**Security and policing**

**ENAR plans 2017**

**Updated June 2016**

***What is the problem and what is the impact of the problem?***

2015 has seen security issues back at the forefront of polices in the EU and its Member States, as the result of violent terrorist attacks in Europe.

The 2015 terrorist attacks in Paris and elsewhere - and the assertion by States that there is an elevated terrorist threat in the European Union (EU) – have led to a new set of counter-terrorism measures at both EU and national levels.

These terrorist attacks are heinous criminal acts which undermine human rights. International human rights law itself requires that states must take appropriate measures to prevent and respond to acts of terrorism, in order to ensure the security and safety of the people in their territories. These attacks have been a challenge to living together and led to policies and practices taken based on collective emotions and fear.

States are facing substantial threats to the security of their populations that require effective action. However, the extent of restrictions on human rights that result or could result from adopted or contemplated security measures is significant, in particular for ethnic and religious minorities.

Counter-terrorism policies have had a disproportionate impact on certain populations, including ethnic or religious minorities, including Muslims, people of African descent, migrants, or people perceived to be from these groups. This manifest itself through criminal legislation provisions, administrative measures and broader counter “radicalisation” policies. Evidence shows the disproportionate effects on Muslim communities of the post 9/11 practices, such as racial profiling. Evidence also shows that more recent European States’ policies and practices have disproportionately targeted Muslims and people perceived to be Muslim.

Discriminatory stop and search practices generate mistrust in police. In 2011, the FRA reported that Roma, North Africans and Sub-Saharan Africans were most likely to be stopped and search by the police. An Open Society Foundations’ research showed that in Paris Black people are 6 times more likely to be stopped by the police than White people and people with an Arabic background 7,6 more likely than White people. In the context of counter-terrorism, ethnic profiling has been reported as on the rise in several EU member states.

Police violence and abuse against minorities is also frequent in Europe. In the UK for instance, Mark Duggan was shot and killed by the police on 4 August 2011 on suspicion of him planning an attack and being in possession of a handgun. In January 2014 an inquest found that Duggan was “lawfully killed”, despite being unarmed. In France on 31 March 2016, an investigation has been opened after a police officer beat up a Black high school student protesting against the recent labour law reform in France. In Spain, on 6 February 2014, at least 14 Black immigrants died at sea trying to reach the city of Ceuta. Their deaths have been attributed to the actions of the officers who shot rubber bullets at the migrants. In Belgium, in March 2016, an investigation is pending against four police inspectors for singling out asylum-seekers and migrants and using threats and violence to extort money from them.

The lack of police investigation into racist crime adds to difficult police/communities relations (see racist crime portfolio). ENAR shadow report on racist crime shows that in most EU Member States the bias motivation of a crime is not adequately or systematically investigated. In Italy and the Czech Republic, 40-60% of reported racist crimes are not fully investigated. There have been cases of police failing to investigate the potential racist elements of a crime, even when racist language was used at the time of the crime. There have been cases of victims being treated as perpetrators by the police.

The FRA EU-MIDIS I survey) shows that the lack of confidence in police among some minority groups (people with Surinamese descent in the Netherlands, Sub-Saharan Africans in France, Roma in Bulgaria) was high. Some groups (Sub-Saharan Africans, Turks) even trusted the police less after they reported a crime than before. The lack of trust in police can be explained, among others, by lack of confidence that reporting a crime will change anything, by fear of revictimisation, past experience with the police and lack of awareness of victims’ rights. Perception on how one will be treated by authorities informs one’s decision to report a crime or not.

Beyond community-police relation, discrimination undermines social cohesion and society as a whole, and can reinforce radicalisation and violence.

Europe is facing an upsurge of political violence coming mainly from two clusters: 1) organised but indiscriminate terrorist attacks based upon a jihadist ideology; 2) scattered attacks by far-right groups against ethnic minorities and migrants. In both cases, this violence takes its roots in a growing democratic, economic and social disenfranchisement (in particular of lower to middle classes) generated by the falling apart of the social contract and the current collective inability of our societies to foster good governance balancing competing interests for sake of the greater common interest. In such a context, individuals turn back to “primary solidarities” (family, neighbourhood, club, faith…) articulated around “strong identities” and the rejection of difference as a way to preserve resources necessary for survival.

The response of the EU and Member States to this violence has nearly exclusively focused on jihadist terrorism after the emergence of Daesh and its powerful narrative luring thousands of young Europeans to join them, and be potentially transformed into weapons of mass destructions. For decision makers, Islam – as an easily available grammar for “revolutionary” action – and Muslims (men and women) – as potentially receptive to such a narrative – have turned into a nightmare, because of their numbers and the immense reservoir of frustrations (due to their lack of opportunities and disenfranchisement) that they so far refuse to acknowledge as one of the root causes of phenomenon.

Therefore, EU and MS have mostly chosen to reinforce the repressive/securitisation approach of Muslims and migrants in particular rather than develop a balanced approach that would both reinforce security and HR enjoyment for all, as well as rebuild the capacities of our societies to integrate its youth and offer them a dignified future.

The austerity measures that have plagued European societies for decades have deeply fragilised the capacities and resilience of the judiciaries, the police and security forces, not to mention the dismantlement of the social inclusion/protection systems, and their ability to implement HR based policing and inclusion measures.

***What is ENAR aiming to achieve in response to the problem? What is the change we want to see? Outcomes (1. Change in law, policy and standards 2. Change in practices and accountability 3. Change in mobilisation  all of which to impact change in people’s lives)***

States implement trust building, efficient and inclusive security and policing policies grounded in human rights, equality and long term social inclusion.

* Law enforcement have the adequate level of funding to achieve this aim
* There is independent civilian oversight of law enforcement agencies which ensures full equality in practice in all their decisions, processes and actions.
* All individuals residing in Europe, whatever their background, are equally protected from violence. Ethnic & religious minorities (in particular Muslims and migrants) do not face the double penalty of being both victims of violence and lack of protection as well as intensive scrutiny by authorities due to institutional racism.
* Police and security forces as well as the judiciary, at all levels, are fully aware of their crucial role of interfaces between residents/citizens and the State. They act in a responsible manner, with restrain, privileging in all circumstances FR based approaches to their work, while being fully aware of their own unconscious biases.
* Discriminatory practices such as ethnic profiling, have decreased and are monitored. Victims get redress.
* Police & security forces as well as the judiciary are fully accountable towards the persons who interact with them in whichever capacity. Prisons are turned into places for reparative justice, preparing the reinsertion of individuals rather than furthering their alienation.
* Member States reinvest massively (up to 4% of state budgets[[1]](#footnote-1)) in law enforcement agencies in particular in the development of their human resources, to be able to develop and implement fully-fledged human rights based policies that would not disproportionately target ethnic & religious minorities (in particular Muslims and migrants);
* EU standards policy and legal standards on countering violent extremism and radicalisation leading to terrorism (VERLT) are reviewed according to human rights impact assessments and include FR and anti-bias training to law enforcement, respect of due process and rule of Law, systematic redress of institutional racism instances, etc.;

***What are the main barriers from achieving the desired outcomes?*** *Power analysis. What is your analysis of the key forces driving/blocking such a change? What economic or political interests are threatened/promoted by the change? Which groups are drivers/blockers/undecided? Is it visible (rules and force) or invisible (in people heads – norms and values) or hidden (behind the scenes influence). Who do the key players listen to (because that may help us decide on our alliance strategy).*

Blockers: police unions, gvt in terrorism context, adverse public perception

Drivers: communities, some police officers

Allies: OSF, DDD, CoE, NL

**What are the change hypothesis/assumptions**? Opportunities? How is the change we are discussing likely to take place? What alliances (e.g. between sympathetic officials or politicians, private sector, media, faith leaders or civil society) could drive/block the change? What would strengthen the good guys and weaken the bad – e.g. research and evidence, pressure from people they listen to (who are they?) or mobilisation in the street? Can you foresee any likely ‘critical junctures’: new governments; changes of leadership; election timetables when change is more likely to occur?

* Guidelines would mean more human rights compliance in practice
* Oversight would mean more human rights compliance in practice
* Counter terrorism means more ethnic profiling (but there could be all the time)
* Efficiency argument works (does it?)
* Discrimination is counterproductive in long term

***How will we respond to achieve the desired outcomes?* Activities. Actions**

1. steering group on consequence on security policies on minorities
2. shadow report on consequence on security policies on minorities
3. advocacy for EU guidelines on ethnic profiling and accountability of law enforcement: DG Home, DG Just, HLWG dedicated meeting?
4. Advocacy at national level through members on ethnic profiling and accountability/oversight: NL, FR
5. Advocacy for human rights impact assessment studies by FRA or EP on counter-terrorism legislation and policies (including impact on minorities)
6. Research/position paper on social inclusion, discrimination and VERLT
7. Develop a toolkit to monitor the impact of counter terrorism policies on victims of racism.
8. Monitor (and influence) potential EU policies on counter –terrorism and VERLT (including the development of indicators of radicalisation, guidelines for European islam…);
9. Raise awareness of political and policy decision makers about the potential islamophobic aspects and impacts of their decisions in the areas of CT/CT/VERLT, potentially leading to further stigmatisation and alienation of Muslim communities;
10. Raise and amplify the voice of minorities to ensure that ethnic & religious minorities (in particular Muslims and migrants) are consulted and involved at all stages of CT/CT/VERLT policy making, from conception to implementation, from EU to national level as they are the primary target of both securitisation policies and terrorist & far-right violence;
11. Initiate trust building initiatives between police and communities (at eu and national level – i.e. conferences)
12. Develop coalitions and/or partnerships with relevant stakeholders (HRDN, RAN, EEAS, EC, Council, EP, US mission to the EU); liaise with semi-public bodies inclusion oversight commission and advocate for more of these
13. GA workshop and capacity building of our members (exchange in conference, steering group, etc.).

1. Average 2010 : 1,9% (<http://www.coe.int/t/DGHL/cooperation/cepej/cooperation/Eastern_partnership/FINAL%20efficient%20judicial%20systems%20EN%20March%202013.pdf>) [↑](#footnote-ref-1)