated to this day and the comment sections of social media platforms are still full of hate speech targeting them. Hence, the issue of the Erased arguably remains the most important constitutional jurisprudence in the field of discrimination and human rights violation in Slovenia, the young country's original sin, as it were.

4. The relevant legislative framework in the field of radicalisation

In an interview for this report, Slovenian legal expert Neža Kogovšek-Šalamon (Bulc 2021a) maintains that compared to some Western countries, Slovenia did not adopt special counter-radicalisation legislation because, unlike for instance British, French and Belgian citizens, Slovenian citizens have not been radicalising or leaving *en masse* to fight in the Middle East and North Africa. Therefore, there seemed to be no need in practice for such specific legislation so far. Although there are no specific laws targeting radicalisation directly or addressing de- or counter-radicalisation issues, and even though "radicalisation" is not a term often used in the local legislation, extreme acts such as terrorism and violent extremism are regulated and sanctioned in Slovenian legislation. The punitive aspect of the law is therefore present, while the preventive seems to be lacking.

As a member of the EU, Slovenia acts in accordance with the EU Counter-Terrorism Strategy (EUCTS 2005), including the EU Strategy for Combating Radicalisation and Recruitment to Terrorism (EUSCRRT 2014), adopted in 2005, revised in 2008 and 2014; as well as the 2017/541 Directive of the European Parliament and Council of 15 March 2017 on combating terrorism (EUDCT 2017). In the same year, the Slovenian Interdepartmental Working Group for Counterterrorism (MDSPT), the successor of the Interdepartmental Working Group on Combating Transnational Threats (MDSTG), started its work on regular recommendations regarding risks and threats of terrorism and radicalisation in the country. In 2019, Slovenia adopted the National Strategy for Prevention of Terrorism and Violent Extremism (NSPTNE 2019) prepared by the MDSPT and the National Security Council (SNV). The text of the Strategy is not available to the general public, but according to the government's PR office at the time, Slovenia was one of the last EU member states to adopt a similar strategic document, which in the case of Slovenia targets the most vulnerable groups and aims to prevent radicalisation leading to violent extremism or terrorism, as well as improve emergency preparedness after a terrorist attack (M. Z. 2019). The Resolution on the National Security Strategy of the Republic of Slovenia (ReSNV 2019) also discusses radicalisation, terrorism, and violent extremism. Two other

[13] ECtHR found a violation of Article 8 (right to privacy and family life); Article 13 (right to an effective remedy) and Article 14 (prohibition of discrimination) of the European Convention on Human Rights.

national resolutions are also discussing the issue of terrorism and violent extremism (not radicalisation, however). Namely, the Resolution on the national programme for the prevention and suppression of crime from 2012 (ReNPPZK 2012) and 2019 (ReNPPZK 2019).

Arguably, the particular Slovenian law that tackles the issue of terrorism the most is the Prevention of Money Laundering and Terrorist Financing Act (ZPPDFT 2016). Boasting over 300 mentions of the terms “terrorism” and “terrorist” in its 181 articles, the act regulates among many other activities, due diligence checks performed by banks, exchange offices and cryptocurrency exchanges in order to identify transactions related to terrorism (and money laundering).

The Criminal Code (KZ 2008) also sanctions terrorism. There are five criminal law provisions relating to terrorism, which were created on the basis of international obligations accepted by Slovenia in the past (Jakulin 2017: 10). The criminal law provisions are the following: terrorism (Article 108); travel abroad for the purpose of terrorism (Article 108a, which entered into force as late as June 2017); financing of terrorist activities (Article 109); incitement and public glorification of terrorist activities (Article 110); as well as recruitment and training for terrorist activities (Article 111). The Criminal Code (KZ) also prohibits the overthrow of the constitutional order. Namely, one is forbidden to organise, lead, or participate in an armed rebellion “with the intention of endangering the existence of the Republic of Slovenia, altering its constitutional order, or overthrowing its highest government bodies” (Article 355); and neither is one allowed to incite, financially sponsor, or help organise a violent change of the constitutional order of the republic (Article 359). Recently, for example, Štajerska Varda, a far-right paramilitary group led by Andrej Šiško (once also the leader of the far-right group Hervardi) started patrolling the border area for migrants, which led to Šiško being sentenced to 8 months in prison in 2018 based on Article 359 of the KZ.[14]

In terms of discrimination and human rights infringement, the KZ punishes violations of the right to equality “due to differences with respect to nationality [“narodnost”, sic!], race, skin colour, religion, ethnicity, gender, language, political or other beliefs, sexual orientation, financial situation, birth, genetic heritage, education, social position or any other circumstance” (Article 131). The KZ also contains an article that tackles hate speech (Article 297), even though one has to acknowledge the exact term “hate speech” is not used in the KZ nor the rest of the legislation at all.[15] Despite Article 297 of the KZ, hate speech is rarely prosecuted in Slovenia, as the Prosecutor’s Office has traditionally chosen a path of maximum tolerance corresponding to the North American concept of freedom of speech rather than limiting extreme and hateful expression. To a certain degree, this is understandable as the public still remembers the infamous Article 133 of the Yugoslav Criminal Code, also known as the verbal delict, which was used to censor freedom of expression in socialist times (Bajt 2016: 58). However, when dealing with

[14] Nevertheless, the Varda far-right group continued its "border controls", visited the President of the Republic, loudly occupied a police station in a small town and obtained their own show on a local TV station. In 2020, parliament had to pass a revision of the State Border Control Act (ZNDM 2007) in order to prevent such groups from patrolling the border in the future.

[15] Rather than employing the term “hate speech” (which in Slovenian would be termed “sovražni govor”), Article 297 of the KZ uses expressions such as “whoever publically incites or stirs up hatred, violence, intolerance”; “uses threats, verbal abuse or insults”; “publically disseminates ideas”, etc.

contemporary hate speech, many scholars (see Moti and Bajt 2016; Splichal 2017) believe that Slovenia should start prosecuting it more rigorously and in line with the ECtHR judgments. As hate speech in Slovenia is arguably one of the main indicators of radicalisation we will focus on this issue and Article 297 of the KZ in our analysis below.

There are other laws in Slovenia addressing (anti-)discrimination directly and indirectly. Primarily, there is the most important anti-discrimination law in the country, the Protection Against Discrimination Act (ZVarD 2016). Article 1 of ZVarD states the key goal of this law, which is the "protection of every individual against discrimination" irrespective of their "personal circumstances". In the first paragraph it defines "personal circumstances" as gender, nationality ["narodnost" sic!], race or ethnic origin, language, religion or belief, disability, age, sexual orientation, gender identity and gender expression, social status, economic status, education or any other personal circumstance" (Article 1 par 1). Protecting individuals and groups against harassment and sexual harassment (Article 8), instructions to discriminate (Article 9), incitement to discrimination (Article 10), victimisation (Article 11) and severe forms of discrimination, such as multiple, mass, continuous and repeated discrimination (Article 12), the act also establishes the institution of the Advocate of the Principle of Equality as an autonomous state authority in the field of protection against discrimination (Article 1, par. 2).

There are also two very relevant media laws that are important to note. The Mass Media Act (ZMed 2001) in addition to protecting freedom of expression (Article 6) curbs this freedom with the prohibition of incitement to unequal treatment and intolerance (Article 8). Namely, it prohibits "dissemination of programmes that encourage national, racial, religious, sexual or any other unequal treatment, or violence and war, or incite national, racial, religious, sexual or any other form of hatred and intolerance". The Audiovisual Media Services Act (ZAvMS 2011) similarly prohibits incitement to discrimination and hatred "on grounds of nationality, race, religion, sex or other" (Article 9); prohibits audiovisual commercial communications from including or promoting "any discrimination based on sex, racial or ethnic origin, nationality, religion or belief, disability, age or sexual orientation" (Article 20); and sets fines for dissemination of such communications (Article 43).[16]

Furthermore, there is the Freedom of Religion Act (ZVS 2008), demanding the laity of the state and equality of churches and other religious communities (Article 4) and also prohibiting discrimination on the basis of religious belief and incitement to religious hatred and intolerance (Article 3). The same act prohibits churches to operate (Article 12) or become officially registered (Article 18) if their activities are based on violent methods or incite national, racial, religious, or other inequalities, violence or war, or exacerbates national, racial, religious or other hatreds or intolerance or persecution.

[16] Conveniently, however, the media laws do not regulate conflicts of interest between owners of media and politicians in power, a problem particularly burning on the municipal level where major political parties directly influence small local media outlets (Milosavljević 2016: 7; Milosavljević et al. 2017: 9; Milosavljević and Biljak 2020: 12). Often, local media are published by the municipality (and financed from the state budget), reflecting unscrupulously the interests of the local mayor or governing party (Milosavljević and Biljak 2020, p. 12; see also Kučič 2019a,b; 2021a,b). There are also no provisions in the media acts that protect journalistic autonomy in case of an ownership or editorial line change (Milosavljević et al. 2017: 8; Milosavljević and Biljak 2020: 11).

In addition to constitutional and legislative guarantees of equal treatment regardless of personal circumstances, the state of Slovenia established independent bodies that fight and report on discrimination in Slovenia. These include the Human Rights Ombudsman of Slovenia (VČP);[17] Advocate of the Principle of Equality (ZNE);[18] and Information Commissioner (IPRS).[19] There had been other such bodies and it is significant in more than a symbolic sense that in 2012 Janez Janša's coalition government abolished the Governmental Equal Opportunities Office (UEM), which monitored discrimination against women, while in 2021 another Janša's coalition government terminated the Office for Religious Communities (UVS), which was the sole governmental institution dedicated to direct communication with the minority religious communities in Slovenia. Moreover, the current government led by the SDP party replaced the pluralistic governmental Council for Dialogue on Religious Freedom (SDVS) with the newly established Council for Open Issues with the Catholic Church (SOVKC). Apart from the Roman-Catholic Church (RCC), therefore, the religious communities in Slovenia no longer have an official state body through which they can have a dialogue with the state. RCC as a majority religious community, however, boasts a number of channels to the government, including the Agreement between the Republic of Slovenia and the Holy See (BHSPV 2004). The "equality of religions" as a constitutional principle was hence significantly curtailed this year, as was the equality of sexes almost a decade ago.

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[17] Article 159 of the Constitution of Republic of Slovenia prescribes that the institution of the Ombudsman for human rights and basic freedoms should be established. "The second paragraph allows the establishing of separate ombudsmen for individual fields, although to date the prevailing solution has been the establishing of only one ombudsman with a broad spectrum of responsibilities. (...) The Human Rights Ombudsman Law was passed in December 1993. The duties and competencies of the ombudsman are based on the classical Scandinavian model. (...) By law, the Human Rights Ombudsman has above all the authority to obtain, from state and other bodies which he can monitor, all data without regard to the degree of confidentiality, to perform investigations and in this capacity to call witnesses for questioning. (...) One important competency of the ombudsman is the serving of the Constitutional Court, together with the plaintiffs, with constitutional complaints due to the violation of human rights. He can also address the Constitutional Court with proposals for the assessment of the constitutionality of regulations..." (VČP 2021)

[18] In 2016 the National Assembly of the Republic of Slovenia adopted a Protection Against Discrimination Act (ZVarD 2016) which established the Advocate of the Principle of Equality (ZNE), "an independent and autonomous state body mandated to deal with discrimination" (ZNE 2019). In accordance with Article 21 of ZVaD, ZNE's tasks include "publishing independent reports and making recommendations to state authorities, local communities, holders of public authorisations, employers, business entities and other bodies regarding the established situation of people in certain personal circumstances, i.e. relating to preventing or eliminating discrimination; (...) providing independent assistance to persons subject to discrimination when enforcing their rights regarding protection against discrimination in the form of counselling and legal assistance for clients in other administrative and judicial proceedings related to discrimination; (...) proposing the adoption of special measures to improve the situation of people who are in a less favourable position due to certain personal circumstances (...). The competences of the Advocate of the Principle of Equality extend to both public and private sector." (ibid.)

[19] Established in 2005, the Information Commissioner is an independent state body with competencies in the field of two fundamental human rights protected by the Constitution, the right to the protection of personal data and the right of access to public information. Appointed by the National Assembly, the Information Commissioner may operate as a minor offence authority, appeals body or inspection authority. For instance, it can decide on an appeal against a decision by which the authority has rejected or ruled against a request to access information of a public nature; it is responsible for supervising the implementation of the law governing access to information of a public nature and the regulations issued on the basis thereof; it performs supervision over the implementation of legislation and regulation governing the protection or processing of personal data or the export of personal data from the Republic of Slovenia, etc. (see IPRS 2020)

The police and intelligence service powers need also to be discussed here. Both the Slovene Intelligence and Security Agency Act (ZSOVA 1999), as well as the Police Tasks and Powers Act (ZNPPol 2011) deal with the terrorist threat, as one would imagine. However, the issue of state surveillance has arguably not become an important part of public debates yet, although the state of Slovenia seems eager to keep up with surveillance trends in the West.

On the one hand, one of the reasons for the absence of argumentative discussions might be the lack of political will to change surveillance legislation as it feels to certain agents that it does not need modifications. For instance, the ZSOVA law has not been updated in a long time. This, however, is not unusual according to Kogovšek-Šalamon (Bulc 2021a) as the Slovenian Intelligence Service (SOVA) already has significant powers, with which local politicians and the intelligence community seem to be satisfied. With regards to radicalisation, for example, it is significant that SOVA does not need a court order for cross-border surveillance of Slovenian citizens, although such an order is demanded for the surveillance of citizens within the borders of Slovenia. If a foreign security service collects data on Slovenian citizens, SOVA can obtain them without a court order, using a detour to obtain data for which a court order would be needed in Slovenia. When the state has so many legal possibilities to spy on its citizens, it is not in its particular interest to amend the existing laws (ibid.). On the other hand, there have been attempts by the state to amend the law regulating police powers, the Police Tasks and Powers Act (ZNPPol 2011). The latest government's suggestions include changes in the field of continuous video and audio surveillance of certain public areas; further extensions of biometric data processing in identification; direct electronic access to a wide and undefined set of records; expansion of the use of unmanned aerial vehicles, i.e. drones, for the collection of personal data for preventive and surveillance purposes etc. (IPRS 2021).

Most debates on this topic are led by the Information Commissioner (IPRS), whose role is to protect the personal data of residents of Slovenia, which are safeguarded by two laws in particular – the Public Information Access Act (ZDIJZ 2003) and Personal Data Protection Act (ZVOP 2004). IPRS issues assessments, opinions, and comments on individual legislative proposals and, if new legislative powers are too invasive, files a case before the Constitutional Court. The IPRS discourse, however, uses the legal language of personal data protection rather than the language of mass surveillance, not directly criticising police and intelligence powers for syphoning big data and surveilling residents. However, the latter is arguably very much implied in IPRS public interventions. Although the IPRS, as well as the non-parliamentary Pirate party which tackles surveillance head-on, seem to encourage a public debate on these issues on a daily basis, it has not taken off yet.

Unlike the discussion about instrumentalisation and politicisation of the police and security services, which is a regular topic on the news, Kogovšek-Šalamon (Bulc 2021a) contends that one of the key problems in Slovenia's young democratic system is exactly the weak autonomy of these institutions. Although not merely a legal issue, it needs to be emphasised that both police and intelligence services are subject to direct influence from political parties whenever a new government starts its mandate. Instead of professionalising these institutions, governments are keeping them dependent on particular interests of political parties currently in power,

including influencing their surveillance of and surveillance reports on extremist groups.

Analysis of the Article 297 of the Criminal Code

Although Slovenia is among the safest countries in the world, a particular type of radicalisation of its citizens has been arguably often overlooked as the Prosecutor's Office avoided prosecuting what is popularly called "hate speech". There are many scholars (see Moti and Bajt 2016; Splichal 2017) who argue that the legal system of Slovenia has a problem with regulating hate speech and argue for the amendment of the "hate speech legislation", in particular, Article 297 of the Criminal Code (KZ).[20]

Kogovšek-Šalamon (Bulc 2021a) and Barbara Rajgelj (Bulc 2021b) both believe that the most important jurisprudence in the field of freedom of expression and anti-discrimination law in Slovenia is the September 2019 Supreme Court's (VSRS) judgement which significantly changed the established understanding of Article 297 of the KZ in the direction of easier prosecution of hate speech. From 2013, it was common practice for the prosecution to reject criminal complaints of hate speech as it had to prove that public incitement to hatred, intolerance or violence directly endangered public order and peace, which was very rarely the case with hate speech. As a result, the prosecution rarely filed criminal charges, and when it did they rarely led to a conviction.

[20] The full Article 297 of KZ - Public incitement to hatred, violence, or intolerance, reads as follows:
(1) Whoever publicly incites or stirs up hatred, violence, or intolerance with respect to nationality, race, religion, ethnicity, gender, skin colour, origin, financial situation, education, social position, political or other beliefs, disability, sexual orientation, or any other personal circumstance, and commits an act in a manner that can jeopardise or disturb public law and order, or uses threats, verbal abuse or insults shall be sentenced to imprisonment for up to two years.
(2) The same punishment shall be imposed on a person who, in the manner referred to in the preceding paragraph, publicly disseminates ideas on the supremacy of one race over another, or provides aid in any manner for racist activities or denies, diminishes the significance of, approves, justifies, derides, or advocates genocide, holocaust, crimes against humanity, war crimes, aggression, or other criminal offences against humanity, as they are defined in the legal order of the Republic of Slovenia.
(3) If an act referred to in the preceding paragraphs is committed by publication in the mass media or on websites, the editor or person acting as editor shall be imposed the punishment referred to in paragraph one or two of this Article, except if this involves the live broadcast of a show that he or she cannot prevent or publication on a website that enables users to publish content in real time or without prior review.
(4) If an act referred to in paragraph one or two of this Article is committed by coercion, ill-treatment, endangering security, desecration of ethnic, national community, national or religious symbols, damaging the movable property of another person, the desecration of monuments or memorial stones or graves, the perpetrator shall be sentenced to imprisonment for up to three years.
(5) If an act referred to in paragraph one or two of this Article is committed by an official through abuse of office or powers, he or she shall be sentenced to imprisonment for up to five years.
(6) Materials and objects bearing the messages referred to in paragraphs one and two of this Article, and all devices intended for their manufacture, multiplication, and distribution, shall be confiscated, or their use disabled in an appropriate manner.

In the reports from the Advocate of the Principle of Equality (see ZNE 2020: 55; ZNE 2021: 106-109) one can follow the statistics of prosecutions and convictions with regard to Article 297 between the years 2008 and 2020. On average, there were 31 criminal complaints received annually; the lowest number was 8 in the year 2009 and the highest was 83 in 2012. There were no convictions based on Article 297 in the years 2008, 2009, 2016, 2018, 2019, and never more than 4, except in the year 2013 when there were 9 convictions. There was an increase in the number of criminal charges from 2008 to 2012 when the number of criminal complaints was the highest as well. However, there was a significant drop in complaints and convictions after the year 2013.

> In 2013, the Office of the State Prosecutor-General [UGDT] adopted a legal opinion, according to which "hate speech" is punishable in all forms of commission only if such conduct results in threats or disturbances of public order and peace, i.e. in an objective possibility as well as the likelihood of a breach of public order and peace. The interpretation, and thus the direction, clearly lead to a more restrictive law enforcement policy. The number of filed criminal complaints decreased significantly, as did the number of completed criminal proceedings, the number of decisions of convictions and punitive orders. (ZNE 2020: 55)

However, six years later things have changed significantly.

> In 2019, at the request of the Office of the State Prosecutor-General [UGDT] for an appeal on a point of law, the Supreme Court [VSRS] issued Judgment no. I Ips 65803/2012,[21] where a different position was taken on the interpretation of the conditions and methods of committing the stated criminal offence, namely, that in cases involving the use of threats, insults or affronts, the assessment of the condition of violation of public order is not necessary, nor is it essential in other cases that there be a concrete threat to public order and peace. (ZNE 2020: 55)

It is still too early to assess whether the new VSRS take on Article 297 of the KZ will bring about positive changes and whether hate speech complaints and convictions will increase in Slovenia. The implementation of the new understanding of Article 297 might run into fierce opposition, not least in the Supreme State Prosecutor's Office (VDT) where there seem to be two entrenched camps. The first camp argues that prosecution should be the "ultima ratio", i.e. the last resort that society should employ only in instances of serious crime. They believe that speech, even though publicly inciting hatred and discrimination, should be protected, provided it does not have direct harmful consequences in the physical world. Hence, this camp of prosecutors cannot recognise the majority of instances of hate speech as something problematic, let alone a crime.

The other camp, however, ground their argument on the ECtHR case law which clearly shows that hate speech is prosecutable also when it does not pose a concrete threat to public order and peace. The ECtHR has confirmed such cases of prosecution as appropriate because they are based on the second paragraph of Article 10 of the European Convention on Human Rights (ECHR), limiting freedom of

[21] In February 2011, the accused posted a comment under a published article on a news web portal. The comment was directed against the Roma community, and it read: "A couple of sticks of Ammonal, a couple of M75 granades and a couple of AK-47s just in case, I don't think it will go any other way. Or that one-by-one variant, that would also work, so they have some time to think about it. [Radio] Krka people, I ask for a musical wish – Korado / Brendi['s tune] where have all the gypsies gone. Thank you." The courts initially failed to convict the accused based on Article 297 of KZ.

expression, when speech, even though expressed by someone in the name of freedom of expression, encroaches on the rights and dignity of other people. The second camp in the VDT, therefore, maintains the existing legislation of the state of Slovenia in combination with the jurisprudence of the ECtHR allows for the prosecution of anyone who publicly incites hatred against religious, racial, sexual, and other minorities both online and offline.

There are discrimination experts who maintain that the two camps will not be able to reconcile and hence the government should go ahead and propose a change to Article 297 of the KZ in order to escape the paradoxical situations described graphically by philosopher Boris Vezjak who regularly monitors hate speech on his blog In Media Res and files criminal complaints on the basis of Article 297:

> [T]he statements such as "Let's kill Jews", "Hang fags on willows", "Let's gas the refugees", "Put Roma in a concentration camp", "Let's castrate prosecutors" and "Slaughter judges" are (...) completely unprosecutable. Saying these and similar sentences in Slovenia is completely safe, not least for MPs and politicians of the highest rank. However, when someone would get ready to erect a concentration camp, clean their rifle or knife, set off and be followed by a (un)specified number of people (yes, the prosecutors managed to write this down in their interpretation of the Erlah[22] case!), they would suddenly be prepared, what an absurdity, to regard such words as criminal within the said article. (Vezjak 2019)

According to Kogovšek-Šalamon (Bulc 2021a), there is indeed insufficient clarity in the legislation, reminding us that also the European Commission against Racism and Intolerance (ECRI) has been putting forward recommendations for Slovenia to adopt stricter legislative measures in the field of discrimination and hate speech. It reiterates time and again its "recommendation that the authorities introduce a criminal law provision expressly considering racist motivation as an aggravating circumstance for any offence" (see ECRI 2014: 13; ECRI 2019:13).

However, scholars like Vezjak want to go further, contending that (a significant number of prosecutors in) the Supreme State Prosecutor's Office (VDT) and the Office of the State Prosecutor-General (UGDT)[23] show reluctance to accept the 2019 VSRS judgement and continue to oppose it in practice, leaving acts of hate speech unpunished. Their stance is to amend Article 297 of the KZ immediately, and it is not simple to disagree with their practical arguments. It seems that the amendment of the second paragraph of Article 297 of the KZ, in the direction of limiting the condition of a violation of public order and peace, is nothing but necessary if hate speech is to be thoroughly prosecuted in Slovenia. It seems that only through direct modification of this exact piece of legislation case law will be able to flourish that informs future actions not only of the prosecutors and court judges but also the general public. We hence join the advocates for a clear change in legislation

[22] According to Bajt (2018, p. 144) the following tweet from then-SDP member and journalist Sebastjan Erlah in August 2015 sparked the public debate on hate speech targeted at refugees: "I have an even more radical one [solution for the migrant situation]: To allow the border to be approached only at 500m. If any closer, shoot them all; God will know his own" (see Portal Plus 2015). There were condemnations of this statement from the left-leaning civil society groups (see for instance DAA 2015a; 2015b). Even the right-wing oriented Association of Journalists and Commentators said Erlah's Twitter comment had "crossed the line" (ZNP 2015) and stripped him of a journalism award. Yet no immediate legal action was taken. (Bajt, 2018, p. 144)

[23] Recently, a new Prosecutor General was appointed who does not seem to follow in the footsteps of his predecessor.

addressing hate speech, hoping that future jurisprudence based on consensual interpretation of Article 297 paves a way to the de-radicalisation of a hate speech-prone Slovenian society.

5. The relevant policy and institutional framework in the field of radicalisation

In this section, we will discuss the current state of radicalisation and counter-radicalisation policies in Slovenia, which some security scholars criticise for their preoccupation with punitive rather than preventive measures. Jakulin (2017: 10), for instance, contends it is not possible to give up the criminal law response to committed acts of terrorism as otherwise terrorist acts could possibly become a new norm rather than a deviation. However, criminal law, in his opinion, is by definition a measure employed when the damage is already done and hence inefficient. Moreover, the threatened criminal punishments have often no deterrent effect on people willing to use extreme violence for their cause. It is therefore preventive programmes that Jakulin (ibid.) proposes with strong emphasis not on repressive measures (surveillance etc.) but rather on humanist strategies of improving social and economic conditions in societies in order to reduce the chances of exacerbating social exclusion and polarisation.

In order to function in a preventive fashion, many actors dealing with (de-) and (counter-)radicalisation, not least the so-called frontline workers, need to be connected in a harmonised system. In Slovenia, there have been quite a few efforts for this to happen, coming from the police, academic institutions, various scholars and journalists, as well as awareness platforms etc. However, the state has neither put in place systemic preventive measures against radicalisation on the national level nor has it implemented any models for early detection of radicalisation among risk groups (Vuga-Bernšak and Prezelj 2020: 58). In general, there is a lack of necessary understanding among decision and policymakers that radicalisation is a multi-stakeholder rather than solely a security issue (see Prezelj et al. 2021). Although some scholars (see Vuga Bernšak and Prezelj 2020: 59) claim Slovenia is also missing the normative acts that would enable preventive measures related to the potential radicalisation of certain risk groups, others are more optimistic (see Prezelj et al. 2021) about the implementation of counter-radicalisation measures in existing laws and legislative documents.

There have also been obvious efforts by the Slovenian police and security scholars in recent years to follow the EU counter-radicalisation guidelines (EUCTS 2005; EUSCRRT 2014; EUDCT 2017) and come up with proactive initiatives in order to strengthen local and regional de-radicalisation measures (see Prpič et al. 2018; Prislan et al. 2018). In terms of practical solutions, they are placing emphasis on the

deeper implementation of the Radicalisation Awareness Network (RAN) system locally. Bringing together security, grassroots, and frontline de- and counter-radicalisation practitioners from across Europe, the EU RAN programme was formed in 2011 to help individuals who have already been radicalised or are vulnerable to radicalisation (see RAN 2021). Slovenian scholars and experts have contributed to the European RAN's efforts and proposed a particular Slovenia-specific RAN system to the government on various occasions.

For instance, police practitioners and experts in the ex-Yugoslav region have collaborated on the First Line project from 2014 to 2020, discussing the possibility of establishing national RAN structures and raising awareness of radicalisation issues in the region (see Zajc and Černigoj 2018). This project also supported activities of the Western Balkans Counter-Terrorism Initiative (WBCTI), a network of police experts led by Slovenia and formalized in 2011 under the auspices of the so-called Brdo process. The aim of the WBCTI initiative is to improve the exchange of information, introduce EU standards and provide support to the operational work of the police in the field of radicalisation (ibid.). Moreover, a Slovenian RAN model called RADCEPRO has recently been developed by Prezelj et al. (2021). They were able to identify a number of relevant institutional and organisational partners for a local RAN system and defined the principles according to which the system should be designed.[24] One of the main goals was to show in which ways existing institutions could improve their capabilities of monitoring radicalisation. For each of these institutions, they reviewed the relevant legislation and potential regulation documents that enable them to monitor and respond to radicalisation. Let us look at the individual institutions as discussed in the research and the legal bases associated with them.

As is to be expected, the Slovenian police use pre-planned procedures and legal bases for monitoring and responding to the phenomenon of radicalisation (ibid.: 172-182). In the case of such a phenomenon, the police initially prepare a Risk Assessment (describing what risk radicalized persons pose; whether they can carry out the threat; whether they have access to violent means they can use, etc.), after which other measures follow if necessary. The legal bases for such work include the Police Tasks and Powers Act (ZNPPol 2013); Criminal Code (KZ 2012); Minor

[24] Part of what might be termed "semi-official policies" in the field of (de-)radicalisation are also subsidies for various research studies. For instance, the Ministry of the Interior currently supports research conducted by scholars from two Slovenian universities titled Radicalisation and Violent Extremism. As part of the research, respective special issues of journal Šolsko Polje (see Sardoč and Deželan 2018) and magazine Časopis za Kritiko Znanosti (Sardoč 2020) were published, emphasising critical epistemological approaches to these topics. Ljubljana's Mirovni Inštitut (Peace Institute), a left-wing scholarly think tank/NGO, is also active in providing studies of radicalisation from a human rights perspective. Working extensively in the field of hate speech monitoring, it has been addressing this issue publicly, including through dozens of research publications freely available online. From 2000 to 2007, the Peace Institute organized, for example, the Intolerance Monitoring Group, while between 2015 and 2017, it supported the Council for Response to Hate and Discriminatory Speech. Other hate speech and cyber bullying monitoring entities include platforms Spletno-Oko.si and Odklikni.si, as well as blogs Vezjak.si (In Media Res), DanesJeNovDan.si, and Sovraštvo.si. These platforms and blogs, some of which are entirely privately run, and others publicly supported, are reporting from arguably progressive left-wing perspectives, and rarely discussing cases of left-wing hate speech as the latter is practically non-existent in Slovenia (which is obviously obsessively disputed by SDP party politicians and SDP-related media claiming that "leftist fascists" are omnipresent and the "far-left" widespread).

Offences Act (ZP 2002); and Protection of Public Order and Peace Act (ZJRM 2006). These laws mention radicalisation implicitly through articles on the prohibition of incitement to intolerance (Article 20 in conjunction with Article 6 of the ZJRM and Article 297 of the KZ). The offences that may result from radicalisation and lead to extreme violence are listed in Chapters 14, 15 and 19 of the KZ. Also important for the (de-)radicalisation police work is the National Strategy for the Prevention of Terrorism and Violent Extremism (NSPTE 2019) and the Resolution on the National Security Strategy (ReSNV 2019) highlighting radicalisation as an important security issue. Within the police, the Department of Terrorism and Extreme Violence and the Criminal Police Directorate (the Sector for Organized Crime) deal with radicalisation most systematically. There is also a sub-department for “extreme violence” in the Criminal Police Directorate, which is responsible for monitoring and developing police capacities and skills in this field (Prezelj et al. 2021: 177). Finally, police academy students and field police officers have access to regular training called “Radicalisation leading to extreme violence”.

When Prezelj et al (ibid.: 182-186) examined the two Slovenian intelligence services, they found that the Slovenian Intelligence and Security Agency Act (ZSOVA 1999), which regulates SOVA, and the Defence Act (ZObr 1994), which regulates OVS, i.e. the Intelligence and Security Service of the Ministry of Defence, do not include the terms “radicalisation” and “extremism”. According to the law, SOVA operates abroad, but it also deals with threats in the Republic of Slovenia that are related to foreign countries. The phenomenon of radicalisation and extremism is not statistically monitored by SOVA and the institution possesses no demographic data on radicalised individuals. There exists a special sector in SOVA for the fight against terrorism. The pre-planned procedures it employs in the event of radicalisation are as follows: the processing of information and monitoring of persons and groups on the path to radicalisation; informing law enforcement authorities (police and prosecutors) of such persons and groups, and providing evidence for the conduct of criminal and administrative proceedings and measures against such persons. Any investigation conducted by SOVA requires a so-called “foreign element” by law, meaning at least one foreigner or some other foreign element must be involved for SOVA to be able to act. In the event of a potential threat to the constitutional order by the citizens of Slovenia, SOVA has no competence to act. In the field of radicalisation, SOVA is not able to cooperate with various local frontline institutions and organizations, except with the police, the prosecutor's office and the OVS.

OVS, however, does monitor the possible presence of radicalism among employees of the Slovenian Defence Forces and is able to cooperate with stakeholders operating in the Slovenian RAN network, even though it cooperates predominantly with the police and SOVA. The pre-arranged mechanism by which it prevents radicalized persons from entering the army or excludes such persons from the army is the security screening of individuals in accordance with legislation. In addition, OVS employs several staff for early detection of radicalisation, who are certified “train-the-trainers” coaches, transferring knowledge on radicalisation indicators to various target groups within the military, including officers, medical personnel, etc. However, the OVS has no legal basis for action in the event of military persons being, for example, active members of violent extremist groups, unless they commit a misdemeanour or criminal offence.

An important milestone in the treatment of juveniles in Slovenia is the age of 14 since this is when criminal liability begins to apply to them according to Article 145 of the Criminal Procedure Act (ZKP 1994). This fact to a certain degree influences behaviours, including potential radicalisation, of juveniles, as well as the attitude of teachers and other persons employed in the school system towards the students. The school system in Slovenia (Prezelj et al. 2021: 131-138) has so far not been provided with procedures dealing with radicalisation and radical behaviour, while procedures for dealing with violence among students are in place. The National Education Institute has prepared instructions on how to react in such cases. However, the use of these instructions is recommended rather than mandatory. Prezelj et al. (ibid.: 133) find that four documents could serve as a legal basis for monitoring radicalisation in the school system (Primary Education Act; Instructions on Perceiving Violence; Rules on School Order; and Criminal Procedure Act) even though currently none of them includes the concepts of radicalisation and extremism.

Social welfare institutions in Slovenia, such as the Ministry of Labour, Family and Social Affairs, Centres for social work and Employment services (ibid.: 139-152), have not put in place concrete guidelines and procedures for recognizing radicalisation. Also absent is an adequate legal basis for identifying, monitoring or taking action in the event of radicalisation. What stands out is the fact that even the Centres for social work, which traditionally have good insight into the situation in deprived families, have no legal foundation to, nor instructions on how to react in instances of radicalisation (ibid.: 152).

The main religious communities in Slovenia, including the largest – Roman Catholic Church (RCC) – and the two existing Muslim communities, do not possess respective rulebooks or procedures in the case of radicalisation of their members (ibid.: 154-162). Moreover, the religious communities have neither official nor internal legal bases to identify, monitor and act in the event of radicalisation. A partial exception is one of the Muslim communities, the Islamic Community in the Republic of Slovenia, which is subordinate to the Islamic Community of Bosnia and Herzegovina, where radicalisation is addressed by two internal documents – the Declaration on Radicalisation and the Statute of the Religious Community – which the Slovenian branch is bound to (ibid.: 158). The Office for Religious Communities (UVS) with the Ministry of Culture also never had a legal basis, or any official procedure for monitoring or responding to potential radicalisation. (Incidentally, the UVS was abolished by Janez Janša's government in 2021, leaving all the religious communities except the RKC with no official governmental interlocutor.)

In the field of health care, there are no systemic solutions for monitoring radicalisation, nor are there comprehensive procedures and legal bases for responding in the case of radicalized individuals (ibid.: 162-171). The five key laws that regulate the health sector do not mention radicalisation and extremism, although some do mention violence.

In the Slovenian prison system (and the probation system, established in 2018) potential radicalisation indicators are regularly monitored (ibid.: 186-194). However, experts interviewed by Prezelj's team paradoxically claim on the one hand that there has been no radicalisation and violent extremism in the Slovenian prison system yet, while on the other hand describe four individual cases of radicalisation (ibid.: 193). Systematic procedures in the event of radicalisation are not currently foreseen.

Techniques and methods of detecting radicalisation are narrowed down to observing the behaviour of prisoners and persons on probation. All prison guard leaders and commanders of judicial police officers are instructed to report occurrences of radicalisation to the highest instance in the prison system - the Administration of the Republic of Slovenia for the Execution of Criminal Sanctions (URSIKS). There are no protocols for dealing with radicalised persons or special de-radicalisation programs, nor is there a legal basis for action in the event of radicalisation. The Enforcement of Criminal Sanctions Act (ZIKS 2000) and the Probation Act (ZPro 2017) do not include the words “radicalisation” and “extremism”. However, the prison system does regularly cooperate not only with the police but also with other stakeholders in the Slovenian RAN network.

Prezelj et al. (2021: 195-200) also deal with the asylum system in Slovenia. The Foreigners Act (ZTuj 2011) and International Protection Act (ZMZ 2016), which regulate the issue of asylum in more detail, do not use the terms radicalisation or extremism. Employees in the asylum system interviewed for the researchers are unaware of any legal basis or constraint their institutions should acknowledge when dealing with radicalisation. They have clear instructions, however, to inform the police when noticing signs of radicalisation (change of behaviour, justification of violence, etc.). In addition to the police, they cooperate with the director of the Government Office for the Support and Integration of Migrants (UOIM), who is the national coordinator in the field of radicalisation.

Finally, Prezelj et al (2021: 200-205) find that football clubs do pay due attention to the issue of radicalisation, which, according to employees of football clubs, is rarely present among football supporters in Slovenia. Although they detect various forms of crime perpetrated by fans, including violent acts, these are not associated with radicalisation leading to extreme violence (ibid.: 205). The clubs cooperate with the police and follow the instructions of the Union of European Football Associations (UEFA) and FARE, the influential organisation fighting against discrimination and inequality in football.

In general, Prezelj and his team of researchers found out that there is significant room for improvement in cooperation between potential radicalisation frontline workers. The relevant legislative documents practically do not include the terms “radicalisation” and “extremism”, nor is there a central body responsible for recognizing, preventing and responding to radicalisation in Slovenia. In most cases, there are no pre-determined procedures for cooperation between various institutions operating on the frontline of potential radicalisation. In short, while the punitive aspect, i.e. the legal prosecution of crimes perpetrated by radicalised persons, is in place, the preventive measures, procedures, documents, and legislation are trailing behind.

6. Case Studies

Since the report employs standard methodology and structure, which allows for it to be comparable to reports from other countries, this section should have provided insight into examples of de- and counter-radicalisation programmes and initiatives in Slovenia. However, as it was corroborated by our research and confirmed by the two expert interviewees (Bulc 2021a, 2021b), such programmes and initiatives exist in Slovenia neither on local and regional level nor on the national level. There are efforts by security scholars like Prezelj et al. (2021) to promote the launch of de- and counter-radicalisation processes, manuals, and best-practice solutions in various frontline institutions, although these efforts have not been successful so far. The reasons for the absence of programmes and initiatives tackling radicalisation in Slovenia remain to be thoroughly analysed. However, one might suggest that this absence could be explained to a certain degree by (1) relative peacefulness of the country in general, as described above, (2) non-existence of terrorist violence for decades, including domestic or jihadi terrorism, and (3) broad tolerance of homophobic, xenophobic and Islamophobic hate speech by Slovenia's prosecutors and judiciary.

7. Conclusions

Even in peaceful countries like Slovenia radicalisation can certainly be observed, analysed and, naturally, regulated. The Slovenian legal system already offers many punitive ways of sanctioning acts arising from radicalisation. However, we have seen far fewer implemented programs that try to suppress radicalisation. To do this in the future, Slovenia has arguably three complementary strategies at its disposal, of which only the first two are short-term legislative solutions - (1) developing new relevant legislation that meets new radicalisation challenges; (2) strengthening the autonomy of democratic institutions; and (3) implementing programs for the elimination of social and cultural inequalities.

The European Commission is certainly one of the main engines driving the first strategy. Slovenia, an EU member state, has willingly introduced new legislation to combat terrorism and violent extremism over the last twenty years, which includes both punitive and preventive measures. In addition, Slovenian security experts are complementing these efforts with their own initiatives that dare to dream bigger. A local comprehensive RAN-like counter-radicalisation program has been proposed to the government on several occasions. The authors of the latest Slovenian counter-radicalisation study/book addressed it directly to politicians, claiming it is ready for implementation as it is a substantial compendium of "recommendations on how to build or upgrade the Slovenian system of identification and monitoring of radicalisation" (Prezelj et al. 2021: 254-255). It is therefore up to politicians to put it to practice. It seems however that this might take a while in Slovenia since the counter-radicalisation programmes are complex long-term projects that cannot be simply instrumentalised for particular political interests.

If one wants radicalisation prevention programs and legislation to work, we need to provide them with autonomy from daily politics. This might succeed in Slovenia

provided we start autonomising the institutions implementing counter-radicalisation programs first. However, in the current political climate, this feels like an extremely difficult task, due to the overwhelming difficulties posed by the problem of political polarization. The Slovenian political public has been divided into two poles many times in history – in older days one finds divisions between peasants and burghers, conservatives and liberals, communists and anti-communists, anti-fascist partisans and anti-communist home guard, while today we see the polarization between the left-wing and right-wing camps. The media are also divided along these lines (although it needs to be emphasized that it is the right-wing media that resort to xenophobic, homophobic, Islamophobic and other types of discriminatory discourse). Add to this an absence of long-lasting, stable, and autonomous democratic institutions and their instrumentalisation for particular political goals rather than the common good, and the relative neglect and underestimation of the phenomenon of radicalisation in politics, media, social networks and in the streets is not that surprising.

Kogovšek-Šalamon (Bulc 2021a) maintains that violent extremist crimes might occur in Slovenia precisely due to the instability of state institutions rather than deficient legislation in the field of radicalisation. State institutions in a polarised society are constantly burdened with artificially created scandals, as well as political tasks of discrediting political opponents left and right. Since the police, SOVA and other important institutions are constantly exposed to personnel changes along party lines and other political pressures, their key missions, work ethics and professional reputation suffer. Slovenia cannot establish democratic traditions and stable state institutions overnight. However, a step in the right direction, Kogovšek-Šalamon (ibid.) contends, is to start inserting safeguards into the legislation that could enable Slovenian institutions to survive various party personnel tsunamis. In order to achieve this, it is necessary to reform the related procedures for the appointment of heads, deputy heads and other important personnel, while ensuring stable and independent funding of institutions, rendering them independent from all and every government. This indirect legal strategy of de-radicalisation might prove to be much more successful in Slovenia than the mere adoption of straight de- and counter-radicalisation laws.

The third strategy for counter-radicalisation prevention - the sustainable prevention of extreme social, economic and cultural divisions - is long-term and includes the operation of various social actors, including governmental and non-governmental entities. The implementation of programs and initiatives for the elimination of social and cultural inequalities is not possible without the broadest societal consensus. Although difficult to establish in the Slovenian political climate, it is a consensus worth striving for. However, one must remain realistic – in order to reach this third strategic level, Slovenia needs to ascend to the primary and secondary level, i.e. adopt the appropriate legislation and strengthen the autonomy of the institutions. Only then can Slovenia tackle the entrenched habits, values, and collective fears that lead to hatred, alienation, polarization, and ultimately extremism.

Appendices

ANNEX I: OVERVIEW OF THE LEGAL FRAMEWORK ON RADICALISATION & DE-RADICALISATION

Legislation title (original and English) and number	Date	Type of law (i.e. statute, regulation, rule, etc…)	Object/summary of legal issues related to radicalisation	Link/PDF
Zakon o preprečevanju pranja denarja in financiranja terorizma (ZPPDFT-1) [Prevention of Money Laundering and Terrorist Financing Act]	2016		Terrorism, money laundering	http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO7132
Nacionalna strategija za preprečevanje terorizma in nasilnega ekstremizma [the National Strategy for Prevention of Terrorism and Violent Extremism]	2019		Terrorism, extremism, radicalisation	http://pisrs.si/Pis.web/pregledPredpisa?id=STRA78
Resolucija o nacionalnem programu preprečevanja in zatiranja kriminalitete za obdobje 2012–2016 (ReNPPZK12-16) [Resolution on the National Crime Prevention and Suppression Program 2012-2016]	2012		Security, terrorism	http://www.pisrs.si/Pis.web/pregledPredpisa?id=RESO74

Resolucija o nacionalnem programu preprečevanja in zatiranja kriminalitete za obdobje 2019–2023 (ReNPPZK19–23) [Resolution on the National Program for the Prevention and Suppression of Crime for the Period 2019-2023]	2019		Security, terrorism	http://www.pisrs.si/Pis.web/pregledPredpisa?id=RESO119
Resolucija o strategiji nacionalne varnosti Republike Slovenije (ReSNV-2) [Resolution on the National Security Strategy of the Republic of Slovenia]	2019		Security, terrorism	Available from: http://www.pisrs.si/Pis.web/pregledPredpisa?id=RESO124
Kazenski zakonik (KZ-1). [Criminal Code]	2008-05-20		Terrorism; Freedom of Expression; Hate Speech (Article 297)	http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO5050
Zakon o varstvu javnega reda in miru (ZJRM-1). [Protection of Public Order Act]	2006		Violence, terrorism	http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO3891

Zakon o kazenskem postopku (ZKP) [Criminal Procedure Act]	1994		Equality before the law	http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO362
Zakon o varstvu pred diskriminacijo (ZVarD) [Protection Against Discrimination Act]	2016		Protection against discrimination, equality, fundamental rights	http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO7273
Zakon o verski svobodi (ZVS) [Freedom of Religion Act]	2007		Religious freedom, equality of religious communities, laity	http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO4008
Zakon o avdiovizualnih medijskih storitvah (ZAvMS) [Audiovisual Media Services Act]	2011		Freedom of expression; Incitement to hatred	http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO6225
Zakon o medijih (ZMed) [Mass Media Act]	2001		Freedom of expression; Incitement to hatred	http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO1608
Zakon o dostopu do informacij javnega značaja (ZDIJZ) [Public Information Access Act]	2003		Right to privacy, personal data protection	http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO3336

Zakon o varstvu osebnih podatkov (ZVOP-1) [Personal Data Protection Act]	2004		Right to privacy, personal data protection	http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO3906
Zakon o Slovenski obveščevalno-varnostni agenciji (ZSOVA) [Slovene Intelligence and Security Agency Act]	1999		Intelligence powers, surveillance, terrorism	http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO1884
Zakon o nalogah in pooblastilih policije (ZNPPol) [Police Tasks And Powers Act]	2003		Police powers, surveillance, terrorism	http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO6314
Zakon o mednarodni zaščiti (ZMZ-1). [International Protection Act]	2016		Asylum, asylum seekers, refugees	http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO7103
Zakon o tujcih (ZTuj-2) [Foreigners Act]	2011		Asylum, asylum seekers, refugees	http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO5761

NATIONAL CASE LAW

Case number	Date	Name of the court	Object/summary of legal issues related to radicalisation	Link/PDF
U-I-284/94	1999-02-08	Constitutional Court	Illegal erasure of 1% of residents of Slovenia in 1992 ordered by the government. In this decision, the Constitutional Court found that the erasure was an illegal act of the state authorities.	https://www.us-rs.si/odlocitev/?q=&caseId=+U-I-284%2F94&df=&dt=&af=&at=&pri=1&vd=&vo=&vv=&vs=&ui=&va=&page=1&sort=&order=&id=99416
U-I-246/02	2003 -04-03	Constitutional Court	Illegal erasure of 1% of residents of Slovenia in 1992 ordered by the government. The Constitutional Court confirmed its findings from the 1999 decision and added new ones.	http://www.us-rs.si/documents/f9/54/u-i-246-02-odl2.pdf
Judgement in the Case of Kurić and others v. Slovenia, application no. 26828/06 [online]	2012-06-26	ECtHR	Illegal erasure of 1% of residents of Slovenia in 1992 ordered by the government. HCtHR confirms the erasure was violating human rights of the Erased.	https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22001-111634%22]}

OTHER RELEVANT ISSUES

	Constitutional provisions	Statutory law (statutes, rules, regulations etc.)	Important case law	Comments/issues relevant to radicalisation
Freedom of religion and belief	Article 7			Zakon o verski svobodi (ZVS) [Freedom of Religion Act]
Minority rights	Articles 5, 11, 62a, 64, 65 (Roma) and 80 (Italian and Hungarian)			Zakon o romski skupnosti v Republiki Sloveniji (ZRomS-1) [Roma Community in the Republic of Slovenia Act]
Freedom of expression	Article 14 (equality before the law), Article 39 (freedom of expression			Article 297 of the Criminal Code
Freedom of assembly	Article 42			
Freedom of association/political parties etc.	Article 42			
Hate speech/ crime	Article 14 (equality before the law), Article 39 (freedom of expression			Article 297 of the Criminal Code
Church and state relations	Article 7			Zakon o verski svobodi (ZVS) [Freedom of Religion Act]
Surveillance laws	Article 35, Article 37; Article 38			Protection of the Rights to Privacy and Personality Rights); Protection of the Privacy of Correspondence and Other Means of Communication; Protection of Personal Data)
Right to privacy	Article 35, Article 37; Article 38			Protection of the Rights to Privacy and Personality Rights); Protection of the Privacy of Correspondence and Other Means of Communication; Protection of Personal Data)

ANNEX II: LIST OF INSTITUTIONS DEALING WITH RADICALISATION & COUNTER-RADICALISATION [25]

Authority (English and original name)	Tier of government (national, regional, local)	Type of organization	Area of competence in the field of radicalisation& deradicalisation	Link

[25] Due to the peculiar historical factors and specific security situation in Slovenia, described in chapters 2 and 6, there exist neither institutions dealing specifically with de- and counter-radicalisation nor best practices, interventions and programmes of such nature in frontline institutions.

ANNEX III: BEST PRACTICES/INTERVENTIONS/PROGRAMMES[26]

National level

	Institution(s)	Aim	Source	Evidence of effectiveness / literature
1.				
2.				

Sub-national/Regional level

	Institution(s)	Aim	Source	Evidence of effectiveness / literature
1.				
2.				

Local level

	Institution(s)	Aim	Source	Evidence of effectiveness / literature

[26] Due to the peculiar historical factors and specific security situation in Slovenia, described in chapters 2 and 6, there exist neither institutions dealing specifically with de- and counter-radicalisation nor best practices, interventions and programmes of such nature in frontline institutions.

1.				
2.				

ANNEX IV: POLICY RECOMMENDATIONS

Prezelj et al. (2021) found out that there is significant room for improvement in cooperation between potential radicalisation frontline worker organisations and institutions within the local RAN program. The relevant legislative documents practically do not include the terms “radicalisation” and “extremism”, which could be amended. In most cases, there are no pre-determined procedures for cooperation between various institutions operating on the frontline of potential radicalisation.

There is no central body responsible for recognizing, preventing and responding to radicalisation in Slovenia.

While the punitive aspect, i.e. the legal prosecution of crimes perpetrated by radicalised persons, is in place, the preventive measures, procedures, documents, and legislation are trailing behind.

Article 297 must be amended to clarify what constitutes and does not constitute prohibited speech in Slovenia. This would help create a legal definition of hate speech that could be used in prosecution and conviction of incitement to hatred and discrimination.

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DeRadicalisation
in Europe and Beyond: Detect, Resolve, Reintegrate

Deradicalization and Integration Legal and Policy Framework

Turkey/Country Report

WP4

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Hasret Dikici Bilgin, Nazlı Özekici - Istanbul Bilgi University

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List of Abbreviations

AKP	Adalet ve Kalkınma Partisi (Justice and Development Party)
CHP	Cumhuriyet Halk Partisi (Republican People's Party)
CTE	Ceza ve Tevkifevleri Genel Müdürlüğü (General Directorate of Prisons and Detention Houses)
DİSK-AR	Devrimci İşçi Sendikaları Konfederasyonu Araştırma Merkezi (Research Center of Confederation of Progressive Trade Unions)
DİTİB	Diyanet İşleri Türk İslam Birliği (Turkish-Islamic Union for Religious Affairs)
ECtHR	European Court of Human Rights
ECHR	European Convention of Human Rights
EU	European Union
FETÖ	Fettullahçı Terör Örgütü (Fethullahçı Terrorist Organization)
HDP	Halkların Demokratik Partisi (Peoples' Democratic Party)
ILO	International Labor Organization
KDRP	Köye Dönüş ve Rehabilitasyon Projesi (Return to Village and Rehabilitation Project)
OECD	Organisation for Economic Cooperation and Development
PKK	Partîya Karkerên Kurdistanê (Kurdish Workers' Party)
R2PRIS	Radicalisation Prevention in Prisons
TÜİK	Türkiye İstatistik Kurumu (Turkish Statistical Institute)

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About the Project

D.Rad is a comparative study of radicalization and polarization in Europe and beyond. It aims to identify the actors, networks, and wider social contexts driving radicalization, particularly among young people in urban and peri-urban areas. D.Rad conceptualizes this through the I-GAP spectrum (injustice-grievance-alienation-polarization) with the goal of moving towards measurable evaluations of deradicalization programs. Our intention is to identify the building blocks of radicalization, which include a sense of being victimized; a sense of being thwarted or lacking agency in established legal and political structures; and coming under the influence of "us vs them" identity formulations.

D.Rad benefits from an exceptional breadth of backgrounds. The project spans national contexts including the UK, France, Italy, Germany, Poland, Hungary, Finland, Slovenia, Bosnia, Serbia, Kosovo, Israel, Iraq, Jordan, Turkey, Georgia, Austria, and several minority nationalisms. It bridges academic disciplines ranging from political science and cultural studies to social psychology and artificial intelligence. Dissemination methods include D.Rad labs, D.Rad hubs, policy papers, academic workshops, visual outputs, and digital galleries. As such, D.Rad establishes a rigorous foundation to test practical interventions geared to prevention, inclusion, and deradicalization.

With the possibility of capturing the trajectories of seventeen nations and several minority nations, the project will provide a unique evidence base for the comparative analysis of law and policy as nation-states adapt to new security challenges. The process of mapping these varieties and their link to national contexts will be crucial in uncovering strengths and weaknesses in existing interventions. Furthermore, D.Rad accounts for the problem that processes of radicalization often occur in circumstances that escape the control and scrutiny of traditional national frameworks of justice. The participation of AI professionals in modelling, analyzing, and devising solutions to online radicalization will be central to the project's aims.

Executive Summary

This country report focuses on the legal and institutional framework with respect to radicalization in Turkey. Both desk research and interviews with experts show that the constitutional organization of the state with respect to fundamental rights and values, the relevant legislative and institutional framework and deradicalization policies carry the legacy of historical ethnic and religious conflicts and sensitivities and a limited approach to minorities adopted in the Lausanne Peace Treaty. As the definition of the minorities is confined to the boundaries of the Lausanne Peace Treaty which only acknowledges the non-Muslims, and, a further minority regulation regime was not introduced in the later years, the political space does not provide adequate space for the recognition of ethnic and religious demands. The constitutional framework has maintained a similar perspective despite different constitutions were enacted across time. Secularism and a notion of civic nationalism comprise the two main founding principles. Article 3 provides that the integrity and indivisibility of the unitary state and its nation is an irrevocable provision and thus ethnic or religious diversity claims have been perceived as threats to the national unity. Despite the constitution also emphasizes the importance of fundamental rights and liberties and equality before law, the fact that Articles 13 and 14 allow suspension of the fundamental rights and liberties in case of the violation of Article 3 indicates the priorities of the political regime.

The relevant legislative framework beyond the constitutional context with respect to radicalization has a similar security-based approach in which there is not a specific conceptualization of radicalization: discourses outside the constitution and official ideology are treated as threats to national integrity and evaluated under the context of counter-terrorism. The legislation is punitive, limited in scope regarding the hate crimes and applied in a biased way to protect the majority ethnic and religious groups. As a more salient pattern, Article 301 regulating insulting Turkish nation is used to frame ethnic demands as anti-constitutional and terrorist activities. Recent Internet law also gives the state the right to acquire communication data without any court permission and is instrumentalized to incriminate the opposition. The available legislative context with respect to radicalization doesn't encompass the online contexts and any effort to detect radical contents on online platforms targets the minorities and dissident groups rather than hate speeches and discriminatory attitudes targeting the minorities. The only paradigmatic case law is Selendi case in which the perpetrators of the attacks on the Roma community are sentenced at the maximum prison term provided by the relevant provisions of the Turkish Penal code, and it forms the only case, that we are aware of, used to rule on the attacks against the minorities. While carrying the potential of being an exemplary case, the evidence shows that it didn't have a dramatic impact on legislative framework for later crimes.

The institutional and policy framework reflects the approach in the legal framework in that policies ignore the ethnic and religious diversity, downplay the crimes against

minorities with a security approach on radicalization and deradicalization and protect the dominant groups rather than minorities and dissidents. The Islamization policies of the AKP and its further closing down the political space with a super-presidential system also exacerbates the situation and feelings of insecurity among non-Muslim and heterodox Muslim groups such as the Alevis.

Concomitant with the counter-terrorism approach and the lack of a framework for radicalization, de-radicalisation projects are majorly composed of prison programs. One of them is called “Multi-level in-prison Radicalization Prevention Approach” (R2PRIS) enacted between 2015 and 2018 jointly funded by the Erasmus+ program. The program focused on training the frontline personnel in terms of assessing the indicators of radicalization and developing measures to alleviate the potential factors for radicalization. Its comparative aspect also paved the way to exchange best practices via bilateral visits. The other deradicalization project targets jihadist inmates in prison in which the Ministry of Justice and Ministry of Religious Affairs cooperate. The latter relies on the clerical personnel in prisons who are charged of disseminating the tolerant messages of Islam. However, the low participation rate in program shows the necessity of adopting a radicalization approach at state level, involvement of experts and practitioners of diverse backgrounds to decrease the categorical rejection by inmates, and devising a training program which equips the clerical personnel with specialized training about radicalization and deradicalization going beyond the tolerant religious narratives.

1. Introduction

The country report D4.1 focuses on the existing policies and legal framework that address radicalization. It begins with a brief historical background on radicalization in Turkey with a specific focus on the main characteristics of the society and its constitutive groups and the geography of radicalization. The report continues with the constitutional organization of the state and the values and rights pertaining to the religious, political, ethno-national and separatist issues. In this section, we emphasize that the weaknesses and loopholes in the constitution with respect to radicalization is the main cause of the absence of a constitutional case-law.

The report, then, delves into the other relevant legislative framework. It points out that the Turkish Penal Code and the Turkish Counter Terrorism Law articles are invoked in the crimes against the minorities and disadvantaged groups without any specific content pertaining to the element of hate. It focuses on the Selendi case as a case-law, in which the Roma residents, were attacked. In the next section, the report discusses the relevant policy and institutional framework in the field of radicalization underlining the fact that the policy framework prioritizes counter terrorism rather than radicalization. This leads to an absence of effective policy development for deradicalization. It takes two well-known examples of deradicalization policies and draws conclusions for the lessons to be learnt.

2. The Socio-Economic, Political and Cultural Context

Turkey ranks as the 54th country in the Human Development Report (HDR) of the United Nations Development Programme (UNDP) by 2021 (UNDP 2021), falling behind the European Union (EU) and the Organization for Economic Co-operation and Development (OECD) countries. Poverty and unemployment continue to be a severe problem especially for the young people. According to the International Labour Organization (ILO), youth unemployment rate reached to 27.1% by November 2020 (ILO 2021). The Turkish Statistical Institute (TÜİK) and the Research Center of Confederation of Progressive Trade Unions of Turkey (DİSK-AR) diverge about the general unemployment statistics. While the official unemployment rate was declared as 13.9% as of April 2021 (TÜİK 2021), the trade unions claim that the official figures exclude those unemployed out of seasonal work and those stopped looking for a job because of not being able to find a job for a long time; and when these groups are added, the unemployment rate reaches to 27.4% (DİSK-AR 2021) for the same period. Furthermore, Turkey has the highest inequality rate in comparison to the European countries, with the widest gap between the incomes of the top 20% and the bottom 20% of the society (BİA News Desk 2021).

The economic landscape is accompanied by a complex social structure. Multiple forms of radicalization with violent outcomes have prevailed in Turkey since the inception of the republican period in 1923.[1] The country emerged out of the World War I as the successor of the Ottoman Empire with its socio-economic and political legacies. The young republic's vision of the new nation entailed a secular public sphere in which the religious authority would be

[1] This part of the report also takes place in Turkey Country Report D3.2 in a slightly revised form.

subjugated to the state control and the ethnic minorities would be relegated to the cultural sphere under the umbrella identity of Turkishness. The Lausanne Peace Treaty of 1923, as the founding agreement of the republic, recognized only the non-Muslim communities as the minorities, but did not create a minority regulation regime that would respond to the cultural or religious claims. Through the course of the years, several divisive issues consolidated into politicized cleavages around ethnic and religious identities and the permissible visibility of the religion in the public sphere. These conflicts attained violent character at certain historical junctures, sometimes through the intervention of the state institutions, particularly the military establishment, such as the September 12, 1980 coup[2]. A quick glance at the Turkish political history reveals two aspects. All four types of radicalization with violent character, namely the jihadist, right-wing, left-wing and separatist, have existed in Turkey since the beginning of the republican era. Moreover, Turkey witnessed violent events related to all four types nearly in every decade, especially jihadist and right-wing radicalization.

The forms of radicalization based on religious or right-wing notions indeed precede the republican period. The westernization reforms initiated in the 18th century marked the beginning of the traditionalist-reformist division which consolidated further with the *Tanzimat*[3] period of the 19th century. Reactions against the secularism principle which laid out the foundations of the new republic led to several uprisings motivated by overtly religious concerns (Berkes 1964). The *Tanzimat* reforms aimed to reform the dysfunctional state institutions along with proposing a new inclusive citizenship following the ethnic uprisings in the Ottoman Empire (Stamatopoulos 2006; Dressler 2015; Davison 2015; Inalcık 2019). The search for creating a nation as homogenous as possible against the background of the ethnic uprisings of the 19th century and the World War I during the early republican period did not leave any space for ethnic and religious claims. It also created a minority discourse, in which any ethnic demand would be denoted as suspicious and divisive. The absence of any official recognition of the cultural specificities of different ethnic or religious groups other than the general clauses of the Lausanne Peace Treaty which stipulate that the non-Muslim nationals would be under equal protection with all citizens (Lausanne Peace Treaty 1923) led to an obscure social setting of which right-wing groups justified their attacks on the minorities, claiming that they attacked the separatists and internationally funded groups as they could not be considered as minorities in the legal sense.

3. The Constitutional Organization of the State and Constitutional Principles on D.Rad Field of Analysis

Constitution-making in Turkey dates back to the Ottoman Empire. The first constitutional movement came in 1808 with *Sened-I İttifak* (Deed of Alliance), which regulated the division of powers between the monarchy and the local rulers. It was followed by the *Tanzimat Fermanı* (Decree of Reforms) in 1839 and *Islahat Fermanı* (Decree of Improvements) in 1856. The

[2] The 1980 coup resulted in the exile, imprisonment and torture of tens of thousands of people, mostly from left-leaning and Kurdish groups. For further information, please see (Orhon 2015). The coup was made within the chain-of-command led by General Kenan Evren. It was supported by the ultra-nationalist groups actively and the Islamists tacitly.

[3] The Tanzimat period refers to the legal and policy reforms in the 19th century to rehabilitate the failing state institutions in the Ottoman Empire.

Tanzimat reforms initiated secularization of the legal framework and provided rights to all citizens regardless of their ethnicity or religion, while the *Islahat* decrees specified the rights and the liberties that were extended to the non-Muslims (Grigoriadis 2013). The first constitution of the Empire followed these movements and was enacted in 1876 titled *Kanun-I Esasi* (The Basic Law). Although it provided constitutional equality of representation for the entire population, it failed to create a powerful parliament able to limit the powers of the government effectively (Atar 2001). It should be kept in mind that the constitutional movements in this period aimed to re-empower the Empire in turmoil and prevent foreign intervention by extending recognition and the rights to the non-Muslim population (Grigoriadis 2013, 282). This aspect of the Ottoman constitutional framework sheds light on the dynamics of the citizenship and minority regime in the republican period. As ethnic nationalism found appeal in the Ottoman territories overwhelmingly populated by the non-Muslim groups leading to the emergence of separatist uprisings and the political regime became more autocratic under Abdulhamid II, the reform process was reversed, and ethnic tensions rose.

The first republican constitution was made in 1921 establishing a parliamentary government and making Islam as the state religion. It was made by the revolutionary elite who led the independence struggle against occupation in the post-World War I period and aimed to lay down the foundations of the new regime in general terms. In 1923, Lausanne Peace Treaty was signed bringing the conflict between the Allied powers and the Ottoman Empire. It also recognized the new regime in Turkey as the legitimate and sovereign successor of the Ottoman Empire and the representative of the population living in Anatolia and Eastern Thrace. The citizenship regime defined in the Lausanne Peace Treaty laid out the foundations of the minority policy and legal framework throughout the republican period to this day. The treaty was progressive in the sense of providing equal rights and liberties to all citizens regardless of their ethnicity, language, race and religion (*Lausanne Peace Treaty* 1923); however, only non-Muslims were acknowledged as minorities. In other words, religious diversity within Islam (as in the case of the Alevis[4]) and ethnic diversity were ignored. As mentioned earlier, the policy and legal framework bore the legacy of the ethnic tensions preceding the World War I. An annex of the treaty, titled Declaration of Amnesty gave immunity to all crimes connected to political events in the period of 1914 to 1922. In the same year, the 1921 constitution was amended by declaring Turkey a republic following the international recognition of the sovereignty of the Turkish republic as the successor of the Ottoman Empire. A new constitution took effect in 1924, which declared secularism as an irrevocable provision along with other fundamental principles, installed a majoritarian parliamentarism. Ironically, a more progressive constitution was made in 1961 following the military coup of May 27, 1960.[5] 1961 Constitution introduced clear separation of powers between the branches of government and a checks and balances system, designed a consensus vision of parliamentarism, reformed the electoral law with proportional representation system, established a bicameral parliament, brought the principle of the social state as another irrevocable provision and expanded the constitutional guarantee of the political rights and civil liberties.

The 1982 Constitution made after the September 12, 1980 coup reversed this process dramatically. Although the parliamentary system was retained, the checks on the executive

[4] The Alevism is a heterodox group who has been persecuted by the Islamists since the Ottoman period. For details, please see the Turkey report 3.2.

[5] The 1960 coup was staged by a heterogenous group of low and middle rank officers led by General Cemal Madanoğlu and against the Democratic Party (DP) government of Adnan Menderes. The coup had popular support from the emerging urban middle classes (Daldal 2004).

branch were weakened, parliament became unicameral, and representation was curtailed with a 10% electoral threshold. This Constitution is still in effect however went through several amendments. Some of the democratic reforms in the form of constitutional amendments were made in the EU harmonization process following the 1999 Helsinki Summit as Turkey was granted the candidacy status. 2001 and 2004 reforms brought improvements regarding individual liberty, privacy, freedom of expression, freedom of the press, freedom of association and assembly, the right to a fair trial, the right to work and form labor unions. The reforms abolished the state security courts, empowered the Constitutional Court's (CC) review capacity, curtailed the institutional powers of the military establishment (Özbudun 2007). In 2007, the constitution was further amended enabling the election of the president by direct popular vote, which can be considered as the beginning of the transition to presidentialism. Although Gül was the president and Erdoğan the prime minister, Erdoğan started to sideline Gül and increasingly held the control of the state apparatus and the media. In other words, this de facto transition, came first in the form of presidentialization, a term coined by some scholars to refer to the increasing domination of the prime ministers in some parliamentary systems (Poguntke and Webb 2005). When Erdoğan was elected as the new president by direct popular vote in 2014, a reverse trend emerged; and Erdoğan tried to sideline the new Prime Minister, Davutoğlu. Davutoğlu's resistance led to his removal from office by Erdoğan in search of a more compliant one (Letsch 2016). Finally, in 2017, presidentialism was introduced. The new system grants extensive powers to the president by uniting the executive powers under the presidency and giving little role to the cabinet (Article 104), transfers the majority of the powers of the cabinet to the presidency (Article 106), weakens the supervisionary powers of the parliament over the executive (Article 87), empowers the president over the appointment of the CC judges (Article 146) and enables mutual dissolvement of the government and the parliament (Article 116) (*Constitution of the Republic of Turkey* 1982).

We have so far outlined the historical course of constitution-making in Turkey as the evolution of the constitution into its contemporary form provides a better understanding of its overarching principles and provisions relevant to the D.Rad policy fields in its political-historical context. The first principle of the contemporary constitution is republicanism as the new regime aimed to break with its past and prevent any kind of return to monarchy (Article 1). The second article defines the characteristics of the republic as respecting to human rights, committed to Atatürk nationalism, democratic, secular and social and governed by the rule of law.[6] The third article emphasizes the integrity and indivisibility of the unitary state and its nation and recognizes Turkish as its official language. These three articles reflect the historical legacy and the impact of the approach adopted in the Lausanne Peace Treaty. Secularism principle separates the state affairs from the religious affairs and with Article 136 it establishes a Presidency of Religious Affairs (*Diyanet İşleri Başkanlığı, Diyanet*) to work according to the principles of secularism. In this way, the religious authority is subjugated to the political authority. Article 24 provides freedom of religion and conscience; however, the constitution does not recognize religious diversity beyond the scope of the Lausanne Peace Treaty. In practice, this brought Sunni Islam as the dominant interpretation of Islam and does not grant the Alevis political and public recognition (Dressler 2015). The Alevi worshipping places named as *cemevi* does not have legal status of a religious center, hence do not have the

[6] The constiutional model is based on the Kemalist framework which sought to create the new state and its socio-economic order with a secular, nationalist, pro-Western Outlook. For a discussion of its practical implications on the Turkish politics, see (Ciddi 2008).

access to the public resources unlike the mosques dominated by the Sunni clerics (Borovalı and Boyraz 2016). Overall, although the principle of secularism is a progressive principle vital for a democratic system, its application in Turkey fails to resolve the secular-Islamist divide and recognize the diversities within the Muslim community. Crimes against the Alevi minority in this legal framework are handled without constitutional support beyond the Article 10 establishing equality before the law.

The emphasis on the loyalty to Atatürk nationalism in Article 2 identifies Turkishness as a supra identity with a civic interpretation of nationalism. On the other hand, ethnic identities remain unrecognized. The demands of the Kurdish minority in this context face the emphasis on the indivisibility of the unitary state and nation in Article 3. In other words, ethnic demands for recognition cannot be contained in the constitutional framework and interpreted only within the context of separatist activity. This emphasis overarches all other principles as Article 13 and 14 enables the constitution to curtail the fundamental rights and freedoms in case of threats to the national unity and territorial integrity (İçduygu and Ali Soner 2006, 456). Articles 25, 26, 33, 34, 68 regulate the fundamental rights and liberties pertaining to the freedom of expression, association, assembly and political party activity along with the Article 10 which provides equality before the law. Article 20 and 22 provide protection of the individual privacy. However, as mentioned earlier, the Constitution allows curtailment of the fundamental rights and liberties in the cases deemed to pose threat to the fundamental principles defined in Articles 2 and 3, particularly secularism, nationalism and national integrity. In practice, this means that ethnic or religious demands can be interpreted as acts endangering the irrevocable principles of the Constitution. In a similar fashion, the constitution's emphasis on the national unity and territorial integrity does not allow formation of the local governments that can play role in democratic representation and local politics remain limited to the municipality services (Köker 1995; Güney and Çelenk 2010).

The CC's decision on the closure of the HDP forms a case law in this regard.[7] In the case of the closure of the pro-Kurdish HDP (Halkların Demokratik Partisi, Peoples' Democratic Party) in 2003, the activities and the discourse of the party were ruled as violation of the Turkish constitution. The court ruled that the party's chairs and organization members had acts which violate the indivisible integrity of the unitary state and its nation, invoking the preamble and Articles 3, 5, 14, 28, 30, 58, 81, 103, 130 and 143, all of which emphasize the indivisibility of the integrity of the unitary state and its nation (Anayasa Mahkemesi 2003). The court also invoked Articles 68 and 69 declaring that the closure of HDP was constitutional as the articles enable the closure of the political parties on the basis of the violation of the fundamental principles. HDP was further accused of affiliation with the PKK (Partîya Karkerên Kurdistanê). In conclusion, the party was closed in accordance with Articles 68 and 69 of the Constitution and Article 101/b of the Law on political parties, its top leadership was banned from political activity for five years, and the party's properties were transferred to the national treasury.

[7] There is also the case pertaining to the closure of the Refah Party in 1998 again on the ground of violating the constitutional order, however with the accusation that the party members aimed to establish a teocratic state which would endanger the religious freedoms and the democratic system.

4. The Relevant Legislative Framework in the Field of Radicalization

We have conducted desk research on the broader legislative framework regulating the issues pertaining to radicalization and deradicalization beyond the constitutional context. We also made interviews on June 9, 2021, in a virtual format with two legal experts, one a human rights lawyer, the other a law scholar and a lawyer working in the fields of constitutional law and anti-discrimination. We also interviewed a political science scholar working in the field of radicalization and extremism on June 10, 2021, again in a virtual meeting. As we informed our three participants, we did not record the meetings and rather took notes in handwriting. The respondents were given written consent forms explaining the scope of the project and how the interview data will be used. We did not need to make further interviews as both legal experts provided similar information.

The respondents emphasized that the policy and legal framework in Turkey does not conceptualize radicalization and approaches discourses outside the constitutional framework and official ideology within the context of counter terrorism and as acts and discourses against the indivisibility of the unitary state and its nation. In other words, the legislation is guided by national security and public order concerns rather than a principle of balancing the security regulations with the fundamental freedoms. The legislation on radicalization has a punitive approach and is applied in a biased way. The main legal provisions which regulate the cases related to radicalization are Articles 216 and 122 of the Turkish Penal Code. According to Article 216:

(1) A person who openly incites groups of the population to breed enmity or hatred towards one another based on social class, race, religion, sect or regional difference in a manner which might constitute a clear and imminent danger to public order shall be sentenced to imprisonment for a term of one to three years.

(2) A person who openly denigrates part of the population on grounds of social class, race, religion, sect, gender or regional differences shall be sentenced to imprisonment for a term of six months to one year.

(3) A person who openly denigrates the religious values of a part of the population shall be sentenced to imprisonment for a term of six months to one year in case the act is likely to distort public peace.

Article 122 which was amended in 2014 to include a clause about hatred, provides that discrimination among people due to difference of language, race, colour, sex, political view, philosophical belief, religion, religious sect etc. shall be considered a crime and punished. However, the Article specifies only four certain crimes within the scope of hate crime: preventing the sale or rent of a property, preventing access to a service, preventing employment, and preventing ordinary economic activity due to discrimination and hatred against a certain group.

The legal experts emphasized that the letter of the two provisions is not problematic in general. They claimed that the way Articles 216 and 122 are used by the political authority poses the core problem. Instead of protecting the minorities and disadvantaged groups, as can be seen in the court decisions, the public prosecutors and judges invoke these articles to protect Turkishness and Sunni Muslim values. For instance, during the student protests at Boğaziçi

University against the presidential appointment, government officials denigrated the LGBTQ individuals as “perverts” and terrorists, however, Article 216 was instead invoked against the protestors (2021).

Article 122’s scope of crimes is very narrow, for example excluding psychological and physical violence against women and the LGBTQ individuals. Discrimination and hate crimes encompass a wider scope than defined in the law and the crimes specified are very difficult to be proved that they are committed because of hatred and discriminatory attitudes. Moreover, even if it is ruled that there is an element of hatred and discrimination, it does not aggravate the punishment. Experts recommend aggravating the punishment in such cases, expand the scope of the crimes, taking hate crimes out of the scope of freedom of expression. Moreover, they emphasize that unless the independence of judiciary is improved and a new justice system introduced in a way that people with different ideological and political tendencies can become judges. In its current condition, the presidency controls the judicial organs with partisan appointments and pressing charges against the judges who give unfavorable decisions. Otherwise, they warn that these unilateral and political interpretations dominant in the judicial system will continue to prevail. In the current situation, insults and discriminatory acts against minorities such as the Alevis, Kurds and Armenians, as the legal experts warn, are ruled as part of freedom of expression while any speech or act critical of the dominant social groups are punished. The respondents also recommend mediation in criminal matters with alternative dispute resolution. They underline the fact that use of the Penal Code to protect the majority religious and ethnic population leads to feelings of injustice, grievance and alienation which polarizes the society into those who are protected by the law and who are punished by the law. They argue that mediation in criminal matters can bring the perpetrator and the victim together and create a mechanism in which the encounter may convince the perpetrator about the consequences of their wrongful action.

Article 301 which regulates insulting Turkey, the Turkish nation, Turkish government institutions, or Turkish national heroes was interpreted particularly problematic, and, identifies ethnic demands as anti-constitutional and terrorist activities. In 2011, the European Court of Human Rights ruled that this provision was too widely and vaguely interpreted by the judiciary on the basis of the case *Altuğ Tamer Akçam vs Turkey* and that the provisions violate the Article 10 of the ECHR (European Court of Human Rights 2011). The legal experts also concur that the Article 301 is used against the minorities rather than protecting the social peace.

Two further issues emerged during our desk search and interviews. The legal framework fails to respond to the on-line contexts. Articles 116 and 132 of the Turkish Penal Code regulates violation of the immunity of residence. Article 132 of the Turkish Penal Code, titled “Violation of Confidentiality of Communication” defines the violation of the confidentiality of communication between persons as an offence. Data protection law No. 6698 enacted in 2016 secures the data privacy of the individuals as a fundamental right and liberty. The companies or collective personalities which provides goods and services to the EU countries and their citizens are subject to General Data Protection Regulation (GDPR) and the data transfer from Turkey to the EU countries are GDPR compliant. However, these laws fail to protect the fundamental rights and liberties in practice (Rodriguez and Temel 2020). Furthermore, the Internet Law No. 5651 dated 2007 authorizes the punishment and limitation of the online content and forces the international news and social media platforms to appoint a local representative, localize their data, and speed up the removal of content if demanded by the

government. Finally, emergency decrees no. 667-676[8] took effect after the abortive July 15, 2016 coup[9] enables the government to access communications data without a court order. Overall, the legal framework empowers the state institutions rather than the individual privacy and liberty. From another dimension, there is no legal or political framework against the social media accounts which spread hatred and discriminatory discourse against the minorities, and, the law enforcement either does not track the radical online content or tracks but does not take any precaution if it does not belong to separatist or left-wing groups. A repercussion of this policy was illustrated by the attack on the Izmir district branch of the HDP on June 27, 2021 (Kepenek 2021). After the perpetrator was apprehended, it was revealed that one day before the incident he tweeted hateful comments and threats to the minorities and posted photos showing him as a possibly foreign fighter in Syria (*İleri Haber* 2021).

There is only one case that we could find in our research that can be considered as a paradigmatic case-law on radicalization. It is the Selendi case. The court decisions other than those of the Constitutional Court are closed to public.[10] Therefore, we did not have any access to the official documents. However, we collected news coverage, statements of the lawyers of the victims and reports of the civil society organizations.

On December 31, 2009, a quarrel at a coffee house in Manisa's Selendi district between members of the Roma and non-Roma residents exacerbated into lynching. The attacks on the property and the personality of Roma people continued for days. On January 5, 2010, the mob flooded the streets chanting "The Gypsies out", "Selendi is ours". The Roma witnesses claimed that the discriminatory behavior started after the local elections in 2009 with actions to prevent the Roma to enter some coffee houses or denying service (İnsan Hakları Derneği & Çağdaş Hukuçular Derneği 2010). The element of hatred in the public behavior was clear. The police failed to establish the public order and provide security of the Roma. The mob was later dispersed by the gendarmerie, and, the Roma residents were relocated to another district. It took three years for the Ministry of Family and Social Policies to settle the displaced Roma to permanent public housing. The report published by the Roman Hakları Derneği (Roma Rights Association) reveals the extent of psychological and financial damage. The displaced Roma mostly lost their jobs, could not adapt to their new neighborhoods, eventually moved to other places. The report also points out to the feelings of insecurity and fear that the state institutions would not protect them, and feel alienated as they thought that the perpetrators would not be persecuted at an extent that they deserve (Özbek 2015). The trial took 20 hearings and 5 years. In 2015, Uşak 2. Civil Court of First Instance ruled that the perpetrators should be punished in accordance with Articles 216, 151 and 152 of Turkish Penal Code. The Article 216 provides that the offense of inciting the population to breed enmity or hatred or denigration based on social class, race, religion, sect or regional difference in a manner which might constitute a clear and imminent danger to public order shall be sentenced to imprisonment for a term of one to three years. It also rules that a person who openly denigrates the religious values of a part of the population shall be sentenced to imprisonment

[8] These decrees took effect after the abortive coup of 2016, granting the president the authority to dismiss public servants and removed the controls over the trial processes.
[9] On July 15, 2016, a factional coup was attempted led by officers with ties to the Gülenists to the best of our knowledge. The coup was aborted in a short time as the high ranking officers did not back up the putschists and the government succeeded in mobilizing popular support (Çalışkan 2017).
[10] The court decisions as well as the reports of the horizontal accountability institutions such as the Court of Accounts have been gradually closed to the public access increasingly since 2011 as the regime continued to close up and attain an increasingly authoritarian character.

for a term of six months to one year in case the act is likely to distort public peace. To the best of our knowledge, based on our desk research and interviews, the Selendi case is the only case in which Article 216 was used in favor of a minority group. Articles 151 and 152 on the other hand regulates the offences against the private property. As a result, the court ruled that 38 perpetrators should be imprisoned for a term between 8 months to 45 years. The legal experts we interviewed explained the case as an attempt of the judge and the public prosecutors to compensate for the deficiencies of the legal framework. First, the punishments were given at the maximum terms. Secondly, as the element of hatred does not aggravate the prison term, additionally Articles 151 and 152 were invoked. The case forms an important precedent for similar events and shows that Turkish legal system needs specific legal framework for the hate crimes. Turkish legal system does not leave much space for case-law and jurisprudence in general as stated by the legal experts I interviewed for the report; however, the Selendi court decision discourages similar crimes showing that the outcome might be severe for the perpetrators. Unfortunately, we did not find any evidence that the Selendi case had a dramatic impact on the policy and legal frameworks as later crimes against the minorities and refugees did not produce similar results.

5. The Relevant Policy and Institutional Framework in the Field of Radicalization

The policy and institutional framework in Turkey in the field of radicalization partly reflects the legal framework. The official discourse follows the Constitution about the equality of all citizens before the law and that any act which denigrates a social group is subject to a criminal prosecution. However, we observe two tendencies: the policies ignore the religious and ethnic diversity, downplay the crimes against the minorities; and radicalization and deradicalization policies are mostly shaped by a security approach. Counter terrorism rather than radicalization informs the policies, and the priority resides with protection of the dominant groups rather than the minorities and dissidents. We also observe that the groups targeted by the regime changed across the time, however, the tendency of the state institutions to punish the subjectively defined enemies continues.

The official discourse regarding religious freedoms conventionally emphasized the secularism principles guarantees religious freedoms until 2000s. Despite the equality of citizenship and rights provided to the Muslims and non-Muslims, there is a general suspicious attitude towards the non-Muslims citizens, particularly the Jews and Armenians. The establishment of the Turkish republic brought a process of religious harmonization by population exchange agreements between Turkey and Greece so that the non-Muslim population would move and the Muslim Turks abroad could be relocated (Gürsoy 2008). The discriminatory policies of the public institutions and hate crimes targeting the non-Muslim population which went unpunished further resulted in the migration of the non-Muslim population abroad (Içduygu, Toktas, and Soner 2008). The Armenians have been particularly vilified for cooperating with the occupiers and their alleged atrocities during the World War I and identified as an ethnic threat which was corroborated by the vilifying media discourse (Koldas 2013). The feelings of alienation and insecurity appear to be exacerbated with the Islamization policies in the last two decades as illustrated by the renewed emigration of non-Muslims (Pinto and David 2019). To the best of our knowledge, the non-Muslims did not occupy top level positions in law enforcement or bureaucracy. The policy framework also discriminates against the heterodox

Muslim groups such as the Alevis. The religious institutions have been designed according to the Sunni Islamic values and Alevism has not been officially recognized. The Alevi students have to attend the compulsory religious education courses with a Sunni Islamic curricula despite the ECtHR decisions (Özalp 2015). However, the policy framework has responded to the secular-Islamist cleavage, as shown by the ruling which led to the closure of the parties with an Islamist pedigree by the Constitutional Court (Boyle 2004). The quasi-coup of February 28, 1997[11] brought a process in which the female students with headscarves were deprived of their right to education (Cizre and Çınar 2003). On the other hand, the military-bureaucratic establishment dominated the post-1980 period until mid-2000s, adopted the Turkish-Islamic synthesis to counter the challenges from the pro-Kurdish and leftist politics (Kurt 2010; Kaya 2020). Ascendance of the *Adalet ve Kalkınma Partisi* (Justice and Development Party, AKP) to power in 2002 brought an Islamization process (Oprea 2014; Yesilada and Rubin 2013; Kaya 2015). This process provided a wider space for the Sunni Muslim population and religious orders while the desecularization led to feelings of injustice and alienation among the non-Muslims and the Alevi population.

The closing of the political space since the second term of AKP in power and with the transition to a presidential system in the form of superpresidentialism increased human rights violations and violations pertaining to the freedom of speech, expression and the press. The current political landscape provides very little space to the local municipalities, the third sector and the NGOs. Recently, the Court of Cassation prosecution opened a closure case against the pro-Kurdish HDP[12] (*BBC News Türkçe* 2021).

The main opposition party, CHP's (Republican Peoples Party) members, are accused by the government for having alleged affiliation with left-wing radicalization (*Deutsche Welle* 2021). Interpreting the treatment of the secular and pro-Kurdish opposition by the incumbent party, the policies on radicalization appear to be punitive rather than integrative, and the security discourse dominates the policy framework on radicalization and deradicalization. As far as the Kurdish issue is concerned, AKP had initially started a reconciliation process known as the Peace Process in the 2012-2015 period. However, the process failed in the polarized political environment (Yeğen, 2015; Pusane, 2014). In the context of separatist radicalization, the most important deradicalization program was the "Return to Village and Rehabilitation Project" which was initiated in 1999.[13] The program accelerated under the AKP government's National Unity and Brotherhood program, commonly known as the Peace Process, which was terminated in 2015. Although the process was claimed to be officially initiated in 2013, initial efforts for putting a permanent end to armed conflict and beginning of the talks between the PKK and the state officials can be traced back to 2009, when more than 30 PKK members were permitted to enter Turkey legally from the Habur border gate with the promise of non-prosecution. In this context, the project was renewed on June 23, 2010, with an additional budget,[14] with an effort to sustain the peaceful return of the habitants of the villages evacuated and destroyed during the height of the armed conflict in the mid-1990s, providing occupational

[11] The February 28 process refers to the non-violent military intervention which removed the government in which the Islamist Refah Party was a partner; and, increased the institutional powers of the military over the parliament and the government.
[12] The report gives place to the closure of several Kurdish parties as the closure of the Kurdish parties have been cyclical since 1990s. A new party was formed after the closure of its predecessor to closed by a new verdict and succeeded by a new party.
[13] This part also takes place in the country report D3.1 in a slighlty revised version.
[14] https://www.icisleri.gov.tr/koye-donus-ve-rehabilitasyon-projesi-kdrp

training and employment to the returnees, re-construction of the infrastructure, repairing the basic education and health care facilities, and providing logistical support for the reconstruction of the damaged houses. The policy was consistent with EU legal framework with regards to the protection of the fundamental rights.

To the best of our knowledge, there is no deradicalization program targeting left-wing and right-wing radicalization. Prison programs appear as the most common deradicalization initiatives against jihadist radicalization. The Presidency of Religious Affairs[15] in coordination with the Ministry of Justice (particularly, General Directorate of Prisons and Detention Houses) and the police force conducts some programs in the field of jihadist radicalization. These programs aim to disseminate "peaceful and tolerant messages of Islam" among the inmates in Turkish prisons, cultural centers in Central Asia, and the Balkans; to raise awareness among the refugees under temporary protection in Turkey on the dangers of religious radicalization, to provide training programs in the child protection units against radical narratives, to raise imams who can disseminate tolerant messages. There is also a program of twin sister cities with the African countries to develop a counter-narrative (OHCHR, 2015, p.15). Turkish national police hold conferences at schools for awareness-raising; and contact families designated as at-risk by the police force. There are also programs funded by the EU and the General Directorate of Prisons and Detention Houses functions as a project partner (R2pris, 2015).

As it comes to the use of technology for detecting radicalization, the Information and Communication Technologies Authority tracks radicalization, but mostly for the purposes of intimidating and prosecuting the opposition (Rodriguez and Temel 2020). In addition to this institution, Counter-Terrorism and Operations Department under the Ministry of Internal Affairs and General Directorate of Prisons and Detention Houses under the Ministry of Justice deal with radicalization and deradicalization especially through the international projects funded and supported by the EU and the Erasmus Plus programs. The centralized administration and the closing of the political space does not allow independent actions by the local municipalities or the third sector and the NGOs. The Police Academy publishes reports about radicalization and deradicalization without any concrete deradicalization projects.[16]

6. Two in Depth Case Studies

The policy approach which prioritizes counter terrorism over the conceptualization of radicalization and deradicalization and the absence of a specific legal framework pertaining to radicalization shape the counter radicalization measures in the form of imprisonment and investigation. Turkey has not yet developed a policy framework on deradicalization which would be designed taking the specific characteristics of different types of radicalization into consideration (International Crisis Group 2020, 21). The most important project we found in this regard adopting a deradicalization approach like the European countries is “Multi-level In-

[15] The Presidency of Religious Affairs was established in the early years of the republic. However, in the AKP period, its staff and budget expanded enormously and it became a critical and visible actor in the decision-making mechanism.

[16] One report I could access is (Gunn and Demirden 2019). I could not get access to the others despite I formally contacted the Academy. The knowledge about the lack of concrete deradicalization projects is based on this report; and, the brief interviews I made with the people I could reach in the institution.

prison Radicalisation Prevention Approach" (R2PRIS) in the 2015-2018 period. The project was implemented in six countries: Norway, Portugal, Belgium, the Netherlands, Romania and Turkey. Turkish Prison Administration (Ceza ve Tevkifevleri Genel Müdürlüğü) under the Ministry of Justice was the official partner from Turkey. The project approaches the prisons as both places of detention for people committed radical crimes and as a facility of radical milieu given that especially young inmates vulnerable to radicalization are recruited to radical groups during their terms in prison even if they have no prior affiliation. The frontline personnel, specifically the correctional officers, educational staff, psychologists, and social workers play a key role in detecting indicators of radicalization, raising awareness, and eliminating the potential factors that may lead to radicalization. The project focused on training of the frontline personnel in prisons on the conditions in prisons that may lead to radicalization and the recruitment strategies of the organizations. In terms of the outcomes, the project provided a methodological framework and radicalization screening tool to detect the indicators of radicalization. The screening tool is used to train the prison staff regarding the prison environment and inmate related factors. It also involves a mutual learning process. At first, a general instrument of radicalization screening is convened to the participating prison staff, then it is modified for each country with the feedback from the participants. At the third stage, individual radicalization screening tool is developed based on a large questionnaire on 10 dimensions (emotional uncertainty, self-esteem, radicalism, distance, and societal disconnection, need to belong, legitimization of terrorism, perceived in-group superiority, identity fusion and identification, and activism) to identify the inmate specific radicalization process. The project further gave trainings to the prison staff for developing response strategies for the vulnerable individuals. It also provided a platform between country teams for on-site best practice exchanges through the facility visits. With the finalization of the project, partners published a handbook and online repository of best practices on radicalization prevention in prisons that can be used by future prison staff trainings (Radicalisation Prevention in Prisons 2015-1-PT01-KA204-013062 (R2PRIS) 2015).

Turkey has the highest number of inmates across Europe after Russia according to the report of the Council of Europe (Alan 2020); and the prison conditions have been subject to severe criticisms from the ECHR. Accordingly, Turkey ranks first in terms of prison density in the sense of prison population rate per 100,000 inhabitants (Aebi and Tiago 2020). There were nearly 300,000 inmates in the Turkish prisons, over 37,000 of them serving for crimes related to terrorism in 2020 (*T24* 2020). A substantial majority of the inmates were convicted in relation to having ties with FETÖ, followed by PKK and ISIS (Armutçu 2018). This places Turkey as the country with the highest number of convicts affiliated with radicalization (*Amerika'nin Sesi* 2021). We need a caveat here. The closing of the political space and the systematic intimidation and repression of the opposition brought an incrimination strategy in Turkey. Several journalists, academics and activists have been imprisoned throughout the last decade for their alleged affiliation with terrorist organizations as the ECtHR decision in Osman Kavala case suggests (ECtHR 2019). On this note, it is still evident that Turkish prisons inhabit the highest number of prisoners convicted on crimes related to radicalization per number of inhabitants and the prison density remains extremely high in comparison to the European correctional facilities. The complex social cleavage structure and the fact that the political landscape remains vulnerable to radicalization due to the increased level of polarization makes it extremely important to raise awareness regarding radicalization and train the staff in the prisons. In this respect, the project provides valuable lessons and insights. The training programs which have been developed in a comparative framework and tailored according to

the country context and individual inmate characteristics provide a tool for the frontline prison staff that can be used in specific contexts. The Ministry of Justice bureaucracy appears to have noted down this aspect. Following the R2PRIS project, other projects have been developed and currently carried out in the prisons. In cooperation with Spain, Turkey is implementing another deradicalization project in the prisons (*Adalet.tv* 2021).

Another deradicalization project involves the Presidency of Religious Affairs with respect to its activities of deradicalization of the jihadists in prisons. The presidency was established in accordance with the Article 136 of the Constitution with a specific emphasis that it would function in line with the secularism principle. In this way, it functioned as an ideological apparatus of the state in an Althusserian interpretation (Althusser 2006). It has conveyed the official interpretation of Islam as the religious authority has been subjugated to the state authority. Despite the official discourse of hardline secularism, religious values have been seen as legitimation elements by the subsequent governments and even by the military establishment during the coups. What has changed with the AKP period is not the function of the presidency as an ideological state apparatus but rather the centrality of the institution in the governmental practices and its discourse. In other words, the AKP's Islamization policies empowered the institution, however within the confines of the party-state. In a way, it has been maintained as an institution regulating the religious affairs in accordance with the government policies rather than becoming an autonomous entity. Its budget and personnel increased tremendously, and after the loss of the Istanbul municipality to the main secular opposition party, it was used to fill the void of the incumbent power in the most important city of Turkey (Karakaş 2021). D*iyanet* became an institutional agent of desecularization policies starting with its activities in the field of gender and family issues with a role of pioneering familialism in the transformation of the socio-economic order (Adak 2021). Its role further expanded as the Islamization policies consolidated (Ozzano and Maritato 2019). It further evolved into a foreign policy tool through its activities among the Turkish diaspora in Europe nourishing a pro-government political stance (Öztürk 2016; Öztürk and Sözeri 2018). The scope of the activities of the *Diyanet* currently encompass almost all social and economic policy fields (Öztürk 2016). Hence, it is not surprising that the D*iyanet* assumed a critical role in deradicalization and counter-terrorism programs. Imams have been attributed a central role in deradicalization programs targeting jihadist radicalization in the European countries as well. A moderate and tolerant interpretation of Islam with an emphasis on the inter-cultural dialogue and Islam as the religion of peace occupies a significant place especially in the German deradicalization schemes, although the prison authorities display a general suspicion against imams in other countries (Ronco, Sbraccia, and Torrente 2019). Even in these other countries, imams have the ability to counter balance the securitization policy of the states (Vellenga and De Groot 2019). In this context, the main issue appears as recruiting non-radical imams. The EU and the individual European countries recently focused on establishing centers for training "homegrown" imams who are familiar with the European values and have a non-radical approach to the religious matters (*Politico* 2020). These developments should be interpreted in relation to the development that the Turkish-Islamic Union for Religious Affairs (DITIB) has been increasingly perceived as a foreign policy tool acting on behalf of the Turkish foreign policy in Europe (*Deutsche Welle* 2019). Germany illustrates particular concerns over the activities of the Diyanet sanctioned imams, especially in terms of their alleged involvement in the detection of anti-Turkish government tendencies (*Deutsche Welle* 2017).

The Diyanet already has resident clerical personnel in the prisons. According to the latest report published by the institution, 9915 chaplains are working in the prisons across Turkey

by 2019 (*Din Hizmetleri Raporu 2019* 2020, 32). Diyanet staff organizes visits to the prisons in Turkey and abroad on a regular basis. Diversity of the content of these visits reveals the larger role Diyanet has assumed in the AKP period. For instance, it organized a seminar on the importance of Çanakkale Wars[17] during World War I at Sincan Prison in 2019. The legal basis of the Diyanet activities was amended in 2010 to expand the scope of the roles and the activities of the institution and later a regulation was released in 2014. According to the Article 7 of the law, the institution can provide moral counseling and religious services in the prisons (*Diyanet İşleri Başkanliği Kuruluş Ve Görevleri Hakkinda Kanun* 1965). As the role and budget of the Diyanet expanded, a new division, titled *Göç ve Manevi Destek Hizmetleri Daire Başkanlığı* (The Directorate of Migration and Moral Support Services) was established in 2017. The activities and projects at the prisons are carried out by this division in line with a protocol made with the Ministry of Justice. In addition to the regular religious services held by the resident chaplains, the Directorate organizes Quran courses, holds conservations in the wards with the inmates, and develops theater plays and knowledge contests about religion. The chaplains also hold individual meetings with the inmates convicted for jihadist activities and try to reform their religious thinking and help them disengage (Akbaş 2020, 94). The project included a series of seminars which aim to raise awareness about the "terrorist organizations exploiting religion" (*Din Hizmetleri Raporu 2018* 2019). According to the 2018 activity report of the Diyanet, the division organized 299 programs in 267 prisons and a total of 27,377 prison personnel and inmates attended these seminars (*Din Hizmetleri Raporu 2018* 2019, 78). They also distributed booklets and information sheets about the jihadist organizations free of charge. However, participation of the inmates remained low, only 10% of the inmates volunteered to attend these programs (Akbaş 2020, 90).

The limited success of the program might be due to the absence of professional training specifically for radicalization and deradicalization and also because the jihadists, especially the ISIS members refuse religious counseling provided by a state whose regime they see as non-Islamic (International Crisis Group 2020, 22). This shows that the Turkish government needs to adopt a radicalization perspective at the state level with the involvement of multiple ministries, universities, and civil society organizations to be able develop a training system. It also reveals that the deradicalization programs should be developed jointly by religious staff, psychologists, and social workers to decrease the possibility of categorical rejection by the jihadist inmates.

7. Conclusion

This report focused on existing legislative and institutional framework with respect to radicalization in Turkey. The research shows that constitutional organization of the state and articles pertaining to the rights and values carry the legacy of ethnic sensitivities and citizenship regime adopted in the Lausanne Treaty, being also the constitutive treaty of the republic. Lausanne Treaty defines only non-Muslims as minorities and there is not a specific minority regulation regime apart from the guarantee of equal treatment before the law. This restricted approach leaves no space for ethnic and religious demands which is also visible in founding principles of the Constitution. Article 2 highlights secularism as a characteristic of

[17] Çanakkale Wars have a special place in the Turkish historical narrative with high number of casualties and an important example of mass çivil mobilization during the occupation. The war was led by Britain, France and Russia against the Ottoman Empire.

the republic but only recognizes the Ministry of Religious Affairs, embracing a Sunni interpretation of Islam, excluding the demands of heterodox Muslim groups such as Alevis. Such interpretation of Islam is controversial with Article 24 which guarantees freedom of religion and conscience. Again, in Article 2, Atatürk nationalism which is also mentioned as civic nationalism recognizes the Turkishness as a supra identity and ethnic demands such as those of Kurds beyond that aren't recognized. Furthermore, Article 3 which highlights the integrity and indivisibility of the unitary state is interpreted in a way to encompass any ethnic or religious claims as a divisive threat to nation. Furthermore, Articles 13 and 14 claim that the fundamental rights would be curtailed in case of violating the first principles of the Constitution increases the difficulty of protecting the fundamental values and rights.

The relevant legislative framework with respect to radicalization also reflects the security-based approach. The desk research and interviews with experts show that the existing framework doesn't conceptualize radicalization and approaches discourses outside the constitutional framework and official ideology under the context of counter-terrorism and treats them as threats to the integrity of the nation state. The legislation also has a punitive approach and applied in a biased way. The main legal provisions regulating the cases related to radicalization such as Articles 216 and 122 are limited in scope, making a restrictive definition of hate even in their revised forms and neglect the crimes targeting certain groups such as women and LGBTQ individuals. Instead, they are frequently raised to protect majority ethnic and religious groups. Article 301 regulating insulting Turkey, the Turkish nation, Turkish government institutions, or Turkish national heroes is also problematic as it frames ethnic demands as anti-constitutional and terrorist activities and used against minorities rather than protecting the social peace.

Internet Laws are also controversial with respect to the protection of fundamental rights. The Internet Law No. 5651 dated 2007 authorizes the punishment and limitation of the online content and forces the international news and social media platforms to appoint a local representative, localize their data, and speed up the removal of content if demanded by the government. Finally, emergency decrees no. 667-676 took effect after the abortive July 15, 2016 coup enables the government to access communications data without a court order. On the other hand, the legislative framework fails to respond to the online contexts which spread hatred and discriminatory discourse against the minorities and if there is ever an attempt to track radicalized contents, it is only employed for separatists or left-wing groups.

The only paradigmatic case-law with respect to radicalization is the Selendi case in which the lynching against Roma community in the aftermath of the quarrel at a café in 2009 resulted in the penalization of perpetrators with maximum sentences and in which laws pertaining to cases of radicalization are used for the defense of a minority group. The court's decision could be emblematic as it showed that outcome might be severe for perpetrators. However, the research shows that the Selendi case didn't have a dramatic impact as later crimes against minorities and refugees didn't produce the same results.

The policy and institutional framework in Turkey reflects the legal framework in the sense that policies ignore the ethnic and religious diversity, downplay the crimes against minorities with a security approach on radicalization and deradicalization and protect the dominant groups rather than minorities and dissidents. The Islamization policies of AKP and its further closing down the political space with a super-presidential system exacerbates the situation and

augments the feelings of insecurity among non-Muslim and heterodox Muslim groups such as Alevis.

Given the counter-terrorism approach and the absence of a specific framework for radicalization, counter-radicalization measures are generally limited to imprisonment and investigation and there is not a policy framework on deradicalization taking into consideration the different forms of radicalization. In that sense, apart from the Return to Villages and Rehabilitation Project targeting separatist radicalization which may be considered in consistent with the EU rules, deradicalization programs are mostly composed of prison programs targeting jihadist radicalization. One deradicalization program which may be considered relatively multi-dimensional is the one called 'Multi-level in-prison radicalization prevention approach (r2pris)' enacted between 2015 and 2018 in cooperation with EU. Approaching prisons not only as places of detention for radicalized individuals but also a facilitator for composing a radical milieu and attracting the vulnerable young people, it enabled the front personnel to train in terms of detecting indicator of radicalization, raising awareness about recruitment strategies and eliminating the potential factors that may lead to radicalization. The visits during the project also enabled a mutual learning of the best practices for deradicalization.

The other deradicalization programs targeting jihadists in prisons are majorly ones in which the Ministry of Justice cooperates with the Presidency of Religious Affairs. Giving the latter a crucial role, these programs aim to disseminate peaceful and tolerant messages of Islam among inmates by maintaining clerical personnel within prisons. However, it has limited success as the participation rate among inmates is very low showing that the Turkish government needs to adopt a radicalization perspective at the state level with the involvement of multiple ministries, universities, and civil society organizations to develop a training system and decrease the categorical rejection by the jihadist inmates.

Annexes

ANNEX I: OVERVIEW OF THE LEGAL FRAMEWORK ON RADICALIZATION & DERADICALIZATION

Legislation title (original and English) and number	**Date**	**Type of law** (i.e. statute, regulation, rule, etc…)	**Object/summary of legal issues related to radicalization**	**Link/PDF**
Kanun Önünde Eşitlik (Equality before Law), *Türkiye Cumhuriyeti Anayasası* (Constitution of the Republic of Turkey), Article 10, (No. 2709)	18.10.1982	Constitutional provision	"all individuals are equal without any discrimination before the law, irrespective of language, race, colour, sex, political opinion, philosophical belief, religion and sect, or any such considerations. Men and women have equal rights. The State shall have the obligation to ensure that this equality exists in practice. No privilege shall be granted to any individual, family, group or class. State organs and administrative authorities shall act in compliance with the principle of equality before the law in all their proceedings."	https://global.tbmm.gov.tr/docs/constitution_en.pdf.
Türk Ceza Kanunu 5237 Sayılı Kanun, Turkish Penal Code (No. 5237)	26.09.2004	Statute	hatred crimes, incitement to violence, and war propaganda as well as relevant crimes and sentences	https://www.mevzuat.gov.tr/MevzuatMetin/1.5.5237.pdf.

Türk Ceza Kanunu 5237 Sayılı Kanun, Turkish Penal Code (No. 5237), Article 76	26.09.2004	Statute	the commission of any of the acts against the members of any national, ethnic, racial, religious or other group determined by any features other than those with intent to destroy it in whole or in part through the execution of a plan shall constitute genocide and there shall be no limitation period pertaining to these offences	https://www.mevzuat.gov.tr/MevzuatMetin/1.5.5237.pdf
Türk Ceza Kanunu 5237 Sayılı Kanun, Turkish Penal Code (No. 5237), Article 77	26.09.2004	Statute	the performance of the acts mentioned in the provision systematically against a civilian group of the population in line with a plan with political, philosophical, racial or religious motives shall constitute the crimes against humanity and there shall be no limitation period pertaining to these offences.	https://www.mevzuat.gov.tr/MevzuatMetin/1.5.5237.pdf
Türk Ceza Kanunu 5237 Sayılı Kanun, Turkish Penal Code (No. 5237), Article 115	26.09.2004	Statute	a person who forces another person to declare or to change his religious, political, social, philosophical belief, thoughts and convictions or who prevents him to declare or to spread them shall be sentenced to imprisonment from one year to three years. In the event that carrying out mass religious worshipping and ceremonies is prevented by force or by threatening	https://www.mevzuat.gov.tr/MevzuatMetin/1.5.5237.pdf

			or by means of any other illegal action, a punishment in accordance with the preceding paragraph shall be given.	
Türk Ceza Kanunu 5237 Sayılı Kanun, Turkish Penal Code (No. 5237), Article 122	26.09.2004	Statute	a person who discriminates among people due to difference of language, race, colour, sex, political view, philosophical belief, religion, religious sect etc. shall be considered a crime and imposed upon penal sanctions	https://www.mevzuat.gov.tr/MevzuatMetin/1.5.5237.pdf
Türk Ceza Kanunu 5237 Sayılı Kanun, Turkish Penal Code (No. 5237), Article 125	26.09.2004	Statute	codifies the crimes and penalties concerning defamation provides (para. 3) that if the insult is committed (a) against a public officer due to the performance of his public duty (b) because of declaring, altering or disseminating his religious, political, social believes, thoughts or convictions, or practicing in accordance with the requirements and prohibitions of a religion he belongs to; or (c) if the subject matter is deemed sacred to the religion, the person belongs to the penalty to be imposed shall not be less than one year.	https://www.mevzuat.gov.tr/MevzuatMetin/1.5.5237.pdf
Türk Ceza Kanunu 5237 Sayılı Kanun, Turkish Penal Code (No. 5237), Article 135	26.09.2004	Statute	illegal recording of personal information data on others' political, philosophical or religious opinions, their racial origins; their illegal moral tendencies, sexual lives, health conditions and relations to trade unions shall constitute a crime	https://www.mevzuat.gov.tr/MevzuatMetin/1.5.5237.pdf

			and imposed upon a penalty	
Türk Ceza Kanunu 5237 Sayılı Kanun, Turkish Penal Code (No. 5237), Article 153	26.09.2004	Statute	arranges offenses and penalties concerning damaging places of worship and cemeteries provides that where the offenses are committed with the aim of defaming a related religious group, the penalty to be imposed shall be heavier.	https://www.mevzuat.gov.tr/MevzuatMetin/1.5.5237.pdf
Türk Ceza Kanunu 5237 Sayılı Kanun, Turkish Penal Code (No. 5237), Article 214	26.09.2004	Statute	provides that getting a part of the public armed against another part, and inciting them to murder shall constitute an offense and imposed upon a penalty	https://www.mevzuat.gov.tr/MevzuatMetin/1.5.5237.pdf
Türk Ceza Kanunu 5237 Sayılı Kanun, Turkish Penal Code (No. 5237), Article 216	26.09.2004	Statute	arranges the offense of inciting the population to breed enmity or hatred or denigration. In accordance with the article, a person who openly incites groups of the population to breed enmity or hatred towards one another based on social class, race, religion, sect or regional difference in a manner which might constitute a clear and imminent danger to public order shall be sentenced to imprisonment for a term of one to three years. A person who openly denigrates part of the population on grounds of social class, race, religion, sect, gender or regional differences shall be sentenced to imprisonment for a term of six months to one year. A person who openly	https://www.mevzuat.gov.tr/MevzuatMetin/1.5.5237.pdf

			denigrates the religious values of a part of the population shall be sentenced to imprisonment for a term of six months to one year in case the act is likely to distort public peace.	
Türk Ceza Kanunu 5237 Sayılı Kanun, Turkish Penal Code (No. 5237), Article 301	26.09.2004	Statute	arranges the offense of denigration and humiliation of the Turkish nation, state, parliament, government and judiciary, army and police force openly. A person who commits one of these crimes shall be sentenced to imprisonment for a term of six months to two years.	https://www.mevzuat.gov.tr/MevzuatMetin/1.5.5237.pdf
Terörle Mücadele Kanunu (Law on Fight Against Terrorism (No. 3713), Article 1	12.04.1991	Statute	Any criminal action conducted by one or more persons belonging to an 29rganization with the aim of changing the attributes of the Republic as specified in the Constitution, the political, legal, social, secular or economic system, damaging the indivisible unity of the State with its territory and nation, jeopardizing the existence of the Turkish State and the Republic, enfeebling, destroying or seizing the State authority, eliminating basic rights and freedoms, damaging the internal and external security of the State, the public order or general health, is defined as terrorism	https://www.mevzuat.gov.tr/MevzuatMetin/1.5.3713.pdf.
Terörle Mücadele Kanunu (Law on Fight	12.04.1991	Statute	Any person, who, being a member of organisations formed to achieve the aims specified under Article 1, in concert with	https://www.mevzuat.gov.tr/MevzuatMetin/1.5.3713.pdf.

Against Terrorism) (No. 3713), Article 2			others or individually, commits a crime in furtherance of these aims, or who, even though does not commit the targeted crime, is a member of the organisations, is defined as a terrorist offender. Persons who, not being a member of a terrorist 30rganization, commit a crime in the name of the 30rganization, are also considered as terrorist offenders and shall be punished as members of such organisations.	
Terörle Mücadele Kanunu (Law on Fight Against Terrorism) (No. 3713), Article 7	12.04.1991	Statute	Those who establish, lead, or are a member of a terrorist 30rganization in order to commit crimes in furtherance of aims specified under article 1 through use of force and violence, by means of coercion, intimidation, suppression or threat, shall be punished according to the provisions of article 314 of the Turkish Penal Code. Persons who 30rganiza the activities of the 30rganization shall be punished as leaders of the 30rganization. Any person making propaganda for a terrorist 30rganization shall be punished with imprisonment from one to five years. If this crime is committed through means of mass media, the penalty shall be aggravated by one half. In addition, editors-in-chief (…)2 who have not participated in the perpetration of the crime	https://www.mevzuat.gov.tr/MevzuatMetin/1.5.3713.pdf.

			shall be punished with a judicial fine from one thousand to fifteen thousand days' rates. However, the upper limit of this sentence for editors-in-chief is five thousand days' rates. The following actions and behaviours shall also be punished according to the provisions of this paragraph: a) Covering the face in part or in whole, with the intention of concealing identities, during public meetings and demonstrations that have been turned into a propaganda for a terrorist organization b) As to imply being a member or follower of a terrorist 31rganization, carrying insignia and signs belonging to the organization, shouting slogans or making announcements using audio equipment or wearing a uniform of the terrorist organization imprinted with its insignia. If the crimes indicated under paragraph 2 were committed within the buildings, locales, offices or their annexes belonging to associations, foundations, political parties, trade unions or professional organisations or their subsidiaries, within educational institutions, students' dormitories or their annexes, the penalty under this paragraph shall be doubled.	

Türk Basın Kanunu (Press Law of Turkey) (No. 5187), Article 25			In order to constitute evidence for an investigation, a maximum of three copies of any printed product may be confiscated by the public prosecutor, or, in urgent cases, by security forces. On the condition that the investigation or trial has been launched regarding any of the crimes provided in revolutionary laws specified under article 174 of the Constitution, crimes provided under article 146, paragraph 2, article 153, paragraphs 1 and 4, article 155, article 311, paragraph 1 and 2, article 312, paragraph 2 and 4, article 312/a of the Turkish Criminal Code, (Law 765), and under article 7, paragraphs 2 and 5 of the Law 3713 on Fight Against Terrorism, all copies of a printed product may be confiscated following a decision of a judge. If it is indicated by strong evidence that any periodical or non-periodical publication or newspaper printed outside of Turkey in any language contains crimes specified under paragraph 2, the distribution and sale of said publication or newspaper can be prohibited by the decision of a magistrate of peace, following the request of the office of the chief public prosecutor. In urgent cases, the	http*s://www.mevzuat.gov.tr › 1.5.5187.pdf*

			decision of the office of chief public prosecutor is sufficient. Persons knowingly distributing or putting up for sale publications and newspapers prohibited under the above article shall be responsible for crimes committed through these publications in the capacity of the author of the publication.	

NATIONAL CASE LAW

Case number	**Date**	**Name of the court**	**Object/summary of legal issues related to radicalization**	**Link/PDF**
2003/1	13.03.2003	Anayasa Mahkemesi (Constitutional Court)		https://siyasipartikararlar.anayasa.gov.tr/SP/2003/1/1
Not available	23.12.2015	Uşak 2. Asliye Ceza Mahkemesi (Uşak 2. Civil Court of First Instance)	Turkish Penal Code Articles 216, 151 & 152. 38 people sentenced to imprisonment for a term of 8 months to 45 years	The court decisions are not publicly available. https://bianet.org/english/print/125087-finally-it-is-a-crime-to-humiliate-roma

OTHER RELEVANT ISSUES

	Constitutional provisions	Statutory law (statues, rules, regulations etc.)	Important case law	Comments/issues relevant to radicalization
Freedom of religion and belief	Article 24	Turkish Penal Code Articles 115, 216	Not available	Article 24 of the Constitution guarantees everyone has the right to freedom of conscience, religious belief and conviction; obstructing the exercise of the freedom of religion, belief and conviction constitutes an offence according to article 115 of the Turkish Penal Code; incitements to religious hatred, public denigration of any group on the basis of their religion or sect as well as denigration of religious values are penalized under article 216 of the Turkish Penal Code. However, all these laws are used in favor of

				the majority religion.
Minority rights	Article 10	Article 37-45 of the Lausanne Peace Treaty	Not available	Turkish legislation which is based on the Lausanne Peace Treaty contains the term “non-Muslim minority” only. Articles 37-45 of the Treaty regulate the rights and obligations concerning individuals belonging to non-Muslim minorities in Turkey. These provisions are recognized as fundamental laws of Turkey.
Freedom of expression	Articles 25 & 26	Article 301 of the Turkish Penal Code	Not available	Article 25 of the Constitution states that everyone has the right to freedom of thought and opinion. Article 26 provides that everyone has the right to express and disseminate his thoughts and opinion by speech, in writing or in pictures or through other media, individually or collectively. Article 301 which regulates issues concerning degrading

				speeches against the Turkish nation,the State, the Government, the judiciary, the Parliament, the military or security organizations
Freedom of assembly	Articles 33 & 34	Articles 3-11 of Law on Assemblies and Demonstration Marches (No. 2911)	Not available	Article 33 provides the right to form associations, Article 34 regulates the right to hold meetings and demonstration marches. Article 3 of the specific law repeats the Article 33 of the constitution, while Article 4 provides exceptions.
Freedom of association/political parties etc.	Articles 33, 34, 68	Articles 3-11 of Law on Assemblies and Demonstration Marches (No. 2911), Law on Political Parties (No. 2820)	Not available	Article 68 regulates the right to form a political party.
Hate speech/ crime	Article 10	Turkish Penal Code Article 216	Not available	No specific regulation on hat ecrime. It does not aggrevate sentence if it is a hate crime.

Church and state relations	Preamble, Articles 2, 13, 136	Turkish Penal Code Article 1	Not available	Article 2 establishes secularism as . Article 13 provides that fundamental rights and freedoms may be restricted only by law and in conformity with the reasons mentioned in the relevant articles of the Constitution without infringing upon their essence. These restrictions shall not be in conflict with the letter and spirit of the Constitution and the requirements of the democratic order of the society and the secular Republic and the principle of proportionality. Article 136 establishes the Department of Religious Affairs in line with the principle of secularism, removed from all political views and opinions, and aiming at national solidarity and integrity. Article 1 of the Turkish Penal Code defines the crimes violating the secularism

				principle as a terror act
Surveillance laws	Articles 20 & 22	Internet law No. 5651, Data protection law No. 6698, Emergency Surveillance Decrees No. 667-676, General Data Protection Regulation (if the company has an office or offers goods and services in an EU country)	Not available	The internet law requires large platforms to appoint a local representative, localize their data, and speed up the removal of content on-demand from the government. Emergence decrees after the abortive July 15, 2016 coup granted the Turkish government unrestricted access to communications data without a court order. Data protection law does not protect the fundamental rights in practice.
Right to privacy	Articles 20 & 22	Articles 116, 132 of the Turkish Penal Code	Not available	Articles 20 and 22 of the Constitution under the title "Privacy and protection of private life" provide that everyone has the right to demand respect for his/her privacy, family life and secrecy of

				communication. Article 116 of the Turkish Penal Code regulates violation of the immunity of residence. Article 132 of the Turkish Penal Code, titled "Violation of Confidentiality of Communication" defines the violation of the confidentiality of communication between persons as an offence

ANNEX II: LIST OF INSTITUTIONS DEALING WITH RADICALIZATION & COUNTER-RADICALIZATION

Authority (English and original name)	**Tier of government** (national, regional, local)	**Type of organization**	**Area of competence in the field of radicalization& deradicalization**	**Link**
Terörle Mücadele Daire Başkanlığı (Counter-Terrorism And Operations Department) under the Ministry of Internal Affairs	National	Police force department	Fight against terrorism.	https://www.egm.gov.tr/tem/misyon-vizyon
Ceza ve Tevkifevleri Genel Müdürlüğü (General Directorate of Prisons and Detention Houses) under the Ministry of Justice	national	Ministerial department	Programs for counter-terrorism	https://cte.adalet.gov.tr/

ANNEX III: BEST PRACTICES/INTERVENTIONS/PROGRAMMES

National level

	Institution(s)	Aim	Source	Evidence of effectiveness / literature
1.	Turkish Prison Administration	Radicalisation Prevention in Prisons (R2PRIS) Project seeks to reduce radicalisation and extremism inside prisons by enhancing the competences of frontline staff (correctional officers, educational staff and psychologists, social workers) to identify, report and interpret signals of radicalisation and respond appropriately	http://www.r2pris.org/r2pris-project.html	Selected as one of the best practices by the Radicalization Awareness Network (RAN) (DG Migration and Home Affairs) in 2020

2.	Presidency of Religious Affairs	Activities of awareness raising and deradicalization about the terrorists organization which exploit religion	https://dinhizmetleri.diyanet.gov.tr/sayfa/384	It failed to generate a successful outcome (International Crisis Group 2020)

ANNEX IV: POLICY RECOMMENDATIONS

- The current legislative framework should be amended with a direct focus on radicalization and de-radicalization

- The legislative framework should recognize the ethnic and religious diversities and take specific measures to protect societal peace

- The national policy context should be improved in terms of effective de-radicalization projects with a particular focus on:

    - Collaboration between the policy-making institutions and practitioners and experts in the field

    - Prioritization of non-security approaches

    - Comprehensive deradicalization projects beyond prison programs

    - Development of programs especially for the youth

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DeRadicalisation
in Europe and Beyond: Detect, Resolve, Reintegrate

De-radicalisation and Integration Legal and Policy Framework

United Kingdom/Country Report

WP4

November 2021

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List of Abbreviations

CPS - Crown Prosecution Service

CTS - Counter-Terrorism and Security

ECtHR - European Court of Human Rights

HRA - Human Rights Act

ISIS - Islamic State of Iraq and the Levant

PFA - Protection of Freedoms Act

PKK - The Kurdistan Workers' Party (Partiya Karkerên Kurdistan)

SDF - Syrian Democratic Forces

TPIM - Terrorism Prevention and Investigation Measures

YPG - People's Protection Units

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About the Project

D.Rad is a comparative study of radicalisation and polarisation in Europe and beyond. It aims to identify the actors, networks, and wider social contexts driving radicalisation, particularly among young people in urban and peri-urban areas. D.Rad conceptualises this through the I-GAP spectrum (injustice, grievance, alienation, polarisation) with the goal of moving towards measurable evaluations of de-radicalisation programmes. Our intention is to identify the building blocks of radicalisation, which include a sense of being victimised; a sense of being thwarted or lacking agency in established legal and political structures; and coming under the influence of “us vs them” identity formulations.

D.Rad benefits from an exceptional breadth of backgrounds. The project spans national contexts including the UK, France, Italy, Germany, Poland, Hungary, Finland, Slovenia, Bosnia, Serbia, Kosovo, Israel, Iraq, Jordan, Turkey, Georgia, Austria, and several minority nationalisms. It bridges academic disciplines ranging from political science and cultural studies to social psychology and artificial intelligence. Dissemination methods include D.Rad labs, D.Rad hubs, policy papers, academic workshops, visual outputs and digital galleries. As such, D.Rad establishes a rigorous foundation to test practical interventions geared to prevention, inclusion and de-radicalisation.

With the possibility of capturing the trajectories of seventeen nations and several minority nations, the project will provide a unique evidence base for the comparative analysis of law and policy as nation states adapt to new security challenges. The process of mapping these varieties and their link to national contexts will be crucial in uncovering strengths and weaknesses in existing interventions. Furthermore, D.Rad accounts for the problem that processes of radicalisation often occur in circumstances that escape the control and scrutiny of traditional national frameworks of justice. The participation of AI professionals in modelling, analysing, and devising solutions to online radicalisation will be central to the project’s aims.

Executive Summary

This D.Rad 4.1 report shows the ways in which the United Kingdom counter-terrorism laws define terrorism broadly to include all terrorism acts pursuing the advancement of either political, cultural, religious, or racial causes; however, the new laws introduced during the last decade perceive jihadist terrorism as a more serious threat than far-right terrorism. The counter-terrorism laws' over-emphasis on jihadist terrorism reflects the counter-terrorism operations of the law enforcement authorities. Therefore, this report shows the ways people belonging to ethnic and religious minorities are more likely to be suspected of terror-related activities. Despite serious institutional efforts to make the police use of stop and search objective and impartial, the report brings evidence to how the threshold of reasonable suspicion varies from case to case and constable to constable, due to the broad nature of the definition of reasonable suspicion. Counter-terrorism police subdivide far-right terrorism into white supremacy, neo-Nazism, and white cultural imperialism; on the contrary, jihadist terrorism is generally treated as Islamic radicalisation. This approach has wide stigmatisation and alienation effects. In this report, we recommend that a uniform process must be applied to different cases of terrorism. Where the evidence permits (the Thomas Mair case, for example) terrorism charges should be levied to every case of terrorism provided the case come under the definition of terrorism. This report recommends that jihadist terrorism must also be subdivided according to the political, cultural, religious, and racial ideologies of the offender. Such an approach is more likely to help in applying uniform process to all acts of terrorism and redress some of the lasting impacts of institutionalised Islamophobia within the UK legal context.

1. Introduction

The acts of violence attributable to BAME communities more widely and Muslims more specifically are generally directly linked to radicalisation through media and other social and political institutions in the UK. On the contrary, there is a historical reluctance to identify racist, anti-immigrant, homophobic, misogynistic or Islamophobic violence as radicalisation and political violence. The fixation on the geopolitics of Islamist radicalisation through programmes like Prevent has led security services and policy-making to neglect the ways in which extreme ideologies interact with social, political and economic conditions to form other subcultural groups that support the use of violence and thus shape violent dispositions, such as the far-right political violence and terrorism[1]. Indeed, Neil Basu (Britain's counter-terrorism chief) and the counter-terrorism police unit have stated that the fastest-growing terrorism threat to the UK is from the far-right.[2] Based on this background, the D.Rad 4.1 report examines the effectiveness of the preventive measures provided under the existing laws and policies in the UK, in order to prevent wider forms of radicalisation in society. The report points out that there is currently a discriminatory treatment of political violence and terrorism in the UK. It argues that the current law and policies aiming to prevent radicalisation in the UK, especially the Prevent programme, contribute to the alienation and indirectly radicalisation of vulnerable individuals by stigmatising specific groups (BAME communities and Muslims particularly) and by not classifying the acts of other radicalised groups especially the white supremacist, racist, and misogynist groups as terrorist acts. The report highlights the imminent need for a uniform enforcement of counter-terrorism laws in the UK to eliminate systematic bias against religious and ethnic minorities at the hands of the law enforcement authorities.

The report identifies how the United Kingdom's counter-radicalisation/ counter-terrorism regime consists of a series of statutory laws and strategic policies that complement each other to collectively achieve the desired objective of countering both internal and external threats of terrorism. These laws and policies endeavour the desired objectives through effective coordination between law enforcement authorities and public and private sector organisations. They involve public and private sector organisations from various industries to prevent individuals from being drawn to terrorism and/or commit terrorism at the grass route level. To this end, the Counter-Terrorism & Security (CTS) Act 2015 and CONTEST Strategy 2018 make it obligatory

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[1] See Ozduzen, O., Ferenczi, N., Holmes, I., Rosun, N., Liu, K. & Alsayednoor S., 'Stakeholders of (De)-Radicalisation in the UK', (2021) D.Rad D3.1 UK Country Report, Accessed on the 21st of June 2021; Ferenczi, N., Ozduzen, O. Holmes, I. & Liu, K., 'Cultural Drivers of Radicalisation', (2021) D.Rad D5.1 UK Country Report.

[2] Vikram Dodd and Jamie Grierson, 'Fastest-growing UK terrorist threat is from far right, say police', The Guardian (19 September 2019) Available from: https://www.theguardian.com/uk-news/2019/sep/19/fastest-growing-uk-terrorist-threat-is-from-far-right-say-police (Accessed on 5 April 2021).

for the senior management of the public sector organisations to take adequate measures to monitor vulnerable individuals under their control, care or influence from being drawn to terrorism.

The CTS Act (2015) and the CONTEST Strategy (2018) predominantly emphasise religious terrorism. The CTS Act was introduced in response to the heightened security threat from British Muslims returning from Syria and Iraq and supposedly having links to militant groups, particularly the Islamic State of Iraq and the Levant (ISIS).[3] Thereafter, the CONTEST Strategy 2018 was adopted by the Home Office under schedule 6 of the CTS Act 2015 to provide guidance to the public sector organisations to prevent people from being drawn to radicalisation. Accordingly, the law enforcement institutions overwhelmingly emphasise religious, particularly jihadist-related terrorism. Existing studies and data show that individuals belonging to ethnic and religious minorities are three times more likely to be stopped and searched for terror-related suspicions in the UK.[4] While the definition of terrorism enshrined under section 1 of the Terrorism Act 2000 includes both religious and political violence,[5] law enforcement institutions` disregard of the terrorism-related to the far-right white supremacist groups shows the existence of double standards between religious (jihadist) related terrorism and far-right extremism and terrorism.

Given the broad scope of the counter-terrorism laws and considering the research objectives of the 'DRad: De-Radicalisation in Europe and Beyond: Detect, Resolve, Re-integrate' project, the report focuses on the chief penal and preventive provisions of the existing laws. After laying out the contemporary socio-economic, political and cultural context in the UK, this report relies on an analysis of existing counter-terrorism laws as well as their interplay with human rights laws through two key studies revolving around British foreign fighters as well as police stop and search powers in the UK. Methodologically, the report critically engages with existing laws, whilst making use of two expert interviews with Charles Clarke, who was the Home Secretary of Tony Blair government between 2004 and 2006 and Barrister Jonathan Hall – an Independent Reviewer of the UK Counter-Terrorism Legislation.

2. The socio-economic, political and cultural context

In the last three decades, the UK has witnessed different types of radicalisation, such as terrorist attacks by non-state actors, specifically separatist non-state actors (e.g. IRA), jihadist organisations (e.g. Al-Qaeda) as well as increasingly political violence

[3] Home Office, Explanatory Notes on CTSA 2015, accessed 16 June 2021.

[4] Shaka Yesufu, 'Discriminatory Use of Police Stop-and-Search Powers in London, UK' (2013) 15 International Journal of Police Science & Management 281; Francesco Ragazzi, 'Suspect Community or Suspect Category? The Impact of Counter-Terrorism as "Policed Multiculturalism"' (2016) 42 Journal of Ethnic and Migration Studies 724; Paul Thomas, 'The Perception of Counterradicalisation by Young People' in Lore Colaert (ed), *'De-radicalisation' Scientific insights for policy* (Flemish Peace Institute 2017).

[5] *Terrorism Act* 2000, Chapter 11, 20 July 2000, section 1.

perpetrated by organised far-right and extreme right-wing groups (e.g. British National Party). Since the 1970s, Thatcherite neoliberalism has shaped British politics, economy, culture, and everyday life. Since then, Margaret Thatcher and the wider Conservative Party forged a governing strategy across the fault lines of neoliberalism, traditional British Toryism, and little-Englander anti-Europeanism.[6] During the ensuing New Labour governments (1997-2010), a particular period in the history of the British Labour Party, neoliberalism has also been the norm, where the legacy of monetarism and privatisation of the Thatcher period heavily informed the welfare reform and labour market agendas of the New Labour governments.[7] The Conservative Party has been in power since 2010, following the New Labour governments. The last decade has been shaped by austerity programmes and rising anti-immigrant policy-making, evidenced by the recent policy proposed by Priti Patel in shipping asylum seekers offshore. The hostile immigration policy, mass privatisation and austerity programmes imply increasing unemployment and the decline of the welfare state (such as the loss of public housing). This largely feeds everyday forms of alienation, grievances and polarisation in the UK.

The centralised, hierarchical and elitist governments and a subsequent model of democracy characterised by a limited notion of representation has also informed the British state's foreign policy, such as its intervention in Iraq.[8] The UK joined forces with the US to invade Iraq in March 2003 when the New Labour government was in power, following the September 11 attack (9/11) in the US in 2001, by the Wahabi terrorist organisation Al-Qaeda. This moment implied a change in the subsequent British foreign policy in the Middle East. This incident has also transformed the perception of radicalisation as well as the targets and aims of deradicalisation programmes on a global scale, including the UK. The 7/7 London bombings perpetrated by Islamist terrorist groups on the 7th of July 2005 have radically changed the relationship between the British state and Muslims as well as Muslims and non-Muslims in British society. Islamophobia has underpinned state-led securitisation since especially the 7/7 London bombings,[9] which is arguably behind the institutionalisation of Islamophobia in the UK as well as marginalisation and alienation of Muslim youth in the UK.

As an example, David Cameron (previous prime minister and leader of the Conservative party between 2005-2016) defined Britain as a Christian country and stated his "desire to 'infuse politics' with 'Christian values'.[10] Additionally, in the

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[6] Jamie Peck, 'Explaining (with) Neoliberalism' (2013) 1 Territory, Politics, Governance 132, 139.

[7] Colin Hay, 'The normalizing role of rationalist assumptions in the institutional embedding of neoliberalism' (2004) 33 *Economy and society* 500.

[8] Steven Kettell, *Dirty Politics?: New Labour, British Democracy and the Invasion of Iraq* (Zed Books 2006).

[9] Yasmin Hussain and Paul Bagguley, 'Securitized Citizens: Islamophobia, Racism and the 7/7 London Bombings' (2012) 60 The Sociological Review 715.

[10] Rowena Mason, 'David Cameron: I Am Evangelical about Christian Faith' *The Guardian* (17 April 2014), accessed 15 September 2021.

aftermath of the Black Lives Matter protests, which acknowledged Winston Churchill's (the UK prime minister between 1940-1945 and 1951-1955) racism through a message placed on his statue in London, the current Prime Minister and the leader of the Conservative party, Boris Johnson, made the following statements via Twitter: "But it is clear that the protests have been sadly hijacked by extremists' intent on violence. The attacks and indiscriminate acts of violence which we have witnessed over the last week are intolerable and they are abhorrent" (Twitter, June 12th 2020). This statement was supportive of protecting idealised and nostalgic "British values", which are shared within different types of right-wing groups and across different regions in the UK from urban to rural areas. These statements by recent previous prime ministers also account for the discursive ways mainstream institutions in the UK engage in the "othering" of its minorities.

Since the 9/11 and 7/7 attacks, the most important deradicalisation programme in the UK has been the Prevent programme. Prevent is a part of the UK's counter-terrorism strategy CONTEST, and a part of the Prevent programme is called Channel.[11] The 'Prevent' attempts to protect against 'would-be terrorists' with assumptions on the sociological, psychological or behavioural characteristics of the 'radicalised'.[12] The Prevent programme legitimizes the everyday surveillance of specific communities and individuals, especially Muslims, and intervenes in their lives "before they radicalise", rather than aiming at forming integration programmes. The Prevent programme, which reflects an ongoing perception of securitisation targeting Muslims since the 9/11 attacks, is consistent with an increase in the anti-immigration policies and a change in the political discourses othering, scapegoating and dehumanizing these specific communities in the last two decades. Having direct implications in policymaking, media framing and education, British Muslim youth has been imagined as threatening, different, untrustworthy, and even dangerous especially since 7/7.[13]

3. The Constitutional Organisation of the State and its Constitutional Principles on D.Rad Field of Analysis (Secularism, Religious Freedom, Self-Determination and Sub-National Identities)

Unlike most states, the UK constitution is not codified in a single document. This means that there is no single document which stipulates, in one place, the fundamental laws outlining how state powers are organised, distributed, and exercised by the state institutions. This is why the UK constitution is often described as unwritten or

[11] Rita Augestad Knudsen, 'Between Vulnerability and Risk? Mental Health in UK Counter-Terrorism' (2021) 13 Behavioral Sciences of Terrorism and Political Aggression 43.

[12] Tahir Abbas, 'Implementing "Prevent" in Countering Violent Extremism in the UK: A Left-Realist Critique' (2019) 39 Critical Social Policy 396.

[13] Orla Lynch, 'British Muslim Youth: Radicalisation, Terrorism and the Construction of the "Other"' (2013) 6 Critical Studies on Terrorism 241.

uncodified. The UK constitution is a combination of various statutes, international conventions and treaties, and judicial decisions (common law). The Parliament, the Judiciary, the Executive, and regional governments are the main institutions of the government. State powers are exercised by the institutions in the name of the Crown - which is the Head of the state and generally follows the advice of the Ministers. The Parliament has the supreme authority to enact laws and incorporate international conventions and treaties into domestic laws. The judiciary interprets the laws and develops law through case judgements which is termed as common law and holds legal authority for the lower courts. The Supreme Court is the highest court in the UK which hears appeals against the judgments of the Court of Appeal in England, Wales, and Northern Ireland (NI) or Court of Session in Scotland.

The judiciary has recognised numerous principles as part of the constitution, which are recognised as constitutional principles. These include, parliamentary sovereignty, rule of law, democracy, respect of international law, freedom of religious beliefs, and prohibition of discrimination. The State, government, and state authorities executing the government's authority are bound by these principles. For example, in *R v Prime Minister,* the Supreme Court held that the laws enacted by the Crown in Parliament are the supreme form of law, with which everyone, including the government, must comply.[14] Thereby, the judiciary has always prevented the government from using prerogatives to indirectly circumvent the statutory laws enacted by the Parliament.[15] Similarly, in *R v Lord Chancellor,* the Supreme Court lauded the constitutional principle of the rule of law by stipulating that everyone is accountable to laws enacted by the Crown in the Parliament, including the Members of Parliament.[16] Before that, the principle of the rule of law originated from a historic 18th century, *Entick v Carrington* case, which related to the Secretary of State power to issue search warrants.[17] The High Court of England and Wales held that issuance of search warrant by the Secretary of State with statutory authority, and subsequently search of property and seizure of documents from the property belonging to the complainant was unlawful.[18] These judgements established important constitutional principles of parliamentary sovereignty and rule of law.

In the same way, the judiciary has recognised the principle of democracy in the famous case of *Ashby v White.*[19] The court stipulated that people's right to vote to elect the Members of the Parliament, for the purpose of making laws on their behalf, is the most transcending right of supreme nature that cannot be taken away, by anyone, by any

[14] *R (Miller) v Prime Minister* [2019] UKSC 41.

[15] see *Attorney General v De Keyser's Royal Hotel Ltd* [1920] AC 508.

[16] *R v Lord Chancellor* [2017] UKSC 51, para 68.

[17] *Entick v Carrington* [1765] EWHC KB J98.

[18] Ibid.

[19] *Ashby v White* [1703] 92 ER 126.

means.[20] Furthermore, the judiciary has recognised international law, to which the UK is a party state, constitutional principle under the common law.[21] In *R v Lyons,* Lord Hoffmann stipulated that both statutory law and common law must be interpreted in such a way to avoid breach of the UK international obligations arising from international law.[22] Consequently, the principles of human rights protection originating from international treaty law, such as, equality, prohibition of torture, non-discrimination on the basis of race, religion, sex orientation, or nationality, freedom of religious beliefs, and state's non-interference in matters of religion (secularism) have also become the integral part of the UK constitution.

Nonetheless, the legislative and the executive powers related to matters of local governance, policing, and the justice system are devolved to Scottish and NI Parliaments. As a result, power to enact laws related to local governance such as policing and justice systems fall in the domain of the local legislatures; whereas power to enact laws concerning matters of national security, border security, immigration and asylum, and foreign relations fall under the domain of national government. Consequently, some degree of variation exists viz-a-viz police operations and prosecution in Scotland and NI; nevertheless, counter-terrorism laws, being a matter of national security, are generally same across the UK. Therefore, *Counter-Terrorism Act* 2000 and its ancillary anti-terrorism laws are the cornerstone of the Scottish and NI counter-terrorism legislation as well.

4. Relevant Legislative Framework in the Field of Radicalisation

The UK's anti-radicalisation (counter-terrorism) legal regime originally consists of the Terrorism Act 2000. This act was intended to be comprehensive. However, the judgment of the European Court of Human Rights (ECtHR) in *Gillan and Quinton v. The United Kingdom*[23] and the judgement of the House of Lords in *A & others v Secretary of State for the Home Department*[24] and subsequent changes in the nature and form of security threats forced the UK governments – over the years – to amend the Terrorism Act 2000 through promulgation of new statutes.

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[20] Ibid.

[21] *Somerset v Stewart* [1772] 98 ER 499; *R v Lyons* [2002] UKHL 44.

[22] *R v Lyons,* (n 21) para 27.

[23] In *Gillan and Quinton v. The United Kingdom,* (Application no. 4158/05), the ECtHR declared section 44 of the Terrorism Act empowering police to stop and search without reasonable suspicion, incompatible with the ECHR.

[24] In *A and others v Secretary of State for the Home Department* (2004, UKHL 56), the House of Lords held that the Home Secretary alternative approach to detain suspected terrorists indefinitely violates Article 5 of the ECHR.

Henceforth, Terrorism Act 2000 was amended through the promulgation of Anti-Terrorism, Crime and Security Act 2001, Terrorism Act 2006, Counter-Terrorism Act 2008, Terrorist Asset Freezing Act 2010, Terrorism Prevention and Investigations Measures Act 2011, Counter-Terrorism and Security Act 2015, and Counter-Terrorism and Border Security Act 2019. Furthermore, to ensure compliance of the ECHR, Human Rights Act (HRA) 1998 and Protection of Freedoms Act (PFA) 2012 were also incorporated in the UK counter-terrorism regime. All these laws collectively make the UK's current counter-terrorism or anti-radicalisation legal regime. In addition to these laws, the UK's counter-terrorism regime is also influenced by the European Convention on Human Rights (ECHR) 1950, the Human Rights Act (HRA) 1998, and the Protection of Freedoms Act (PFA) 2012.

These laws enshrine detailed provisions regarding the criminalisation of different forms of terrorism, organisations directly or indirectly involved in the commission or support of terrorism, publication or dissemination of material promoting or supporting terrorism; authorities' powers to forfeiture terrorists' properties and deport them if having immigration status; police powers to cordon off suspected properties and stop and search suspected individuals and their vehicles; the involvement of the wider community and governmental and non-governmental institutions to prevent radicalisation.

Terrorism Act 2000

The Terrorism Act 2000 is the central instrument of the UK counter-terrorism legislation. It came into force on the 19th of February in 2001. Section 1 of the Act broadly defines terrorism by including offences prescribed under the Act and the subsequent anti-terrorism laws in the remit of terrorism. It defines terrorism as one's advancement of a radical, political, religious, racial, or ideological cause through the use or threat of action that endangers a person's life, causes serious property damage, creates a serious risk to public health or safety, or seriously interferes with or disrupts an electronic system.[25]

The Act enshrines provisions to proscribe organisations involved in terrorism, criminalise fundraising and cease funds raised to support terrorism; empowers police with broad cordon off and stop and search whilst apprehending powers to counter-terrorism and radicalisation. Section 43 of the Act empowered a police constable[26] to stop and search a person or the vehicle and other content in his possession when

[25] *The Terrorism Act* 2000, (n 5).

[26] A police constable is empowered to stop and search a suspected individual under section1 of the Police and Criminal Evidence Act 1984, section 60 of the Criminal Justice and Public Order Act 1994, and section 43 of the Terrorism Act 2000 when there are reasonable grounds suspicion. Furthermore, when there is an immediate threat of terrorism, an assistant chief constable may authorise a constable, under section 47A of the Terrorism Act 2000, to stop and search individuals without reasonable suspicion. These provisions further authorise the police constable to arrest a suspected individual when stop and search result in recovery of an offence weapon or evidence relating to terrorism.

there are reasonable grounds to suspect that the person is a terrorist or the vehicle is being used for terrorism-related activity.[27] Moreover, section 47A, replacing section 44 of the Act, empowers assistant chief constable[28] to authorise suspicion-less stop and search powers in a designated area when they reasonably suspect that an act of terrorism is likely to take place and that authorisation of such power is necessary to prevent such activity.[29]

Police powers to stop and search suspected individuals without reasonable suspicion (section 44) and powers to detain suspected individuals during stop and search (section 45) became a centre of controversy for disregarding human rights, such as, the right to liberty (Article 5, ECHR), right to privacy (Article 8, ECHR), the freedom of expression (Article 10, ECHR), the freedom of assembly (Article 11, ECHR), and the prohibition of discrimination (Article 14, ECHR). England and Wales police stop and search statistics showed that from April 2008 to March 2009, 256,026 people were stopped and searched without reasonable suspicion under section 44; nonetheless, 1452 cases resulted in arrests and most of them related to crimes other than terrorism.[30] This highlighted concerns about racial profiling and other prejudices in police practices. Lord Carlile QC raised this problem in his report on the operations of Terrorism Act (2008), in the following words;

> "*I have evidence of cases where people were stopped and searched to produce a racial balance in the section 44 statistics, despite the fact that there was not the slightest possibility of them being terrorists".*[31]

Section 44 also implicated the media reporters, photographers, and academic researchers taking photographs or recording videos near prominent national buildings and landmarks. Under section 44, a police constable could perceive any such individual on a reconnaissance mission ahead of their prospective terrorist act. Therefore, police harassment of media reports and researchers significantly increased following the enforcement of TA 2000. In a similar case, on 09 September 2003, a journalist - Ms Pennie Quinton - was stopped and searched by police on her way to film protests held against a defence equipment exhibition.[32] According to Ms Quinton, police stopped and searched her under section 44 and kept her detained for nearly

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[27] Terrorism Act 2000, (n 5) 43.

[28] An Assistant Chief Constable is responsible for reviewing the performances of field staff and setting up operational standards within their designated area of responsibility to ensure effective, efficient, and professional policing.

[29] Terrorism Act 2000, (n 5) 47A.

[30] Max Rowlands, 'UK: The Misuse of Section 44 Stop and Search Powers Continues despite European Court Ruling' (*Statewatch Analysis*), accessed 30 August 2021.

[31] Lorde Carlile QC, 'Report on the operation of the Terrorism Act 2000 and of Part 1 of the Terrorism Act 2006', (June 2009), 29.

[32] *Gillan and Quinton v. The United Kingdom*, Application no. 4158/05, (ECtHR, 12 January 2010), para 9.

half an hour despite showing her press card.[33] MS Quinton challenged the legality of her stop and search in the UK courts without success; thereafter, she filed a complaint to the ECtHR.[34] The ECtHR held that the applicant's stop and search by police violated Article 8 of the ECHR.[35] Thereafter, the Court declared section 44 and 45 of the Terrorism Act incompatible with the ECHR.

The Act endeavours to counter radicalisation through the wider community involvement by obliging individuals who possess information that may help prevent an act of terrorism or may assist in securing the apprehension, prosecution, or conviction of a person involved in the commission, preparation, or instigation of an act of terrorism to disclose that information to the authorities.[36] Under section 54 of the Act, it is prohibited to provide, receive, or invite someone to receive training of firearms or explosives for terrorism purposes.[37] Furthermore, the Act creates numerous offences which provide procedures to: proscribe organisations involved in terror-related activities; prohibit fundraising, possession of an article likely to be used in to promote and cause terrorism, glorification of terrorism; and seize terrorist properties and their passions that are likely to support, promote, or cause terrorism.

Anti-Terrorism Crime and Security Act 2001

After the terror events of 9/11 in the US, the UK government amended the Terrorism Act 2000 through the promulgation of the Anti-terrorism Crime and Security (ATCS) Act 2001. The ATCS extended the state authorities' existing powers to forfeiture the terrorist properties, issue orders to this effect, and deport immigrants and asylum seekers suspected of having links to terrorism. When their deportation could not be affected in light of the European Court of Human Rights Judgement in *Chahal v UK*,[38] The ATCS Act empowers the Secretary of State to classify them as "suspected international terrorists". The ATCS Act empowered the authorities to immediately apprehend a suspected international terrorist and detain them without a charge or a trial, on the basis of secret evidence, for an unspecified time.[39] The ATCS Act also provided additional provisions regarding weapons of mass destruction (Part VI), regulation of pathogens and toxins (Part VII), and the use of lethal substances to harm

[33] ibid.

[34] ibid, para 10-24.

[35] ibid, para 87.

[36] Terrorism Act 2000, (n 5), section 38B.

[37] Ibid, section 54.

[38] In *Chahal v The United Kingdom* (Application No. 70/1995), the ECtHR held that the Home Secretary decision to expel, Mr Chahal on security grounds, violated prohibition of inhuman and degrading treatment - enshrined under Article 3 of the European Convention on Human Rights (ECHR). The Court argued that a signatory state cannot return a foreign national on security grounds when there are foreseeable chances of inhuman and degrading treatment in the receiving state.

[39] *Anti-Terrorism Crime and security Act* 2001, 14 December 2001, section 23 (1).

or threaten to harm.[40] Furthermore, the ATCS Act provided procedures with regard to the aviation industry, such as arrest and removal from aircraft and airports, detention of aircraft and aviation security services.[41]

The Act created complex human rights implications. According to Amnesty International, the Act was draconian as it had far-reaching impacts on the right to liberty and protection from arbitrary detention.[42] Thereto, soon the Act was challenged in the UK courts. Consequently, in *A & others v Secretary of State for the Home Department,* the House of Lords held that indefinite detention of a suspected terrorist without a trial violates the right to liberty and protection from arbitrary detention. The House of Lords assessed the proportionality of indefinite detention of the suspected terrorist in the face of the availability of less restrictive measures; accordingly, it held that detention of the complaints violated their right to liberty and protection from arbitrary detention.[43]

Therefore, a need for further amendment of the counter-terrorism legislation aroused. As a result, the UK government introduced *Prevention of Terrorism Act* (PTA) 2005 that allowed the Secretary of the State to impose control orders on the suspected terrorists. The control orders allowed the Secretary of State to impose a variety of restrictions on suspects such as restriction on employment, residence, travel, free movement, communication and association with others. The PTA 2005 was repealed on 15 December 2011, following the High Court judge - Justice Jeremy M Sullivan's declaration that the Secretary of State cannot impose 18 hours curfews on suspected individuals without derogating from the Article 5 ECHR.[44] Therefore, the court declared section 3 of the PTA 2005 incompatible with the right to fair trial.[45]

Terrorism Act 2006

Until 2006, the existing counter-terrorism legislation mainly intended to criminalise terrorism acts and support investigation of terrorist crime. Nonetheless, due to massive development in the internet technology and online criminal activity, such as encouragement of terrorism, dissemination of terrorist publications, and preparation of terrorist acts in the online world, remained outside of the scope of existing laws. Therefore, The Terrorism Act 2006 introduced highly offences related to incitement of terrorism and disseminating terrorist publication in the online world. The July 7 2005

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[40] Ibid, sections 113-115.

[41] Ibid, sections 82-88.

[42] Amnesty International, 'United Kingdom: Amnesty International's Memorandum to the UK Government on Part 4 of the Anti-Terrorism, Crime and Security Act 2001' (Amnesty International 2002) EUR 45/017/2002, accessed 15 July 2021.

[43] *A and others v Secretary of State for the Home Department* (2004), UKHL 56.

[44] *Secretary of State v MB* [2006] EWHC 1000 (Admin), para 104.

[45] ibid.

London bombings was the underlying cause of the Terrorism Act 2006. The Act arguably meant loss or lessening of trust between Muslims and the government[46].

Section 1 of the Act criminalises a statement in oral or written form that has the capacity of being perceived by some or all of the members of the public as a direct or indirect encouragement or incitement to the commission, preparation, or instigation of terrorism.[47] Additionally, the Act criminalises the distribution, circulation, facilitation, holding, lending, and sale of a publication having the capacity of glorifying terrorism or inciting others to terrorism-related activities.[48] Section 5 criminalises the preparation of terrorist acts by making it an offence for a person having the intention to commit an act of terrorism or assist others to commit such an act, to undertake any conduct or action giving effect to that intention.[49] Furthermore, sections 6-8 of the Act supplement existing offence of terrorist training, whereas sections 9-11 supplement the existing provision of Terrorism Act 2000 regarding the preparation, use, or possession of radioactive materials or making threats relating to them.[50]

Counter-Terrorism Act 2008

The existing counter-terrorism laws, so far, refrained from defining police powers with respect to gathering personal information from the suspect, seizing documents from the crime scene, and post charge questioning of the terrorist suspects. Therefore, there was a need for further amendment of the counter-terrorism legislation. Accordingly, the Counter-Terrorism Act 2008 was introduced in early 2008. The Act received Royal Assent on 26th November 2008.

The Act did not introduce new counter-terrorism provisions; rather, it extended the reach of the existing provisions. It provided the law enforcement authorities more powers to gather and share information for counter-terrorism purposes by removing the prohibition of post-charge questioning of suspected terrorists;[51] extending the pre-charge detention of suspected terrorists from 28 to 42 days;[52] imposing notification requirements on persons convicted of terror-related offences;[53] aligning the asset freezing laws with the international law;[54] amending provisions related to the

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[46] E Parker, 'Implementation of the UK Terrorism Act 2006-the relationship between counterterrorism law, free speech, and the Muslim community in the United Kingdom versus the United States' (2007) 21 *Emory Int'l L. Rev.*, 711.

[47] *Terrorism Act* 2006, 30 March 2006, section 1.

[48] Ibid, section 2.

[49] Ibid, section 5.

[50] Ibid, sections 8-11.

[51] *Counter-Terrorism Act* 2008, 26 November 2008, sections 22-24.

[52] Ibid, section 82.

[53] Ibid, section 45.

[54] Ibid, sections 34-41.

enforcement of control orders and forfeiture of suspected terrorist's cash;[55] extending police powers to remove documents from the properties searched during an investigation without regard to the legality of their seizer.[56]

Furthermore, the Act attempted to incorporate the recommendations suggested by Lord Carlile - the independent reviewer of the terrorism legislation - in his 2007 report on 'the Definition of Terrorism'. Lord Carlile suggested to make the terrorism definition compatible with the *UN Resolution 1566* (2004) on threats to international peace and security caused by terrorist acts and the *Council of Europe Convention on the Prevention of Terrorism* (2003) by replacing section 1(1)(c) of the Terrorism Act 2000, with the following text:

> "the use or threat is made for the purpose of advancing a political, philosophical, ideological, racial, ethnic, religious or other similar cause".[57]

Thereby, the Counter-Terrorism Act 2008, for the first time, introduced a 'racial cause' in the list of motives/causes behind the use or threat of action.[58] The Act attempted to further define terrorism causes to address the concerns of the critics of Terrorism definition who argued that the definition was too wide to leave room for political bias and potential use by the government to suppress legitimate social and political movements.[59] Additionally, under section 76, the Act made it a criminal offence to elicit or attempt to elicit, publish, or communicate information about a member of the armed forces, the intelligence services or a police constable which is likely to be useful to a person committing or preparing an act of terrorism.[60]

The section created complex implications for journalists and photographers. The National Union of Journalists (NUJ) feared that the Act would further extend police powers to stop and search journalist under section 44 (discussed above); therefore, it objected section 76 of the *Counter-Terrorism Act* 2008 to protect the freedom of press, particularly the freedom of expression (Article 10 ECHR).[61] The British Press Photographers Association (BPPA) also raised similar concerns about arrest of photographers if the photographs taken by them had the potential of provoking

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[55] Ibid, sections 78-81 & 83-84.

[56] Ibid, section 9.

[57] Lord Carlile, 'The Definition of Terrorism', March 2007, para 66.

[58] *Counter-Terrorism Act* 2008, (n 51) section 75.

[59] Andrew Blick, Tufyal Choudhury, Stuart Weir, 'The Rules of the Games', (2006) Human Rights Centre: University of Essex; Amnesty International, 'Submission from Amnesty International, Europe and Central Asia Programme, to the JCHR's Inquiry into Counter-Terrorism Policy and Human Rights' (2005) accessed 31 August 2021.

[60] Ibid, section 76.

[61] Jo Adetunji, 'Photographers Fear They Are Target of New Terror Law' [2009] *the Guardian*, accessed 1 September 2021.

disorder.[62] The Home Office rendered these concerns speculative; it argued that it would be the job of police officers and courts to interpret and apply the law.[63] Nonetheless, the Home Office refrained from adequately addressing the NUJ and BPPA concerns with regard to journalists and photographers' right to liberty, freedom of expression and freedom of information.

Terrorist Asset Freezing Act 2010

On 4 January 2010, in *HM Treasury v Ahmed & Others*,[64] the Supreme Court decided that the then enforced, *Terrorism Act* 2006 was ultra vires to the *United Nations Act* 1946[65] - the Act which gave effect to United Nations Anti-Terrorism resolutions in the United Kingdom. Thereby, the Supreme Court quashed the *Terrorism Act* 2006. Consequently, there was a need to re-incorporate the United Nations Anti-Terrorism resolutions in the domestic laws, particularly the resolution no. 1373 which obliged the Member States to prevent financing of terrorist acts by freezing financial assets of the individuals involved in the commission or support of terror-related activities,[66] and resolution no. 1452 which introduced exemptions to prohibitions on making funds, financial assets or economic resources available to allow necessary payments to meet basic humanitarian needs, such as payments for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, public utility charges and legal fees and expenses.[67] Therefore, *the Terrorist Asset-Freezing Act* (TAFA) 2010 was introduced in 2010.

The Act empowered Her Majesty's Treasury (the Treasury) to freeze the assets of a suspected individual by including their name in the interim or final list of individuals to whom asset freezing apply.[68] The Act makes it illegal for a person: to deal with funds or economic resources owned, held, or controlled by an individual designated in the interim or the final list; to make funds, financial services, or economic resources available to a designated person; to make funds, financial services, or economic resources available to any other person for the benefit of a designated person if the person has reasonable cause to suspect, that the funds, financial services, or economic resources in question are owned, held, or controlled by a designated person or benefit a designated person.[69] Furthermore, the Act makes it an offence for a person to intentionally participate in activities knowing that their object or effect is to

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[62] ibid.

[63] Ibid.

[64] *HM Treasury v Ahmed & Others (2010) UKSC 2.*

[65] *United Nations Act* (1946), Chapter 45 9 & 10 Geo 6, 15 April 1946.

[66] United Nations Security Council, Resolution no 1373, adopted by the Security Council on 28 September 2001.

[67] United Nations Security Council, Resolution no 1452, adopted by the Security Council on 20 December 2002.

[68] Terrorist Asset Freezing Act 2010, 16 December 2010, Section 1-10.

[69] Ibid, sections 10-15.

circumvent, enable, or facilitate the contravention of the prohibitions enshrined under sections 11 to 15 of the Act.[70] The Act penalises the breach of sections 11-15 & 18 with a maximum imprisonment term of seven years or a fine up to £5000 or both.[71]

Terrorism Prevention and Investigation Measures Act 2011

Until 2010, the existing counter-terrorism law mainly focused on criminalising different acts of terrorism and enhancing police powers to prevent them. Nonetheless, significant gaps existed with respect to suspects under investigation for involvement in terror related activities, who cannot be prosecuted for lack of evidence or expelled to home state in light of the ECtHR judgment against the United Kingdom in the *Chahal* case, or suspects or convicts who have been released from prison and continuously pose threat to public safety or national security. Therefore, Terrorism Prevention and Investigation Measures Act (TPIMA) was introduced in the UK counter-terrorism legislation. The TPIMA received Royal Assent on 14th December 2011.

The TPIMA abolished the *Prevention of Terrorism Act* 2005. Thereby, Secretary of State's powers to impose 'control orders' was replaced with 'terrorism prevention and investigation measures' powers. Under schedule 1, the Act enshrines a set of requirements, restrictions, or obligations which may be imposed on an individual reasonably suspected of being a threat to the public.[72] The Act allows the Secretary of State to impose terrorism prevention measures either with the court's permission or on his own will when there are reasonable grounds to believe that the case's urgency requires so.[73] TPIM notice can be imposed for an initial duration of one year and extended by the Secretary of State for another year.[74] The Act makes it an offence for the suspected individuals against whom TPIM notice is imposed to contravene the measures specified in the TPIM notice without a reasonable excuse.[75] The person guilty of committing the offence is punishable with imprisonment, or a fine, or both.

The Act empowers the Secretary of State to impose on suspected individuals any of the restrictions or obligations enshrined under sections 1-9 of schedule 1, individually or collectively.

- An obligation to reside at a specific residence that could be either the individual's own residence or other premises designated by the Secretary of State.

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[70] Ibid, section 18.

[71] Ibid, section 32.

[72] *Terrorism Prevention and investigation Measures Act* 2011, 14 December 2011, schedule 1.

[73] Ibid, section 3(5).

[74] Ibid, section 5(2).

[75] Ibid, section 23.

- A restriction on obtaining travel documents, or leaving the UK, or traveling\visiting areas, without prior permission, barred by the Secretary of State.
- A restriction on entering a specific area or a place or a place or area of specific description.
- An obligation to comply with the movement orders of a police constable.
- A restriction on using or accessing – without prior permission of the Secretary of State – financial services; these measures may prohibit a suspected individual from opening a bank account, holding cash over a specified amount, or receiving interest or commission in relation to services or investments.
- A restriction on transferring property to or by the suspected individual or an obligation to disclose property and other assets.
- A restriction on possessing or using an electronic communication device either by the suspected individual or other persons residing with the suspected individual.
- A restriction on associating or communicating – without prior permission – with a specified person(s) or person(s) of a specified description.
- A restriction on working or studying – without prior permission – specified work or work of specified description or specified studies or studies of a specified description.

Counter-Terrorism and Security Act 2015

On 29 August 2014, witnessing return of UK nationals Jihadist fighter who travelled to Syria to join terrorist Jihadist groups, the Independent Joint Terrorism Analysis Centre (JTAC) raised national security threat level to severe.[76] Therefore, there was a need for the government to introduce a new law to stop people travelling overseas to fight for terrorist organisations or engage in terrorism related activity and subsequently returning to the UK, and to deal with those who had already returned home and pose a threat to national security and public safety.[77]

Thereby, The UK government introduced *Counter-Terrorism and Security* (CTSA) 2015. The CTSA received Royal Assent on 12th February 2015. The Act strengthens the authorities' powers to effectively implement the CONTEST Strategy (discussed in part 2). Sections 1 & 2 supplement the authorities` powers enshrined under schedule 1 of the TPIM Act 2015 by introducing new clauses to seize travel documents of the suspected individuals planning or trying to leave the UK and to impose exclusion orders requiring the suspected individuals not to return to the UK.[78] The Act empowers the Secretary of State to impose exclusionary order with or without the court's permission depending on the nature of the perceived threat. Once an individual is

[76] Home Office, '[Memorandum to the Home Affairs Committee: Post-Legislative Scrutiny of the Counter-Terrorism and Security Act 2015]' (Home Office, June 2021), accessed 30 August 2021.
[77] ibid.
[78] *Counter-Terrorism and security Act* 2015, 12 February 2015, sections 1 & 2.

subjected to an exclusion order, the Act empowers the Secretary of State to allow the suspected individual to return to the UK by issuing a return permit after undergoing an extensive screening process.[79] The Act further empowers the Secretary of State to impose any or all the restrictions or obligations provided under the schedule 1 of the TPIM Act 2011.

Furthermore, the Act introduces new preventive provisions, which create a statutory duty for 'public bodies specified under schedule 6 of the ACT'[80] to prevent vulnerable individuals under their control, care, or influence from being drawn into terrorism.[81] The Act empowers the Secretary of State for the Home Department to publish guidance and strategies that governors of the specified bodies must follow when fulfilling their duties. The Act obliges the governors, managers, and officers in charge of the public bodies to take adequate measures, in light of the Prevent guidance or strategies issued by the Secretary of State, to prevent vulnerable individuals under their control, care or influence from being drawn to terrorism. Prevent responsibilities of the public bodies has been discussed below in the CONTEST Strategy - a secondary framework on counter-terrorism.

Counter-Terrorism and Border Security Act 2019

The Counter-Terrorism and Border Security (CTBS) Act was enforced on the 12th February 2019 to supplement the existing laws. The primary aim of the Act was to close the gaps in the existing laws that appeared with the rapid advancement of online communication channels. The Act extends the existing offence of displaying an image in a public place that arouses reasonable suspicion that the person is a member or supporter of a proscribed organisation to online communication channels.[82] The Act also extends the offence of obtaining information that is likely to be useful to a terrorist or a terrorist organisation to content that is viewed or streamed online.[83] The Act extends the maximum imprisonment for certain preparatory terrorism offences to 15 years.[84]

Section 18 and 58 amend the Terrorism Act 2000 to allow a pause of the detention clock when a detained individual is transferred from police custody to a hospital and to extend the offence of viewing or accessing information or material that is likely to

[79] Ibid, sections 5 & 6.

[80] Public bodies include local government authorities - councils, county councils, city councils; criminal justice institute - prisons, young offender institutions, rehabilitation centres, training centres, and probation services centres; educational institutes - universities, colleges, vocational training centers, and child care centres; health care institutes - NHS and local health boards; and law enforcement authorities - police, the British transport police, and the port police.

[81] *Counter-Terrorism and security Act* 2015, (n 78) sections 26 & 36.

[82] *Counter-Terrorism and Border Security Act* 2019, 12 February 2019, Section 2.

[83] Ibid, section 3.

[84] Ibid, section 7.

be useful to a person committing or preparing an act of terrorism. The Act enables the public bodies to refer an individual at risk of being drawn into terrorism to the local channel - a panel of the members of the local police, NHS, local council, and educational institute established under section 36 of the CTSA 2015 to help, advice, and support individuals identified at risk of being drawn into terrorism.[85]

Police, Crime, Sentencing and Courts Bill - The Proposed Bill

In addition to above mentioned existing legislation, the Home Secretary has introduced a new bill entitled, *Police, Crime, Sentencing and Courts Bill,* in the Parliament. The Bill has been passed by the House of Commons and sent to the House of Lords where it is undergoing detailed line by line examination of all clauses and schedules at the Committee stage. Once the Bill clears the Committee stage it will go through third and final reading by the House before it is approved and sent for Royal Assent. In addition to introducing new provisions regarding sentencing, detention, release, management and rehabilitation of offenders, the Bill intends to introduce new provisions to enhance counter-terrorism collaboration between police, emergency works and other law enforcement authorities.[86] It further intends to enhance the law enforcement authorities` powers for the purposes of preventing, detecting, investigating or prosecuting crime or investigating other matters.[87]

5. Relevant Policy and Institutional Framework in the Field of Radicalisation

In addition to the primary legislation discussed above, the UK Government published a comprehensive Counter-Terrorism Strategy (CONTEST) in 2018 as part of the secondary frameworks. The CONTEST strategy focuses on systemic coordination between the private and the public sector organisations to make it harder for terrorists and those who support their ideology to plan and carry out terror attacks. To this end, the CONTEST endeavours effective coordination between intelligence agencies, police, local authorities, health care organisations, and educational institutes to disrupt terrorist threats earlier to share early information about vulnerabilities as they appear.[88]

The CONTEST gives increased importance to local level interventions; therefore, it aims to strengthen the resilience of local communities to terrorism.[89] In addition to public sector organisations, the strategy also prioritises engaging private sector organisations to prevent acts of terrorism before happening. For example, retail

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[85] Ibid, section 20.

[86] *Police, Crime, Sentencing and Courts Bill,* Originated in the House of Commons, sessions 2019-21, 2021-22, available at <https://bills.parliament.uk/bills/2839> accessed 26 September 2021.

[87] Ibid.

[88] Home Office, 'CONTEST: The United Kingdom's Strategy for Countering Terrorism' accessed 23 June 2021, 9.

[89] Ibid.

businesses are engaged to gain faster alerts to suspicious purchases and design out vulnerabilities in the industry or in the products that terrorists exploit.[90]

The CONTEST is implemented under four 'strategic work strands - Prevent, Pursue, Protect, and Prepare - to realise the aforementioned objectives. The Prevent strand aims to safeguard vulnerable communities and prevent vulnerable individuals from being drawn to radicalisation.[91] In contrast, the other three strands focus on protecting the general public from the impacts of terrorism by enhancing capabilities of law enforcement authorities to timely detect, investigate, disrupt terrorist activities, and ensure quick responses to terrorist attacks to reduce their impacts.[92] Therefore, in line with the scope of this report, this section only focuses on inter-organizational coordination to implement the Prevent strand of the CONTEST strategy, i.e., to early detect vulnerabilities in the communities and safeguard vulnerable individuals from being drawn to radicalisation. It attributes a social responsibility on private and public sector organisations to stop people from becoming terrorists or directly or indirectly supporting terrorists.

Prevent Programme

The Prevent Programme gives effect to statutory duty of public sector organisations arising from section 26 of the *Counter-Terrorism Act* 2015 (discussed above).[93] It is the only state programme which centres on deradicalisation. It aims to safeguard and support individuals vulnerable to being drawn to radicalisation or who are (or have been) of interest to law enforcement agencies due to their possible links to terrorist-related activities but who are not currently the subject of any active investigations.[94] The Programme also aims to support the rehabilitation and disengagement of offenders on probation and those subject to TPIM notice under TPIM Act 2011 for their direct or indirect involvement in terror-related activities.[95] The programme tackles the causes of radicalisation by responding to the ideological challenge of terrorism.[96] Under the Programme, the Secretary of the State for Home Department, issues sector specific guidance - under section 29 of the Counter-Terrorism Act 2015. The guidance identifies best practice for each of the main sectors and describes ways in which they can comply with the Prevent duty. The guidance provides information on how compliance with the Prevent duty will be monitored. It helps the public and private sector organisations effectively safeguard and support

[90] Ibid.

[91] Ibid, 10.

[92] Ibid, 10-11.

[93] *Counter-Terrorism and security Act* 2015, (n 78), section 26.

[94] Home Office, CONTEST (n 88).

[95] ibid, 31.

[96] ibid, 31.

their employees and individuals under their supervision, from causes of radicalisation and protect vulnerable individuals[97] from being drawn to terrorism.[98]

The Prevent Guidance advises the senior managers or the officers in charge of the affairs of the local authorities, schools and universities, health organisations, police, prisons and probation, and the private sector organisations to:

- Establish mechanisms for understanding the risk of radicalisation in their organisations;
- Ensure staff understand the risk and report suspected behaviours beforehand;
- Build capabilities to deal with the risk;
- Communicate and promote the importance of the Prevent duty;
- Ensure staff implement the duty effectively;
- put in place and employ 'Prevent Coordinators' to monitor individuals being drawn to extreme ideologies, such as Jihadism, racial supremacy, ultranationalism, and xenophobia;
- Raise concerns with police when concerned about a member or an employee's suspected radical activity;
- Form a local panel in consultation with the police and other relevant authorities, if any, to assess the individual's level of vulnerability and allocate appropriate support.[99]

A vulnerability case referred under the Prevent programme is screened by police to check whether the individual should be investigated for terrorism activity or be referred for an appropriate channel support, where a panel of representatives from the local authority, education, and health services assess the extent of vulnerability to decide whether the circumstances warrant for the adoption of the individual as a channel case. Once the panel is assured that the individual is being drawn to radicalisation, appropriate further support is provided, and the case is marked as a channel case.

For example, in the education sector, the Home Office, in coordination with the Department of Education, has developed a website – Educate against Hate – that provides guidance to teachers, management, and parents to enable them to protect children from being drawn to radicalisation.[100] Similarly, Education and Training Foundation's "Prevent for Further Education and Training" and Universities-UK's "Safe campus Communities" websites provide guidance for the higher education sector. The

[97] According to Rita Augestad Knudsen (2020, 48), CONTEST Strategy views vulnerability as a mental condition that makes someone susceptible to moral change and exposed to radicalisation settings.

[98] *Counter-Terrorism and security Act* 2015, (n 78), section 29.

[99] Home Office, CONTEST (n 88), 31.

[100] Ibid.

Prevent Programme further focuses on people subject to court-approved conditions, including all terrorism and terrorism-related offenders on probation licence, as well as those on Terrorism Prevention and Investigation Measures and those who have returned from conflict zones in Syria or Iraq and are subject to Temporary Exclusion Orders.[101]

Courts' Approach towards Human Rights Violation under Counter-Terrorism Laws

The *Human Rights Act* (HRA) 1998 was the first legislation that influenced the United Kingdom's counter-terrorism laws to protect human rights and fundamental freedoms. The HRA stipulates that primary legislation and subordinate legislation, so far as it is possible to do so, must be read and given effect in a way that is compatible with the ECHR.[102] In a case where a provision of either the primary or secondary legislation is incompatible with the ECHR, section 4 HRA empowers the competent courts - the Supreme Court, the Judicial Committee of the Privy Council, the Scottish High Court of Justiciary, the High Court, or the Court of Appeal - to declare the provision incompatible with the ECHR.[103] Where a provision of the secondary legislation, which is enacted in the exercise of the power conferred by the primary legislation, and when it is established that the primary legislation prevents revocation or amendment of the incompatible provision, the court may declare that provision of the primary legislation incompatible with the ECHR. House of Lords judgment in *A and others v Secretary of State for Home Department* and the High Court judgement in *Secretary of State v MB* (discussed above) are examples of such incompatible declarations. The House of Lords declared section 23 ATCS 2001 incompatible with Article 5 ECHR.[104] Whereas the High Court declared section 3 of the repealed PTA 2005, incompatible with Article 6 ECHR.[105]

Nonetheless, the courts have given a wide 'margin of appreciation'[106] to laws empowering police, to stop and search suspected individuals without reasonable suspicion, indiscriminately hold the fingerprints and DNA of the suspected and unconvicted individuals, and various other legislative provisions which clearly transgressed the human rights guaranteed under the ECHR. Consequently, counter-terrorism laws have also been challenged in the ECtHR. The case of *Gillan and*

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[101] Ibid.

[102] *Human Rights Act* 1998, 9 November 1998, section 3.

[103] Ibid, section 4.

[104] *A and others v Secretary of State for the Home Department,* (n 43).

[105] *Secretary of State v MB*, (n 44).

[106] The term 'margin of appreciation' refers to the space for manoeuvre that the Strasbourg organs are willing to grant national authorities, in fulfilling their obligations under the ECHR. The rule - also called deference in the domestic courts - has been applied by Justice Sales in *R (S) v Secretary of State for Justice* [2012] EWHC 1810 (Admin), para 47.

Quinton v UK (discussed above) and *S & Marper v UK* (Applications nos. 30562/04 and 30566/04) are the notable examples.

In *Gillan and Quinton* case, the ECtHR declared that police's stop and search powers under section 44 of Terrorism Act 2000 were unproportionate with the ECHR.[107] Similarly, in *S & Marper v UK,* the ECtHR ruled that the provisions in the *Police and Criminal Evidence Act* (PACE) 1984 permitting the authorities to indiscriminately hold the fingerprints and DNA from unconvicted individuals violated the right to privacy, guaranteed under Article 8 ECHR.[108] Following the judgment, the Government introduced sections 14-23 in the *Crime and Security Act* (CSA) 2010 to allow for the retention of fingerprints and DNA profiles of persons arrested for, but not convicted of, any recordable offence for six years.[109] Nonetheless, these changes also created reservation provisions to make it possible for the authorities to hold fingerprints and DNA of suspected and unconvicted individuals on national security grounds for a longer period.[110] However, these provisions were not enforced due to incompatibility with the ECHR.

Therefore, to balance law enforcement authorities` stop and search and DNA retention powers with the ECHR, the Government adopted the *Protection of Freedoms Act* (PFA) 2012. Part 1 of the Schedule 10 of the PFA 2012 repealed the provisions allowing authorities to hold the fingerprints and DNA of suspected individuals on national security grounds.[111] Furthermore, the PFA 2012 introduced section 63D in the PACE Act 1984 to oblige the authorities to destroy the fingerprints and DNA of suspected individuals if; the recording of the fingerprints or DNA was unlawful, or the recording of fingerprints or DNA resulted from an unlawful arrest.[112] Additionally, the PFA 2012 repealed police powers to stop and search without reasonable suspicion (section 44-47); it inserted section 47A in the Terrorism Act 2000 to empower a police constable to stop and search without reasonable suspicion in a specified location following authorisation from a senior police officer.[113]

Law Enforcement Authorities` Approach towards Radicalisation

Despite human rights protection provided by the HRA 1998 and FPA 2012, counter-terrorism laws "over emphasis on jihadist terrorism"[114] indirectly encourages the law

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[107] *Gillan and Quinton v. UK* (n 32).

[108] *S & Marper v UK*, Applications nos. 30562/04 and 30566/04, (ECtHR\GC, 04 December 2008), para 125.

[109] *Crime and Security Act* 2010, sections 14-23.

[110] Ibid, section 14-18, 20, & 21.

[111] *Protection of Freedoms Act* 2012, 1 May 2012, Schedule 10.

[112] Ibid, section 1.

[113] Ibid, section 61.

[114] Interview with Barrister Jonathan Hall, Independent Reviewer of the UK Counter-Terrorism Legislation, 6KBW, (online, 12 July 2021).

enforcement authorities, i.e. Police and Crown Prosecution Service (CPS) - state institutions working under the executive authority of the Home Secretary (the Government) - to focus on the threat of jihadist terrorism. Accordingly, a vast body of the existing literature shows that Muslim community is reluctant to cooperate with the law enforcement authorities.[115] There is a general perception in the Muslim community that the law enforcement authorities suspect the community across the board. Institutional bias has strong tendency to cause procedural injustice; therefore, it is important to examine whether the counter-terrorism laws' overemphasis on jihadist terrorism somehow causes the law enforcement authorities - Police and CPS - overlook the rising threat of far-right terrorism. In this section, we examine the police force counter-terrorism activities which give a presumption of the existence of institutional bias; where, in the next section we examine the CPS politicisation of counter-terrorism laws to shows existence of inconsistent and double standards viz-a-viz, jihadist terrorism and far-right terrorism.

To investigate police prejudice against Muslim community, we analyse the use of sections 43 and 47A of Terrorism Act 2000 to stop and search suspected individuals. Under section 43, the threshold of reasonable suspicion is determined by the police constable on the spot, which may vary on a case-by-case basis due to exercise of independent judgement by the police constables, and their perception of the ethnic and religious minorities. In July 2017, a video surfaced on social media which quickly became a headline in the newspapers showed a Muslim man stopped, handcuffed, and searched for suspicion related to terror activity.[116] The video shows that the man was rushing to join the prayer ceremony in the local mosque. On the way, a white lady suspected him for wearing too many clothes and called the police to investigate. On arriving at the scene, the police immediately handcuffed the suspect and later informed him about the reasons behind their act, after completing the search.

In the case of stop and search under section 47A, only a senior police officer of the rank of assistant chief constable may authorise the use of without reasonable stop and search when there is credible information about a potential threat of terrorism. Following the 2017 Parsons Green attack,[117] when the counter-terrorism police have

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[115] Joel David Taylor, '"Suspect Categories," Alienation and Counterterrorism: Critically Assessing PREVENT in the UK' (2020) 32 Terrorism and Political Violence 851; Tahir Abbas and Imran Awan, 'Limits of UK Counterterrorism Policy and Its Implications for Islamophobia and Far Right Extremism' (2015) 4 International Journal for Crime, Justice and Social Democracy 16; Francesco Ragazzi, 'Suspect Community or Suspect Category?' (n 4) 724; Adrian Cherney and Kristina Murphy, 'What Does It Mean to Be a Moderate Muslim in the War on Terror? Muslim Interpretations and Reactions' (2016) 9 Critical Studies on Terrorism 159.

[116] May Bulman, 'Muslim Man Stopped and Searched on Way to Mosque Because He Was "Wearing Too Many Clothes"' *The Independent* (14 July 2017), accessed 13 September 2021.

[117] On 15 September 2017, Ahmed Hassan, an 18 years old Iraqi asylum seeker and affiliate of ISIS, detonated a controlled bomb on a District Line train at the Parson Green train station. Ahmed admitted carrying out the terrorist act and claimed that he was forced to undergo jihadist training by the ISIS. He feared harm to his family had he refused to carry out the bombing.

information about the presence of another bomber around, the first-ever authorisation was given to stop and search suspected individuals without reasonable suspicion. Thereby, by the year ending March 2018, police stopped and searched 149 individuals without reasonable suspicion.[118] Stop and search data resealed by Home Office for the year ending March 2018 doesn't mention the ethnicity of the individuals stopped and searched under section 47A of terrorism Act. Jonathan Hall - the independent reviewer of the UK counter-terrorism law - argues that the police had a description of the suspected terrorist at large; therefore, it was expected that the majority of the individuals stopped and searched under section 47A would belong to a Muslim community.[119]

According to the Police Code of Practice, there must be an objective reason for suspecting an individual's involvement in terrorism, which should normally be based on intelligence or information about, or behaviour of the suspected individual.[120] Therefore, the grounds for reasonable suspicion depend on the circumstances of each individual case. The Code further states that reasonable suspicion may exist without specific information or intelligence but on the basis of the behaviour of a person.[121] The grounds for reasonable suspicion may arise from a person's behaviour at or near a location that has been identified as a potential target for terrorists.[122] Therefore, the judgment of the police constable in the field and their perceptions are more likely to play a part in determining who to suspect and who not to. In such situation, counter-terrorism laws` overemphasis on jihadist terrorism and the degree of discretion allowed to police constables under the Police Code of Practice, make it more likely for police constables to suspected individuals belonging to ethnic and religious minorities, particularly those exercising their social and cultural values in public. Accordingly, the stop and search data released by the Home Office, shows that, during the years ending March 2019 and March 2020, the numbers of individuals belonging to ethnic and religious minorities were stopped and searched at a rate 4.1 times higher than those belonging to white ethnic groups.[123] Geographical clustering can be observed within urban areas, with the highest proportion of stop and searches occurring within Metropolitan London.[124] 80% of all stop and searches of ethnic minorities were made by the Metropolitan police in London, and 90% of all stop and searches of ethnic

[118] Home Office, 'Police Powers and Procedures England and Wales Year, Ending 31 March 2018' (Home Office 2018) 24/18, 26.

[119] Interview with Barrister Jonathan Hall, (n 114).

[120] Home Office, 'Code of Practice (England, Wales And Scotland) for the Exercise of Stop and Search Powers under Sections 43 And 43a of the Terrorism Act 2000, and the Authorisation and Exercise of Stop and Search Powers Relating to Section 47a of, and Schedule 6b to, the Terrorism Act 2000' para 3.4.1, accessed 8 July 2021.

[121] ibid 3.4.2.

[122] ibid 3.4.2.

[123] Home Office, 'Police Powers and Procedures England and Wales', accessed 07 July 2021.

[124] Race Disparity unit, 'Stop and search data and the effect of geographical differences', accessed 05 October 2021.

minorities occurred in 8 police force areas in relatively urban areas. However, a paradox can be observed here, as the *proportion* (not actual number) of relative disparity in stop and searches between white and ethnic minority individuals was highest in peri-urban and rural regions (e.g., Dorset county with a population of 426,515, and Warwickshire county with a population of 568,167, compared to Greater London with a population of 8.908 million), where the stop and search rate of ethnic minority individuals was 23 (Dorset), 14 (West Mercia police force serving Herefordshire, Worcestershire, Shropshire and Telford & Wrekin), and 13 (Warwickshire) times more the rate of white individuals, despite these areas being predominantly culturally homogenous (i.e., white)[125]. Therefore, it appears that institutional bias exist in the counter-terrorism activities of police force.

The existence of institutional bias in the counter-terrorism activities of police is further vindicated by the stark difference in the numbers of Prevent referrals made by police and other public sector organisations such as the education sector. From the 1st of April 2019 to the 31st of March 2020, out of 1,950 Prevent referrals made by police, 566 cases - amounting to 38% of the total police referrals - related to the concern of jihadist radicalisation.[126] In contrast, out of the 1928 referrals from the education sector, only 281 case - amounting to 14.5% of the total education sector referrals - related to jihadist radicalisation.[127] Similarly, police made 508 referrals related to concerns of far-right radicalisation - amounting to 26% of the total police referrals. In contrast, the education sector made 423 referrals relating to concerns of right-wing radicalisation - amounting to 22% of the total education sector referrals.[128]

Thus, it appears that counter-terrorism laws' overemphasis on jihadist terrorism and the degree of discretion exercised by police in determining the threshold of reasonable suspicion, gives rise to institutional bias in police force. This helps us further conclude that the overemphasis on jihadist terrorism prevents police from effectively responding to the existing trends of far-right radicalisation. Thereby, counter-terrorism laws remain incapable to achieve the desired object of de-radicalising society.

International Organisations and NGOs Role in De-Radicalisation

Non-governmental organisations (NGOs) and international organisations working for protection of human rights have played a significant role in shaping the counter-terrorism legislation and de-radicalising society by highlighting controversial and possibly counter-productive provisions of the counter-terrorism laws. For example, after the appointment of William Shawcross as an independent reviewer of the Prevent Strategy, on 21 January 2021, Amnesty International, along with 'Big Brother Watch'

[125] Ibid.

[126] Home Office, 'Individuals Referred to and Supported through the Prevent Programme': (2021) 14, accessed 1 July 2021.

[127] Ibid.

[128] Ibid.

and 15 other NGOs objected to his appointment for his Islamophobic views about Europe's Muslim community.[129]

> In his views, "*Islam is one of the greatest, most terrifying problems of our future. I think all European countries have vastly, very quickly growing Islamic populations."*[130]

Shawcross is further accused of disproportionately focusing on Muslim charities and putting them under investigation during his previous appointment as Chair of Charity Commission.[131] According to these NGOS, the appointment of William Shawcross has made clear, beyond doubt, that the UK government has no interest in conducting an objective and impartial review of the strategy, nor in engaging meaningfully with communities affected by it.[132] Therefore, these NGOS have announced to conduct a parallel review of the Prevent Strategy.[133] Furthermore, 'Hope not Hate' - an NGO - runs deradicalisation programmes at schools to promote interfaith harmony and social inclusion. As a result of these activities, NGOS have been playing a significant role in promoting inter-faith harmony and making the counter-terrorism laws objective and impartial.

6. Case Studies

Case 1: Prosecution of right-wing political violence

In *R v Gul*, the Supreme Court observed that the broad width of the terrorism definition affords wide discretion to the Crown Prosecution Service (CPS) in deciding whom to arrest and whom to prosecute.[134] The issue was again highlighted in the case of Thomas Mair – the murderer of Labour Party MP Jo Cox - when the CPS decided not to prosecute Mair for terrorism. It was obvious that Mair had a clear political ideology, embraced far-right political ideals, and evidently committed the murder to further his cause.[135] When committing the gruesome act of repetitively stabbing the victim 15 times, he shouted, "This is for Britain", "keep Britain independent", and "Britain first". The police recovered material of far-right ideology from his house.

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[129] Amnesty International, 'UK: NGOs Condemn Appointment of William Shawcross and Announce Civil Society-Led Review of Prevent' (2021) accessed 4 October 2021.

[130] Ibid

[131] Ibid

[132] Ibid

[133] Ibid

[134] *R v Gul* (Appellant), [2013] UKSC 64, 23 October 2013, para 63.

[135] We have identified Mair's case in an extensive way in our D.Rad 3.2 report on hotspots of radicalisation where we extensively dealt with West Yorkshire and Mair's murder of Jo Cox, see Holmes I, Ozduzen O, Ferenczi N, Liu K, Holmes N, 'Hotspots of Radicalisation in the UK' (2021) D.Rad Country Report 3.2.

Mair was prosecuted and convicted under para 4 (2)c of schedule 21 of the *Criminal Justice Act* (2003) for murder to advance a political cause.[136] Soon after the court's decision, Sue Hemming, the head of special crime and counter-terrorism at the CPS, argued that the CPS successfully demonstrated that Mair's criminal act was motivated by hate that intended to advance a twisted political ideology.[137] However, in view of the recovery of white supremacist material from Mair's house and considering the fact that he made no effort to defend himself in the court, it was possible for the CPS to get conviction under the Terrorism Act 2000. Designation of the Cox murder as an act of political hatred raised concerns about differential treatment of far-right terrorism. It also raises a need to answer when an act of hatred becomes terrorism?

To answer this question, we need to consider the definition of terrorism and 'hate crime' used by the CPS. As discussed above, Terrorism Act defines terrorism as advancement of a radical, political, religious, racial, or ideological cause through the use or threat of action that endangers a person's life [.....]. However, the CPS defines hate crime as an act of violence or hostility based on race, religion, disability, sexual orientation or transgender identity.[138] This clearly shows that, on one hand, Mair's act of pursuing a political cause does not come under the definition of 'hate crime' *per se.* On the other hand, the use of violence to pursue a political cause has been clearly enshrined in the definition of terrorism. Generally, an act of violence may fall short of being labelled as terrorism when theirs is an angle of racial, religious, disability, or sexual orientation hatred in the violent act of perpetrator. This is clearly not a case in the present situation; therefore, it is reasonable to argue that Mair's act should had been treated an act of terrorism.

Case 2: Prosecution of Jihadist political violence

This give rise to suspicion that the CPS may have been treating far-right terrorism differently as compared to jihadist terrorism. To address this dichotomy, we look at the cases of British nationals who have travelled to Syria to join the camps of the proscribed Kurdish armed forces – PKK (The Kurdistan Workers' Party (Partiya Karkerên Kurdistan) and ISIS (Islamic State of Iraq and the Levant), created quite a controversy about the politicisation of counter-terrorism laws. These cases show inconsistency in the application of counter-terrorism laws. For example, Aidan James who is one of the nearly 100 British nationals who travelled to Iraq and Syria to join the Kurdish nationalist army YPG (People's Protection Units) of the Syrian Democratic Forces (SDF) in the fight against ISIS.[139] Aidan James was arrested on his arrival in

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[136] *Criminal Justice Act*, 2003, Schedule 21, para 4 (2) (c).

[137] David Anderson, 'The Terrorism Acts in 2015' (Home Office 2016) para 2.23, accessed 3 July 2021.

[138] Crown Prosecution Service, 'Hate Crime | The Crown Prosecution Service' accessed 26 September 2021.

[139] Yusuf Furkan Sen and Adhe Nuansa Wibisono, 'Combating the Evolving Foreign Terrorist Fighters: Recent Developments of PYD/YPG's Foreign Terrorist Fighters in Turkey and Several European Countries'

the UK and charged for 'planning act of terrorism' and 'joining terrorist camps' run by proscribed PKK respectively.[140] He was sentenced to twelve months imprisonment for joining PKK's training camps; while the CPS decided not to prosecute for planning acts of terrorism because it did not believe that the acts amounted to terrorism for the reason that YPG was an ally of the US and UK forces in the fight against ISIS.[141] The CPS argued that James' case was different from the rest of the cases because he supported and promoted the political and ideological cause of the SDF.[142] In contrast, in the case of Dan Newey, another British citizen who joined the YPG in 2017 to fight against ISIS, even his father Paul Newey was arrested when Dan was in Rojava. Paul Newey was taken for questioning, arrested, then charged with helping terrorism for sending money and eventually acquitted of all charges.[143] This not only accounts for the politicisation of counter-terrorism laws but shows the ambivalent stance of the Conservative Party government towards British citizens fighting in Syria for even the same cause.

Furthermore, Shamima Begum, who left the United Kingdom at the age of 15 to marry an ISIS combatant in Syria, was not only deprived of her British nationality, but her application for "leave to enter" the UK to fight her case in the UK courts was also rejected by the Home Office. The Home Secretary in a letter addressed to her parents informed her of the Home Office decision to deprive her of British nationality by using section 40(2) of the *British Nationality Act* 1981. The section states that a person may be deprived of his or her citizenship if such 'deprivation is conducive to the public good'.[144] However, section 40(4) of the *British Nationality Act* 1981 which is reproduction of Article 8(1) of the *Convention on the Reduction of Statelessness* 1961, prohibits Home Office from depriving a person of their citizenship if the deprivation would render them stateless.[145] Therefore, the Home Office reasoned that Begum would not be rendered stateless because she was eligible for Bangladeshi nationality through her parents.[146]

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in Olcay Colak and Sevilay Ece Gumus Ozuyar (eds), *Selected topics on Defence Economics and Terrorism* (EKİN Basım Yayın Dağıtım (2020) 171.

[140] Terrorism Act 2000, (n 5) section 5 & 8.

[141] Daniel De Simone, 'Aidan James: The British Man Who Was Put on Trial after Fighting IS' *BBC News* (24 October 2019), accessed 7 July 2021.

[142] Ibid.

[143] Daniel D Simon, 'Father and Son left in Limbo by Failed Terror Case' *BBC News* (3 July 2020), accessed 9 September 2021.

[144] Steve Clarke, 'Shamima Begum and the Public Good' (*Practical Ethics*, 15 May 2019), accessed 18 July 2021; Amanda D Brown, 'Globalizing Anudo v. Tanzania: Applying the African Court's Arbitrariness Test to the UK's Denationalization of Shamima Begum' (2020) 18 UCLA Journal of Islamic and Near Eastern Law 140; British Nationality Act 1981, 01 January 1983, section 40(2).

[145] *British Nationality Act* 1981, (n 144) section 40(4); UN General Assembly, *Convention on the Reduction of Statelessness*, 30 August 1961, United Nations, Treaty Series, vol. 989, p. 175, Article 7(1).

[146] Steve Clark, 'Shamima Begum and Public Good', (n 144).

According to section 5 of the *Bangladesh Citizenship Act* 1951 and rule a child born outside Bangladesh 'shall be a citizen of Bangladesh by descent' if either of his or her parents is a citizen of Bangladesh at the time of his or her birth.[147] Nonetheless, Rule 9 of the *Ba*ngladesh *Citizenship Rules* 1952 states that the child must apply at the designated local government office to become a Bangladeshi citizen.[148] Therefore, Begum was not required to apply for Bangladeshi citizenship. She was only required to register as a Bangladeshi citizen, in Bangladesh or at any designated office overseas, before the age of 21. This option is not available anymore because she is over 21 years of age; therefore, she does not meet the qualifying age limit. The Ministry of Foreign Affairs of Bangladesh, in a press release unequivocally stated that Begum never held Bangladeshi nationality, nor did she ever visit Bangladesh in her life.[149]

Now the question that needs answering is whether the Home Office can rely on the fact that Begum was eligible to register as Bangladeshi citizen when deprived of British nationality, and that by not registering as a Bangladeshi citizen she brought statelessness on herself. To answer this question we need to consider Bangladesh's Ministry of Foreign Affairs statement which threatened Begum with capital punishment had she entered Bangladesh.[150] Capital punishment is prohibited under Protocols 6 and 13 of the European Convention on Human Rights, and the UK has ratified both.[151] Thus, it wouldn't be reasonable for the Home Office to argue that Begum failed to register as a Bangladeshi citizen when she was eligible to do so. In such a situation, depriving Begum of British nationality was only justified had the Home Secretary sought two specific guarantees from the Bangladeshi government; firstly, that Begum wouldn't be punished with capital sentence, and secondly, the Bangladeshi Government would register her as a Bangladeshi nationality. Thus, considering that the Home Office did not seek these assurances from the Bangladeshi government and that Begum is not eligible to register as a Bangladeshi citizen anymore, it was never justified then and it is not justified now to deprive Begum of her British nationality.

Furthermore, the Home Office has denied Begum's application for an entry clearance visa to re-enter the UK and fight her legal case in the UK courts. Begum has filed two separate legal challenges in the UK courts; one against the Home Office's decision of depriving her of British nationality, and the second against the Home Office's decision

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[147] *Bangladesh Nationality Act* 1951, section 5.

[148] *Ba*ngladesh *Citizenship Rules* 1952, Rule 9.

[149] Bangladesh: Ministry of Foreign Affairs, 'Bangladesh: Ministry of Foreign Affairs Press Release Regarding Shamima Begum', accessed 14 September 2021.

[150] Brown (n 144) 145.

[151] Council of Europe, *European Convention for the Protection of Human Rights and Fundamental Freedoms*, 4 November 1950, ETS 5, Art 2; Council of Europe, *Protocol 13 to the European Convention on Human Rights and Fundamental Freedoms on the Abolition of the Death Penalty in All Circumstances*, 3 May 2002, ETS 18, Art 1.

of not allowing her to return to the UK to fight her case. Her main case contesting the Home Office's decision of depriving her of British nationality is awaiting a hearing at the time of writing, while she has lost the second case that contested the Home Office's decision of refusing her leave to enter the UK.[152]

In light of these developments, Charles Clarke[153], the previous Home Secretary of the Labour Government, critically engaged with the approaches and policy-making of the Tories Government's Home Secretaries, particularly the current home secretary Priti Patel (2019 to present). He argues that;

> *"The current home secretary Patel seeks to promote polarisation in society compared to her immediate predecessors and this damages British society. We should rather put social justice at the core of our policies and approaches to prevent alienation and polarisation."*

As an example to what Clarke recounts in the interview, the Secretary of State's reasoning that Begum brought these harsh consequences on herself by joining the terrorist group in Syria does not seem to be consistent with the policy. This event further creates polarisation in UK society as far-right extremists such as Mair have not been prosecuted whereas Begum has been penalised without being heard, showing how the state treats its own citizens differently based on their political views, racial and ethnic identities.

Begum is accused of servicing the ISIS morality police and recruiting young women for the terrorist group, which need to be proved before an accused could be penalised. Nevertheless, she was declared a threat to national security. In the views of Jonathan Hall:

> *"dual nationals who joined terrorist groups in the Syrian Civil War are at more risk than the mono-nationals; mono-nationals who joined ISIS and Kurdish armed groups returned to the UK without any restriction; the law enforcement authorities could hardly be blamed for doing what they can to stop these people from returning".*[154]

Such an ethnic division of counter-terrorism laws and discriminatory treatment of the equally harmful phenomenon of terrorism by the law enforcement authorities, as a vast body of existing literature suggest is feared to be counter-productive.[155] Terrorism

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[152] *R v Secretary of State for the Home Department,* UKSC 2020/0157, 26 February 2021.

[153] Interview with Charles Clarke (online, 31 March 2021).

[154] Interview with Jonathan Hall, (n 114).

[155] Francesco Ragazzi, 'Suspect Community or Suspect Category? The Impact of Counter-Terrorism as "Policed Multiculturalism"' (2016) 42 Journal of Ethnic and Migration Studies 724; Mary J Hickman and others, 'Suspect Communities?": Counter-Terrorism Policy, the Press, and the Impact on Irish and Muslim Communities in Britain' (London Metropolitan University 2011) accessed 30 June 2021;

definition enshrined under section 1 of the Terrorism Act is broad enough to deal with all three cases equally. Furthermore, counter-terrorism is equipped enough to neutralise a threat through the use of TPIM orders and many more measures. The decision to decline basic rights to Begum – who was born, raised, and radicalised in the UK – for the act(s) she has committed in adolescence is just an example of the priority of the counter-terrorism laws, and the law enforcement authorities give to jihadist terrorism. Furthermore, the Supreme Court observed that the width of the terrorism definition shifts an enormous weight of responsibility onto the shoulders of police and prosecution in deciding who to arrest and whom to prosecute;[156] therefore, the sanctity of the counter-terrorism laws rests in the hands of the law enforcement authorities. These cases of radicalisation and the ways they have been treated by the British state show the politicisation and ambivalence of counter-terrorism laws and the British state's indirect complicity in the legitimisation of white supremacy and Islamophobia in society.

7. Conclusion

This report shows that the UK counter-terrorism legislation is equipped enough to deal with all political, religious, cultural, and racial motives of terrorism. However, the counter-terrorism legislation predominantly emphasises jihadist terrorism as the number one security threat. This appears to shape the counter-terrorism responses of the law enforcement authorities as, on the one hand, police conceive jihadist terrorism in broader meanings; it places all acts of jihadist terrorism under the umbrella of Islamic radicalisation. On the other hand, it subdivides far-right terrorism according to political, cultural, or racial causes pursued by the actor. Therefore, terms such as political terrorism, white supremacy, neo-Nazism, and white cultural imperialism are commonly used to describe or otherwise disperse far-right terrorism through subdivision.[157]

On the 22nd of March, 2017, Khalid Masood drove a car onto the pavement outside the Palace of Westminster, injuring over 50 individuals and killing four, before exiting the car and fatally stabbing a member of law enforcement. If we look at the motives of the Westminster attacker - a terrorism act related to Islamic terrorism; it appears that the attacker did not further any religious cause. The text message retrieved by the police from the attacker's phone showed that he sought revenge against Western military action in the Middle East; nevertheless, his act was immediately categorised as Islamic terrorism. This shows that there has been no effort by the law enforcement authorities to subdivide Islamist radicalisation according to the political, cultural, or racial ideologies of the attacker. Jonathan Hall agrees that Islamist radicalisation

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Joel David Taylor, '"Suspect Categories," Alienation and Counterterrorism: Critically Assessing PREVENT in the UK' (2020) 32 Terrorism and Political Violence 851.

[156] *R v Gul,* (n 134) para 63.

[157] Jonathan Hall, 'The Terrorism Acts in 2019: Report of the Independent Reviewer of Terrorism Legislation on the Operation of the Terrorism Acts 2000 and 2006' (Home Office 2021), accessed 3 July 2021, 19.

should also be divided according to ideologies pursued by the attackers.[158] Such division is more likely to reduce polarisation in society and reduce alienation of Muslim community.[159]

Another drawback of the counter-terrorism laws' over-emphasis on jihadist radicalisation is that far-right terrorism – which grew exponentially during the last few years – did not receive adequate attention from the law enforcement authorities, as proven by Thomas Mair case in this report. In parallel to this, this report also aimed to clarify the racialised aspect of the practice of stop and search powers given to the police. The disproportionate appeal and impact of the stop and search powers of the police may increase if Priti Patel's new policing bill entitled Police, Crime, Sentencing and Courts Bill 2021 is to be put into practice without the amendments recommended by various human rights organisations, think tanks and political organisations. Overall, this report examined how the counter-terrorism laws in the UK in the last decade has been built on a perception of jihadist terrorism being a more serious threat than far-right terrorism. In conclusion, the report endorses the recommendation of Barrister Jonathan Hall that the same processes should apply to all kinds of terrorism, irrespective of the ideology that inspires it[160] and that social justice should be at the core of counter-terrorism laws, as suggested by Charles Clarke.

[158] Interview with Jonathan Hall, (n 114).

[159] Joel David Taylor, 'Suspect Categories' (n 115) 32; Tahir Abbas and Imran Awan, 'Limits of UK Counterterrorism Policy and Its Implications for Islamophobia and Far Right Extremism' (n 115); Mary J Hickman and others, 'Suspect Communities?": Counter-Terrorism Policy, the Press, and the Impact on Irish and Muslim Communities in Britain' (London Metropolitan University 2011), accessed 30 June 2021; Francesco Ragazzi, 'Suspect Community or Suspect Category?' (n 4) 724; Adrian Cherney and Kristina Murphy, 'What Does It Mean to Be a Moderate Muslim in the War on Terror? Muslim Interpretations and Reactions' (2016) 9 Critical Studies on Terrorism 159; Paul Thomas, 'Changing Experiences of Responsibilisation and Contestation within Counter-Terrorism Policies: The British Prevent Experience' (2017) 45 Policy and Politics 305; Paul Thomas, 'The Perception of Counter-radicalisation by Young People', (n 4).

[160] Jonathan Hall, 'The Terrorism Acts in 2019', (n 157) 16.

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ANNEXES

ANNEX I: OVERVIEW OF THE LEGAL FRAMEWORK ON RADICALIZATION & DE-RADICALIZATION

Legislation title (original and English) and number	**Date**	**Type of law** (i.e. statute, regulation, rule, etc…)	**Object/summary of legal issues related to radicalization**	**Link/PDF**
The Terrorism Act 2000	20 July 2000	Government Bill	Repealed the Prevention of Terrorism Act 1989. The Act was considered controversial due excessive police powers. The ECtHR declared section 44 of the Terrorism Act empowering police to stop and search without reasonable suspicion, incompatible with the ECHR.	https://www.legislation.gov.uk/ukpga/2000/11/contents
Anti-Terrorism Crime and Security Act 2001	Introduced 19 Nov 2001, enforced 14 Dec 2001	Government Bill	The ATCS extended the state authorities' existing powers to forfeiture the terrorist properties, issue orders to this effect, and deport immigrants and asylum seekers suspected of having links to terrorism. The ATCS Act empowers the Secretary of State to classify them as "suspected international terrorists" when they could not be deported due to any reason.	https://www.legislation.gov.uk/ukpga/2001/24/contents
Terrorism Act 2006	Introduced on 12 October 2005, entered into force on 30 March 2006	Government Bill	Due to massive development in the social media technology, Terrorism Act 2006 endeavoured to counter online criminal activity	https://www.legislation.gov.uk/ukpga/2006/11/contents

Counter-Terrorism Act 2008	28 November 2008	Government Bill	Increased police powers for counter terrorism to make further provision about the detention and questioning of terrorist suspects and the prosecution and punishment of terrorist offences	https://www.legislation.gov.uk/ukpga/2008/28/contents/enacted
Terrorist Asset Freezing Act 2010	Entered into force on 17 December 2010	Government Bill	The Act re-incorporate the United Nations Anti-Terrorism resolutions in the domestic laws following the Supreme Court declaration that the *Terrorism Act* 2006 was ultra vires to the *United Nations Act* 1946	http://www.fscmontserrat.org/wp-content/uploads/2008/09/Terrorist-Asset-Freezing-etc.-Act-2010-U.K.-and-territories.pdf
Terrorism Prevention and Investigation Measures Act 2011	Entered into force on 14 December 2011	Government Bill	The TPIMA abolished the *Prevention of Terrorism Act* 2005. Powers to impose 'control orders' was replaced with 'terrorism prevention and investigation measures' powers. Under schedule 1, the Act enshrines a set of requirements, restrictions, or obligations which may be imposed on an individual reasonably suspected of being a threat to the public	https://www.legislation.gov.uk/uksi/2016/1166/pdfs/uksi_20161166_en.pdf
Counter-Terrorism and Security Act 2015	12 February 2015	Government Bill	Strengthened the legal powers and capabilities of law enforcement and intelligence agencies to disrupt terrorism and prevent individuals from being radicalised.	https://www.legislation.gov.uk/ukpga/2015/6/schedule/7/enacted
Counter-Terrorism and Border Security Act 2019	12 April 2019	Government Bill	Created new terrorism-related offences.	https://www.legislation.gov.uk/ukpga/2019/3/section/3
Human Rights Act 1998	9 November 1998	Government Bill	Sets out the fundamental rights and freedoms that everyone in the UK is entitled to. The HRA 1998 incorporates the ECHR into domestic law in the UK.	https://www.legislation.gov.uk/ukpga/1998/42/schedule/1

Protection of Freedoms Act 2012	1 May 2012	Government Bill	Regulates surveillance, biometric data, protection of property and counter-terrorism powers.	https://www.legislation.gov.uk/ukpga/2012/9/contents/enacted

NATIONAL CASE LAW

Case number	**Date**	**Name of the court**	**Object/summary of legal issues related to radicalization**	**Link/PDF**
A and others v Secretary of State for the Home Department (2004, UKHL 56)	16 December 2004	House of Lords	The Court decided that decided that s 23 of the Anti-terrorism, Crime and Security Act 2001 was unlawful under the Human Rights Act 1998 in that it discriminated against non-nationals.	https://www.bailii.org/uk/cases/UKHL/2004/56.html
Gillan and Quinton v. The United Kingdom, Application no. 4158/05	12 January 2010	ECtHR	The Court found that stop and search powers without reasonable suspicion under the Terrorism Act 2000 were a violation of the right to privacy.	https://www.statewatch.org/media/documents/news/2010/jan/echr-judgment-gillan-quinton.pdf
Chahal v The United Kingdom (Application No. 70/1995)	11 November 1996	ECtHR	The ECtHR held that the Home Secretary decision to expel Mr Chahal on security grounds, violated prohibition of inhuman and degrading treatment - enshrined under Article 3 of the European Convention on Human Rights (ECHR). The Court argued that a signatory state cannot return a foreign national on security grounds when there are foreseeable chances of inhuman and degrading treatment in the receiving state.	https://www.refworld.org/pdfid/3ae6b69920.pdf

A and others v Secretary of State for the Home Department (2004), UKHL 56.	2004	House of Lords	The House of Lords decided that Section 23 of the Anti-terrorism, Crime and Security Act 2001 was unlawful under the Human Rights Act 1998 in that it discriminated against non-nationals.	https://www.bailii.org/uk/cases/UKHL/2004/56.html
HM Treasury v Ahmed & Others (2010) UKSC 2.	27 January 2010	United Kingdom Supreme Court	This case is concerning the United Nations Act 1946 and the powers it grants to the executive to issue terrorism control orders.	https://www.bailii.org/uk/cases/UKSC/2010/2.html
R v Gul (Appellant), [2013] UKSC 64, Court, [63]	23 October 2013	United Kingdom Supreme Court	Supreme Court observed that the broad width of the terrorism definition affords wide discretion to the Crown Prosecution Service (CPS) in deciding whom to arrest and whom to prosecute.	https://www.supremecourt.uk/cases/uksc-2012-0124.html
R v Secretary of State for the Home Department, UKSC 2020/0157,	26 February 2021.	United Kingdom Supreme Court	Shamima Begum's main case contesting the Home Office's decision of depriving her of British nationality is awaiting a hearing at the time of writing, while she has lost the second case that contested the Home Office's decision of refusing her leave to enter the UK.	https://www.supremecourt.uk/cases/uksc-2020-0157.html
Secretary of State v MB [2006] EWHC 1000 (Admin)	31 October 2007	House of Lords	The Prevention of Terrorism Act 2005 was repealed on 15 December 2011, following the High Court judge - Justice Jeremy M Sullivan's declaration that the Secretary of State cannot impose 18 hours curfews on suspected individuals without derogating from the Article 5 ECHR. Therefore, the court declared section 3 of the PTA 2005 incompatible with the right to fair trial.	https://publications.parliament.uk/pa/ld200607/ldjudgmt/jd071031/home-1.htm

ANNEX II: LIST OF INSTITUTIONS DEALING WITH RADICALIZATION & COUNTER-RADICALIZATION

Authority (English and original name)	**Tier of government** (national, regional, local)	**Type of organization**	**Area of competence in the field of radicalization & deradicalization**	**Link**
The Home office	national	State (government)	Deradicalisation	https://www.gov.uk/government/organisations/home-office
Her Majesty's Prison and Probation service	national	State (government)	Deradicalisation	https://www.gov.uk/government/organisations/her-majestys-prison-and-probation-service
The national Probation service	national	State (government)	Deradicalisation	https://www.gov.uk/government/organisations/probation-service
Exit UK	National	NGO	Deradicalisation (right-wing)	https://exituk.org/
Hope Not Hate	National	NGO	Deradicalisation (right-wing)	https://hopenothate.org.uk/
Territorial police services	Regional (43 police forces in England; one police force in Scotland and one in Wales)	State (government)	Prevention of crime; deradicalisation services	https://www.police.uk/pu/find-a-police-force/

Counter Terrorism Police	Regional (11 Units across UK)	State (Government	Prevention of crime	https://www.counterterrorism.police.uk/
British Transport Police	National	State (Government)	Prevention of crime	https://careers.btp.police.uk/about_btp/specialist_teams.aspx

ANNEX III: BEST PRACTICES/INTERVENTIONS/PROGRAMMES

National level

Programme	Institution(s)	Aim	Source	Evidence of effectiveness / literature
Prevent	The Home Office	"The Prevent strategy, published by the Government in 2011, is part of our overall counter-terrorism strategy, CONTEST. The aim of the Prevent strategy is to reduce the threat to the UK from terrorism by stopping people becoming terrorists or supporting terrorism. In the Act this has simply been expressed as the need to "prevent people from being drawn into terrorism".	https://www.gov.uk/government/publications/prevent-duty-guidance/revised-prevent-duty-guidance-for-england-and-wales	https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/97976/prevent-strategy-review.pdf Qurashi, F. The Prevent strategy and the UK 'war on terror': embedding infrastructures of surveillance in Muslim communities. *Palgrave Commun* 4, 17 (2018). https://doi.org/10.1057/s41599-017-0061-9
The Healthy Identity Intervention	The Home Office, Her Majesty's Prison and Probation service	The aim of this programme is to encourage and facilitate desistance and disengagement from extremist offending for any prisoner involved with extremism or terrorism		https://www.gov.uk/government/publications/intervening-with-extremist-offenders-a-pilot-study

Channel programme	The Home Office	"Channel provides early support for anyone who is vulnerable to being drawn into any form of terrorism or supporting terrorist organisations, regardless of age, faith, ethnicity or background."	https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/964567/6.6271_HO_HMG_Channel_Duty_Guidance_v14_Web.pdf	Qurashi, F. The Prevent strategy and the UK 'war on terror': embedding infrastructures of surveillance in Muslim communities. *Palgrave Commun* 4, 17 (2018). https://doi.org/10.1057/s41599-017-0061-9
Exit UK	ExitUK	Integrative, Educational, Therapeutic support provided to radicalised individuals or those who are vulnerable to radicalisation. Support is provided for individuals to exit radicalised communities and groups safely	https://exituk.org/	https://exituk.org/stories
Hope not Hate	Hope not Hate	Educational and Legal Support for individuals who have been radicalised or are vulnerable to radicalisation	https://hopenothate.org.uk/	

Sub-national/Regional level/Local level

Programme	Institution(s)	Aim	Source	Evidence of effectiveness / literature
Prevent	1. Police forces 2. National Health Service 3. Local Councils 4. Educational Institutes	The aim of the Prevent strategy is to reduce the threat to the UK from terrorism by stopping people becoming terrorists or supporting terrorism.	https://www.gov.uk/government/publications/prevent-duty-guidance/revised-prevent-duty-guidance-for-england-and-wales	Qurashi, F. The Prevent strategy and the UK 'war on terror': embedding infrastructures of surveillance in Muslim communities. *Palgrave Commun* 4, 17 (2018). https://doi.org/10.1057/s41599-017-0061-9

ANNEX IV: POLICY RECOMMENDATIONS

De-radicalisation initiatives should be restructured. This includes:

- The training of practitioners and professionals working in de-radicalisation, especially the Prevent programmes
- The development of effective measures that cooperate with schools, communities, and local level stakeholders
- Community engagement to ensure radicalised individuals receive sufficient help
- The development of de-radicalisation measures that deal explicitly with right-wing extremism
- The development of de-radicalisation measures that are devoid of institutionalised Islamophobia
- The development of approaches and de-radicalisation measures that focus on gender, age, and that prioritize needs tailored to religious and ethnic issues and backgrounds of diverse populations.