



Impact of the counter-terrorism and counter-radicalisation measures on groups at risk of discrimination and racism

Emerging Findings from ENAR Research in 5 EU States for Submission to UN Special Rapporteur on Religion and Belief

Background and scope of the report

Counter-terrorism has been an area of increasing global and European policy co-ordination. The Council of the European Union issued its first Framework Decision on Combatting Terrorism in 2002 and first adopted a counter-terrorism in 2005,¹ as well as a Strategy for Combatting Radicalisation and Recruitment to Terrorism.² 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".³

In anticipation of this forthcoming review, ENAR is examining 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. The research focuses on Muslims and those perceived to be Muslim, as initial scoping research identified these groups as being disproportionately affected by counter-terrorism measures in these five states. ENAR has expressed concerns about EU political discourse and statements that stigmatise Muslims in response to the recent terrorist attacks in France and Austria.⁴ Our research will contribute to understanding how states policies are experienced and their impact on the exercise of fundamental rights and freedoms. This summary identifies some of the key themes and emerging findings from the research.

The research evidence base

This report draws on:

- In-depth qualitative interviews with 31 policy makers and practitioners working in the field of counter-terrorism and national security
- In-depth qualitative interviews with 65 key actors from civil society, including those working in community organisations most impacted by security measures, and human rights organisations.
- 15 focus groups with 115 participants from different minority 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

³ Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA, Article 29(2).

⁴ <https://www.enar-eu.org/Open-Statement-EU-s-statement-of-solidarity-against-terrorism-recycles>



Key Findings

The securitisation of Muslim religious identities and religious practices

At its inception, the EU's counter-radicalisation policies focused exclusively and explicitly on Muslims and Islam. Although it was later expanded to cover all forms of extremism, it contributed to the securitisation of Muslim identities and religious practices. As states adopted, developed and implemented their counter radicalisation policies and action plans, supported by EU co-ordination and sharing of best practice, they replicated, and reinforced the focus on Muslim religious identities and practices.

Legislation rarely explicitly target specific ethnic or religious groups. ENAR's research found instances of explicit targeting of Islam and Muslims in draft legislation and policies. The draft regulations for Poland's Anti-Terrorism Act 2016, included explicit reference to 'Islamic universities', 'Islamic clerics' and 'Islamic institutions' among the 'catalogue of terrorist incidents', in the list of that should be treated as 'terrorist related'. These discriminatory provisions were eventually replaced by reference to 'religious groups; and 'international extremism' in final regulations.⁵ While reflecting an attempt to dilute the stigmatisation of Muslims through more careful use of language, this also reveals how policies in their inception are aimed at targeting Muslims and focusing on Islam.

Policies often draw on the moderate/extremist and Islam/Islamism binaries in identifying their targets. For some civil society actors who organise around their Muslim identity, the social and political stigma and consequences of identification as an Islamist or extremist, left them feeling vulnerable to a labelling process that was opaque and difficult to challenge. The impact can be devastating, even where the claims that an individual or organisation is 'Islamists' are successfully challenged.

Suspicion and fear of activism around religious identities limits an individual's ability to participate in public life in ways that are meaningful to them. In Germany, the Muslim founder of a charitable non-profit NGO concerned with environmental sustainability recalled how, since 2001, he felt his activism was always under suspicion and needed to be explained. In France, the director of a secular civil society organisation that supports marginalised young people faced suspicion from local officials after offering Arabic language classes.

The ENAR report documents frequent and numerous instances where religious practices, beliefs and views of Muslims drew the attention of security actors and prompted further investigation and questioning. In Spain, training for teachers in identifying signs of radicalisation referred to changes in religious practice, appearance (growing a beard), participation in 'radical' demonstrations, listening to 'radical' music, participation in combat sports or survival training. In France, human rights defenders, reported that everyday Muslim religious practices were often cited by officials as evidence that an individual was a national security threat, to justify the use of emergency powers.

Racial and religious identity of Muslims appears to inform the concerns that take shape in the imagination of state actors, and the possible explanations that they countenance in interpreting and understanding the views, comments or actions of Muslims. For example, the ambition of a Muslim student studying nursing to work as a nurse helping wounded people in conflict zones was taken as

⁵ <http://prawo.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20160001092>



EUROPEAN NETWORK AGAINST RACISM

The voice of the anti-racist movement in Europe

an indication of a possible desire to travel to Syria. As a result, the counter-radicalisation procedure was activated and the student and her family were placed under covert surveillance that include the monitoring of their telephone calls for six months.

Policies and comments framing mosque as objects of suspicion, seep into a wider societal suspicion of mosques, prayer rooms and the act of praying. Imams and mosque managers, as leaders of key community institutions and sites of suspicion, find themselves the subject of intense scrutiny through informal questioning and visits by police and security officials. Aware that they do not benefit from a presumption of innocence, some mosques collect the evidence needed to prove their good citizenship and loyalty. According to interviewees, mosques in Catalonia routinely and regularly record sermons and make these available to the police.

In Germany, university administrations, closed communal rooms (quiet rooms or contemplation rooms) used by Muslims students for prayers, citing fears that such spaces could be used to radicalise people. In Spain, parents report that their children's attendance at mosque for religious education attracted questioning, echoing suspicion of mosques and the linking of Islamic education with risks of radicalisation.

Discrimination and abuse

In the ENAR research, Muslim participants made a clear link between the discrimination and abuse that they face and security policies that target Muslim identity and religious practices. In their view, the state's suspicion of Muslims permits ordinary citizens to be wary of Muslims and emboldens discrimination and abuse. The association of Islam with violence and suspicion of Muslims as potential terrorist left many feeling forever vulnerable to encountering discrimination and abuse that is rooted in fear of their Muslim identity. Carrying everyday items, such as shopping bags, creates risk of abuse in public spaces:

Two Polish men entering the bus, on the chairs face to me. Then they look at my face and the two plastic bags. One of them started talking. At the beginning, their way of looking at me was not positive. And, one of them asked me, 'Are you sure there is no bomb in your plastic bag?'

(Poland)

In all five states, Muslim focus group participant reported censoring their expression and language, limiting their use of Islamic and religious expressions as these risk triggering fear and drawing attention and possible further investigation from police. In Warsaw, a student from East Africa explained how, while riding on the bus with fellows Muslims, they felt that the atmosphere was 'so tense' that they waited until they got off the bus to greet each other with '*salamu alaykum*'. Another person mentioned needing to mute his smartphone application for the *adhan* (a call to prayer), as '*Allahu akbar*', has come to symbolize terrorism.

The clear picture that emerges from the testimony in focus groups across all five states is one in which, for many Muslim women, experiences of verbal abuse have become a normalized part of their daily life. The consequence of such hostility is that some Muslim women are forced to think twice before they wear a hijab or wear their headscarves in ways that reduce their risk of exposure to violence and abuse.



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The voice of the anti-racist movement in Europe

There were differences in positions on reporting abuse and discrimination to the police. While some respondents reported discrimination and abuse to the police or other authorities, many were reluctant to do so. In many cases, where verbal abuse took place in the street and the perpetrator was not known to the victim, reporting to the police or other authorities was seen as ineffective and unlikely to result in any action. Others believed that abuse, particularly Islamophobic abuse, would not be recognised, understood, or taken seriously. A French Muslim woman who was physically attacked in a library, did not report this incident to the police, as she feared that she would not be taken seriously and would in fact be blamed for provoking the attack because she is wearing the veil.

And after that, at the time, it is not a reflex, and even now, I ... it's like with the girl who were assaulted in the public transportations. When they go file a complain there are told, it's your fault and all... so yes, I felt like it is kind of the same. We don't really trust [the police]. We are afraid of being humiliated.

(France)

In Hungary, there was a reluctance to report hate crime because the rise in Islamophobia is seen as driven by the government. One interviewee referred to the police as 'Orban's soldiers' and said that she would not report abuse to them 'because I don't trust the police as much as I don't trust the person who hurt me'.

State, social, and community surveillance

Across five states covered in the ENAR research, participants reported being stopped in the street by police, for identity and security checks. While an individual stop may be a small interruption or inconvenience in the course of that day, the accumulated impact of multiple stops 'weighs you down more and more'.

Many research participants also believed that counter-terrorism powers are used by the state to monitor their online activities. The risks of online comments being misunderstood, misinterpreted left many nervous and weary in posting their views on social media. For Muslim participants, the need to weigh the risks of comments being misconstrued circumscribe their freedom to express their ideas and opinions freely.

The whole of society approach to counter-radicalisation and counter-terrorism co-opts all citizens into the surveillance of Muslim bodies. Both France and Spain have set up websites and telephone hotlines to enable citizens to report suspicions. The conscription of all citizens into reporting signs of radicalisations leaves Muslims feeling vulnerable and under constant and continuous surveillance from their neighbours. A Muslim man in Spain offers a vivid description of the impact of this:

[Y]ou feel that you are watched, observed, you know. And that happens, from the police to the people, you know, because in the end, your neighbour, even if he is your neighbour, happens to be a police watchman ... I think they are sometimes waiting for some Moor to do something to call to the... While their Catalan or Spanish children are playing in the same neighborhood, you know... But if a Moorish child does something... But of course, police surveillance affects neighbours who eventually end up doing police work. You don't feel safe in any context

(Spain)



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The voice of the anti-racist movement in Europe

Muslims are left feeling unsafe and unsecure in the neighbourhoods in which they live. They find themselves having to be alert to the potential misreading or misunderstanding of everyday activities by neighbours, particularly in expressing a religious identity that could be misread as a sign of extremism triggering further surveillance, investigation, and questioning.

The harms of such broad social surveillance are experienced at community rather than individual level: the internalisation of the need for surveillance leads to an erosion of solidarity towards particular groups, such as young Arab men; and, suspicion that anyone could be an informant hinders collective action. The fear of being under suspicion also prevent people from being able to provide support to families under suspicion, such families find themselves isolated. Those who are ostracised in this way, in effect lose their right to a presumption of innocence. The wider community, fearing coming under suspicion, feel compelled to prove their own innocence by actively distancing themselves from such families.

Muslim research participants felt worn down and exhausted by living under suspicion, of having to prove their loyalty, belonging, or even to show they are 'normal'. One described it as a 'situation of tiredness'. Another respondent found themselves having to expend time and energy to counter stereotypes, and prove their 'normality'. The emotional toll of the racialised association of Muslims with terrorism and violence is borne by Muslims who are burdened with the additional labour to prove their humanity and ally the fears and anxieties their bodies trigger. Across the different states, many Muslims responded to the negative stereotypes about Islam by taking on board responsibility to educate people about Islam and Muslims, to disrupt and control the narrative about Islam.

Immigration and insecurity

In Poland and Hungary, many of those participating in this research, who are at risk of discrimination from the use of counter-terrorism law and policies are recent migrants, refugees and asylum seekers. Their precarious and insecure status, combined with public hostility, fomented by politicians, that presented Muslim migrants and refugees as an existential security and cultural threat to the nation, generated a sense of intense fear and anxiety.

While Poland was considered it a safe country to live in, with many stories of solidarity, kindness and support in interactions with friends and neighbours in their everyday lives, there was a sense of unease and tension, a fear that good relations were fragile and could change at any moment. This tension was captured by one respondent who spoke of 'feeling safe but living in fear'. The hostility directed at migrants, Muslims and refugees by politicians, sustains a fear that negative public attitudes could rapidly and dramatically deteriorate and descend into violence. The pervasive fear of collective punishment from a public backlash in the wake a terrorist attack was experienced after the news of the murder of Mayor of Gdańsk in January 2019. Media reports that this was a 'terrorist attack'⁶, left Muslims in fear and bracing themselves for a possible backlash if the attacker was a Muslim.

In Poland and Hungary there was concern about the discriminatory and racialized public discourse on immigration and the development of immigration policies aimed at deterring Muslims from coming. Public and official hostility toward Muslim immigration generates anxiety and feelings of helplessness,

⁶ <http://www.tokfm.pl/Tokfm/7,130517,24366605,piotr-niemczyk-to-był-atak-terrorystyczny-trzeba-natychmiast.html>



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The voice of the anti-racist movement in Europe

it also undermines integration and greater civic and social participation as people feel insecure. This was most acute for individuals claiming refugee status.

However, even those with a settled status can feel their position is still precarious. There is a fear that the lack of procedural safeguards will allow national security to be misused to achieve immigration objectives, as 'anything can be thrown in the name of counter-terrorism'.

Conclusion and Recommendations

EU policies have contributed to embedding and sustaining fundamental innovations in the response to terrorism across Member States since 2001. This includes, expanding of the scope of criminal law into the realm of 'pre-crime'; and focusing interventions on preventing radicalisation to violent extremism. The precise impact of EU counter-terrorism measures is difficult to measure as they fall into a policy landscape that this shaped by heterogeneous, competing national and international institutional actors. While recognising that security policies, practices and discourse are moulded by the local social, political, economic and cultural contexts that generate counter-terrorism policies and practice there are ways in which the EU can bolster human rights protection of rights including the freedom of religion and belief and freedom from discrimination.

- Counter-terrorism legal, strategy and policy documents should draw on and explicitly reference international human rights standards, principles and guidelines that should inform and shape the implementation of counter-terrorism measures
- All EU counter-terrorism measures should be subject to a priori human rights impact assessment by the EU Fundamental Rights Agency;
- The EU should regularly engage with civil society organisations on counter-terrorism measures to understand their efficacy and impact on human rights and the rule of law;
- Member states' human rights and equality bodies should conduct regular assessments of the impact of counter-terrorism legislation and policies on individual rights and the rule of law
- All EU counter-terrorism legislation should contain a sunset clause (that is, they should be temporary and automatically expire after a fixed time unless explicitly renewed) and require national implementation measure to also have a sunset clause.
- Adopt and implement EU/National action plan against racism by ensuring mainstreaming of racial equality in counter-terrorism and counter-radicalisation policies
- The EU should refrain from using vague and general labels such as Islamism, and political Islam
- The EU should adopt the draft 'horizontal equality' Directive, to ensure more comprehensive protection against discrimination on the grounds of religion and belief.⁷

⁷ COM (2008) 426: Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation {SEC(2008) 2180} {SEC(2008) 2181}