HUNGARY

Suspicion, discrimination and surveillance: the impact of counter-terrorism law and policy on racialised groups at risk of racism in Europe
Counter-terrorism has been an area of increasing international cooperation and coordination. The EU has played a significant role in shaping and influencing the development of Hungary counter-terrorism legislation and policy. The Council of the European Union issued its first Framework Decision on Combatting Terrorism in 2002 and first adopted a counter-terrorism strategy in 2005, as well as a Strategy for Radicalisation and Recruitment to Terrorism. The most recent 2017 Framework Directive on Combatting Terrorism requires the European Commission to submit a report by September 2021 on the Directive’s impact “on fundamental rights and freedoms, including on non-discrimination, and the rule of law”. The Decisions and Directive have been transposed into domestic law in Hungary.

ENAR has examined the experiences of counter-terrorism and counter-radicalisation measures by members of groups that are at heightened risk of facing discrimination and racism in France, Germany, Hungary, Poland and Spain. Our research contributes to understanding how state policies are experienced and their impact on the exercise of fundamental rights and freedoms.

This summary identifies the key themes and emerging findings from the research in Hungary and draws on:

- In-depth qualitative interviews with two law enforcement and security experts
- In-depth qualitative interviews with seven key actors from civil society, including organisation working in communities likely to be impacted by security measures, and human rights organisations
- In-depth qualitative interviews with two representatives of Muslim communities
- In-depth qualitative interviews with five researchers and academics, including expert on Islamophobia, national security and hate crimes
- Five focus groups with 30 individuals from different minority, refugee and Muslim communities
- A review of existing research literature and policy and civil society reports

1 Council of the European Union, 14469/4/05 REV 4
2 The European Union strategy for combating radicalisation and recruitment, EU Council document 14781/1/05, 24 November 2005
Hungary has had limited experience of terrorism and their legal and policy frameworks have developed largely to meet international and European legal obligations. The Hungarian penal code was amended in 2003 to harmonize national legislation with EU law. A new criminal code (Act C of 2012) included a very broad definition of terrorism, with ‘terrorist acts’ covering not only violence against individuals but also extending to action such as vandalism. It also criminalised threatening to commit a terrorist act and failure to report a terrorist act. In the wake of the 2015 ‘refugee crisis’ the Hungarian government emphasised the perceived threat of terrorism from refugees and migrants coming into Europe from North African and the Middle East. The Hungarian government introduced the Sixth Amendment to the Fundamental Law to strengthen executive powers in response to increased migration to Europe in 2014.

Hungary does not have significant counter-radicalisation policies in place or were in the process of developing their policies during the period when research for this report was undertaken. The training of teachers and school staff in identifying signs of radicalisation started in 2019 through the Crime Prevention Department of the National Police. The department incorporated sessions on counter-terrorism and deradicalisation within its existing crime prevention training on drugs, domestic violence and bullying in schools. While initial training has been delivered, at the time of writing there had been no referrals of young people identified as at risk of radicalisation.

4 Criminal Code Section 314
5 Criminal Code Section 316
6 Criminal Code Section 317
1. Transparency and accountability

A fundamental requirement for ensuring accountability and adherence to the rule of law and human rights is access to information on the measures and policies pursued by governments. Furthermore, any evaluation of the necessity and proportionality of counter-terrorism powers and policies requires a clear understanding of the nature and extent of the threat of terrorism facing Hungary.

Counter-terrorism offences, from the EU Directives, are transposed into the Hungarian criminal code. However, public documents setting out government strategies and policies on counter-terrorism and counter-radicalisation are not accessible. In the last few years, access to public policies and data under the freedom of information law has been curtailed in Hungary. Apart from a very generic information about terrorism on the website of the Centre for Counter-Terrorism (TEK), no public policy documents were found during this research on combating terrorism and preventing radicalisation. There are no publicly available statistics on the scale and extent to which counter-terrorism measures are being used.

The government has identified the use of Hungary as a country of transit for individuals seeking to participate in terrorism in the Middle East or for returning foreign terrorism fighters. According to figures reported by Hungary to EuroJust, since 2016, there have been five convictions relating to terrorism, four of which concern ISIS and Al-Qaeda inspired terrorism, with an average sentence of four years’ imprisonment.

Civil society organisations and experts raised concerns about the lack of public information on counter-terrorism and counter-radicalisation policies. This lack of transparency is an obstacle to accountability.

2. Clear and carefully defined terrorism legislation

The rule of law requires powers of the state to be clearly and carefully defined so that any executive overreach can be identified and challenged to ensure that the state acts within the powers given to it by Parliament. Laws that are vague and unclear or powers that are widely defined undermine the rule of law and risk arbitrary and discriminatory application.

The “sixth amendment” to the Fundamental Law made in 2016 remains an area of particular concern in relation to the rule of law and the risk of discrimination. This amendment provides the executive with wide ranging powers where a ‘terrorist threat situation’ is determined to exist. It gives the government the power to suspend existing laws and adopt new ones, place restrictions on freedom of movement, prohibit public assemblies and deploy the army allowing them to use firearms to quell disturbances. While states are permitted to take exceptional measures in a state of emergency, and can derogate from some human rights obligations, the provisions of the “sixth amendment” remain far too vague and unclear. The “sixth amendment” provides wide scope for sweeping restrictions on the rights to freedom of association and peaceful assembly, privacy and freedom of movement. In a political landscape where refugees and migrants are regularly portrayed as a threat to security, there is a risk that the measures are used arbitrarily to deal with large scale migration.

The prosecution of Ahmed H for terrorism after he threw stones at border guards and sought to cross into Hungary with this elderly parents and family has been widely criticised as an example of the misuse of terrorism legislation. As Amnesty International stated at the time of his initial conviction, “to sentence Ahmed to 10 years in prison for a terrorist act is absurd. Illegally crossing a border and even
throwing rocks would not justify this ruling. This is a man who tried to get his elderly parents and other family members to safety, and we know he tried to negotiate between the crowd and police”. The European Parliament condemned the conviction due to an unfair trial⁸ and the US State Department, criticised overly broad interpretation of ‘terrorism’ used in the prosecution.⁹ The case contributes to a widespread perception that counter-terrorism laws and measures are mainly for public communication.

### 3. Islamophobia and racism

The discussion on Muslims, migrants and refugees as a security threat to Hungary has become a central feature of political and public discourse since 2014. Survey data shows an alarming increase in xenophobic attitudes among the general public in recent years, which reached its peak in 2016.¹⁰ Both civil society interviewees and focus group participants identified the Hungarian government as a key driver of anti-Muslim racism. Prime Minister Orban described the arrival of asylum seekers in Europe as “a poison” and said his country did not want or need “a single migrant,” adding that “every single migrant poses a public security and terror risk.”¹¹

Between May and July 2015, the Hungarian government conducted a national consultation on immigration and terrorism. This involved posting a questionnaire to every household in Hungary. The questionnaire was condemned by the European Parliament as “highly misleading, biased and unbalanced, establishing a biased and direct link between migratory phenomena and security threats”.¹² The consultation took place parallel with a national government funded ‘public information campaign’ that included putting up billboards with the following: ‘Did you know the attack in Paris was carried out by immigrants?’ Representatives of Muslim civil society organisations report that the public and political demonisation of Muslims undermines their efforts to inter-religious and intra-community dialogue.

Focus group participants identified the political rhetoric around the refugee crisis as a turning point for changing public attitudes towards Muslims. A Hungarian convert to Islam, who witnessed the changes first hand, shared her experience:

> “when this campaign started in 2016... discrimination started, but it was very visible for me the difference, before and after, so I saw that before, nobody knew what it was, they didn’t care about it, it was a bit weird, so much ignorance anyway, so most people in Hungary really didn’t know that Islam was a monotheist religion... everyone thought most Muslims were in Egypt,... and when this propaganda started... and the enemy image is based on this ignorance. It’s worse that people don’t know, they have no personal acquaintance at all, so most people here do not have a Muslim acquaintance”.

The public and political rhetoric, amplified and reinforced by the media, enables discrimination and hate:

> “I feel that everyone gained a lot of confidence. So since it’s widely accepted and we can read it on billboards about how dangerous we are, everyone feels that they are empowered and they have the right to abuse us”.

Muslims fear the period around local and national elections and referenda because negative political and public comments intensify in this period. The negative political, media and public discourse about Muslims and refugees, is experienced through increased incidents of Islamophobia and racism in everyday life. The extent to

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⁸ European Parliament resolution of 17 May 2017 on the situation in Hungary (2017/2656(RSP))
¹¹ Ibid.
¹² European Parliament resolution of 10 June 2015 on the situation in Hungary (2015/2700(RSP))
which respondents face hostility, harassment or violence is dependent on the extent to which their Muslim or foreign identity is visible. Thus, individuals report that due to the colour of their skin or wearing of a headscarf, they are more vulnerable and are more likely to face racism and Islamophobia. Experiences of racism and discrimination were particularly acute for Black respondents; they experienced discrimination in all public spaces from public transport and shops to hospitals and in the street. Most of the Muslim women wearing a headscarf reported instances of being ‘insulted’ and verbally abused on the street and at work, with reference made to terrorism. Rather than a manifestation of an individuals’ religious belief, the veil has become an indicator for suspicion, and is connected in public perceptions to violence and terrorism. For example, a Hungarian Muslim woman said that once she started to wear the headscarf her neighbours started worrying:

“... she asked me so carefully about what I thought about terrorism whether I agreed with it or not...” She further stated: “… because there was such news in the media and just about a Hungarian woman who married a terrorist in the Islamic State and became bigoted and thus every woman who wears a headscarf will be potentially a terrorist’s wife and will give birth to small terrorists… people can think insane things”.

This has a direct impact on freedom of religion and expression, as fear of physical and verbal assault has led many of the women interviewed to remove their headscarves.

The prominent role of politicians and public officials in stigmatising Muslims, migrants and refugees means that Muslims lack the trust and confidence in public authorities, including the police, needed to report their experiences of hate crime and discrimination. Such lack of trust is reinforced by negative experiences when individuals have made reports. According to one human rights NGO, women who reported attacks, found the police focusing their questions on the women’s immigration status.

Hungary’s national security strategy (2012) identifies the need to tackle social marginalisation as an important part of its approach to tackling violent extremism. However, the actions of the state in increasing prejudice and stereotyping of Muslim, migrants and refugees, and the absence of effective anti-discrimination measures undermine this strategy.

4. Support for greater structured cooperation

The negative political, media and public discourse about Islam and Muslims contributes to suspicion towards Muslim civil society organisations. Leaders of Muslim community organisations feel they are treated with suspicion by police and security officials. Apart from a few ad hoc occasions or concrete cases where NGOs reported that they have suspicions about particular individuals, there have been no efforts by state authorities to engage with civil society.

Attempts to engage with the security services (Alkotmányvédelmi Hivatal, AVH) and the police have not been successful. Notwithstanding this, there is a genuine desire for partnership and cooperation in the field of counter-terrorism. There are some indications that the Centre for Counter-terrorism (TEK) is more open to exploring the possibility for greater cooperation. The Crime Prevention Department of the Police, which since 2019 has expanded its work to identifying young people that may be at risk of radicalisation has also indicated a willingness to cooperate more with civil society. Most of the interviewed community members and NGO stakeholders agreed that they would welcome steps to create opportunities for cooperation and partnership.

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5. Immigration and (in)security

Opposition to immigration and refugees has been a central feature of the political debate in Hungary since 2014. As noted above, one of the main arguments made by national politicians is that refugees are a potential threat to national security, that there are terrorists hidden among those arriving as refugees. The public attitudes and debate on refugees have left those who are refugees feeling vulnerable and insecure in Hungary.

Their sense of anxiety and insecurity is at its greatest when they are in contact with immigration officials:

“...I always feel that one day they will call me from the immigration office. I never went there without feeling really conscious; every time I go there, I feel that something bad will happen. It feels like a prison to go there. I feel that I have to go and get out quickly before someone will catch me. I really do not feel safe as a whole, like living here for a long time I really don’t know what will happen tomorrow, next year, few years from now, my status may be revoked. That’s what I feel. Probably they will not kill me, but they will kick me out of the country somehow”.

“I have the same feeling, always when I go to the immigration office. If I see a policeman (they also have a detention centre there) I immediately think “are they calling me”, “something happened”, it’s something wrong, did I do something wrong? There is always this conspiracy”.

Tightening of rules on visa applications and access to citizenship were seen as part of the state’s counter-terrorism measures that are directed in a discriminatory way towards individuals from Muslim majority states.

For some, the insecurity over their migration status, combined with a pervasive sense of being watched, limits their active engagement in civil society. Respondents spoke of their reluctance of taking part in demonstrations against racism or Islamophobia, fearing such participation will be monitored, noted on their file, and could be held against them in any decisions on immigration.
RECOMMENDATIONS

The following policy recommendations were developed in dialogue with civil society organisations, policy makers and practitioners during two roundtables in Budapest.

1. Ensure greater transparency in relation to counter-terrorism and counter-radicalisation policies and their implementation by:
   • Publishing information on all counter-terrorism and counter-radicalisation policies.
   • Collecting and publishing annual data on the number of individuals arrested, charged and convicted in relation to terrorism;
   • Collecting and publishing annual data on the number of individuals deported on the grounds of national security;
   • Publishing information about the content of training on terrorism and radicalisation provided to public bodies.

2. Conduct an independent review of the Sixth amendment to the Fundamental Law to ensure adherence to international human rights and rule of law standards.

3. Politicians and public officials must stop making discriminatory and racist public statements that suggest migrants, minorities and Muslims as a threat to national security.

4. Hungarian laws against incitement to racial hatred must be implemented against those who make comments or statements that incite racial hatred.

5. Establish a comprehensive action plan to fight Islamophobia, racism and discrimination. Understand Islamophobia as a form of structural racism.

6. Acknowledge and recognise that religious and ethnic minorities are a part of Hungarian society and take measures to support the integration of refugees and migrants. This includes removing barriers to integration, tackling racism and discrimination faced by minorities and migrants.

7. Include CSOs, particularly those from the communities most impacted by policing and security policies in developing and framing security and safety policies and measures for all citizens.