PRE-RIGHTS

PRE-RIGHTS PROJECT:
Assessing impact and performance
of preventive measures
on EU Directives and Framework Decisions.

D.4.2 Factsheets

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Introduction

This document aggregates four Factsheets touching upon relevant topics in the area of preventive measures in the combat against radicalisation, violent extremism and terrorism, highlighting the importance of ensuring the protection of Human, fundamental and civil rights of the suspects or accused people.

PRE-RIGHTS' ambition with these factsheets was to assemble concrete ideas from practitioners, derived from the project's 5 previously implemented Focus Groups, assembling experts from 18 European countries, and involving Agenfor, the Bremen Senate of Justice and Constitution, IPS_Innovative Prison Systems, Romanian American University and University of Malta. Complemented by extensive desk-research, the factsheets as outlined below were, therefore, deeply influenced by the results of the Focus Groups, as summarised in PRE-RIGHTS D2.3 "Qualitative Analysis":

- Factsheet 1: Prevention in Prisons: pre-trial and alternative measures framed with security;

- Factsheet 2: Hybrid investigations between ,prevent' and ,pursue';

- Factsheet 3: Roles, Powers and Limits of LEAs and Intelligence in Prevention;

- Factsheet 4: Data Sharing and international prevention pre- and post- Brexit.

While all factsheets address the issue of prevention of the mentioned phenomena through legal or operational measures, they differ substan-

tially from one another by looking at the application of such policies and practical methods in different phases of the judicial process, highlighting the role and weight of specific actors involved in the various procedures (governmental or otherwise), and exploring their collaborative interactions. As such, each Factsheet is guided by a specific thematic orientation, as described below:

- Pre-trial detention of accused individuals involved in terror-related crimes;

- Effectiveness of investigations and engagement with sentenced individuals;

- General prevention: beyond governmental agencies;

- Multi-agency cooperation in the combat against violent extremism.

Bearing this in mind, the following chapters of this document encompass the abovementioned Factsheets, which transversally seek to draw attention to the relevance of maintaining a high respect for fundamental rights standards, in the context of the combat against radicalisation and terrorism in EU space.

1. Factsheet 1: Prevention in Prisons: pre-trial and alternative measures framed with security

Pre-trial detention of accused individuals involved in terror-related crimes

International trend of over-use of pre-trial detention

Several independent research institutes – Fair Trials [1], Penal Reform International[2], Open Society Foundations[3] – point to a general over-use of pre-trial detention, a scenario demonstrated by the fact that sensibly 1 in every 5 of the total European Union (EU) prison population are pre-trial detainees[4]. Besides the evident consequences resulting from possibly degrading detention conditions, the risk of ill-treatment, and torture, pre-trial detention is linked to a few issues which dramatically affect the individual, their family, and society as a whole[5]. Additionally, and apart from other Human Rights concerns, the excessive and prolonged use of pre-trial detention in many countries contributes to overcrowding, which in turn frequently results in poor detention conditions. On the other hand, extensive periods under pre-trial detention are not uncommon, thereby exacerbating the negative consequences of a theoretically exceptional measure. Therefore, the definition of pre-trial detention itself is accompanied by a set of principles that should ensure its usage as *ultima ratio*.

– **Basic notions and the concept of *ultima ratio***

Pre-trial detention is typified in EU Member States as the gravest measure of restraint aimed at safeguarding a criminal procedure. Bearing in

mind the severe infringement on individual freedoms and rights posed by pre-trial detention, its application is internationally recognised as being framed by the respect for central principles, out of which:

- Principle of legality: designed to guarantee the primacy of the law in the criminal procedure [6];

- Principle of legal certainty: based on the existence of legislation and a legal system that guarantees protection from arbitrary measures from the State itself;

- Protection against arbitrariness: principle stipulating that, even if detention is in line with formal requirements, as well as the principle of legal certainty, it may still be considered unlawful if arbitrary;

- Principle of presumption of innocence: ensuring that every person should be presumed innocent unless and until proven guilty;

- Principle of the right to liberty: focused on protecting every persons' freedom from unreasonable detention;

- The ultima *ratio* principle: defining pre-trial detention as a measure of last resort, as the exception to the norm;

- Principle of proportionality: it ensures that the content and form of the action are kept with the intended aim [7], imposing a cost-benefit calculation, considering the graveness of the offence and the violation of personal rights imposed by pre-trial detention;

- Principle of adequacy: which requires that any measure restricting personal rights, must be apt to reach the targeted aims [8].

On the other hand, and as noted above, these criteria are not always met, which explains the prevalence of the application of pre-trial detention over release, or, if necessary, alternative measures – which in themselves can also be extremely restrictive of fundamental rights, as well as potentially discriminatory in terms of who can actually benefit from them (as illustrated by the example of electronic monitoring in house arrest, which is only applicable to individuals with permanent residences)

– **Motivations of practitioners not to prefer alternatives**

As highlighted in other EU-co-funded projects (e.g., DETOUR[9], PONT[10]), practitioners often tend towards the application of pre-trial detention instead of its alternatives for a variety of reasons. These may range from legislative limitations – as is the case for Romania where the mandatory consideration of suitable alternatives is not foreseen in the law – to practical difficulties in making use of alternatives – well illustrated by the lack of available electronic monitoring devices in Bulgaria[1].

Besides structural and material obstacles, court actors often find that pre-trial detention is the most appropriate response in several cases. This might be because judicial practitioners focus on the graveness of the alleged crime and not on the risks posed by the individual – a notion which is considered unlawful according to ECtHR jurisprudence –; or, on the other hand, they might consider pre-trial detention as a form of "preventive punishment" for a crime the defendant might not be convicted for in the end[11]. In this context, it is particularly relevant to emphasise the illegality of holding punitive motivations as grounds for applying pre-trial detention, which once more demonstrates the existing gaps between law and practice.

Ultimately, Open Society Foundations goes as far as referring to a "presumption of guilt"[12] as the dominant mindset instead of the presumption of innocence. Lastly, public opinion, magnified directly or indirectly by the media and political elites, often pressures the authorities into the well-known "tough on crime" approach, and especially so in particularly sensationalist cases. That is often the situation for terror-related offences, which instil a considerable sense of insecurity in communities[13], as illustrated by the political and societal aftermath of the 9/11 attacks in the New York[14], but also recent attacks on EU soil, such as the attack in Breitscheid Platz in Berlin[15].

Common placement of suspects of violent extremist crimes under pre-trial detention

The legislation of most EU countries includes violent and organised criminality, along with terror offences as crimes eligible for the application of pre-trial detention. In fact, the application of pre-trial detention in such cases is even referred to as counter-terrorist detention. Due to the indistinct contours of this security threat, as well as the lack of a common understanding and definition of terrorism itself, the impact of terror-related offences in society often leads to a starker position from judicial authorities in handling this type of crime, which influences the precautionary measures applied to those accused[1].

– **Effects of terror attacks and violent extremism on broader societal security perceptions**

It is necessary to point out the distinction between radical ideology and violent radical behaviour. Peter Neumann states that the "principal conceptual fault-line is between notions of radicalisation that emphasise extremist beliefs ('cognitive radicalisation') and those that focus on extremist behaviour ('behavioural radicalisation')"[16]. In this blurred context, the international community has been particularly attentive to their domestic vulnerability to terror attacks, ever since 9/11. This perception of risk rose significantly in EU countries after recent events in Austria, Belgium, France, and the United Kingdom. As a result, the perceived increase of insecurity leads to a diminished general trust, transformed into "active mistrust", which, in turn, acts as a figurative multiplier of pre-existing risks[17].

To that extent, it is unsurprising that the prevention and combat against radicalisation (purely in its cognitive dimension) is held as a priority in EU Member States' security agendas – such as France[18] or Belgium [19].

On the other hand, the somewhat ambiguous practical borders between radicalisation – and terror-related acts lead to a generalised application of preventive measures (including pre-trial detention) for both scenarios. In reality, pre-trial detention might operate as a preventive measure,

insofar as it is justified on the grounds of reasonable suspicion concerning an existing offence, in relation to which criminal proceedings are pending (ECtHR, Kurt v. Austria)[20]. However, new offences relating to radicalisation or crimes associated to terrorism deepen the pre-existing blurry scenario of applying pre-trial detention for preventive purposes in terms of risk of offending.

On the other hand, the lack of appropriate instruments to assess how extremist ideas lead to criminal offences promotes a "policing of thoughts"[21] approach, and the perceived risk legitimises a prolonged application of emergency laws and associated preventive measures. In this context, the impact of consecutive States of Emergency in the respect for Human and procedural rights is a relevant concern, bearing in mind the resulting limited transparency and accountability, framed by the extended executive powers which widen the role and intervention of law enforcement agencies, and reduce judicial scrutiny[22].

– **The importance of the principle of innocence**

As early as 2002, the Council of Europe issued the Guidelines on Human Rights and the Fight against Terrorism[23], underlining the dangers of arbitrariness when applying anti-terrorism measures, and highlighting the importance of their lawfulness, namely for safeguarding the principle of innocence. However, due to the special nature of terror-related offences, the management of these cases is often more complex[1]. Specifically, the reasonableness of suspicion required for applying pre-trial detention is often not judged through the same standards as in conventional offences, namely due to the intrinsic obstacles faced by the investigation and prosecution in this sort of case, and by the confidential nature of the collected information or sources[24].

A clear example of this ambiguity would be the statements of the European Court of Human Rights (ECHR) regarding the terror acts in Northern Ireland in *Fox, Campbell and Hartley v. The United Kingdom*. On the other hand, the same Court also noted that "the exigencies of dealing with a terrorist crime cannot justify stretching the notion of 'reasonable-

ness' to the point where the essence of the safeguard secured by Article 5 § 1 (c) is impaired"[25]. Moreover, long-lasting States of Emergency, such as in the French case from 2015 to 2017, enabled a substantial weakening of freedoms and guarantees, namely through house searches and the application of other surveillance measures without judicial oversight, and preventive measures restricting freedom of movement, association, and expression[26]. Furthermore, some of the exceptional measures in force ended up being codified into regular law after the end of the State of Emergency, hence normalising much harsher preventive policies and measures, which may even call into question the functioning of the criminal justice system and the Rule of Law[27].

Securitisation approach to radicalisation during pre-trial detention

International law requires that pre-trial detention should be the exception rather than the norm, and governments have the duty to protect fundamental rights throughout the judicial process. This means that the application of preventive measures against radicalisation in pre-trial detention should, in theory, not be taken lightly, as they aggravate the already difficult period of pre-trial detention for the individual and further restrict the person's rights in prison (e.g. access to activities, to work, to visits, isolation). However, the pressure to combat the threat of violent extremism, along with the diffuse borders between cognitive and behavioural radicalisation, tend to translate into a lack of clear strategies to address both phenomena while safeguarding Human Rights. Ultimately, the term of "detention within detention" resonates in this context.

– Preventive measures in pre-trial detention

Practitioners participating in the PRE-RIGHTS focus group (D2.3) acknowledged that a higher application of pre-trial detention holds a large potential to fuel radicalisation within the prison context [13]. Part of the factors explaining this reality lie with the fact that high numbers of pre-trial detainees lead to aggravating already poor detention conditions, resulting in overcrowded, unhygienic, chaotic, and violent environments

for the inmates[28]. Therefore, where conditions violate the fundamental right to dignity, and the protection against inhuman and degrading treatment, as well as torture, prisons may easily become breeding grounds themselves for radicalisation, which is further aggravated by the impact of preventive measures against radicalisation applied to a pre-trial detainee – which might fuel the radicalisation process[13].

Some of the factors triggering radicalisation processes occur when pre-trial detainees are placed in environments that allow them to be receptive to extremism. Isolating detainees from conviviality can be, therefore, one of the factors: for instance, separating detainees from the general prison population due to suspicions of radicalisation, without a thorough individual risk assessment, might expose a previously non-radicalised individual to extremist narratives[29]. Alternatively, social isolation measures preventing detainees from socialising with friends and family on the outside while on pre-trial detention, for investigative purposes, may feed/worsen a sense of isolation. In turn, the individual might become (more) prone to finding legitimacy in the use of violence as a response to perceived wrongs against the in-group that they identify with[30]. An enlightening example of this paradox would be the case of Amedy Coulibaly, one of the perpetrators of the Charlie Hebdo attack in France, who is said to have been radicalised by another inmate, while both were in solitary confinement[31].

– Backlash and further isolation

These conditions constitute, as Michelle Dugas and Arie W. Kruglanski indicate, "a potentially conducive environment for the [possibly] newly radicalised detainee to remain distanced from elements of their previous identity such as social networks and continue to be ideologically saturated with extremist ideas due to isolation"[24]. Notwithstanding, as previously noted and confirmed by the PRE-RIGHTS focus groups results "pre-trial detention is normally the rule", and especially for highly violent and impactful crimes as terror attacks[13].

When discussing the possible application of non-custodial sentences in terror-related crimes, experts in the PRE-RIGHTS focus groups mentioned the potential of house arrest and monitoring, namely through probation services. In sum, considering the negative effects of pre-trial detention, the groups suggested that any effective alternative measure should "1) rely on a strong local cooperation; 2) allow meaningful activities;" and that "3) there should be a process of consultation among agencies involved (social and probation services) so when specific risks are identified they can be managed, as to prevent a serious crime from happening."[13].

In line with the previous statement, in Romania, organisations that work in the criminal justice setting emphasised that, in cases of pre-trial detention, preventive measures should be only applied when there are clear grounds indicating that the crime is committed. According to the PRE-RIGHTS focus groups' results, in cases of cognitive radicalisation, "other measures should be applied", therefore restricting the use of isolating and repressive measures to behavioural radicalisation instances[13].

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2. Factsheet 2: Hybrid investigations between ‚prevent' and ‚pursue'

Effectiveness of investigations and engagement with sentenced individuals

Role of Prisons and Probation Services on the combat against radicalisation and violent extremism

Radicalisation, violent extremism and terrorism have been at the top of EU Member State's security agendas for years. Related concerns have recently expanded to include the prison context as well, considering its growing importance in the prevention of these phenomena[1]. According to radicalisation expert Marco Olimpio, "prisons have long represented hubs for radicalisation, where radicalised individuals can establish ties with each other, as well as engage in proselytism and recruit other inmates"[2].

– **The central relevance of prisons in the combat against radicalisation and violent extremism**

Transversally, prison systems must ensure prisoner rights, as well as longer-term considerations, such as social reintegration, all the while identifying factors that may render prisoners more susceptible to violent extremism and combatting the spread of violent extremist ideologies in the prison context. As such, it is often argued that prison staff ought to consider any factors or significant signs indicating vulnerability to radicalisation, namely by observing any changes in the behaviour of inmates[3]. If the prison administration considers that support is required

to reduce the inmate's susceptibility to radical ideologies, an appropriate support package should then be developed, and put into practice by trained staff members – with due judicial supervision and protection against arbitrariness.

On the other hand, as noted, prisons must also respond and contribute to mitigating state-wide security threats, as well as maintaining security within the facility itself. To that extent, measures such as "monitoring and wiretapping of telephone conversations and other remote communication, interception, secret monitoring and technical recording of persons and objects, the use of undercover investigators and confidantes" are often applied to radicalised or vulnerable individuals, as noted by the PRE-RIGHTS focus groups' participants[4]. Notwithstanding, measures to combat radicalisation and violent extremism in the prison context may also pose constraints to the full respect of civil rights and the fulfilment of the rehabilitation goals of the prison service[5].

– **Protection of personal rights and the rehabilitation goals of the Prison Service**

Respect for Human Rights is an essential part of a successful counter-radicalisation effort. According to the PRE-RIGHTS project focus group reports[4], "The issue of the balance between rights and security of prisons and prisoners and rehabilitation and reintegration is very important." In sum, experts noted that disengagement/de-radicalisation programmes must rely on appropriate evaluation and assessment measures, offering evidence for efficiency and supporting sustainable and positive change for the individual. The report also mentions that, often, such "measures of isolation and security are not working well with this sort of prisoners, as they seem to lead [them] to become more radical and violent." In parallel, experts stated that the characteristics of high-security regimes are often harmful to inmates and even more so for their rehabilitation prospects. Nonetheless, experts also noted that it is impossible to achieve equal levels of security and Human Rights respect in this scenario, equating it to a "zero sum game"[4].

The difficult balance between the rehabilitative mission of the prison and probation services and security needs

As stated in the PRE-RIGHTS focus groups reports, in several EU countries, "At the prison level, there are different measures, one being the implementation of a radicalisation risk assessment tool, to which follows the application of different kinds of programmes to be applied after the risk is determined"[4]. Additionally, radical or vulnerable inmates are also the subjects of preventive measures within the prison (and probation) settings, some of which are related to ongoing investigations which might also warrant the involvement of the detainee's social circle and family. In this context, the fragile equilibrium between security and rehabilitation described above is further damaged by established practices among the different agencies, and the lack of appropriate methods to tackle the issues at hand[6].

– **Intelligence gathering activities by engaging the individual's social circle and family**

In fact, such a delicate context calls for a high degree of cooperation between prison and probation services and law enforcement agencies, namely in what regards information exchange and contacts with the inmate's family and social circle. In this line, it is considered essential to maintain positive relationships with the social networks and support groups of radicalised inmates or those convicted for terror-related crimes[4]. Gathering information about the family members and surroundings of a certain individual is understood as a good practice to better understand the individual, their possible treatment and to be able to appraise the engagement of family members in the inmate's process. This sort of assessment is made by an evaluation committee composed of prison staff and intelligence police, who then assess the need for specific measures to be applied[7]. In fact, some interventions are supplemented by indirect measures such as family support, protection from peer pressure, while introducing and linking vulnerable individuals to supportive networks[8].

However, the need to prioritise security concerns, to the detriment of rehabilitation goals, often leads family members and the inmate's social circle to feel antagonised by State agencies. This might happen, for instance, if family and members of the individual's social circle are informally involved in ongoing investigations and feel that their interaction with law enforcement is purely based on "control and supervision"-related priorities. In this scenario, obstacles might easily arise later, and the support network's potential for contributing to the resettlement process and overall future prevention is lessened[4]. Moreover, when considering long term rehabilitation goals, the frequent inexistence of concrete and reliable assessment schemes of the measures applied to an individual in custody creates a substantial gap, which actively prevents the responsible bodies from evaluating the different preventive measures' impacts, the efficiency of risk assessment tools and the success of exit and rehabilitative programmes[9].

– **Existing radicalisation assessment tools and de-radicalisation/ disengagement programmes**

In this context, risk assessment tools are developed by a wide range of actors (from academia, governmental bodies, etc.) and applied in the prison and probation settings by prison and probation staff (including psychologists, criminologists, social workers, as well as prison guards and probation officers), depending on the tool in question. These tools typically seek to achieve the following goals: inter-agency information exchange (among law enforcement, intelligence services, and prison and probation services, for instance); the detection of risk levels potentially leading to a behavioural risk in the future; the identification of vulnerable individuals and supporting the measures applied to them; and finally, the promotion of research to better understand radicalisation processes[10]. In the context of risk assessment tools, the R2PRIS Radicalisation Risk Assessment in Prisons is worth mentioning, as it follows a multi-level radicalisation prevention approach, illustrating the different characteristics of risk assessment tools. Hence, RRAP includes three risk assessment tools[11]:

- Helicopter View – used to support prison governors, and their administration teams in assessing two situational dimensions (factors related to the prison service and the ones present among inmates). It seeks to map the available strategies and action plans in place;

- Frontline Behavioural Observation Guidelines – used to support frontline staff inside prisons as a behavioural observation guideline. It focuses on significant changes in relevant areas, such as the inmates' physical appearance; decoration of cells and the objects in their possession; daily routines; ways of relating to others and family to help;

- Individual Radicalisation Screening – designed for technical staff, mainly psychologists or staff undergoing training to carry out psychological assessments. The latter are meant to provide a more detailed picture of the inmates' vulnerability and radical belief system and comprises a wide range of dimensions (from pre-radicalisation, self-identification, indoctrination and militancy phases).

In turn, exit strategies (including both de-radicalisation and disengagement[1] programmes) aim to modify the identification of a person with an extremist group or ideology, towards preventing future violent extremist behaviours. In general, both these sorts of programmes seek to promote psychological flexibility in terms of convictions and beliefs, while preventing reified rejections of other value systems leading to violence[12]. As an example, we would refer to the case of Austria, where the De-radicalisation in Prisons project was created. Its primary goal was to "tackle Salafism using alternative narratives focused on the political ideology of 'political Salafiyya', which can lead to violent extremism and consequently terrorism. The program was designed to prevent radicalisation and de-radicalisation inside prisons, but also involving the probation services[13].

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1 While disengagement programmes seek to enact behavioural change, promoting the cessation of violent actions, deradicalisation intends to promote cognitive changes in the individual, implying a reorientation of belief or ideology.

On the other hand, Norway implemented the Action Plan Against Radicalisation and Violent Extremism, based on voluntary participation. It aimed at identifying prisoners convicted of hate crimes, as well as young inmates and those considered to be especially vulnerable and prevent them from making contacts or developing networks with people already inserted into violent extremist groups. To that end, this programme promoted social integration, as well as the relationship between family and friends, while ending any contact with radicalised individuals and association with violent extremist groups[13].

Effectiveness of intervention programmes with radicalised individuals

Considering the sensitivity of any sort of intervention with radicalised individuals or those vulnerable to radicalisation in the prison and probation setting, and the importance of promoting the person's rehabilitation prospects, there are substantial investments in the risk assessment tools, along with exit strategies. However, the efficiency of these instruments is still reduced by their own limitations and constraints.

– **Limits of de-radicalisation/disengagement programmes (in prison and probation)**

Anti-radicalisation measures (e.g., disengagement interventions, allocation, classification, placement and isolation), along with any other investigative measures, including the suspect and their social network, are not linear approaches and do not always meet their goals. Referring to social isolation, Shane Bryans points that "allowing radicalised inmates to engage with others can enable them to probably seek out and successfully recruit fellow prisoners. On the other hand, segregating them in separate blocks enables them to maintain an organisational hierarchy and hone their operational skills"[14]. To that extent, these are dynamic and subjective approaches, whose success is dependent on several factors. Generally, strong surveillance measures are not considered to be a good practice, as the dominant focus on individual signs of vulnerability that could lead to radicalisation, may promote discriminatory and

repressive policies, which in turn may foster the sense of injustice and social exclusion that fuels the radicalisation process, to begin with. In parallel, the lack of follow-up after having participated in an exit programme, and having been released from prison, emerges as an equally problematic issue for the efficiency of anti-terrorist measures within the prison and probation context[4].

– **Ensuring appropriate follow-up after release**

As hinted before, serious obstacles have been identified towards the successful social reintegration of violent extremist offenders. One of these lies in the lack of stability and engagement of the individual in seamlessly continuous exit programmes, as they are released and/or start serving probation measures. The possible progress of the inmate while in prison might easily be compromised due to lack of support by the probation services or community organisations, in close cooperation with state agencies, such as the prison and probation services. Neglecting the need for a comprehensive and cross-sectoral approach regarding disengagement programmes directly impacts their efficiency. This is well illustrated by the example of one of the aggressors in the 2020 Vienna attacks. News reported that the individual in question had already been convicted for being a member in a terrorist organisation in the past[15] and participated in a de-radicalisation programme while in prison, prior to the attacks. The success of this programme and other programmes are therefore called into question and draw attention to the impact of lacking follow-up care post-release. Therefore, the development of efficient programmes to prevent and combat radicalisation must include appropriate and transversal support, throughout the different agencies of the criminal justice system, while also relying on support networks.

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3. Factsheet 3: Roles, Powers and Limits of LEAs and Intelligence in Prevention

General prevention: beyond governmental agencies

Lack of inclusion of civil society organisations and other governmental institutions (e.g., health)

It has become increasingly acknowledged that there is a clear necessity to develop a broader approach towards the prevention of radicalisation. In line with Radicalisation Awareness Network's (RAN) model[1], such an approach counts with the participation of civil society and other governmental institutions typically distanced from security priorities, such as health professionals, along with a higher engagement of local communities.

– **Potential of involving civil society and other governmental organisations**

As of now, the engagement of civil society organisations (CSOs), such as non-governmental organisations (NGOs), in the prevention of radicalisation is still relatively minor. Yet, their collaboration is considered fundamental given their proximity to the ground, along with their potential for successfully participating in preventing, identifying, and tackling radicalisation and violent extremism. According to the Prevention of radicalisation and extremism Action Plan of Denmark, launched in 2014 "[…], there is untapped potential and room to develop strategic partnerships between official agencies and civil society […]", namely by jointly establishing "a general understanding that concerns must be discussed – and solutions proposed – for specific local challenges"[2].

Thus, it would seem crucial to develop and improve communication schemes between State agencies and civil society, but also other governmental agencies. The latter can contribute to upscaling current anti- and counter-terrorism activities while bridging a possibly existent distrust between individuals and law enforcement agencies and intelligence services – as the traditional actors in the security field[3]. In this broad context, the media have an irrefutable influence in shaping public opinion, by framing events in certain ways, mainstreaming and normalising behaviours and perspectives, or reinforcing pre-existing biases. This influence grows bigger in cases of grave disturbance of public tranquillity and order, as are highly shocking violent extremist and terror attacks.

– The role of traditional and social media

As noted by the Council of Europe, "The spread of public terror, fear and feelings of chaos depend largely on the images and messages being carried by media reports about the terrorist acts and threats"[4]. The media might contribute to intensifying the impact of violent extremist incidents and terror attacks, by disseminating detailed information on the events, reasoning, planning, and methods used. According to the PRE-RIGHTS focus groups results, the media holds an important role in these matters, as they seem to be fairly "available to provide a sort of amplification to these instances", thereby increasing the visibility and audience for the acts of the perpetrators[3].

On the other hand, social media in specific, alongside other dimensions of the internet, have progressively become useful platforms to propagate extremist narratives, as social media allows any person to become a consumer and a producer of information at the same time, whatever the topic may be[5]. As such, and in line with the focus groups results, the media ought to be considered as a sort of gatekeeper, and the monitoring of the propagation of this sort of information should not be held as an easy task, but in a pondered way[6]. In this context, there is a growing effort to develop counter-narratives campaigns, to combat the spread of radicalisation and violent extremism, particularly online. Notwithstanding, the value and efficiency of this sort of initiative has been called into

question, not only due to the challenge of thoroughly assessing their results and concrete impact[3], but also, since the most applied "generalised counter-messages stray from the type of targeted engagement and one-on-one interventions recommended by de-radicalisation experts and practitioners.", as noted by Meleagrou-Hitchens[7].

The responsibility of civil society and other governmental agencies

Civil society efforts are locally rooted, benefiting from privileged access, legitimacy and influence. As such, they embody a relevant component to address radicalisation prevention, as a civil society already possesses considerable knowledge of the ground dynamics, that can possibly lead to violent extremism[8]. On the other hand, focus groups experts recognised the importance of also involving health workers, for instance, as an important part of radicalisation prevention efforts, while noting the complexity of their position, being often torn between governmental "security/neutralization" objectives and their duty of care towards the client/patient[3]. As previously noted, the close collaboration of every possible actor is considered fundamental in a general prevention approach: "not only professionals but people in civil society, families, and parents also must get involved in raising awareness of radicalisation, identifying risky situations and providing support for people— especially young people—who are in danger of radicalisation."[9]. As such, cooperative mechanisms have been established in several EU countries, even if they have not yet reached their full potential.

– Existing cooperative mechanisms

In this context, the Belgian example may illustrate how to take advantage of a broader and participative approach in radicalisation prevention, while safeguarding privacy and professional secrecy. A specific forum was created, gathering every service involved in cases of radicalisation or terrorism and, in these meetings, participants cannot be prosecuted for violating professional secrecy – they have the right to speak, but not an obligation to speak. Ultimately, the successful Belgian example (in

the words of the Focus Group participants) demonstrates that, once trust and respect are established, information sharing is boosted [3]. In parallel, the Crime Prevention System of the Republic of Croatia is organised in cooperation with local governments, in the form of Prevention Councils. The latter assemble local police representatives, local government representatives, schools, NGOs, religious, cultural, sport, and other interested stakeholders, to discuss local problems and work together on the implementation of specific preventive measures[3].

On the other hand, in Cyprus, since radicalisation is not a crime, information sharing is an even more sensitive topic, even within the national network of experts that is in place in the country. Pertinently, the expert from Cyprus participating in the PRE-RIGHTS focus groups also highlighted that, due to the particularly sensitive nature of these cases, professionals might tend to overlook that the information must be delicately handled. Bearing this in mind, cooperation mechanisms must be carefully designed and appropriately put into practice[3], while relying on robust frameworks which ensure that important actors in this field are not simply considered as "informants", but instead balance their original mission with security (and inherently social) priorities.

– **Need for appropriate oversight regarding the cooperation**

Naturally, structural incompatibilities, legal barriers, diverging sectoral interests, and different expectations in what concerns competence distribution create further difficulties to this collaboration. However, upscaled conditions for cooperation must be developed, in order to offer more autonomy to non-traditional actors involved in radicalisation prevention, so that they may also influence policy formulation, project development, and service provision. To that extent, clarifying the roles to be adopted by NGOs or the healthcare sector, for instance, is key to devising efficient intervention programmes[2]. Moreover, it is important to thoroughly determine the expected contributions offered by the cooperation between CSOs and state authorities, what kind of participation levels are foreseen, namely in what concerns information provision, consultation, and dialogue. These requirements not being met, cooperation schemes

may become fragmented and remain ineffective, and rarely reach their full potential. Every kind of cooperation requires an exclusive outset and plan to consider the specific local situation, the political support, the capacities, and the limitations of people involved. Ultimately, there must be a high level of mutual understanding and trust for the process to be efficient[10].

The difficult materialisation of the objectives of RAN's general prevention spirit

RAN states that there is a necessity for multi-actor cooperation "to facilitate the exchange among practitioners themselves on the one hand and between them and other stakeholders on the other hand […] [including] national, regional and local authorities and researchers, as well as with the EU institutions"[11]. This kind of cooperative scheme can potentially lessen the tension between government authorities and civil society while challenging violent extremist narratives and deterring efforts by violent groups to take advantage of community or personal grievances for recruitment purposes[8]. However, and as previously noted, the implementation of general prevention strategies is still far from optimal.

– **Difficulties in civil society and other governmental agencies cooperating with the authorities**

As noted, implementing radicalisation prevention policies in collaboration with civil society and non-traditional governmental agencies is not an easy path, as it requires professionals and officials from a variety of backgrounds and institutional environments to work together. Most participants from the focus groups agreed[3] that the cooperation between state authorities and civil society is difficult and at times completely absent, due to several obstacles.

As European Urban Knowledge Network Secretariat´s reports point out, "These obstacles include problems for some groups of professionals to exchange information (due to professional secrecy) and interpretations of secularity that prevent the potential of communities and religious

institutions from being harnessed"[9]. In Spain, for instance, there is a strategic plan for cooperation with civil society actors, designed by Intelligence Center for Counter-Terrorism and Organized Crime (CITCO) and other stakeholders. According to the focus groups results, the strategic plan is well designed, but there have been no palpable results so far, as it has not yet been properly put into practice. Additionally, social entities or other governmental agencies are not yet fully engaged or convinced of the goals of this national strategic plan. Additionally, the health sector is excluded from these discussions. On the other hand, however, from a legal perspective, the focus group results pointed to the fact most Member States are still lacking the tools to face the threat of violent extremism, considering the absence of a notion and concrete definition in national criminal law regarding this phenomenon, something which also impacts the overall cooperation strategy[3].

Against this background, an interlinked issue refers to the importance of a more Human Rights-centered approach. When governments and local authorities collect data about radicalisation and violent extremism, a stronger focus on existing push factors would seem to be beneficial, such as economic deprivation, lack of vocational training, and employment opportunities[12].

– **The necessity of a broader preventive approach encompassing social and human factors**

Groups engaged in radicalism generally misconstrue religious beliefs, ethnic differences, and political ideologies to legitimise their actions. A Human Rights-centred approach, in turn, encourages social dialogue and empowers the citizen to engage in dialogue, as well as influence the design of public policies towards the prevention of radicalisation[13]. Low-income, education, life in poverty, and generally any inequality aspect may have an association with cognitive radicalisation[14].

It would seem important to address the array of factors that can link inequality to potential radical thoughts and when these might indicate underlying ideological and motivational features of specific terrorist

groups[14]. In fact, Galtung emphasises that "Deprived environments as such usually are characterised for having a significant lack of opportunities whereby youth unemployment and illiteracy are massively present, possibly encouraging people to engage in criminal networks. […] Social identity and identity grievances might also be potentially triggering elements."[15].

To this extent, both state agencies and other organisations could possibly also support counter-narratives and education, to engage parents along with local, while privileging the root causes (unemployment, poverty, lack of vision for the future, lack of parental attention, for instance) in the design and materialisation of preventive or counter-radicalisation policies, moving past a purely securitary approach to the issue.

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4. Factsheet 4: Data Sharing and International Prevention Pre and Post Brexit

Multi-agency cooperation in the combat against violent extremism

Importance of multi-agency cooperation

The unprecedented security concerns linked to global terror in the turn of the century led to an unparalleled investment in anti-terrorist policies in the EU, as illustrated by the creation of the Counter Terrorism Coordinator and, at the broader regional level, the European Counter Terrorism Centre within Europol[1]. In this context, it was quickly understood that functional anti-terrorist strategies needed to be based on strong multi- and inter-agency cooperation, both at the national and international levels. Multidisciplinary and concrete efforts towards cooperation between all relevant security stakeholders are considered essential pieces of counter-terror efforts, as demonstrated by the priorities put forward in the European Agenda on Security[2].

– **Morphology of the cooperation between governmental bodies**

To this extent, the EU co-funded TRIVALENT project stated that counter-terrorism policy initiatives should include strong components concerned with "measures and tools for operational cooperation and intelligence/law enforcement and judicial information exchange; data collection and database access; measures to enhance external border security; […] criminal justice measures (including the new directive on combating terrorism) and measures to combat radicalisation and recruitment"[1].

Depending on the cooperative mechanisms in place, several interdisciplinary teams and workgroups share a common general mission in the context of anti-terror policies, ranging from addressing a specific unfolding threat, or working towards long-term strategic objectives. Specifically, in this second dimension, the inclusion of the health and education services, for instance, might be particularly important in order to consider how best to support individuals and local communities[3]. In Portugal, the Counter-Terrorism Coordination Unit (UCAT)[4], much like the Intelligence Center for Counter-Terrorism and Organized Crime CITCO[5], assemble a wide range of governmental agencies – "judiciary police, the public security police, the national republican guard, the immigration and border services, the maritime police, as well as other institutions who act as observers. At UCAT, for instance, these agencies work in the specific prevention/criminal prevention (also to prevent ideological criminal extremism, which precedes terrorist actions)."[6].

– **Legal prevention and checks and balances**

The ECHR is very specific about the weight of legality and Rule of Law in the prevention of Human Rights violations in terms of radicalisation prevention, while privileging democracy, individual liberty and mutual respect and tolerance of different faiths and beliefs[7]. According to the PRE-RIGHTS focus groups reports, "The judicial system is the only responsible and legitimate actor, who is also required to ensure a balance between the necessary legal measures of prevention and the respect for Human Rights. Bearing that in mind, intelligence services' only role is to pass on to the judicial and prosecution authorities' suspicions and pieces of information, acquired by legal means. Even during a possible criminal procedure, there will always be a judge as a guardian of fundamental rights and freedoms of any citizen – before and after a criminal charge"[6]. In sum, thoroughly delineating the mandate, competencies and legal limitations of each involved agency and service is key to achieve palpable results, while respecting Human Rights.

Intelligence-led investigations

In principle, any intelligence-led investigation without the supervision of judicial authorities clashes against the protection of Human Rights and the presumption of innocence. While it is imperative to maintain a sensible balance between security and fundamental rights, focus groups experts noted that, in several countries, this equilibrium is not always guaranteed[6].

– **Transparency and accountability from Law Enforcement and Intelligence Services in intelligence-led investigations**

In many instances, judicial oversight is not considered to be sufficient, or effective – as it may come too late in the process to offer any meaningful remedy to violations. In Malta, for example, for all serious crimes of 3 years and over the duty magistrate enjoys a rather large level of freedom and discretion during the investigation, being "practically free to go wherever the evidence takes him/her without limitations on conducting the investigation." Ordinarily a broad investigation takes place with the authority of magistrates, but under other conditions, the authorisation from a judge to collect intelligence it is not required by the security services, unless the interception of communication is essential.

On the other hand, in the Romanian case, a general lack of transparency in hybrid investigations was noted by the focus groups participants. In addition, access to the case file is hindered both for the defendant and for its counsel, the right to be informed of foreigners during investigations is seldom an aspect considered, and there is an acceptable proportionality between the reality of the low terrorist threat in Romania and the type of preventive measures applied[6].

The Portuguese experts participating in the focus groups also noted that the role of collecting and handling intelligence should not be interpreted as limited to the intelligence services. This is because law enforcement is also responsible for dealing with "criminal intelligence", which may be related to potential extremist or terror-related incidents. Such data is not necessarily used for judiciary files or inquiries, but in

the pre-inquiry phase, when there are great exchanges between UCAT and other internal services, as well as foreign entities, for making an assessment[6].

– **The contribution of prison and probation services**

The role of prison and probation services in the combat against radicalisation and violent extremism has been increasingly recognised by EU Member States. In this same line, and according to the Prevention of Radicalisation report launched in 2020 by the European Commission, "In recent years, EU Member States have put a number of measures in place, including risk assessment tools, special detention regimes, rehabilitation and reintegration programmes, trainings for prison and probation staff and structures for information exchange and multidisciplinary cooperation for management of ex-offenders after release"[8].

Positive examples of such multidisciplinary cooperation may be found in Spain, for instance, according to the PRE-RIGHTS focus groups reports. They mention the existence of an intelligence unit inside the Spanish prison system (and a liaison office in each prison), specifically charged with the observation of terror-related inmates or vulnerable ones. Through the centralised FIES database (Fichero de Internos de Especial Seguimiento), information is gathered and shared via the cooperation mechanisms among intelligence services, law enforcement and the prison system, to collect and analyse relevant information under the supervision of the judicial system. In Slovakia, for instance, the Prison and Judicial Guard Corps (hereinafter as" Guard Corps") are also responsible for the prevention and fight against terrorism and organised crime. To that extent, these actors may resort to a variety of information, technical, operative and investigative means, in cooperation with the Secret Intelligence Services, Military Intelligence, Police Forces, among others. On the other hand, in Belgium, experts noted that "there is no intelligence unit within correctional facilities, so it is up to the prison staff to inform the police about any significant events, but even so it does not become a police concern immediately"[6].

Regarding the participation of probation services in such collaboration, experts agreed that this specific sector should be charged with tertiary prevention, reintegration, and de-radicalisation or disengagement programmes. However, and despite their crucial role and potential in this area, probation services are often not included in collaborative platforms, and therefore lack the appropriate information, experience and knowledge to intervene. In Greece, for instance, a legal gap is considered to exist, since there is no clear channel of information sharing between such a service and the police[6].

Difficulties in information exchange (including at the international stage)

The EU has promoted the creation of several structures and initiatives for the collaboration between intelligence services, law enforcement and the judiciary, seeking to support the exchange of information, tools, data collection and database access. Some examples include the RAN[3], or the new Counter-Terrorism Agenda[10]. Moreover, joint investigation teams are also a useful resource for international cooperation among Member States, to increase collaboration and exchange of information in criminal procedures involving terrorism.

– **Mutual trust and internal cooperative mechanisms to support the communication chains**

Even at the national level, many difficulties persist in what concerns adequate and timely information exchange among governmental agencies. Obstacles may relate to the distribution of competences, a certain level of resistance to collaborate with other institutions, or budgetary constraints. On the other hand, at the international level, differences between legal systems and cultures, disparate security priorities, budgetary policies and, ultimately, language barriers represent substantial barriers to swift cooperation between Member States[6]. In this context, experts from the PRE-RIGHTS focus groups noted that the application of the European Investigation Order (EIO) should be upscaled, since effective

international police cooperation is very important in the initial phase of the proceedings[6].

Moreover, it is understood that States should rely on coordination units capable of reciprocally sharing information, namely to upscaling the understanding the measures which then applied local level. A prime example is the Dutch cooperation unit: the Dutch government has created a single unit to deal with several EU instruments related to mutual recognition and judicial cooperation, namely in criminal matters, in order to collect and transmit relevant information[6].

– The quality of information exchanged

Considering the noted difficulties in multi-agency cooperation, namely concerning information exchange, the quality of the latter is often also called into question. In fact, the condition of the information and evidence are fundamental, to substantiate the prosecution of terror-related offences. In this scenario, investigating and prosecuting potentially radicalised individuals or terrorists multilaterally, or even at the national level, becomes even more difficult when we consider Foreign Terrorist Fighters (FTFs).

According to Bibi van Ginkel, "Prosecutors are faced with a challenge when prosecuting FTFs suspects due to the difficulties in collecting enough evidence to pass the thresholds for criminal behaviour in order to secure a conviction"[12]. As such, collecting and storing valid evidence is a great challenge, especially in the case of FTFs, and authorities are often not able to give continuity to legal cooperation at the international level, due to a low reliability of the available evidence[6].

Adding to the already noted challenges in multi-agency cooperation and information exchange, ensuring the quality of the shared data is a key aspect in need of improvement. Ultimately, such complex phenomena as radicalisation, violent extremism and terrorism demand a close collaboration and engagement of a variety of actors, from the police, intelligence services, judicial authorities, prison and probation services, but also potentially other non-traditional actors, such as the health sector.

To ensure an appropriate materialisation of preventive policies, national strategies are key tools, and would be best designed bearing in mind the importance of multi-agency collaboration in the combat against violent extremism[6].

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