DeRadicalisation
in Europe and Beyond: Detect, Resolve, Reintegrate

De-radicalisation and Integration.

Legal & Policy Framework – United Nations, Council of Europe, European Union

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List of Abbreviations

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

About the Project

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

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

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

Executive summary

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

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

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

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

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

1. Introduction

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Decentralisation

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

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

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

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

The legislative framework on fundamental freedoms

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

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

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

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

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

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

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

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

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

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

Limitations to fundamental rights

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

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

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

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

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

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

The legislative framework on (de-)radicalisation

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Paradigmatic case-law on radicalisation

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6. Case Studies

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

Case Study 1

CSEP

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

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

Case Study 2

The EU Code of Conduct on countering illegal hate speech online

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

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

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

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

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

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

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

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

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

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

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

7. Conclusion

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Annexes

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

Legislation title (original and English) and number	Date	Type of law (i.e. statute, regulation, rule, etc…)	Object/summary of legal issues related to radicalisation	Link/PDF
European Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders	30 November 1964	Treaty (CoE)	Interstate transfer of probationers and offenders whose sentence has been suspended, social rehabilitation of offenders	https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168006ff4d
European Convention on the Suppression of Terrorism	27 January 1977	Treaty (CoE)	Extradition of individuals having committed acts of terrorism	https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168000771b2
Convention on the Transfer of Sentenced Persons	21 March 1983	Treaty (CoE)	Interstate transfer of persons convicted of a criminal offence, social rehabilitation of offenders	https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168000795 29
Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States	13 June 2002	Framework Decision (EU)	Interstate transfer of individuals for the purposes of conducting a criminal prosecution or executing a custodial sentence or detention order	https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32002F0584&from=IT
Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems	28 January 2003	Treaty (CoE)	Criminalisation of acts of a racist and xenophobic nature committed	https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/189?_coeconventions_WAR

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

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

CASE LAW

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

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

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

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

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

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

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

OTHER RELEVANT ISSUES

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

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

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

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

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

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

Annex III: Best practices/interventions/programmes

CoE level

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

EU level

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

Annex IV: Policy recommendations

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

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