

Study

Requested by the LIBE committee



# Right-wing extremism in the EU

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Policy Department for Citizens' Rights and Constitutional Affairs  
Directorate-General for Internal Policies  
PE 700.953 - May 2022



EN



# Right-wing extremism in the EU

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## **Abstract**

This study, commissioned by the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs at the request of the LIBE Committee, provides a discussion on the distinctive features of right-wing extremism as well as of violent actions perpetrated by right-wing extremists in the EU. It gives an overview and analysis of definitions, recent trends and responses to these actions and concludes with recommendations. In particular, the study highlights the need to develop a working definition of right wing-extremism in order to provide a better framework for understanding, studying and measuring the phenomenon.

This document was requested by the European Parliament's Committee on Civil Liberties, Justice and Home Affairs.

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Manuscript completed in May 2022  
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## LIST OF ABBREVIATIONS

<b>AfD</b>	Alternative für Deutschland ( <i>Alternative for Germany</i> ) - DE
<b>AFO</b>	Action des forces opérationnelles ( <i>Action of Operational Forces</i> ) - FR
<b>CDU</b>	Christlich Demokratische Union ( <i>Christian Democratic Union</i> ) - DE
<b>CEE</b>	Central and Eastern Europe
<b>CGIL</b>	Confederazione Generale Italiana del Lavoro ( <i>Italian General Confederation of Labour</i> ) - IT
<b>CNCDH</b>	Commission Nationale Consultative des Droits de l'Homme ( <i>National Consultative Commission on Human Rights</i> ) - FR
<b>CoE</b>	Council of Europe
<b>CSD</b>	Centre for the Study of Democracy - BG
<b>ECRI</b>	Council of Europe's European Commission Against Racism and Intolerance
<b>ECtHR</b>	European Court of Human Rights
<b>ENAR</b>	European Network Against Racism
<b>EU</b>	European Union
<b>FCC</b>	Federal Constitutional Court -DE
<b>FN</b>	Front National ( <i>National Front</i> ) - FR
<b>FPN</b>	Focal Points Network
<b>FPR</b>	Fichier des Personnes Recherchées - FR
<b>FRA</b>	European Union Agency for Fundamental Rights
<b>GUD</b>	Groupe Union Défense - FR
<b>GYEM</b>	Gyűlölet-bűncselekmények Elleni Munkacsoport ( <i>Working Group against Hate Crimes</i> ) - HU
<b>IHRA</b>	International Holocaust Remembrance Alliance



<b>JA</b>	Junge Alternative ( <i>Youth Alternative</i> ) - DE
<b>LGBTQ+</b>	Lesbian, gay, bisexual, transgender, queer, intersex and other
<b>LNPLE</b>	Law on Non-Profit Legal Entities (BG)
<b>LPR</b>	Liga Polskich Rodzin ( <i>League of Polish Families</i> ) - PL
<b>MW</b>	Młodzież Wszechpolska ( <i>All-Polish Youth</i> ) - PL
<b>NATO</b>	North Atlantic Treaty Organisation
<b>NCT</b>	Nationellt centrum för terrorhotbedömning ( <i>National Center for Terrorist Threat Assessment</i> ) - SE
<b>NPD</b>	Nationaldemokratische Partei Deutschlands ( <i>National Democratic Party</i> ) - DE
<b>NHRI</b>	National Human Right Institution
<b>NMR</b>	Nordiska motståndsrörelsen ( <i>Nordic Resistance Movement</i> ) - SE
<b>NOP</b>	Narodowe Odrodzenie Polski ( <i>National Revival of Poland</i> ) - PL
<b>NSU</b>	Nationalsozialistischer Untergrund ( <i>National Socialist Underground</i> ) - DE
<b>OAS</b>	Organsiation Armée Secrète ( <i>Organisation Secret Army</i> ) - FR
<b>ODIHR</b>	Office for Democratic Institutions and Human Rights
<b>OHCHR</b>	Office of the High Commissioner for Human Rights (UN Human Rights)
<b>ONR</b>	Obóz Narodowo-Radykalny ( <i>National Radical Camp</i> ) - PL
<b>OSCAD</b>	Osservatorio per la Sicurezza Contro gli Atti Discriminatori ( <i>Observatory for Security Against Discriminatory Acts</i> ) - IT
<b>OSCE</b>	Organization for Security and Co-operation in Europe
<b>PiS</b>	Prawo i Sprawiedliwość ( <i>Law and Justice</i> ) - PL
<b>RAN</b>	Radicalisation Awareness Network
<b>RN</b>	Rassemblement National ( <i>National Rally</i> ) - FR
<b>RN</b>	Ruch Narodowy ( <i>National Movement</i> ) - PL
<b>RTV</b>	Right-wing terrorism and violence

<b>TASZ</b>	Társaság a Szabadságjogokért ( <i>Hungarian Civil Liberties Union</i> ) - HU
<b>TE-SAT</b>	European Union Terrorism Situation and Trend Report
<b>TFEU</b>	Treaty on the Functioning of the European Union
<b>UNAR</b>	Ufficio Nazionale Antidiscriminazioni Razziali ( <i>National Office Against Racial Discrimination</i> ) - IT

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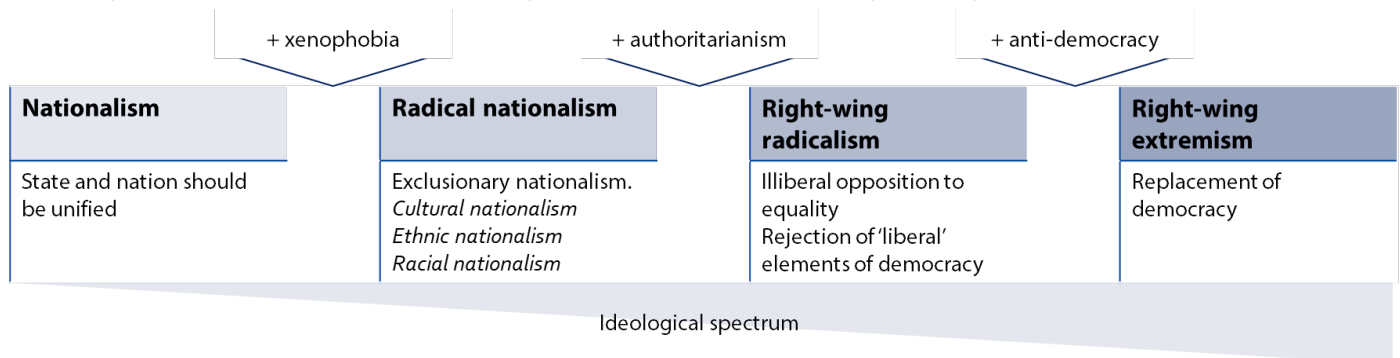
## EXECUTIVE SUMMARY

This study provides a **discussion on the distinctive features** of right-wing extremism in the European Union as well as of violent actions perpetrated by right-wing extremists, covering offline and online extremism. It gives an overview of **definitions** of right-wing extremism, discusses **recent trends** as well as an analysis of the **responses** to right-wing extremist actions. The report finally provides **recommendations** and suggests solutions for their efficient implementation and evaluation.

### Definition

There are a number of **inter-connected terms and definitions relating to right-wing extremism**. Right-wing extremism does not appear on a vacuum and has to be understood at one end of a spectrum ranging from nationalism to right wing extremism. Cas Mudde speaks of a 'ladder' of abstraction of ideologies to help conceptualise definitions, with added features for each. The figure below provides a schematic representation of the ladder as a spectrum.

**Figure 1: Spectrum of ideologies from nationalism to right-wing extremism**



Source: Cas Mudde adapted by Asterisk Research and Analysis

The academic literature on right-wing extremism includes a wide number of specific definitions which are related but differ slightly.

In this report, we propose to define right-wing extremism using the double spectrum of **ideology** and **methods**.

In terms of **ideology**, features of right-wing extremism include three **defining characteristics**, which, in the context of this study, we define as follows:

- The belief in some form of **natural inequality or hierarchy** between people or groups of people, which can encompass racism, xenophobia and homophobia;
- The belief in *authoritarianism* (tough stance on law and order characterised by **conventionalism, submission, and aggression**<sup>1</sup>);
- The implicit or explicit aim to **destroy the democratic system** as it currently stands (*anti-democracy*).

<sup>1</sup> Carter, Op. Cit, p11 provides a discussion on those three concepts. Manifestations of **conventionalism** "can be found in policies that safeguard and promote traditional social norms, values, morality, roles and lifestyles" (in), examples include anti-abortion stance, the protection of patriarchal family structures (including an anti-LGBTI agenda). Submission refers to 'values of order, discipline and compliance' to the state (as long as the state is led by like-minded people. Finally authoritarian aggression "can be observed in moral, social, political and legal punitive measures". This includes the condemnation of people transgressing the traditional social norm.

Importantly, we suggest that ideologically, right-wing extremist **must share all of these three characteristics** do be defined as such. Other characteristics can be present, but for the purposes of this definition are not necessary to classify a group or person as right-wing extremist.

The main feature of right-wing extremism, which distinguishes it from right-wing radicalism, is its **rejection of the underlying values of democracies and the rule of law**. As such, in terms of **methods**, it allows right-wing extremists to **legitimise the use of violence to pursue their aim**. The **threat or use of harassment or violence** is therefore the key feature of right-wing extremism. This violence can include **terrorist attacks** (as such right-wing terrorism is *de facto* right-wing extremism), **hate crime, spontaneous violence as well as hate speech and incitement to violence or hatred**.

In order to be considered right-wing extremist, individuals or groups must therefore **include all three ideological aspects of the definition in conjunction with the behavioural aspects**.

## Trends

Right-wing extremist proponents can often be differentiated into **political parties, non-parliamentary activist organisations** and **informal groupings**. They share certain ideological elements, such as **intolerance towards minorities, racism** and **xenophobia** (observed in the overwhelming majority of parties and groups on the radical nationalism to right-wing extremist spectrum) and often target Muslims, refugees and migrants, but also the LGBTQ+ community. In particular in Central and Eastern European countries, another key target is the Roma community, which is often associated with and blamed for certain types of crime.

In some cases (such as the NPD, DIE RECHT and III Weg in Germany, Nordfront, NS and the NMR in Sweden, Légió Hungária in Hungary), right-wing extremism is based on **supremacist ideas** that believe that ethnic (and Christian) values are threatened and need to be defended. In some countries, right-wing extremism is based on a **catholic-nationalist ideology** (Action Française in France, National Radical Camp in Poland) or **cultural conservatism** (such as the Levski Military Union in Bulgaria), which is built on strong traditional beliefs around family and gender and against the LGBTQ+ community.

Radical right-wing political parties often use **hate speech against minorities** but **avoid direct violent engagement or calls to violent behaviour** in public (for example Eric Zemmour's Reconquête in France, the AfD in Germany), even if they have close links to more radical movements in the right-wing extremist scene. However, political actors tend to exploit popular prejudice and proactively organise and take part in public events, such as rallies, protest or demonstrations, which could be inflammatory and have a high potential for resulting in violence. One prominent example are the **government-imposed restrictions** against the **Covid-19** pandemic, which were sharply criticised by groups on the radical right-wing to right-wing extremist (Forza Nuova in Italy, AfD in Germany). The propaganda focused on an apparent infringement of basic rights, combined with criticism of the entire state system. In particular in Germany, democratic demonstrations were heavily influenced by right-wing extremists.

Often, right-wing extremists try to extend their influence and activities to other parts of society, for example through **music** (DE), **sports events** (DE, SE) or by influencing the **political debate** (FR).

**The number of right-wing extremist crimes committed in Germany increased sharply in 2020 to a two-decade high.** The number of offences categorised as right-wing politically motivated crime in 2020 was **23,604** (2019: 22,342)<sup>2</sup>. Of these, 13,659 (2019:14,247) were propaganda offences under

<sup>2</sup> Brief summary, 2020 Report on the Protection of the Constitution. Facts and Trends, p. 7.

sections 86 and 86a of the German Criminal Code (Strafgesetzbuch, StGB) and **1,092** (2019: 986) were **violent crimes**. As a subset of right-wing politically motivated crime, 22,357 crimes (2019: 21,290) with a right-wing extremist background were recorded, among them 1,023 violent<sup>3</sup>.

Interestingly, in most other study countries, there is a **number of right-wing extremist groups**, but especially in recent years a **relatively low level of violent actions** (BG, HU, FR, PL) with the number of attacks reported by Europol being fairly stable over the period, while the **number of arrests has increased**. In France, over 1,300 acts of extreme right-wing violence have been counted since 1986, with a further 30 acts committed since the beginning of 2021. In Italy, an increase of non-fatal attacks in recent years was detected (72 non-fatal right-wing terrorism and violence attacks between 2015 and 2020). However, these figures need to be seen with caution as countries have different mechanisms of collecting numbers on violent crimes with a right-wing extremist background.

Further, trends of right-wing extremism identified include:

- The **internationalisation of the movement** characterised by events such as the Day of Honour in Budapest bringing together right-wing extremist movements from around Europe;
- The **increased use of the internet** to communicate and disseminate propaganda through mainstream social networking sites, but also message boards or encrypted messaging services;
- The **mainstreaming of extremist right-wing ideas** to make fringe right-wing culture and ideas more acceptable, including through humour and sarcasm (such as the youtuber Papacito in France).

The ideas espoused by extreme right-wing parties are also reflected into parties on the radical right end of the spectrum.

## Legal response

Member States have adopted a series of legislative and other measures to address either right-wing extremism, or some of the activities linked to the phenomenon. The legal framework in place ranges from mentions of attributes of right-wing extremism in the constitution, to the criminalisation of behaviours used by some right-wing extremist groups or increased sentences linked to the characterisation of such acts (violence with a racist motive or hate crime for instance). While all Member States studied have some **constitutional provisions relating to the definition of right-wing extremism** (on racism, violence, democracy etc.), none has a definition of “right-wing extremism” or “extreme right” in their constitution or law.

The legislative framework in place in the Member States studied revolves around:

- **Legislation specifically targeting ideologies** and methods associated with right-wing extremism, like Nazism and fascism;
- **Criminal law** on actions undertaken or planned, including specific laws focussing on terrorism;
- Legislation relating to the **registration or dissolution of organisations** or political parties.

**All countries** on which this report focuses **have a legal framework which should be robust enough to respond to the right-wing extremist threat**, although some gaps exist, such as the lack of clear definitions. The **most important body of law** in response to actions undertaken by right-wing extremists relates to **criminal law**, including hate crimes, hate speech and anti-terrorism legislation.

<sup>3</sup> Brief summary, 2020 Report on the Protection of the Constitution. Facts and Trends, p. 7f.

Some Member States have a **specific corpus of law on the registration of dissolution of organisations (including political parties)**, either on the basis of their ideology, or their threat to the democratic or constitutional order. While this **appears to be an effective tool** in dealing with specific groups and having a dissuasive effect, this approach runs the **risk of radicalising some individuals**. Some countries, such as Germany, have a well-developed and well-funded approach to combat right-wing extremism and its roots through the **development and support of grassroots organisations to prevent all forms of extremism**. Non-legislative responses, including national human rights institutions (NHRIs) and **civil society organisations are a key element of the response to right-wing extremism**.

When looking at the effectiveness of responses, it is important to keep the **objectives of the response in mind**. Countries such as Germany have a wide-ranging strategy which attempts to reconcile individuals who might be attracted by right-wing extremism with the democratic process. Others, such as France appear to aim at ensuring right-wing extremism does not affect the republic and focuses far less on individuals.

## Recommendations

The phenomenon of right-wing extremism is one that has grown over the past few decades. It does not appear and operate in a vacuum, but builds on real or perceived changes in society, such as globalisation, multi-culturalism, and austerity policies linked to an overall reduction in living standards. Despite numerous attempts, there has been no effective response to reduce the importance and influence of the phenomenon. This report provides a number of recommendations, the most important of which include:

### Defining the phenomenon

There is no agreed definition of right-wing extremism. Failing to define the phenomenon makes it harder to identify and address it.

- *The EU should adopt a definition of right wing-extremism in order to counter it*
- *Such definition is relevant in order to provide a better framework for understanding, studying, measuring and countering the phenomenon. (high priority)*

### Reacting to the phenomenon

The research undertaken for this study has identified gaps in the legislation on the phenomenon linked to right-wing extremism.

- *The EU should adopt a resolution to help define and counter violent right-wing extremism, while urging those Member States with gaps in their legislation to remedy the situation. (high priority)*
- *The EU should help develop the framework for a more consistent and harmonised collection of data on right-wing extremist acts in the Member States. (medium priority)*

Even where the national legal framework is comprehensive, it is not always implemented properly.

- *The Commission should launch infringement proceedings based on Article 258 TFEU to ensure Member States apply the standards set out in the EU's anti-racism and anti-discrimination legislation. (high priority)*

There is a widely acknowledged difficulty in recording, investigating and prosecuting right-wing extremism and its criminal manifestations. More focus needs to be placed on training and capacity



building for law enforcement. Furthermore, latency regarding reporting of hate crime remains an important problem.

- *The EU should call on Europol and national law enforcement authorities to improve these activities, as well as CEPOL and national training organisations to develop instruments to this aim, in line with what is already done<sup>4</sup>. **(medium priority)***
- *The EU should help develop a framework for the development of the systematic collection and automatic reporting of these crimes at Member State and EU level (for instance to the Commission, FRA, etc), in order to identify issues at an early stage and take appropriate measures. **(medium priority)***
- *The EU should help develop a framework for the establishment of mechanisms to measure more accurately the scope of the problem of hate speech and hate crime, such as victims' surveys. **(medium priority)***

## Prevention

A criminal justice and law enforcement approach to right-wing extremism cannot address the problem alone. Measures addressing more effectively the phenomena feeding right-wing extremism, including polarisation and inequality in European societies, should supplement law enforcement initiatives.

- *The EU should launch campaigns against right-wing extremism at EU level and encourage the development and funding of long-term-programmes supporting local grassroots organisations and citizens' initiatives at local level to help develop the population's resistance to right-wing extremism. **(high priority)***

The needs and problems in the Member States vary depending on the national context. In countries such as Poland, Hungary and Bulgaria, there needs to be more focus on ensuring sustainable preventive actions (as opposed to project-based initiatives which have been the dominant form of intervention) and more focus on right-wing extremism than there is currently.

- *As such, more bespoke research is needed to more firmly establish the needs and to improve the prevention of radicalisation of individuals to right-wing extremism in Member States. **(medium priority)***

Political responsibility and leadership are important in setting the tone and influencing the public debate.

- *The EU and notably the European Parliament should continue highlighting instances of discrimination and racism, from political leaders, when they borrow contents and methods from right-wing extremist ideology. **(medium priority)***

Civil society plays an important role, especially in those Member States where the government appears to be sympathetic to or guided by a right-wing radical ideology and when the rule of law has been questioned.

- *The European Union should continue to support civil society at EU and Member States' level to strengthen democracy, rule of law and fundamental rights. **(medium priority)***

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<sup>4</sup> As for example the training CEPOL is undertaking in Italy.

Euroscepticism is an important common feature of the wider right-wing radical political family.

- *The European institutions should be aware of the way their response will be perceived, as otherwise, it may have the opposite effect to that intended, and raise support for more radical or extremist groups. (lower priority)*

Online activities are an important emerging element of right-wing extremist groups and individuals.

- *Removing right-wing extremist groups that use, promote and incite hate speech, hate crime and violence from popular global platforms can achieve a significant operational disruption and limitation of reach. (medium priority).*

## 1. INTRODUCTION

This report has been developed by Asterisk Research and Analysis in collaboration with the Centre for the Study of Democracy (CSD). The findings presented in this report are based on desk research undertaken at EU and national level in seven Member States

### 1.1. Structure of the report

The report is divided in five chapters. **Chapter 1** provides an overview of the **report structure**, presents the objectives and research questions of the study, and the methodology adopted. **Chapter 2** provides an overview of the academic debate on the **definition of right-wing extremism** as well as a working definition to be used in this report. **Chapter 3** provides an overview of the **recent trends** concerning right-wing extremism and violent actions perpetrated by right-wing extremists, including online activities in the focus countries. **Chapter 4** provides information on the **legal framework** in the Member States as well as other measures and their effectiveness. Finally, **Chapter 5** presents **recommendations**, including considerations on competence of the EU in this area and possible legal basis for legislative action. It also includes proposed follow-up and monitoring measures. In addition, the appendices of the document present seven country reports (Bulgaria, France, Germany, Hungary, Italy, Poland and Sweden). Some of the information in the country reports is duplicated in the main document. The country reports are intended as stand-alone documents which can be read individually.

### 1.2. Scope of the study

This study provides a **discussion on the distinctive features** of right-wing extremism in the European Union as well as of violent actions perpetrated by right-wing extremists, covering offline and online extremism. It provides an overview of **definitions** and a working definition of right-wing extremism. It further discusses **recent trends** concerning right-wing extremism and violent actions perpetrated by right-wing extremists as well as an analysis of the **responses** to these actions at national level. The report finally provides **recommendations** on the basis of the research undertaken and suggests solutions for their efficient implementation and evaluation.

In order to collect data on all the elements to develop the analysis of the situation, research was undertaken on seven selected Member States. These were selected in order to reflect the diversity of the phenomenon and help identify different policy responses.

## 2. DEFINING RIGHT-WING EXTREMISM

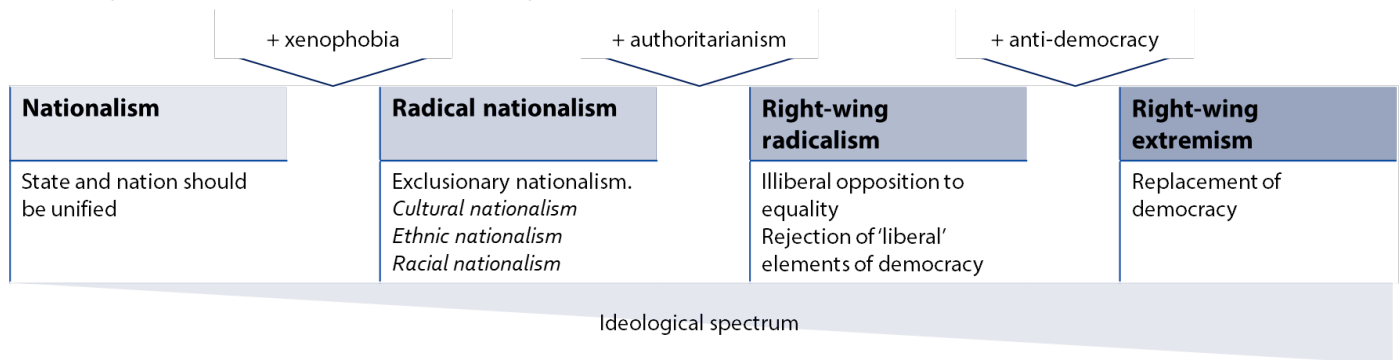
### KEY FINDINGS

- There are a number of inter-connected terms and definitions relating to right-wing extremism. The academic literature includes a wide number of specific definitions which are related, but different.
- The lack of agreed definitions leads to confusion between terms such as far-right, right-wing populism, radical right etc.
- There is a consensus on the ideological defining characteristics of right-wing extremism (authoritarianism, anti-democracy and exclusionary nationalism),
- Readiness to use violent means to achieve their aims is another key characteristic of right-wing extremists, which distinguishes them from right-wing radical groups.
- The working definition of right-wing extremism used in the study is as follows; in terms of ideology, right-wing extremism must share the following characteristics:
  - The belief in some form of natural inequality or hierarchy between people or groups of people, which can encompass racism, xenophobia and homophobia;
  - The belief in authoritarianism (tough stance on law and order characterised by conventionalism, submission, and aggression);
  - The implicit or explicit aim to destroy the democratic system as it currently stands (anti-democracy).

In addition, the main feature of right-wing extremism is its rejection of the underlying values of democracies and the rule of law; as such, the threat or use of harassment or violence is therefore an additional necessary feature of right-wing extremism.

### 2.1. Methodological challenges

One of the main methodological challenges relating to the assessment of right-wing extremism is that there is no agreed definition and indeed different ways of naming the phenomenon. The terminology used to define concepts, attitudes or phenomena varies depending on the author or object of the study. Right-wing extremism does not appear in a vacuum and has to be understood at one end of a spectrum ranging from nationalism to right-wing extremism. Cas Mudde speaks of a 'ladder' of abstraction of ideologies to help conceptualise definitions, with added features for each. The figure below provides a schematic representation of the ladder as a spectrum, with concepts updated to align to those used in this study (see box below).

**Figure 2: Spectrum of ideologies**

Source: Cas Mudde adapted by Asterisk Research and Analysis

The box below provides some key definitions and distinctions between different terms used in the literature and by actors involved in policymaking. These definitions provide an understanding of the numerous but interrelated terms which are used in this study. It provides definitions of key terms used to describe the spectrum, as well as definitions relating to the most important manifestations of right-wing extremism. It is important to note that given the dynamic nature of the phenomenon, the groups and individuals, these definitions are provided in order to help conceptualise the ideas discussed in this report. Several definitions may be relevant to specific groups or individuals at a specific moment and individuals may hold beliefs that are different to the organisation in which they operate.

### Box 1: Terms and definitions used on the far-right spectrum

#### Key ideological terms in the spectrum of ideologies

**Nationalism** – an ideology which states that the nation and the state should be congruent<sup>5</sup>. The way in which the concept of 'nation' is defined varies from deep-rooted historical ones to more modern constructs highlighting the integrative and homogenizing forces of nation-states. The concept of the 'nation' is often defined against 'others', i.e. non-nationals either outside of the border of the state or inside it.<sup>6</sup>

**Nativism/ radical nationalism** – an ideology building on nationalism but focused on its exclusionary elements. The exclusionary element revolve around three ideological camps:

- *Cultural nationalism* -The belief that western culture is under threat from immigration and in particular Muslim culture; that Muslims should assimilate or leave the country.
- *Ethnic nationalism* – the belief that people of different ethnic origins should not be mixed and that cultural diversity should be maintained within specific borders. As such, white Europeans have the right to defend their way of life from foreign cultures.
- *Racial nationalism* – the belief in the superiority of the white race and the threat of mixing races. Other (inferior) races should be subjugated, deported or exterminated.

In Europe, cultural nationalism is most prevalent, especially through opposition towards immigration and Islam.<sup>7</sup>

<sup>5</sup> Gellner, Nations and nationalism

<sup>6</sup> See Christopher R. Fardan and Cathrine Thorleifsson, What is nationalism? In C-REX compendium, available at : <https://www.sv.uio.no/c-rex/english/groups/compendium/what-is-nationalism.html>

<sup>7</sup> Ibid.

**Radical right / Right-wing radicalism** -an ideology characterised by and 'illiberal opposition to equality'.<sup>8</sup> It valorises an ethnocentric conception of people and nation coupled with a rejection of liberal democracy and approving of authoritarian policies undertaken by a leader.<sup>9</sup> An important distinction is the rejection of 'liberal democracy', not the concept of democracy. As such, while right-wing radicals may accept the rule of the majority, they would reject liberal aspects of contemporary democracies, such as minority rights, the independence of the judiciary or the rule of law.<sup>10</sup>

**Right-wing extremism** is distinguished from the radical right / right-wing radicalism in that the latter seeks to replace the ruling elites within the existing (or slightly amended) democratic system. The extreme right or right-wing extremism on the other hand seeks to replace democracy and in doing so legitimises the use of violence against enemies of the nation.<sup>11</sup> Right-wing extremism includes specific concepts which are often used in the literature such as:

- *Neo-Nazism* –an ideology seeking to reinstate Nazi ideology, including the promotion of white supremacy. It contains elements of ultranationalism, racism (against other ethnic and religious groups, including anti-Semitism). This ideology rejects democracy, parliamentarism and pluralism completely.
- *Neo-fascism* - an ideology promoting racial superiority, ultranationalism, authoritarianism as well as opposition to liberal democracy.

**Right-wing populism** – A political ideology which combines right-wing politics and anti-elitist sentiment. It is based on a perceived opposition between the "people" and a political and economic 'elite' or 'establishment' which is seen to control democracies. Themes common to right-wing populist movements include xenophobia, anti-immigration sentiments, nativism and ethno-nationalism. Discussions about populism revolve around two key questions: first, whether it is democratic or not, second, whether it is an ideology, a strategy or a political style.<sup>12</sup> For the purpose of this report, the concept is used where necessary but has not been placed on the spectrum.

### **Most important manifestations of right-wing extremism**

**Hate speech** – there is no agreed EU definition of hate crime in the EU, still Council Framework Decision 2008/913/JHA on combatting racism and xenophobia by means of criminal law, criminalises "*publicly inciting to violence or hatred directed against a group of persons or a member of such a group defined by reference to race, colour, religion, descent or national or ethnic origin*". " The Commission has proposed on 9 December 2021 to make hate crime and hate speech<sup>13</sup> (see below) an EU crime within the meaning of art. 83(1) of the TFEU.<sup>14</sup>

<sup>8</sup> See Anders Ravik Jupskås ; What is right-wing radicalism? In C-REX compendium, available at : <https://www.sv.uio.no/c-rex/english/groups/compendium/what-is-right-wing-radicalism.html>

<sup>9</sup> Bénédicte Laumond, La régulation du radicalisme de droite : une comparaison franco-allemande, in *Raisons politiques* 2020/2 (N° 78).

<sup>10</sup> See Anders Ravik Jupskås ; What is right-wing radicalism? In C-REX compendium, available at : <https://www.sv.uio.no/c-rex/english/groups/compendium/what-is-right-wing-radicalism.html>

<sup>11</sup> RAN, Far-right extremism – a practical introduction, 2019., p.7.

<sup>12</sup> Berggren Erik and Neergaard, Anders, *Populism: protest, democratic challenge and right-wing extremism*, in Magnus Dahlstedt, Anders Neergaard (eds) *International Migration and Ethnic Relations: Critical Perspectives*, 2015.

<sup>13</sup> European Commission communication 'A more inclusive and protective Europe: extending the list of EU crimes to hate speech and hate crime, COM(2021) 777 final, Brussels, 9 December 2021.

<sup>14</sup> Even though the overreliance on a criminal response is disputed by some Civil Society Organisations (CSOs), see for instance Fair Trials, European Commission should drop criminalisation approach to hatred & engage in more impactful

Hate crime is defined by the European Network against Racism (ENAR), on the basis of the OSCE definition, as:

- (a) Any criminal offence, including offences against persons or property, where the victim, premises, or target of the offence are selected because of their real or perceived connection, attachment, affiliation, support, or membership of a group as defined in Part (b).
- (b) A group may be based upon a characteristic common to its members, such as real or perceived race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, or other similar factors.<sup>15</sup>

Article 4 of Framework Decision provided “racist and xenophobic motivation”<sup>16</sup> as aggravating circumstances, therefore understood to define a hate crime.

Extreme right violence - an act of physical force that causes or is intended to cause harm, in this case against people. Violence may be distinguished from aggression, a more general type of hostile behaviour that may be physical, verbal, or passive in nature. As such, extreme-right violence may be defined as any physical attack whose target selection is based on extreme-right beliefs.<sup>17</sup>

Right-wing terrorism is defined by Europol *as the use of terrorist violence by right-wing extremists. Variants of right-wing extremism are neo-Nazism, neo-fascism and ultra-nationalist formations. Right-wing terrorism seeks to change the entire political, social and economic system to a right-wing extremist model. A core concept in right-wing extremism is supremacism or the idea that a certain group of people sharing a common element (nation, race, culture, etc.) is superior to all other people. Seeing themselves in a supreme position, the particular group considers it to be their natural right to dominate the rest of the population. In addition, right-wing extremist ideologies feed on a variety of hateful sub-cultures, commonly fighting back against diversity in society and equal rights of minorities. Racist behaviour, authoritarianism, xenophobia, misogyny and hostility to lesbian, gay, bisexual, transgender and queer (LGBTQ+) communities and immigration are common attitudes among right-wing extremists.*<sup>18</sup>

The complex terminology used is partly the result of the evolving scholarly debate around the study of the phenomenon. Von Beyme identified three distinct waves of right-wing extremism<sup>19</sup>:

- A first wave consisting of the **neo-fascist** organisations of the immediate post-war period, mainly comprising people seeking to (re)establish regimes that had existed before 1945.
- A second wave, starting in the 1960s, saw newly-formed parties bringing in **populist and welfare-critical** attitudes. A key feature of this second wave was the emergence of **New Right**

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responses, available at: <https://www.fairtrials.org/news/european-commission-should-drop-criminalisation-approach-hatred-engage-more-impactful-responses>.

<sup>15</sup> ENAR definition based on the OSCE.

<sup>16</sup> 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, article 4.

<sup>17</sup> Jacob Aasland Ravndal and Johannes Due Enstad, What explains far-right violence?, In C-REX compendium, available at : <https://www.sv.uio.no/c-rex/english/groups/compendium/what-explains-far-right-violence.html>

<sup>18</sup> Europol, *European Union Terrorism Situation and Trend Report (TE-SAT) 2021*, p 80.

<sup>19</sup> Klaus von Beyme, *Right-wing extremism in post-war Europe, in West European Politics*.



**intellectuals** who believed that a change in people's heart and minds was a pre-condition for the far right to gain power. In order to do so, they focussed on cultural issues and sought to infiltrate the societal debate; the New Right movement brought in a new concept of ethnopluralism (or ethno-differentialism). According to this concept, mutually respecting separate and bordered ethno-cultural regions co-exist. Key concepts include 'cultural diversity' between nations (as opposed to within them), promoting the difference between these groups, which should be homogenous within themselves. This concept also allowed for the use of different terminologies moving away from the racial language used by former groups.<sup>20</sup> This "counter-model to multiculturalism [...] precedes and merges into the xenophobic messages promulgated by mainstream politicians and authors".<sup>21</sup>

- The third wave, starting in the 1980s is characterised by increasingly successful radical-right wing parties such as the Front National. This has led to the renewal of organisations and their gradual involvement into mainstream politics either as major opposition parties, or in some cases as part of the government.

Cas Mudde, building on von Beyme, remarked that the scholarly debate on right-wing extremism was influenced by these different waves. Given the evolution in the phenomenon, some of the terminology used has not always been adequate to describe the new forms taken by the phenomenon. Mudde identifies the following phases of the scholarly debate:

- The **first wave** (1945-1980) was defined by movements seeking **continuity between the pre-war and post-war contexts**. The movement were often described as 'extreme-right' or 'neo-fascist'. At the time, the concept of neo-fascism was understood as seeking to re-establish regimes existing in the inter-war period (see box 1).
- The **second wave** (1980 to 2000) saw **an evolution in the nature of the phenomenon and the scholarly debate included more social elements to seek to understand the people attracted by this ideology**. The scholarly debate focussed very much on the demand-side of right-wing extremist policies. The most representative expressions of this second wave are parties such as the Austrian Freedom Party (FPÖ), or the French National Front (FN).
- The **third wave** (since 2000) focussed on the **supply-side of populist radical right policies**, taking interest in the electoral successes of the parties as well as their wider effects. This has led to the shift of focus of scholarly debate into the realm of other fields of study (political science, sociology etc.). The terms most commonly used include a combination of 'right' and 'populism' (see Box 1).

More recently, right-wing extremist parties **moved away from openly racist and ideologically unpalatable tenets**, such as ethnic nationalism, in favour of themes such as anti-immigration and the protection of a certain way of life, which makes them more electable. In parallel, much of their discourse has trickled through mainstream parties (including beyond the traditional right as discussed in chapter 3), who have toughened their stance on immigration or against specific groups in society (in particular Muslims)<sup>22</sup>.

<sup>20</sup> Pierre-André Taguieff, *La force du préjugé: essai sur le racisme et ses doubles*, La Découverte, 1987.

<sup>21</sup> Minkenberg, M. (2013). The European Radical Right and Xenophobia in West and East: Trends, Patterns and Challenges", In R. Melzer & S. Serafin (Eds.), *Right-Wing Extremism in Europe-- Country Analyses, Counter-Strategies and Labor-Market Oriented Exit Strategies* (pp. 9-34). Berlin: Friedrich Ebert Foundation, p 19.

<sup>22</sup> Mols F and Jetten J (2020) *Understanding Support for Populist Radical Right Parties: Toward a Model That Captures Both Demand-and Supply-Side Factors*. *Front. Commun.* 5:557561. doi: 10.3389/fcomm.2020.557561.



In parallel to such developments and transformations within the extreme right-wing movements, parties, associations and ideologies, also the terms used to describe them has evolved.

The scholarly debate on right-wing extremism has evolved which is reflected in the terms used to define specific ideologies. While it was easy to identify a fascist movement in the 1950s, the nature of more recent right-wing extremist groups of people, organisations, parties and discussion forums is more difficult to identify. As such, it is difficult to define right-wing extremism with any degree of coherence.<sup>23</sup> As an example, the term of neo-fascism has increasingly been used to qualify much wider groups of the far-right in the 1980s than the more specific definition it had in the first wave of the scholarly debate mentioned by Mudde.<sup>24</sup>

Finally, **very few political parties, groups, or activists describe themselves as right-wing extremists**, in part because it is associated with attitudes and actions that are either illegal and/or highly stigmatized.<sup>25</sup>

## 2.2. Existing definitions

The 'third wave' of scholarly debate has seen a considerable increase in attention and consequently publications on the phenomenon. As Carter mentions, despite the volume of research, most studies "open with some mention of the fact that we still lack an unequivocal definition of right-wing extremism/radicalism".<sup>26</sup> She further highlights the importance of having a definition, in particular as it (i) delimits what is included and what is excluded by the definition, and (ii) allow for comparisons.<sup>27</sup>

In order to identify a working definition of **right-wing extremism**, this sub-section will look at definitions of right-wing extremism in the academic debate<sup>28</sup> and research institutes. It will start by looking at the definitions through the spectrum of ideology, before looking at the methods used and the individual and groups involved.

### Ideology

In terms of **ideology**, right-wing extremism can be very wide. At a very fundamental level, right-wing extremism stems from the defence of a hierarchal social relationship between groups, usually between what is considered the "in-group" and the "out-group" in ethnic or racial terms.<sup>29</sup> Looking at definitions of right-wing extremism in the academic literature, Cas Mudde identified 5 main features:

- **Nationalism**, which can relate either to an existing country, irredentist or pan-state view, or sub-state units (such as Flanders or Padania);
- **Racism and Xenophobia**; are two concepts linked to the previous as they are manifestations of extreme nationalism.

<sup>23</sup> Some authors go as far as to affirm that the diversity of the groups and the ideologies they represent or defend makes it difficult to define right-wing extremism with any degree of coherence; see Taylor, M., Currie, P.M. & Holbrook, D. (Eds.) (2013). *Extreme Right-Wing Political Violence and Terrorism*, London: Bloomsbury.

<sup>24</sup> Copsey, N, 'Fascism... but with an open mind.' Reflections on the Contemporary Far Right in (Western) Europe First Lecture on Fascism – Amsterdam – 25 April 2013, available at [https://brill.com/downloadpdf/journals/fasc/2/1/article-p1\\_1.xml](https://brill.com/downloadpdf/journals/fasc/2/1/article-p1_1.xml).

<sup>25</sup> Anders Ravik Jupskås and Iris Beau Segers, What is right-wing extremism? In C-REX compendium, available at : <https://www.sv.uio.no/c-rex/english/groups/compendium/what-is-right-wing-extremism.html#end3>.

<sup>26</sup> Carter, E. (2018). Right-wing extremism/radicalism: reconstructing the concept. *Journal of Political Ideologies*, 23(2), 157-182, available at: <https://eprints.keele.ac.uk/2221/1/JPI%20Revised%20Final.pdf>.

<sup>27</sup> Ibid. pp 3-4.

<sup>28</sup> This section draws extensively on the literature review carried out by the Centre for the Study of Democracy (CSD), *Understanding radicalisation, review of literature*, 2016.

<sup>29</sup> Op. cit. Jupskås and Segers.

- **Anti-democratic sentiment**, which can be defined as an opposition to the rules and institutions of the democratic system (i.e. its procedures) on the one hand, and a rejection of the fundamental values and principles of democracy on the other (i.e. its substance); and
- **Calls for a strong state**, characterised by a tough stance on law and order and an emphasis on militarism. Mudde later suggested 'authoritarianism to be a more appropriate characterisation'.<sup>30</sup>

Carter built on Mudde to update this analysis. She underlined that while there is general consensus around some **defining characteristics** (authoritarianism, anti-democracy and exclusionary nationalism), there is more variation in others which are often observed, but are not universal, among right-wing extremist actors (which she defines as **accompanying characteristics**). As an example, she suggests that racism and xenophobia cannot be included as a defining characteristic as there are examples of anti-Communist or ultra-catholic groups which do not express any xenophobic or racist elements. Importantly, she adds an additional accompanying characteristic, namely populism.<sup>31</sup>

Merkel and Weinberg define the '**new radical right**' as an exclusionary populism based on "*a restrictive notion of citizenship, which holds that **true democracy is based on a homogeneous community**, that only long-standing citizens are full members of civil society and that a society's benefits should only accrue to them*".<sup>32</sup> Caiani et al., highlight that the **prime targets of right-wing extremism are migrants and other minorities** (ethnic, religious, sexual), who are stigmatised as cultural threats. This view is supported by Ramalingam, who states that '*racism, xenophobia, ultra-nationalism, and **opposition to liberal democracy** are commonly defining features of contemporary right-wing extremism*'.<sup>33</sup>

This feeds into Minkenberg's view of right-wing extremism as a "*political ideology revolving around the **myth of a homogenous nation** – a romantic and populist ultra-nationalism hostile to liberal, pluralistic democracy, with its underlying principles of individualism and universalism*".<sup>34</sup>

The Centre for the Research on Extremism (C-REX), led by Tore Bjørgo, defines right-wing extremism as a specific ideology characterised by '**anti-democratic opposition towards equality**'. It is targeted at the **external enemy** (such as Jews, Muslims, migrants) and an **internal enemy** (political opponents, national "traitors", the establishment).<sup>35</sup> Interestingly, According to C-REX, the concept is often associated with behavioural characteristics, such as **politically motivated violence, harassment and hate speech**. C-REX therefore distinguishes between an **ideational definition** of right-wing extremism and a narrower **behavioural definition** (methods used).

## Methods used

In terms of the **methods used**, there is a continuum between individuals, groups or parties who totally reject liberal democracies and therefore operate outside of the bounds of the party-political sphere and those who can be more ambiguous and follow the rules of democracies (such as elections). Characteristic features of **radical right** parties are their espousal of populist tactics and rhetoric and

<sup>30</sup> Op. Cit. Carter (2018).

<sup>31</sup> Op. Cit. Carter (2018).

<sup>32</sup> Merkel, P. H. & Weinberg, L. (Eds.). (2003). *Right-Wing Extremism in the Twenty-First Century*. London: Frank Cass, p: 74.

<sup>33</sup> Ramalingam, V. (2014) *Old Threat, New Approach: Tackling the Far Right across Europe*. London: Institute for Strategic Dialogue, p 5.

<sup>34</sup> Minkenberg, M. (2013). *The European Radical Right and Xenophobia in West and East: Trends, Patterns and Challenges*, In R. Melzer & S. Serafin (Eds.), *Right-Wing Extremism in Europe-- Country Analyses, Counter-Strategies and Labor-Market Oriented Exit Strategies* (pp. 9-34). Berlin: Friedrich Ebert Foundation, p 11

<sup>35</sup> Op. cit. Jupskås and Segers.

their reliance on mobilisation of popular resentment.<sup>36</sup> C-REX's definition makes a distinction on this point: radical right parties work to affect change from within the system, whereas extremist actors seek to demolish it completely.<sup>37</sup>

C-REX relies on the concept that right-wing extremism is a **politically motivated violent behaviour**, or the justification of such a behaviour. This definition is generally that adopted by law enforcement when addressing right-wing extremism (as discussed in section 4 below).

C-REX defines extreme-right violence as *an act of physical force that causes or is intended to cause harm, in this case against people*. It further states that *violence may be distinguished from aggression, a more general type of hostile behaviour that may be physical, verbal, or passive in nature. As such, extreme-right violence may be defined as any **physical attack** whose target selection is based on extreme-right beliefs.*<sup>38</sup>

However, Ravndal and Bjørgo point to the **difficulty in classifying right-wing extremist violence**. They argue that while several theories on terrorism and violence from the extreme right exist, they are 'diverse, disorganized, and discontinuous'. In order to provide a theoretical framework for the study of extreme right violence, they distinguish between:<sup>39</sup>

- **Violent radicalisation** – focussing on the **paths towards violence** and assessing why some individuals and groups turn to violence;
- **Violent events** – focussing on why, when, and how specific violent events or series of related events occurred, and
- **Aggregate levels of violence** focussing on why some places and periods experience more terrorism and violence than others..

They suggest this framework will help develop a more unified approach and understanding in the study of extreme right terrorism and violence.

Hate crime and hate speech are the most common descriptions of the acts of physical violence or harassment used by right-wing extremists. Framework Decision 2008/913/JHA harmonises the definition of, and criminal penalties for, specific forms of hate speech and hate crimes. More recently, the European Commission has announced its intention to extend the list of EU crimes to hate speech and hate crime. This initiative would establish minimum rules concerning the definition of criminal offences and sanctions for those two crimes.<sup>40</sup>

## Individuals and groups involved

Groups which can be considered on the spectrum from radical nationalism to **right-wing extremism** range from less ideological youth street gangs to neo-Nazi terrorist cells, to anti-Islam activists and registered parties seeking to affect change through the political system, and to informal groups gathering and mobilising around music and sports events.<sup>41</sup>

<sup>36</sup> Op. Cit. *Merkel & Weinberg*, 2003, p 74.

<sup>37</sup> Op. cit. Jupskås and Segers.

<sup>38</sup> Jacob Aasland Ravndal and Johannes Due Enstad, *What explains far-right violence?* In C-REX compendium, available at: <https://www.sv.uio.no/c-rex/english/groups/compendium/what-explains-far-right-violence.html>.

<sup>39</sup> Ravndal, Jacob Aasland and Bjørgo, Tore, *Investigating terrorism from the extreme right: A review of past and present research*, in *Perspectives on Terrorism* Volume 12, Issue 6, January 2018.

<sup>40</sup> Commission Communication A more inclusive and protective Europe: extending the list of EU crimes to hate speech and hate crime, 9 December 2021, COM(2021)777 final.

<sup>41</sup> CSD, Understanding radicalisation, review of literature, 2016.

Scholars have identified several types of **groups on the spectrum of radical nationalism to right-wing extremism** in terms of the kind of organisation they employ<sup>42</sup>:

- groups that **try to win public office**, organising themselves through political parties and electoral campaigns;
- groups that do not nominate candidates for public office, but **rather try to mobilise support through larger social movements** with which they identify and which offer interpretative frames for particular problems;
- smaller groups and socio-cultural milieus, which operate relatively independently from parties and larger social movements, **do not exhibit formal organisational structures**, and may exhibit higher propensities toward violence; and
- a **subculture** among segments of the population, whose perceptions and views passively (and occasionally actively) endorse and sustain right-wing extremism.

**Radical nationalist and radical right-wing parties** mix radicalism and constitutionalism, but **operate within the bounds of democracy**, even though they reject their liberal elements. Radical right-wing parties and organisations are often distinguished from extreme right-wing ones by the rejection of the latter of the underlying values of the constitution of the country in which they operate.

### 2.3. Working definition

In this report, we propose to define right-wing extremism, using the double spectrum of **ideology** and **methods** and discussed above.

In terms of **ideology**, features of right-wing extremism include the three **defining characteristics** identified by Carter, which, in the context of this study we define as follows:

- The belief in some form of **natural inequality or hierarchy** between people or groups of people, which can encompass racism, xenophobia and homophobia;
- The belief in *authoritarianism* (tough stance on law and order characterised by **conventionalism, submission, and aggression**<sup>43</sup>);
- The implicit or explicit aim to **destroy the democratic system** as it currently stands (*anti-democracy*).

Importantly, we suggest that ideologically, right-wing extremist **must share all of these three characteristics** do be defined as such. Other characteristics can be present, but for the purposes of this definition are not necessary to classify a group or person as right-wing extremist.

The main feature of right-wing extremism, which distinguishes it from right-wing radicalism, is its **rejection of the underlying values of democracies and the rule of law**. As such, in terms of **methods**, it allows right-wing extremists to **legitimise the use of violence to pursue their aim**. The **threat or use of harassment or violence** is therefore the key feature of right-wing extremism. This

<sup>42</sup> Minkenberg, 2013: 13; Merkl, 2003: 3. Quoted in CSD, Understanding radicalisation, review of literature, 2016.

<sup>43</sup> Carter, Op. Cit, p11 provides a discussion on those three concepts. Manifestations of **conventionalism** "can be found in policies that safeguard and promote traditional social norms, values, morality, roles and lifestyles" (in), examples include anti-abortion stance, the protection of patriarchal family structures (including an anti-LGBTI agenda). Submission refers to 'values of order, discipline and compliance' to the state (as long as the state is led by like-minded people. Finally authoritarian aggression "can be observed in moral, social, political and legal punitive measures". This includes the condemnation of people transgressing the traditional social norm.

violence can include **terrorist attacks** (as such right-wing terrorism is *de facto* right-wing extremism), **hate crime, spontaneous violence as well as hate speech and incitement to violence or hatred.**

In order to be considered right-wing extremist, individuals or groups must therefore **include all three ideological aspects of the definition in conjunction with the behavioural aspects.**

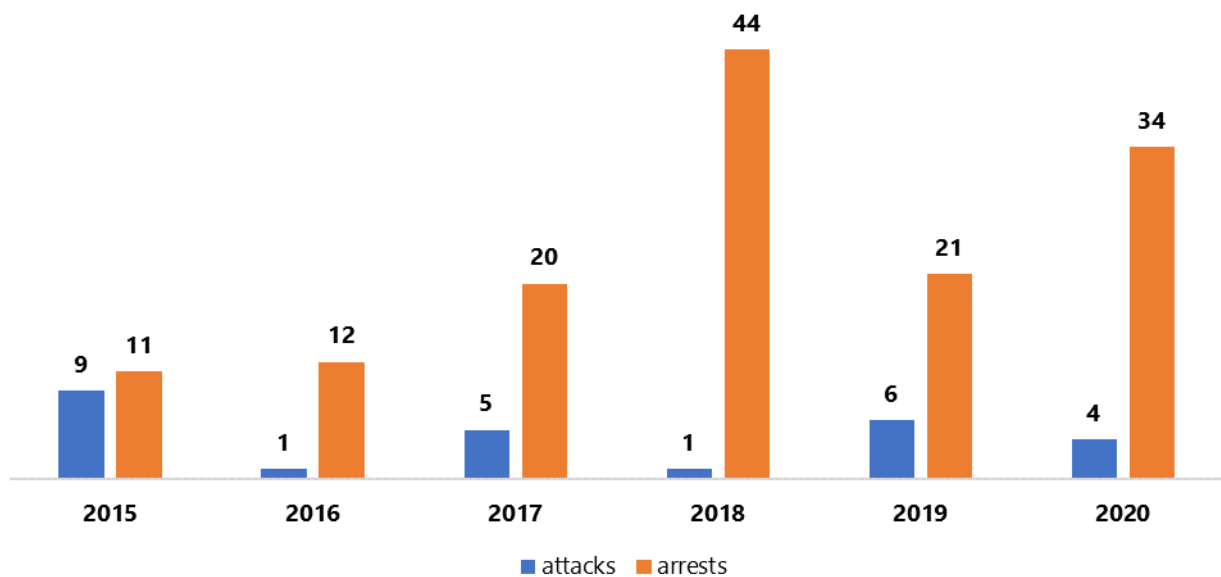
### 3. TRENDS OF RIGHT-WING EXTREMISM

#### KEY FINDINGS

- Right-wing extremist proponents can often be differentiated into political parties, non-parliamentary activist organisations and informal groupings. They share certain ideological elements, such as **intolerance** towards minorities, racism and xenophobia, and often target Muslims, refugees and migrants, as well as the LGBTQ+ community. In particular in Central and Eastern European countries, a key target is the Roma community.
- Right-wing extremism can be based on **supremacist** ideas believing that the ethnic purity of the group is threatened and needs to be defended; on a **catholic-nationalist** ideology; or on **cultural** conservatism.
- While the number of violent crimes by right-wing extremists has increased in Germany to a two-decade high in 2020, there has been a relatively low number of violent actions in most of the other Member States covered by this study.
- Online activities have become increasingly important for right-wing extremism in recent years.
- Radical right-wing political parties often avoid direct violent engagement or calls to violent behaviour, but often use **hate speech** against minorities blurring the line between the radical right and the extreme right. Political actors nevertheless tend to exploit popular prejudice and proactively organise and take part in public events with an inflammatory or violent potential.

This section provides a description and comprehensive discussion of in the situation of right-wing extremism in the countries examined in this study, including by focussing specifically on online extremism.

In terms of right-wing extremist violence and terrorism, the best indicator available is the **number of arrests and right-wing terrorist attacks**. Europol's TE-SAT reports that **34 people were arrested in 2020 on suspicion of involvement in right-wing terrorist activities**. Over the same period, Europol reported **four right-wing terrorist attacks, one of which was completed (Hanau)**.

**Figure 3: Right wing terrorist attacks and arrests in the EEU (2015-2020)**

Source: Europol (TE-SAT)

The data appears to show that **the number of attacks is fairly stable over the period, while the number of arrests has increased** (in particular given figures for 2020 must be considered as skewed given the lockdown period and limitation of movement in many European countries). **Europol** highlights the following trends:

- Member States assessed that the greatest threat comes from **self-radicalised individuals** of very young age, united by a shared ideology and world view, and loosely connected through online channels, forums and platforms.
- A point of great concern to several EU Member States is the increasingly **young age** of such extremists, many of whom are teenagers still living with their parents or guardians.
- Right-wing extremists are actively trying to **extend their influence and activities to other parts of society**. Examples of this are crossovers with football hooligans and organised criminal networks.
- Several EU Member States observed an increasing interest among right-wing extremists in attending **paramilitary, survival and weapons training**. For example, Sweden reported that violent right-wing circles regularly organise gatherings in the form of close combat training sessions, survival training sessions, camps, and field marches.
- In addition to right-wing ideological currents openly advocating violence, individuals can be **triggered into violent action** by narratives and conspiracy theories that do not in themselves endorse violence (in particular QAnon-type conspiracy theories and incel<sup>44</sup>).<sup>45</sup>

As discussed in Chapter 2, right-wing extremism contains an anti-democratic element and a belief in natural inequality or hierarchy, often expressing itself through racism, including against certain religious minority groups. In order to examine the porosity of right-wing extremist ideas in the countries examined in this study, we propose to use as **indicators** data relating to the trust and belief

<sup>44</sup> Incel refers to “involuntary celibate”, an online subculture characterised by men who consider themselves unable to attract women sexually, typically associated with views that are hostile towards women and men who are sexually active.

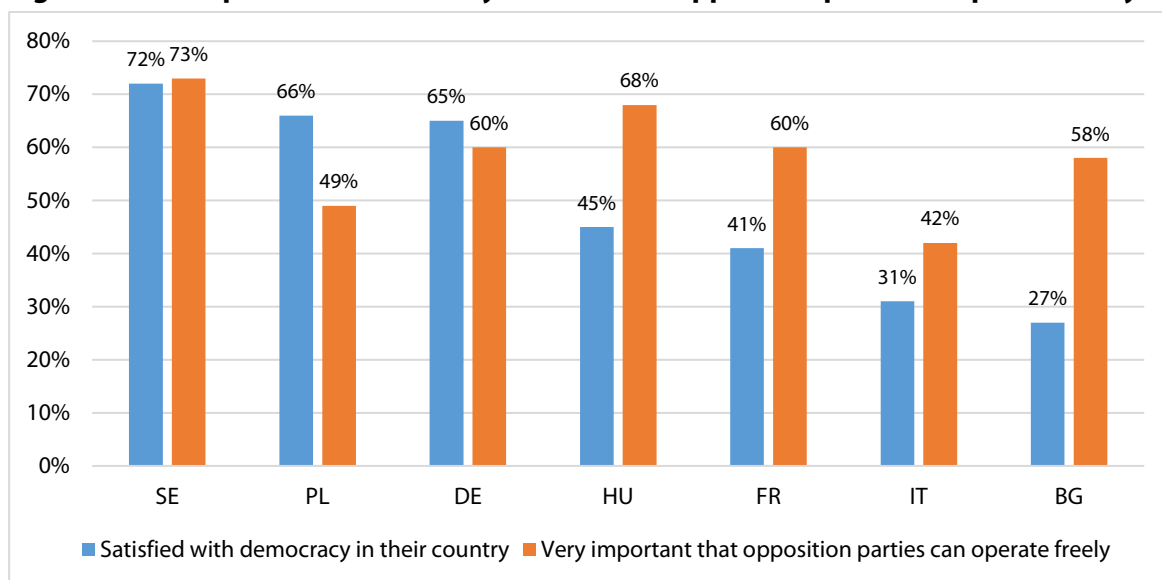
<sup>45</sup> Europol, European Union Terrorism Situation and Trend Report (TE-SAT) 2021, pp 78 – 91.



in the democratic system and on the need for opposition parties to operate freely, and the population's opinion of Muslims in their country.

The figure below provides a comparison of countries examined in this study. Figure 1 shows that while in Sweden, Germany and Denmark, a substantial majority of the people asked were satisfied with the functioning of democracy in their country and believed that opposition parties could operate freely, the situation is different in other countries, in particular Bulgaria. Interestingly, in Poland and Italy, less than half of the respondents were of the opinion that it was very important for opposition parties to operate freely, which is one of the key aspects of a functioning liberal democracy. As such, there does not appear to be any correlation between satisfaction in democracy and the perceived need for a free opposition. This may reflect the lack of trust in some opposition parties, or a deeper distrust in the functioning of democracies.

**Figure 4: Opinion on democracy and need for opposition parties to operate freely**



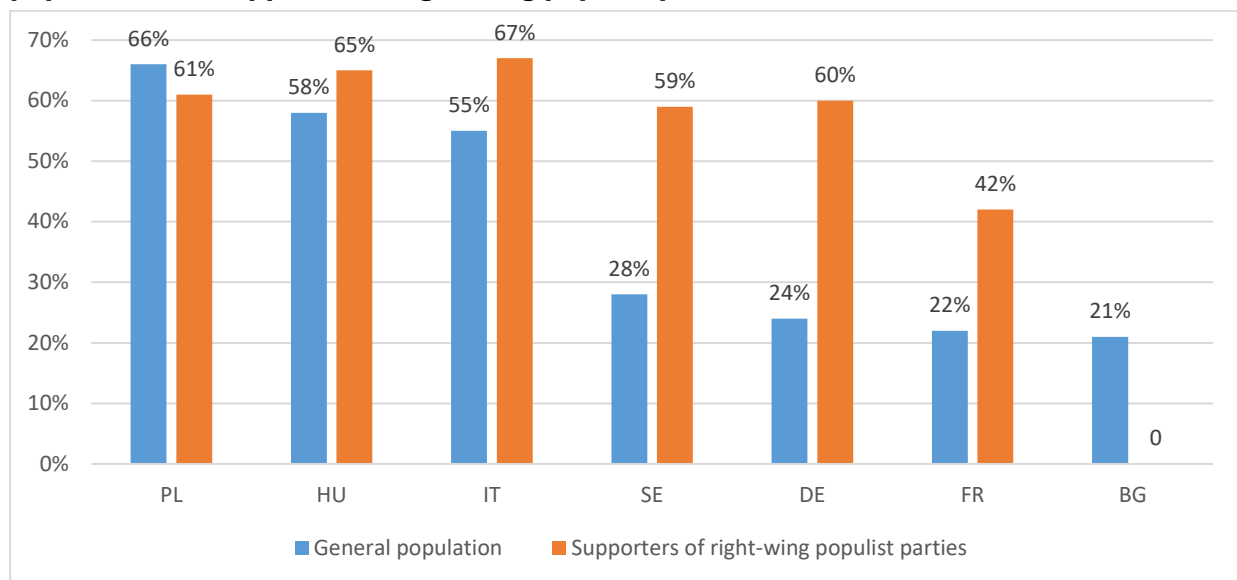
Source: Pew Research Centre, 2019<sup>46</sup>

Another interesting comparison is with the population's **opinion of Muslims** in their country. In three of the study countries (PL, HU and IT), the majority of respondents have an unfavourable opinion of Muslims, with no significant divergence between the general population and supporters of right-wing populist parties. In the four other countries (SE, DE, FR and BG), the share of respondents having an unfavourable opinion of Muslims is between 21% and 28%. In those countries (save for BG where no data is available), there is a significant difference of opinion between the general population and those supporting right-wing populist parties. This suggests that ideas espoused by right-wing populist parties are more porous to the majority of the population in PL, HU and IT.

<sup>46</sup> Pew research centre, European Public Opinion Three Decades After the Fall of Communism, 2019. Available at: <https://www.pewresearch.org/global/wp-content/uploads/sites/2/2019/10/Pew-Research-Center-Value-of-Europe-report-FINAL-UPDATED.pdf>



**Figure 5: Share of population with an unfavourable opinion of Muslims (general population and supporters of right-wing populist parties)<sup>47</sup>**



Source: Pew Research Centre, 2019<sup>48</sup>

### 3.1. Bulgaria

In the last decade, Bulgarian right-wing extremist actors have become increasingly active and prominent, especially in the political sphere. The political unrest and widespread protests which the country experienced in 2013-2015, coupled with the migrant crisis, provided a suitable environment for the re-invigoration of some existing far-right organisations and the emergence of new actors, such as the **Vasil Levski Military Union** and **Shipka Bulgarian National Movement** paramilitary formations which have become known in the public domain for their patrolling activities near the Bulgarian border with Turkey.<sup>49</sup>

The use of **violence** associated with right-wing extremist actors is very difficult to estimate in its full extent due to several factors (see below). In Bulgaria's recent history, there has been one terrorist attack associated with right-wing extremism, which was reported to Europol.<sup>50</sup> Thus far there is no conviction for the terrorist act – the defendants have been acquitted in two instances due to procedural issues with evidence gathering and the case has made its way to the Supreme Court of Cassation.<sup>51</sup> Migrants' arrests carried out by extreme right-wing organisations during the migrant crisis were a prominent example of taking over police prerogatives. Lethal attacks or attacks resulting in serious injuries against minorities occur almost every year, with many more less serious ones likely going unrecorded (see below). Nevertheless, large-scale organised violence by right-wing extremist actors is rare.

<sup>47</sup> Right-wing populist parties defined as Kukik'15 (PL), Fidesz (HU), Lega (IT), Sweden Democrats (SE), AfD (DE), RN (FR). No data on right-wing populist party supports for BG.

<sup>48</sup> Pew research centre, European Public Opinion Three Decades After the Fall of Communism, 2019. Available at: <https://www.pewresearch.org/global/wp-content/uploads/sites/2/2019/10/Pew-Research-Center-Value-of-Europe-report-FINAL-UPDATED.pdf>

<sup>49</sup> See Appendix A – country fiche Bulgaria for further information.

<sup>50</sup> Europol. (2013). *EU Terrorism Situation and Trend Report*. The Hague: Europol.

<sup>51</sup> Masruchka, T. (23 December 2016). Без виновни за взрив и убит пред клуб на Евророба, засега. *168 chasa*. Available at: <https://www.168chasa.bg/article/5953029>.

Nevertheless, a recent example is the attack of and LGBTQ+ centre by the leader of the **Bulgarian National Union – New Democracy** (Български национален съюз - Нова демокрация).<sup>52</sup>

Right-wing extremism in Bulgaria is enabled by the conservatism of the general population, which is generally intolerant towards different minorities. A number of studies have shown widespread negative stereotypes of different minorities, most notably the Roma. In the period 1992 – 2005, between 91% and 87% of ethnic Bulgarian respondents agreed with the statement that Roma are criminally inclined. Research on prejudice among young Bulgarians in the period 2004 – 2012 shows that views on Roma are predominantly negative, and the most negative from the views on the other groups examined. Importantly those views are not moderated by personally knowing members of the Roma community<sup>53</sup>.

The data in the table below shows a significant worsening in acceptance towards a number of minorities in recent years. After 2012, a significant worsening of social distances begins. The reasons for this worsening are multifaceted. Nevertheless, a few developments can be noted in this regard, which can both be seen as manifestations and perpetuators of worsening social distances – protests, widespread political dissatisfaction and instability in the period 2013-2015, coupled with the migrant crisis which gave opportunity for the reinvigoration of existing right-wing extremist and radical actors and the emergence of new ones<sup>54</sup> The Roma have traditionally been the most vilified community, while research from 2021 points to LGBTQ+ emerging as a second category.<sup>55</sup>

<sup>52</sup> See Euractiv, Foreign ambassadors slam attack on LGBTQ centre in Bulgaria, available at: <https://www.euractiv.com/section/non-discrimination/news/foreign-ambassadors-slam-attack-on-lgbtq-centre-in-bulgaria/>

<sup>53</sup> Ganeva, Z. (2012) Ethnic Stereotypes and Prejudices of Young People in the Period 2004-2012 *Psychological Thought* 5 (2): 166–185). See also social distances research cited above. While there were positive developments in the period 2008-2012, after 2012 significant negative trends have been observed (Pamporov, A. (2019) *Алексей Пампоров: След 2013 г. започва изключително негативно развитие и днес социалните дистанции са достигнали своеобразно дъно*. Sofia: Marginalia) see following footnote for more information on this. More recent research underscores highly negative stereotypes of Roma and the LGBTQ+ emerging as a second vilified community (Todorov, A. (2021) *Радикализация на неприемането: Групова омраза и дясно-екстремистки нагаси в България*. Sofia: Friedrich Ebert Stiftung).

<sup>54</sup> See Dzhokova, R. and Stoynova, N. (2019) *Vigilantism against Migrants and Minorities in Bulgaria*. In Bjorgo, T. and Mares, M. (eds.) *Vigilantism against Migrants and Minorities*. London: Routledge); progressive worsening in the use of hate speech in all media without any corresponding measures to address this on the part of authorities (Spasov, O. (2016) *Езикът на омраза в България: рискови зони, уязвими обекти*. Sofia: FMD and CPM; Center for Interethnic Dialogue and Tolerance Amalipe et al. (2018) *Граждански мониторингов доклад за изпълнение на Националната стратегия за интеграция на ромите на Република България*. Veliko Tarnovo: Amalipe); the use of anti-Roma rhetoric by politicians who are not part of parties in the far-right radical spectrum (Stancheva, V. and Nenkova, A. (eds.) (2019) *Малцинствата в България: Лесни за омраза*. Sofia: Bulgarian Helsinki Committee); a process of secondary school segregation driven by the unwillingness of ethnic Bulgarian parents for their children to study together with Roma children (Kolev, D. (2018) *Благоевград и Габрово – двете лица на десегрегацията или може ли Сизиф да превърне камъка от тежест в сила*. Veliko Tarnovo; Amalipe) continuing instrumentalisation of the topic of Roma criminality or other problems perceived as associated with this ethnicity by far-right extremist and radical actors (ibid); the inclusion of the right-wing radical coalition Patriotic Front in the governing coalition in power between 2017 and 2021; with regard to the LGBTQ+ community, the opposition to the Istanbul Convention, which was alleged as an instrument for the aiming to introduce values inconsistent with Bulgarian morale, such as the adoption of a third gender, promotion of transgenderism, homosexuality and same sex marriages (Darakchi, S. (2019) "The Western Feminists Want to Make Us Gay": Nationalism, Heteronormativity, and Violence Against Women in Bulgaria in Times of "Anti-gender Campaigns" *Sexuality & Culture* 23: 1208–1229) etc.

<sup>55</sup> Todorov, A. (2021) *Радикализация на неприемането: Групова омраза и дясно-екстремистки нагаси в България*. Sofia: Friedrich Ebert Stiftung.

**Table 1: Percentage of positive answers to the question "Would you be willing for .... to live in your neighbourhood?"**

Minority/Year	2008	2009	2011	2012	2018
Roma	29.5	35.2	39.5	45.6	26.3
Turkish	39.6	48.3	52.1	58.5	36.3
Arabs	32.1	-	51.6	52.4	27.7

Source: Pamporov, A. (2012) Социални дистанции в България в периода 2008 – 2012 г. Sofia: Open Society Institute; Pamporov, A. (2018) Социални дистанции и етнически стереотипи за малцинствата в България. Sofia: Open Society Institute

Right-wing extremist rhetoric and actions are espoused by a spectrum of actors in Bulgaria which roughly fall in the following three categories:<sup>56</sup> **political parties, non-parliamentary activist organisations and informal groupings**. Ideologically, Bulgarian right-wing extremist and radical actors exhibit common characteristics with similar movements elsewhere, especially the existence of **natural inequality or hierarchy** between people or group of people which takes the form of intolerance towards different minorities (racism, xenophobia, homophobia), ethnonationalism, desire for a strong state etc. Right-wing extremism in Bulgaria, has some distinctive features, including a nostalgic element of the socialist past, cultural conservatism and often a pro-Russian line. On the other hand, highly anti-systemic rhetoric advocating for the demolition of political pluralism is not common among political actors, being observed most prominently among two related right-wing extremist **paramilitary formations**, Vasil Levski Military Union and Shipka Bulgarian National Movement, which emerged during the migrant crisis.

The parliamentary elections of 2017 resulted in the entry of the radical-right wing coalition Patriotic Front (PF), made up of three parties, in government. The entry of the PF marked the first time nationalist far-right parties became a decisive factor in government. This change in government resulted in **lack of political will to tackle right-wing radicalisation**, while at the same time intensifying the already present process of **normalisation of hate speech** in the public domain.<sup>57</sup> In addition, the Patriotic Front has attempted and partially succeeded in the introduction of a number of legislative proposals which have been condemned by experts as discriminatory and populist.<sup>58</sup> It should be noted that while for the first two elections of 2021, no radical right-wing party managed to pass the threshold to enter parliament, this changed in the November elections, where Revival (Възраждане) secured 13 seats in the assembly. Nevertheless, along with the rise in prominence of political actors in the spectrum of radical nationalism to right-wing extremism, research underscores the persistence of widespread

<sup>56</sup> Dzhhekova et al. (2015) *Radicalisation in Bulgaria: Threats and Trends*. Sofia: CSD.

<sup>57</sup> Ivanova, I. (2018) *Public Attitudes to Hate Speech in Bulgaria in 2018*. Sofia: Open Society Institute.

<sup>58</sup> E.g., in 2019, the Vice Premier and Minister of Defense Krassimir Karakachanov, leader of the far-right IMRO-BNM party of the PF coalition, unveiled his strategy for Roma integration. The measures include free abortion for Roma women, community service for administrative offences and the setting up of civic security patrols. Part of the foreseen measures have been accepted by Parliament at first reading, despite being condemned as discriminatory by civil society organisations such as the Open Society Foundation. Paunova, P. (11 February 2019) "Обществено опасна димка". Експерти оценяват стратегията на Каракачанов за ромите. *Svobodna Evropa*. Available at: <https://www.svobodnaevropa.bg/a/29762127.html>.

prejudice against certain minority groups, mainly the Roma and LGBTQ+ people,<sup>59</sup> which can readily be exploited by right-wing extremist actors.

Radical right-wing political parties use **hate speech** against different **minorities**, most often the Roma but also Muslims, refugees and migrants and LGBTQ+ people. Generally, however, political parties and their members eschew engagement in violence or direct calls to violence. However, exploiting popular prejudice, political actors proactively organise or take part in inflammatory events (e.g. protests against Roma criminality), which have high potential for resulting into violence. One such example is the 2011 protest against the speakers of the Sofia Mosque Banya Bashi, which was organized by the oldest party in the right-wing radical spectrum, *Ataka*, which ultimately resulted in violence between Muslims and representatives and sympathisers of the party.<sup>60</sup>

### 3.2. France

It is difficult to assess exactly the scope of right-wing extremist violence. A recent study counted over **1,300 acts of right-wing extremist violence in France since 1986**.<sup>61</sup> A further **30 acts have been committed since the start of 2021**.<sup>62</sup> These acts are undertaken by individuals with a right-wing extremist motive. Only a few organisations are responsible for those acts. According to the national intelligence coordinator, five right-wing extremist cells have been dismantled since 2017.<sup>63</sup> These include:

- **Nouvelle OAS** – in 2017, seven people were arrested for their allegedly planning act against mosques, kebab shops and politicians (in particular the government spokesperson and Jean-Luc Mélenchon, the leader of a prominent left-wing party). They claimed ideological links with the Organisation Armée Secrète (OAS).<sup>64</sup>
- **Action des forces opérationnelles (AFO)** – an organisation created after the November 2015 terrorist attacks targeting Muslim people. The group was allegedly planning attacks against Muslim and the poisoning of halal products in supermarkets.<sup>65</sup>

The main characteristic of these groups is that they emerged outside of the traditional extreme-right groups.<sup>66</sup> To a large extent, for a number of decades, the Front National had managed to represent a large enough **centre of gravity** for most movements on the extreme-right to move around it. Under the leadership of Jean-Marie Le Pen, the FN's membership and ideology was diverse and included national-revolutionaries, neo-Nazis, catholic traditionalists and many other. In many ways, the party was diverse enough to represent many actors on the spectrum of radical nationalism to right-wing

<sup>59</sup> Todorov, A. (2021) Радикализация на неприемането: Групова омраза и дясно-екстремистки нагаси в България. Sofia: Friedrich Ebert Stiftung.

<sup>60</sup> Btvnovinite. (20 May 2011) Бой и пожар след митинг на „Атака“ пред джамията Баня Башъ. Available at: [https://btvnovinite.bg/807561074-Boy\\_i\\_pojar\\_sled\\_miting\\_na\\_Ataka\\_pred\\_djamiyata\\_Banya\\_Basha.html](https://btvnovinite.bg/807561074-Boy_i_pojar_sled_miting_na_Ataka_pred_djamiyata_Banya_Basha.html)

<sup>61</sup> Isabelle Sommier, François Audigier, Xavier Crettiez, Violences politiques en France de 1986 à nos jours, Première édition, 2021.

<sup>62</sup> Rapports de force data available at: <https://rapportsdeforce.fr/boite-a-outils/carte-les-violences-dextreme-droite-en-france-en-2021-062910590>.

<sup>63</sup> Libération, En France, une violence d'extrême droite fréquente, létale et protéiforme, 19 March 2021, accessible at [https://www.liberation.fr/politique/en-france-une-violence-dextreme-droite-frequente-letale-et-proteiforme-20210\\_319\\_QXPIQXYSZCUPLUZAYL4YGGGFY/](https://www.liberation.fr/politique/en-france-une-violence-dextreme-droite-frequente-letale-et-proteiforme-20210_319_QXPIQXYSZCUPLUZAYL4YGGGFY/)

<sup>64</sup> See for example <https://www.leparisien.fr/faits-divers/groupuscule-dultradroite-oas-le-parquet-antiterroriste-demande-un-proces-09-04-2021-RZANTHHGL5BNDHKOKQPLIUMSXI.php>

<sup>65</sup> [https://www.lexpress.fr/actualite/societe/afo-les-inquietants-pieds-nickeles-de-l-ultradroite\\_2107394.html](https://www.lexpress.fr/actualite/societe/afo-les-inquietants-pieds-nickeles-de-l-ultradroite_2107394.html)

<sup>66</sup> <https://lvsl.fr/ou-en-est-lextreme-droite-francaise/>.

extremism.<sup>67</sup> With the gradual transformation of the Front National into the Rassemblement National with a strategy of making itself more acceptable (and electable) by a more traditional right-wing and centre-right electorate a growing number of number of small extreme-right groups emerged, some of which are increasingly developing their own distinct identification, moving away from the RN.

While this trend is noticeable, these groups often focus on cultural and political issues without competing in elections, but help to highlight issues which are then often picked up by the RN. These groups fulfil the three defining characteristics of the working definition of right-wing extremism (namely the belief in some form of **natural inequality or hierarchy** between people or groups of people, the implicit or explicit aim to **destroy the democratic system and the belief in authoritarianism**). The extent to which they are prepared to use violence or condone it is more difficult to assess in some of them. Some of the most prominent categories of groups include:

- **Identitarian movement** (Génération identitaire, Les identitaires, Nissa Rebela). The movement emerged at the turn of the century. It was based on the conclusions that the strategy linked to the FN was not successful. As a result, their strategy was changed, greatly influenced by left-wing writers and the anti-globalisation movement, especially the concept of cultural hegemony developed by Antonio Gramsci. As such, the main proponent on the identitarian movement gradually moved away from the FN and their strategy has been to try to influence the public debate on issues such as an alleged anti-white racism or the building of mosques. Given the relatively small number of activists, and their lack of access to mass media, the identitarian movement relies heavily on social media to communicate and include a number of YouTubers (see below).
- **National-Catholicism** (and royalist movements). The most well know movement in this group is the Action Française. It has experienced increased popularity during the mass demonstrations against same-sex marriage.
- **Revolutionary nationalism** (GUD<sup>68</sup>, Troisième Voie) is a broad denomination which in France refers to organisations seeking the introduction of a Third way (Third position), apart from both capitalism and communism. It is characterised by an ideology that is both extreme-right in the cultural sphere and far left in the economic one. The main groups active in the past 20 years have been dissolved.
- **Alt-right**. It is characterised by a clever use of the multiplier effect some viral content can have on social media and ultimately to mainstream media. This movement characterised by conspiracy themes supporting extreme-right ideas. The alt-right movement has sought to capitalise on social movements such as the Gilets Jaunes or the mobilisation against the Covid pass in France to extend beyond their traditional online space.

While France has not experienced large-scale right-wing violence or terrorist attacks in recent years, a number of events have taken place, failed or been foiled. They include an assassination attempt against Jacques Chirac, attacks against mosques, and foiled attacks against Muslims, politicians, etc. Notable events include the dismantling on the nouvelle OAS in 2017, the AFO in 2019. More isolated events include a plot to mount attacks on mosques in 2003 and 2013 or on a synagogue in 2020.<sup>69</sup>

<sup>67</sup> See <https://lvsl.fr/ou-en-est-lextreme-droite-francaise/> for an overview of the evolution of the FN to the RN.

<sup>68</sup> The GUD was disbanded in 2017 and replaced by Bastion Social, itself disbanded in 2019).

<sup>69</sup> See Nicolas Lebourg, Extreme Right Terrorist Radicalization in post-2015 France p 6, available at: <https://www.illiberalism.org/extreme-right-terrorist-radicalization-in-france-since-november-13-2015/>

On the other hand, France has experienced a rise in right-wing populist discourse especially on mainstream media. Examples of interest include the online presence of far-right influencers including on YouTube (*fachosphère*) encouraging violence against Muslims and political opponents<sup>70</sup>.

The concept of the left-right political spectrum emerged in France during the French revolution. The right was characterised by a rejection of universal suffrage and changes brought about by the revolution. France has a long tradition of radical- and extreme-right movements which started during the Third Republic. *Boulangism* is often seen, with the German *volkish* movement, as one of the earliest expressions of the radical right in Europe. The inter-war period saw a very active and militant rise in far-right movements (*Action Française*, *les Camelots du roi* and other far right leagues). The importance of these movements and the depth of the implantation of their ideas in the political debate helped pave way for the large consensus accepting the Vichy regime during the time of collaboration with the Nazi regime<sup>71</sup>. Led by Philippe Pétain, the regime was characterised by a rejection of democracy, anti-Semitism, xenophobia and the promotion of traditional values as well as measures taken against groups seen as representing 'anti-France'.<sup>72</sup>

The post-war period was marked by the Algerian war and the creation of the Organisation Armée Secrète (OAS) following the success of the referendum on Algeria's independence. The OAS was responsible for a number of bomb attacks and assassination attempts. The Front National (FN), created in 1972, sought to regroup different far right movements into a political force able to compete in elections.

Radical and extreme-right ideas and parties have regained popularity in France since the 1980s. Following a change in the electoral system, the FN entered the National Assembly in 1986 and has remained an important force. Radical right political parties such as the Rassemblement National (RN – previously Front National) have performed very well in recent elections, routinely reaching the first or second place in national elections.<sup>73</sup> The qualification of the FN has long been debated. During the 2012 presidential election campaign, Jean-Luc Mélenchon, qualified Marine Le Pen, the FN's candidate, a fascist. The latter took the matter to court for 'insult' (*injure*). The court (Tribunal Correctionnel de Paris) found that Mr Mélenchon was entitled to call Ms Le Pen 'fascist' as the terms *could not be considered an insult when it is used between political opponents on a political topic*. This view was confirmed by the Court of Appeal of Paris, which further stated that it was necessary for Mr Mélenchon to politically characterise his opponent by using a term showing his complete disapproval of her political ideas<sup>74</sup>.

More recently, the emergence of Eric Zemmour as a candidate in the 2022 presidential election is a symptom of the increased popularity of ideas on the radical nationalism to right-wing extremist spectrum. His programme is at least right-wing radical, including elements of cultural and ethnic nationalism (stringent curb on immigration including limiting the right of asylum, anti-Muslim aspect such as banning the headscarf in public spaces), rejection of liberal elements of society. During his campaign as well as in his previous role as a media personality, he has promoted conspiracy theories

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<sup>70</sup> See for example Prévost, Thibault, Bienvenue sur fachotube, in [arretsurimages.net](https://www.arretsurimages.net) 20 June 2021, available at <https://www.arretsurimages.net/chroniques/clic-gauche/lextrême-droite-sur-youtube-convertir-par-la-boutade>.

<sup>71</sup> Sternhell, Zeev, *Ni droite, ni gauche, L'idéologie fasciste en France*, 2<sup>nd</sup> edition, Editions Complexe 1987.

<sup>72</sup> See for example Robert Paxton, *La France de Vichy*, Points-Seuil, 1974.

<sup>73</sup> Election results in France available at: <https://www.data.gouv.fr/fr/posts/les-donnees-des-elections/>.

<sup>74</sup> See for instance Ouest France, Taxée de « fasciste », Le Pen perd son procès contre Mélenchon, published on 28 February 2017, available at: <https://www.ouest-france.fr/elections/presidentielle/taxee-de-fascisme-le-pen-perd-son-proces-contre-melenchon-4826566>.



such as the Grand Replacement according to which there is a ploy by a political, economic and media elite to replace the French (and European) population by one of African origin.<sup>75</sup>

Furthermore, Zemmour has been found guilty of racial discrimination, hate speech and incitement to hatred against a group of people on the basis their origin.<sup>76</sup>

Beyond the radical right, ideas previously associated with the extreme right have permeated the political debate and mainstream parties. Examples include a minister condemned for hate speech 'injurer à la haine raciale'<sup>77</sup>, an interior minister speaking about the need for Roma to "return to their country".<sup>78</sup> The candidate of the main centre-right party Valérie Pécresse has also mentioned the 'grand replacement' conspiracy theories in a campaign speech.<sup>79</sup>

The penetration of right-wing extremist ideas into the mainstream is supported by a number of debates launched and fed on social media by the extreme-right which then take over the media space. These controversies ("polémiques") often follow the same modus operandi. An extreme right twitter account identifies facts or something someone in the limelight has said and "@replies" to politicians and media organisations. They are often then picked up by panel discussions on television channels with panellists located on the spectrum of radical nationalism to right-wing extremism (examples include Eric Zemmour<sup>80</sup>, or Jean Messiah a media personality who recently participated in an online programme hosted in a shooting range<sup>81</sup> etc.). These controversies often relate to immigration and Islam. Recent controversies include wearing hijab in universities, shops or by parents accompanying school trips, teaching of Arabic at school, etc. The link between the online and main media far-right rhetoric is one distinctive feature of the phenomenon in France.

Another specificity of right-wing extremism in France is the popularity of some proponents of violent action online and especially on YouTube. There are a number of influencers and YouTubers promoting far-right ideas and in some cases violence. The most high-profile incident is a video by two far-right extremists showing on a mannequin how to kill a left-wing militant and discuss how to procure firearms.<sup>82</sup> In order to avoid prosecution and being removed from YouTube, those making up the 'fachosphère' ensure that their videos are either done in a humoristic way (in order to claim the lack of seriousness of what they are doing) or use metaphors. As an example, irregular migrants are labelled 'wild boars', so that hunting analogies can be used when inciting violence against them.<sup>83</sup>

<sup>75</sup> <https://www.france24.com/fr/france/20220214-le-grand-replacement-o%C3%B9-la-machine-%C3%A0-fantasmes-de-l-extr%C3%AAs-droite>

<sup>76</sup> [https://www.lemonde.fr/politique/article/2022/01/17/eric-zemmour-condamne-pour-la-troisieme-fois-par-la-justice\\_6109839\\_823448.html](https://www.lemonde.fr/politique/article/2022/01/17/eric-zemmour-condamne-pour-la-troisieme-fois-par-la-justice_6109839_823448.html)

<sup>77</sup> See for example Eolas, Journal d'un avocat, Le jugement condamnant Brice Hortefeux pour injure raciale, published on 12 June 2010 (<https://www.maitre-eolas.fr/post/2010/06/12/Le-jugement-condamnant-Brice-Hortefeux-pour-injure-raciale>).

<sup>78</sup> Parallel report by the European Roma Rights centre concerning France to the Committee on the Elimination of Racial Discrimination, for consideration at the 86th Session (27 April to 15 May 2015).

<sup>79</sup> [https://www.lemonde.fr/election-presidentielle-2022/article/2022/02/14/valerie-pecresse-se-defend-de-son-utilisation-du-terme-complotiste-du-grand-replacement-au-cours-de-son-meeting-a-paris\\_6113617\\_6059010.html](https://www.lemonde.fr/election-presidentielle-2022/article/2022/02/14/valerie-pecresse-se-defend-de-son-utilisation-du-terme-complotiste-du-grand-replacement-au-cours-de-son-meeting-a-paris_6113617_6059010.html)

<sup>80</sup> provocation à la haine et à la violence » et « injures publiques envers un groupe de personnes en raison de leur origine

<sup>81</sup> See Café cartouche, available at : <https://www.youtube.com/watch?v=5dLG9V19tdk>

<sup>82</sup> Papacito and Code Reinho, see: <https://www.marianne.net/societe/police-et-justice/la-video-ou-le-youtubeur-papacito-mime-le-meurtre-dun-electeur-insoumis-supprimee>

<sup>83</sup> See for example Prévost, Thibault, Bienvenue sur fachotube, in arretsurimages.net 20 June 2021, available at : <https://www.arretsurimages.net/chroniques/clic-gauche/lextreme-droite-sur-youtube-convertir-par-la-boutade>.

These YouTubers<sup>84</sup> are also present on other platforms (online gaming) and help divert followers and viewers to more serious outlets located on the spectrum of radical nationalism to right-wing extremism (*Sputnik, Putsch Media, TVLibertés, Boulevard Voltaire, Carrefour de l'Horloge, or VA+*). Interviews and shows on those outlets take on a more serious turn and include discussions on theories including the *Great Replacement*; calls for the army overthrowing the government etc. Once there, the move to mainstream channels who have taken a clear turn to the extreme right over the past years is seamless. CNews is a case in point. Often dubbed the French Fox news, the channel owned by Vincent Bolloré, a media mogul setting a reactionary agenda when right-wing radical and extreme themes are prominent<sup>85</sup> has provided a daily show to extreme-right figures such as Eric Zemmour and hosts a number of panel discussion which provide a wider audience to some of the controversies emerging online. Finally, CNews is regularly sanctioned by the media watchdog for failing to represent political pluralism; as an example, between 2020 and 2021, 36% of politicians invited represented the far right.<sup>86</sup>

The role played by the *fachosphère* is a clearly concerted effort. Papacito, a prominent YouTuber on the *fachosphère* has defined his and his colleagues' role in Gramscian terms as 'to convert by laughter, joke and punchline [people] to get interested in right-wing thoughts'.<sup>87</sup> Beyond the realm of communication, the *fachosphère* has an influence on right-wing extremist groups. As an example, Papacito and another YouTuber, 'le Raptor Dissident' created a group which became 'Vengeance Patriote', a violent group training activists to fight and get involved in street violence.<sup>88</sup>

### 3.3. Germany

In Germany, parties on the spectrum from right-wing radicalism to right-wing extremism can be differentiated into (1) parliamentary oriented **political parties**; (2) **violence-oriented organisations**, including youth groups from right-wing extremist parties, comradeships, right-wing extremist skinheads, right-wing extremist hooligans and right-wing terrorist groups; and (3) a more established, intellectual "**new right**".

Right-wing extremists share the defining characteristics set out in the working definition for this study (in section 2.3) **Given the country's history**, historical revisionism and anti-democracy also characterise right-wing extremist agitation to varying extent.<sup>89</sup> The right-wing extremist spectrum of **political parties** in Germany includes the Nationaldemokratische Partei Deutschlands (NPD), the right-wing extremist small parties "DIE RECHTE", and "Der III. Weg".

<sup>84</sup> [https://www.mediapart.fr/journal/france/140321/les-youtubeurs-de-la-haine-un-neofascisme-debonnaire#atmedium=custom7&at\\_campaign=1047](https://www.mediapart.fr/journal/france/140321/les-youtubeurs-de-la-haine-un-neofascisme-debonnaire#atmedium=custom7&at_campaign=1047).

<sup>85</sup> See Le Monde, Comment Vincent Bolloré mobilise son empire médiatique pour peser sur la présidentielle, available at: [https://www.lemonde.fr/m-le-mag/article/2021/11/16/l-opa-de-vincent-bollore-sur-la-presidentielle\\_6102316\\_4500055.html](https://www.lemonde.fr/m-le-mag/article/2021/11/16/l-opa-de-vincent-bollore-sur-la-presidentielle_6102316_4500055.html). More recently, A civil society coalition comprising academics, journalists at other organisations published an open letter against the threat Mr Bolloré poses to press freedom and democracy, available in English at: <https://reporterre.net/For-press-freedom-and-democracy-Bollore-must-be-stopped>.

<sup>86</sup> See Libération [https://www.liberation.fr/economie/medias/36-des-invites-politiques-de-cnews-sont-dextreme-droite-20210614\\_TP4X4N2KC5AHHR7AH3ULWI6WU/](https://www.liberation.fr/economie/medias/36-des-invites-politiques-de-cnews-sont-dextreme-droite-20210614_TP4X4N2KC5AHHR7AH3ULWI6WU/).

<sup>87</sup> Opt. Cit. Prévost.

<sup>88</sup> Coloma, Naima, Vengeance Patriote, le groupuscule d'extrême droite qui prépare ses militants au combat, in Street Press, 28 October 2020, available at: See for example Prévost, Thibault, Bienvenue sur fachotube, in [arretsurimages.net](https://www.arretsurimages.net) 20 June 2021, available at: <https://www.arretsurimages.net/chroniques/clic-gauche/lextreme-droite-sur-youtube-convertir-par-la-boutade>.

<sup>89</sup> Constitutional Protection Report 2020, p. 48.



PEGIDA ("Patriotische Europäer gegen die Islamisierung des Abendlandes") is a pan-European, anti-Islam, far-right **political movement**. It was founded in 2014. Pegida believes that Germany is being increasingly Islamised. It therefore defines itself in opposition to Islamic extremism. The movement started off with weekly demonstrations in Dresden that gained widespread attraction<sup>90</sup>. Pegida wants to limit immigration with tighter immigration controls and accuses the authorities of failure to enforce immigration laws<sup>91</sup>.

The German Ministry of Interior, Building and Community **banned four right-wing extremist groups** in 2020<sup>92</sup>:

(1) The neo-Nazi organisation "**Combat 18 Germany**" is the German section of the "Combat 18" association, which was founded in 1992 in the United Kingdom as a protection force of the right-wing extremist "British National Party". In Germany, the group has existed approximately since 2014. The code "18" stands for the first and eighth letters of the alphabet and means "Adolf Hitler"; "Combat 18" can thus be translated as "Kampfgruppe Adolf Hitler". The purpose of "Combat 18 Germany" was to spread a right-wing extremist, xenophobic and anti-Semitic ideology, primarily through the distribution of sound carriers, the organisation of concerts and the sale of merchandise. The group included around 20 people, with representations in six German federal states. The nationwide overall organization was subordinated to a ringleader based in Thuringia<sup>93</sup>.

(2) The 30 members of the organisation **Nordadler** ('Eagle of the North') have professed allegiance to Adolf Hitler, and their aim was to revive the National Socialist ideology. The group represented both anti-Semitic and racist positions and adhered to conspiracy theories. It also aimed for independence from any state structure. According to the Federal Office for the Protection of the Constitution, the group planned to buy real estate in eastern Germany in order to set up training centres there<sup>94</sup>.

(3) The neo-Nazi organisation **Sturm-/Wolfsbrigade 44** ('Storm/Wolf Brigade 44') was founded in 2016. According to the investigating authorities, the group consisted of neo-Nazis who were firmly rooted in the right-wing scene. The group spread xenophobic, openly anti-Semitic and racist positions on social media and wanted to establish a new Nazi state and abolish the democratic constitutional state<sup>95</sup>. The group "**Geeinte Deutsche Völker und Stämme**" ('United German Peoples and Tribes'), together with its sub-entity "Osnabrücker Landmark" ('Frontier of Osnabrück'), became the first group in the Reichsbürger / Selbstverwalter ('Reich-Citizens/Self-Governing Citizens') movement to be banned in Germany<sup>96</sup>. The organisation attracted attention through aggressive language as well as occasional drastic threats. These included in particular "imprisonment" of the addressees, "fines" in large sums and "kin imprisonment". The publications of the organisation illustrated the serious violations of

<sup>90</sup> Deutsche Welle, Record turnout at Dresden PEGIDA rally sees more than 25,000 march (article from 12 January 2015, by Kate Brady), available at: <https://www.dw.com/en/record-turnout-at-dresden-pegida-rally-sees-more-than-25000-march/a-18186820>.

<sup>91</sup> The Guardian, Pegida: what does the German far-right movement actually stand for? (article from 6 January 2015 by Kate Connolly) available at: <https://www.theguardian.com/world/shortcuts/2015/jan/06/pegida-what-does-german-far-right-movement-actually-stand-for>.

<sup>92</sup> Brief summary, 2020 Report on the Protection of the Constitution. Facts and Trends, p. 11.

<sup>93</sup> Bundesministerium des Innern, für Bau und Heimat, Verbot von "Combat 18 Deutschland", available at: <https://www.bmi.bund.de/SharedDocs/faqs/DE/themen/sicherheit/vereinsverbot-combat-18/vereinsverbot-combat-18-liste.html> (accessed on 28.10.2021).

<sup>94</sup> Deutsche Welle, Who are the Nordadler, available at: <https://www.dw.com/en/who-are-the-nordadler/a-53914635> (accessed on 28.10.2021).

<sup>95</sup> Bundesministerium des Innern, für Bau und Heimat, Bundesinnenminister verbietet rechtsextremistische Vereinigung "Sturm-/Wolfsbrigade 44", available at: <https://www.bmi.bund.de/SharedDocs/pressemitteilungen/DE/2020/12/verbot-sturmbrigade.html> (accessed on 28.10.2021).

<sup>96</sup> European Union. Terrorism Situation and Trend report 2021. Europol, p. 81.

fundamental rights and in particular the human dignity of others. Through racism, anti-Semitism and historical revisionism, the group expressed their intolerance towards democracy. They denied the legitimacy of the Federal Republic of Germany, aiming at their own "natural state" legal system. The association members did not shy away from committing criminal offenses<sup>97</sup>.

Since the 1990s, music has been an important element of neo-Nazi identity in Germany and the development of cross-border links between right-wing extremist groups, especially in Norway.<sup>98</sup> According to the 2020 Report on the Protection of the Constitution, **right-wing extremist music** continues to play an important role in the dissemination of right-wing extremist ideas and the entry into the right-wing extremist scene. In 2017, a concert and rally "Rock against excessive foreign influence" was held in Themar, Thuringia, attracting an audience of ca. 6000 people. In 2019, the authorities issued stricter rules for maintaining public security and order, which made right-wing extremist festivals less attractive within the scene. Due to the Covid-19 pandemic, there were no larger concerts of right-wing extremist music in 2020, with the number of concerts dropping from 311 (in 2019) to 141 (in 2020). However, this is not a reliable indicator for the future of right-wing extremist concerts.

### The "new right"

The "new right" is an informal network of groups, individuals and organisations in which right-wing extremist to right-wing conservative forces work together to implement anti-liberal and anti-democratic positions in society and politics using different strategies<sup>99</sup>. The "new right" has its own media, publishers, institutes and networks. According to the Federal Office for the Protection of the Constitution, this group is particular in that it does not organise violent attacks. However, it shares all the other elements of the working definition of right-wing extremism, and the strategy not to resort to violence is a conscious one in order to feed into a right-wing 'cultural revolution'.<sup>100</sup>

### Violent actions perpetrated by right-wing extremists

Aggressive violent actions and violent hate crimes against vulnerable groups have been present in Germany in the last decades and are **increasing** in volume. While the German reunification in 1990 provided freedoms of expression, choice and movement to all people in both parts of the country for the first time, nationalistic tendencies gained in strength in large parts of the population. Neo-Nazis from both German states joined forces. Right-wing extremist violence reached a new level with the beginning of the 1990s. There were **right-wing-extremist murder attacks** on migrants' homes in **Hünxe** (1991), **Mölln** (1992), and **Solingen** (1993), and **pogrom-like attacks** on collective shelters in **Hoyerswerda** (1991), **Rostock-Lichtenhagen** (1992), **Magdeburg** (1994), and **Guben** (1999). The simultaneous asylum debate served as a legitimisation background, so that the attackers believed they were in harmony with the majority of the population and politics. Media reports that the attacked had to flee and move motivated other perpetrators to emulate the attacks. After that, the proportion of

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<sup>97</sup> Bundesministerium des Innern, für Bau und Heimat, Bundesinnenminister Seehofer verbietet mit "Geeinte deutsche Völker und Stämme" erstmals Reichsbürgervereinigung, available at: <https://www.bmi.bund.de/SharedDocs/pressemitteilungen/DE/2020/03/verbot-reichsbuergervereinigung.html> (accessed on 28.10.2021).

<sup>98</sup> Johson, Bethan, Tracking German Neo-Nazism Through Music, Centre for Analysis of the Radical Right, 2019, available at: <https://www.radicalrightanalysis.com/2019/01/07/tracking-german-neo-nazism-through-music/>

<sup>99</sup> Constitutional Protection Report 2020, p. 74.

<sup>100</sup> See Deutsche Welle: Who is Germany's 'New Right'? available at: <https://www.dw.com/en/who-is-germanys-new-right/a-57949592> (accessed on 10.02.2022)

older, unemployed and convicted perpetrators, who had also often become right-wing extremists, increased<sup>101</sup>.

In the timeframe 2000-2007, the terrorist group “**National Socialist Underground**” (**NSU**) murdered at least nine migrants and committed the police murder of Heilbronn as well as 43 attempted murders, three bomb attacks and 15 robberies. These crimes remained undetected until the two main perpetrators committed suicide in November 2011 and the admission of confessional videos by accomplice Beate Zschäpe.

As a result of the refugee crisis and refugees seeking shelter in Germany in 2015, a series of attacks on asylum shelters started. A series of five bomb attacks was committed by a group of right-wing extremists from **Freital, Saxony**. In the end, eight of the perpetrators received a sentence for attempted murder, formation of a terrorist organisation and other offences. They were sentenced to imprisonment of between 4 and 10 years<sup>102</sup>.

On 26 and 27 August and 1 September 2018, violent riots broke out in **Chemnitz** after an argument on the side lines of the Chemnitz city festival, in which one man was fatally injured and two others were seriously injured by knife wounds. Extreme right-wing and neo-Nazi groups were involved in the riots, exploiting the situation.

On 2 June 2019, the Kassel District President **Dr. Walter Lübcke** was murdered in front of his home by a right-wing extremist. Lübcke had campaigned for the admittance of refugees and had opposed the agitation against them by the Kagida, the Kassel offshoot of Pegida, at a public meeting in October 2015. After that, he received numerous death threats.

On 9 October 2019, a heavily armed right-wing extremist attempted to force his way into a synagogue in **Halle**, intending to murder the worshippers gathered for the festival of Yom Kippur. His attempt failed, but the attacker still managed to kill two people at random<sup>103</sup>. In February 2020, nine people – all from migrant backgrounds – were killed in a far-right terrorist attack in **Hanau**<sup>104</sup>.

**The number of right-wing extremist crimes committed in Germany increased sharply in 2020 to a two-decade high.** The number of offences categorised as right-wing politically motivated crime in 2020 was **23,604** (2019: 22,342)<sup>105</sup>. Of these, 13,659 (2019:14,247) were propaganda offences under sections 86 and 86a of the German Criminal Code (Strafgesetzbuch, StGB) and **1,092** (2019: 986) were **violent crimes**. As a subset of right-wing politically motivated crime, 22,357 crimes (2019: 21,290) with a right-wing extremist background were recorded, among them 1,023 violent<sup>106</sup>.

**Table 2: Number of right-wing extremist crimes - Germany**

Type of offence / Year	2019	2020
<b>Right-wing politically motivated crime</b>	22,342	23,604
<b>Out of which:</b>		

<sup>101</sup> Armin Pfahl-Traugber: Rechtsextremismus in der Bundesrepublik. München 2006, p. 68–71.

<sup>102</sup> ECRI (2020) ECRI Report on Germany (sixth monitoring cycle), p. 24, available at: <https://rm.coe.int/ecri-report-on-germany-sixth-monitoring-cycle-/16809ce4be> (accessed on 28.09.2021).

<sup>103</sup> Equal rights, equal opportunities. Annual Report of the Federal Anti-Discrimination Agency (2019), p. 12.

<sup>104</sup> Equal rights, equal opportunities. Annual Report of the Federal Anti-Discrimination Agency (2019), p. 12.

<sup>105</sup> Brief summary, 2020 Report on the Protection of the Constitution. Facts and Trends, p. 7.

<sup>106</sup> Brief summary, 2020 Report on the Protection of the Constitution. Facts and Trends, p. 7f.

Type of offence / Year	2019	2020
Propaganda offences under sections 86 and 86a of the German Criminal code	14,247	13,659
Violent crimes	986	1,092
<b>As a subset of right-wing politically motivated crime:</b>		
Crimes with a right-wing extremist background	21,290	22,357
Among them, violent crimes	925	1023

Source: Brief summary, 2020 Report on the Protection of the Constitution. Facts and Trends, p. 7.

### Online content

The right-wing extremism scene in Germany also contains a significant online element<sup>107</sup>. In recent years, due to pressure from civil society and policymakers, Instagram and its parent company Facebook, along with YouTube and Twitter, have started to remove violence-oriented right-wing extremist actors and their content from their platforms. However, media reports indicate these efforts are less stringent than for other forms of extremist material<sup>108</sup>. Research shows that this “de-platforming” has led to a migration of these actors to smaller or alternative platforms like VKontakte, BitChute, meme/message-boards like 4Chan and 8Chan, and messenger services like WhatsApp or Telegram. The new accounts on those smaller platforms often have significantly fewer followers, demonstrating the significant operational disruption and limitation of reach that can be achieved by removing violent right-wing extremist groups from global platforms. Furthermore, a recent study conducted by CEP has found that illegal right-wing-extremist content also continues to be posted on major global platforms<sup>109</sup>.

### Right-wing extremists trying to influence public opinion / Right-wing extremist demonstrations

According to the Constitutional Protection Report 2020, right-wing extremists' efforts to exert an influence became particularly visible in connection with the protests against the corona protective measures decided by the federal government in 2020<sup>110</sup>. Right-wing extremists criticised government measures and protested against what they considered the Federal Government's infringement of basic rights, combined with criticism of the entire system. Often right-wing extremists infiltrated democratic demonstrations<sup>111</sup> to attack the legitimacy of government action and democratic institutions and tried to steer the public debate. The number of rallies influenced by right-wing extremists increased by

<sup>107</sup> CEP Study\_Violent Right-Wing Extremism and Terrorism\_Nov 2020.pdf, p. 27.

<sup>108</sup> Anna Meier, “Why do Facebook and Twitter’s anti-extremist guidelines allow right-wingers more freedom than Islamists?” *The Washington Post*, 1 August 2019, <https://www.washingtonpost.com/politics/2019/08/01/why-do-facebook-twitters-anti-extremist-guidelines-allow-right-wingers-more-freedom-than-islamists/>

<sup>109</sup> Counter Extremism Project, “NetzDG 2.0. Empfehlungen zur Weiterentwicklung des Netzwerkdurchsetzungsgesetzes (NetzDG) und Untersuchung zu den tatsächlichen Sperr- und Löschprozessen von YouTube, Facebook und Instagram,” CEP Policy Paper, Berlin: Counter Extremism Project, 2020, <https://www.counterextremism.com/sites/default/files/CEP%20NetzDG%202.0%20Policy%20Paper.pdf>

<sup>110</sup> Constitutional Protection Report 2020, p. 48.

<sup>111</sup> *Ibid.*, p. 12.

about 25% in 2020 compared to previous years. However, the number of participants fell below the 2019 level<sup>112</sup>.

### Right-wing extremism in law enforcement

In recent years, an increasing number of discriminatory measures by the police were reported, followed by revelations of racism or far-right extremism in Germany's police and security agencies. Research published in 2020 by the political magazine *Der Spiegel* found that the German Länder and the federal police force had recorded at least 400 suspected incidents of right-wing extremist, racist or anti-Semitic activity in recent years among police officers or trainees<sup>113</sup>. Despite this evidence, the German Interior Minister Horst Seehofer, who oversees the country's police and security agencies, repeatedly refused to admit that there is a problem with racism or right-wing extremism in the police. In July 2020, he rejected the need for a study into racial profiling by the police, and later denied that there was a structural problem with right-wing extremism in the security forces<sup>114</sup>. In addition, authorities at both federal and Länder level failed to establish an independent complaints mechanism to investigate discriminatory and unlawful behaviour by the police<sup>115</sup>.

### Racial right in Germany

On the radical right-wing end of the spectrum, is the "Alternative für Deutschland" (AfD)<sup>116</sup>. In 2014, the AfD succeeded for the first time in entering a supranational parliament in the European elections. As a result, it moved into all German state parliaments and, after the 2017 German federal election, it entered the 19th German Bundestag with 12.6% of the votes. The party moved further towards extremism over the years, in particular during the refugee crisis 2015/2016<sup>117</sup>. It aligns to ideas on the radical nationalist to radical right spectrum, such as anti-immigration policies and anti-Islam stances<sup>118</sup>. Some of the party members can be linked to right-wing extremist movements. The party calls into question essential basic principles of the German constitution. For example, in its programme, the AfD calls for human rights for immigrants to be restricted with certain conditions, and for the right of asylum (which is guaranteed in the Basic Law) to be abolished and replaced by a "right of grace". The party also wants to restrict religious freedom for Muslims. According to an article published by *Die Zeit* in March 2018, at least 27 employees of the AfD parliamentary group were classified as right-wing extremists<sup>119</sup>.

<sup>112</sup> Constitutional Protection Report 2020, p. 48f.

<sup>113</sup> Der Spiegel, The dark side of State power. Exploring right-wing extremism in Germany's police and military, published on 13.08.2020, available at: <https://www.spiegel.de/international/germany/the-dark-side-of-state-power-exploring-right-wing-extremism-in-germany-s-police-and-military-a-0600aa1e-3e4e-45af-bfc9-32a6661e66ef> (accessed on 28.09.2021).

<sup>114</sup> <https://www.npr.org/2020/12/10/943823021/with-far-right-extremism-on-the-rise-germany-investigates-its-police?t=1631790582224>

<sup>115</sup> Amnesty International Report 2020/21 (2021). The state of the world's human rights, p. 168.

<sup>116</sup> The AfD can be described as a right-wing extremist party; their attempt to ban this failed in court in April 2018. See: Giessener Urteil: AfD darf rechtsextremistisch genannt werden. FAZ, 18. April 2018; available at: <https://www.faz.net/aktuell/rhein-main/landgericht-giessen-afd-darf-rechtsextremistisch-genannt-werden-15549062.html> (accessed on 29.09.2021).

<sup>117</sup> Der Tagesspiegel (10.10.2020), „Flügel“ treibt Radikalisierung der AfD weiter voran. Available at: <https://www.tagesspiegel.de/politik/verfassungsschutz-alarmiert-fluegel-treibt-radikalisierung-der-afd-weitervoran/26262672.html> (accessed on 16.02.2022)

<sup>118</sup> Deutsches Institut für Menschenrechte (Hendrik Cremer), Nicht auf dem Boden des Grundgesetzes, Warum die AfD als rassistische und rechtsextreme Partei einzuordnen ist, June 2021, p. 16ff. available at: [https://www.institut-fuer-menschenrechte.de/fileadmin/Redaktion/Publikationen/Analyse\\_Studie/Analyse\\_Nicht\\_auf\\_dem\\_Boden\\_des\\_Grundgesetzes.pdf](https://www.institut-fuer-menschenrechte.de/fileadmin/Redaktion/Publikationen/Analyse_Studie/Analyse_Nicht_auf_dem_Boden_des_Grundgesetzes.pdf) (accessed on 10.02.2022).

<sup>119</sup> Kai Biermann, Astrid Geisler, Johannes Radke, Tilman Steffen: Bundestag: AfD-Abgeordnete beschäftigen Rechtsextreme und Verfassungsfeinde. Zeit online, 21. März 2018, available at: <https://www.zeit.de/politik/deutschland/2018-03/afd-bundestag-mitarbeiter-rechtsextreme-identitaere-bewegung/komplettansicht> (accessed on 29.09.2021).



In 2019, the AfD organisations “Der Flügel” and Junge Alternative (JA) were classified as “suspected cases” by the Federal Office for the Protection of the Constitution<sup>120</sup>.

### 3.4. Hungary

In Hungary, elements of the political discourse familiar to right-wing extremists have been at the forefront for many years, in particular through the right-wing radical views and laws promoted by the government led by the Fidesz party. Despite this dominant discourse and the existence of various far-right semi-violent organisations, **aggressive violent actions and violent hate crimes** against vulnerable groups have been **rare in recent years**. The activities of right-wing extremist groups usually remain on **the level of hate speech, intimidation and hate propaganda**<sup>121</sup>. Para-military organisations have typically limited their activities to ‘rallies and ‘marches’ to mark anniversaries of historical events. During such events, behaviour, symbols and chanting disparaging political, religious or ethnic minorities has been observed. For example, it has been reported that neo-Nazis from different parts of Europe gather each February in Budapest to mark what they call the ‘Day of Honour’<sup>122</sup>. The spectrum of right-wing extremism proponents in Hungary includes paramilitary groups and vigilante organisations (most violent of which have been the **Death Squad** and the **Hungarian Arrows National Liberation Army**), but the right-wing extremist ideology is also shared and advocated by the Jobbik party (second largest parliamentary party).

**Violent cases of right-wing extremism have not been recorded in recent years.** The most notorious series of violent attacks were committed by the **Death Squad** in 2008-2009 against Roma communities in several Hungarian regions. In total, 6 victims were killed and 55 injured; 63 shots were fired, and 11 Molotov cocktails were used. Primarily, the perpetrators (from their point of view) “punished” the Roma community for alleged “crime and parasitism”<sup>123</sup>. The members of the Death Squad (four persons) received prison sentences. The other cases of right-wing violence (without murders) were recorded in 2007-2008, again targeting the Roma community, involved arson attacks, one bomb with a timer and several written threats. The group responsible for the violence was the **Hungarian Arrows National Liberation Army**.

In more recent time, right-wing extremist vigilante or paramilitary groups have been active in Hungary. Some of them, like the **New Hungarian Guard** (founded in 2009 by a member of the Hungarian Guard, a para-military group which was dissolved by a court decision in 2008 because it posed clear threat to minority groups), have been affiliated with a political party (Jobbik) and have sought publicity for its activities. However, the Guard has practically ceased its activities after Jobbik assumed a less radical political stand (approximately in the second half of the 2010s). Others are grass-root organisations, like the **Outlaws Army**, operating in a more clandestine manner, using social media and private communication channels. The vigilante groups emphasise their support for ‘law and order’ and target Roma as the perceived main factor of criminality. The neo-fascist group **Our Homeland Movement** also organises anti-Roma marches. In May 2020 it held in Budapest a large rally against “gypsy crime”

<sup>120</sup> Constitutional Protection report 2020, p. 96.

<sup>121</sup> Szilveszter Póczik and Eszter Sárik, *Vigilante Militias and Activities against Roma and Migrants in Hungary* (pp.103-128), in *Vigilantism against Migrants and Minorities*, eds. Tore Bjørgo and Miroslav Mareš, Routledge, 2019.

<sup>122</sup> Europol, *EU Terrorism Situation and Trend Report, 2020*, p.68.

<sup>123</sup> Miroslav Mareš, *Right-Wing Terrorism and Violence in Hungary at the Beginning of the 21st Century*, in *PERSPECTIVES ON TERRORISM*, Volume 12, Issue 6, December 2018.

where the movement supporters converged with thousands of far-right ultras in the city centre streets, chanting racist anti-Roma slogans, with many giving fascist salutes<sup>124</sup>.

Overall, it has been noted that paramilitary and vigilante groups in Hungary, at least in recent years, **have not been involved in acts of violent extremism**. Rather, they have tried to intimidate their targets (mostly Roma, Muslim immigrants and LGBTQ+) through symbolic aggression. This may also be due to the efforts of state authorities 'to suppress any spontaneous or planned incidents as well as vigilant activities' against vulnerable groups, despite the government's anti-Roma, anti-migrant and homophobic stand<sup>125</sup>.

Right-wing extremism has been increasingly penetrating mainstream politics for most of the 2010s. Instead of curtailing right-wing extremist groups, the government has promoted xenophobic, anti-Muslim and anti-Roma ideas and incorporated them in its migration and social policies. Rhetoric based on hatred and divisiveness constitutes an integral part of contemporary Hungarian public discourse<sup>126</sup>, and seems to be shared by a significant majority, as indicated by opinion polls (e.g. 63% of Hungarians believe immigration is a problem rather than opportunity, and 74% consider immigrants a burden on the national welfare system)<sup>127</sup>.

Right-wing extremist political parties, movements and groups in Hungary share certain features with their Central and East European counterparts: they are hostile to the Roma minority, to migrants and refugees and to the LGBTQ+ community. Right-wing extremist groups in Hungary share the supremacist idea that ethnic Hungarians, with their historic contribution to Western civilisation and Christianity, are superior to other ethnic and social groups living in Hungary<sup>128</sup>. At the same time, right-wing extremism is based on the premise that in modern times ethnic Hungarians and traditional Christian values are threatened and need to be defended. The threat comes from three main sources: the Roma minority, migrants (in particular those of Muslim origin) and the LGBTQ+ community. The Roma minority is often associated with and blamed for certain types of crime (so called 'Gypsy crime')<sup>129</sup>. Migrants and refugees (in particular those coming to Europe during and after the migrant influx of 2015) are perceived as a threat to the cultural and religious identity of Hungarians and Europe in general<sup>130</sup>. The LGBTQ+ community is regarded as a threat to the traditional Christian family and Christian values<sup>131</sup>.

A less common feature of Hungarian right-wing extremism is irredentism, rooted in the resentment over the Treaty of Trianon<sup>132</sup>. Certain right-wing groups exploit the so called 'Trianon syndrome' by

<sup>124</sup> Joe Mulhall and Safya Khan-Ruf, eds., *State of Hate: Far-right Extremism in Europe 2021*, HOPE Not Hate Charitable Trust, London, 2021, p.86.

<sup>125</sup> Szilveszter Póczik and Eszter Sárík, *Vigilante Militias and Activities against Roma and Migrants in Hungary*, p.122

<sup>126</sup> Article 19, *Hungary: Responding to 'hate speech'*, Country Report, London, 2018.

<sup>127</sup> Special Eurobarometer 469, *Integration of immigrants in the European Union - Hungary*, October 2017.

<sup>128</sup> See András Bozóki, Sarah Cueva, *Xenophobia and Power Politics: The Hungarian Far Right*, 2021; Ádám, Zoltán/Bozóki, András (2016b): "The God of Hungarians: Religion and Right-Wing Populism in Hungary", in: Nadia Marzouki/Duncan McDonnell/Olivier Roy (Eds.), *Saving The People: How Populists Hijack Religion*, Oxford University Press, pp. 129-148.

<sup>129</sup> Miroslav Mareš, *Right-Wing Terrorism and Violence in Hungary at the Beginning of the 21st Century*, in *Perspectives on Terrorism*, Volume 12, Issue 6, December 2018, (pp.123-135).

<sup>130</sup> Szilveszter Póczik and Eszter Sárík, *Vigilante Militias and Activities against Roma and Migrants in Hungary* (pp.103-128), in *Vigilantism against Migrants and Minorities*, eds. Tore Bjørgo and Miroslav Mareš, Routledge, 2019.

<sup>131</sup> Justin Spike, Hungary once held LGBTQ+ promise — then Orbán stepped in, *Politico*, July 6, 2021 (available at <https://www.politico.eu/article/hungary-once-held-lgbtq-promise-then-viktor-orban-won/>, retrieved on 27.10.2021).

<sup>132</sup> As successor to the defeated Austro-Hungarian monarchy, Hungary lost a large part of its former territory due to the Treaty of Trianon of 1920. Millions of Hungarians have lived since that time outside the borders of their former motherland. (cf. Miroslav Mareš, *Right-Wing Terrorism and Violence in Hungary at the Beginning of the 21st Century*, in *PERSPECTIVES ON TERRORISM*, Volume 12, Issue 6, December 2018).

rejecting the treaty altogether and calling for a Greater Hungary in its borders before 1920. They also try to expand their base to the Hungarian minorities living in the neighbouring countries (mostly in Romania, Slovakia and Serbia).

In terms of parliamentary parties, it is noteworthy that while Jobbik initially occupied the far-right of the political spectrum (with its open hostility to migrants and the mainstreaming of the concept of 'Gypsy crime'), since 2014 it has evolved to the centre, while the initially right-centrist Fidesz has adopted Jobbik's radical right-wing political ideas and has shifted to the far-right. Political observers have noted that Viktor Orbán's authoritarian style of governing has not relied on violent confrontation with his opponents but rather on economic and legal levers in silencing and eliminating political dissent. Examples of Fidesz's extreme right-wing policies include:

- **Anti-refugee/anti-migrant:** refusal to accept any refugees and portraying them as "economic migrants and terrorists" sent by the Islamic State in order to wreak havoc and "spread disease in Europe"<sup>133</sup>. The government's response to the 2015 migration crisis included the erection of a large razor wire fence along its borders with Croatia and Serbia, patrolled by soldiers with the authority to use deadly force; laws to make it easier to reject asylum applications and to criminalise illegal entry; and new powers to push migrants back across the border without the need for arrest or due process<sup>134</sup>. The Court of Justice of the EU found that Hungary had failed to fulfil its obligations to ensure the effective access to the procedure for granting international protection.<sup>135</sup>
- **Anti-Roma:** support for **segregated housing and education for Roma population** and associating the Roma with criminality in general. (In early 2020, Prime Minister Orbán launched an anti-Roma campaign in response to a court awarding pecuniary damages to Roma pupils for school segregation in the town of Gyöngyöspata. The parliament amended public education laws to prevent courts from awarding pecuniary damages for similar future claims. Roma were disproportionately impacted by the COVID-19 pandemic in 2020, and the government failed to address the health, economic, and social needs of Romany communities.)<sup>136</sup>
- **Anti-feminist and anti-LGBTQ+:** homophobic and misogynistic ideas have been mainstreamed in public discourse and government policy. Gender studies and feminist studies have been banned in universities, and the government has refused to ratify the 2011 Istanbul Convention to combat violence against women, arguing that it promotes "destructive gender ideologies"<sup>137</sup>. In the summer of 2021, the government also passed a law banning LGBTQ+ content on television and educational material for under-18s against which the European Commission has taken legal action.<sup>138</sup>

The government justifies its radical right-wing stand as a strategy to **preserve the national uniqueness** of the Hungarian people, to oppose the cultural and religious incompatibility of migrants' values and to **protect traditional Christian, family values**. In the words of two scholars studying the

<sup>133</sup> See Heinrich Boell Stiftung, Focus on Hungary: Refugees, Asylum and Migration, 2015, available at: [https://www.boell.de/sites/default/files/2015-focus-on-hungary\\_refugees\\_asylum\\_migration.pdf](https://www.boell.de/sites/default/files/2015-focus-on-hungary_refugees_asylum_migration.pdf)

<sup>134</sup> Gyollai D (2018). Hungary: Country Report: Legal & Policy Framework of Migration Governance. Working Papers – Global Migration: Consequences and Responses, Paper 2018/05 (May 2018).

<sup>135</sup> Case 808/18, available at: <https://curia.europa.eu/juris/liste.jsf?lgrec=fr&td=;ALL&language=en&num=C-808/18&jur=C>

<sup>136</sup> Freedom House, Freedom in the World 2021/Hungary (available at: <https://freedomhouse.org/country/hungary/freedom-world/2021>, retrieved on 2 September 2021).

<sup>137</sup> *Hungary's parliament blocks domestic violence treaty*, The Guardian, 5 May 2020.

<sup>138</sup> European Commission press release: EU founding values: Commission starts legal action against Hungary and Poland for violations of fundamental rights of LGBTIQ people, available at: [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_21\\_3668](https://ec.europa.eu/commission/presscorner/detail/en/ip_21_3668)



cultural shift in Hungary since Orbán gained power, “the cultivation of a strong nationalist discourse has been a key boon for the Orbán regime, which has manipulated Hungarians’ disillusionment, prejudices, and fears in a way that has rendered the citizenry increasingly susceptible to extreme nationalist and right-wing ideologies”<sup>139</sup>.

Nationalism has been closely linked with the **promotion of religion** by the Fidesz government since the beginning of the 2010s. While Hungary historically has been a country with low levels of religious observance, starting with the changes in the Hungarian Constitution from 2011, religion and religious institutions have played an increasingly important role in education and social services, enjoying administrative and financial support from the government.

### 3.5. Italy

Italy is among the Member States that have been affected by the increasing success of right-wing populist and extremist parties. In recent years, radical right and far-right political parties have entered mainstream politics. As right-wing extremist propaganda has grown online, xenophobic sentiments and public hate speech have found more resonance in parts of the population. Particularly young people are targeted by far-right recruitment on social media pages.

Extreme right parties as **Forza Nuova**<sup>140</sup> (New Force) and **CasaPound Italia**<sup>141</sup> have in fact been embracing ultra-nationalist and conservative political campaigns,<sup>142</sup> combined with strong xenophobic and anti-Semitic narratives, and ultra-religious ideologies with respect to abortion, euthanasia, and same sex marriages.<sup>143</sup> Moreover, in 2020, far-right and right-wing extremist groups’ propaganda have sharply criticised restrictions related to COVID-19, with a narrative against the Italian political establishment. The propaganda, both online and offline, has mostly revolved around “incitement to *disobbedienza* (disobedience) and focused on the perceived *dittatura sanitaria* (health dictatorship)”.<sup>144</sup> In this regard, in October 2021 violent protests against the extension of the COVID-19 “Green Pass” to all workplaces<sup>145</sup> took place in Rome.<sup>146</sup> The protests saw the participation of neo-fascist activists and leaders of *Forza Nuova*, who were involved in the assault to the headquarters of the Italian General Confederation of Labour (CGIL) trade union and were later arrested.<sup>147</sup> Following the violent

<sup>139</sup> András Bozóki, Sarah Cueva, *Xenophobia and Power Politics: The Hungarian Far Right*, 2021.

<sup>140</sup> Recently reorganised within the broader political movement *Italia Libera* comprising yellow vests and the negationist no mask movement. For more information, see : [https://www.repubblica.it/politica/2020/12/14/news/destra\\_forza\\_nuova\\_italia\\_libera-278346830/](https://www.repubblica.it/politica/2020/12/14/news/destra_forza_nuova_italia_libera-278346830/)

<sup>141</sup> As of June 2019, the leader of *CasaPound Italia* announced the dissolution of the political party, with the group remaining active with the status of social movement.

<sup>142</sup> Despite the intensive political campaign, at the last Italian political elections in 2018 these two extreme right parties did not achieve the minimum threshold of 3 per cent of the votes to be represented in the Italian Parliament. See [https://www.repubblica.it/speciali/politica/elezioni2018/2018/03/05/news/flop\\_neofascisti-190494095/](https://www.repubblica.it/speciali/politica/elezioni2018/2018/03/05/news/flop_neofascisti-190494095/)

<sup>143</sup> Gattinara, Pietro Castelli. 2019. "Forza Nuova and the Security Walks: Squadristo and Extreme-Right Vigilantism in Italy." In *Vigilantism against Migrants and Minorities*, edited by Tore Bjørgo and Miroslav Mareš, 199-212. Routledge; see also Camilli, Annalisa. "The offensive of the far-right against abortion starts in Verona." *Internazionale*, 13 December 2018. <https://www.internazionale.it/reportage/annalisa-camilli/2018/12/13/far-right-against-abortion-verona>

<sup>144</sup> Europol. 2021. "(TE-SAT) 2021", p. 88. See also Mulhall, Joe, and Safya Khan-Ruf, eds. 2021. *State of Hate: Far-Right Extremism in Europe 2021*. London: HOPE not Hate Charitable Trust, p. 24. <https://charity.hopenothate.org.uk/>.

<sup>145</sup> The “Green Pass” certificate, showing proof of vaccination and already required for certain activities (including dining indoors, visiting museums and theatres, and using trains), was made mandatory in all workplaces as of mid-October 2021.

<sup>146</sup> *Reuters*. “Anti-vax protesters in Rome target Draghi’s office, union’s headquarters,” 9 October 2021. <https://www.reuters.com/world/europe/italian-police-use-water-cannon-push-back-anti-vax-protesters-rome-2021-10-09/>

<sup>147</sup> *Euro Examiner*. “Far-right leaders arrested at large protest in Italy over COVID passes,”. 11 October 2021, <https://euroexaminer.com/2021/10/11/far-right-leaders-arrested-at-large-protest-in-italy-over-covid-passes/>

attacks, thousands of people gathered in the streets of Rome in a protest against rising fascism and right-wing groups.<sup>148</sup> In light of these events, the Italian Senate and Chamber of Deputies approved a centre-left motion urging the government to dissolve *Forza Nuova* and ban all neo-fascist political movements and groups.<sup>149</sup> At EU level, a plenary session of the European Parliament addressed right-wing extremism and racism in Europe, calling for a united and swift response to rising extreme-right violence in Europe.<sup>150</sup>

As reported by Europol, in Italy right-wing extremist propaganda has used online methods to communicate and disseminate ideological material through social media platforms such as Twitter, Telegram, and Vkontakte.<sup>151</sup> Far-right online and offline communities have been observed to be deeply characterised by anti-Semitic and racist messages inciting the use of violence, also as a recruiting mechanism among young people. As noted by the Special Operations Group of the Italian Carabinieri in a 2017 law enforcement report against *Forza Nuova*, members of the party have been involved in hate crime and inciting violence as an indoctrination practice to recruit young individuals.<sup>152</sup> Use of violence and anti-Semitic ideologies are also supported by other neo-fascist extreme right groups — as *Veneto Fronte Skinheads*, *Fascismo e Libertà*, *Hammerskin*, *Do.Ra*<sup>153</sup> — and violent supporters of Italian football teams.<sup>154</sup>

Regarding extreme violence, **over the last decade two extreme right attacks have been reported** in Italy. In 2011, an armed *CasaPound* militant killed two Senegalese citizens in Florence, leaving three others injured. In 2018, a right-wing attack occurred in Macerata, with a man shooting and wounding six people whom he thought were Africans. Several **additional incidents** of violence, incitement to violence and hate crime by far-right groups have occurred in Italy, sparking media attention and the attention of law enforcement and prosecutorial authorities.<sup>155</sup> Investigations have led to the arrest of several individuals for violent aggression and illegal possession of firearms, ammunition and explosives.<sup>156</sup> Regarding right-wing extremists, Europol has reported a total of 11 right-wing affiliated **arrests** between 2017 and 2020.<sup>157</sup> Scholars have also investigated severe forms of right-wing terrorism and violence (RTV) perpetrated by lone actors and organised groups and targeting, among others,

<sup>148</sup> *Deutsche Welle*. "Italy: Thousands descend on Rome for anti-fascist protest," 16 October 2021. <https://www.dw.com/en/italy-thousands-descend-on-rome-for-anti-fascist-protest/a-59528235>

<sup>149</sup> *Reuters*. "Italian senate asks government to ban Forza Nuova neofascist party," 20 October 2021. <https://www.reuters.com/world/europe/italian-senate-asks-government-ban-forza-nuova-neofascist-party-2021-10-20/>; *Ansa*. "C-L motion on disbanding Forza Nuova approved," 22 October 2021. [https://www.ansa.it/english/news/2021/10/21/c-l-motion-on-disbanding-forza-nuova-approved\\_6be3d780-20b5-46be-8fc8-1742a7d9d1d4.html](https://www.ansa.it/english/news/2021/10/21/c-l-motion-on-disbanding-forza-nuova-approved_6be3d780-20b5-46be-8fc8-1742a7d9d1d4.html)

<sup>150</sup> For more information, see the European Parliament Plenary Session held on 20 October 2021, available at [https://multimedia.europarl.europa.eu/en/plenary-session\\_20211020-0900-PLenary\\_vd](https://multimedia.europarl.europa.eu/en/plenary-session_20211020-0900-PLenary_vd)

<sup>151</sup> Europol. 2021. "(TE-SAT) 2021".

<sup>152</sup> Angeli, Federica, and Giuseppe Scarpa. "La scuola di razzismo nella sede di Forza Nuova a Roma: "Picchiate i bengalesi."" *La Repubblica*, 02 November 2017. <https://roma.repubblica.it/cronaca/2017/11/02/news/la-scuola-di-razzismo-nella-sede-di-forza-nuova-picchiate-i-bengalesi-179997138/>

<sup>153</sup> *Adnkronos*. "Italia nera: la mappa dei nuovi fascisti," 1 December 2017. [https://www.adnkronos.com/ultradestra-chi-sono-i-nuovi-fascisti\\_4M6CR8wLBWe4OQ75le0bsX](https://www.adnkronos.com/ultradestra-chi-sono-i-nuovi-fascisti_4M6CR8wLBWe4OQ75le0bsX)

<sup>154</sup> In July 2019, a police operation highlighted connections between far-right groups and violent supporters of football club Juventus Turin. For more information, see <https://www.ilfattoquotidiano.it/2020/06/21/estrema-destra-terrorismo-nero-anche-italiano-non-e-solo-su-internet-ha-armi-bombe-razzi-e-progetta-attentati-contro-musulmani-ed-ebrei/5842581/>

<sup>155</sup> Operation "Ombre nere" (Black Shadows) is among the most notable police operations. Other operations include Operation "Ultima Legione", and Operation "Nobis".

<sup>156</sup> E.g., see Woods, Amanda. "Italian authorities say extremists wanted to start new Nazi party" *New York Post*, 29 November 2019. <https://nypost.com/2019/11/29/italian-authorities-say-extremists-wanted-to-start-new-nazi-party/>

<sup>157</sup> Europol. 2021. "(TE-SAT) 2021"; Europol. 2020. "(TE-SAT) 2020".

ethnic minorities. Research results reveal an **increasing trend of non-fatal attacks** between 2015 (3 attacks) and 2019 (24 attacks), with a decline in 2020 (17 attacks) and a total of 72 non-fatal RTV events between 2015 and 2020.<sup>158</sup> Lastly, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) collects hate crime data reported by Italy. As for RTV attacks, figures show an **increasing trend of hate crimes** recorded by police over the period 2015-2019, with 555 events recorded in 2015 and 1119 in 2019.<sup>159</sup> Data also show racism and xenophobia as the most common bias motivation for committing hate crime in 2019 (805 incidents), followed by bias against other groups / people with disabilities (207 incidents). As for the types of **crime**, the most common forms of hate crime recorded in 2019 were incitement to violence, physical assaults, and desecration of graves.<sup>160</sup>

The health crisis during the COVID-19 pandemic, the economic decline and the criticism of the national political elites have contributed to the appeal of *disobbedienza* (disobedience) against a perceived *dittatura sanitaria* ("health dictatorship"), despite of the general support for lockdown regulations among the population. Within this context, groups and movements on the spectrum from radical nationalism to right-wing extremism have been contributing to the spread of COVID-19 disinformation and fake news on social media. They have also used disinformation to target minority groups to incite hatred, anti-immigration sentiments, and violence.

This development not only influences Italy's political landscape and relationship with the European Union; it also increases the threat of right-wing extremist violence and hate crimes, particularly affecting the safety of minorities. In 2021 alone, the Italian police discovered weapon collections during investigations against neo-Nazi groups. As explained above (see Chapter 2), it is difficult to shoe-horn parties and movements, in particular their members into specific categories. An example of this is the killing of a Moroccan immigrant by a councillor and member of the right-wing radical *Lega* (League) after an altercation in July 2021.

In Italy, the popularity of radical right-wing groups as well as the mobilisation of individuals has increased in recent years.<sup>161</sup> Radical-right and radical-nationalist political parties, as *Lega* (League) and *Fratelli d'Italia* (Brothers of Italy), together gained 40 per cent of the votes in the 2019 European Parliament election in Italy, while the most recent 2021 opinion polls for the next Italian general election shows both parties polling above 20%.<sup>162</sup>

### 3.6. Poland

Although right-wing extremism in Poland, as elsewhere in Central and Eastern Europe, has been gaining ground mostly after the fall of the Iron Curtain in 1989, its roots can be traced to Polish nationalist movements in the inter-war period and later. In fact, some of the current extremist formations are the successors or continuation of movements such as the **National Radical Camp** (ONR, founded in 1933, re-established in 1993), **All-Polish Youth** (MW, founded before WWII, re-established

<sup>158</sup> Ravndal, Jacob Aasland, et al. 2020. "RTV Trend Report 2020: Right-Wing Terrorism and Violence in Western Europe, 1990-2019." *C-REX Research Report* 1.

<sup>159</sup> OSCE ODIHR Hate Crime Reporting - Italy. See <https://hatecrime.osce.org/italy>

<sup>160</sup> *Ibid.*

<sup>161</sup> Ferraresi, Mattia. "Italy's Far-Right Is on the Rise." *Foreign Policy*, 29 June 2021. <https://foreignpolicy.com/2021/06/29/italy-far-right-brothers-fratelli-giorgia-meloni-salvini-league/>; see also Caiani, Manuela. 2017. "Radical Right-Wing Movements: Who, When, How and Why?" *Sociopedia.isa*, 1–15.

<sup>162</sup> Ferraresi, Mattia. *Op. cit.*

in 1989, from 2012 part of the National Movement party, RN) and **National Revival of Poland** (NOP, founded 1981).<sup>163</sup>

The main distinctive features of Polish right-wing extremism can be described as follows:

- There is a clear process of **co-optation** by Poland's biggest party, the ruling and lately dominant PiS, of **ideas espoused by right-wing extremists**, and voters respectively,<sup>164</sup> which started as early as the late 2000s and early 2010s: "The far-right impact on mainstream politics could be observed in Warsaw on 29 September 2012, when a mass, 50,000-strong street demonstration under the controversial slogan "Poland, awake!" was organised jointly by the PiS, the Solidarity trade union and the far-right Radio Maryja movement led by Father Tadeusz Rydzyk, combining various radical messages into a powerful voice."<sup>165</sup> This process has incurred repeated criticism from EU institutions.<sup>166</sup> Indeed, only in 2021 there were a number of reports about figures with controversial record linked to the far-right being appointed at public office (one of whom a deputy education minister).<sup>167</sup>
- **Violence** in the actions of extreme right groups is present but **does not seem to be the rule**. According to Europol, there was one foiled right-wing terrorist/extremist attack in Poland in the last several years in 2019; as for arrests, there were two in 2019 and one in 2020.<sup>168</sup> According to ODIHR's Hate Crime Reporting project (not including hate speech), in 2019 out of 972 hate crimes recorded by police, 84 involved physical assault, 31 incitement to violence, 20 damage to property, 4 desecration of graves, 14 attacks against places of worship and 50 threats or threatening behaviour; 617 were unspecified and 3 were thefts or robberies.<sup>169</sup> In the latest Brown Book report of Polish anti-racism, anti-xenophobia and anti-homophobia association Never Again, the majority of incidents listed refer to display of slogans or hate speech, with only a minority mentioning physical violence; also, the majority of mentions are linked to the behaviour of football supporters.<sup>170</sup>
- The majority of right-wing extremist groups and parties subscribe to a **fundamentalist Catholic-nationalist ideology**, the religious element in a way distinguishing them from their counterparts in other Central and East European countries. This ideology goes naturally in tandem with strong traditionalist beliefs about the family and gender. Specific features of Polish right-wing extremism, sometimes in contradiction, are Russophobia and Germanophobia.<sup>171</sup> Antisemitism and

<sup>163</sup> Pankowski, R (2012). "Right-wing Extremism in Poland", Friedrich Ebert Stiftung, p. 3-6. Available at: <https://library.fes.de/pdf-files/id-moe/09409-20121029.pdf>.

<sup>164</sup> Charnysh, V. "How Extremism Is Going Mainstream". *Foreign Affairs*, 18 December 2017. Available at: <https://www.foreignaffairs.com/articles/poland/2017-12-18/rise-polands-far-right>.

<sup>165</sup> Pankowski, p. 8.

<sup>166</sup> See for example Gera, V. "Poland criticised in EU Parliament over courts, LGBT rights," 14 September 2020. Available at: <https://apnews.com/article/discrimination-poland-europe-44f9374a0fbc0e0acadb29bbb1267a7e>.

<sup>167</sup> See for example Sharon, J. "New Poland deputy education minister was member of far-right parties". *The Jerusalem Post*, 27 January 2021, available at <https://www.jpost.com/diaspora/new-poland-deputy-education-minister-was-member-of-far-right-parties-656852>, and Kijek, K., "A fascist sympathiser appointed head of the Wrocław branch of the Institute of National Remembrance", *Wyborcza*, 5 February 2021, available at <https://wyborcza.pl/7,173236,26761304,a-fascist-sympathiser-appointed-head-of-the-wroclaw-branch-of.html>.

<sup>168</sup> Europol. *Terrorism Situation and Trend report 2021*, p. 19-20. Available at: <https://www.europol.europa.eu/activities-services/main-reports/european-union-terrorism-situation-and-trend-report-2021-tesat>.

<sup>169</sup> OSCE/ODIHR Hate Crime Reporting. Available at: <https://hatecrime.osce.org/poland>.

<sup>170</sup> See Never Again Association. "A selection of racist, xenophobic and homophobic events which occurred in Poland in 2019 are monitored by the 'NEVER AGAIN' Association and documented in the 'Brown Book'". Available at: [https://www.nigdywiecej.org/docstation/com\\_docstation/172/brown\\_book\\_2019.pdf](https://www.nigdywiecej.org/docstation/com_docstation/172/brown_book_2019.pdf).

<sup>171</sup> Kasproicz, D. (2010). "State, society, NGOs on Right-wing extremism in Poland," Friedrich Ebert Stiftung, p. 2. Available at: [https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKFwjlr\\_rclurzAhXqSfEDHRk-CoQQFnoE\\_CAIQAO&url=http%3A%2F%2Fwww.fesbp.hu%2Fcommon%2Fpdf%2FKasproicz20101119.pdf&usq=AOvVaw34SC9WvnNBVnkUn8yUvG1O](https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKFwjlr_rclurzAhXqSfEDHRk-CoQQFnoE_CAIQAO&url=http%3A%2F%2Fwww.fesbp.hu%2Fcommon%2Fpdf%2FKasproicz20101119.pdf&usq=AOvVaw34SC9WvnNBVnkUn8yUvG1O).

intolerance for minority groups such as the Roma and immigrants are also present. As a rule, economic inequality and social issues are less emphasised than identity, and both highly socially-oriented and radical free-market ideas are shared.<sup>172</sup> What is especially pronounced in Poland, compared to other EU Member States, is the high levels of intolerance and violence towards members of the LGBTQ+ community.<sup>173</sup> An interesting trend, resembling that in Hungary and its Jobbik party, is the 'normalisation' of the messages of currently the most popular far-right party, Konfederacja, which for the 2019 election tried to build a "reputational shield by focusing more on economy and corruption."<sup>174</sup>

In line with other countries studied in this report, the ideas espoused by right-wing extremists are also being mainstreamed in the political discourse. In Poland, the more successful groups/parties on the radical-right end of the spectrum, began their existence after 2000 – the **League of Polish Families** (LPR), formed just before the 2001 elections and getting 8% of the vote (38 seats in the Sejm), and **Confederation Liberty and Independence** (Konfederacja), formed in 2018 as a coalition between RN and the KORWiN party (6.8% in the 2019 election, 11 seats in the Sejm).<sup>175</sup> However, the most popular and currently ruling Law and Justice party (PiS), which has incurred repeated criticism from EU institutions.<sup>176</sup> Indeed, only in 2021 there were a number of reports about figures with controversial record linked to the far-right being appointed at public office (one of whom a deputy education minister).<sup>177</sup> These processes may or may not be a response to the overall attitudes of Polish society, which according to a number of surveys tends to be one of the less open and more intolerant in the EU. For example, a 2020 study of the European Union Agency for Fundamental Rights (FRA) showed that 42% of interviewed LGBTQ+ people in Poland experienced harassment 12 month before they took the survey and 15% experienced a physical and/or sexual attack for being LGBTQ+ in the five years before the survey, the highest percentage of all Member States.<sup>178</sup> And an OSCE/ODIHR project on criminal justice responses to hate crime found that in Poland, out of some 600 respondents, "18% of Ukrainians, 8% of Muslims and 43% of sub-Saharan Africans experienced incidents having features of a hate crime."<sup>179</sup>

<sup>172</sup> Pankowski, p. 7.

<sup>173</sup> See European Union Agency for Fundamental Rights (2020). *A long way to go for LGBTI equality*. Available at: <https://fra.europa.eu/en/publication/2020/eu-lgbti-survey-results>.

<sup>174</sup> Pytlas. Op. cit.

<sup>175</sup> Ibid.; Pytlas, B. (2020). "The Polish Presidential Election 2020: which role does far-right politics (not) play?", C-REX – Centre for Research on Extremism. Available at <https://www.sv.uio.no/c-rex/english/news-and-events/right-now/2020/the-polish-presidential-election-2020.html>.

<sup>176</sup> See for example Gera, V. "Poland criticised in EU Parliament over courts, LGBT rights," 14 September 2020. Available at: <https://apnews.com/article/discrimination-poland-europe-44f9374a0fbc0e0acadb29bbb1267a7e>.

<sup>177</sup> See for example Sharon, J. "New Poland deputy education minister was member of far-right parties". *The Jerusalem Post*, 27 January 2021, available at <https://www.jpost.com/diaspora/new-poland-deputy-education-minister-was-member-of-far-right-parties-656852>, and Kijek, K., "A fascist sympathiser appointed head of the Wrocław branch of the Institute of National Remembrance", *Wyborcza*, 5 February 2021, available at <https://wyborcza.pl/7,173236,26761304,a-fascist-sympathiser-appointed-head-of-the-wroclaw-branch-of.html>.

<sup>178</sup> European Union Agency for Fundamental Rights (2020). *A long way to go for LGBTI equality*, p. 40 and 44. Available at: <https://fra.europa.eu/en/publication/2020/eu-lgbti-survey-results>.

<sup>179</sup> OSCE/ODIHR (2018). *Building a Comprehensive Criminal Justice Response to Hate Crime: Project Closing Conference Report*, p. 7. Available at: <https://www.osce.org/odihr/409563>.



### 3.7. Sweden

The right-wing extremist environment in Sweden mainly consists of the organisations ***Nordiska motståndsrörelsen (NMR, "Nordic Resistance Movement")*** and ***Nordisk Styrka (NS, "Nordic Strength")***. NMR maintained its position as the dominant organisation in Sweden in 2020, although NS was attracting an increasing number of members. NMR is a hierarchical organisation, primarily involved in opinion-building activities, but it also has paramilitary characteristics, and it intends to organise, equip and train its members for a future armed struggle.<sup>180</sup> This means that it is prepared to use violence, and it has been observed to do so in the past.

Right-wing extremists are actively trying to extend their influence and activities to other parts of society. Examples of this are crossovers with football hooligans and organised criminal networks. Sweden reported<sup>181</sup> that they observed individuals in the right-wing extremist scene interact with Swedish sports hooligans, although there is no known formal cooperation between the scenes. Rather, their cooperation is more ad hoc and based on personal relationships.

Sweden's intelligence and security services have issued warnings of a heightened risk of extreme right attacks. As in previous years, the terrorist threat from the violent far-right environment is likely to be based on lone actors, individuals who are no longer part of the organised parts of the environment and from smaller groups on the periphery of the environment. This international trend, combined with extreme right propaganda being spread in wider circles in Sweden, is a dangerous development. The post-election disillusionment with "established" far-right extremist groups risk leading individuals or smaller groups to reach the conclusion that it is time to fight more radically. There is also a development where the focus has shifted **from propaganda dissemination and flyer distribution to more internal activity with increased elements of martial arts training**. According to the *Skärhospolisen*,<sup>182</sup> many of those who have joined the new groups and networks with such focus are young individuals, born around the turn of the millennium.

Sweden observed an increasing interest among right-wing extremists in attending paramilitary, survival and weapons training. For example, it was reported that violent right-wing circles regularly organise gatherings in the form of close combat training sessions, survival training sessions, camps, and field marches, and that interest in participating in international paramilitary training among right-wing extremists has increased in recent years<sup>183</sup>.

Right-wing extremist groups and individuals have a large and established presence on the internet, in social media and via podcasts. The ideology of the far-right, the story of society and strongly biased "news" about, for example, the crime and violence of immigrants are rapidly spreading and reaching large groups of people, both online and offline, which ultimately results in increased dissemination of extremist narratives.<sup>184</sup>

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<sup>180</sup> Oesteraas, I. (2021). White supremacy and the future of liberal democracy – the case of the Nordic Resistance Movement. CrimRxiv.

<sup>181</sup> Europol (2021), European Union Terrorism Situation and Trend Report, Publications Office of the European Union, Luxembourg.

<sup>182</sup> Swedish Security Service Yearbook 2020, pp. 37-39.

<sup>183</sup> Europol (2021), European Union Terrorism Situation and Trend Report, Publications Office of the European Union, Luxembourg.

<sup>184</sup> Mulhall et al., State of Hate 2021: Far-right extremism in Europe, pp 116-117.

Violent right-wing extremist organisations in Sweden finance their activities mainly through membership fees and donations from their members and supporters.<sup>185</sup> The use of cryptocurrency for financing purposes is attractive for organisations whose access to the banking system is increasingly restricted. A good example of this can be found on the websites of Nordfront, NS and the NMR, who actively encourage their followers to donate Bitcoin via different websites. The organisations accept donations in cryptocurrencies as they have had their bank accounts terminated by Swedish banks and thus do not have the option of receiving donations in the traditional way via bank accounts.

Sweden was until a few years ago considered a deviant case, which unlike its Scandinavian neighbours Denmark and Norway lacked a radical right-wing party in parliament. Until recently, enduring class loyalties in Sweden (when working-class voters tended to identify strongly with the Social Democratic party) worked against radical right-wing mobilization in the country.<sup>186</sup> The country has for many years been known as a society with solid class voting, a uni-polar ideological conflict pattern organized around economic left and right, a non-polarized political climate and also a social democracy tightly connected to the welfare state.<sup>187</sup> The conditions were therefore not the most favourable for an anti-establishment, populist or radical right-wing party to make a sizable footprint in the Swedish working class. Declining class politics over the past decades has transformed the political landscape.<sup>188</sup> Today, as in most other European countries, support for the radical right-wing parties in Sweden is comparatively strong from the working class – a phenomenon that from the perspective of modern political science might be seen as a paradox. The most recent surveys suggest that the far-right *Sverigedemokraterna* (Sweden Democrats) party may well have the votes to help the conservative opposition secure a majority after next year's elections, and the evidence is mounting that traditional right-wing politicians will be tempted to cut a deal to give the anti-immigrant group a say in government. The emergence of a populist party has tracked the Nordic country's influx of immigrants and the difficulties in integrating them. A worsening in gang-related violence in recent years has also pushed more voters to the right. While Sweden has slashed immigration by half from its peak in 2016, the Sweden Democrats have signalled they would go much further in adopting a wide range of populist measures to stem the flow, including repatriation of refugees to war-torn countries and abolishing benefits to anyone who is not a Swedish citizen (about 9% of the population of 10.4 million).

The Swedish far-right landscape consists of several actors with differences and similarities between them. The populist narrative of a "corrupt elite" that has betrayed "the people" and prejudice and hostility towards immigrants from Africa and the Middle East unites them.<sup>189</sup> Nazis and overt white supremacists are characterised by the anti-Semitic conspiracy theories and the focus on hostility and racism towards non-whites. The national populists are characterised by Islamophobia, anti-immigrant discourse and an emphasis on cultural homogeneity. The ethno-nationalists position themselves somewhere in between.

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<sup>185</sup> Europol (2021), European Union Terrorism Situation and Trend Report, Publications Office of the European Union, Luxembourg.

<sup>186</sup> Rydgren, J., van der Meiden, S. "The radical right and the end of Swedish exceptionalism", *European Political Science Vol. 18* (2019), pp. 439–455.

<sup>187</sup> Oskarson M., Demker M., Another kind of class voting: the working-class sympathy for Sweden Democrats in Rydgren, J. (Ed.). (2012). *Class Politics and the Radical Right* (1st ed.). Routledge, pp 172-189.

<sup>188</sup> Rydgren, J., van der Meiden, S. "The radical right and the end of Swedish exceptionalism", *European Political Science Vol. 18* (2019), pp. 439–455.

<sup>189</sup> Mulhall et al., *State of Hate 2021: Far-right extremism in Europe*, pp 116-117.

**Table 3: Main right-wing organisations in Sweden**

Organisation	Ideology
<b>Nordiska motståndsrörelsen</b> (Nordic Resistance Movement)	Neo-nazi
<b>Nordisk Styrka</b> (Nordic Strength)	Neo-nazi
<b>Nordfront</b> (Front at the North)	White supremacist
<b>Det Fria Sverige</b> (The Free Sweden)	White supremacist
<b>Sverigedemokraterna</b> (Sweden Democrats)	Radical right

Source: Swedish Security Police and Expo Foundation

According to the *Skärhospolisen* (Security Police) there are three extremist scenes in Sweden: violence-promoting **Islamic extremism**, the **white power movement** and the **leftist anarchists**. Although these names do not give an altogether accurate description of the movements' characteristics, they are used to emphasize their extremist actions – i.e. the criminal offences – rather than their political views and opinions.

### 3.8. Conclusions

Some common features of right-wing extremism can be identified across the countries studied.

Right-wing extremism proponents fulfilling the definition set out in section 2.3 exist in all Member States studies in this report. They can often be differentiated into **political parties, non-parliamentary activist organisations** and **informal groupings**. It is often difficult to clearly and accurately place a group in one category or another along the radical nationalist to right-wing extremist spectrum, given (i) some may be placed in different categories at the same time, (ii) there are differences within identified groups, and (iii) some groups seek to present themselves as less extreme than they are in order to make themselves and their ideas more acceptable to a wider public. In particular some groups are very aware of, and careful not to cross the limits of legality, especially relating to hate speech and violence.<sup>190</sup>

They share certain ideological elements, such as **intolerance towards minorities, racism** and **xenophobia** (observed in the overwhelming majority of parties and groups on the radical nationalism to right-wing extremist spectrum) and often target Muslims, refugees and migrants, but also the LGBTQ+ community. In particular in Central and Eastern European countries another key target is the Roma community, which is often associated with and blamed for certain types of crime ('Gypsy crime').

In some cases (such as the NPD, DIE RECHT and III Weg in Germany, Nordfront, NS and the NMR in Sweden, Légió Hungária in Hungary), right-wing extremism is based on **supremacist ideas** that believe that ethnic (and Christian) values are threatened and need to be defended. In some countries, right-wing extremism is based on a **catholic-nationalist ideology** (Action Française in France, National

<sup>190</sup> RAN, Contemporary manifestations of violent right-wing extremism in the EU: An overview of P/CVE practices , p 5.



Radical Camp in Poland) or **cultural conservatism** (such as the Levski Military Union in Bulgaria), which is built on strong traditional beliefs around family and gender and against the LGBTQ+ community.

Trends of right-wing extremism identified include<sup>191</sup>:

- The internationalisation of the movement characterised by events such as the Day of Honour in Budapest bringing together right-wing extremist movements from around Europe;
- The increased use of the internet to communicate and disseminate propaganda through mainstream social networking sites, but also message boards or encrypted messaging services;
- The mainstreaming of extremist right-wing ideas to make fringe right-wing culture and ideas more acceptable, including through humour and sarcasm (such as the youtuber Papacito in France).

The ideas espoused by extreme right-wing parties are also reflected into parties on the radical right end of the spectrum. Radical right-wing political parties often use **hate speech against minorities** but **avoid direct violent engagement** or **calls to violent behaviour** in public (for example Eric Zemmour's *Reconquête* in France, the AfD in Germany), even if they have close links to more radical movements in the right-wing extremist scene. However, political actors tend to exploit popular prejudice and proactively organise and take part in public events, such as rallies, protest or demonstrations, that could be inflammatory and have a high potential for resulting in violence. One prominent example are the **government-imposed restrictions** against the **Covid-19** pandemic, which were sharply criticised by groups on the radical right-wing to right-wing extremist (Forza Nuova in Italy, AfD in Germany). The propaganda focused on an apparent infringement of basic rights, combined with criticism of the entire state system. In particular in Germany, demonstrations were heavily influenced by right-wing extremists.

Often, right-wing extremists try to extend their influence and activities to other parts of society, for example through **music** (DE), **sports events** (DE, SE) or by influencing the political debate (FR).

In Germany, the number of violent crimes by right-wing extremists has increased to a two-decade high. In 2020, the number of offences categorised as right-wing politically motivated crime was 23,604. As a subset of this category, 22,357 crimes (2019: 21,290) with a right-wing extremist background were recorded, among them 1,023 violent.

Interestingly, in most other study countries, there is a **number of right-wing extremist groups**, but especially in recent years a **relatively low level of violent actions** (BG, HU, FR, PL). In France, over 1,300 acts of extreme right-wing violence have been counted since 1986, with a further 30 acts committed since the beginning of 2021. In Italy, an increase of non-fatal attacks in recent years was detected (72 non-fatal right-wing terrorism and violence attacks between 2015 and 2020). However, these figures need to be seen with caution as countries have different mechanisms of collecting numbers on violent crimes with a right-wing extremist background.

In recent years, **online activities** have become increasingly important for right-wing extremism (DE, FR, IT, SE). This can take the form of violence-oriented right-wing extremist content, but also to influence public debate and to promote far-right ideas and propaganda, and to communicate and disseminate ideological material through social media platforms.

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<sup>191</sup> Ibid.

## 4. LEGAL SITUATION IN MEMBER STATES

### KEY FINDINGS

- While all Member States studied have some constitutional provisions relating to the characteristics of the working definition of right-wing extremism (on racism, violence, democracy etc.), none has a definition of “right-wing extremism” or “extreme right” in their constitution or law.
- Most countries on which this report focuses have a legal framework which should be robust enough to respond to the right-wing extremist threat, although some gaps exist such as the lack of clear definitions.
- The most important body of law in response to actions undertaken by right-wing extremists relates to criminal law, including hate crimes, hate speech and anti-terrorism legislation.
- Some Member States have a specific corpus of law on the registration and dissolution of organisations (including political parties), either on the basis of their ideology, or their threat to the democratic or constitutional order. While this appears to be an effective tool in dealing with specific groups and having a dissuasive effect, this approach runs the risk of radicalising some individuals.
- Some countries, such as Germany, have a well-developed and well-funded approach to combat right-wing extremism and its roots through the development and support of grassroots organisations to prevent all forms of extremism.
- Non-legislative responses, including activities by NHRIs and civil society organisations, are a key element of the response to right-wing extremism.
- The objectives of the response to right-wing extremism varies. Some countries attempt to reconcile individuals who might be attracted by right-wing extremism with the democratic process (Germany), while others aim at ensuring right-wing extremism does not affect the State and focus far less on individuals (France).

Member States have adopted a series of legislative and other measures to address either right-wing extremism, or some of the activities linked to the phenomenon. The legal framework in place ranges from defining attributes of right-wing extremism in the constitution, to the criminalisation of behaviours used by some right-wing extremist groups or increased sentences linked to the characterisation of such acts (violence with a racist motive or hate crime for instance). Administrative law also plays a part in the legal response to right-wing extremism, especially through the banning of parties or groups. States' responses to right-wing extremism can be seen in a continuum. Ami Pedahzur schematises this as a scale at one end of which are “militant democracies” repressing movements considered as right-wing extremist; on the other end “immune democracies” characterised by a strong civil society that relies on existing checks and balances. Most countries, including those described in

this study, however, are somewhere on the spectrum and use repressive measures only as a response to anti-democratic attack (defence model).<sup>192</sup>

This section sets out the legal response in place in the Member States in which research has been carried out, as well as other non-legislative responses.

## 4.1. Bulgaria

### 4.1.1. Legal framework

The term extremism is not defined in Bulgarian legislation, nor is “right-wing extremism”, “radicalisation” or “political violence”. However, there are a number of provisions in the Constitution, the Criminal Code and other legal acts that can be used for prosecuting or sanctioning the activities of right-wing extremist organisations. The Criminal Code (CC) defines the crime of “terrorism” as “*the act of committing a specific crime in order to create confusion and fear in the population or to threaten or force a public authority, a public figure or a representative of a foreign state or international organization to do or omit something within the scope of their functions*” (CC Art. 108a, Par.(1)).

The terms “violent extremism” and “terrorism” are defined in the **Strategy for Countering Radicalisation and Terrorism 2015-2020** as follows (p. 3):<sup>193</sup>

- **Violent extremism** is a ‘phenomenon, in which individuals or groups support or carry out ideologically motivated violence in order to achieve their ideological goals’.
- **Terrorism** is ‘every act of a criminal nature coupled with an act of violence which through deliberate threatening of the life and safety of citizens, as well as of key infrastructural objects, aims to create fear and insecurity in society and to destabilise institutions as a means to achieve concrete political and ideological goals.’

The Bulgarian **Constitution** guarantees the equality of citizens and the prohibition of discrimination on the basis of different characteristics.<sup>194</sup> In addition, the following provisions are important:

- Art. 11 (1) – Political life in the Republic of Bulgaria is based on the principle of political pluralism.
- Art. 11 (2) – No single party or ideology can be declared or instituted as official.
- Art. 11 (3) – It is not allowed to form parties on ethnic, racial or religious basis, as well as parties which aim to take over state power with violence.
- Art 39 (2) – The right to free expression should not be used to breach the rights and reputation of others, to propagate for the violent overthrow of the constitutionally established order, to call for the commission of crimes, to sow enmity or to call for violence against others.
- Art. 44 (2) – Organisations whose activities are aimed against the sovereignty, territorial completeness of the country and the unity of the nation or at sowing racial, national, ethnic or religious enmity, to breaching the rights and freedom of citizens, as well as organisation which create secret service or paramilitary structures or aim to use violence to reach their goals, are prohibited.

<sup>192</sup> Ami Pedahzur, « Struggling with the Challenges of Right-Wing Extremism and Terrorism within Democratic Boundaries: A Comparative Analysis », *Studies in Conflict and Terrorism*, vol. 24, no 5, 2001, p. 339-359.

<sup>193</sup> Council of Ministers. Strategy for Countering Radicalisation and Terrorism 2015-2020. Available at: <https://www.strategy.bg/StrategicDocuments/View.aspx?lang=bg-BG&Id=979>.

<sup>194</sup> Race, nationality, ethnicity, sex, origin, religion, education, convictions, political affiliation, personal or public standing, property status. Constitution of the Republic of Bulgaria.

As per the **Law on Political Parties** (LPP), political parties:

- shall not use symbols that infringe on universal human values and shall not be contrary to good morals (LPP Art 5, Par. (2)).
- shall not create youth structures for persons under 18 years of age, religious or military structures (LPP Art. 20, Par. (4)).
- shall use democratic means and methods to pursue their political goals (LPP Art. 2, Par. (3)).

As a measure to prevent the establishment of political parties in violation of the legal rules the law lays down a **special registration procedure**. Political parties are registered by the court, which holds an open court hearing with the participation of the applicant and a public prosecutor (LPP Art. 5, Par. (1)). The public prosecutor can appeal the registration (LPP Art. 18, Par. (1)) and is authorized to request the dissolution of any registered political party, which violates the constitutional or legal provisions (LPP Art. 40, Par. (1)).

The **Law on Non-Profit Legal Entities** (LNPLE) allows a non-profit organisation (including branches of foreign organisations) to be terminated and its registration revoked by court if its activities violate the Constitution, the laws and good morals (LNPLE Art. 13, Par. (1), line 3b).

The **Criminal Code** of the Republic of Bulgaria criminalises the preaching of fascist or antidemocratic ideology or forcible change of the public order established by the Constitution (CC Art. 108, Par. (1)), along with other crimes against the republic such as terrorism (CC Art. 108a, Par.(1)). Criminal law provisions related to extremism also include those dealing with the crimes against peace and humanity such as genocide (CC Art. 416), apartheid (CC Art. 417), holocaust denial (CC Art. 419a), etc. The Criminal Code further criminalizes a number of acts of hate crime, hate speech and other acts often associated with right-wing extremism, and those fall within the categories crimes against the equality of citizens and against the religious denominations. Criminal Code also provides for heavier sanctions for some violent crimes (homicide and heavy body injury) when they have been motivated by hooligan, racist or xenophobic motives (CC Art. 116, Par. 1, Item 11 and Art. 131, Par. 1, Item 12).

#### 4.1.2. Other responses to right-wing extremism

In 2017, the government appointed a **National Coordinator for the Countering Antisemitism**, signed a Memorandum of Understanding with the Jewish community and accepted the working definition of antisemitism by the International Holocaust Remembrance Alliance (IHRA). The Coordinator's tasks include "facilitation of surveys of public attitudes, research and risk assessment, monitoring, data collection and reporting of antisemitic hate speech and hate crimes."<sup>195</sup> In 2020, an interagency Contact Group was formed, composed of diverse actors, including the Ministry of the Interior, the Ministry of Foreign Affairs, the Ministry of Education as well as representatives of the civil society and the Jewish community.<sup>196</sup> In 2019, the Ministry of Foreign Affairs appointed a Bulgarian representative to the Council of Europe's European Governmental **LGBTI** Focal Points Network (FPN).<sup>197</sup>

A noteworthy development is the **ban on the flagship event Lukov March** in remembrance of a controversial general associated with his support for the Nazis in World War II. The event has been held annually and is organised by the extremist right-wing activist organisation **Bulgarian National Union**

<sup>195</sup> Comments of the Bulgarian Government to the report of the Commissioner for Human Rights of the Council of Europe following her visit to Bulgaria on 25-29 November 2019. Available at: <https://rm.coe.int/comments-of-the-bulgarian-government-to-the-report-by-the-council-of-e/16809d43dd>, p.4.

<sup>196</sup> Ibid.

<sup>197</sup> Ibid.

– **New Democracy** (Български национален съюз - Нова демокрация). The event was first held in 2003, drawing extremists from Bulgaria and abroad, as well as widespread condemnation. Despite previous attempts of the Sofia mayor to forbid the event were overturned by courts, until in 2020 the Supreme Administrative Court upheld the ban and the event was officially prohibited.<sup>198</sup> Steps have been taken by the prosecution to ban the Bulgarian National Union-Edelweiss<sup>199</sup>, the main organiser of the Lukov March, which Sofia City Court has recently refused to do.<sup>200</sup>

Furthermore, a number of events and campaigns aimed at countering hate speech and fostering tolerance have been carried out in Sofia in 2018 and 2019.<sup>201</sup> Last but not least, institutions in cooperation with EU agencies such as FRA and international organisations such as OSCE have carried out trainings for police, prosecution and the judiciary on recognising, recording, investigating and prosecuting hate crime against the Jewish and LGBTQ+ minorities.<sup>202</sup>

Civil society has been active particularly in the field of prevention of related phenomena such as hate speech. An example of a specific initiative targeting Bulgarian youth is the EU-funded campaign Find Another Way under the project Resilient Youth against Far-Right Extremist Messaging Online (YouthRightOn), led by CSD.<sup>203</sup> It tackles the problem of right-wing narratives influence over youth (14-19 year olds) in Bulgaria by providing alternative narratives to confront extremist messages and ideas propagated online, as well as offline guides for teachers aimed at building resilience and core skills such as critical thinking, tolerance and conflict resolution. Campaigns against hate speech are also carried out by civil society. In addition, human rights organisations and other civil society actors have consistently raised awareness and lobbied the government for the need to extend protection to vulnerable groups currently not covered by CC provisions on hate crime such as LGBTQ+ people and have pointed out flaws in official response to right-wing extremism. As a results of the attack on “Rainbow hub” LGBTQ+ centre in Sofia, the European Parliament’s LGBTI intergroup called upon the Bulgarian government to follow ECRI and the EP’s recommendation to include hate crimes and hate speech on grounds of sexual orientation, gender identity and expression, and sex characteristics in the Criminal Code.<sup>204</sup>

<sup>198</sup> Marginalia (22 February 2020) Съдът потвърдил отмяната на Луковмарш Решението е окончателно и не подлежи на обжалване. Available at:

<https://www.marginalia.bg/novini/sadat-potvardil-otmyanata-na-lukovmarsh-resheniето-e-okonchatelno-i-ne-podlezhi-na-obzhalvane/> .

<sup>199</sup> The Bulgarian National Union - Edelweiss and the Bulgarian National Union – New Democracy are distinct political parties, even through the main leader of the latter, Boyan Rasate used to lead the former.

<sup>200</sup> 24 chasa. Прокуратурата обжалва решение, с което бе отказано заличаване на БНС-Еделвайс. Available at: <https://news.bg/crime/sadat-otkaza-da-zalichi-bns-organizatorite-na-lukovmarsh.html> .

<sup>201</sup> Comments of the Bulgarian Government to the report of the Commissioner for Human Rights of the Council of Europe following her visit to Bulgaria on 25-29 November 2019. Available at: <https://rm.coe.int/comments-of-the-bulgarian-government-to-the-report-by-the-council-of-e/16809d43dd> .

<sup>202</sup> Ibid.

<sup>203</sup> See <https://youthrighton.com/en/home/> .

<sup>204</sup> Attack against the LGBT Community Centre ‘Rainbow Hub’ in Sofia: MEPs call on government to propose hate crime and hate speech legislation, available at: <https://lgbti-ep.eu/2021/11/10/attack-against-the-rainbow-hub-lgbt-community-centre-in-sofia-meps-call-on-government-to-propose-hate-crime-and-hate-speech-legislation/>

## 4.2. France

### 4.2.1. Legal framework

The **French constitution** does not contain definitions of right-wing extremism or similar terms, but contains a series of articles which relate to elements of the definition of right-wing extremism developed in section 2.3. It states that France is an indivisible, secular, **democratic** and social Republic (art. 1), it further states that political parties and groupings shall **respect the principles of national sovereignty and democracy** (art. 4). In addition, the preamble of the constitution recalls the Declaration of the Rights of Man and of the Citizen, a key text of the French Revolution, which establishes that *Human Beings are born and remain free and equal in rights and provides for rights such as the freedom of exercising ones' religion, the right to one's opinions*. However, the constitution does not require political groups or parties to abide by the principles set out in its first article, but to *"contribute to the exercise of suffrage. They shall be formed and carry on their activities freely. They shall respect the principles of national sovereignty and democracy."*

French **criminal law** provides a number of provisions and tools to combat right-wing extremism. This includes legal provisions relating to (i) terrorism, (ii) discrimination, violence or racial hatred, and (iii) aggravating circumstances for offences committed because of a person's race, ethnicity, nationality or religion.

**Anti-terrorism legislation** has been used for instance in the case of the prosecution against the **Nouvel OAS** or the **AOF**. Terrorism is specified as one of the crimes listed in article 421-1 of the criminal code coupled with the *"aim of seriously disturbing public order through intimidation or terror"*. A specificity of the French terrorism legislation is the crime of "criminal association in connection with a terrorist enterprise" (association de malfaiteurs en relation avec une entreprise terroriste) - article 450-1 of the Criminal Code. This provision allows for the prosecution of preparation and intention to commit terrorist acts before they are committed.

Another relevant body of criminal law relates to **discrimination, violence or racial hatred**. This includes provocation to discrimination, racial discrimination of hatred (art. R 625-7 of the Criminal Code), contesting the existence of crimes against humanity (art. 131-35 of the criminal code), violation of a grave characterised by a racist or anti-religious motive (art. 225-18 of the criminal code).

Finally, criminal law also covers instances where a crime is **aggravated** by the intent of targeting someone or a group of people on the grounds of their **race, ethnicity, nationality or religion (art. 132-76 of the criminal code) sex, or actual or supposed sexual orientation or gender identity** (art. 132-77 of the criminal code).

The legacy of France's extreme-right history is also reflected in the country's **administrative law**. A law devised in 1936 is still part of the Code de la Sécurité intérieure sets out the conditions for the **dissolution of an organisation**<sup>205</sup>. These conditions include:

- provoking armed demonstrations in the street;
- be of a paramilitary type,
- have the aim of undermining the integrity of the national territory or of forcibly attacking the republican form of government;
- to have an activity tending to thwart the measures concerning the restoration of republican legality (after the Vichy regime);

<sup>205</sup> *Loi du 10 janvier 1936 sur les groupes de combat et milices privées* now integrated in the Code de la sécurité intérieure.



- aim either to bring together individuals who have been the subject of condemnation for collaboration with the enemy, or to exalt this collaboration;
- either provoke or propagate ideas or theories tending to justify or encourage discrimination and racism (hatred or violence towards a person or a group of people because of their origin or their membership or their non-membership in a specific ethnicity, nation, race or religion);
- engage, on or from French territory, in acts with a view to provoking acts of terrorism in France or abroad.

As such, the law allows for the dissolution of groups or political parties. There has been an ongoing debate about the legality of some radical and extreme right political grouping and parties. A number of organisations have been **dismantled** on the basis of this law over the past few years, including the right-wing extremist organisations **Génération Identitaire**<sup>206</sup>, **Bastion Social**<sup>207</sup> or **l’Oeuvre française**<sup>208</sup>. The banning of the Rassemblement National, has also been the subject of debate in recent years. According to one of the main experts of the radical and extreme right in France, Jean-Yves Camus, there is nothing in the party’s manifesto suggesting it wants to abolish the republic. The concept of national preference (*préférence nationale*), while against the spirit of the constitution, is not a ground for disbanding the party either, as it is part of the democratic debate to discuss what should be included in the constitution.<sup>209</sup> Others suggest that while there were grounds to ban the party in the past, no one would have suggested doing so given the political importance of the party.<sup>210</sup> However, given the fact that the dissolution of an organisation or political party is done by decree, there is no case law on the matter as the decision is taken by the executive, not the judiciary.

A final aspect of administrative law is the “Fiche S”. People who are suspected of being a threat to the safety of the state or of public safety or having links with such people.<sup>211</sup> Fiches S allow intelligence and law enforcement services to collect information. The Fiche S has been criticised given they lack of judicial oversight. Former anti-terrorist judges highlighted the risk of such a system following call for all people subject to a fiche S to be incarcerated.

#### 4.2.2. Other responses to right-wing extremism

Other responses to right-wing extremism include (i) state organisations created to monitor hate crimes (a distinctive feature of right-wing extremism), (ii) civil society initiatives.

In terms of state organisations, that have been set up to monitor and implement measures to combat discrimination and hate crimes, the most important one is the **Commission nationale consultative des droits de l’homme** (CNCDH). The CNCDH acts as counsellor for the government and propose laws, and then survey the application of governmental measures and laws voted in Parliament. The Commission is in charge in particular of evaluating the policy against racism, xenophobia and anti-

<sup>206</sup> Décret du 3 mars 2021, JORF no 54 du 4 mars 2021, texte no 19.

<sup>207</sup> Décret du 24 avril 2019, JORF no 97 du 25 avril 2019, texte no 31.

<sup>208</sup> Décret du 25 juillet 2013, JORF no 173 du 27 juillet 2013, texte no 16.

<sup>209</sup> In Libération, Eric Dupond-Moretti a-t-il affirmé qu’il faut interdire le RN, et est-ce juridiquement possible ?, available at [https://www.liberation.fr/checknews/2020/07/07/eric-dupond-moretti-a-t-il-affirme-qu-il-faut-interdire-le-rn-et-est-ce-juridiquement-possible\\_1793568/](https://www.liberation.fr/checknews/2020/07/07/eric-dupond-moretti-a-t-il-affirme-qu-il-faut-interdire-le-rn-et-est-ce-juridiquement-possible_1793568/) .

<sup>210</sup> See in particular Slate.fr, Le Front national encourt-il, en droit, une dissolution du fait du caractère non républicain de son programme? Available at <http://www.slate.fr/story/89331/fn-dissolution> .

<sup>211</sup> Sénat, Rapport d’information fait au nom de la commission des lois constitutionnelles, de législation, du suffrage universel, du Règlement et d’administration générale (1) par le groupe de travail sur l’amélioration de l’efficacité des fiches S.

Semitism. It publishes each year a report on racism, xenophobia and anti-Semitism setting out the extent to which these phenomena are developed in the country, as well as responses.

The **National Centre for Counter Terrorism** (Coordination nationale du renseignement et de la lutte contre le terrorisme) is charged with monitoring and preventing terrorism.<sup>212</sup> The center focuses on the prevention of terrorism.

Another key aspect of the responses to right-wing extremism is led by **civil society**. Initiatives such as the Marche des libertés in March 2021 organised in 140 cities and town across France called by a number of civil society organisations to raise the risk of far-right extremism as well as perceived risks to civil liberties in France.

The importance of such event should not be underestimated. In the words of a specialist of right-wing extremism in France, in moment where extreme-right activism is re-emerging, one can observe that the responses come mainly from civil society.<sup>213</sup>

### 4.3. Germany

#### 4.3.1. Legal framework

##### Extremism and the German Basic Law

In Germany, the term "extremism" is **not defined by constitutional or criminal law**. It is instead a conceptual tool that German domestic intelligence agencies have been using since 1974.

The **Federal Office for the Protection of the Constitution** distinguishes between "extremism" and "radicalism" on the basis that extremism includes an additional factor of eliminating 'the democratic constitutional state [and] the associated fundamental principles of our constitutional order'<sup>214, 215</sup> In this respect, "extremism" denotes an assumed or proven "anti-constitutionalism," and is aimed at any effort opposing the "principles of the free democratic basic order."<sup>216</sup> Consequently, "(right-wing) extremism" is perceived as a concept that violates human dignity under Section 1 of the German Constitution ("Basic Law") as it denies the existence of universal human rights.<sup>217</sup>

According to a definition by the Office for the Protection of the Constitution, the phenomenon of right-wing extremism can take different forms and include nationalism, anti-Semitic, racist and xenophobic ideological elements<sup>218</sup>. Right-wing extremists assume that belonging to an ethnic group or nation determines a person's real worth. However, this understanding of values contradicts the principle of the free democratic basic order and is therefore in fundamental contradiction to the Basic Law<sup>219</sup>. For

<sup>212</sup> <http://www.academie-renseignement.gouv.fr/coordination.html>.

<sup>213</sup> Dr Bénédicte Laumond, interview : 'Face à l'extrême droite et à sa violence : « Les réponses viennent avant tout de la société civile' in BastaMag, available at <https://www.bastamag.net/Marche-des-Libertes-contre-l-Extreme-droite-Papacito-Zemmour-Le-Pen-RN-identitaires-survivalistes-menace-securite-interieure>.

<sup>214</sup> Federal Office for the Protection of the Constitution, 'Extremismus/Radikalismus [Extremism/Radicalism]', 2019.

<sup>215</sup> Michael Herzog zu Mecklenburg and Ian Anthony (August 2020), Preventing Violent Extremism in Germany: Coherence and cooperation in a decentralised system, SIPRI Working Paper, p. 8.

<sup>216</sup> Counter Extremism Project, Violent right-wing extremism and terrorism – transnational connectivity, definitions, incidents, structures and countermeasures, November 2020, p. 33; Bundesinnenministerium, Verfassungsschutzbericht, 1974 (Bonn, 1975), p. 4.

<sup>217</sup> Bundesministerium des Inneren, für Bau und Heimat, Verfassungsschutzbericht 2017, Berlin, 2018, p. 44.

<sup>218</sup> Bundesamt für Verfassungsschutz. Rechtsextremismus – Begriff und Erscheinungsformen. Available at: [https://www.verfassungsschutz.de/DE/themen/rechtsextremismus/begriff-und-erscheinungsformen/begriff-und-erscheinungsformen\\_artikel.html#doc714132bodyText1](https://www.verfassungsschutz.de/DE/themen/rechtsextremismus/begriff-und-erscheinungsformen/begriff-und-erscheinungsformen_artikel.html#doc714132bodyText1) (accessed on 28.09.2021).

<sup>219</sup> Ibid.



most right-wing extremists, anti-Semitism plays a central role. Moreover, right-wing extremists usually also have an authoritarian understanding of the state, often accompanied by a rejection of the separation of powers that is common in democracies<sup>220</sup>.

The **prohibition of political parties** can happen at the request of the Bundestag, Bundesrat or the Federal Government in accordance with Article 21, Paragraph 2 (Unconstitutionality) of the German Basic Law, upon which the Federal Constitutional Court decides. Such prohibition requests were only successful twice (1952 and 1956) in the history of Germany. It failed in 1995 against the Freedom Labour Party (which later was banned under the **Association Act**) and in 2003 and again in 2017 against the National Democratic Party (NPD). Interestingly, on 17 January 2017, the German Federal Constitutional Court (FCC) ruled on the application of the German Federal Council to find that the NPD was unconstitutional pursuant to Article 21 para. 2 of the German Basic Law. This was already the second such party ban application against the NPD after the initial attempt in 2001 had failed on procedural grounds. While this second application passed the admissibility hurdle, it was ultimately not successful on the content: the FCC found that, while the NPD was clearly determined to undermine and abolish key features of the free democratic basic order of Germany, its actions had such little prospect of success that it could not be deemed unconstitutional<sup>221</sup>.

According to **Article 9 (2) (Freedom of Association) of the German Basic Law**, associations, whose purposes or activities are contrary to criminal law or against the constitutional order or against the concept of international understanding, are forbidden. According to the **German Criminal Code**, “creating, being member of, recruiting members for or supporting a criminal organization, of which the purpose or occupation is focused on the commission of crimes” is a violation of the Basic Law<sup>222</sup>. Similarly, terrorist organisations or criminal groups that “enact or of which the purpose is murdering, killing, genocide, crimes against humanity, war crimes, crimes against personal freedom (extortion, kidnapping or hostage taking), damaging, hurting or threatening a person, people, government or international organization physically or mentally, one’s property or the environment, to damage the aforementioned seriously” are inconsistent with the German constitution<sup>223</sup>.

For associations that operate at Länder-level, the competent prohibition authority is the highest Land authority or the competent authority under Land law in accordance with Section 3 Paragraph 2 Sentence 1 No. 1 of the **Association Act**, the law setting out the rights and duties of associations. For associations operating nationwide, this is the Federal Minister of the Interior in accordance with Section 3 (2) Sentence 1 No. 2 VereinsG<sup>224</sup>. Since 1949, 22 German right-wing extremist organisations have been forbidden, either at federal or at Länder-level.

### Elements in the (criminal) law

In terms of hate crime, Section 46 of the German **Criminal Code** states explicitly that when weighing the seriousness of the offence, courts shall give **particular consideration to the motives and aims** of the offender, particularly where they are of a racist or xenophobic nature or where they otherwise show

<sup>220</sup> Ibid.

<sup>221</sup> Bundesverfassungsgericht, Leitsätze zum Urteil des Zweiten Senats vom 17. Januar 2017 (2 BvB 1/13), available at: [https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2017/01/bs20170117\\_2bvb000113.html](https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2017/01/bs20170117_2bvb000113.html) (accessed on 31.10.2021).

<sup>222</sup> Strafgesetzbuch: § 129 Bildung kriminellen Vereinigungen [Criminal Code: § 129 Creation of a criminal organisation], 2019.

<sup>223</sup> Ibid.

<sup>224</sup> Deutscher Bundestag (2019), Verbot von extremistischen Organisationen, Sachstand (WD 3 - 3000 - 090/19), p. 3; available at: <https://www.bundestag.de/resource/blob/648420/3ce9a136539b1f28a6cc6abe8c29677b/WD-3-090-19-pdf-data.pdf> (accessed on 29.10.2021).

contempt for human dignity<sup>225</sup>. In addition, Section 130 of the Criminal Code sets out the offence of **incitement to hatred**, which is committed by whoever, in a manner capable of disturbing the public peace, incites hatred against a national, racial, religious group or a group defined by its ethnic origins, against segments of the population or individuals because of their belonging to one of the aforementioned groups or segments of the population, or calls for violent or arbitrary measures against them; and also by whoever assaults the human dignity of others by insulting, maliciously maligning an aforementioned group, segments of the population or individuals because of their belonging to one of the aforementioned groups or segments of the population, or by defaming segments of the population<sup>226</sup>. This section of the Criminal Code often applies to (though it is not limited to) trials relating to **Holocaust denial** in Germany.

Section 86 of the German Criminal Code prohibits the **dissemination of propaganda material of unconstitutional organisations**<sup>227</sup>. In terms of the **use of symbols of unconstitutional organisations**, section 86a outlaws the "use of symbols of unconstitutional organisations" outside the contexts of "art or science, research or teaching"<sup>228</sup>. The law does not name the individual symbols to be outlawed, and there is no official exhaustive list, however, symbols known to fall under the law include the swastika, the "Heil Hitler" and "Sieg Heil" greetings, and many more.

As a response to the increasing spread of hate crime and other criminal content, especially on social networks such as Facebook, YouTube and Twitter, the German Bundestag passed the **Network Enforcement Act (NetzDG)**<sup>229</sup> in June 2017. The law introduced compliance rules with fines for providers of social networks regarding the handling of user complaints about hate crime and other criminal content on the Internet, as well as a quarterly reporting obligation for providers. The law also gives victims of violation of their personal rights on the Internet the right to information about the infringer's inventory data, based on a court order. In June 2021, the law amending the Network Enforcement Act came into force<sup>230</sup>. In September 2021, several German media outlets reported that Facebook had finalised several proceedings for violations of the NetzDG and paid a fine of five million euros<sup>231</sup>. Overall, there are 48 fine proceedings against various providers as of 31 August 2021 and a fine has already been imposed in a total of seven cases. In addition to the two fines for Facebook, the American right-wing portal "gab.com" was punished with a fine of 30,000 Euros<sup>232</sup>.

As a consequence of the right-wing extremist terrorist attack on the synagogue in Halle in October 2019, and as a consistent continuation of the NetzDG<sup>233</sup>, the German Federal Ministry of Justice

<sup>225</sup> Germany, Criminal Code, § 46 Strafgesetzbuch, Grundsätze der Strafzumessung.

<sup>226</sup> Germany, Criminal Code, § 130 Strafgesetzbuch, Volksverhetzung.

<sup>227</sup> Germany, Criminal Code, § 86 Strafgesetzbuch, Verbreiten von Propagandamitteln verfassungswidriger und terroristischer Organisationen.

<sup>228</sup> Germany, Criminal Code, § 86a Strafgesetzbuch, Verwenden von Kennzeichen verfassungswidriger und terroristischer Organisationen.

<sup>229</sup> Netzwerkdurchsetzungsgesetz. Bundesministerium für Arbeit und Soziales. 6. April 2020. Archiviert vom Original am 8. Mai 2020. Abgerufen am 8. Mai 2020.

<sup>230</sup> Gesetzes zur Änderung des Netzwerkdurchsetzungsgesetzes vom 3. Juni 2021, Bundesgesetzblatt Jahrgang 2021, Teil I, Nr. 29, ausgegeben zu Bonn am 9. Juni 2021, available at:

[https://www.bgbl.de/xaver/bgbl/start.xav?startbk=Bundesanzeiger\\_BGBl&start=//\\*\[@attr\\_id=%27bgbl121s1436.pdf%27\]#\\_bgbl\\_%2F%2F\\*%5B%40attr\\_id%3D%27bgbl121s1436.pdf%27%5D\\_1635678224386](https://www.bgbl.de/xaver/bgbl/start.xav?startbk=Bundesanzeiger_BGBl&start=//*[@attr_id=%27bgbl121s1436.pdf%27]#_bgbl_%2F%2F*%5B%40attr_id%3D%27bgbl121s1436.pdf%27%5D_1635678224386) (accessed on: 31.10.2021).

<sup>231</sup> Der Tagesspiegel. Hass im Netz: Facebook zahlte fünf Millionen Euro Strafe. 03.09.2021, available at:

<https://www.presseportal.de/pm/2790/5010339>; accessed on 23 September 2021.

<sup>232</sup> Der Tagesspiegel. Hass im Netz: Facebook zahlte fünf Millionen Euro Strafe. 03.09.2021, at:

<https://www.presseportal.de/pm/2790/5010339>; accessed on 23 September 2021.

<sup>233</sup> [https://www.haufe.de/recht/weitere-rechtsgebiete/strafrecht-oeffentl-recht/gesetzespaket-zur-bekaempfung-der-hasskriminalitaet-im-internet\\_204\\_510192.html](https://www.haufe.de/recht/weitere-rechtsgebiete/strafrecht-oeffentl-recht/gesetzespaket-zur-bekaempfung-der-hasskriminalitaet-im-internet_204_510192.html)

developed a **comprehensive package of measures**, the Act to Combat Right-Wing Extremism and Hate Crime on the Internet<sup>234</sup>. The corresponding draft law was passed in February 2020 and the Bundestag and Bundesrat approved the law in the summer of 2020. After that, only the countersignature and execution by the Federal President and finally the promulgation in the Federal Law Gazette were due. However, this phase dragged on due to some of the obligations potentially being unconstitutional. The regulations on access to the inventory data of mobile phone users were particularly controversial. In a decision on § 113 TKG, the Constitutional Court (BVerfG) declared this provision unconstitutional and called for clear legal requirements for the release of inventory data (BVerfG, decision of May 27, 2020, 1 BvR 1873/13 and 2618/13). Inventory data are personal data of customers such as names, addresses, passwords, bank details and IP addresses, such as are collected when concluding or executing contracts. The Mediation Committee that was asked to come in negotiated that information from telecommunications providers to authorities will in future only be possible for the prosecution of criminal offenses and, to a limited extent, for the prosecution of particularly serious administrative offenses. Issuing a password is only permitted for the prosecution of particularly serious crimes. Eventually, in April 2021, an amended version of the law to combat right-wing extremism and hate crime came into force<sup>235</sup> that included an amendment to the Criminal Code (Art. 1) and the Federal Registration Act (Art. 4), and thereby significantly tightened penalties, put greater pressure to investigate to better protect those affected by hate crimes. The law includes the following key points:

- **Definitions of offences under the Criminal Code have been expanded and penalties increased:** While previously only the threat to commit a serious criminal offence was punishable, the law now foresees that threats to commit offences against sexual self-determination, physical integrity, personal liberty and objects of significant value issued to the person concerned or one of their relatives is punishable with up to one year in prison or a fine. If the offence is committed online, the threatened penalty is imprisonment for up to two years. Public insult of other people online is now punishable with up to two years in prison. The protection against defamation and malicious gossip afforded under section 188 of the Criminal Code now also explicitly applies to politicians at all levels, including local politicians, and the offence now also includes insults. Rewarding and approval of offences now also make punishable serious acts that have not yet been committed, but that are suited to disturbing the public peace, as well as the threat to commit offences that would disturb the public peace. Moreover, anti-Semitic motives are now explicitly included as one of the motives that will lead to an increase in the penalty imposed. Finally, the new law aims to better protect emergency responders, including medical emergency staff and staff in hospital emergency departments, against assault<sup>236</sup>.
- **Social networks will be required to report hate speech to the Federal Criminal Police Office:** Social networks are obliged to delete posts which constitute an offence, but will also have to report them to the Federal Criminal Police Office (BKA) in serious cases, so that a

<sup>234</sup> Entwurf eines Gesetzes zur Bekämpfung des Rechtsextremismus und der Hasskriminalität, available at: [https://www.bmj.de/SharedDocs/Gesetzgebungsverfahren/Dokumente/RegE\\_Bekaempfung\\_Hasskriminalitaet.pdf?\\_\\_blob=publicationFile&v=4](https://www.bmj.de/SharedDocs/Gesetzgebungsverfahren/Dokumente/RegE_Bekaempfung_Hasskriminalitaet.pdf?__blob=publicationFile&v=4) (accessed on: 10.02.2022).

<sup>235</sup> [Gesetz zur Bekämpfung des Rechtsextremismus und der Hasskriminalität vom 30. März 2021, Bundesgesetzblatt Jahrgang 2021 Teil I Nr. 13, ausgegeben zu Bonn am 1. April 2021, p. 441, available at: https://www.bmj.de/SharedDocs/Gesetzgebungsverfahren/Dokumente/Bgbl\\_Bekaempfung\\_Rechtsextremismus\\_Hasskriminalitaet.pdf?\\_\\_blob=publicationFile&v=3](https://www.bmj.de/SharedDocs/Gesetzgebungsverfahren/Dokumente/Bgbl_Bekaempfung_Rechtsextremismus_Hasskriminalitaet.pdf?__blob=publicationFile&v=3) (accessed on 10.02.2022).

<sup>236</sup> Federal Ministry of Justice and Consumer Protection, Legislative package to combat hate and hate speech has entered into force, 19 May 2021, available at: <https://www.bmjv.de/EN/FocusTopics/Legislative-package-combat-hate-hate-speech.html?nn=6427850> (accessed on 29.09.2021).

prosecution can be launched. This reporting obligation will enter into effect on 1 February 2022. In order to be able to quickly identify offenders, social networks will then be required to notify the Federal Criminal Police Office of any posts which contain hate speech, as well as of the IP address and port number issued to the user profile. The obligation covers a number of offences, including the dissemination of propaganda material and use of symbols of unconstitutional organisations, preparation of a serious violent offence endangering the state and forming and supporting criminal and terrorist organisations, incitement of the masses and depictions of violence and disturbing the public peace by threatening to commit offences, regarding and approval of offences, threatening the commission of a serious criminal offence against life, sexual self-determination, physical integrity or personal liberty, and the dissemination of child pornographic photographs and other images<sup>237</sup>. In addition, social networks will in future be required to inform users about how and where they can report an offence and, where necessary, request prosecution.

- **Blocks on releasing information under the Federal Act on Registration are easier to register:** It will be easier for the victims of threats, insults and unauthorised stalking to have a block on releasing information entered in the population register, and their personal information can no longer be disclosed to others. The authorities responsible will in future be required to take account of whether a data subject belongs to those groups of people who are likely to be exposed to hostility or attacks on account of their professional activities or voluntary work<sup>238</sup>.

#### 4.3.2. Other responses to right-wing extremism

Most recently, in March 2020, shortly after the attacks in Halle and Hanau and the murder of Dr. Walter Lübcke (a CDU local government official), the German government set up a **cabinet committee to combat right-wing extremism and racism**. On 12 May 2021, the Federal Cabinet published its **final report**<sup>239</sup>. The report included 89 measures, mainly promoting research and prevention, strengthening security authorities, the judiciary and civil society and expanding the legal basis for the fight against hate crime. In summary, the following measures were proposed:

- Improved promotion of civil society engagement for a defensive democracy;
- New positions and better structures for greater effectiveness of the security authorities;
- Tightening of gun law;
- New criminal offences for the dissemination of enemy lists;
- Obligation to report for providers and better prosecution in the event of hatred online;
- Initiation of a scientific study on racism in society;
- Strong support from victims and their relatives;
- More prevention and education.

<sup>237</sup> Federal Ministry of Justice and Consumer Protection, Legislative package to combat hate and hate speech has entered into force, 19 May 2021, available at: <https://www.bmju.de/EN/FocusTopics/Legislative-package-combat-hate-hate-speech.html?nn=6427850> (accessed on 29.09.2021).

<sup>238</sup> Federal Ministry of Justice and Consumer Protection, Legislative package to combat hate and hate speech has entered into force, 19 May 2021, available at: <https://www.bmju.de/EN/FocusTopics/Legislative-package-combat-hate-hate-speech.html?nn=6427850> (accessed on 29.09.2021).

<sup>239</sup> Federal Government of the Federal Republic of Germany, "Abschlussbericht des Kabinettsausschusses zur Bekämpfung von Rechtsextremismus und Rassismus", available at: [https://www.bmi.bund.de/SharedDocs/downloads/DE/veroeffentlichungen/themen/sicherheit/abschlussbericht-kabinettsausschuss-rechtsextremismus.pdf?\\_\\_blob=publicationFile&v=2](https://www.bmi.bund.de/SharedDocs/downloads/DE/veroeffentlichungen/themen/sicherheit/abschlussbericht-kabinettsausschuss-rechtsextremismus.pdf?__blob=publicationFile&v=2)

Over the period 2021 to 2024, the German government is to provide a total of over one billion Euros to fight racism and right-wing extremism<sup>240</sup>.

Prior to the Cabinet report and proposed measures, the top-line strategic document outlining the approach taken to preventing violent extremism in Germany was the **Strategy of the Federal Government on Extremism Prevention and Promotion of Democracy** published in 2016<sup>241</sup>. The strategy pursues a cross-phenomenon approach and is directed against all forms of misanthropic ideologies. Different forms of extremism are named as focal points, including right-wing extremism, left-wing extremism, Islamism and Islamophobia. Accordingly, the prevention of extremism includes all measures that are intended to prevent and counteract the rejection of the values of the Basic Law and the democratic constitutional state. The key fields of action of the strategy are (1) Political education, intercultural learning and democracy work; (2) Civil society engagement; (3) Advice, monitoring and intervention; (4) Media and internet; (5) Research; (6) International cooperation.

However, the German government already started to promote programmes and measures to prevent extremism after 1992. By 2021, there is a very large number of initiatives by the federal government. These often included the **promotion of democracy** and the **support and networking of civil society organisations against right-wing extremism** and to give this engagement **greater public resonance**.

Most notably, in 2015, the **“Demokratie leben! Für ein vielfältiges, gewaltfreies und demokratisches Miteinander”** (Live Democracy! For a diverse, non-violent and democratic society programme) was introduced. The programme is divided into two main pillars: (1) Sustainable Structures (including federal support to non-governmental groups; state level support; support to municipalities), and (2) Pilot Projects<sup>242</sup>. The Pilot Projects include initiatives across politically and religiously motivated extremism, emphasising civic engagement and diversity at the workplace; strengthening democracy in the education sector; living together in a diverse society; strengthening civic engagement on the web (with a focus against online hate speech); and prevention and de-radicalization in prison and probation services. These pilot projects are expected to incubate different approaches to see which are effective<sup>243</sup>.

The second recent big initiative is the **“Zusammenhalt durch Teilhabe”** (Cohesion through participation programme) of the Federal Ministry of the Interior, which has existed since 2010 and is executed by the Federal Centre for Political Education (Bundeszentrale für politische Bildung)<sup>244</sup>. The programme is particularly dedicated to the project funding of clubs and associations in structurally weak and rural regions. It also aims at strengthening democratic participation in the community through already qualified and involved associations and social clubs and also supports pilot projects that test methods to strengthen participation and engagement.

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<sup>240</sup> Abschlussbericht des Kabinettsausschusses zur Bekämpfung von Rechtsextremismus und Rassismus, available at: <https://www.bmi.bund.de/SharedDocs/downloads/DE/veroeffentlichungen/themen/sicherheit/abschlussbericht-kabinettsausschuss-rechtsextremismus.html> (accessed on 29.09.2021).

<sup>241</sup> Federal Government of the Federal Republic of Germany, ‘Strategie der Bundesregierung zur Extremismusprävention und Demokratieförderung [Strategy of the Federal Government on Extremism Prevention and Promotion of Democracy]’, 2016.

<sup>242</sup> Federal Government of the Federal Republic of Germany, ‘Strategie der Bundesregierung zur Extremismusprävention und Demokratieförderung [Strategy of the Federal Government on Extremism Prevention and Promotion of Democracy]’, 2016, p. 14.

<sup>243</sup> Ibid.

<sup>244</sup> Zusammenhalt durch Teilhabe’, Bundeszentrale für politische Bildung, (2018).



Another response to right-wing extremism in Germany is **surveillance**. The **Federal Office for the Protection of the Constitution** (Bundesamt für Verfassungsschutz) is the German federal domestic intelligence agency. The Office publishes a yearly report, which raises awareness about anti-constitutional activities, including right-wing political extremism<sup>245</sup>. When presenting the 2020 Constitutional Protection Report in May 2020, Horst Seehofer, Minister of the Interior, stated that "Right-wing extremism remains the greatest threat to security" in Germany<sup>246</sup>.

## 4.4. Hungary

### 4.4.1. Legal framework

There are no specific mentions of right-wing extremism in **Hungarian criminal law**. In Hungary, the **Criminal Code** provides more severe sanctions for **hate crimes**: assault, coercion and anti-social behaviour committed with a bias motive constitute a crime called violence against a member of a community. Bias motivation is considered a qualifying or aggravating circumstance in the case of several other crimes.

Most often non-violent cases of right-wing extremism are prosecuted under Section 332 of the Criminal Code, **Incitement against a Community**: "Any person who, before the public at large, incites violence or hatred against: a) the Hungarian nation; b) any national, ethnic, racial or religious group or a member of such a group; or c) certain societal groups or a member of such a group, in particular on the grounds of disability, gender identity or sexual orientation is guilty of a felony punishable by imprisonment not exceeding three years"<sup>247</sup>.

Recent legislative changes have a negative influence on the protection of the rights of the vulnerable groups targeted by right-wing extremist groups, like Roma and LGBTQ+ persons. Fidesz enjoyed a qualified parliamentary majority (2/3 of the votes) in the 2010-2014 parliament and simple majority since 2015, allowing it to introduce amendments to the existing legislation in line with its policy towards the Roma minority, migrants and the LGBTQ+ community. Examples include the amendment of migration laws during the migration crisis of 2015 and the anti-Roma campaign launched by Prime Minister Orbán in 2020 in response to a court awarding pecuniary damages to Roma pupils for school segregation in the town of Gyöngyöspata. As a result, the parliament amended public education laws to prevent courts from awarding pecuniary damages for similar future claims<sup>248</sup>.

Critics of the Hungarian legislative framework applied to offences by right-wing extremist groups have noted that the same article providing protection for vulnerable groups includes a mention of the 'Hungarian nation' which can hardly be described as a vulnerable group. Court sentences against perpetrators of Roma origin attacking members of vigilante group have cited this provision of the Criminal Code (ignoring the context of the victims' anti-Roma vigilantism)<sup>249</sup>.

While legislation for the prosecution of right-wing extremist crime is in place, the **actual hate crime committed by right-wing groups often are not registered as hate crimes** and remain unprosecuted. The vast majority of the Hungarian legal scientific literature and NGO guidelines are

<sup>245</sup> [https://www.verfassungsschutz.de/DE/home/home\\_node.html](https://www.verfassungsschutz.de/DE/home/home_node.html).

<sup>246</sup> <https://www.bmi.bund.de/SharedDocs/kurzmeldungen/DE/2021/05/pmk-2020.html>.

<sup>247</sup> Hungarian Criminal Code (2012).

<sup>248</sup> Freedom House, Freedom in the World 2021/Hungary (available at: <https://freedomhouse.org/country/hungary/freedom-world/2021>, retrieved on 2 September 2021).

<sup>249</sup> Szilveszter Póczik and Eszter Sári, *Vigilante Militias and Activities against Roma and Migrants in Hungary*, p.114-117.

critical of the handling of hate-crimes, in terms of false qualification and disguised crimes. The judicial decisions tend to qualify acts of right-wing extremism as public vandalism or other crime without the element of bias<sup>250</sup>.

The Hungarian Criminal Code contains provisions related to criminal activities setting out the definition of terrorism, include ancillary crimes (Section 314-320 of the Criminal Code).<sup>251</sup>

The **Fundamental Law of Hungary (2011)** contains a general prohibition of discrimination on the basis of an open-ended list of protected grounds, including race, colour, sex and national origin (Article XV). Equal treatment of LGBTQ+ people is problematic. The 9th Amendment of the Hungarian Fundamental Law added the following sentence to the definition of a family: 'The mother is a woman and the father is a man'.<sup>252</sup> In May 2020, the Hungarian Parliament adopted a law that reversed the legal recognition of gender reassignment for trans and intersex people. Two months later, the European Court of Human Rights (ECtHR) decided on an earlier application against Hungary and ruled that the denial of legal gender recognition to non-Hungarian citizens legally residing in the country violates Article 8 of the European Convention on Human Rights.<sup>253</sup>

#### 4.4.2. Other responses to right-wing extremism

Given the limited response to acts of right-wing extremism by law enforcement and the courts, **NGOs** in Hungary are a significant factor in opposing right-wing extremism and providing support to its victims. As the mission and activities of such NGOs are often in direct conflict with the policy of Orbán's government as illustrated above, they have been the target of hostile campaigns and legislation designed to marginalise their work and to present them as 'foreign agents' interfering with Hungary's internal affairs.

A prominent coalition of NGOs and independent activists supporting victims of right-wing extremism is the **Working Group against Hate Crimes (GYEM)**, founded in 2012. It consists of four NGOs: **Amnesty International Hungary**, the Hungarian chapter Amnesty International; **Háttér Society**, an NGO fighting for equal rights and social acceptance for LGBTQ+ people; **Hungarian Helsinki Committee**, an NGO in support of the oppressed, refugees and detainees; and the **Hungarian Civil Liberties Union (TASZ)**, a human rights NGO. The goals of the working group are to fight hate crimes through establishing a more effective **legal and institutional framework** for state responses to hate crimes; **encouraging victims** to initiate legal proceedings; and creating a **social environment** rejecting hate crimes.

The activities of NGOs opposing right-wing extremism include influencing legislation and providing professional recommendations for strengthening state responses to hate crimes; research on hate crimes and combating of hate crimes; training of professionals dealing with hate crimes; and pro bono legal advice and representation of victims of hate crimes.

<sup>250</sup> Ibid., p.117.

<sup>251</sup> Hungarian Criminal Code (2012).

<sup>252</sup> Franet National contribution to the FRA Fundamental Rights Report 2021 Hungary, p.4.

<sup>253</sup> FRA, Fundamental Rights Report 2021, p.81.

## 4.5. Italy

### 4.5.1. Legal framework

The legal framework to combat right-wing extremism can be identified in a number of criminal offences defined by the Italian Constitution and Criminal Code. The **Italian Constitution**, states that states that *"it shall be forbidden to reorganise, under any form whatsoever, the dissolved Fascist party."*<sup>254</sup> Furthermore, the Constitution includes articles stating the equality of citizens before the law "without distinction of sex, race, language, religion, political opinion, personal and social conditions" (art. 3). The only associations which are forbidden by the Constitution (art. 18) are those *"that are [...] forbidden by criminal law. Secret associations and associations that, even indirectly, pursue political aims by means of organisations having a military character shall be forbidden"*.

In terms of **criminal law**, the most notable laws are the *Legge Scelba* (Scelba Law) and the *Legge Mancino* (Mancino Law). The Scelba Law (Law no. 645/1952) was the first law introducing the crime of *apologia del fascismo* (apology of fascism) into the Italian legal system. The law, named after the then Interior Minister Mario Scelba, was passed in 1952 to implement the provision of the Italian Constitution, relating to the dissolving of the fascist party.<sup>255</sup> The Article 4 of the Scelba Law sanctions anyone who promotes or organises in any form, the constitution of an association, a movement or a group having the characteristics and pursuing the purposes of reorganising the dissolved fascist party. The penalty is imprisonment from five to twelve years. Furthermore, the law punishes anyone publicly exalting the exponents, principles, facts or methods of fascism, or its anti-democratic aims — therefore also propaganda.

The Scelba Law was further supplemented by the Mancino Law (Law no. 205/1993), which further specifies the provisions of the Scelba Law to punish hate crime and racial discrimination. The law, passed in 1993, amended Law no. 654/1975 that ratified the International Convention on the Elimination of All Forms of Racial Discrimination — adopted in 1965 and entered into force in 1969. The Mancino Law punishes the propaganda of ideas based on superiority or on racial and ethnic hatred, or whoever instigates or commits acts of discrimination for racial, ethnic, national or religious reasons, with imprisonment of up to one year and six months or with a fine of up to 6,000 euros.<sup>256</sup> In addition, the law introduces "a general aggravating circumstance for all offences committed with a view to discrimination on racial, ethnic, national or religious ground or in order to help organisations with such purposes. Any racially aggravated offence is prosecuted *ex officio*".<sup>257</sup> Pursuant to Legislative Decree 21/2018, the aggravating circumstance has become art. 604-ter of the Italian Criminal Code, while the former article 3 of the Law no. 654/75 has become art. 604-bis of the Italian Criminal Code. The latter article can be considered as a regulatory tool to counteract hate speech, as it punishes the "Propaganda and incitement to crime for reasons of racial, ethnic and religious discrimination". In this regard, it is important to mention the first case of hate speech submitted to the Italian Supreme Court of Cassation (Supreme Court) in 2015. With Judgment no. 36906 of 14/09/2015, the Supreme Court reviewed the decision made by the Court of Appeal of Trieste which had confirmed the fine of 3,000 euros to an individual found guilty of the crime of racial hatred propaganda under Law no. 654/1975 (art. 3), for having written *"Basta stranieri"* (enough of foreigners) on an election leaflet. In reviewing the judgment, the Supreme Court affirmed that such expression, used in the context of the so-called political criticism,

<sup>254</sup> See [https://www.senato.it/1025?sezione=140&articolo\\_numero\\_articolo=XII](https://www.senato.it/1025?sezione=140&articolo_numero_articolo=XII).

<sup>255</sup> See [https://www.senato.it/1025?sezione=140&articolo\\_numero\\_articolo=XII](https://www.senato.it/1025?sezione=140&articolo_numero_articolo=XII).

<sup>256</sup> <https://www.legislationline.org/legislation/country/22/section/legislation/topic/4>.

<sup>257</sup> *Ibid.*



did not constitute racial hatred propaganda. In addition, the Supreme Court specified that hate speech cannot tout court integrate the crime of propaganda of racist ideas, as they still constitute a free expression of thought, which, as a constitutionally guaranteed right pursuant to art. 21 of the Constitution, tolerates limits only when faced with the need to protect constitutional rights of equal rank.<sup>258</sup>

Lastly, over the last five years two bills have been presented to the Italian Parliament to regulate and criminalise individuals' behaviour associated with far-right ideologies. In 2017, the deputy of the Democratic Party Emanuele Fiano presented a new bill on the apology for fascism. The Chamber of Deputies approved the proposal, but the term of the legislature put an end to the discussion of the law in the Senate. The "Fiano" bill aimed at introducing in the Italian Criminal Code a new article, 293-bis, to punish anyone propagating images or contents belonging to the fascist party or the German National Socialist party. In 2020, Alessandro Zan, a member of the Democratic Party, introduced the DDL Zan (i.e., the "Zan Bill") in the attempt of extending the Mancino law to homo- and transphobic crimes.<sup>259</sup> The bill aims at criminalising discrimination against members of the LGBTQ+ community (along with other categories included in the Marino law) with a sanction of up to four years of imprisonment or community service. The bill, which has found strong opposition from the two radical right parties of the League and Brothers of Italy, has been approved in the Chamber of Deputies in November, thus passing to the Senate, where it was rejected.<sup>260</sup>

In conclusion, it is important to note the effectiveness of the Italian legal system in prosecuting and preventing right-wing extremist crimes. Regarding the prosecution of such crimes, the application of the Scelba and Mancino law for apology of fascism has often been difficult and controversial because of the conflict arising with the Constitutional Rights of associative freedom (art. 18) and freedom of expression of thought (art. 21). In fact, both laws must guarantee free thinking that can only be compressed in the name of an urgency, that the Constitutional Court in its judgment 74 of 1958 identified in the "concrete danger for the democratic order". Despite the difficulty of individuals' prosecution for the reorganisation of the dissolved fascist party, the extensive **monitoring of police and law enforcement authorities** has led to the arrest of several far-right extremists for their involvement in violent aggression, hate crime and discrimination, and online propaganda.<sup>261</sup> In 2019 the Postal Police monitored more than 2,000 virtual spaces for racial discrimination, right-wing extremism, anti-Semitism, as well as threat of attack to the Rome-Milan railway section.<sup>262</sup> Lastly, other

<sup>258</sup> Over the last decade, the Supreme Court has reviewed other cases, though with different decisions. In particular, in 2009 the Supreme Court (Judgment no. 25184 of 17/08/2009) confirmed the indictment against an individual found guilty, under Law no. 205/1993, of external manifestations (i.e., the Roman salute) belonging to organisations or groups aimed at incitement to discrimination or violence on racial, ethnic, national or religious grounds. In another case, the Supreme Court (Judgment no. 47894 of 22/11/2012) confirmed the indictment against a municipal councilor found guilty, under Law no. 654/1975 (art. 3) and Law no. 85/2006 (art. 13) of manifestation of hate speech during a municipal council (hate and racial discrimination against Roma and Sinti communities).

<sup>259</sup> To date, the Italian legal system does not include criminal or civil provisions regarding hate speech motivated by homophobia or discrimination on the ground of sexual orientation. This limitation has also been noted by the European Union Agency for Fundamental Rights (FRA) in 2009 report. For more information, see FRA. 2009. "Homophobia and Discrimination on Grounds of Sexual Orientation in the EU Member States. Part I-Legal Analysis." Publications Office of the European Union. [https://fra.europa.eu/sites/default/files/fra\\_uploads/192-FRA\\_hdgso\\_report\\_Part%20I\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/192-FRA_hdgso_report_Part%20I_en.pdf).

<sup>260</sup> D'Angelo, Vincenzo. "The DDL Zan: what it is + why it's necessary." *The Florentine*, 7 June 2021. <https://www.theflorentine.net/2021/06/07/ddl-zan-italy-why-it-is-necessary/>

<sup>261</sup> E.g., see Bubola, Emma. "I numeri di CasaPound: 20 arresti e 359 denunce in 5 anni" *Open*, 1 May 2019. <https://www.open.online/2019/05/01/i-numeri-di-casapound-20-arresti-e-359-denunce-in-5-anni/>

<sup>262</sup> *Sicurezza Internazionale*. "L'Italia e l'estremismo di destra," 20 February 2020. <https://sicurezzainternazionale.luiss.it/2020/02/20/italia-estremismo-destra/>

major police operations have led to the discovery of large amount of weapons and explosives owned by far-right extremist groups being monitored across Italy.<sup>263</sup>

#### 4.5.2. Other responses to right-wing extremism

At national level, two government bodies implement measures against discrimination and hate crimes: the **Ufficio Nazionale Antidiscriminazioni Razziali (UNAR)** and the **Osservatorio per la Sicurezza Contro gli Atti Discriminatori (OSCAD)**. The former combats all forms of discrimination and has built a network of regional centres that collect complaints and work with local authorities. The OSCAD, operated by the police and the Carabinieri, collects data on hate crimes since 2013. The observatory is also responsible for data monitoring, training for law enforcement and the improvement of the cooperation among different police agencies and stakeholders. In this regard, civil society stakeholders have actively developed different preventive measures: educational tools against (Islamophobic) hate speech online, the training module Counter-Narration for Counterterrorism (C4C) for schools which focuses on victims' testimonies, the EXIT program for the deradicalisation of individuals, and the project Eurotopia for countering far-right propaganda online. Moreover, organisations like the Milan Bar Association offer free legal advice to victims of hate crimes and far-right violence.<sup>264</sup> Lastly, the **Rete nazionale per il contrasto ai discorsi e ai fenomeni d'odio** (National Network for the Fight against Hate Speech and Hate Phenomena) was established in 2020. The network brings together NGOs, researchers, observatories and the National Anti-Racial Discrimination Office to monitor and prevent hate speech online as well as to develop counter-narratives.<sup>265</sup>

Other responses to far-right groups and neo-fascists include the organisation of **protests and boycotts**. Activists from anti-fascist groups as the National Association of Italian Partisans (ANPI) regularly organise counter-protests and denounce neo-Nazis to the police.<sup>266</sup> In 2019, about 200,000 participants took part in the anti-discrimination march in Milan and the "Sardines" movement mobilised tens of thousands of protestors who rallied against the success of far-right parties in the upcoming elections.<sup>267</sup> In the same year, several Italian authors and the Auschwitz museum decided to withdraw from the book fair *Salone del Libro* in Turin due to the participation of the founder of the neo-fascist publishing house Altaforte, who was consequently barred from the international fair.<sup>268</sup> The president of the Piedmont region and the mayor of Turin denounced him for apology of fascism on the grounds of the Legge Scelba and the violation of the Legge Mancino.<sup>269</sup> The municipality of Predappio,

<sup>263</sup> Operation "Ombre nere" (Black shadows). See <https://www.poliziadistato.it/articolo/135ddf8ca3b32d5188675224>

<sup>264</sup> Capozzoli, Giancarlo. "Fino a prova contraria." Interview with Luca Guglieminetti, *L'Espresso*, 13 June 2021. <http://fino-a-prova-contraria.blogautore.espresso.repubblica.it/2021/06/13/prevenzione-degli-estremismi-violenti-sfide-pratiche-e-politiche-da-torino-ai-livelli-nazionale-ed-europeo-una-intervista-a-luca-guglieminetti-ran-ambassador-in-italia/>.

<sup>265</sup> See <https://www.retecontroloodio.org/chi-siamo/>

<sup>266</sup> Alietti, Alfredo, and Dario Padovan. 2019. "Islamophobia in Italy: National Report 2018." In *European Islamophobia Report 2018*, edited by Enes Bayraklı & Farid Hafez.

<sup>267</sup> Tondo, Lorenzo. "Sardines' against Salvini: Italy's fight against the far right." *The Guardian*, 14 December 2019. <https://www.theguardian.com/world/2019/dec/14/sardines-pack-piazza-in-rome-for-protest-against-matteo-salvini>.

<sup>268</sup> De Luca, Davide Maria. "Da dove arriva l'estrema destra?" *Il Post*, 23 May 2019. <https://www.ilpost.it/2019/05/08/storia-estrema-destra/>.

<sup>269</sup> Longhin, Diego. "Salone del libro, la mossa di Appendino e Chiamparino: "Denunciamo Altaforte per apologia di fascismo." *La Repubblica*, 07 May 2019. [https://torino.repubblica.it/cronaca/2019/05/07/news/saviano\\_va\\_al\\_salone\\_del\\_libro\\_e\\_lagioia-225675440/](https://torino.repubblica.it/cronaca/2019/05/07/news/saviano_va_al_salone_del_libro_e_lagioia-225675440/).

Mussolini's birth place, also planned to open a documentation centre on fascism in reaction to neo-fascist pilgrimages.<sup>270</sup> In 2020, anti-racist *Black lives matter* protests took place across the country.<sup>271</sup>

In some instances also private companies have developed responses to right-wing extremism. In 2019, **Facebook** deactivated *CasaPound Italia's* social media pages, including the profiles of several politicians. However, the Court of Rome confirmed the decision of the lower courts stating that the social media pages deactivation had been unlawful as the group had not violated the terms of use.<sup>272</sup>

## 4.6. Poland

### 4.6.1. Legal framework

According to Article 13 of **Poland's Constitution**, "Political parties and other organisations whose programmes are based upon totalitarian methods and the modes of activity of Nazism, fascism and communism, as well as those whose programmes or activities sanction racial or national hatred, the application of violence for the purpose of obtaining power or to influence the State policy, or provide for the secrecy of their own structure or membership, shall be prohibited."<sup>273</sup> Further, Article 32 and 35 ban discrimination in political, social or economic life for any reason whatsoever and guarantee the protection of national and ethnic minorities' rights.<sup>274</sup> The latter provisions are further present in other acts such as the Act on National and Ethnic Minorities and Regional Language, the Labour Code Act and the Law on Employment and Countering Unemployment.<sup>275</sup>

The **Polish Criminal Code**<sup>276</sup> (Kodeks Karny), in its Chapter XVI, discusses offences against peace, humanity and war crimes. It penalises crimes motivated by nationality, ethnicity, racism, politics, religion or worldview. A broad range of crimes are covered from genocide, manslaughter, physical harm, relocation to harassment. More specifically, Article 118 criminalises homicide, serious injury, creation of threatening living conditions and attacks against national, ethnical, racial, political or religious group or a group with a different perspective of life and Article 119 criminalises violence or unlawful threats towards a person or group of persons on grounds of their national, ethnic, political or religious affiliation, or lack of religious beliefs. The incitement of others to commit the above-mentioned crimes or to hatred on grounds of national, ethnic, race or religious affiliation, or lack of religious belief is also criminalised.<sup>277</sup> Further on, Article 256 states that "§1. Whoever publicly promotes a fascist or other totalitarian regime state or incites hatred on the basis of national or ethnic differences, racial, religious or non-denominational, shall be subject to a fine, the penalty of restriction of liberty or the penalty of deprivation of liberty up to 2 years. §2. The same punishment applies to anyone who

<sup>270</sup> Heywood, Paolo. 2019. "Fascism, uncensored. Legalism and neo-fascist pilgrimage in Predappio, Italy." *Terrain. Anthropologie & sciences humaines*, 72.

<sup>271</sup> Turati, Sofia. "Black lives matter in Italia: le manifestazioni in programma." *Pressenza*, 03 June 2020. <https://www.pressenza.com/it/2020/06/black-lives-matter-in-italia-le-manifestazioni-in-programma/>.

<sup>272</sup> Luna, Riccardo. "CasaPound torna su Facebook: "Vittoria del pensiero non allineato."" *La Repubblica*, 12 December 2019. [https://www.repubblica.it/tecnologia/social-network/2019/12/13/news/facebook\\_riapre\\_la\\_pagina\\_di\\_casapound\\_rispettata\\_l\\_ordinanza\\_del\\_tribunale\\_-243\\_39\\_90\\_29/](https://www.repubblica.it/tecnologia/social-network/2019/12/13/news/facebook_riapre_la_pagina_di_casapound_rispettata_l_ordinanza_del_tribunale_-243_39_90_29/).

<sup>273</sup> Sejm of the Republic of Poland (1997). *The Constitution of the Republic of Poland*. Available at: <https://www.sejm.gov.pl/prawo/konst/angielski/kon1.htm>.

<sup>274</sup> Ibid.

<sup>275</sup> Kasproicz, p. 3.

<sup>276</sup> Sejm of the Republic of Poland (1997). *Kodeks Karny*. Available at: <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU19970880553/U/D19970553Lj.pdf>.

<sup>277</sup> Ibid.

produces or records for the purpose of dissemination or imports, purchases, stores, holds, presents, transports or transmits a print, recording or other item containing the content specified in §1 or being carrier of fascist, communist or other totalitarian symbolism. §3. The perpetrator of the prohibited act specified in §2 does not commit a crime, if he has committed this act as part of an artistic or educational activity, collector's or scientific."<sup>278</sup>

Finally, Section 257 sets out the offence of publicly insulting a group of the population or a particular person on the same grounds or breaching the personal inviolability of a person on these grounds.<sup>279</sup>

A report by FRA<sup>280</sup> analysing Poland's legislation in this respect points out that **the Criminal Code does not include any general or specific aggravating circumstance related to bias motivation**. Indeed, in its concluding observations on Poland's latest periodic reports to the body, the United Nations Office of the High Commissioner for Human Rights (OHCHR) expressed its concern that "'colour' and 'descent' as grounds for inciting hatred are missing from [the CC] definition and "that the Criminal Code still does not contain a provision expressly establishing racist motives of a crime as an aggravating circumstance."<sup>281</sup> Yet, Article 53 of the Code indicates that in determining a punishment a judge takes into account a motivations of the wrong-doer.

As regards **hate speech** specifically, a report by the Article 19 civil society organisation financed by the EU says that "although Polish legislation guarantees both the right to freedom of expression and the right to equality, it does not fully comply with international freedom of expression standards applicable in this area. The primary shortfalls include the limited scope of protection against incitement in the criminal law, in particular the failure to include sexual orientation, gender identity, and disability among the protected grounds; as well as the continued existence of provisions prohibiting blasphemy/defamation of religion and a problematic application of these provisions."<sup>282</sup>

Poland's criminal code has seen the introduction of the concept of terrorism in 2004; it has evolved since. In 2016, the anti-terrorism law<sup>283</sup> was passed broadening the powers of the Internal Security Agency.

#### 4.6.2. Other responses to right-wing extremism

The Polish government has put concrete efforts into countering right-wing extremism, apart from law enforcement measures (on law enforcement effectiveness, see section 1.5 below). According to Poland's latest periodic reports to the UN's OHCHR, as quoted by the latter organisation, "[a] series of training sessions to combat hate crimes and racist and xenophobic offences had been launched in 2015, focused primarily on the legal aspects of fighting crimes motivated by prejudices, including offences committed through the Internet. Between 2015 and 2019, a total of 196 police officers had been trained. Since 2009, the **Polish police** has been implementing the Law Enforcement Officer Programme on Combating Hate Crime, focused on ensuring the safety of the potential victims of hate crimes. The Police Action Plan for 2018–2021, a community outreach and prevention programme,

<sup>278</sup> Ibid.

<sup>279</sup> Ibid.

<sup>280</sup> European Union Agency for Fundamental Rights (2018). *Hate crime recording and data collection practice across the EU*, p. 74. Available at: [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2018-hate-crime-recording\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2018-hate-crime-recording_en.pdf).

<sup>281</sup> United Nations Office of the High Commissioner for Human Rights (2019). "Concluding observations on the combined twenty-second to twenty-fourth periodic reports of Poland", p. 4. Available at: [https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/POL/CERD\\_C\\_POL\\_CO\\_22-24\\_36935\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/POL/CERD_C_POL_CO_22-24_36935_E.pdf).

<sup>282</sup> Article 19 (2018). *Poland: Responding to 'hate speech'. Country Report 2018*, p. 4. Available at: <https://www.article19.org/wp-content/uploads/2018/04/Poland-Hate-Speech.pdf>.

<sup>283</sup> Poland, Act on anti-terrorist actions (*Ustawa o działaniach antyterrorystycznych*), 10 June 2016.

aimed to counteract the promotion of fascism and other totalitarian systems and crimes of incitement to hatred based on national, ethnic, race or religious differences or lack of any religious denomination. In 2016, the Office for Combating Cybercrime had been established at the General Police Headquarters to monitor social media channels, online fora, and online portals of particular national groups and identify prohibited acts, including hate crimes. The National Public Prosecutor's Office had taken steps to increase the effectiveness of prosecutions of crimes based on racial, religious, national or ethnic hatred."<sup>284</sup>

In addition, Polish **civil society and media** have contributed significantly. According to an earlier report, "critical interventions by independent media and civil society have been important in limiting the social respectability of extreme-right tendencies in Polish society."<sup>285</sup> The above mentioned civil society organisation, the Never Again association, is one example: it has been publishing its regular *Brown Book* report on incidents involving hate crime and hate speech.<sup>286</sup> The listings are detailed and comprehensive, covering the entire territory of Poland.

## 4.7. Sweden

### 4.7.1. Legal framework

At present, Swedish legislation does not provide a specific definition of the term "right-wing extremism".

**The Swedish Constitution** provides for a range of rights and obligations that must be taken into account when considering measures related to combating right-wing extremism. Of particular importance is the ban on racist forms of expression, specifically the provision on agitation against a population group. This provision is included in the constitutional "crime catalogue" (Chapter 5 of the Fundamental Law on Freedom of Expression and Chapter 7 of the Freedom of the Press Act) and may in effect constitute a limitation of the freedom of expression as in the exclusion provided under the Fundamental Law on Freedom of Expression and the Freedom of the Press Act.

While Sweden has banned various forms of expressions of racism, there is **no particular ban on racist organizations**. A government investigation report from May 2021 demonstrated a clear need to criminalise racist organizations.<sup>287</sup> It concluded that there is a narrow opening in the Swedish constitutional legal order which could accommodate the criminalization of certain forms of racist organizations. The report further noted that such a ban should be introduced through means of criminalization. More specifically, through criminalizing the act of participating in, forming or providing certain forms of support to a racist organization.

**Agitation against a population group** is a punishable offence under the **Swedish Criminal Code**. The description of the offence is contains three elements<sup>288</sup>:

- take place in a statement or in another communication that is disseminated;
- consist in threats or expressions of contempt, and

<sup>284</sup> United Nations Office of the High Commissioner for Human Rights (2019). "Committee on Racial Discrimination examines report of Poland". Available at:

<https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=24876&LangID=E>.

<sup>285</sup> Pankowski, p. 9.

<sup>286</sup> See Never Again Association, <https://www.nigdywiecej.org/en/brown-book>.

<sup>287</sup> The report of the Investigation Committee can be found in Swedish at: <https://bit.ly/3Ei0cD5>.

<sup>288</sup> Criminal Code, Chapter 16, Section 8.

- refer to an ethnic group or other such group of persons with allusion to race, colour, national or ethnic origin, creed, sexual orientation or transgender identity or expression.

Regarding **racism-related offences**, the Government as well as the Parliament, have on several occasions taken the position that the penal provision on incitement of violence against ethnic groups (in combination with the criminalization of abetting of this offence) in practice means that organizations in Sweden cannot engage in any racist activity without committing criminal offences. In practice, however, preparation as well as the attempt to commit agitation against a population group, is not provided for as a punishable offence. Subsequently, a *de facto* statement or another form of communication that has been disseminated must have occurred for an action to fall within the scope of the provision.

Regarding what is to be considered a statement or other form of communication, the Högsta Domstolen (Swedish Supreme Court) has established that signs, symbols and even clothing can be considered a form of communication falling within the scope of the offence.<sup>289</sup> For criminal liability to be established, the recognition factor however needs to be very high. Furthermore, statements that cannot be considered to exceed the limits of objective criticism of certain groups fall outside the scope of application. According to the preparatory work, criminal responsibility may only be established when it is clear that the statement has exceeded the limits of a factual and valid discussion concerning the group in question.<sup>290</sup>

In the case NJA 1996 p. 577, the Supreme Court established that the wearing of symbols associated with Nazi Germany, such as a swastika, was considered to emit contempt towards ethnic groups other than the Nordic one. Correspondingly, in the case law of the Court of Appeal, the expression "sieg heil" and Hitler greetings have been considered to fall within the scope of the provision (see, for example, the cases RH 1997: 53 and RH 2000: 72).

The Court of Appeal has however in a case from 2020 (B 5303-19), regarding events taking place during an unlicensed demonstration arranged by the Nordiska motståndsrörelsen (NMR), found that they did not constitute agitation against a population group. The Court referred e.g. to the lack of direct references to Nazi Germany. In this case, a large number of demonstrators had worn uniform-like clothing as well as shields painted with the symbol of the organization ("tyrurnan", a symbol also used by the Nazis in the 30s and 40s in Germany), one or more protesters had shouted "hell seger" (hell victory/sieg heil) and a speech, regarding the genocide of the Nordic people that is allegedly taking place due to the "mass immigration" organized by leaders who receive their power from Jewish people, was held.

In the case of other forms of criminalized acts (assault, harassment, unlawful threats or vandalism), where the motive is based on skin colour, ethnicity, creed or sexual orientation, the Criminal Code provides that the motive shall be regarded an **aggravating circumstance** (Chapter 29, Section 2).

There are clear indications pointing that persecution of people of various ethnic background by organized racist activities has **increased in recent years**. In its yearbook for 2019, the *Säkerhetspolisen* assesses that the pro-violence extremism, which was previously primarily limited to a small and organized white power environment, has become increasingly widespread.<sup>291</sup>

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<sup>289</sup> Prop. 1970:87 s. 37 and 73; NJA 1996 p. 577.

<sup>290</sup> SOU 2021:27, p. 120.

<sup>291</sup> Swedish Security Service Yearbook 2019, pp. 7 and 50.



The majority of the activities carried out by currently active organizations are opinion-forming activities in public places and consists of flyer distributions, public gatherings and demonstrations.<sup>292</sup> Increased visibility contributes to increasing people's experience of the threat posed by extremist communities. This means that right-wing extremists do not always have to commit crimes in order to be perceived as a threat to society. The *Säkerhetspolisen* also notes in its yearbook for 2018 that right-wing extremist ideas have succeeded in influencing the public discourse and have gained large media coverage.

#### 4.7.2. Other responses to right-wing extremism

##### *Institutional cooperation*

The **Säkerhetspolisen (Swedish Security Police)** is an intelligence agency, tasked with monitoring and preventing terrorist and extremist threats in the country. The agency cooperates with other intelligence authorities in Sweden, such as the **Military Intelligence and Security Service and the Swedish Armed Forces Radio Institute**. This cooperation has been institutionalised into the **Nationellt centrum för terrorhotbedömning (NCT) (National Center for Terrorist Threat Assessment)**, a permanent working group with staff from the three organizations, whose mandate is to make strategic assessments of the level of threat. The *Säkerhetspolisen* also works in close cooperation with the **Police Authority**, with regard to the exchange of information on various threat reports.

Within the framework of the **Samverkansrådet mot terrorism (Cooperation Council against Terrorism)** there are fourteen Swedish authorities, which actively cooperate with the aim to strengthen Sweden's ability to counter foreign and domestic terrorism and extremist behaviour.

##### *Public outreach*

Dissemination of knowledge and open discussion are considered important tools for counteracting extremism in Sweden. The *Säkerhetspolisen* participate in the public conversation and collaborate with civil society, researchers and the Crime Prevention Council.

*Forum för levande historia* (Forum for Living History) is an authority that has been commissioned by the government to promote democracy, tolerance and human rights. The agency's special task is to inform about the Holocaust and communist regimes crimes against humanity.

## 4.8. Conclusions

States' responses to right-wing extremism can be seen in a continuum

The legislative framework in place in the Member States studied revolves around:

- **Legislation specifically targeting ideologies** and methods associated with right-wing extremism, like Nazism and fascism;
- **Criminal law** on actions undertaken or planned, including specific laws focussing on terrorism;
- Legislation relating to the **registration or dissolution of organisations** or political parties.

This legislative framework follows the working definition of right-wing extremism developed in Chapter 2 of this report, based on ideology and methods. **Non-legislative responses** are also relevant in the response to right-wing extremism.

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<sup>292</sup> Swedish Security Service Yearbook 2018. pp. 38-39.



## Ideology and methods

None of the Member States in which research has been carried out has a definition of "right-wing extremism" or "extreme right" in their constitution or law, but some of them mention Nazism, fascism and communism, which are included in the constitution or in the law for historical reasons. For example, Italian law includes a crime of *apology of fascism*. The Polish constitution forbids parties and organisations whose **methods** are "*those of Nazism, fascism and communism*". In Germany, "(right-wing) extremism" is interpreted as a concept that violates human dignity under Section 1 of the German Constitution ("Basic Law") as it denies the existence of universal human rights.

## Criminal law

The most important body of law and legal response to actions undertaken by right-wing extremists relates to criminal law.

Features of right-wing extremism (racism, anti-Semitism, etc.) are covered by legislation against **hate crimes or their incitement**. This includes for example incitement against a community (HU), crimes against the equality of citizens and against the religious denominations (BG) or agitation against a population group (SE).

In some countries there are issues with the criminalisation of incitement to hatred or hate crime. In Hungary, the list of groups protected against offences by right-wing extremist groups include the 'Hungarian nation'. This provision has been used by vigilante groups to seek prosecution against Roma, showing how a small change to the legal framework can significantly weaken the legislative response to right-wing extremism. Sweden goes further than most countries studied, with case law having established that signs, symbols and even clothing can be considered a form of communication falling within the scope of the offence of agitation against a community.

In Germany, the recent law to combat right-wing extremism and hate crime criminalises threats to commit offences on the basis of right-wing extremism and hate crime.

All Member States covered have a specific body of law regarding **terrorist activities**. Member States in which terrorist acts have taken place more recently, often add new component to their legislative response. For example, France allows for the criminalisation of acts before they take place. This provision allows for the prosecution of preparation and intention to commit terrorist acts before they are committed. France and Germany also have dedicated intelligence agencies who focus or coordinate intelligence relating to terrorism or right-wing extremism.

In Germany, the Federal Office for the Protection of the Constitution (Bundesamt für Verfassungsschutz) monitors all threats to the democratic order in the country. In France, the National Centre for Counter Terrorism (Coordination nationale du renseignement et de la lutte contre le terrorisme). Sweden promotes strong institutional cooperation on intelligence related to terrorist acts.

## Registration or dissolution of organisations

Some Member States have a specific corpus of law on the registration or dissolution of organisations (including political parties). In Bulgaria, political parties must use "democratic means and methods" and "shall not use symbols that infringe on universal human values". France has provisions for the dissolution of organisations which are regularly used to ban some organisations including right-wing extremist ones. In Sweden, there is currently no particular possibility to ban a racist organisation. A recent report pointed to the need of introducing the possibility of such bans.

## Non - legislative responses

In addition to the legislative frameworks assessed above, a number of other responses exists to tackle right-wing extremism. These responses either stem from the state or from civil society.

In terms of **state-sponsored responses**, the first relevant examples are national human rights institutions (NHRIs) or ombudspersons. They include the National Coordinator against Anti-Semitism (BG), the *Ufficio Nazionale Antidiscriminazioni Razziali* (UNAR) and the *Osservatorio per la Sicurezza Contro gli Atti Discriminatori* (OSCAD) in Italy, or the *Commission nationale consultative des droits de l'homme* in France. While these organisations do not have the power to enforce legislation, they collect information and monitor the situation in the Member States.

Germany has a particularly wide-ranging response specifically targeted at right-wing extremism. A cabinet committee set up in 2020 to combat right-wing extremism and racism recently published 89 measures, mainly promoting research and prevention, strengthening security authorities, the judiciary and civil society and expanding the legal basis for the fight against hate crime. In addition, the German government is to provide a total of over one billion Euros to fight racism and right-wing extremism between 2021 and 2024. The main aim of this programme and other previous ones is to strengthen democratic participation in the community through already qualified and involved associations and social clubs. The German approach is holistic in that it targets all forms of radicalisation (or extremism prevention as worded in the national strategy). These efforts, which started in 1992, now focus on the following fields of action: (1) Political education, intercultural learning and democracy work; (2) Civil society engagement; (3) Advice, monitoring and intervention; (4) Media and internet; (5) Research; (6) International cooperation.

Other initiatives such as the training of police officers on hate crime (PL) or the banning of far-right marches (such as the Lukov march in Bulgaria) should also be noted.

While **civil society is important** in all Member States assessed, it is especially so where the government or official response is considered weak (HU, PL).

Anti-discrimination marches in France (such as the *marche des libertés* in March 2021) and Italy and boycotts of events in which right-wing extremists are invited (such as the Turin book fair) are also notable.

Events and campaigns aimed at countering hate speech led by civil society include events, such as Find Another Way, under the project Resilient Youth against Far-Right Extremist Messaging Online (YouthRightOn). Other notable initiatives include knowledge dissemination and open discussion, such as the Mussolini documentation centre (IT), the *forum för levande historia* (Forum for Living History), an authority that has been commissioned by the government to promote democracy, tolerance and human rights (SE), or the Brown book listing incidents involving hate crime and hate speech (PL).

## 4.9. Effectiveness of the Member State response

### 4.9.1. Bulgaria

In terms of **Constitutional provisions**, it should be noted that the characteristics mentioned in the Constitution (see sub-section 4.1.1) form an exhaustive list.<sup>293</sup> The characteristics in the Constitution do

<sup>293</sup> Deliev, B. (2016) *Конституционни аспекти на правото на недискриминация. Механизми на защита*. PhD Dissertation. Sofia: Bulgarian Academy of Science.

not include sexual orientation, even if it is included as a protected characteristic in the Law on Protection from Discrimination. In addition, it is currently not possible for citizens to seek their constitutional rights by referring cases directly to the Constitutional Court.<sup>294</sup> The Bulgarian Constitution defines that “[m]atrimony shall be a free union between a man and a woman”.<sup>295</sup> A recent ruling by the Constitutional Court has indicated that the Bulgarian constitution considers sex to be defined solely by its biological characteristics.<sup>296</sup> Human rights organisations have criticised this interpretation.

Several analyses by civil society and international organisations have pointed out a number of **problems in the legal framework for combatting crimes committed out of prejudice**. In particular, the **Criminal Code** is plagued by conceptual unclarity and omissions. Different Criminal Code provisions mention different characteristics as protected without any clarity as to why this is needed.<sup>297</sup> In addition, no definition has been advanced for racist and xenophobic motivations, despite recommendations by the European Commission against Racism and Intolerance.<sup>298</sup> There is also no legal definition of the term “anti-democratic ideology” and it is not clear what ideologies would fall within the scope of this criminal offence. Significantly, no protection is afforded to the LGBTQ+ minority, as the Criminal Code does not mention sexual orientation or gender identity as a protected characteristic.<sup>299</sup> The Criminal Code also does not oblige the suppression of funding for political parties or other organisations which promote racism.<sup>300</sup> Furthermore, the OSCE along with human rights organisations have called for extending discriminatory motivation as aggravating circumstances to more offences, including robbery, sexual assault<sup>301</sup> etc. and to include homophobic motives as aggravating circumstance.<sup>302</sup> The OSCE has also critiqued putting hooligan motives on equal footing with racist and xenophobic motives.

Aside from problems in the formulation of the legislative framework, there are **significant problems with its implementation**. Firstly, reporting of hate crime is plagued by significant latency, as victims have low trust in the police to solve such crimes.<sup>303</sup> Secondly, the relevant provisions mentioned above are relatively new for the Bulgarian legal system and have not been used extensively. Even when such crimes with discriminatory motives are reported, they might be recorded, prosecuted and tried as another offence. There is evidence that even for crimes where there are indications of a prejudice motive, investigations under more familiar provisions are preferred, especially hooliganism with which the police and prosecution have much more experience.<sup>304</sup> Therefore, the lack of judicial practice on

<sup>294</sup> Ibid.

<sup>295</sup> Constitution of the Republic of Bulgaria.

<sup>296</sup> Bulgarian Constitutional Court Ruling № 15, 26 October 2021.

<sup>297</sup> OSCE Office for Democratic Institutions and Human Rights (2018) *Становище относно определени разпоредби на Наказателния кодекс на България, отнасящи се до престъпления, мотивирани от предразсъдъци, „реч на омразата“ и дискриминация*. Warsaw: ODIHR.

<sup>298</sup> Пушкарова, И. (2019) Слово на омразата. – В: Учебен модул III „Антидискриминационно право – Наказателно-правни аспекти“ за полицейски служители и разследващи полицаи. София: КЗД, МТСП и Институт „Отворено общество“.

<sup>299</sup> OSCE Office for Democratic Institutions and Human Rights (2018) *Становище относно определени разпоредби на Наказателния кодекс на България, отнасящи се до престъпления, мотивирани от предразсъдъци, „реч на омразата“ и дискриминация*. Warsaw: ODIHR.

<sup>300</sup> ECRI. (2017) *ECRI Conclusions on the Implementation of the Recommendations in Respect of Bulgaria*. Strasbourg: ECRI.

<sup>301</sup> OSCE Office for Democratic Institutions and Human Rights (2018) *Становище относно определени разпоредби на Наказателния кодекс на България, отнасящи се до престъпления, мотивирани от предразсъдъци, „реч на омразата“ и дискриминация*. Warsaw: ODIHR.

<sup>302</sup> Amnesty International Bulgaria (2015) *Missing the point: Lack of adequate investigation of hate crimes in Bulgaria*. Sofia: Amnesty International. <https://www.amnesty.org/en/documents/eur15/0001/2015/en/>

<sup>303</sup> Ibid.

<sup>304</sup> Dzhekova, R. et al. (2017) *Situational Assessment of Extremist Trends*. Sofia: CSD.

such crimes has become a self-perpetuating problem. Another problem related to the formulation in the Criminal Code is that due to the grouping of the racist, xenophobic and hooligan motives, data for the three types of motivations is gathered collectively making it particularly difficult to estimate the scale of the most serious and violent hate crimes. The offence of bodily injury with hooligan, racist and xenophobic motives is the relevant Criminal Code article under which the most offences are recorded, even though it is unclear from the data which of the three motives were present.<sup>305</sup> Conversely, other provisions of the CC dealing with crimes related to right-wing extremism are used infrequently.<sup>306</sup> Due to this, the inclusion of this CC article can result in over-inflation of hate crime (see the table below) and vice versa.

**Table 4: Recorded and prosecuted hate crimes and sentences - BG<sup>307</sup>**

Year	Hate crimes recorded by police	Prosecuted	Sentenced
2019	22	432	155
2018	46	6	158
2017	22	9	9
2016	28	299	71
2015	704	752	135

Source: OSCE, Hate Crime Reporting (2019)

In addition, there are possibilities for political actors to bypass party registration laws and procedures and participate in elections or receive public funds through joining coalitions with already established parties. This approach was used by the far-right Nationalist Party of Bulgaria in 2014.<sup>308</sup> As a result, the European Commission against Racism and Intolerance (ECRI) expressed concern over “the ease of official recognition of extremist parties as well as the possibility for them to receive State subsidies.”<sup>309</sup> The Commission recommended Bulgaria to introduce legislation changes in order to stop public financing of organisations or political parties which promote racism.

In addition, the prosecution has not been active in initiating proceedings against the numerous incidents of inflammatory speech against minorities, by members of extreme right-wing parties. Where such instances have reached the courts, this has been on the initiative of citizens and civil society organisations as plaintiffs and Bulgarian courts have not upheld sentences or dismissed cases.<sup>310</sup> For

<sup>305</sup> Ibid.

<sup>306</sup> Ibid.

<sup>307</sup> The discrepancy in the number of prosecutions is probably due to lag in prosecution and sentencing of crimes from past years.

<sup>308</sup> Komentator.bg, „НПБ намери „врата“ в закона и ще участва на евроизборите“, 16.04.2014.

<sup>309</sup> ECRI (2014) ECRI Report on Bulgaria (fifth monitoring cycle), <https://rm.coe.int/fifth-report-on-bulgaria/16808b55d8>, p. 15.

<sup>310</sup> Vojilova, V. (22 February 2021) Осьдиха България заради език на омразата. Български съдилища си бяха затворили очите. *Deutsche Welle*. Available at: <https://www.dw.com/bg/осьдиха-българия-заради-език-на-омразата-български-съдилища-си-бяха-затворили-очите/a-56654397>.

this reason, in 2021 Bulgaria received two sentences by the European Court of Human Rights.<sup>311</sup> Similarly, other offences have also gone unrecognised – two paramilitary formations, the Vasil Levski Military Union and Shipka Bulgarian National Movement, have never been prosecuted for their vigorous propagation for the violent overthrow of the constitutional party system, an offence under CC art. 108.<sup>312</sup>

Similarly, despite the tentative steps mentioned above, in Bulgaria, prevention of all types of violent extremism but specifically right-wing is particularly under-developed.<sup>313</sup> Key institutional actors such as the Ministry of Education have lagged in recognising their role in prevention.<sup>314</sup> As a result, law enforcement has remained the predominant actors in countering extremism and the approach remains focused mostly on repression and counter-terrorism. The appointment of a National Coordinator against Anti-Semitism, while a positive step, should be accompanied by action addressing prejudice and hate crime against other more vilified communities. It remains to be seen what the contribution of the Bulgarian representative to the European Governmental LGBTQ+ Focal Points Network (FPN) will be in protecting LGBTQ+ rights.

Bulgaria faces **serious problems in tackling the threat of right-wing extremism**. The rise in importance of far-right political actors has resulted in further normalization of hate speech and inflammatory discourse. Prevention of all types of extremism remains particularly under-developed and law enforcement remains the key actor in a securitised approach. Tackling crime associated with right-wing extremism is also hindered by several factors: latency in reporting, omissions and unclarity in the Criminal Code, as well as lack of experience in law enforcement and the prosecution, leading to recording, investigating and prosecuting of hate crime under relevant provisions. Similarly, prosecuting the numerous incidences of hate speech by right-wing extremist political actors has not been prioritised.

#### 4.9.2. France

The **French constitution** does not expressly prohibit certain elements relating to the working definition of right-wing extremism. Indeed, the elements of constitutional law relating to political groups or parties are fairly limited. France has traditionally not adopted a protective attitude to its legal system. Since the third republic (1871-1940), the French strategy to combat the extreme right has been to attempt to persuade activists and assimilate them to the republican competition. However, this conception exists in parallel with the possibility to ban organisations when this assimilation is considered impossible.<sup>315</sup>

In terms of the effectiveness of the **criminal response**, the table below shows how the number of recorded hate crimes by the police has increased between 2015 and 2019. One must remember that this increase may be a factor of more (or better) recording of these types of crime.

<sup>311</sup> Veselinova, M. (16 February 2021) Първи решения в Страсбург срещу системна реч на омразата в България. *Dnevnik*. Available at:

[https://www.capital.bg/politika\\_i\\_ikonomika/bulgaria/2021/02/16/4175559\\_purvi\\_osuditelni\\_resheniia\\_v\\_strasburg\\_sr\\_eshtu/](https://www.capital.bg/politika_i_ikonomika/bulgaria/2021/02/16/4175559_purvi_osuditelni_resheniia_v_strasburg_sr_eshtu/)

<sup>312</sup> Dzhekova, R. and Stoyanova, N. (2019) Vigilantism against Migrants and Minorities in Bulgaria. In Bjorgo, T. and Mares, M. (eds.) *Vigilantism against Migrants and Minorities*. London: Routledge.

<sup>313</sup> Dzhekova, R., Stoyanova, N. and Ralchev, S. (Forthcoming) *Country Report for Bulgaria on Macro Level Drivers of Violent Extremism*. Sofia: CSD.

<sup>314</sup> Ibid.

<sup>315</sup> Bénédicte Laumond, La régulation du radicalisme de droite : une comparaison franco-allemande, in *Raisons politiques* 2020/2 (N° 78).

**Table 5: Recorded and prosecuted hate crimes and sentences – FR**

Year	Hate crimes recorded by police	Prosecuted	Sentenced
2019	2640	-	-
2018	1838	-	-
2017	1505	Not available	Not available
2016	1835	Not available	583
2015	1790	Not available	Not available

Source: OSCE, Hate Crime Reporting (2019)

In terms of the judicial response based on criminal law, a good example is former FN leader Jean-Marie Le Pen who has been condemned over 25 times on the basis of laws such as anti-racism legislation, apology of war crimes, provocation to hate or public insults. However, the judicial response focussed on the illegality of the actions or speeches rather than their 'extreme-right character'.<sup>316</sup>

The **administrative response** is possibly the most visibly effective one. The grounds on which a party or grouping can be disbanded include all the constituent elements of the working definition of right-wing extremism. Organizations which have either used violence or who are seen to be a threat to the democratic system are dissolved on the basis of the law of 1936 (or in some cases self-dissolve in anticipation of such a measure being taken). On the other hand, organisations who participate in political competition are not subject to measures outside of the political arena. When a party or group is disbanded, the individuals who were part of this group tend to radicalise, as they are not bound by the legal (or social) framework on the group. This was the case after the dissolution of Ordre Nouveau in 1973.<sup>317</sup> Laumont distinguishes between a *policy* response to extreme-right groups and a *politics* response to extreme-right (or right-wing populist) political parties.<sup>318</sup> She looks at the police and judicial terminology used to address the phenomenon. Police refers to 'ultra-droite, characterised by a threat to public order, therefore addressed through the prism of maintaining order or violence. This shows a focus on the methods used by right-wing extremists, not their political or ideological activism, thus depoliticising the phenomenon.

#### 4.9.3. Germany

The **constitutional provisions** in Germany foresee a prohibition of political parties as well as associations with the purpose of activities that run contrary to the constitutional order, criminal law of against the concept of international understanding. However, for political parties, these bans are rare, while for associations these bans are often seen critically and viewed as unsuitable for preventing right-

<sup>316</sup> Bénédicte Laumont, La régulation du radicalisme de droite : une comparaison franco-allemande, in *Raisons politiques* 2020/2 (N° 78).

<sup>317</sup> Interview with Nicolas Lebourg, in *Marianne*, available at : <https://www.marianne.net/politique/la-dissolution-dun-groupe-politique-est-elle-efficace>

<sup>318</sup> Bénédicte Laumont, La régulation du radicalisme de droite : une comparaison franco-allemande, in *Raisons politiques* 2020/2 (N° 78).



wing extremism. Reasons include that when organisations or associations are banned or threatened by a ban, they re-establish under a different name, or their members simply joining another organisation. Another argument is that, once banned, these organisations can no longer be easily observed by the Office for the Protection of the Constitution.

In terms of **criminal provisions**, the German Criminal Code includes a number of provisions against hate crime, incitement to hatred, Holocaust denial, dissemination of propaganda material of unconstitutional organisations and the use of symbols of unconstitutional organisations.

The Network Enforcement Act (NetzDG) introduced compliance rules with fines for providers of social networks regarding the handling of user complaints about hate crime and other criminal content on the Internet, as well as a quarterly reporting obligation for providers. While several fine proceedings are underway, the effectiveness of the NetzDG needs to be further evaluated. In addition, the law to combat right-wing extremism and hate crime, which came into force in April 2021, significantly tightened penalties, put greater pressure on investigation and put in place information barriers in the reporting law to better protect those affected by hate crime. Given that the law is fairly recent, little can be said to date about its effectiveness.

The table below shows the recorded and prosecuted hate crimes and sentences in Germany, as reported by the OSCE<sup>319</sup>. It can be noted that the number of hate crimes recorded by the police has grown in time, doubling between 2016 and 2017.

**Table 6: Recorded and prosecuted hate crimes and sentences – DE**

Year	Hate crimes recorded by police	Prosecuted	Sentenced
2019	8585	-	-
2018	8113	Not available	Not available
2017	7913	Not available	Not available
2016	3598	Not available	Not available
2015	3046	Not available	Not available

Source: OSCE, Hate Crime Reporting (2019)

In terms of **non-legislative measures**, there has been a steady increase in the development and integration of efforts to prevent extremism and strengthen democracy in Germany over the years.

In its "**Second Report on the Work and Effectiveness of Federal Programmes to Prevent Extremism**" presented on 4 August 2021 by Federal Family Minister Christine Lambrecht, the federal programmes "Demokratie Leben!" of the Federal Ministry of Family Affairs and "Zusammenhalt durch Teilhabe" of the Federal Ministry of the Interior are highlighted as supporting pillars of the Federal

<sup>319</sup> It should be noted that ECRI had recommended that the German authorities reform their system for recording and following up "racist, xenophobic, homophobic and transphobic" incidents in order to ensure that all cases involving such a motive are recorded (§ 12 of General Policy Recommendation No. 11). In its 2016 Conclusion, ECRI regretted that the recommendations were not implemented. In addition, Germany has not reported the numbers of prosecuted hate crimes or information on the sentencing of hate crime cases to ODIHR.



Government's prevention work, as well as the social environment in which they work<sup>320</sup>. Especially with regard to the "Demokratie Leben!", the report highlights this initiative has developed into by far the financially strongest and most far-reaching funding programme at the federal level. It supports 326 local partnerships for democracy, 16 regional democracy centres, 40 civil society organizations and 150 model projects that work for democracy and against all forms of extremism. Children, adolescents and young adults are the main target group. Overall, the report concludes that the programmes have proven to be effective and make important contributions to promoting democratic action and societal prevention against extremism<sup>321</sup>.

However, despite these initiatives, there are **increasing tendencies of politically motivated crimes carried out by right-wing extremists**. The number of offences categorised as right-wing politically motivated crime in 2020 was 23,604 (2019: 22,342). Of these, 13,659 (2019: 14,247) were propaganda offences under sections 86 and 86a of the German Criminal Code (Strafgesetzbuch, StGB) and 1,092 (2019: 986) were violent crimes. As a subset of this category, 22,357 crimes (2019: 21,290) with a right-wing extremist background were recorded, among them 1,023 violent<sup>322</sup>. These figures are hitting the highest level since records began in 2001.

One consideration could be that despite the increasing number of initiatives, there is not enough information about which strategies and actions are most effective<sup>323</sup>. This, in turn, makes it difficult to consolidate or discontinue initiatives. Therefore, it would be advisable that the government should shift its focus from developing structures to tailored **prevention strategies** implemented in identified regions of concern<sup>324</sup>.

#### 4.9.4. Hungary

Researchers of Hungarian right-wing extremism and NGOs agree that despite the existence of a **criminal justice framework** to prosecute hate crimes and to protect the vulnerable groups which are targets of extremist acts, **public authorities are failing to effectively apply the available mechanisms**. "As a result of law enforcement agencies' inertia in this regard, the relevant criminal provisions remain effectively dormant, with even the most severe cases reaching the incitement threshold going unpunished... **hate crimes are not prosecuted and not even registered as hate crimes**: barely any reported incidents are considered as falling within the scope of the criminal provision contained in Section 332 of the Criminal Code. Law enforcement agencies tend to conclude that the expressive conduct did not constitute a call for a violent act and did not create a direct threat of danger, and criminal proceedings are terminated at the investigation phase or the prosecution drops the charges."<sup>325</sup>

Per the latest OSCE data on hate crime in Hungary,<sup>326</sup> **the number of recorded hate crimes has been declining since 2017, and a relatively small share of the crimes recorded by police have been prosecuted** (see table below). OSCE/ODIHR warns that the actual number of hate crimes may be much

<sup>320</sup> Bundesministerium für Familie, Senioren, Frauen und Jugend, Bericht bestätigt Wirksamkeit der Bundesprogramme zur Demokratieförderung, 04.08.2021, available at: <https://www.bmfsfj.de/bmfsfj/aktuelles/alle-meldungen/bericht-bestaetigt-wirksamkeit-der-bundesprogramme-zur-demokratieforderung-184608> (accessed on 29.09.2021).

<sup>321</sup> Ibid.

<sup>322</sup> Brief summary, 2020 Report on the Protection of the Constitution. Facts and Trends, p. 11.

<sup>323</sup> Michael Herzog zu Mecklenburg and Ian Anthony (August 2020), Preventing Violent Extremism in Germany: Coherence and cooperation in a decentralised system, SIPRI Working Paper, p. 19f.

<sup>324</sup> Ibid.

<sup>325</sup> Article 19, Hungary: Responding to 'hate speech', Country Report, London, 2018, p. 4, 21.

<sup>326</sup> OSCE, *Hate Crime Reporting Hungary* (available at: <https://hatecrime.osce.org/hungary> (retrieved on 2 September 2021)).

higher due to the lack of regular victimisation surveys on hate crimes and to under-reporting of hate crimes by the victims (due to lack of trust in public authorities).

**Table 7: Recorded and prosecuted hate crimes and sentences – HU**

Year	Hate crimes recorded by police	Prosecuted	Sentenced
2019	132	39	-
2018	194	52	-
2017	233	Not available	Not available
2016	33	33	39
2015	Not available	Not available	Not available

Source: OSCE, Hate Crime Reporting (2019)

More specifically, the following failures in the official response to hate crimes were pointed out by the Working Group against Hate Crimes: "... failures can be detected when it comes to the implementation and application of the law in case of hate crimes against members of vulnerable groups. These **systemic failures** are under-classification of hate crimes, over-classification of crimes committed by vulnerable group members, failures by the police to undertake law-enforcement measures and to take investigative steps<sup>327</sup>.

Overall, there are two major problems with the legal framework and legal practice in regard to right-wing extremism: first, amendments have been introduced which in essence support **anti-migrant, anti-LGBTQ+ and anti-refugee policies and allow for discrimination and segregation of the Roma minority**, and second, the existing provisions in the Criminal Code for **prosecuting hate crimes are not systematically enforced** (as reported by Hungarian and international NGOs)<sup>328</sup>.

Right-wing extremism in Hungary is targeting three distinct groups: the **Hungarian Roma community, migrants and refugees, and the LGBTQ+ community**. NGOs which support these three groups have also been the target of attacks and legal restrictions imposed by the government.

Right-wing extremist ideas have become part of the national political discourse, thanks mostly to the ruling Fidesz party and the parliamentary party Jobbik. While in the past (prior to 2010) there have been acts of violent extremism against the Roma community, the current radical right-wing organisations in Hungary do not resort to violence and limit their actions to non-violent aggression against their target groups.

Government's response to acts of right-wing extremism and hate crimes has not been effective due to failure to recognise right-wing bias. Amendments to the legal framework have served the ruling party's policies against refugees, Roma, LGBTQ+ and NGOs supporting vulnerable groups.

<sup>327</sup> Joint submission by Amnesty International Hungary, Háttér Society, Hungarian Helsinki Committee and Hungarian Civil Liberties Union as Working Group against Hate Crimes for the Third Cycle of the Universal Periodic Review of Hungary, 25 March 2021, p.1.

<sup>328</sup> Article 19, Hungary: Responding to 'hate speech', Country Report, London, 2018; Working Group against Hate Crimes (GYEM) - <https://gyuloletellen.hu/>.

In addition to the efforts of Hungarian NGOs, the European Parliament, the European Commission (including triggering Article 7 of the TEU after “the determination of a clear risk of a serious breach of the values on which the Union is founded”<sup>329</sup>) have taken a series of steps to oppose Orban’s government policies against migrants, Roma, LGBTQ+ and NGOs. However, despite the numerous EU actions in response to such Hungarian national laws and policies, the direct or indirect support of far right-wing ideas and policies by the Hungarian government and parliament has continued.

#### 4.9.5. Italy

The **constitutional provision** preventing the reformation of the fascist party poses some difficulties, as, the application of laws for apology of fascism has been difficult as they do not prohibit the organisation of far-right groups if they do not aim to reorganise the dissolved fascist party.

In terms of **hate crime and hate speech**, the European Commission against Racism and Intolerance (ECRI) has **recommended the addition of the public dissemination, distribution, production or storage of material with a racist aim or inciting to racial discrimination to the Criminal Code.**<sup>330</sup> Despite these deficiencies, over the recent years the Italian judiciary has affirmed the protection of minorities through landmark decisions. For instance, in 2018 the Court of Milan sanctioned the mayor of Albettonne, a municipality in the Veneto region, for incitement to racial hatred following xenophobic statements against migrants, Roma and Muslims.<sup>331</sup>

Furthermore, the Italian Chamber of Deputies has discussed a legislative proposal to establish a **National Human Rights Institute (NHRI)** which it **has not yet been established**. The NHRI would provide a broader human rights mandate and ensure the monitoring of the Paris Principles in the country.<sup>332</sup> Currently, the UNAR has a double function as an equality body and an implementing body for national anti-discrimination measures. Its collaboration with local authorities ensures points of contact across the country. It also develops responses to hate speech. For example, in July 2020, the Italian Journalists’ Professional Association and the organisation *Carta di Roma* agreed to implement training for journalists on racism, xenophobia and discrimination.<sup>333</sup> The ECRI and the Council of Europe (COE) recommend sufficient funding for UNAR in accordance with the Paris Principles and the strengthening of its competencies.<sup>334</sup>

The table below provides a summary of hate crimes recorded, prosecuted and sentenced. As it can be noted, the number of hate crimes recorded by the police doubled between 2015 and 2019, while the number of sentences remains low.

<sup>329</sup> European Parliament, *resolution of 10 June 2021 on the rule of law situation in the European Union and the application of the Conditionality Regulation*, Strasbourg, 10 June 2021.

<sup>330</sup> ECRI. 2016. “Fifth report on Italy (adopted on 18 March 2016)”. [http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Italy/Italy\\_CBC\\_en.asp](http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Italy/Italy_CBC_en.asp).

<sup>331</sup> Alietti, Alfredo and Dario Padovan. 2020. “Islamophobia in Italia: Rapporto Nazionale 2018”. SETA. <https://setav.org/en/assets/uploads/2020/04/R156lt.pdf>.

<sup>332</sup> European Network of National Human Rights Institutions (ENNHRI). “Relevant developments towards the establishment of a National Human Rights Institution”. 26 June 2020. <http://ennhri.org/rule-of-law-report/italy/>.

<sup>333</sup> FRA. 2021. “Franet National contribution to the Fundamental Rights Report 2021.” [https://fra.europa.eu/sites/default/files/fra\\_uploads/frr2021\\_italy-frr2021\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/frr2021_italy-frr2021_en.pdf).

<sup>334</sup> COE. Advisory Committee on the Framework Convention for the Protection of National Minorities. 2016. “Fourth opinion on Italy, adopted on 19 November 2015”, ACFC/OP/IV(2015)006. <http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806959b9>.

**Table 8: Recorded and prosecuted hate crimes and sentences – IT**

Year	Hate crimes recorded by police	Prosecuted	Sentenced
2019	1119	-	-
2018	1111	613	46
2017	1048	613	40
2016	736	424	31
2015	555	Not available	Not available

Source: OSCE, Hate Crime Reporting (2019)

#### 4.9.6. Poland

The effectiveness of the **constitutional provisions** relating to right-wing extremism is **questionable**. The UN's OHCHR report further states that, despite the provisions of Article 13 of the Constitution prohibiting some organisations, it is "concerned that the participation in [political parties and other organisations whose programmes or activities sanction racial or national hatred] is not yet prohibited by law."<sup>335</sup>

In terms of the **effectiveness of criminal law**, a report by FRA gives a detailed description of Polish law enforcement procedures and institutional framework in handling **hate crimes**: "Hate crimes are recorded on a general crime form. There are no guidelines on hate crime recording or identification... If the police officer suspects that bias motivation is present, he/she flags the hate crime on the general incident form as well as in the police electronic database... Based on cases flagged as hate crimes in the electronic database, a separate dedicated electronic form is filled in. This form includes various categories to describe particular hate crime cases.... Dedicated forms on hate crimes allow the user to generate information on the legal classification of the incident, the characteristics of the incident, the characteristics of the victim (nationality, citizenship, age and sex), the characteristics of the perpetrator (if identified) and information on the time and place of the incident... Bias motivation is also recorded: race/skin colour, nationality/ethnicity (incl. subcategories such as anti-Roma and antisemitism), promoting totalitarian system, religion (incl. subcategories such as anti-Muslim), sexual orientation and gender identity, world view, disability, sex, other. The form contains the list with all available bias motivations from which the officer can select."<sup>336</sup>

As regard **data collection**, "in 2015, a new hate crime recording system was introduced, with the aim to ensure that the Ministry of the Interior and Administration has the complete picture of hate crime cases in Poland in order to elaborate diverse analysis. Special coordinators at both the central (the National Hate Crime Coordinator in the Criminal Bureau of the General Police Headquarters) and the local levels (*voivodeship* – Polish administrative regional unit), from the police headquarters and in the Metropolitan Police Headquarters, are responsible for compiling the data from their district and

<sup>335</sup> Ibid.

<sup>336</sup> European Union Agency for Fundamental Rights (2018), p. 74-75.

reporting them monthly to the National Hate Crime Coordinator... The Coordinator prepares a monthly periodic report on hate crime investigations in Poland and sends it to the Ministry of the Interior and Administration... The Ministry [then] completes the data with information – obtained from courts – about how cases were resolved (for those that were prosecuted)... The data are not public but can be received upon request.”<sup>337</sup>

According to data from OSCE/ODIHR, the number of prosecutions of hate crimes has been **steadily rising since 2015** (from 229 to 432 in 2019), even though the crimes recorded by police in 2019 are actually less than those in 2018 (the number of crimes grows between 2015 and 2018). In terms of sentencing, convictions are also rising from 195 in 2015 to 597 in 2019 (hate speech cases are not included here).<sup>338</sup>

**Table 9: Recorded and prosecuted hate crimes and sentences - PL**

Year	Hate crimes recorded by police	Prosecuted	Sentenced
2019	972	432	597
2018	1117	397	315
2017	886	320	260
2016	874	281	236
2015	263	229	195

Source: OSCE, Hate Crime Reporting (2019)

However, in its concluding observations on Poland in 2019, the UN’s **OHCHR** states that it is **concerned** “about the extremely low percentage of offences of hate speech and hate crimes that are reported, despite the recorded increase in the incidence of such crimes; about the fact that some of the reported racially motivated crimes remain unregistered and not investigated as such; that the increased number of preparatory proceedings and indictments of perpetrators of racist crimes did not result in a significant increase in the number of convictions; about the lack of detailed information on investigations and prosecutions of, and convictions for, racist hate speech and hate crimes, especially those committed by public figures and politicians.”<sup>339</sup> It further is “alarmed by the **continuing existence and open operation of organisations that promote racial hatred in [Poland], in particular those that openly espouse affinity with the ideology and publicly display the symbols of Nazism, fascism or totalitarianism**”.<sup>340</sup> The conclusions also express concern with “the prevalence of racist hate speech against minority groups, in particular Muslims, Roma, Ukrainians, people of African and Asian descent, Jews and migrants, refugees and asylum seekers, which fuels hatred and intolerance and incites violence towards such groups; [and] that **leading public figures, including politicians**

<sup>337</sup> Ibid.

<sup>338</sup> OSCE/ODIHR Hate Crime Reporting.

<sup>339</sup> United Nations Office of the High Commissioner for Human Rights (2019). “Concluding observations on the combined twenty-second to twenty-fourth periodic reports of Poland”, p. 5.

<sup>340</sup> Ibid., p. 4.

**and media officials**, are frequently the source of such offensive statements or fail in their responsibility to strongly denounce hate speech."<sup>341</sup>

Another issue is that the main organs of the Polish judiciary (including the Constitutional Tribunal, and the National Council of the Judiciary in charge of appointing judges) are under the de facto control of the ruling PiS party.<sup>342</sup> As such, it is questionable whether judges would prosecute hate speech by members of the government or their allies.

#### 4.9.7. Sweden

As noted above, while the **Swedish constitution** mentions some forms of banned expressions of racism, it does not include any provision to ban organisations displaying a racist character. As such, there is little to report on the effectiveness of the constitutional law. However, the Office of the United Nations High Commissioner for Human Rights noted in their report during the latest Human Rights Council periodic review that it is concerned about the presence of racist and extremist organizations and their public demonstrations and that there were no explicit legal provisions declaring illegal and prohibiting organizations promoting and inciting racial hatred.<sup>343</sup>

In terms of the effectiveness of the **criminal justice response**, in 2018,<sup>344</sup> national statistics show that approximately 7,090 reported crimes were identified as crimes with hate crime motives, which was an increase of 11% compared to 2016, and 29% compared to 2013. The increase in the number of crimes consisted largely of an increase in police reports related to "agitation against a population group". The largest increase in the number of crimes with an identified hate crime motive compared with 2016 was crimes with xenophobic, racist and anti-Semitic motives and for the motive concerning sexual orientation. The reports<sup>345</sup> with an identified hate crime motive in 2018 were distributed as follows: xenophobic / racist motive – 69 %; sexual orientation as a motive – 11 %; Islamophobic motive – 8 %; anti-Semitic motive – 4 %; Christo-phobic motive – 4 %; other anti-religious motives – 4 %; transphobic motive – 1%. There is a substantive gap between the number of cases of hate speech and hate crimes reported to police, on the one hand, and the number of investigations, prosecutions and convictions of perpetrators, on the other.<sup>346</sup>

The table below provides an overview of recorded hate crimes published by the OSCE. They are provided for comparison purposes with other Member States.

**Table 10: Recorded and prosecuted hate crimes and sentences – SE**

Year	Hate crimes recorded by police	Prosecuted	Sentenced
2019	Not available	Not available	Not available

<sup>341</sup> Ibid., p. 4.

<sup>342</sup> See Freedom House, *Hostile Takeover: How Law and Justice Captured Poland's Courts*, available at: <https://freedomhouse.org/report/analytical-brief/2018/hostile-takeover-how-law-and-justice-captured-polands-courts>

<sup>343</sup> OHCHR, Report of the Office of the United Nations High Commissioner for Human Rights /HRC/WG.6/35/SWE/2.

<sup>344</sup> Data on hate crimes for the period after 2018 is not available.

<sup>345</sup> BRÅ, *Hatbrottsstatistik*, Available at: <https://www.bra.se/statistik/statistiska-undersokningar/hatbrottsstatistik.html>.

<sup>346</sup> UNCERD, Concluding observations on the combined twenty-second and twenty-third periodic reports of Sweden, CERD/C/SWE/CO/22-23, p 7.

Year	Hate crimes recorded by police	Prosecuted	Sentenced
2018	5858	218	-
2017	Not available	Not available	Not available
2016	4862	257	Not available
2015	4859	255	Not available

Source: OSCE, Hate Crime Reporting (2019)

The United Nations Committee on the Elimination of Racial Discrimination notes in its Concluding observations in the latest periodic report on Sweden<sup>347</sup> a worrying trend of **raising number of reports on racist hate speech** against Afro Swedes, Jews, Muslims and Roma in the political discourse, particularly during election campaigns, as well as in the media and on the Internet. In the same report the Committee expresses its concern regarding reports of attacks against mosques and reception centres for asylum seekers, as well as about the lack of sufficient funding to safeguard mosques and asylum centres and provide insurance against such attacks.<sup>348</sup> The concluding remarks also recommend that Sweden amends its legislation and **prohibit the organization of groups that promote and incite racial hatred**, to enhance its efforts to **ameliorate its data-collection methods and address underreporting**; however, it remains concerned about the high number of reported hate crimes and the continuation of racist violence in the country and about the lack of information on persons affected by hate crimes on the grounds of multiple and intersecting forms of discrimination, such as gender, ethnicity, colour, religious belief, disability, gender identity or sexual orientation. The Committee recommends that Sweden takes necessary action to ensure that fundamental legal safeguards are effectively applied in order to **prevent and combat racial profiling by police** of all vulnerable groups.

In its latest periodic report on Sweden<sup>349</sup>, the Council of Europe's European Commission Against Racism and Intolerance expressed its concern about the reported discrepancy between increased reports to the police of hate crimes and the decrease in the number of preliminary investigations and convictions, in particular as regards agitation against a national or ethnic group. The Commission recommended the development of a strategy to **ensure scrutiny of the way police and prosecutors deal with hate crimes** and measures such as hate crime units and special investigators in all parts of the country and also that the authorities carry out an in-depth analysis of why the **clearance rates of hate crime incidents remains low** as well as an assessment of what resources the police and prosecution services require to address the issue more effectively.

In terms of administrative provisions, ECRI noted in its 2020 conclusions on the implementation of the recommendations<sup>350</sup> that the country has failed to follow recommendations made during the fifth monitoring cycle on granting adequate powers and expertise to the **Ombuds** institutions in Sweden

<sup>347</sup> Ibid. p 5.

<sup>348</sup> Ibid. p. 4-5.

<sup>349</sup> ECRI, Report on Sweden, CRI (2018) 3, Published on 27 February 2018.

<sup>350</sup> ECRI, Conclusions on the implementation of the recommendations in respect of Sweden, CRI (2020) 45, p. 5.



to investigate discrimination by all public authorities, including law enforcement. ECRI reiterated its concern about the lack of development in the area, underlining the current state of affairs creates a particular problem, inter alia, in the area of law enforcement, which was highlighted by the controversy surrounding the creation of a Roma-database by a regional police force.

#### 4.9.8. Conclusion

Right-wing extremism is a phenomenon that has been present in Europe for decades, policy-makers and civil society have sought to fight these movements. However, as highlighted by this report, the phenomenon is not receding, but is in fact growing in importance either through a larger number of people and groups considered to be right-wing extremists, or the growing impact they have on society.

When looking at the effectiveness of responses, the first aspect should be to look at **what the objective of the response is**. The overall effectiveness of the responses to right-wing extremism should be seen within this context. As an example, Germany has a wide-ranging strategy which attempts to reconcile individuals who might be attracted by right-wing extremism with the democratic process. France, on the other hand, appears to aim at ensuring right-wing extremism does not affect the republic and focuses far less on individuals. It appears that **all countries on which this report focuses have a legal framework which should be robust enough to respond to the right-wing extremist threat**.

Looking at the **constitutional law** of the countries featured in this study allows to assess whether they provide instruments to combat the ideological and behavioural characteristics of right-wing extremists. The constitutions of some of the Member States studied include elements which could be considered to corroborate the view that there is some form of natural inequality or hierarchy between people, particularly on the basis of their gender identity and preference. In BG, a recent ruling by the Constitutional Court, considers sex to be defined solely by its biological characteristics, and that marriage should be only between a man and a woman. A similar occurrence is observed in HU, where an amendment to the constitution defines that family with the following statement: "the mother is a woman and the father is a man".

Furthermore, in some countries such as Poland and France, the constitution does not prohibit the existence or participation in groups or parties whose programmes or activities sanction racial or national hatred. Even where the constitution explicitly bans "racist forms of expression, specifically the provision on agitation against a population group" such as in Sweden, there is sometimes a gap in the translation of these elements in criminal law.

As demonstrated in section 4.8, the **criminal law framework of the Member States which are part of this study is fairly comprehensive**. Some **gaps** in the legal framework are nevertheless identified. The lack of clear legal definitions (Bulgaria) hamper the prosecution of right-wing extremist crimes. Another common problem is the under-reporting of hate crime in Bulgaria: when crimes with discriminatory motives are reported, they are often recorded, prosecuted and tried as another offence. A similar situation is observed in Hungary, where the actual hate crimes committed by right-wing groups often are not registered as hate crimes and can remain unprosecuted.

In terms of **administrative law**, the ban on parties or organisations appears to be an effective tool in dealing with specific groups. However, in Bulgaria, political parties can bypass the ban by registering as different entities and joining a political coalition (as was the case with the Nationalist Party of Bulgaria). Furthermore, organisations such as the Vasil Levski Military Union and Shipka Bulgarian National Movement, have never been prosecuted for their vigorous propagation for the violent overthrow of the constitutional party system. In France, right-wing extremist groups are regularly banned under the 1936 law. While there is a clear dissuasion effect, the banning of such groups runs

the risk of seeing individuals radicalising. The German Federal Constitutional Court appears to have taken this threat into consideration; while the NPD was determined to undermine and abolish key features of the free democratic basic order of the country, its actions had such little prospect of success that it could not be deemed anti-constitutional. As such, while banning RWE groups is a tool in government's strategy, it cannot be the only response.

It is difficult to assess the effectiveness of programmes with such a wide objective as those in place in Germany given that results are expected to emerge over a long period of time. Finally, it is important not to consider hate crimes as the only indicator when looking at the effectiveness of policy responses. Higher number of violent crimes by right-wing extremists may be the results of a well-functioning reporting system and the correct classification of crime rather than a wider phenomenon.

## 5. RECOMMENDATIONS AND FOLLOW-UP

### 5.1. Recommendations

The phenomenon of right-wing extremism is one that has grown over the past few decades. It does not appear and operate in a vacuum, but builds on real or perceived changes in society, such as globalisation, multi-culturalism, austerity policies (linked to an overall reduction in living standards). In many cases, it also feeds on the erroneous belief in a glorious past, where one's community was better off. As such right-wing extremism builds on socio-economic circumstances that go far beyond the scope of this report.

In addition, despite the increased awareness of the right-wing extremist threat, the policy responses' efficiency can be questioned. The European Parliament has played its role by passing a number of resolutions<sup>351</sup> related to right-wing extremism, but the situation has not improved. In 2010, an important study on strategies for combatting right-wing extremism highlighted the importance of prevention highlighted the need for more preventive action.<sup>352</sup> It points out that in addition to breaking the law, right-wing extremists also seek to foster an atmosphere of fear and to test how far they can go in their violence. As such, a preventive element has to be considered in the recommendations. The Recommendations are prioritised in three categories (high priority, medium priority and lower priority).

In order to address the threat of right-wing extremism from a preventive and reactive point of view, the recommendations are presented in three sections;

- The first set of recommendations focusses on **defining the phenomenon**;
- The second set seeks to strengthen the response towards criminal manifestations of right-wing extremism (**reacting to the phenomenon**);
- The third set aims to address factors that make the rhetoric of radical right-wing parties and organisations appealing (**prevention recommendations**).

#### Defining the phenomenon

- There is no agreed definition of right-wing extremism. Failing to define the phenomenon makes it harder to identify and address it.
  - *The EU should adopt a definition of right wing-extremism in order to counter it - such definition is relevant in order to provide a better framework for understanding, studying, measuring and countering the phenomenon. (high priority)*
  - *The EU should help develop the framework for a more consistent and harmonised collection of data on right-wing extremist acts in the Member States. (medium priority)*

#### Reacting to the phenomenon

- The research undertaken for this study has identified gaps in the legislation on the phenomenon linked to right-wing extremism.
  - *The EU could adopt a resolution to help define and counter violent right-wing extremism, while urging those Member States with gaps in their legislation to remedy the situation. (high priority)*

<sup>351</sup> Examples of resolutions include: European Parliament resolution of 12 December 2018 on findings and recommendations of the Special Committee on Terrorism, European Parliament resolution of 25 October 2018 on the rise of neo-fascist violence in Europe, European Parliament resolution of 13 December 2007 combating the rise of extremism in Europe.

<sup>352</sup> Bertelsmann Stiftung (ed.), *Strategies for Combating Right-Wing Extremism in Europe*, 2009.

- Even where the legal framework is comprehensive, it is not always implemented properly.
  - *The Commission should launch infringement proceedings based on the EU's anti-racism and anti-discrimination legislation to ensure Member States apply the standards set out in Union law. (high priority)*
  
- There is a widely acknowledged difficulty in recording, investigating and prosecuting right-wing extremism and its criminal manifestations. More focus needs to be placed on training and capacity building for law enforcement. Furthermore, latency regarding reporting of hate crime remains an important problem..
  - *The EU should call on Europol and national law enforcement authorities to improve these activities, as well as CEPOL and national training organisations to develop instruments to this aim, in line with what is already done<sup>353</sup>. (medium priority)*
  - *The EU should help develop a framework for the development of the systematic collection and automatic reporting of these crimes at Member State and EU level (for instance to the Commission, FRA, etc), in order to identify issues at an early stage and take appropriate measures. (medium priority)*
  - *The EU should help develop a framework for the establishment of mechanisms to measure more accurately the scope of the problem of hate speech and hate crime, such as victimisation surveys. (medium priority)*

## Prevention

- A criminal justice and law enforcement approach to right-wing extremism cannot address the problem alone. Measures addressing more effectively the phenomena feeding right-wing extremism, including polarisation and inequality in European societies should supplement law enforcement initiatives.
  - *The EU should launch campaigns against right-wing extremism at EU level and encourage the development and funding of long-term-programmes supporting local grassroots organisations and citizens' initiatives at local level to help develop the population's resistance to right-wing extremism. (high priority)*
  
- The needs and problems in the Member States vary depending on the national context. In countries such as Poland, Hungary and Bulgaria, there needs to be more focus on ensuring sustainable preventive actions (as opposed to project-based initiatives which have been the dominant form of intervention) and more focus on right-wing extremism than there is currently.
  - *As such, more bespoke research is needed to more firmly establish the needs and to improve the prevention of radicalisation of individuals to right-wing extremism in Member States. (medium priority)*
  
- Political responsibility and leadership are important in setting the tone and influencing the public debate.

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<sup>353</sup> As for example the training CEPOL is undertaking in Italy.

- *The EU and notably the European Parliament should continue highlighting instances of discrimination and racism, from political leaders, when they borrow contents and methods from right-wing extremist ideology. (medium priority)*
- Civil society plays an important role, especially in those Member States where the government appears to be sympathetic to or guided by a right-wing radical ideology and when the rule of law has been questioned (Hungary and Poland).
  - *The European Union should continue to support civil society at EU and Member States' level to strengthen democracy, rule of law and fundamental rights. (medium priority)*
- Euroscepticism is an important common feature of the wider right-wing radical political family.
  - *The European institutions should be aware of the way their response will be perceived, as otherwise, it may have the opposite effect to that intended, as raise support for more radical or extremist groups. (lower priority)*
- Online activities are an important emerging element of right-wing extremist groups and individuals.
  - *Removing right-wing extremist groups that use, promote and incite hate speech, hate crime and violence from popular global platforms can achieve a significant operational disruption and limitation of reach. (medium priority)*

## 5.2. Suggestions for implementation of the recommendations

Monitoring the extent to which the objectives of a policy intervention is of general importance, as demonstrated by the increasing focus on better regulation and better law-making from all European Institutions<sup>354</sup>. The monitoring of policy responses to right-wing extremism is of particular importance given (i) the potential for destabilisation the phenomenon can have, and (ii), the fact that despite numerous policy responses, there is yet to be a recognised successful impact from policies aimed at reducing the appeal of right-wing extremists and wider radical right groups.

As such, it is important to propose some suggestion of the monitoring of the recommendations set out above. The recommendations put the onus on Member States to ensure their response to right-wing extremism is as efficient as possible. However, the European Parliament and Commission can play a role in monitoring, or in some cases enforcing the implementation of these measures. The table below provides initial suggestions as to the indicators that could be collected, or monitoring system put in place to assess the effectiveness of the measures in place. It is important to note that while these monitoring measures will help identify changes, and will greatly help the evaluation of the recommendations, they are no substitute to a fully-fledged evaluation.

<sup>354</sup> See in particular Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016 confirming the "importance of the greatest possible consistency and coherence in organising their work to evaluate the performance of Union legislation".

**Table 11: Proposed monitoring systems and indicators**

Recommendation	Proposed monitoring system, judgement criteria or indicators
<i>Development of a working <b>definition</b> of right wing-extremism</i>	A common working definition of right wing-extremism is accepted at EU level
<i>More bespoke research is needed to more firmly establish the needs and to improve <b>prevention</b> in Member States</i>	Number of Member States for which there is a clear idea of the needs
<i>Development and funding of long-term-programmes supporting local <b>grassroots organisations and citizens initiatives</b></i>	Number of <i>long-term-programmes in place, their duration and funding (including share of EU funds)</i>
<i>Member States with <b>gaps</b> in their legislation to remedy the situation</i>	Member States with gaps in their legislation (the European Commission could send request for information to Member States to establish the baseline, before updating it on a regular basis).
<i>Ensure execution including through Infringement proceedings of the EU's anti-racism and anti-discrimination legislation</i>	Number of infringement proceedings initiated relating to anti-racism and anti-discrimination legislation.
<i>Record and persecute instances of discrimination and racism, including from political leaders and parties beyond right-wing populist ones</i>	Number of cases where political leaders use rhetoric borrowed to right-wing extremist ideology.
<i>Support civil society in all Member States to strengthen democracy</i>	Number of civil society organisation active in the Member Sates
<i>Removing violent right-wing extremist groups from popular global platforms</i>	Length of time between the designation of a group or individual as right-wing extremist and their removal from popular social media platforms
<i>Encourage the development of training on the reporting, investigation and prosecution of hate crime and hate speech</i>	Number of Member States where this type of training exists, share of trained law enforcement personnel trained
<i>Encourage the development of an automatic reporting of hate crimes</i>	Existence of automatic reporting
<i>Encourage the establishment of mechanisms to measure more accurately the scope of the problem of hate speech and hate crime</i>	Existence of such tools (in particular victimisation survey).

## 6. COUNTRY FICHE – BULGARIA

Author: Nadya Stoyanova (CSD)

### 6.1. Distinctive features of right-wing extremism

In the last decade, Bulgarian right-wing extremist actors have become increasingly active and prominent, especially in the political sphere. The political unrest and widespread protests which the country experienced in 2013-2015, coupled with the migrant crisis, provided a suitable environment for the re-invigoration of some existing far-right organisations and the emergence of new actors, such as the **Vasil Levski Military Union** and **Shipka Bulgarian National Movement** paramilitary formations which have become known in the public domain for their patrolling activities near the Bulgarian border with Turkey.<sup>355</sup>

The use of **violence** associated with right-wing extremist actors is very difficult to estimate in its full extent due to several factors (see below). In Bulgaria's recent history, there has been one terrorist attack associated with right-wing extremism, which was reported to Europol.<sup>356</sup> Thus far there is no conviction for the terrorist act – the defendants have been acquitted in two instances due to procedural issues with evidence gathering and the case has made its way to the Supreme Court of Cassation.<sup>357</sup> Migrants' arrests carried out by extreme right-wing organisations during the migrant crisis were a prominent example of taking over police prerogatives. Lethal attacks or attacks resulting in serious injuries against minorities occur almost every year, with many more less serious ones likely going unrecorded (see below). Nevertheless, large-scale organised violence by right-wing extremist actors is rare. Nevertheless, a recent example is the attack of and LGBTQ+ centre by the leader of the **Bulgarian National Union – New Democracy** (Български национален съюз - Нова демокрация).<sup>358</sup>

Right-wing extremism in Bulgaria is enabled by the conservatism of the general population, which is generally intolerant towards different minorities. A number of studies have shown widespread negative stereotypes of different minorities, most notably the Roma. In the period 1992 – 2005, between 91% and 87% of ethnic Bulgarian respondents agreed with the statement that Roma are criminally inclined. Research on prejudice among young Bulgarians in the period 2004 – 2012 shows that views on Roma are predominantly negative, and the most negative from the views on the other groups examined. Importantly those views are not moderated by personally knowing members of the Roma community<sup>359</sup>.

The data in the table below shows a significant worsening in acceptance towards a number of minorities in recent years. After 2012, a significant worsening of social distances begins. The reasons for this worsening are multifaceted. Nevertheless, a few developments can be noted in this regard,

<sup>355</sup> See Appendix A – country fiche Bulgaria for further information.

<sup>356</sup> Europol. (2013). *EU Terrorism Situation and Trend Report*. The Hague: Europol.

<sup>357</sup> Masruchka, T. (23 December 2016). Без виновни за взрив и убит пред клуб на Евророба, засега. *168 chasa*. Available at: <https://www.168chasa.bg/article/5953029>.

<sup>358</sup> See Euractiv, Foreign ambassadors slam attack on LGBTQ centre in Bulgaria, available at: <https://www.euractiv.com/section/non-discrimination/news/foreign-ambassadors-slam-attack-on-lgbtq-centre-in-bulgaria/>

<sup>359</sup> Ganeva, Z. (2012) Ethnic Stereotypes and Prejudices of Young People in the Period 2004-2012 *Psychological Thought* 5 (2): 166–185). See also social distances research cited above. While there were positive developments in the period 2008-2012, after 2012 significant negative trends have been observed (Пампоров, А. (2019) *Алексей Пампоров: След 2013 г. започва изключително негативно развитие и днес социалните дистанции са достигнали своеобразно дъно*. Sofia: Marginalia) see following footnote for more information on this. More recent research underscores highly negative stereotypes of Roma and the LGBTQ+ emerging as a second vilified community (Todorov, A. (2021) *Радикализация на неприемането: Групова омраза и дясно-екстремистки нагаси в България*. Sofia: Friedrich Ebert Stiftung).



which can both be seen as manifestations and perpetrators of worsening social distances – protests, widespread political dissatisfaction and instability in the period 2013-2015, coupled with the migrant crisis which gave opportunity for the reinvigoration of existing right-wing extremist and radical actors and the emergence of new ones<sup>360</sup> The Roma have traditionally been the most vilified community, while research from 2021 points to LGBTQ+ emerging as a second category.<sup>361</sup>

**Table 12: Percentage of positive answers to the question "Would you be willing for ... to live in your neighbourhood?"**

Minority/Year	2008	2009	2011	2012	2018
Roma	29.5	35.2	39.5	45.6	26.3
Turkish	39.6	48.3	52.1	58.5	36.3
Arabs	32.1	-	51.6	52.4	27.7

Source: Pamporov, A. (2012) Социални дистанции в България в периода 2008 – 2012 г. Sofia: Open Society Institute; Pamporov, A. (2018) Социални дистанции и етнически стереотипи за малцинствата в България. Sofia: Open Society Institute

Right-wing extremist rhetoric and actions are espoused by a spectrum of actors in Bulgaria which roughly fall in the following three categories:<sup>362</sup> **political parties, non-parliamentary activist organisations and informal groupings**. Ideologically, Bulgarian right-wing extremist and radical actors exhibit common characteristics with similar movements elsewhere, especially the existence of **natural inequality or hierarchy** between people or group of people which takes the form of intolerance towards different minorities (racism, xenophobia, homophobia), ethnonationalism, desire for a strong state etc. Right-wing extremism in Bulgaria, has some distinctive features, including a nostalgic element of the socialist past, cultural conservatism and often a pro-Russian line. On the other hand, highly anti-systemic rhetoric advocating for the demolition of political pluralism is not common among political actors, being observed most prominently among two related right-wing extremist

<sup>360</sup> See Dzhekova, R. and Stoynova, N. (2019) Vigilantism against Migrants and Minorities in Bulgaria. In Bjorgo, T. and Mares, M. (eds.) *Vigilantism against Migrants and Minorities*. London: Routledge); progressive worsening in the use of hate speech in all media without any corresponding measures to address this on the part of authorities (Spasov, O. (2016) Езикът на омраза в България. In Foundation Media Democracy and Center for Policy Modernisation. *Езикът на омраза в България: рискови зони, уязвими обекти*. Sofia: FMD and CPM; Center for Interethnic Dialogue and Tolerance Amalipe et al. (2018) *Граждански мониторингов доклад за изпълнение на Националната стратегия за интеграция на ромите на Република България*. Veliko Tarnovo: Amalipe); the use of anti-Roma rhetoric by politicians who are not part of parties in the far-right radical spectrum (Stancheva, V. and Nenkova, A. (eds.) (2019) *Малцинствата в България: Лесни за омраза*. Sofia: Bulgarian Helsinki Committee); a process of secondary school segregation driven by the unwillingness of ethnic Bulgarian parents for their children to study together with Roma children (Kolev, D. (2018) *Благовезрад и Габрово – двете лица на десегрегацията или може ли Сизиф да превърне камъка от тежест в сила*. Veliko Tarnovo; Amalipe) continuing instrumentalisation of the topic of Roma criminality or other problems perceived as associated with this ethnicity by far-right extremist and radical actors (ibid); the inclusion of the right-wing radical coalition Patriotic Front in the governing coalition in power between 2017 and 2021; with regard to the LGBTQ+ community, the opposition to the Istanbul Convention, which was alleged as an instrument for the aiming to introduce values inconsistent with Bulgarian morale, such as the adoption of a third gender, promotion of transgenderism, homosexuality and same sex marriages (Darakchi, S. (2019) "The Western Feminists Want to Make Us Gay": Nationalism, Heteronormativity, and Violence Against Women in Bulgaria in Times of "Anti-gender Campaigns" *Sexuality & Culture* 23: 1208–1229) etc.

<sup>361</sup> Todorov, A. (2021) Радикализация на неприемането: Групова омраза и дясно-екстремистки нагаси в България. Sofia: Friedrich Ebert Stiftung.

<sup>362</sup> Dzhekova et al. (2015) *Radicalisation in Bulgaria: Threats and Trends*. Sofia: CSD.

**paramilitary formations**, Vasil Levski Military Union and Shipka Bulgarian National Movement, which emerged during the migrant crisis.

The parliamentary elections of 2017 resulted in the entry of the radical-right wing coalition Patriotic Front (PF), made up of three parties, in government. The entry of the PF marked the first time nationalist far-right parties became a decisive factor in government. This change in government resulted in **lack of political will to tackle right-wing radicalisation**, while at the same time intensifying the already present process of **normalisation of hate speech** in the public domain.<sup>363</sup> In addition, the Patriotic Front has attempted and partially succeeded in the introduction of a number of legislative proposals which have been condemned by experts as discriminatory and populist.<sup>364</sup> It should be noted that while for the first two elections of 2021, no radical right-wing party managed to pass the threshold to enter parliament, this changed in the November elections, where Revival (Възраждане) secured 13 seats in the assembly. Nevertheless, along with the rise in prominence of political actors in the spectrum of radical nationalism to right-wing extremism, research underscores the persistence of widespread prejudice against certain minority groups, mainly the Roma and LGBTQ+ people,<sup>365</sup> which can readily be exploited by right-wing extremist actors.

Radical right-wing political parties use **hate speech** against different **minorities**, most often the Roma but also Muslims, refugees and migrants and LGBTQ+ people. Generally, however, political parties and their members eschew engagement in violence or direct calls to violence. However, exploiting popular prejudice, political actors proactively organise or take part in inflammatory events (e.g. protests against Roma criminality), which have high potential for resulting into violence. One such example is the 2011 protest against the speakers of the Sofia Mosque Banya Bashi, which was organized by the oldest party in the right-wing radical spectrum, *Ataka*, which ultimately resulted in violence between Muslims and representatives and sympathisers of the party.<sup>366</sup>

## 6.2. Legal framework

The term extremism is not defined in Bulgarian legislation, nor is "right-wing extremism", "radicalisation" or "political violence". However, there are a number of provisions in the Constitution, the Criminal Code and other legal acts that can be used for prosecuting or sanctioning the activities of right-wing extremist organisations. The Criminal Code (CC) defines the crime of "terrorism" as *"the act of committing a specific crime in order to create confusion and fear in the population or to threaten or force a public authority, a public figure or a representative of a foreign state or international organization to do or omit something within the scope of their functions"* (CC Art. 108a, Par.(1)).

<sup>363</sup> Ivanova, I. (2018) *Public Attitudes to Hate Speech in Bulgaria in 2018*. Sofia: Open Society Institute.

<sup>364</sup> E.g., in 2019, the Vice Premier and Minister of Defense Krassimir Karakachanov, leader of the far-right IMRO-BNM party of the PF coalition, unveiled his strategy for Roma integration. The measures include free abortion for Roma women, community service for administrative offences and the setting up of civic security patrols. Part of the foreseen measures have been accepted by Parliament at first reading, despite being condemned as discriminatory by civil society organisations such as the Open Society Foundation. Paunova, P. (11 February 2019) "Обществено опасна димка". Експерти оценяват стратегията на Каракачанов за ромите. *Svobodna Evropa*. Available at: <https://www.svobodnaevropa.bg/a/29762127.html>.

<sup>365</sup> Todorov, A. (2021) *Радикализация на неприемането: Групова омраза и дясно-екстремистки нагаси в България*. Sofia: Friedrich Ebert Stiftung.

<sup>366</sup> Btvnovinite. (20 May 2011) *Бой и пожар след митинг на „Атака“ пред джамията Баня Башъ*. Available at: [https://btvnovinite.bg/807561074-Boy\\_i\\_pojar\\_sled\\_miting\\_na\\_Ataka\\_pred\\_djamiyata\\_Banya\\_Basha.html](https://btvnovinite.bg/807561074-Boy_i_pojar_sled_miting_na_Ataka_pred_djamiyata_Banya_Basha.html)

The terms “violent extremism” and “terrorism” are defined in the **Strategy for Countering Radicalisation and Terrorism 2015-2020** as follows (p. 3).<sup>367</sup>

- **Violent extremism** is a ‘phenomenon, in which individuals or groups support or carry out ideologically motivated violence in order to achieve their ideological goals’.
- **Terrorism** is ‘every act of a criminal nature coupled with an act of violence which through deliberate threatening of the life and safety of citizens, as well as of key infrastructural objects, aims to create fear and insecurity in society and to destabilise institutions as a means to achieve concrete political and ideological goals.’

The Bulgarian **Constitution** guarantees the equality of citizens and the prohibition of discrimination on the basis of different characteristics.<sup>368</sup> In addition, the following provisions are important:

- Art. 11 (1) – Political life in the Republic of Bulgaria is based on the principle of political pluralism.
- Art. 11 (2) – No single party or ideology can be declared or instituted as official.
- Art. 11 (3) – It is not allowed to form parties on ethnic, racial or religious basis, as well as parties which aim to take over state power with violence.
- Art 39 (2) – The right to free expression should not be used to breach the rights and reputation of others, to propagate for the violent overthrow of the constitutionally established order, to call for the commission of crimes, to sow enmity or to call for violence against others.
- Art. 44 (2) – Organisations whose activities are aimed against the sovereignty, territorial completeness of the country and the unity of the nation or at sowing racial, national, ethnic or religious enmity, to breaching the rights and freedom of citizens, as well as organisation which create secret service or paramilitary structures or aim to use violence to reach their goals, are prohibited.

As per the **Law on Political Parties** (LPP), political parties:

- shall not use symbols that infringe on universal human values and shall not be contrary to good morals (LPP Art 5, Par. (2)).
- shall not create youth structures for persons under 18 years of age, religious or military structures (LPP Art. 20, Par. (4)).
- shall use democratic means and methods to pursue their political goals (LPP Art. 2, Par. (3)).

As a measure to prevent the establishment of political parties in violation of the legal rules the law lays down a **special registration procedure**. Political parties are registered by the court, which holds an open court hearing with the participation of the applicant and a public prosecutor (LPP Art. 5, Par. (1)). The public prosecutor can appeal the registration (LPP Art. 18, Par. (1)) and is authorized to request the dissolution of any registered political party, which violates the constitutional or legal provisions (LPP Art. 40, Par. (1)).

The **Law on Non-Profit Legal Entities** (LNPLE) allows a non-profit organisation (including branches of foreign organisations) to be terminated and its registration revoked by court if its activities violate the Constitution, the laws and good morals (LNPLE Art. 13, Par. (1), line 3b).

<sup>367</sup> Council of Ministers. Strategy for Countering Radicalisation and Terrorism 2015-2020. Available at: <https://www.strategy.bg/StrategicDocuments/View.aspx?lang=bg-BG&Id=979>.

<sup>368</sup> Race, nationality, ethnicity, sex, origin, religion, education, convictions, political affiliation, personal or public standing, property status. Constitution of the Republic of Bulgaria.

The **Criminal Code** of the Republic of Bulgaria criminalises the preaching of fascist or antidemocratic ideology or forcible change of the public order established by the Constitution (CC Art. 108, Par. (1)), along with other crimes against the republic such as terrorism (CC Art. 108a, Par.(1)). Criminal law provisions related to extremism also include those dealing with the crimes against peace and humanity such as genocide (CC Art. 416), apartheid (CC Art. 417), holocaust denial (CC Art. 419a), etc. The Criminal Code further criminalizes a number of acts of hate crime, hate speech and other acts often associated with right-wing extremism, and those fall within the categories crimes against the equality of citizens and against the religious denominations. Criminal Code also provides for heavier sanctions for some violent crimes (homicide and heavy body injury) when they have been motivated by hooligan, racist or xenophobic motives (CC Art. 116, Par. 1, Item 11 and Art. 131, Par. 1, Item 12).

### 6.3. Other responses to right-wing extremism

In 2017, the government appointed a **National Coordinator for the Countering Antisemitism**, signed a Memorandum of Understanding with the Jewish community and accepted the working definition of antisemitism by the International Holocaust Remembrance Alliance (IHRA). The Coordinator's tasks include "facilitation of surveys of public attitudes, research and risk assessment, monitoring, data collection and reporting of antisemitic hate speech and hate crimes."<sup>369</sup> In 2020, an interagency Contact Group was formed, composed of diverse actors, including the Ministry of the Interior, the Ministry of Foreign Affairs, the Ministry of Education as well as representatives of the civil society and the Jewish community.<sup>370</sup> In 2019, the Ministry of Foreign Affairs appointed a Bulgarian representative to the Council of Europe's European Governmental **LGBTI** Focal Points Network (FPN).<sup>371</sup>

A noteworthy development is the **ban on the flagship event Lukov March** in remembrance of a controversial general associated with his support for the Nazis in World War II. The event has been held annually and is organised by the extremist right-wing activist organisation **Bulgarian National Union – New Democracy** (Български национален съюз - Нова демокрация). The event was first held in 2003, drawing extremists from Bulgaria and abroad, as well as widespread condemnation. Despite previous attempts of the Sofia mayor to forbid the event were overturned by courts, until in 2020 the Supreme Administrative Court upheld the ban and the event was officially prohibited.<sup>372</sup> Steps have been taken by the prosecution to ban the Bulgarian National Union-Edelweiss<sup>373</sup>, the main organiser of the Lukov March, which Sofia City Court has recently refused to do.<sup>374</sup>

<sup>369</sup> Comments of the Bulgarian Government to the report of the Commissioner for Human Rights of the Council of Europe following her visit to Bulgaria on 25-29 November 2019. Available at: <https://rm.coe.int/comments-of-the-bulgarian-government-to-the-report-by-the-council-of-e/16809d43dd>, p.4.

<sup>370</sup> Ibid.

<sup>371</sup> Ibid.

<sup>372</sup> Marginalia (22 February 2020) Съдът потвърдил отмяната на Луковмарш Решението е окончателно и не подлежи на обжалване. Available at: <https://www.marginalia.bg/novini/sadat-potvardil-otmyanata-na-lukovmarsh-reshenieto-e-okonchatelno-i-ne-podlezhi-na-obzhalvane/>.

<sup>373</sup> The Bulgarian National Union - Edelweiss and the Bulgarian National Union – New Democracy are distinct political parties, even through the main leader of the latter, Boyan Rasate used to lead the former.

<sup>374</sup> 24 chasa. Прокуратурата обжалва решение, с което бе отказано заличаване на БНС-Еделвайс. Available at: <https://news.bg/crime/sadat-otkaza-da-zalichi-bns-organizatorite-na-lukovmarsh.html>.

Furthermore, a number of events and campaigns aimed at countering hate speech and fostering tolerance have been carried out in Sofia in 2018 and 2019.<sup>375</sup> Last but not least, institutions in cooperation with EU agencies such as FRA and international organisations such as OSCE have carried out trainings for police, prosecution and the judiciary on recognising, recording, investigating and prosecuting hate crime against the Jewish and LGBTQ+ minorities.<sup>376</sup>

Civil society has been active particularly in the field of prevention of related phenomena such as hate speech. An example of a specific initiative targeting Bulgarian youth is the EU-funded campaign Find Another Way under the project Resilient Youth against Far-Right Extremist Messaging Online (YouthRightOn), led by CSD.<sup>377</sup> It tackles the problem of right-wing narratives influence over youth (14-19 year olds) in Bulgaria by providing alternative narratives to confront extremist messages and ideas propagated online, as well as offline guides for teachers aimed at building resilience and core skills such as critical thinking, tolerance and conflict resolution. Campaigns against hate speech are also carried out by civil society. In addition, human rights organisations and other civil society actors have consistently raised awareness and lobbied the government for the need to extend protection to vulnerable groups currently not covered by CC provisions on hate crime such as LGBTQ+ people and have pointed out flaws in official response to right-wing extremism. As a result of the attack on "Rainbow hub" LGBTQ+ centre in Sofia, the European Parliament's LGBTI intergroup called upon the Bulgarian government to follow ECRI and the EP's recommendation to include hate crimes and hate speech on grounds of sexual orientation, gender identity and expression, and sex characteristics in the Criminal Code.<sup>378</sup>

#### 6.4. Effectiveness of the response to right-wing extremism

In terms of **Constitutional provisions**, it should be noted that the characteristics mentioned as protected under the Constitution form an exhaustive list.<sup>379</sup> The characteristics in the Constitution do not include sexual orientation, even if it is included as a protected characteristic in the Law on Protection from Discrimination. In addition, it is currently not possible for citizens to seek their constitutional rights by referring cases directly to the Constitutional Court.<sup>380</sup> The Bulgarian Constitution defines that "[m]atrimony shall be a free union between a man and a woman".<sup>381</sup> A recent ruling by the Constitutional Court has indicated that the Bulgarian constitution considers sex to be defined solely by its biological characteristics.<sup>382</sup> Human rights organisations have criticised this interpretation.

Several analyses by civil society and international organisations have pointed out a number of **problems in the legal framework for combatting crimes committed out of prejudice**. In particular,

<sup>375</sup> Comments of the Bulgarian Government to the report of the Commissioner for Human Rights of the Council of Europe following her visit to Bulgaria on 25-29 November 2019. Available at: <https://rm.coe.int/comments-of-the-bulgarian-government-to-the-report-by-the-council-of-e/16809d43dd>.

<sup>376</sup> Ibid.

<sup>377</sup> See <https://youthrighton.com/en/home/>.

<sup>378</sup> Attack against the LGBT Community Centre 'Rainbow Hub' in Sofia: MEPs call on government to propose hate crime and hate speech legislation, available at: <https://lgbti-ep.eu/2021/11/10/attack-against-the-rainbow-hub-lgbt-community-centre-in-sofia-meps-call-on-government-to-propose-hate-crime-and-hate-speech-legislation/>

<sup>379</sup> Deliev, B. (2016) *Конституционни аспекти на правото на недискриминация. Механизми на закрила*. PhD Dissertation. Sofia: Bulgarian Academy of Science.

<sup>380</sup> Ibid.

<sup>381</sup> Constitution of the Republic of Bulgaria.

<sup>382</sup> Bulgarian Constitutional Court Ruling № 15, 26 October 2021.



the **Criminal Code** is plagued by conceptual unclarities and omissions. Different Criminal Code provisions mention different characteristics as protected without any clarity as to why this is needed.<sup>383</sup> In addition, no definition has been advanced for racist and xenophobic motivations, despite recommendations by the European Commission against Racism and Intolerance.<sup>384</sup> There is also no legal definition of the term “anti-democratic ideology” and it is not clear what ideologies would fall within the scope of this criminal offence. Significantly, no protection is afforded to the LGBTQ+ minority, as the Criminal Code does not mention sexual orientation or gender identity as a protected characteristic.<sup>385</sup> The Criminal Code also does not oblige the suppression of funding for political parties or other organisations which promote racism.<sup>386</sup> Furthermore, the OSCE along with human rights organisations have called for extending discriminatory motivation as aggravating circumstances to more offences, including robbery, sexual assault<sup>387</sup> etc. and to include homophobic motives as aggravating circumstance.<sup>388</sup> The OSCE has also critiqued putting hooligan motives on equal footing with racist and xenophobic motives.

Aside from problems in the formulation of the legislative framework, there are **significant problems with its implementation**. Firstly, reporting of hate crime is plagued by significant latency, as victims have low trust in the police to solve such crimes.<sup>389</sup> Secondly, the relevant provisions mentioned above are relatively new for the Bulgarian legal system and have not been used extensively. Even when such crimes with discriminatory motives are reported, they might be recorded, prosecuted and tried as another offence. There is evidence that even for crimes where there are indications of a prejudice motive, investigations under more familiar provisions are preferred, especially hooliganism with which the police and prosecution have much more experience.<sup>390</sup> Therefore, the lack of judicial practice on such crimes has become a self-perpetuating problem. Another problem related to the formulation in the Criminal Code is that due to the grouping of the racist, xenophobic and hooligan motives, data for the three types of motivations is gathered collectively making it particularly difficult to estimate the scale of the most serious and violent hate crimes. The offence of bodily injury with hooligan, racist and xenophobic motives is the relevant Criminal Code article under which the most offences are recorded, even though it is unclear from the data which of the three motives were present.<sup>391</sup> Conversely, other provisions of the CC dealing with crimes related to right-wing extremism are used infrequently.<sup>392</sup> Due to this, the inclusion of this CC article can result in over-inflation of hate crime (see the table below) and vice versa.

<sup>383</sup> OSCE Office for Democratic Institutions and Human Rights (2018) *Становище относно определени разпоредби на Наказателния кодекс на България, отнасящи се до престъпления, мотивирани от предразсъдъци, „реч на омразата“ и дискриминация*. Warsaw: ODIHR.

<sup>384</sup> Пушкарова, И. (2019) Слово на омразата. – В: Учебен модул III „Антидискриминационно право – Наказателно-правни аспекти“ за полицейски служители и разследващи полицаи. София: КЗД, МТСП и Институт „Отворено общество“.

<sup>385</sup> OSCE Office for Democratic Institutions and Human Rights (2018) *Становище относно определени разпоредби на Наказателния кодекс на България, отнасящи се до престъпления, мотивирани от предразсъдъци, „реч на омразата“ и дискриминация*. Warsaw: ODIHR.

<sup>386</sup> ECRI. (2017) *ECRI Conclusions on the Implementation of the Recommendations in Respect of Bulgaria*. Strasbourg: ECRI.

<sup>387</sup> OSCE Office for Democratic Institutions and Human Rights (2018) *Становище относно определени разпоредби на Наказателния кодекс на България, отнасящи се до престъпления, мотивирани от предразсъдъци, „реч на омразата“ и дискриминация*. Warsaw: ODIHR.

<sup>388</sup> Amnesty International Bulgaria (2015) *Missing the point: Lack of adequate investigation of hate crimes in Bulgaria*. Sofia: Amnesty International. <https://www.amnesty.org/en/documents/eur15/0001/2015/en/>

<sup>389</sup> Ibid.

<sup>390</sup> Dzhekova, R. et al. (2017) *Situational Assessment of Extremist Trends*. Sofia: CSD.

<sup>391</sup> Ibid.

<sup>392</sup> Ibid.

**Table 13: Recorded and prosecuted hate crimes and sentences - BG<sup>393</sup>**

Year	Hate crimes recorded by police	Prosecuted	Sentenced
2019	22	432	155
2018	46	6	158
2017	22	9	9
2016	28	299	71
2015	704	752	135

Source: OSCE, Hate Crime Reporting (2019)

In addition, there are possibilities for political actors to bypass party registration laws and procedures and participate in elections or receive public funds through joining coalitions with already established parties. This approach was used by the far-right Nationalist Party of Bulgaria in 2014.<sup>394</sup> As a result, the European Commission against Racism and Intolerance (ECRI) expressed concern over “the ease of official recognition of extremist parties as well as the possibility for them to receive State subsidies.”<sup>395</sup> The Commission recommended Bulgaria to introduce legislation changes in order to stop public financing of organisations or political parties which promote racism.

In addition, the prosecution has not been active in initiating proceedings against the numerous incidents of inflammatory speech against minorities, by members of extreme right-wing parties. Where such instances have reached the courts, this has been on the initiative of citizens and civil society organisations as plaintiffs and Bulgarian courts have not upheld sentences or dismissed cases.<sup>396</sup> For this reason, in 2021 Bulgaria received two sentences by the European Court of Human Rights.<sup>397</sup> Similarly, other offences have also gone unrecognised – two paramilitary formations, the Vasil Levski Military Union and Shipka Bulgarian National Movement, have never been prosecuted for their vigorous propagation for the violent overthrow of the constitutional party system, an offence under CC art. 108.<sup>398</sup>

<sup>393</sup> The discrepancy in the number of prosecutions is probably due to lag in prosecution and sentencing of crimes from past years.

<sup>394</sup> Komentator.bg, „НПБ намери „врата“ в закона и ще участва на евроизборите“, 16.04.2014.

<sup>395</sup> ECRI (2014) ECRI Report on Bulgaria (fifth monitoring cycle), <https://rm.coe.int/fifth-report-on-bulgaria/16808b55d8>, p. 15.

<sup>396</sup> Bojilova, V. (22 February 2021) Осъдиха България заради език на омразата. Български съдилища си бяха затворили очите. *Deutsche Welle*. Available at: <https://www.dw.com/bg/осъдиха-българия-заради-език-на-омразата-български-съдилища-си-бяха-затворили-очите/a-56654397>.

<sup>397</sup> Veselinova, M. (16 February 2021) Първи решения в Страсбург срещу системна реч на омразата в България. *Dnevnik*. Available at: [https://www.capital.bg/politika\\_i\\_ikonomika/bulgaria/2021/02/16/4175559\\_purvi\\_osuditelni\\_resheniia\\_v\\_strasburg\\_sr\\_eshtu/](https://www.capital.bg/politika_i_ikonomika/bulgaria/2021/02/16/4175559_purvi_osuditelni_resheniia_v_strasburg_sr_eshtu/)

<sup>398</sup> Dzhekova, R. and Stoyanova, N. (2019) Vigilantism against Migrants and Minorities in Bulgaria. In Bjorgo, T. and Mares, M. (eds.) Vigilantism against Migrants and Minorities. London: Routledge.



Similarly, despite the tentative steps mentioned above, in Bulgaria, prevention of all types of violent extremism but specifically right-wing is particularly under-developed.<sup>399</sup> Key institutional actors such as the Ministry of Education have lagged in recognising their role in prevention.<sup>400</sup> As a result, law enforcement has remained the predominant actors in countering extremism and the approach remains focused mostly on repression and counter-terrorism. The appointment of a National Coordinator against Anti-Semitism, while a positive step, should be accompanied by action addressing prejudice and hate crime against other more vilified communities. It remains to be seen what the contribution of the Bulgarian representative to the European Governmental LGBTQ+ Focal Points Network (FPN) will be in protecting LGBTQ+ rights.

Bulgaria faces **serious problems in tackling the threat of right-wing extremism**. The rise in importance of far-right political actors has resulted in further normalization of hate speech and inflammatory discourse. Prevention of all types of extremism remains particularly under-developed and law enforcement remains the key actor in a securitised approach. Tackling crime associated with right-wing extremism is also hindered by several factors: latency in reporting, omissions and unclarity in the Criminal Code, as well as lack of experience in law enforcement and the prosecution, leading to recording, investigating and prosecuting of hate crime under relevant provisions. Similarly, prosecuting the numerous incidences of hate speech by right-wing extremist political actors has not been prioritised.

## 6.5. Conclusion

Bulgaria faces serious problems in tackling the threat of right-wing extremism. The rise in importance of far-right political actors has resulted in further normalization of hate speech and inflammatory discourse. Prevention of all types of extremism remains particularly under-developed and law enforcement remains the key actor in a securitised approach. Tackling crime associated with right-wing extremism is also hindered by several factors: latency in reporting, omissions and unclarity in the Criminal Code, as well as lack of experience in law enforcement and the prosecution, leading to recording, investigating and prosecuting of hate crime under relevant provisions. Similarly, prosecuting the numerous incidences of hate speech by right-wing extremist political actors has not been prioritised.

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<sup>399</sup> Dzhekova, R., Stoyanova, N. and Ralchev, S. (Forthcoming) *Country Report for Bulgaria on Macro Level Drivers of Violent Extremism*. Sofia: CSD.

<sup>400</sup> Ibid.

## 7. COUNTRY FICHE – FRANCE

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### 7.1. Distinctive features of right-wing extremism in the country

It is difficult to assess exactly the scope of right-wing extremist violence. A recent study counted over **1,300 acts of right-wing extremist violence in France since 1986**.<sup>401</sup> A further **30 acts have been committed since the start of 2021**.<sup>402</sup> These acts are undertaken by individuals with a right-wing extremist motive. Only a few organisations are responsible for those acts. While France has not experienced large-scale violence or terrorist events in recent years, a number of events have taken place, failed or been foiled. They include, attempted assassination attempts against Jacques Chirac, attacks against mosques, and foiled attacks against Muslims, politicians, etc.

According to the national intelligence coordinator, five right-wing extremist cells have been dismantled since 2017.<sup>403</sup> These include:

- **Nouvelle OAS** – in 2017, seven people were arrested for their allegedly planned act against mosques, kebab shops and politicians (in particular the government spokesperson and Jean-Luc Mélenchon, the leader of a prominent left-wing party). They claimed ideological links with the Organisation Armée Secrète (OAS).<sup>404</sup>
- **Action des forces opérationnelles (AFO)** – an organisation created after the November 2015 terrorist attacks targeting Muslim people. The group was allegedly planning attacks against Muslim and the poisoning of halal products in supermarkets.<sup>405</sup>

The main threat about these groups is that they emerged outside of the traditional extreme-right groups.<sup>406</sup> To a large extent, for a number of decades, the Front National had managed to represent a large enough **centre of gravity** for most movements on the extreme-right to move around it. Under the leadership of Jean-Marie Le Pen, the FN's membership and ideology was diverse and included national-revolutionaries, neo-Nazis, catholic traditionalists and many others. In many ways, the party was diverse enough to represent many actors on the spectrum of radical nationalism to right-wing extremism.<sup>407</sup> With the gradual transformation of the Front National into the Rassemblement National with a strategy of making itself more acceptable (and electable) by a more traditional right-wing and centre-right electorate a growing number of small extreme-right groups emerged, some of which are increasingly developing their own distinct identification, moving away from the RN.

While this trend is noticeable, these groups often focus on cultural and political issues without competing in elections, but help to highlight issues which are then often picked up by the RN. These groups, the three defining characteristics of the working definition of right-wing extremism (the belief

<sup>401</sup> Isabelle Sommier, François Audigier, Xavier Crettiez, *Violences politiques en France de 1986 à nos jours*, Première édition, 2021.

<sup>402</sup> Rapports de force data available at: <https://rapportsdeforce.fr/boite-a-outils/carte-les-violences-dextreme-droite-en-france-en-2021-062910590>.

<sup>403</sup> Libération, En France, une violence d'extrême droite fréquente, létale et protéiforme, 19 March 2021, accessible at <https://www.liberation.fr/politique/en-france-une-violence-dextreme-droite-frequente-letale-et-proteiforme-20210319-OXPIPOXYSZCUPLUZAYL4YGGGFY/>

<sup>404</sup> See for example <https://www.leparisien.fr/faits-divers/groupuscule-dultradroite-oas-le-parquet-antiterroriste-demande-un-proces-09-04-2021-RZANTHHGL5BNDHKOKOPLIUMSXI.php>

<sup>405</sup> [https://www.lexpress.fr/actualite/societe/afo-les-inquietants-pieds-nickeles-de-l-ultradroite\\_2107394.html](https://www.lexpress.fr/actualite/societe/afo-les-inquietants-pieds-nickeles-de-l-ultradroite_2107394.html)

<sup>406</sup> <https://lvsl.fr/ou-en-est-lextreme-droite-francaise/>.

<sup>407</sup> See <https://lvsl.fr/ou-en-est-lextreme-droite-francaise/> for an overview of the evolution of the FN to the RN.

in some form of **natural inequality or hierarchy** between people or groups of people, the implicit or explicit aim to **destroy the democratic system and the belief in authoritarianism**). The extent to which they are prepared to use violence or condone it is more difficult to assess in some of them. They can be categorised as follows:

- **Identitarian movement** (Génération identitaire, Les identitaires, Nissa Rebela). The movement emerged at the turn of the century. It was based on the conclusions that the strategy linked to the FN was not successful. As a result, their strategy was changed, greatly influenced by left-wing writers and the anti-globalisation movement, especially the concept of cultural hegemony developed by Antonio Gramsci. As such, the main proponent on the identitarian movement gradually moved away from the FN and their strategy has been to try to influence the public debate on issues such as an alleged anti-white racism or the building of mosques. Given the relatively small number of activists, and their lack of access to mass media, the identitarian movement relies heavily on social media to communicate and include a number of YouTuber (see below).
- **National-Catholicism** (and royalist movements). The most well know movement in this group is the Action Française. It has experienced increased popularity during the mass demonstrations against same-sex marriage.
- **Revolutionary nationalism** (GUD<sup>408</sup>, Troisième Voie) is a broad denomination which in France refers to organisations seeking the introduction of a Third way (Third position), apart from both capitalism and communism. It is characterised by an ideology that is both extreme-right in the cultural sphere and far left in the economic one. The main groups active in the past 20 years have been dissolved.
- **Alt-right**. It is characterised by a clever use of the multiplier effect some viral content can have on social media and ultimately to mainstream media. This movement characterised by conspiracy themes supporting extreme-right ideas. The alt-right movement has sought to capitalise on social movements such as the Gilets Jaunes or the mobilisation against the Covid pass in France to extend beyond their traditional online space.

While France has not experienced large-scale right-wing violence or terrorist attacks in recent years, a number of events have taken place, failed or been foiled. They include an assassination attempt against Jacques Chirac, attacks against mosques, and foiled attacks against Muslims, politicians, etc. Notable events include the dismantling on the nouvelle OAS in 2017, the AFO in 2019. More isolated events include a plot to mount attacks on mosques in 2003 and 2013 or on a synagogue in 2020.<sup>409</sup>

On the other hand, France has experienced a rise in right-wing populist discourse especially on mainstream media. Examples of interest include the online presence of far-right influencers including on YouTube (fachosphère) encouraging violence against Muslims and political opponents<sup>410</sup>.

The concept of the left-right political spectrum emerged in France during the French revolution. The right was characterised by a rejection of universal suffrage and changes brought about by the revolution. France has a long tradition of radical- and extreme-right movements which started during the Third Republic. *Boulangism* is often seen, with the German *volkish* movement, as one of the earliest expressions of the radical right in Europe. The inter-war period saw a very active and militant rise in extreme-right movements (*Action Française*, *les Camelots du roi* and other far right leagues). The

<sup>408</sup> The GUD was disbanded in 2017 and replaced by Bastion Social, itself disbanded in 2019).

<sup>409</sup> See Nicolas Lebourg, *Extreme Right Terrorist Radicalization in post-2015 France* p 6, available at: <https://www.illiberalism.org/extreme-right-terrorist-radicalization-in-france-since-november-13-2015/>

<sup>410</sup> See for example Prévost, Thibault, *Bienvenue sur fachotube*, in *arretsurimages.net* 20 June 2021, available at : <https://www.arretsurimages.net/chroniques/clic-gauche/lextrême-droite-sur-youtube-convertir-par-la-boutade>.

importance of these movements and the depth of the implantation of their ideas in the political debate helped pave way for the large consensus accepting the Vichy regime during the time of collaboration with the Nazi regime<sup>411</sup>. Led by Philippe Pétain, the regime was characterised by a rejection of democracy, anti-Semitism, xenophobia and the promotion of traditional values as well as measures taken against groups seen as representing 'anti-France'.<sup>412</sup>

The post-war period was marked by the Algerian war and the creation of the Organisation Armée Secrete (OAS) following the success of the referendum on Algeria's independence. The OAS was responsible for a number of bomb attacks and assassination attempts. The Front National (FN), created in 1972, sought to regroup different far right movements into a political force able to compete in elections.

Radical and extreme-right ideas and parties have regained popularity in France since the 1980s. Following a change in the electoral system, the FN entered the National Assembly in 1986 and has remained an important force. Radical right political parties such as the Rassemblement National (RN – previously Front National) have performed very well in recent elections, routinely reaching the first or second place in national elections.<sup>413</sup> The qualification of the FN has long been debated. During the 2012 presidential election campaign, Jean-Luc Mélenchon, qualified Marine Le Pen, the FN's candidate, a fascist. The latter took the matter to court for 'insult' (*injurer*). The court (Tribunal Correctionnel de Paris) found that Mr Mélenchon was entitled to call Ms Le Pen 'fascist' as the terms *could not be considered an insult when it is used between political opponents on a political topic*. This view was confirmed by the Court of Appeal of Paris, which further stated that it was necessary for Mr Mélenchon to politically characterise his opponent by using a term showing his complete disapproval of her political ideas<sup>414</sup>.

More recently; the emergence of Eric Zemmour as a candidate in the 2022 presidential election is a symptom of the increased popularity of ideas on radical nationalism to right-wing extremist spectrum. His programme is at least right-wing radical, including elements of cultural and ethnic nationalism (stringent curb on immigration including limiting the right of asylum, anti-Muslim aspect such as banning the headscarf in public spaces), rejection of liberal elements of society. During his campaign as well as in his previous role as a media personality; he has promoted conspiracy theories such as the Grand Replacement according to which there is a ploy by a political, economic and media elite to replace the French (and European) population by one for African origin.<sup>415</sup>

Furthermore, Zemmour has been found guilty of racial discrimination, hate speech and incitement to hatred against a group of people on the basis their origin<sup>416</sup>

Beyond the radical right, ideas previously associated with the extreme right have permeated the political debate and mainstream parties. Examples include a minister condemned for hate speech

<sup>411</sup> Sternhell, Zeev, *Ni droite, ni gauche, L'idéologie fasciste en France*, 2<sup>nd</sup> edition, Editions Complexe 1987.

<sup>412</sup> See for example Robert Paxton, *La France de Vichy*, Points-Seuil, 1974.

<sup>413</sup> Election results in France available at: <https://www.data.gouv.fr/fr/posts/les-donnees-des-elections/>.

<sup>414</sup> See for instance Ouest France, Taxée de « fasciste », Le Pen perd son procès contre Mélenchon, published on 28 February 2017, available at: <https://www.ouest-france.fr/elections/presidentielle/taxee-de-fascisme-le-pen-perd-son-proces-contre-melenchon-4826566>.

<sup>415</sup> <https://www.france24.com/fr/france/20220214-le-grand-remplacement-0%C3%B9-la-machine-%C3%A0-fantasmes-de-l-extr%C3%A0me-droite>

<sup>416</sup> [https://www.lemonde.fr/politique/article/2022/01/17/eric-zemmour-condamne-pour-la-troisieme-fois-par-la-justice\\_6109839\\_823448.html](https://www.lemonde.fr/politique/article/2022/01/17/eric-zemmour-condamne-pour-la-troisieme-fois-par-la-justice_6109839_823448.html)

'injure à la haine raciale'<sup>417</sup>, an interior minister speaking about the need for Roma to "return to their country".<sup>418</sup> The candidate of the main centre-right party, Valérie Pécresse has mentioned the 'grand replacement' conspiracy theories in a campaign speech.<sup>419</sup>

The penetration of right-wing extremist ideas into the mainstream is supported by a number of debates launched and fed by the extreme-right have taken over the media space. These controversies ("polémiques") often follow the same modus operandi. An extreme right twitter account identifies facts or something someone in the limelight has said and "@replies" to politicians and media organisations. They are often then picked up by panel discussions on television channels with panellists located on the spectrum of radical nationalism to right-wing extremism (examples include Eric Zemmour<sup>420</sup>, or Jean Messiah a media personality who recently participated in an online programme hosted on a shooting range<sup>421</sup> etc.). These controversies often relate to immigration and Islam. Recent controversies include wearing hijab in universities, shops or by parents accompanying school trips, teaching of Arabic at school, etc. The link between the online and main media far-right rhetoric is one distinctive feature of the phenomenon in France.

Another specificity of right-wing extremism in France is the popularity of some proponents of violent action online and especially on YouTube. There are a number of influencers and YouTubers promoting far-right ideas and in some cases violence. The most high-profile incident is a video by two far-right extremists showing on a mannequin how to kill a left-wing militant and discuss how to procure firearms.<sup>422</sup> In order to avoid prosecution and being removed from YouTube, those making up the 'fachosphère' ensure that their videos are either done in a humoristic way (in order to claim the lack of seriousness of what they are doing) or use metaphors. As an example, irregular migrants are labelled 'wild boars', so that hunting analogies can be used when inciting violence against them.<sup>423</sup>

These youtubers<sup>424</sup> are also present on other platforms (online gaming) and help divert followers and viewers to more serious outlets located on the spectrum of radical nationalism to right-wing extremism (*Sputnik, Putsch Media, TVLibertés, Boulevard Voltaire, Carrefour de l'Horloge, or VA+*). Interviews and shows on those outlets take on a more serious turn and include discussions on theories including the *Great Replacement*; calls for the army overthrowing the government etc. Once there, the move to mainstream channels who have taken a clear turn to the extreme right over the past years is seamless. Cnews is a case in point. Often dubbed the French Fox news, the channel owned by Vincent Bolloré, a media mogul setting a reactionary agenda when right-wing radical and extreme themes are prominent<sup>425</sup> has provided a daily show to extreme-right figures such as Eric Zemmour and hosts a

<sup>417</sup> See for example Eolas, Journal d'un avocat, Le jugement condamnant Brice Hortefeux pour injure raciale, published on 12 June 2010 (<https://www.maitre-eolas.fr/post/2010/06/12/Le-jugement-condamnant-Brice-Hortefeux-pour-injure-raciale>).

<sup>418</sup> Parallel report by the European Roma Rights centre concerning France to the Committee on the Elimination of Racial Discrimination, for consideration at the 86th Session (27 April to 15 May 2015).

<sup>419</sup> [https://www.lemonde.fr/election-presidentielle-2022/article/2022/02/14/valerie-pecresse-se-defend-de-son-utilisation-du-terme-complotiste-du-grand-remplacement-au-cours-de-son-meeting-a-paris\\_6113617\\_6059010.html](https://www.lemonde.fr/election-presidentielle-2022/article/2022/02/14/valerie-pecresse-se-defend-de-son-utilisation-du-terme-complotiste-du-grand-remplacement-au-cours-de-son-meeting-a-paris_6113617_6059010.html)

<sup>420</sup> provocation à la haine et à la violence » et « injures publiques envers un groupe de personnes en raison de leur origine

<sup>421</sup> See Café cartouche, available at : <https://www.youtube.com/watch?v=5dLG9V19tdk>

<sup>422</sup> Papacito and Code Reinho, see: <https://www.marianne.net/societe/police-et-justice/la-video-ou-le-youtubeur-papacito-mime-le-meurtre-dun-electeur-insoumis-supprimee>

<sup>423</sup> See for example Prévost, Thibault, Bienvenue sur fachotube, in arretsurimages.net 20 June 2021, available at <https://www.arretsurimages.net/chroniques/clic-gauche/lextrême-droite-sur-youtube-convertir-par-la-boutade>.

<sup>424</sup> [https://www.mediapart.fr/journal/france/140321/les-youtubers-de-la-haine-un-neofascisme-debonnaire#atmedium=custom7&at\\_campaign=1047](https://www.mediapart.fr/journal/france/140321/les-youtubers-de-la-haine-un-neofascisme-debonnaire#atmedium=custom7&at_campaign=1047).

<sup>425</sup> See Le Monde, Comment Vincent Bolloré mobilise son empire médiatique pour peser sur la présidentielle, available at : <https://www.lemonde.fr/m-le-mag/article/2021/11/16/l-opa-de-vincent-bolloré-sur-la->

number of panel discussion which provide a wider audience to some of the controversies emerging online. Finally, Cnews is regularly sanctioned by the media watchdog for failing to represent political pluralism; as an example, between 2020 and 2021, 36% of politicians invited represented the far right.<sup>426</sup>

The role played by the *fachosphère* is a clearly concerted effort. Papacito, a prominent YouTuber on the 111achosphère has defined his and his colleagues' role in Gramscian terms as 'to convert by laughter, joke and punchline [people] to get interested in right-wing thoughts'.<sup>427</sup> Beyond the realm of communication, the *fachosphère* has an influence on right-wing extremist groups. As an example, Papacito and another youtuber, 'le Raptor Dissident' created a group which became 'Vengeance Patriote', a violent group training activists to fight and get involved in street violence.<sup>428</sup>

## 7.2. Legal framework

The **French constitution** does not contain definitions of right-wing extremism or similar terms, but contains a series of articles which relate to elements of the definition of right-wing extremism developed in section 2.3. It states that France is an indivisible, secular, **democratic** and social Republic (art. 1), it further states that political parties and groupings shall **respect the principles of national sovereignty and democracy** (art. 4). In addition, the preamble of the constitution recalls the Declaration of the Rights of Man and of the Citizen, a key text of the French Revolution, which establishes that *Human Beings are born and remain free and equal in rights and provides for rights such as the freedom of exercising ones' religion, the right to one's opinions*. However, the constitution does not require political groups or parties to abide by the principles set out in its first article, but to "*contribute to the exercise of suffrage. They shall be formed and carry on their activities freely. They shall respect the principles of national sovereignty and democracy.*"

French **criminal law** provides a number of provisions and tools to combat right-wing extremism. This includes legal provisions relating to (i) terrorism, (ii) discrimination, violence or racial hatred, and (iii) aggravating circumstances for offences committed because of a person's race, ethnicity, nationality or religion.

**Anti-terrorism legislation** has been used for instance in the case of the prosecution against the **Nouvel OAS** or the **AOF**. Terrorism is specified as one of the crimes listed in article 421-1 of the criminal code coupled with the "*aim of seriously disturbing public order through intimidation or terror*". A specificity of the French terrorism legislation is the crime of "criminal association in connection with a terrorist enterprise" (association de malfaiteurs en relation avec une entreprise terroriste) – article 450-1 of the Criminal Code. This provision allows for the prosecution of preparation and intention to commit terrorist acts before they are committed.

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presidentielle\_6102316\_4500055.html . More recently, A civil society coalition comprising academics, journalists at other organisations published an open letter against the threat Mr Bolloré poses to press freedom and democracy, available in English at: <https://reporterre.net/For-press-freedom-and-democracy-Bolloré-must-be-stopped> .

<sup>426</sup> See Libération [https://www.liberation.fr/economie/medias/36-des-invites-politiques-de-cnews-sont-dextreme-droite-20210614\\_TP4X4N2KC5AHHR7AH3ULWI6WU/](https://www.liberation.fr/economie/medias/36-des-invites-politiques-de-cnews-sont-dextreme-droite-20210614_TP4X4N2KC5AHHR7AH3ULWI6WU/) .

<sup>427</sup> Opt. Cit. Prévost.

<sup>428</sup> Coloma, Naima, Vengeance Patriote, le groupuscule d'extrême droite qui prépare ses militants au combat, in Street Press, 28 October 2020, available at : See for example Prévost, Thibault, Bienvenue sur fachotube, in arretsurimages.net 20 June 2021, available at : <https://www.arretsurimages.net/chroniques/clic-gauche/lextreme-droite-sur-youtube-convertir-par-la-boutade>.



Another relevant body of criminal law relates to **discrimination, violence or racial hatred**. This includes provocation to discrimination, racial discrimination of hatred (art. R 625-7 of the Criminal Code), contesting the existence of crimes against humanity (art. 131-35 of the criminal code), violation of a grave characterised by a racist or anti-religious motive (art. 225-18 of the criminal code).

Finally, criminal law also covers instances where a crime is **aggravated** by the intent of targeting someone or a group of people on the grounds of their **race, ethnicity, nationality or religion (art. 132-76 of the criminal code) sex, or actual or supposed sexual orientation or gender identity** (art. 132-77 of the criminal code).

The legacy of France's extreme-right history is also reflected in the country's **administrative law**. A law devised in 1936 is still part of the Code de la Sécurité intérieure sets out the conditions for the **dissolution of an organisation**<sup>429</sup>. These conditions include:

- provoking armed demonstrations in the street;
- be of a paramilitary type,
- have the aim of undermining the integrity of the national territory or of forcibly attacking the republican form of government;
- to have an activity tending to thwart the measures concerning the restoration of republican legality (after the Vichy regime);
- aim either to bring together individuals who have been the subject of condemnation for collaboration with the enemy, or to exalt this collaboration;
- either provoke or propagate ideas or theories tending to justify or encourage discrimination and racism (hatred or violence towards a person or a group of people because of their origin or their membership or their non-membership in a specific ethnicity, nation, race or religion);
- engage, on or from French territory, in acts with a view to provoking acts of terrorism in France or abroad.

As such, the law allows for the dissolution of groups or political parties. There has been an ongoing debate about the legality of some radical and extreme right political grouping and parties. A number of organisations have been **dismantled** on the basis of this law over the past few years, including the right-wing extremist organisations **Génération Identitaire**<sup>430</sup>, **Bastion Social**<sup>431</sup> or **l'Oeuvre française**<sup>432</sup>. The banning of the Rassemblement National, has also been the subject of debate in recent years. According to one of the main experts of the radical and extreme right in France, \*Jean-Yves Camus, there is nothing in the party's manifesto suggesting it wants to abolish the republic. The concept of national preference (*préférence nationale*), while against the spirit of the constitution, is not a ground for disbanding the party either, as it is part of the democratic debate to discuss what should be included in the constitution.<sup>433</sup> Others suggest that while there were grounds to ban the party in the past, no one would have suggested doing so given the political importance of the party.<sup>434</sup> However,

<sup>429</sup> *Loi du 10 janvier 1936 sur les groupes de combat et milices privées* now integrated in the Code de la sécurité intérieure.

<sup>430</sup> Décret du 3 mars 2021, JORF no 54 du 4 mars 2021, texte no 19.

<sup>431</sup> Décret du 24 avril 2019, JORF no 97 du 25 avril 2019, texte no 31.

<sup>432</sup> Décret du 25 juillet 2013, JORF no 173 du 27 juillet 2013, texte no 16.

<sup>433</sup> In Libération, Eric Dupond-Moretti a-t-il affirmé qu'il faut interdire le RN, et est-ce juridiquement possible ?, available at [https://www.liberation.fr/checknews/2020/07/07/eric-dupond-moretti-a-t-il-affirme-qu-il-faut-interdire-le-rn-et-est-ce-juridiquement-possible\\_1793568/](https://www.liberation.fr/checknews/2020/07/07/eric-dupond-moretti-a-t-il-affirme-qu-il-faut-interdire-le-rn-et-est-ce-juridiquement-possible_1793568/) .

<sup>434</sup> See in particular Slate.fr, Le Front national encourt-il, en droit, une dissolution du fait du caractère non républicain de son programme? Available at <http://www.slate.fr/story/89331/fn-dissolution> .

given the fact that the dissolution of an organisation or political party is done by decree, there is no case law on the matter as the decision is taken by the executive, not the judiciary.

A final aspect of administrative law is the "Fiche S". People who are suspected of being a threat to the safety of the state or of public safety or having links with such people.<sup>435</sup> Fiches S allow intelligence and law enforcement services to collect information. The Fiche S has been criticised given they lack of judicial oversight. Former anti-terrorist judges highlighted the risk of such a system following call for all people subject to a fiche S to be incarcerated.

### 7.3. Other responses to right-wing extremism

Other responses to right-wing extremism include (i) state organisations created to monitor hate crimes (a distinctive feature of right-wing extremism), (ii) civil society initiatives.

In terms of state organisations, that have been set up to monitor and implement measures to combat discrimination and hate crimes, the most important one is the **Commission nationale consultative des droits de l'homme** (CNCDH). The CNCDH acts as counsellor for the government and propose laws, and then survey the application of governmental measures and laws voted in Parliament. The Commission is in charge in particular of evaluating the policy against racism, xenophobia and anti-Semitism. It publishes each year a report on racism, xenophobia and anti-Semitism setting out the extent to which these phenomena are developed in the country, as well as responses.

The **National Centre for Counter Terrorism** (Coordination nationale du renseignement et de la lutte contre le terrorisme) is charged with monitoring and preventing terrorism.<sup>436</sup> The center focuses on the prevention of terrorism.

Another key aspect of the responses to right-wing extremism is led by **civil society**. Initiatives such as the Marche des libertés in March 2021 organised in 140 cities and town across France called by a number of civil society organisations to raise the risk of far-right extremism as well as perceived risks to civil liberties in France.

The importance of such event should not be underestimated. In the words of a specialist of right-wing extremism in France, in moment where extreme-right activism is re-emerging, one can observe that the responses come mainly from civil society.<sup>437</sup>

### 7.4. Effectiveness of the response to right-wing extremism

The **French constitution** does not expressly prohibit certain elements relating to the working definition of right-wing extremism. Indeed, the elements of constitutional law relating to political groups or parties are fairly limited. France has traditionally not adopted a protective attitude to its legal system. Since the third republic (1871-1940), the French strategy to combat the extreme right has been to attempt to persuade activists and assimilate them to the republican competition. However, this

<sup>435</sup> Sénat, Rapport d'information fait au nom de la commission des lois constitutionnelles, de législation, du suffrage universel, du Règlement et d'administration générale (1) par le groupe de travail sur l'amélioration de l'efficacité des fiches S.

<sup>436</sup> <http://www.academie-renseignement.gouv.fr/coordination.html>.

<sup>437</sup> Dr Bénédicte Laumond, interview: 'Face à l'extrême droite et à sa violence : « Les réponses viennent avant tout de la société civile' in BastaMag, available at <https://www.bastamag.net/Marche-des-Libertes-contre-l-Extreme-droite-Papacito-Zemmour-Le-Pen-RN-identitaires-survivalistes-menace-securite-interieure>.

conception exists in parallel with the possibility to ban organisations when this assimilation is considered impossible.<sup>438</sup>

In terms of the effectiveness of the **criminal response**, the table below show how the number of recorded hate crimes by the police has increased between 2015 and 2019. One must remember that this increase may be a factor of more (or better) recording of these types of crime.

**Table 14: Recorded and prosecuted hate crimes and sentences – FR**

Year	Hate crimes recorded by police	Prosecuted	Sentenced
2019	2640	-	-
2018	1838	-	-
2017	1505	Not available	Not available
2016	1835	Not available	583
2015	1790	Not available	Not available

Source: OSCE, Hate Crime Reporting (2019)

In terms of the judicial response based on criminal law, a good example is former FN leader Jean-Marie Le Pen who has been condemned over 25 times on the basis of laws such as anti-racism legislation, apology of war crimes, provocation to hate or public insults. However, the judicial response focussed on the illegality of the actions or speeches rather than their 'extreme-right character'.<sup>439</sup>

The **administrative response** is possibly the most visibly effective one. The grounds on which a party or grouping can be disbanded include all the constituent elements of the working definition of right-wing extremism. Organizations which have either used violence or who are seen to be a threat to the democratic system are dissolved on the basis of the law of 1936 (or in some cases self-dissolve in anticipation of such a measure being taken). On the other hand, organisations who participate in political competition are not subject to measures outside of the political arena. When a party or group is disbanded, the individuals who were part of this group tend to radicalise, as they are not bound by the legal (or social) framework on the group. This was the case after the dissolution of Ordre Nouveau in 1973.<sup>440</sup> Laumont distinguishes between a *policy* response to extreme-right groups and a *politics* response to extreme-right (or right-wing populist) political parties.<sup>441</sup> She looks at the police and judicial terminology used to address the phenomenon. Police refers to 'ultra-droite, characterised by a threat to public order, therefore addressed through the prism of maintaining order or violence. This

<sup>438</sup> Bénédicte Laumont, La régulation du radicalisme de droite : une comparaison franco-allemande, in *Raisons politiques* 2020/2 (N° 78).

<sup>439</sup> Bénédicte Laumont, La régulation du radicalisme de droite : une comparaison franco-allemande, in *Raisons politiques* 2020/2 (N° 78).

<sup>440</sup> Interview with Nicolas Lebourg, in *Marianne*, available at : <https://www.marianne.net/politique/la-dissolution-dun-groupe-politique-est-elle-efficace>

<sup>441</sup> Bénédicte Laumont, La régulation du radicalisme de droite : une comparaison franco-allemande, in *Raisons politiques* 2020/2 (N° 78).

shows a focus on the methods used by right-wing extremists, not their political or ideological activism, thus depoliticising the phenomenon.

## **7.5. Conclusion**

France has a long history of right-wing extremism which demonstrates a number of features appearing in other Member States. While the country has not experienced important terrorist attacks from right-wing extremists, there is very developed and innovative cluster of individuals and groups present and active in the country.

The responses to right-wing extremism are mainly focussed on legal and policy elements targeting the actions of groups and individuals rather than their aims and ideology.

Another important feature is the permeability of right-wing extremist ideas into society and the continuum between mainstream (if far right) media and groups and individuals on the fringes.

## 8. COUNTRY FICHE – GERMANY

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### 8.1. Distinctive features of right-wing extremism

In Germany, parties on the spectrum from right-wing radicalism to right-wing extremism can be differentiated into (1) parliamentary oriented **political parties**; (2) **violence-oriented organisations**, including youth groups from right-wing extremist parties, comradeships, right-wing extremist skinheads, right-wing extremist hooligans and right-wing terrorist groups; and (3) a more established, intellectual "**new right**".

Right-wing extremists share the defining characteristics set out in the working definition for this study (in section 2.3) **Given the country's history**, historical revisionism and anti-democracy also characterise right-wing extremist agitation to varying extent.<sup>442</sup> The right-wing extremist spectrum of **political parties** in Germany includes the Nationaldemokratische Partei Deutschlands (NPD), the right-wing extremist small parties "DIE RECHTE", and "Der III. Weg".

PEGIDA ("Patriotische Europäer gegen die Islamisierung des Abendlandes") is a pan-European, anti-Islam, far-right **political movement**. It was founded in 2014. Pegida believes that Germany is being increasingly Islamised. It therefore defines itself in opposition to Islamic extremism. The movement started off with weekly demonstrations in Dresden that gained widespread attraction<sup>443</sup>. Pegida wants to limit immigration with tighter immigration controls and accuses the authorities of failure to enforce immigration laws<sup>444</sup>.

The German Ministry of Interior, Building and Community **banned four right-wing extremist groups** in 2020<sup>445</sup>:

(1) The neo-Nazi organisation "**Combat 18 Germany**" is the German section of the "Combat 18" association, which was founded in 1992 in the United Kingdom as a protection force of the right-wing extremist "British National Party". In Germany, the group has existed approximately since 2014. The code "18" stands for the first and eighth letters of the alphabet and means "Adolf Hitler"; "Combat 18" can thus be translated as "Kampfgruppe Adolf Hitler". The purpose of "Combat 18 Germany" was to spread a right-wing extremist, xenophobic and anti-Semitic ideology, primarily through the distribution of sound carriers, the organisation of concerts and the sale of merchandise. The group includes around 20 people, with representations in six German federal states. The nationwide overall organization was subordinate to a ringleader based in Thuringia<sup>446</sup>.

(2) The 30 members of the organisation **Nordadler** ('Eagle of the North') have professed allegiance to Adolf Hitler, and their aim was to revive the National Socialist ideology. The group represented both anti-Semitic and racist positions and adhered to conspiracy theories. It also aimed for independence

<sup>442</sup> Constitutional Protection Report 2020, p. 48.

<sup>443</sup> Deutsche Welle, Record turnout at Dresden PEGIDA rally sees more than 25,000 march (article from 12 January 2015, by Kate Brady), available at: <https://www.dw.com/en/record-turnout-at-dresden-pegida-rally-sees-more-than-25000-march/a-18186820>.

<sup>444</sup> The Guardian, Pegida: what does the German far-right movement actually stand for? (article from 6 January 2015 by Kate Connolly) available at: <https://www.theguardian.com/world/shortcuts/2015/jan/06/pegida-what-does-german-far-right-movement-actually-stand-for>.

<sup>445</sup> Brief summary, 2020 Report on the Protection of the Constitution. Facts and Trends, p. 11.

<sup>446</sup> Bundesministerium des Innern, für Bau und Heimat, Verbot von "Combat 18 Deutschland", available at: <https://www.bmi.bund.de/SharedDocs/faqs/DE/themen/sicherheit/vereinsverbot-combat-18/vereinsverbot-combat-18-liste.html> (accessed on 28.10.2021).

from any state structure. According to the Federal Office for the Protection of the Constitution, the group planned to buy real estate in eastern Germany in order to set up training centres there<sup>447</sup>.

(3) The neo-Nazi organisation **Sturm-/Wolfsbrigade 44** ('Storm/Wolf Brigade 44') was founded in 2016. According to the investigating authorities, the group consisted of neo-Nazis who were firmly rooted in the right-wing scene. The group spread xenophobic, openly anti-Semitic and racist positions on social media and wanted to establish a new Nazi state and abolish the democratic constitutional state<sup>448</sup>. The group "**Geeinte Deutsche Völker und Stämme**" ('United German Peoples and Tribes'), together with its sub-entity "Osnabrücker Landmark" ('Frontier of Osnabrück'), became the first group in the Reichsbürger / Selbstverwalter ('Reich-Citizens/Self-Governing Citizens') movement to be banned in Germany<sup>449</sup>. The organisation attracted attention through aggressive language as well as occasional drastic threats. These included in particular "imprisonment" of the addressees, "fines" in large sums and "kin imprisonment". The publications of the organisation illustrated the serious violations of fundamental rights and in particular the human dignity of others. Through racism, anti-Semitism and historical revisionism, the group expressed their intolerance towards democracy. They denied the legitimacy of the Federal Republic of Germany, aiming at their own "natural state" legal system. The association members did not shy away from committing criminal offenses<sup>450</sup>.

Since the 1990s, music has been an important element of neo-Nazi identity in Germany and the development of cross-border links between right-wing extremist groups, especially in Norway.<sup>451</sup> According to the 2020 Report on the Protection of the Constitution, **right-wing extremist music** continues to play an important role in the dissemination of right-wing extremist ideas and the entry into the right-wing extremist scene. In 2017, a concert and rally "Rock against excessive foreign influence" was held in Themar, Thuringia, attracting an audience of ca. 6000 people. In 2019, the authorities issued stricter rules for maintaining public security and order, which made right-wing extremist festivals less attractive within the scene. Due to the Covid-19 pandemic, there were no larger concerts of right-wing extremist music in 2020, with the number of concerts dropping from 311 (in 2019) to 141 (in 2020). However, this is not a reliable indicator for the future of right-wing extremist concerts

### The "new right"

The "new right" is an informal network of groups, individuals and organisations in which right-wing extremist to right-wing conservative forces work together to implement anti-liberal and anti-democratic positions in society and politics using different strategies<sup>452</sup>. The "new right" has its own media, publishers, institutes and networks. According to the Federal Office for the Protection of the Constitution, this group is particular in that it does not organise violent attacks. However, it shares all

<sup>447</sup> Deutsche Welle, Who are the Nordadler, available at: <https://www.dw.com/en/who-are-the-nordadler/a-53914635> (accessed on 28.10.2021).

<sup>448</sup> Bundesministerium des Innern, für Bau und Heimat, Bundesinnenminister verbietet rechtsextremistische Vereinigung "Sturm-/Wolfsbrigade 44", available at: <https://www.bmi.bund.de/SharedDocs/pressemitteilungen/DE/2020/12/verbot-sturmbrigade.html> (accessed on 28.10.2021).

<sup>449</sup> European Union. Terrorism Situation and Trend report 2021. Europol, p. 81.

<sup>450</sup> Bundesministerium des Innern, für Bau und Heimat, Bundesinnenminister Seehofer verbietet mit "Geeinte deutsche Völker und Stämme" erstmals Reichsbürgervereinigung, available at: <https://www.bmi.bund.de/SharedDocs/pressemitteilungen/DE/2020/03/verbot-reichbuergervereinigung.html> (accessed on 28.10.2021).

<sup>451</sup> Johson, Bethan, Tracking German Neo-Nazism Through Music, Centre for Analysis of the Radical Right, 2019, available at: <https://www.radicalrightanalysis.com/2019/01/07/tracking-german-neo-nazism-through-music/>

<sup>452</sup> Constitutional Protection Report 2020, p. 74.



the other elements of the working definition of right-wing extremism, and the strategy not to resort to violence is a conscious one in order to feed into a right-wing 'cultural revolution'.<sup>453</sup>

### **Violent actions perpetrated by right-wing extremists**

Aggressive violent actions and violent hate crimes against vulnerable groups have been present in Germany in the last decades and are **increasing** in volume. While the German reunification in 1990 provided freedoms of expression, choice and movement to all people in both parts of the country for the first time, nationalistic tendencies gained in strength in large parts of the population. Neo-Nazis from both German states joined forces. Right-wing extremist violence reached a new level with the beginning of the 1990s. There were **right-wing-extremist murder attacks** on migrants' homes in **Hünxe** (1991), **Mölln** (1992), and **Solingen** (1993), and **pogrom-like attacks** on collective shelters in **Hoyerswerda** (1991), **Rostock-Lichtenhagen** (1992), **Magdeburg** (1994), and **Guben** (1999). The simultaneous asylum debate served as a legitimisation background, so that the attackers believed they were in harmony with the majority of the population and politics. Media reports that the attacked had to flee and move motivated other perpetrators to emulate the attacks. After that, the proportion of older, unemployed and convicted perpetrators, who had also often become right-wing extremists, increased<sup>454</sup>.

In the timeframe 2000-2007, the terrorist group "**National Socialist Underground**" (**NSU**) murdered at least nine migrants and committed the police murder of Heilbronn as well as 43 attempted murders, three bomb attacks and 15 robberies. These crimes remained undetected until the two main perpetrators committed suicide in November 2011 and the admission of confessional videos by accomplice Beate Zschäpe.

As a result of the refugee crisis and refugees seeking shelter in Germany in 2015, a series of attacks on asylum shelters started. A series of five bomb attacks was committed by a group of right-wing extremists from **Freital, Saxony**. In the end, eight of the perpetrators received a sentence for attempted murder, formation of a terrorist organisation and other offences. They were sentenced to imprisonment of between 4 and 10 years<sup>455</sup>.

On 26 and 27 August and 1 September 2018, violent riots broke out in **Chemnitz** after an argument on the side lines of the Chemnitz city festival, in which one man was fatally injured and two others were seriously injured by knife wounds. Extreme right-wing and neo-Nazi groups were involved in the riots, exploiting the situation.

On 2 June 2019, the Kassel District President **Dr. Walter Lübcke** was murdered in front of his home by a right-wing extremist. Lübcke had campaigned for the admittance of refugees and had opposed the agitation against them by the Kagida, the Kassel offshoot of Pegida, at a public meeting in October 2015. After that, he received numerous death threats.

On 9 October 2019, a heavily armed right-wing extremist attempted to force his way into a synagogue in **Halle**, intending to murder the worshippers gathered for the festival of Yom Kippur. His attempt

<sup>453</sup> See Deutsche Welle: Who is Germany's 'New Right'? available at: <https://www.dw.com/en/who-is-germanys-new-right/a-57949592> (accessed on 10.02.2022)

<sup>454</sup> Armin Pfahl-Traughber: Rechtsextremismus in der Bundesrepublik. München 2006, p. 68–71.

<sup>455</sup> ECRI (2020) ECRI Report on Germany (sixth monitoring cycle), p. 24, available at: <https://rm.coe.int/ecri-report-on-germany-sixth-monitoring-cycle/16809ce4be> (accessed on 28.09.2021).

failed, but the attacker still managed to kill two people at random<sup>456</sup>. In February 2020, nine people – all from migrant backgrounds – were killed in a far-right terrorist attack in **Hanau**<sup>457</sup>.

**The number of right-wing extremist crimes committed in Germany increased sharply in 2020 to a two-decade high.** The number of offences categorised as right-wing politically motivated crime in 2020 was **23,604** (2019: 22,342)<sup>458</sup>. Of these, 13,659 (2019:14,247) were propaganda offences under sections 86 and 86a of the German Criminal Code (Strafgesetzbuch, StGB) and **1,092** (2019: 986) were **violent crimes**. As a subset of right-wing politically motivated crime, 22,357 crimes (2019: 21,290) with a right-wing extremist background were recorded, among them 1,023 violent<sup>459</sup>.

**Table 15: Number of right-wing extremist crimes – Germany**

Type of offence / Year	2019	2020
<b>Right-wing politically motivated crime</b>	22,342	23,604
<b>Out of which:</b>		
Propaganda offences under sections 86 and 86a of the German Criminal code	14,247	13,659
Violent crimes	986	1,092
<b>As a subset of right-wing politically motivated crime:</b>		
Crimes with a right-wing extremist background	21,290	22,357
Among them, violent crimes	925	1023

Source: Brief summary, 2020 Report on the Protection of the Constitution. Facts and Trends, p. 7.

### Online content

The right-wing extremism scene in Germany also contains a significant online element<sup>460</sup>. In recent years, due to pressure from civil society and policymakers, Instagram and its parent company Facebook, along with YouTube and Twitter, have started to remove violence-oriented right-wing extremist actors and their content from their platforms. However, media reports indicate these efforts are less stringent than for other forms of extremist material<sup>461</sup>. Research shows that this “de-platforming” has led to a migration of these actors to smaller or alternative platforms like VKontakte, BitChute, meme/message-boards like 4Chan and 8Chan, and messenger services like WhatsApp or Telegram. The new accounts on those smaller platforms often have significantly fewer followers, demonstrating the significant operational disruption and limitation of reach that can be achieved by removing violent right-wing extremist groups from global platforms. Furthermore, a recent study

<sup>456</sup> Equal rights, equal opportunities. Annual Report of the Federal Anti-Discrimination Agency (2019), p. 12.

<sup>457</sup> Equal rights, equal opportunities. Annual Report of the Federal Anti-Discrimination Agency (2019), p. 12.

<sup>458</sup> Brief summary, 2020 Report on the Protection of the Constitution. Facts and Trends, p. 7.

<sup>459</sup> Brief summary, 2020 Report on the Protection of the Constitution. Facts and Trends, p. 7f.

<sup>460</sup> CEP Study\_Violent Right-Wing Extremism and Terrorism\_Nov 2020.pdf, p. 27.

<sup>461</sup> Anna Meier, “Why do Facebook and Twitter’s anti-extremist guidelines allow right-wingers more freedom than Islamists?” [The Washington Post, 1 August 2019, https://www.washingtonpost.com/politics/2019/08/01/why-do-facebook-twitters-anti-extremist-guidelines-allow-right-wingers-more-freedom-than-islamists/](https://www.washingtonpost.com/politics/2019/08/01/why-do-facebook-twitters-anti-extremist-guidelines-allow-right-wingers-more-freedom-than-islamists/)

conducted by CEP has found that illegal right-wing-extremist content also continues to be posted on major global platforms<sup>462</sup>.

### **Right-wing extremists trying to influence public opinion / Right-wing extremist demonstrations**

According to the Constitutional Protection Report 2020, right-wing extremists' efforts to exert an influence became particularly visible in connection with the protests against the corona protective measures decided by the federal government in 2020<sup>463</sup>. Right-wing extremists criticised government measures and protested against what they considered the Federal Government's infringement of basic rights, combined with criticism of the entire system. Often right-wing extremists infiltrated democratic demonstrations<sup>464</sup> to attack the legitimacy of government action and democratic institutions and tried to steer the public debate. The number of rallies influenced by right-wing extremists increased by about 25% in 2020 compared to previous years. However, the number of participants fell below the 2019 level<sup>465</sup>.

### **Right-wing extremism in law enforcement**

In recent years, an increasing number of discriminatory measures by the police were reported, followed by revelations of racism or far-right extremism in Germany's police and security agencies. Research published in 2020 by the political magazine *Der Spiegel* found that the German Länder and the federal police force had recorded at least 400 suspected incidents of right-wing extremist, racist or anti-Semitic activity in recent years among police officers or trainees<sup>466</sup>. Despite this evidence, the German Interior Minister Horst Seehofer, who oversees the country's police and security agencies, repeatedly refused to admit that there is a problem with racism or right-wing extremism in the police. In July 2020, he rejected the need for a study into racial profiling by the police, and later denied that there was a structural problem with right-wing extremism in the security forces<sup>467</sup>. In addition, authorities at both federal and Länder level failed to establish an independent complaints mechanism to investigate discriminatory and unlawful behaviour by the police<sup>468</sup>.

### **Radical right in Germany**

On the radical right-wing end of the spectrum, is the "Alternative für Deutschland" (AfD)<sup>469</sup>. In 2014, the AfD succeeded for the first time in entering a supranational parliament in the European elections. As a result, it moved into all German state parliaments and, after the 2017 German federal election, it entered the 19th German Bundestag with 12.6% of the votes. The party moved further towards

<sup>462</sup> Counter Extremism Project, "NetzDG 2.0. Empfehlungen zur Weiterentwicklung des Netzwerkdurchsetzungsgesetzes (NetzDG) und Untersuchung zu den tatsächlichen Sperr- und Löschprozessen von YouTube, Facebook und Instagram," CEP Policy Paper, Berlin: Counter Extremism Project, 2020,

<https://www.counterextremism.com/sites/default/files/CEP%20NetzDG%202.0%20Policy%20Paper.pdf>

<sup>463</sup> Constitutional Protection Report 2020, p. 48.

<sup>464</sup> Ibid., p. 12.

<sup>465</sup> Constitutional Protection Report 2020, p. 48f.

<sup>466</sup> Der Spiegel, The dark side of State power. Exploring right-wing extremism in Germany's police and military, published on 13.08.2020, available at: <https://www.spiegel.de/international/germany/the-dark-side-of-state-power-exploring-right-wing-extremism-in-germany-s-police-and-military-a-0600aa1e-3e4e-45af-bfc9-32a6661e66ef> (accessed on 28.09.2021).

<sup>467</sup> <https://www.npr.org/2020/12/10/943823021/with-far-right-extremism-on-the-rise-germany-investigates-its-police?t=1631790582224>

<sup>468</sup> Amnesty International Report 2020/21 (2021). The state of the world's human rights, p. 168.

<sup>469</sup> The AfD can be described as a right-wing extremist party; their attempt to ban this failed in court in April 2018. See: Giessener Urteil: AfD darf rechtsextremistisch genannt werden. FAZ, 18. April 2018; available at:

<https://www.faz.net/aktuell/rhein-main/landgericht-giessen-afd-darf-rechtsextremistisch-genannt-werden-15549062.html> (accessed on 29.09.2021).

extremism over the years, in particular during the refugee crisis 2015/2016<sup>470</sup>. It aligns to ideas on the radical nationalist to radical right spectrum, such as anti-immigration policies and anti-Islam stances<sup>471</sup>. Some of the party members can be linked to right-wing extremist movements. The party calls into question essential basic principles of the German constitution. For example, in its programme, the AfD calls for human rights for immigrants to be restricted with certain conditions, and for the right of asylum (which is guaranteed in the Basic Law) to be abolished and replaced by a “right of grace”. The party also wants to restrict religious freedom for Muslims. According to an article published by *Die Zeit* in March 2018, at least 27 employees of the AfD parliamentary group were classified as right-wing extremists<sup>472</sup>. In 2019, the AfD organisations “Der Flügel” and Junge Alternative (JA) were classified as “suspected cases” by the Federal Office for the Protection of the Constitution<sup>473</sup>.

## 8.2. Legal framework

### Extremism and the German Basic Law

In Germany, the term “extremism” is **not defined by constitutional or criminal law**. It is instead a conceptual tool that German domestic intelligence agencies have been using since 1974.

The **Federal Office for the Protection of the Constitution** distinguishes between “extremism” and “radicalism” on the basis that extremism includes an additional factor of eliminating ‘the democratic constitutional state [and] the associated fundamental principles of our constitutional order’<sup>474</sup>.<sup>475</sup> In this respect, “extremism” denotes an assumed or proven “anti-constitutionalism,” and is aimed at any effort opposing the “principles of the free democratic basic order.”<sup>476</sup> Consequently, “(right-wing) extremism” is perceived as a concept that violates human dignity under Section 1 of the German Constitution (“Basic Law”) as it denies the existence of universal human rights.<sup>477</sup>

According to a definition by the Office for the Protection of the Constitution, the phenomenon of right-wing extremism can take different forms and include nationalism, anti-Semitic, racist and xenophobic ideological elements<sup>478</sup>. Right-wing extremists assume that belonging to an ethnic group or nation determines a person's real worth. However, this understanding of values contradicts the principle of

<sup>470</sup> Der Tagesspiegel (10.10.2020), „Flügel“ treibt Radikalisierung der AfD weiter voran. Available at: <https://www.tagesspiegel.de/politik/verfassungsschutz-alarmiert-fluegel-treibt-radikalisierung-der-afd-weitervoran/26262672.html> (accessed on 16.02.2022)

<sup>471</sup> Deutsches Institut für Menschenrechte (Hendrik Cremer), Nicht auf dem Boden des Grundgesetzes, Warum die AfD als rassistische und rechtsextreme Partei einzuordnen ist, June 2021, p. 16ff. available at: [https://www.institut-fuer-menschenrechte.de/fileadmin/Redaktion/Publikationen/Analyse\\_Studie/Analyse\\_Nicht\\_auf\\_dem\\_Boden\\_des\\_Grundgesetzes.pdf](https://www.institut-fuer-menschenrechte.de/fileadmin/Redaktion/Publikationen/Analyse_Studie/Analyse_Nicht_auf_dem_Boden_des_Grundgesetzes.pdf) (accessed on 10.02.2022).

<sup>472</sup> Kai Biermann, Astrid Geisler, Johannes Radke, Tilman Steffen: Bundestag: AfD-Abgeordnete beschäftigen Rechtsextreme und Verfassungsfeinde. Zeit online, 21. März 2018, available at: <https://www.zeit.de/politik/deutschland/2018-03/afd-bundestag-mitarbeiter-rechtsextreme-identitaere-bewegung/komplettansicht> (accessed on 29.09.2021).

<sup>473</sup> Constitutional Protection report 2020, p. 96.

<sup>474</sup> Federal Office for the Protection of the Constitution, ‘Extremismus/Radikalismus [Extremism/Radicalism]’, 2019.

<sup>475</sup> Michael Herzog zu Mecklenburg and Ian Anthony (August 2020), Preventing Violent Extremism in Germany: Coherence and cooperation in a decentralised system, SIPRI Working Paper, p. 8.

<sup>476</sup> Counter Extremism Project, Violent right-wing extremism and terrorism – transnational connectivity, definitions, incidents, structures and countermeasures, November 2020, p. 33; Bundesinnenministerium, Verfassungsschutzbericht, 1974 (Bonn, 1975), p. 4.

<sup>477</sup> Bundesministerium des Inneren, für Bau und Heimat, Verfassungsschutzbericht 2017, Berlin, 2018, p. 44.

<sup>478</sup> Bundesamt für Verfassungsschutz. Rechtsextremismus – Begriff und Erscheinungsformen. Available at: [https://www.verfassungsschutz.de/DE/themen/rechtsextremismus/begriff-und-erscheinungsformen/begriff-und-erscheinungsformen\\_artikel.html#doc714132bodyText1](https://www.verfassungsschutz.de/DE/themen/rechtsextremismus/begriff-und-erscheinungsformen/begriff-und-erscheinungsformen_artikel.html#doc714132bodyText1) (accessed on 28.09.2021).

the free democratic basic order and is therefore in fundamental contradiction to the Basic Law<sup>479</sup>. For most right-wing extremists, anti-Semitism plays a central role. Moreover, right-wing extremists usually also have an authoritarian understanding of the state, often accompanied by a rejection of the separation of powers that is common in democracies<sup>480</sup>.

The **prohibition of political parties** can happen at the request of the Bundestag, Bundesrat or the Federal Government in accordance with Article 21, Paragraph 2 (Unconstitutionality) of the German Basic Law, upon which the Federal Constitutional Court decides. Such prohibition requests were only successful twice (1952 and 1956) in the history of Germany. It failed in 1995 against the Freedom Labour Party (which later was banned under the **Association Act**) and in 2003 and again in 2017 against the National Democratic Party (NPD). Interestingly, on 17 January 2017, the German Federal Constitutional Court (FCC) ruled on the application of the German Federal Council to find that the NPD unconstitutional pursuant to Article 21 para. 2 of the German Basic Law. This was already the second such party ban application against the NPD after the initial attempt in 2001 had failed on procedural grounds. While this second application passed the admissibility hurdle, it was ultimately not successful on the content: the FCC found that, while the NPD was clearly determined to undermine and abolish key features of the free democratic basic order of Germany, its actions had such little prospect of success that it could not be deemed unconstitutional<sup>481</sup>.

According to **Article 9 (2) (Freedom of Association) of the German Basic Law**, associations, whose purposes or activities are contrary to criminal law or against the constitutional order or against the concept of international understanding, are forbidden. According to the **German Criminal Code**, "creating, being member of, recruiting members for or supporting a criminal organization, of which the purpose or occupation is focused on the commission of crimes" is a violation of the Basic Law<sup>482</sup>. Similarly, terrorist organisations or criminal groups that "enact or of which the purpose is murdering, killing, genocide, crimes against humanity, war crimes, crimes against personal freedom (extortion, kidnapping or hostage taking), damaging, hurting or threatening a person, people, government or international organization physically or mentally, one's property or the environment, to damage the aforementioned seriously" are inconsistent with the German constitution<sup>483</sup>.

For associations that operate at Länder-level, the competent prohibition authority is the highest Land authority or the competent authority under Land law in accordance with Section 3 Paragraph 2 Sentence 1 No. 1 of the **Association Act**, the law setting out the rights and duties of associations. For associations operating nationwide, this is the Federal Minister of the Interior in accordance with Section 3 (2) Sentence 1 No. 2 VereinsG<sup>484</sup>. Since 1949, 22 German right-wing extremist organisations have been forbidden, either at federal or at Länder-level.

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<sup>479</sup> Ibid.

<sup>480</sup> Ibid.

<sup>481</sup> Bundesverfassungsgericht, Leitsätze zum Urteil des Zweiten Senats vom 17. Januar 2017 (2 BvB 1/13), available at: [https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2017/01/bs20170117\\_2bvb000113.html](https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2017/01/bs20170117_2bvb000113.html) (accessed on 31.10.2021).

<sup>482</sup> Strafgesetzbuch: § 129 Bildung kriminellen Vereinigungen [Criminal Code: § 129 Creation of a criminal organisation]', 2019.

<sup>483</sup> Ibid.

<sup>484</sup> Deutscher Bundestag (2019), Verbot von extremistischen Organisationen, Sachstand (WD 3 - 3000 - 090/19), p. 3; available at: <https://www.bundestag.de/resource/blob/648420/3ce9a136539b1f28a6cc6abe8c29677b/WD-3-090-19-pdf-data.pdf> (accessed on 29.10.2021).

## Elements in the (criminal) law

In terms of hate crime, Section 46 of the German **Criminal Code** states explicitly that when weighing the seriousness of the offence, courts shall give **particular consideration to the motives and aims** of the offender, particularly where they are of a racist or xenophobic nature or where they otherwise show contempt for human dignity<sup>485</sup>. In addition, Section 130 of the Criminal Code sets out the offence of **incitement to hatred**, which is committed by whoever, in a manner capable of disturbing the public peace, incites hatred against a national, racial, religious group or a group defined by its ethnic origins, against segments of the population or individuals because of their belonging to one of the aforementioned groups or segments of the population, or calls for violent or arbitrary measures against them; and also by whoever assaults the human dignity of others by insulting, maliciously maligning an aforementioned group, segments of the population or individuals because of their belonging to one of the aforementioned groups or segments of the population, or by defaming segments of the population<sup>486</sup>. This section of the Criminal Code often applies to (though it is not limited to) trials relating to **Holocaust denial** in Germany.

Section 86 of the German Criminal Code prohibits the **dissemination of propaganda material of unconstitutional organisations**<sup>487</sup>. In terms of the **use of symbols of unconstitutional organisations**, section 86a outlaws the "use of symbols of unconstitutional organisations" outside the contexts of "art or science, research or teaching"<sup>488</sup>. The law does not name the individual symbols to be outlawed, and there is no official exhaustive list, however, symbols known to fall under the law include the swastika, the "Heil Hitler" and "Sieg Heil" greetings, and many more.

As a response to the increasing spread of hate crime and other criminal content, especially on social networks such as Facebook, YouTube and Twitter, the German Bundestag passed the **Network Enforcement Act (NetzDG)**<sup>489</sup> in June 2017. The law introduced compliance rules with fines for providers of social networks regarding the handling of user complaints about hate crime and other criminal content on the Internet, as well as a quarterly reporting obligation for providers. The law also gives victims of violation of their personal rights on the Internet the right to information about the infringer's inventory data, based on a court order. In June 2021, the law amending the Network Enforcement Act came into force<sup>490</sup>. In September 2021, several German media outlets reported that Facebook had finalised several proceedings for violations of the NetzDG and paid a fine of five million euros<sup>491</sup>. Overall, there are 48 fine proceedings against various providers as of 31 August 2021 and a fine has already been imposed in a total of seven cases. In addition to the two fines for Facebook, the American right-wing portal "gab.com" was punished with a fine of 30,000 Euros<sup>492</sup>.

<sup>485</sup> Germany, Criminal Code, § 46 Strafgesetzbuch, Grundsätze der Strafzumessung.

<sup>486</sup> Germany, Criminal Code, § 130 Strafgesetzbuch, Volksverhetzung.

<sup>487</sup> Germany, Criminal Code, § 86 Strafgesetzbuch, Verbreiten von Propagandamitteln verfassungswidriger und terroristischer Organisationen.

<sup>488</sup> Germany, Criminal Code, § 86a Strafgesetzbuch, Verwenden von Kennzeichen verfassungswidriger und terroristischer Organisationen.

<sup>489</sup> Netzwerkdurchsetzungsgesetz. Bundesministerium für Arbeit und Soziales. 6. April 2020. Archiviert vom Original am 8. Mai 2020. Abgerufen am 8. Mai 2020.

<sup>490</sup> Gesetzes zur Änderung des Netzwerkdurchsetzungsgesetzes vom 3. Juni 2021, Bundesgesetzblatt Jahrgang 2021, Teil I, Nr. 29, ausgegeben zu Bonn am 9. Juni 2021, available at:

[https://www.bgbl.de/xaver/bgbl/start.xav?startbk=Bundesanzeiger\\_BGBI&start=//\\*\[@attr\\_id=%27bgbl121s1436.pdf%27\]#\\_bgbl\\_%2F%2F\\*%5B%40attr\\_id%3D%27bgbl121s1436.pdf%27%5D\\_1635678224386](https://www.bgbl.de/xaver/bgbl/start.xav?startbk=Bundesanzeiger_BGBI&start=//*[@attr_id=%27bgbl121s1436.pdf%27]#_bgbl_%2F%2F*%5B%40attr_id%3D%27bgbl121s1436.pdf%27%5D_1635678224386) (accessed on: 31.10.2021).

<sup>491</sup> Der Tagesspiegel. Hass im Netz: Facebook zahlte fünf Millionen Euro Strafe. 03.09.2021, available at:

<https://www.presseportal.de/pm/2790/5010339>; accessed on 23 September 2021.

<sup>492</sup> Der Tagesspiegel. Hass im Netz: Facebook zahlte fünf Millionen Euro Strafe. 03.09.2021, at:



As a consequence of the right-wing extremist terrorist attack on the synagogue in Halle in October 2019, and as a consistent continuation of the NetzDG<sup>493</sup>, the German Federal Ministry of Justice developed a **comprehensive package of measures**, the Act to Combat Right-Wing Extremism and Hate Crime on the Internet<sup>494</sup>. The corresponding draft law was passed in February 2020 and the Bundestag and Bundesrat approved the law in the summer of 2020. After that, only the countersignature and execution by the Federal President and finally the promulgation in the Federal Law Gazette were due. However, this phase dragged on due to some of the obligations potentially being unconstitutional. The regulations on access to the inventory data of mobile phone users were particularly controversial. In a decision on § 113 TKG, the Constitutional Court (BVerfG) declared this provision unconstitutional and called for clear legal requirements for the release of inventory data (BVerfG, decision of May 27, 2020, 1 BvR 1873/13 and 2618/13). Inventory data are personal data of customers such as names, addresses, passwords, bank details and IP addresses, such as are collected when concluding or executing contracts. The Mediation Committee that was asked to come in negotiated that information from telecommunications providers to authorities will in future only be possible for the prosecution of criminal offenses and, to a limited extent, for the prosecution of particularly serious administrative offenses. Issuing a password is only permitted for the prosecution of particularly serious crimes. Eventually, in April 2021, an amended version of the law to combat right-wing extremism and hate crime came into force<sup>495</sup> that included an amendment to the Criminal Code (Art. 1) and the Federal Registration Act (Art. 4), and thereby significantly tightened penalties, put greater pressure to investigate to better protect those affected by hate crimes. The law includes the following key points:

- **Definitions of offences under the Criminal Code have been expanded and penalties increased:** While previously only the threat to commit a serious criminal offence was punishable, the law now foresees that threats to commit offences against sexual self-determination, physical integrity, personal liberty and objects of significant value issued to the person concerned or one of their relatives is punishable with up to one year in prison or a fine. If the offence is committed online, the threatened penalty is imprisonment for up to two years. Public insult of other people online is now punishable with up to two years in prison. The protection against defamation and malicious gossip afforded under section 188 of the Criminal Code now also explicitly applies to politicians at all levels, including local politicians, and the offence now also includes insults. Rewarding and approval of offences now also make punishable serious acts that have not yet been committed, but that are suited to disturbing the public peace, as well as the threat to commit offences that would disturb the public peace. Moreover, anti-Semitic motives are now explicitly included as one of the motives that will lead to an increase in the penalty imposed. Finally, the new law aims to better protect emergency

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<https://www.presseportal.de/pm/2790/5010339>; accessed on 23 September 2021.

<sup>493</sup> [https://www.haufe.de/recht/weitere-rechtsgebiete/strafrecht-oeffentl-recht/gesetzspaket-zur-bekaempfung-der-hasskriminalitaet-im-internet\\_204\\_510192.html](https://www.haufe.de/recht/weitere-rechtsgebiete/strafrecht-oeffentl-recht/gesetzspaket-zur-bekaempfung-der-hasskriminalitaet-im-internet_204_510192.html)

<sup>494</sup> Entwurf eines Gesetzes zur Bekämpfung des Rechtsextremismus und der Hasskriminalität, available at: [https://www.bmj.de/SharedDocs/Gesetzgebungsverfahren/Dokumente/RegE\\_Bekaempfung\\_Hasskriminalitaet.pdf?\\_\\_blob=publicationFile&v=4](https://www.bmj.de/SharedDocs/Gesetzgebungsverfahren/Dokumente/RegE_Bekaempfung_Hasskriminalitaet.pdf?__blob=publicationFile&v=4) (accessed on: 10.02.2022).

<sup>495</sup> [Gesetz zur Bekämpfung des Rechtsextremismus und der Hasskriminalität vom 30. März 2021, Bundesgesetzblatt Jahrgang 2021 Teil I Nr. 13, ausgegeben zu Bonn am 1. April 2021, p. 441, available at: https://www.bmj.de/SharedDocs/Gesetzgebungsverfahren/Dokumente/Bgbl\\_Bekaempfung\\_Rechtsextremismus\\_Hasskriminalitaet.pdf?\\_\\_blob=publicationFile&v=3](https://www.bmj.de/SharedDocs/Gesetzgebungsverfahren/Dokumente/Bgbl_Bekaempfung_Rechtsextremismus_Hasskriminalitaet.pdf?__blob=publicationFile&v=3) (accessed on 10.02.2022).

responders, including medical emergency staff and staff in hospital emergency departments, against assault<sup>496</sup>.

- **Social networks will be required to report hate speech to the Federal Criminal Police Office:** Social networks are obliged to delete posts which constitute an offence, but will also have to report them to the Federal Criminal Police Office (BKA) in serious cases, so that a prosecution can be launched. This reporting obligation will enter into effect on 1 February 2022. In order to be able to quickly identify offenders, social networks will then be required to notify the Federal Criminal Police Office of any posts which contain hate speech, as well as of the IP address and port number issued to the user profile. The obligation covers a number of offences, including the dissemination of propaganda material and use of symbols of unconstitutional organisations, preparation of a serious violent offence endangering the state and forming and supporting criminal and terrorist organisations, incitement of the masses and depictions of violence and disturbing the public peace by threatening to commit offences, regarding and approval of offences, threatening the commission of a serious criminal offence against life, sexual self-determination, physical integrity or personal liberty, and the dissemination of child pornographic photographs and other images<sup>497</sup>. In addition, social networks will in future be required to inform users about how and where they can report an offence and, where necessary, request prosecution.
- **Blocks on releasing information under the Federal Act on Registration are easier to register:** It will be easier for the victims of threats, insults and unauthorised stalking to have a block on releasing information entered in the population register, and their personal information can no longer be disclosed to others. The authorities responsible will in future be required to take account of whether a data subject belongs to those groups of people who are likely to be exposed to hostility or attacks on account of their professional activities or voluntary work<sup>498</sup>.

### 8.3. Other responses to right-wing extremism

Most recently, in March 2020, shortly after the attacks in Halle and Hanau and the murder of Dr. Walter Lübcke (a CDU local government official), the German government set up a **cabinet committee to combat right-wing extremism and racism**. On 12 May 2021, the Federal Cabinet published its **final report**<sup>499</sup>. The report included 89 measures, mainly promoting research and prevention, strengthening security authorities, the judiciary and civil society and expanding the legal basis for the fight against hate crime. In summary, the following measures were proposed:

- Improved promotion of civil society engagement for a defensive democracy;
- New positions and better structures for greater effectiveness of the security authorities;

<sup>496</sup> Federal Ministry of Justice and Consumer Protection, Legislative package to combat hate and hate speech has entered into force, 19 May 2021, available at: <https://www.bmjv.de/EN/FocusTopics/Legislative-package-combat-hate-hate-speech.html?nn=6427850> (accessed on 29.09.2021).

<sup>497</sup> Federal Ministry of Justice and Consumer Protection, Legislative package to combat hate and hate speech has entered into force, 19 May 2021, available at: <https://www.bmjv.de/EN/FocusTopics/Legislative-package-combat-hate-hate-speech.html?nn=6427850> (accessed on 29.09.2021).

<sup>498</sup> Federal Ministry of Justice and Consumer Protection, Legislative package to combat hate and hate speech has entered into force, 19 May 2021, available at: <https://www.bmjv.de/EN/FocusTopics/Legislative-package-combat-hate-hate-speech.html?nn=6427850> (accessed on 29.09.2021).

<sup>499</sup> Federal Government of the Federal Republic of Germany, "Abschlussbericht des Kabinettausschusses zur Bekämpfung von Rechtsextremismus und Rassismus", available at: [https://www.bmi.bund.de/SharedDocs/downloads/DE/veroeffentlichungen/themen/sicherheit/abschlussbericht-kabinettausschuss-rechtsextremismus.pdf?\\_\\_blob=publicationFile&v=2](https://www.bmi.bund.de/SharedDocs/downloads/DE/veroeffentlichungen/themen/sicherheit/abschlussbericht-kabinettausschuss-rechtsextremismus.pdf?__blob=publicationFile&v=2)

- Tightening of gun law;
- New criminal offences for the dissemination of enemy lists;
- Obligation to report for providers and better prosecution in the event of hatred online;
- Initiation of a scientific study on racism in society;
- Strong support from victims and their relatives;
- More prevention and education.

Over the period 2021 to 2024, the German government is to provide a total of over one billion Euros to fight racism and right-wing extremism<sup>500</sup>.

Prior to the Cabinet report and proposed measures, the top-line strategic document outlining the approach taken to preventing violent extremism in Germany was the **Strategy of the Federal Government on Extremism Prevention and Promotion of Democracy** published in 2016<sup>501</sup>. The strategy pursues a cross-phenomenon approach and is directed against all forms of misanthropic ideologies. Different forms of extremism are named as focal points, including right-wing extremism, left-wing extremism, Islamism and Islamophobia. Accordingly, the prevention of extremism includes all measures that are intended to prevent and counteract the rejection of the values of the Basic Law and the democratic constitutional state. The key fields of action of the strategy are (1) Political education, intercultural learning and democracy work; (2) Civil society engagement; (3) Advice, monitoring and intervention; (4) Media and internet; (5) Research; (6) International cooperation.

However, the German government already started to promote programmes and measures to prevent extremism after 1992. By 2021, there is a very large number of initiatives by the federal government. These often included the **promotion of democracy** and the **support and networking of civil society organisations against right-wing extremism** and to give this engagement **greater public resonance**.

Most notably, in 2015, the **"Demokratie leben! Für ein vielfältiges, gewaltfreies und demokratisches Miteinander"** (Live Democracy! For a diverse, non-violent and democratic society programme) was introduced. The programme is divided into two main pillars: (1) Sustainable Structures (including federal support to non-governmental groups; state level support; support to municipalities), and (2) Pilot Projects<sup>502</sup>. The Pilot Projects include initiatives across politically and religiously motivated extremism, emphasising civic engagement and diversity at the workplace; strengthening democracy in the education sector; living together in a diverse society; strengthening civic engagement on the web (with a focus against online hate speech); and prevention and de-radicalization in prison and probation services. These pilot projects are expected to incubate different approaches to see which are effective<sup>503</sup>.

The second recent big initiative is the **"Zusammenhalt durch Teilhabe"** (Cohesion through participation programme) of the Federal Ministry of the Interior, which has existed since 2010 and is

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<sup>500</sup> Abschlussbericht des Kabinettausschusses zur Bekämpfung von Rechtsextremismus und Rassismus, available at: <https://www.bmi.bund.de/SharedDocs/downloads/DE/veroeffentlichungen/themen/sicherheit/abschlussbericht-kabinettausschuss-rechtsextremismus.html> (accessed on 29.09.2021).

<sup>501</sup> Federal Government of the Federal Republic of Germany, 'Strategie der Bundesregierung zur Extremismusprävention und Demokratieförderung [Strategy of the Federal Government on Extremism Prevention and Promotion of Democracy]', 2016.

<sup>502</sup> Federal Government of the Federal Republic of Germany, 'Strategie der Bundesregierung zur Extremismusprävention und Demokratieförderung [Strategy of the Federal Government on Extremism Prevention and Promotion of Democracy]', 2016, p. 14.

<sup>503</sup> Ibid.

executed by the Federal Centre for Political Education (Bundeszentrale für politische Bildung)<sup>504</sup>. The programme is particularly dedicated to the project funding of clubs and associations in structurally weak and rural regions. It also aims at strengthening democratic participation in the community through already qualified and involved associations and social clubs and also supports pilot projects that test methods to strengthen participation and engagement.

Another response to right-wing extremism in Germany is **surveillance**. The **Federal Office for the Protection of the Constitution** (Bundesamt für Verfassungsschutz) is the German federal domestic intelligence agency. The Office publishes a yearly report, which raises awareness about anti-constitutional activities, including right-wing political extremism<sup>505</sup>. When presenting the 2020 Constitutional Protection Report in May 2020, Horst Seehofer, Minister of the Interior, stated that “Right-wing extremism remains the greatest threat to security” in Germany<sup>506</sup>.

#### 8.4. Effectiveness of the response to right-wing extremism

The **constitutional provisions** in Germany foresee a prohibition of political parties as well as associations with the purpose of activities that run contrary to the constitutional order, criminal law of against the concept of international understanding. However, for political parties, these bans are rare, while for associations these bans are often seen critically and viewed as unsuitable for preventing right-wing extremism. Reasons include that when organisations or associations are banned or threatened by a ban, they re-establish under a different name, or their members simply joining another organisation. Another argument is that, once banned, these organisations can no longer be easily observed by the Office for the Protection of the Constitution.

In terms of **criminal provisions**, the German Criminal Code includes a number of provisions against hate crime, incitement to hatred, Holocaust denial, dissemination of propaganda material of unconstitutional organisations and the use of symbols of unconstitutional organisations.

The Network Enforcement Act (NetzDG) introduced compliance rules with fines for providers of social networks regarding the handling of user complaints about hate crime and other criminal content on the Internet, as well as a quarterly reporting obligation for providers. While several fine proceedings are underway, the effectiveness of the NetzDG needs to be further evaluated. In addition, the law to combat right-wing extremism and hate crime, which came into force in April 2021, significantly tightened penalties, put greater pressure on investigation and put in place information barriers in the reporting law to better protect those affected by hate crime. Given that the law is fairly recent, little can be said to date about its effectiveness.

The table below shows the recorded and prosecuted hate crimes and sentences in Germany, as reported by the OSCE<sup>507</sup>. It can be noted that the number of hate crimes recorded by the police has grown in time, doubling between 2016 and 2017.

<sup>504</sup> Zusammenhalt durch Teilhabe', Bundeszentrale für politische Bildung, (2018).

<sup>505</sup> [https://www.verfassungsschutz.de/DE/home/home\\_node.html](https://www.verfassungsschutz.de/DE/home/home_node.html).

<sup>506</sup> <https://www.bmi.bund.de/SharedDocs/kurzmeldungen/DE/2021/05/pmk-2020.html>.

<sup>507</sup> It should be noted that ECRI had recommended that the German authorities reform their system for recording and following up “racist, xenophobic, homophobic and transphobic” incidents in order to ensure that all cases involving such a motive are recorded (§ 12 of General Policy Recommendation No. 11). In its 2016 Conclusion, ECRI regretted that the recommendations were not implemented. In addition, Germany has not reported the numbers of prosecuted hate crimes or information on the sentencing of hate crime cases to ODIHR.

**Table 16: Recorded and prosecuted hate crimes and sentences – DE**

Year	Hate crimes recorded by police	Prosecuted	Sentenced
2019	8585	-	-
2018	8113	Not available	Not available
2017	7913	Not available	Not available
2016	3598	Not available	Not available
2015	3046	Not available	Not available

Source: OSCE, Hate Crime Reporting (2019)

In terms of **non-legislative measures**, there has been a steady increase in the development and integration of efforts to prevent extremism and strengthen democracy in Germany over the years.

In its "**Second Report on the Work and Effectiveness of Federal Programmes to Prevent Extremism**" presented on 4 August 2021 by Federal Family Minister Christine Lambrecht, the federal programmes "Demokratie Leben!" of the Federal Ministry of Family Affairs and "Zusammenhalt durch Teilhabe" of the Federal Ministry of the Interior are highlighted as supporting pillars of the Federal Government's prevention work, as well as the social environment in which they work<sup>508</sup>. Especially with regard to the "Demokratie Leben!", the report highlights this initiative has developed into by far the financially strongest and most far-reaching funding programme at the federal level. It supports 326 local partnerships for democracy, 16 regional democracy centres, 40 civil society organizations and 150 model projects that work for democracy and against all forms of extremism. Children, adolescents and young adults are the main target group. Overall, the report concludes that the programmes have proven to be effective and make important contributions to promoting democratic action and societal prevention against extremism<sup>509</sup>.

However, despite these initiatives, there are **increasing tendencies of politically motivated crimes carried out by right-wing extremists**. The number of offences categorised as right-wing politically motivated crime in 2020 was 23,604 (2019: 22,342). Of these, 13,659 (2019: 14,247) were propaganda offences under sections 86 and 86a of the German Criminal Code (Strafgesetzbuch, StGB) and 1,092 (2019: 986) were violent crimes. As a subset of this category, 22,357 crimes (2019: 21,290) with a right-wing extremist background were recorded, among them 1,023 violent<sup>510</sup>. These figures are hitting the highest level since records began in 2001.

One consideration could be that despite the increasing number of initiatives, there is not enough information about which strategies and actions are most effective<sup>511</sup>. This, in turn, makes it difficult to consolidate or discontinue initiatives. Therefore, it would be advisable that the government should

<sup>508</sup> Bundesministerium für Familie, Senioren, Frauen und Jugend, Bericht bestätigt Wirksamkeit der Bundesprogramme zur Demokratieförderung, 04.08.2021, available at: <https://www.bmfsfj.de/bmfsfj/aktuelles/alle-meldungen/bericht-bestaetigt-wirksamkeit-der-bundesprogramme-zur-demokratiefoerderung-184608> (accessed on 29.09.2021).

<sup>509</sup> Ibid.

<sup>510</sup> Brief summary, 2020 Report on the Protection of the Constitution. Facts and Trends, p. 11.

<sup>511</sup> Michael Herzog zu Mecklenburg and Ian Anthony (August 2020), Preventing Violent Extremism in Germany: Coherence and cooperation in a decentralised system, SIPRI Working Paper, p. 19f.

shift its focus from developing structures to tailored **prevention strategies** implemented in identified regions of concern<sup>512</sup>.

## 8.5. Conclusion

The right-wing extremist scene in Germany has gained popularity in recent years: right-wing extremists are well networked and are organising large demonstrations and events. Xenophobic protests and attacks have increased again across Germany. The German government has reacted with a catalogue of laws and non-legal measures aiming at criminalising certain acts of right-wing extremism, but also strengthening civil society organisations to implement sustainable democratic structures, deradicalization, information and research as well as political education.

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<sup>512</sup> Ibid.



## 9. COUNTRY FICHE – HUNGARY

Author: Dr Mois Faion (CSD)

### 9.1. Distinctive features of right-wing extremism in the country

In Hungary, elements of the political discourse familiar to right-wing extremists have been at the forefront for many years, in particular through the right-wing radical views and laws promoted by the government led by the Fidesz party. Despite this dominant discourse and the existence of various far-right semi-violent organisations, **aggressive violent actions and violent hate crimes** against vulnerable groups have been **rare in recent years**. The activities of right-wing extremist groups usually remain on **the level of hate speech, intimidation and hate propaganda**<sup>513</sup>.

Para-military organisations have typically limited their activities to 'rallies and 'marches' to mark anniversaries of historical events. During such events, behaviour, symbols and chanting disparaging political, religious or ethnic minorities has been observed. For example, it has been reported that neo-Nazis from different parts of Europe gather each February in Budapest to mark what they call the 'Day of Honour'<sup>514</sup>. The spectrum of right-wing extremism proponents in Hungary includes paramilitary groups and vigilante organisations (most violent of which have been the **Death Squad** and the **Hungarian Arrows National Liberation Army**), but the right-wing extremist ideology is also shared and advocated by the Jobbik party (second largest parliamentary party).

**Violent cases of right-wing extremism have not been recorded in recent years.** The most notorious series of violent attacks were committed by the **Death Squad** in 2008-2009 against Roma communities in several Hungarian regions. In total, 6 victims were killed and 55 injured; 63 shots were fired, and 11 Molotov cocktails were used. Primarily, the perpetrators (from their point of view) "punished" the Roma community for alleged "crime and parasitism"<sup>515</sup>. The members of the Death Squad (four persons) received prison sentences. The other cases of right-wing violence (without murders) were recorded in 2007-2008, again targeting the Roma community, involved arson attacks, one bomb with a timer and several written threats. The group responsible for the violence was the **Hungarian Arrows National Liberation Army**.

In more recent time, right-wing extremist vigilante or paramilitary groups have been active in Hungary. Some of them, like the **New Hungarian Guard** (founded in 2009 by a member of the Hungarian Guard, a para-military group which was dissolved by a court decision in 2008 because it posed clear threat to minority groups), have been affiliated with a political party (Jobbik) and have sought publicity for its activities. However, the Guard has practically ceased its activities after Jobbik assumed a less radical political stand (approximately in the second half of the 2010s). Others are grass-root organisations, like the **Outlaws Army**, operating in a more clandestine manner, using social media and private communication channels. The vigilante groups emphasise their support for 'law and order' and target Roma as the perceived main factor of criminality. The neo-fascist group **Our Homeland Movement** also organises anti-Roma marches. In May 2020 it held in Budapest a large rally against "gypsy crime"

<sup>513</sup> Szilveszter Póczik and Eszter Sárík, *Vigilante Militias and Activities against Roma and Migrants in Hungary* (pp.103-128), in *Vigilantism against Migrants and Minorities*, eds. Tore Bjørgo and Miroslav Mareš, Routledge, 2019.

<sup>514</sup> Europol, *EU Terrorism Situation and Trend Report, 2020*, p.68.

<sup>515</sup> Miroslav Mareš, *Right-Wing Terrorism and Violence in Hungary at the Beginning of the 21st Century*, in *PERSPECTIVES ON TERRORISM*, Volume 12, Issue 6, December 2018.

where the movement supporters converged with thousands of far-right ultras in the city centre streets, chanting racist anti-Roma slogans, with many giving fascist salutes<sup>516</sup>.

Overall, it has been noted that paramilitary and vigilante groups in Hungary, at least in recent years, **have not been involved in acts of violent extremism**. Rather, they have tried to intimidate their targets (mostly Roma, Muslim immigrants and LGBTQ+) through symbolic aggression. This may also be due to the efforts of state authorities 'to suppress any spontaneous or planned incidents as well as vigilant activities' against vulnerable groups, despite the government's anti-Roma, anti-migrant and homophobic stand<sup>517</sup>.

Right-wing extremism has been increasingly penetrating mainstream politics for most of the 2010s. Instead of curtailing right-wing extremist groups, the government has promoted xenophobic, anti-Muslim and anti-Roma ideas and incorporated them in its migration and social policies. Rhetoric based on hatred and divisiveness constitutes an integral part of contemporary Hungarian public discourse<sup>518</sup>, and seems to be shared by a significant majority, as indicated by opinion polls (e.g. 63% of Hungarians believe immigration is a problem rather than opportunity, and 74% consider immigrants a burden on the national welfare system)<sup>519</sup>.

Right-wing extremist political parties, movements and groups in Hungary share certain features with their Central and East European counterparts: they are hostile to the Roma minority, to migrants and refugees and to the LGBTQ+ community. Right-wing extremist groups in Hungary share the supremacist idea that ethnic Hungarians, with their historic contribution to Western civilisation and Christianity, are superior to other ethnic and social groups living in Hungary<sup>520</sup>. At the same time, right-wing extremism is based on the premise that in modern times ethnic Hungarians and traditional Christian values are threatened and need to be defended. The threat comes from three main sources: the Roma minority, migrants (in particular those of Muslim origin) and the LGBTQ+ community. The Roma minority is often associated with and blamed for certain types of crime (so called 'Gypsy crime')<sup>521</sup>. Migrants and refugees (in particular those coming to Europe during and after the migrant influx of 2015) are perceived as a threat to the cultural and religious identity of Hungarians and Europe in general<sup>522</sup>. The LGBTQ+ community is regarded as a threat to the traditional Christian family and Christian values<sup>523</sup>.

A less common feature of Hungarian right-wing extremism is irredentism, rooted in the resentment over the Treaty of Trianon<sup>524</sup>. Certain right-wing groups exploit the so called 'Trianon syndrome' by

<sup>516</sup> Joe Mulhall and Safya Khan-Ruf, eds., *State of Hate: Far-right Extremism in Europe 2021*, HOPE Not Hate Charitable Trust, London, 2021, p.86.

<sup>517</sup> Szilveszter Póczik and Eszter Sárík, *Vigilante Militias and Activities against Roma and Migrants in Hungary*, p.122

<sup>518</sup> Article 19, *Hungary: Responding to 'hate speech'*, Country Report, London, 2018.

<sup>519</sup> Special Eurobarometer 469, *Integration of immigrants in the European Union - Hungary*, October 2017.

<sup>520</sup> See András Bozóki, Sarah Cueva, *Xenophobia and Power Politics: The Hungarian Far Right*, 2021; Ádám, Zoltán/Bozóki, András (2016b): "The God of Hungarians: Religion and Right-Wing Populism in Hungary", in: Nadia Marzouki/Duncan McDonnell/Olivier Roy (Eds.), *Saving The People: How Populists Hijack Religion*, Oxford University Press, pp. 129-148.

<sup>521</sup> Miroslav Mareš, *Right-Wing Terrorism and Violence in Hungary at the Beginning of the 21st Century*, in *Perspectives on Terrorism*, Volume 12, Issue 6, December 2018, (pp.123-135).

<sup>522</sup> Szilveszter Póczik and Eszter Sárík, *Vigilante Militias and Activities against Roma and Migrants in Hungary* (pp.103-128), in *Vigilantism against Migrants and Minorities*, eds. Tore Bjørgo and Miroslav Mareš, Routledge, 2019.

<sup>523</sup> Justin Spike, Hungary once held LGBTQ+ promise — then Orbán stepped in, *Politico*, July 6, 2021 (available at <https://www.politico.eu/article/hungary-once-held-lgbtq-promise-then-viktor-orban-won/>, retrieved on 27.10.2021).

<sup>524</sup> As successor to the defeated Austro-Hungarian monarchy, Hungary lost a large part of its former territory due to the Treaty of Trianon of 1920. Millions of Hungarians have lived since that time outside the borders of their former motherland. (cf. Miroslav Mareš, *Right-Wing Terrorism and Violence in Hungary at the Beginning of the 21st Century*, in *PERSPECTIVES ON TERRORISM*, Volume 12, Issue 6, December 2018).

rejecting the treaty altogether and calling for a Greater Hungary in its borders before 1920. They also try to expand their base to the Hungarian minorities living in the neighbouring countries (mostly in Romania, Slovakia and Serbia).

In terms of parliamentary parties, it is noteworthy that while Jobbik initially occupied the far-right of the political spectrum (with its open hostility to migrants and the mainstreaming of the concept of 'Gypsy crime'), since 2014 it has evolved to the centre, while the initially right-centrist Fidesz has adopted Jobbik's radical right-wing political ideas and has shifted to the far-right. Political observers have noted that Viktor Orbán's authoritarian style of governing has not relied on violent confrontation with his opponents but rather on economic and legal levers in silencing and eliminating political dissent. Examples of Fidesz's extreme right-wing policies include:

- **Anti-refugee/anti-migrant:** refusal to accept any refugees and portraying them as "economic migrants and terrorists" sent by the Islamic State in order to wreak havoc and "spread disease in Europe"<sup>525</sup>. The government's response to the 2015 migration crisis included the erection of a large razor wire fence along its borders with Croatia and Serbia, patrolled by soldiers with the authority to use deadly force; laws to make it easier to reject asylum applications and to criminalise illegal entry; and new powers to push migrants back across the border without the need for arrest or due process<sup>526</sup>. The Court of Justice of the EU found that Hungary had failed to fulfil its obligations to ensure the effective access to the procedure for granting international protection.<sup>527</sup>
- **Anti-Roma:** support for **segregated housing and education for Roma population** and associating the Roma with criminality in general. (In early 2020, Prime Minister Orbán launched an anti-Roma campaign in response to a court awarding pecuniary damages to Roma pupils for school segregation in the town of Gyöngyöspata. The parliament amended public education laws to prevent courts from awarding pecuniary damages for similar future claims. Roma were disproportionately impacted by the COVID-19 pandemic in 2020, and the government failed to address the health, economic, and social needs of Romany communities.)<sup>528</sup>
- **Anti-feminist and anti-LGBTQ+:** homophobic and misogynistic ideas have been mainstreamed in public discourse and government policy. Gender studies and feminist studies have been banned in universities, and the government has refused to ratify the 2011 Istanbul Convention to combat violence against women, arguing that it promotes "destructive gender ideologies"<sup>529</sup>. In the summer of 2021, the government also passed a law banning LGBTQ+ content on television and educational material for under-18s against which the European Commission has taken legal action.<sup>530</sup>

The government justifies its radical right-wing stand as a strategy to **preserve the national uniqueness** of the Hungarian people, to oppose the cultural and religious incompatibility of migrants' values and to **protect traditional Christian, family values**. In the words of two scholars studying the

<sup>525</sup> See Heinrich Boell Stiftung, Focus on Hungary: Refugees, Asylum and Migration, 2015, available at: [https://www.boell.de/sites/default/files/2015-focus-on-hungary\\_refugees\\_asylum\\_migration.pdf](https://www.boell.de/sites/default/files/2015-focus-on-hungary_refugees_asylum_migration.pdf)

<sup>526</sup> Gyollai D (2018). Hungary: Country Report: Legal & Policy Framework of Migration Governance. Working Papers – Global Migration: Consequences and Responses, Paper 2018/05 (May 2018).

<sup>527</sup> Case 808/18, available at: <https://curia.europa.eu/juris/liste.jsf?lgrec=fr&td=;ALL&language=en&num=C-808/18&jur=C>

<sup>528</sup> Freedom House, Freedom in the World 2021/Hungary (available at: <https://freedomhouse.org/country/hungary/freedom-world/2021>, retrieved on 2 September 2021).

<sup>529</sup> *Hungary's parliament blocks domestic violence treaty*, The Guardian, 5 May 2020.

<sup>530</sup> European Commission press release: EU founding values: Commission starts legal action against Hungary and Poland for violations of fundamental rights of LGBTIQ people, available at: [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_21\\_3668](https://ec.europa.eu/commission/presscorner/detail/en/ip_21_3668)

cultural shift in Hungary since Orbán gained power, “the cultivation of a strong nationalist discourse has been a key boon for the Orbán regime, which has manipulated Hungarians’ disillusionment, prejudices, and fears in a way that has rendered the citizenry increasingly susceptible to extreme nationalist and right-wing ideologies”<sup>531</sup>.

Nationalism has been closely linked with the **promotion of religion** by the Fidesz government since the beginning of the 2010s. While Hungary historically has been a country with low levels of religious observance, starting with the changes in the Hungarian Constitution from 2011, religion and religious institutions have played an increasingly important role in education and social services, enjoying administrative and financial support from the government.

## 9.2. Legal framework

There are no specific mentions of right-wing extremism in **Hungarian criminal law**. In Hungary, the **Criminal Code** provides more severe sanctions for **hate crimes**: assault, coercion and anti-social behaviour committed with a bias motive constitute a crime called violence against a member of a community. Bias motivation is considered a qualifying or aggravating circumstance in the case of several other crimes.

Most often non-violent cases of right-wing extremism are prosecuted under Section 332 of the Criminal Code, **Incitement against a Community**: “Any person who, before the public at large, incites violence or hatred against: a) the Hungarian nation; b) any national, ethnic, racial or religious group or a member of such a group; or c) certain societal groups or a member of such a group, in particular on the grounds of disability, gender identity or sexual orientation is guilty of a felony punishable by imprisonment not exceeding three years”<sup>532</sup>.

Recent legislative changes have a negative influence on the protection of the rights of the vulnerable groups targeted by right-wing extremist groups, like Roma and LGBTQ+ persons. Fidesz enjoyed a qualified parliamentary majority (2/3 of the votes) in the 2010-2014 parliament and simple majority since 2015, allowing it to introduce amendments to the existing legislation in line with its policy towards the Roma minority, migrants and the LGBTQ+ community. Examples include the amendment of migration laws during the migration crisis of 2015 and the anti-Roma campaign launched by Prime Minister Orbán in 2020 in response to a court awarding pecuniary damages to Roma pupils for school segregation in the town of Gyöngyöspata. As a result, the parliament amended public education laws to prevent courts from awarding pecuniary damages for similar future claims<sup>533</sup>.

Critics of the Hungarian legislative framework applied to offences by right-wing extremist groups have noted that the same article providing protection for vulnerable groups includes a mention of the ‘Hungarian nation’ which can hardly be described as a vulnerable group. Court sentences against perpetrators of Roma origin attacking members of vigilante group have cited this provision of the Criminal Code (ignoring the context of the victims’ anti-Roma vigilantism)<sup>534</sup>.

While legislation for the prosecution of right-wing extremist crime is in place, the **actual hate crime committed by right-wing groups often are not registered as hate crimes** and remain

<sup>531</sup> András Bozóki, Sarah Cueva, *Xenophobia and Power Politics: The Hungarian Far Right*, 2021.

<sup>532</sup> Hungarian Criminal Code (2012).

<sup>533</sup> Freedom House, Freedom in the World 2021/Hungary (available at :<https://freedomhouse.org/country/hungary/freedom-world/2021>, retrieved on 2 September 2021).

<sup>534</sup> Szilveszter Póczik and Eszter Sárík, *Vigilante Militias and Activities against Roma and Migrants in Hungary*, p.114-117.

unprosecuted. The vast majority of the Hungarian legal scientific literature and NGO guidelines are critical of the handling of hate-crimes, in terms of false qualification and disguised crimes. The judicial decisions tend to qualify acts of right-wing extremism as public vandalism or other crime without the element of bias<sup>535</sup>.

The Hungarian Criminal Code contains provisions related to criminal activities setting out the definition of terrorism, include ancillary crimes (Section 314-320 of the Criminal Code).<sup>536</sup>

The **Fundamental Law of Hungary (2011)** contains a general prohibition of discrimination on the basis of an open-ended list of protected grounds, including race, colour, sex and national origin (Article XV). Equal treatment of LGBTQ+ people is problematic. The 9th Amendment of the Hungarian Fundamental Law added the following sentence to the definition of a family: 'The mother is a woman and the father is a man'.<sup>537</sup> In May 2020, the Hungarian Parliament adopted a law that reversed the legal recognition of gender reassignment for trans and intersex people. Two months later, the European Court of Human Rights (ECtHR) decided on an earlier application against Hungary and ruled that the denial of legal gender recognition to non-Hungarian citizens legally residing in the country violates Article 8 of the European Convention on Human Rights.<sup>538</sup>

### 9.3. Other responses to right-wing extremism

Given the limited response to acts of right-wing extremism by law enforcement and the courts, **NGOs** in Hungary are a significant factor in opposing right-wing extremism and providing support to its victims. As the mission and activities of such NGOs are often in direct conflict with the policy of Orban's government as illustrated above, they have been the target of hostile campaigns and legislation designed to marginalise their work and to present them as 'foreign agents' interfering with Hungary's internal affairs.

A prominent coalition of NGOs and independent activists supporting victims of right-wing extremism is the **Working Group against Hate Crimes (GYEM)**, founded in 2012. It consists of four NGOs: **Amnesty International Hungary**, the Hungarian chapter Amnesty International; **Háttér Society**, an NGO fighting for equal rights and social acceptance for LGBTQ+ people; **Hungarian Helsinki Committee**, an NGO in support of the oppressed, refugees and detainees; and the **Hungarian Civil Liberties Union (TASZ)**, a human rights NGO. The goals of the working group are to fight hate crimes through establishing a more effective **legal and institutional framework** for state responses to hate crimes; **encouraging victims** to initiate legal proceedings; and creating a **social environment** rejecting hate crimes.

The activities of NGOs opposing right-wing extremism include influencing legislation and providing professional recommendations for strengthening state responses to hate crimes; research on hate crimes and combating of hate crimes; training of professionals dealing with hate crimes; and pro bono legal advice and representation of victims of hate crimes.

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<sup>535</sup> Ibid., p.117.

<sup>536</sup> Hungarian Criminal Code (2012).

<sup>537</sup> Franet National contribution to the FRA Fundamental Rights Report 2021 Hungary, p.4.

<sup>538</sup> FRA, Fundamental Rights Report 2021, p.81.

## 9.4. Effectiveness of the response to right-wing extremism

Researchers of Hungarian right-wing extremism and NGOs agree that despite the existence of a **criminal justice framework** to prosecute hate crimes and to protect the vulnerable groups which are targets of extremist acts, **public authorities are failing to effectively apply the available mechanisms**. “As a result of law enforcement agencies’ inertia in this regard, the relevant criminal provisions remain effectively dormant, with even the most severe cases reaching the incitement threshold going unpunished... **hate crimes are not prosecuted and not even registered as hate crimes**: barely any reported incidents are considered as falling within the scope of the criminal provision contained in Section 332 of the Criminal Code. Law enforcement agencies tend to conclude that the expressive conduct did not constitute a call for a violent act and did not create a direct threat of danger, and criminal proceedings are terminated at the investigation phase or the prosecution drops the charges.”<sup>539</sup>

Per the latest OSCE data on hate crime in Hungary,<sup>540</sup> **the number of recorded hate crimes has been declining since 2017, and a relatively small share of the crimes recorded by police have been prosecuted** (see table below). OSCE/ODIHR warns that the actual number of hate crimes may be much higher due to the lack of regular victimisation surveys on hate crimes and to under-reporting of hate crimes by the victims (due to lack of trust in public authorities).

**Table 17: Recorded and prosecuted hate crimes and sentences – HU**

Year	Hate crimes recorded by police	Prosecuted	Sentenced
2019	132	39	-
2018	194	52	-
2017	233	Not available	Not available
2016	33	33	39
2015	Not available	Not available	Not available

Source: OSCE, Hate Crime Reporting (2019)

More specifically, the following failures in the official response to hate crimes were pointed out by the Working Group against Hate Crimes: “... failures can be detected when it comes to the implementation and application of the law in case of hate crimes against members of vulnerable groups. These **systemic failures** are under-classification of hate crimes, over-classification of crimes committed by vulnerable group members, failures by the police to undertake law-enforcement measures and to take investigative steps<sup>541</sup>.

<sup>539</sup> Article 19, Hungary: Responding to ‘hate speech’, Country Report, London, 2018, p. 4, 21.

<sup>540</sup> OSCE, *Hate Crime Reporting Hungary* (available at: <https://hatecrime.osce.org/hungary> (retrieved on 2 September 2021)).

<sup>541</sup> Joint submission by Amnesty International Hungary, Háttér Society, Hungarian Helsinki Committee and Hungarian Civil Liberties Union as Working Group against Hate Crimes for the Third Cycle of the Universal Periodic Review of Hungary, 25 March 2021, p.1.



Overall, there are two major problems with the legal framework and legal practice in regard to right-wing extremism: first, amendments have been introduced which in essence support **anti-migrant, anti-LGBTQ+ and anti-refugee policies and allow for discrimination and segregation of the Roma minority**, and second, the existing provisions in the Criminal Code for **prosecuting hate crimes are not systematically enforced** (as reported by Hungarian and international NGOs)<sup>542</sup>.

Right-wing extremism in Hungary is targeting three distinct groups: the **Hungarian Roma community, migrants and refugees, and the LGBTQ+ community**. NGOs which support these three groups have also been the target of attacks and legal restrictions imposed by the government.

Right-wing extremist ideas have become part of the national political discourse, thanks mostly to the ruling Fidesz party and the parliamentary party Jobbik. While in the past (prior to 2010) there have been acts of violent extremism against the Roma community, the current radical right-wing organisations in Hungary do not resort to violence and limit their actions to non-violent aggression against their target groups.

Government's response to acts of right-wing extremism and hate crimes has not been effective due to failure to recognise right-wing bias. Amendments to the legal framework have served the ruling party's policies against refugees, Roma, LGBTQ+ and NGOs supporting vulnerable groups.

In addition to the efforts of Hungarian NGOs, the European Parliament, the European Commission (including triggering Article 7 of the TEU after "the determination of a clear risk of a serious breach of the values on which the Union is founded"<sup>543</sup>) have taken a series of steps to oppose Orban's government policies against migrants, Roma, LGBTQ+ and NGOs. However, despite the numerous EU actions in response to such Hungarian national laws and policies, the direct or indirect support of far right-wing ideas and policies by the Hungarian government and parliament has continued.

## 9.5. Conclusion

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<sup>542</sup> Article 19, Hungary: Responding to 'hate speech', Country Report, London, 2018; Working Group against Hate Crimes (GYEM) - <https://gyuloletellen.hu/>.

<sup>543</sup> European Parliament, *European Parliament resolution of 10 June 2021 on the rule of law situation in the European Union and the application of the Conditionality Regulation*, Strasbourg, 10 June 2021.

<sup>544</sup> European Parliament, *European Parliament resolution of 10 June 2021 on the rule of law situation in the European Union and the application of the Conditionality Regulation*, Strasbourg, 10 June 2021.

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## 10. COUNTRY FICHE – ITALY

Author: Dr Tomaso Communale (CSD)

### 10.1. Distinctive features of right-wing extremism in the country

Italy is among the Member States that have been affected by the increasing success of right-wing populist and extremist parties. In recent years, radical right and far-right political parties have entered mainstream politics. As right-wing extremist propaganda has grown online, xenophobic sentiments and public hate speech have found more resonance in parts of the population. Particularly young people are targeted by far-right recruitment on social media pages.

Extreme right parties as **Forza Nuova**<sup>545</sup> (New Force) and **CasaPound Italia**<sup>546</sup> have in fact been embracing ultra-nationalist and conservative political campaigns,<sup>547</sup> combined with strong xenophobic and anti-Semitic narratives, and ultra-religious ideologies with respect to abortion, euthanasia, and same sex marriages.<sup>548</sup> Moreover, in 2020, far-right and right-wing extremist groups' propaganda have sharply criticised restrictions related to COVID-19, with a narrative against the Italian political establishment. The propaganda, both online and offline, has mostly revolved around "incitement to *disobbedienza* (disobedience) and focused on the perceived *dittatura sanitaria* (health dictatorship)".<sup>549</sup> In this regard, in October 2021 violent protests against the extension of the COVID-19 "Green Pass" to all workplaces<sup>550</sup> took place in Rome.<sup>551</sup> The protests saw the participation of neo-fascist activists and leaders of *Forza Nuova*, who were involved in the assault to the headquarters of the Italian General Confederation of Labour (CGIL) trade union and were later arrested.<sup>552</sup> Following the violent attacks, thousands of people gathered in the streets of Rome in a protest against rising fascism and right-wing groups.<sup>553</sup> In light of these events, the Italian Senate and Chamber of Deputies approved a centre-left motion urging the government to dissolve *Forza Nuova* and ban all neo-fascist political movements and groups.<sup>554</sup> At EU level, a plenary session of the European Parliament addressed right-

<sup>545</sup> Recently reorganised within the broader political movement *Italia Libera* comprising yellow vests and the negationist no mask movement. For more information, see :

[https://www.repubblica.it/politica/2020/12/14/news/destra\\_forza\\_nuova\\_italia\\_libera-278346830/](https://www.repubblica.it/politica/2020/12/14/news/destra_forza_nuova_italia_libera-278346830/)

<sup>546</sup> As of June 2019, the leader of *CasaPound Italia* announced the dissolution of the political party, with the group remaining active with the status of social movement.

<sup>547</sup> Despite the intensive political campaign, at the last Italian political elections in 2018 these two extreme right parties did not achieve the minimum threshold of 3 per cent of the votes to be represented in the Italian Parliament. See [https://www.repubblica.it/speciali/politica/elezioni2018/2018/03/05/news/flop\\_neofascisti-190494095/](https://www.repubblica.it/speciali/politica/elezioni2018/2018/03/05/news/flop_neofascisti-190494095/)

<sup>548</sup> Gattinara, Pietro Castelli. 2019. "Forza Nuova and the Security Walks: Squadristo and Extreme-Right Vigilantism in Italy." In *Vigilantism against Migrants and Minorities*, edited by Tore Bjørgo and Miroslav Mareš, 199-212. Routledge; see also Camilli, Annalisa. "The offensive of the far-right against abortion starts in Verona." *Internazionale*, 13 December 2018. <https://www.internazionale.it/reportage/annalisa-camilli/2018/12/13/far-right-against-abortion-verona>

<sup>549</sup> Europol. 2021. "(TE-SAT) 2021", p. 88. See also Mulhall, Joe, and Safya Khan-Ruf, eds. 2021. *State of Hate: Far-Right Extremism in Europe 2021*. London: HOPE not Hate Charitable Trust, p. 24. <https://charity.hopenothate.org.uk/>.

<sup>550</sup> The "Green Pass" certificate, showing proof of vaccination and already required for certain activities (including dining indoors, visiting museums and theatres, and using trains), was made mandatory in all workplaces as of mid-October 2021.

<sup>551</sup> Reuters. "Anti-vax protesters in Rome target Draghi's office, union's headquarters," 9 October 2021. <https://www.reuters.com/world/europe/italian-police-use-water-cannon-push-back-anti-vax-protesters-rome-2021-10-09/>

<sup>552</sup> Euro Examiner. "Far-right leaders arrested at large protest in Italy over COVID passes," 11 October 2021, <https://euroexaminer.com/2021/10/11/far-right-leaders-arrested-at-large-protest-in-italy-over-covid-passes/>

<sup>553</sup> Deutsche Welle. "Italy: Thousands descend on Rome for anti-fascist protest," 16 October 2021. <https://www.dw.com/en/italy-thousands-descend-on-rome-for-anti-fascist-protest/a-59528235>

<sup>554</sup> Reuters. "Italian senate asks government to ban Forza Nuova neofascist party," 20 October 2021. <https://www.reuters.com/world/europe/italian-senate-asks-government-ban-forza-nuova-neofascist-party-2021-10-20/>; Ansa. "C-L motion on disbanding Forza Nuova approved," 22 October 2021.

wing extremism and racism in Europe, calling for a united and swift response to rising extreme-right violence in Europe.<sup>555</sup>

As reported by Europol, in Italy right-wing extremist propaganda has used online methods to communicate and disseminate ideological material through social media platforms such as Twitter, Telegram, and V Kontakte.<sup>556</sup> Far-right online and offline communities have been observed to be deeply characterised by anti-Semitic and racist messages inciting the use of violence, also as a recruiting mechanism among young people. As noted by the Special Operations Group of the Italian Carabinieri in a 2017 law enforcement report against *Forza Nuova*, members of the party have been involved in hate crime and inciting violence as an indoctrination practice to recruit young individuals.<sup>557</sup> Use of violence and anti-Semitic ideologies are also supported by other neo-fascist extreme right groups — as *Veneto Fronte Skinheads*, *Fascismo e Libertà*, *Hammerskin*, *Do.Ra*<sup>558</sup> — and violent supporters of Italian football teams.<sup>559</sup>

Regarding extreme violence, **over the last decade two extreme right attacks have been reported** in Italy. In 2011, an armed *CasaPound* militant killed two Senegalese citizens in Florence, leaving three others injured. In 2018, a right-wing attack occurred in Macerata, with a man shooting and wounding six people whom he thought were Africans. Several **additional incidents** of violence, incitement to violence and hate crime by far-right groups have occurred in Italy, sparking media attention and the attention of law enforcement and prosecutorial authorities.<sup>560</sup> Investigations have led to the arrest of several individuals for violent aggression and illegal possession of firearms, ammunition and explosives.<sup>561</sup> Regarding right-wing extremists, Europol has reported a total of 11 right-wing affiliated **arrests** between 2017 and 2020.<sup>562</sup> Scholars have also investigated severe forms of right-wing terrorism and violence (RTV) perpetrated by lone actors and organised groups and targeting, among others, ethnic minorities. Research results reveal an **increasing trend of non-fatal attacks** between 2015 (3 attacks) and 2019 (24 attacks), with a decline in 2020 (17 attacks) and a total of 72 non-fatal RTV events between 2015 and 2020.<sup>563</sup> Lastly, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) collects hate crime data reported by Italy. As for RTV attacks, figures show an **increasing trend of hate crimes** recorded by police over the period 2015-2019, with 555 events recorded in 2015 and

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[https://www.ansa.it/english/news/2021/10/21/c-l-motion-on-disbanding-forza-nuova-approved\\_6be3d780-20b5-46be-8fc8-1742a7d9d1d4.html](https://www.ansa.it/english/news/2021/10/21/c-l-motion-on-disbanding-forza-nuova-approved_6be3d780-20b5-46be-8fc8-1742a7d9d1d4.html)

<sup>555</sup> For more information, see the European Parliament Plenary Session held on 20 October 2021, available at [https://multimedia.europarl.europa.eu/en/plenary-session\\_20211020-0900-PLenary\\_vd](https://multimedia.europarl.europa.eu/en/plenary-session_20211020-0900-PLenary_vd)

<sup>556</sup> Europol. 2021. "(TE-SAT) 2021".

<sup>557</sup> Angeli, Federica, and Giuseppe Scarpa. "La scuola di razzismo nella sede di Forza Nuova a Roma: "Picchiate i bengalesi."" *La Repubblica*, 02 November 2017.

<https://roma.repubblica.it/cronaca/2017/11/02/news/la-scuola-di-razzismo-nella-sede-di-forza-nuova-picchiate-i-bengalesi-179997138/>

<sup>558</sup> *Adnkronos*. "Italia nera: la mappa dei nuovi fascisti," 1 December 2017. [https://www.adnkronos.com/ultradestra-chi-sono-i-nuovi-fascisti\\_4M6CR8wLBWe4OQ75le0bsX](https://www.adnkronos.com/ultradestra-chi-sono-i-nuovi-fascisti_4M6CR8wLBWe4OQ75le0bsX)

<sup>559</sup> In July 2019, a police operation highlighted connections between far-right groups and violent supporters of football club Juventus Turin. For more information, see <https://www.ilfattoquotidiano.it/2020/06/21/estrema-destra-terrorismo-nero-anche-italiano-non-e-solo-su-internet-ha-armi-bombe-razzi-e-progetta-attentati-contro-musulmani-ed-ebrei/5842581/>

<sup>560</sup> Operation "Ombre nere" (Black Shadows) is among the most notable police operations. Other operations include Operation "Ultima Legione", and Operation "Nobis".

<sup>561</sup> E.g., see Woods, Amanda. "Italian authorities say extremists wanted to start new Nazi party" *New York Post*, 29 November 2019. <https://nypost.com/2019/11/29/italian-authorities-say-extremists-wanted-to-start-new-nazi-party/>

<sup>562</sup> Europol. 2021. "(TE-SAT) 2021"; Europol. 2020. "(TE-SAT) 2020".

<sup>563</sup> Ravndal, Jacob Aasland, et al. 2020. "RTV Trend Report 2020: Right-Wing Terrorism and Violence in Western Europe, 1990-2019." *C-REX Research Report 1*.

1119 in 2019.<sup>564</sup> Data also show racism and xenophobia as the most common bias motivation for committing hate crime in 2019 (805 incidents), followed by bias against other groups / people with disabilities (207 incidents). As for the types of **crime**, the most common forms of hate crime recorded in 2019 were incitement to violence, physical assaults, and desecration of graves.<sup>565</sup>

The health crisis during the COVID-19 pandemic, the economic decline and the criticism the national political elites have contributed to the appeal of *disobbedienza* (disobedience) against a perceived *dittatura sanitaria* ("health dictatorship"), despite of the general support for lockdown regulations among the population. Within this context, groups and movements on the spectrum from radical nationalism to right-wing extremism have been contributing to the spread of COVID-19 disinformation and fake news on social media. They have also used disinformation to target minority groups to incite hatred, anti-immigration sentiments, and violence.

This development not only influences Italy's political landscape and relationship with the European Union; it also increases the threat of right-wing extremist violence and hate crimes, particularly affecting the safety of minorities. In 2021 alone, the Italian police discovered weapon collections during investigations against neo-Nazi groups. As explained above (see Chapter 2), it is difficult to shoe-horn parties and movements, in particular their members into specific categories. An example of this is the killing of a Moroccan immigrant by a councillor and member of the right-wing radical *Lega* (League) after an altercation in July 2021.

In Italy, the popularity of radical right-wing groups as well as the mobilisation of individuals has increased in recent years.<sup>566</sup> Radical-right and radical-nationalist political parties, as *Lega* (League) and *Fratelli d'Italia* (Brothers of Italy), together gained 40 per cent of the votes in the 2019 European Parliament election in Italy, while the most recent 2021 opinion polls for the next Italian general election shows both parties polling above 20%.<sup>567</sup>

## 10.2. Legal framework

The legal framework to combat right-wing extremism can be identified in a number of criminal offences defined by the Italian Constitution and Criminal Code. The **Italian Constitution**, states that states that "*it shall be forbidden to reorganise, under any form whatsoever, the dissolved Fascist party.*"<sup>568</sup> Furthermore, the Constitution includes articles stating the equality of citizens before the law "without distinction of sex, race, language, religion, political opinion, personal and social conditions" (art. 3). The only associations which are forbidden by the Constitution (art. 18) are those "*that are [...] forbidden by criminal law. Secret associations and associations that, even indirectly, pursue political aims by means of organisations having a military character shall be forbidden*".

In terms of **criminal law**, the most notable laws are the *Legge Scelba* (Scelba Law) and the *Legge Mancino* (Mancino Law). The Scelba Law (Law no. 645/1952) was the first law introducing the crime of *apologia del fascismo* (apology of fascism) into the Italian legal system. The law, named after the then Interior Minister Mario Scelba, was passed in 1952 to implement the provision of the Italian

<sup>564</sup> OSCE ODIHR Hate Crime Reporting - Italy. See <https://hatecrime.osce.org/italy>

<sup>565</sup> *Ibid.*

<sup>566</sup> Ferraresi, Mattia. "Italy's Far-Right Is on the Rise." *Foreign Policy*, 29 June 2021. <https://foreignpolicy.com/2021/06/29/italy-far-right-brothers-fratelli-giorgia-meloni-salvini-league/>; see also Caiani, Manuela. 2017. "Radical Right-Wing Movements: Who, When, How and Why?" *Sociopedia.isa*, 1–15.

<sup>567</sup> Ferraresi, Mattia. *Op. cit.*

<sup>568</sup> See [https://www.senato.it/1025?sezione=140&articolo\\_numero\\_articolo=XII](https://www.senato.it/1025?sezione=140&articolo_numero_articolo=XII).

Constitution, relating to the dissolving of the fascist party."<sup>569</sup> The Article 4 of the Scelba Law sanctions anyone who promotes or organises in any form, the constitution of an association, a movement or a group having the characteristics and pursuing the purposes of reorganising the dissolved fascist party. The penalty is imprisonment from five to twelve years. Furthermore, the law punishes anyone publicly exalting the exponents, principles, facts or methods of fascism, or its anti-democratic aims — therefore also propaganda.

The Scelba Law was further supplemented by the Mancino Law (Law no. 205/1993), which further specifies the provisions of the Scelba Law to punish hate crime and racial discrimination. The law, passed in 1993, amended Law no. 654/1975 that ratified the International Convention on the Elimination of All Forms of Racial Discrimination — adopted in 1965 and entered into force in 1969. The Mancino Law punishes the propaganda of ideas based on superiority or on racial and ethnic hatred, or whoever instigates or commits acts of discrimination for racial, ethnic, national or religious reasons, with imprisonment of up to one year and six months or with a fine of up to 6,000 euros.<sup>570</sup> In addition, the law introduces “a general aggravating circumstance for all offences committed with a view to discrimination on racial, ethnic, national or religious ground or in order to help organisations with such purposes. Any racially aggravated offence is prosecuted *ex officio*”.<sup>571</sup> Pursuant to Legislative Decree 21/2018, the aggravating circumstance has become art. 604-ter of the Italian Criminal Code, while the former article 3 of the Law no. 654/75 has become art. 604-bis of the Italian Criminal Code. The latter article can be considered as a regulatory tool to counteract hate speech, as it punishes the “Propaganda and incitement to crime for reasons of racial, ethnic and religious discrimination”. In this regard, it is important to mention the first case of hate speech submitted to the Italian Supreme Court of Cassation (Supreme Court) in 2015. With Judgment no. 36906 of 14/09/2015, the Supreme Court reviewed the decision made by the Court of Appeal of Trieste which had confirmed the fine of 3,000 euros to an individual found guilty of the crime of racial hatred propaganda under Law no. 654/1975 (art. 3), for having written “*Basta stranieri*” (enough of foreigners) on an election leaflet. In reviewing the judgment, the Supreme Court affirmed that such expression, used in the context of the so-called political criticism, did not constitute racial hatred propaganda. In addition, the Supreme Court specified that hate speech cannot tout court integrate the crime of propaganda of racist ideas, as they still constitute a free expression of thought, which, as a constitutionally guaranteed right pursuant to art. 21 of the Constitution, tolerates limits only when faced with the need to protect constitutional rights of equal rank.<sup>572</sup>

Lastly, over the last five years two bills have been presented to the Italian Parliament to regulate and criminalise individuals’ behaviour associated with far-right ideologies. In 2017, the deputy of the Democratic Party Emanuele Fiano presented a new bill on the apology for fascism. The Chamber of Deputies approved the proposal, but the term of the legislature put an end to the discussion of the law in the Senate. The “Fiano” bill aimed at introducing in the Italian Criminal Code a new article, 293-bis, to punish anyone propagating images or contents belonging to the fascist party or the German

<sup>569</sup> See [https://www.senato.it/1025?sezione=140&articolo\\_numero\\_articolo=XII](https://www.senato.it/1025?sezione=140&articolo_numero_articolo=XII).

<sup>570</sup> <https://www.legislationline.org/legislation/country/22/section/legislation/topic/4>.

<sup>571</sup> *Ibid.*

<sup>572</sup> Over the last decade, the Supreme Court has reviewed other cases, though with different decisions. In particular, in 2009 the Supreme Court (Judgment no. 25184 of 17/08/2009) confirmed the indictment against an individual found guilty, under Law no. 205/1993, of external manifestations (i.e., the Roman salute) belonging to organisations or groups aimed at incitement to discrimination or violence on racial, ethnic, national or religious grounds. In another case, the Supreme Court (Judgment no. 47894 of 22/11/2012) confirmed the indictment against a municipal councilor found guilty, under Law no. 654/1975 (art. 3) and Law no. 85/2006 (art. 13) of manifestation of hate speech during a municipal council (hatred and racial discrimination against Roma and Sinti communities).



National Socialist party. In 2020, Alessandro Zan, a member of the Democratic Party, introduced the DDL Zan (i.e., the "Zan Bill") in the attempt of extending the Mancino law to homo- and transphobic crimes.<sup>573</sup> The bill aims at criminalising discrimination against members of the LGBTQ+ community (along with other categories included in the Marino law) with a sanction of up to four years of imprisonment or community service. The bill, which has found strong opposition from the two radical right parties of the League and Brothers of Italy, has been approved in the Chamber of Deputies in November, thus passing to the Senate, where it was rejected.<sup>574</sup>

In conclusion, it is important to note the effectiveness of the Italian legal system in prosecuting and preventing right-wing extremist crimes. Regarding the prosecution of such crimes, the application of the Scelba and Mancino law for apology of fascism has often been difficult and controversial because of the conflict arising with the Constitutional Rights of associative freedom (art. 18) and freedom of expression of thought (art. 21). In fact, both laws must guarantee free thinking that can only be compressed in the name of an urgency, that the Constitutional Court in its judgment 74 of 1958 identified in the "concrete danger for the democratic order". Despite the difficulty of individuals' prosecution for the reorganisation of the dissolved fascist party, the extensive **monitoring of police and law enforcement authorities** has led to the arrest of several far-right extremists for their involvement in violent aggression, hate crime and discrimination, and online propaganda.<sup>575</sup> In 2019 the Postal Police monitored more than 2,000 virtual spaces for racial discrimination, right-wing extremism, anti-Semitism, as well as threat of attack to the Rome-Milan railway section.<sup>576</sup> Lastly, other major police operations have led to the discovery of large amount of weapons and explosives owned by far-right extremist groups being monitored across Italy.<sup>577</sup>

### 10.3. Other responses to right-wing extremism

At national level, two government bodies implement measures against discrimination and hate crimes: the **Ufficio Nazionale Antidiscriminazioni Razziali (UNAR)** and the **Osservatorio per la Sicurezza Contro gli Atti Discriminatori (OSCAD)**. The former combats all forms of discrimination and has built a network of regional centres that collect complaints and work with local authorities. The OSCAD, operated by the police and the Carabinieri, collects data on hate crimes since 2013. The observatory is also responsible for data monitoring, training for law enforcement and the improvement of the cooperation among different police agencies and stakeholders. In this regard, civil society stakeholders have actively developed different preventive measures: educational tools against (Islamophobic) hate speech online, the training module Counter-Narration for Counterterrorism (C4C) for schools which focuses on victims' testimonies, the EXIT program for the deradicalisation of individuals, and the project Eurotopia for countering far-right propaganda online. Moreover, organisations like the Milan Bar

<sup>573</sup> To date, the Italian legal system does not include criminal or civil provisions regarding hate speech motivated by homophobia or discrimination on the ground of sexual orientation. This limitation has also been noted by the European Union Agency for Fundamental Rights (FRA) in 2009 report. For more information, see FRA. 2009. "Homophobia and Discrimination on Grounds of Sexual Orientation in the EU Member States. Part I-Legal Analysis." Publications Office of the European Union. [https://fra.europa.eu/sites/default/files/fra\\_uploads/192-FRA\\_hdqso\\_report\\_Part%20I\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/192-FRA_hdqso_report_Part%20I_en.pdf).

<sup>574</sup> D'Angelo, Vincenzo. "The DDL Zan: what it is + why it's necessary." *The Florentine*, 7 June 2021. <https://www.theflorentine.net/2021/06/07/ddl-zan-italy-why-it-is-necessary/>

<sup>575</sup> E.g., see Bubola, Emma. "I numeri di CasaPound: 20 arresti e 359 denunce in 5 anni" *Open*, 1 May 2019. <https://www.open.online/2019/05/01/i-numeri-di-casapound-20-arresti-e-359-denunce-in-5-anni/>

<sup>576</sup> *Sicurezza Internazionale*. "L'Italia e l'estremismo di destra," 20 February 2020. <https://sicurezzainternazionale.luiss.it/2020/02/20/italia-estremismo-destra/>

<sup>577</sup> Operation "Ombre nere" (Black shadows). See <https://www.poliziadistato.it/articolo/135ddf8ca3b32d5188675224>

Association offer free legal advice to victims of hate crimes and far-right violence.<sup>578</sup> Lastly, the **Rete nazionale per il contrasto ai discorsi e ai fenomeni d'odio** (National Network for the Fight against Hate Speech and Hate Phenomena) was established in 2020. The network brings together NGOs, researchers, observatories and the National Anti-Racial Discrimination Office to monitor and prevent hate speech online as well as to develop counter-narratives.<sup>579</sup>

Other responses to far-right groups and neo-fascists include the organisation of **protests and boycotts**. Activists from anti-fascist groups as the National Association of Italian Partisans (ANPI) regularly organise counter-protests and denounce neo-Nazis to the police.<sup>580</sup> In 2019, about 200,000 participants took part in the anti-discrimination march in Milan and the "Sardines" movement mobilised tens of thousands of protestors who rallied against the success of far-right parties in the upcoming elections.<sup>581</sup> In the same year, several Italian authors and the Auschwitz museum decided to withdraw from the book fair *Salone del Libro* in Turin due to the participation of the founder of the neo-fascist publishing house Altaforte, who was consequently barred from the international fair.<sup>582</sup> The president of the Piedmont region and the mayor of Turin denounced him for apology of fascism on the grounds of the Legge Scelba and the violation of the Legge Mancino.<sup>583</sup> The municipality of Predappio, Mussolini's birth place, also planned to open a documentation centre on fascism in reaction to neo-fascist pilgrimages.<sup>584</sup> In 2020, anti-racist *Black lives matter* protests took place across the country.<sup>585</sup>

In some instances also private companies have developed responses to right-wing extremism. In 2019, **Facebook** deactivated *CasaPound Italia's* social media pages, including the profiles of several politicians. However, the Court of Rome confirmed the decision of the lower courts stating that the social media pages deactivation had been unlawful as the group had not violated the terms of use.<sup>586</sup>

#### 10.4. Effectiveness of the response to right-wing extremism

The **constitutional provision** preventing the reformation of the fascist party poses some difficulties, as, the application of laws for apology of fascism has been difficult as they do not prohibit the organisation of far-right groups if they do not aim to reorganise the dissolved fascist party.

<sup>578</sup> Capozzoli, Giancarlo. "Fino a prova contraria." Interview with Luca Guglieminetti, *L'Espresso*, 13 June 2021. <http://fino-a-prova-contraria.blogautore.espresso.repubblica.it/2021/06/13/prevenzione-degli-estremismi-violenti-sfide-pratiche-e-politiche-da-torino-ai-livelli-nazionale-ed-europeo-una-intervista-a-luca-guglieminetti-ran-ambassador-in-italia/>.

<sup>579</sup> See <https://www.retecontroloodio.org/chi-siamo/>

<sup>580</sup> Alietti, Alfredo, and Dario Padovan. 2019. "Islamophobia in Italy: National Report 2018." In *European Islamophobia Report 2018*, edited by Enes Bayraklı & Farid Hafez.

<sup>581</sup> Tondo, Lorenzo. "'Sardines' against Salvini: Italy's fight against the far right." *The Guardian*, 14 December 2019. <https://www.theguardian.com/world/2019/dec/14/sardines-pack-piazza-in-rome-for-protest-against-matteo-salvini>.

<sup>582</sup> De Luca, Davide Maria. "Da dove arriva l'estrema destra?" *Il Post*, 23 May 2019. <https://www.ilpost.it/2019/05/08/storia-estrema-destra/>.

<sup>583</sup> Longhin, Diego. "Salone del libro, la mossa di Appendino e Chiamparino: "Denunciamo Altaforte per apologia di fascismo." *La Repubblica*, 07 May 2019. [https://torino.repubblica.it/cronaca/2019/05/07/news/saviano\\_va\\_al\\_salone\\_del\\_libro\\_e\\_lagioia-225675440/](https://torino.repubblica.it/cronaca/2019/05/07/news/saviano_va_al_salone_del_libro_e_lagioia-225675440/).

<sup>584</sup> Heywood, Paolo. 2019. "Fascism, uncensored. Legalism and neo-fascist pilgrimage in Predappio, Italy." *Terrain. Anthropologie & sciences humaines*, 72.

<sup>585</sup> Turati, Sofia. "Black lives matter in Italia: le manifestazioni in programma." *Presenza*, 03 June 2020. <https://www.presenza.com/it/2020/06/black-lives-matter-in-italia-le-manifestazioni-in-programma/>.

<sup>586</sup> Luna, Riccardo. "CasaPound torna su Facebook: "Vittoria del pensiero non allineato."" *La Repubblica*, 12 December 2019. [https://www.repubblica.it/tecnologia/social-network/2019/12/13/news/facebook\\_riapre\\_la\\_pagina\\_di\\_casapound\\_rispettata\\_l\\_ordinanza\\_del\\_tribunale\\_-243\\_39\\_90\\_29/](https://www.repubblica.it/tecnologia/social-network/2019/12/13/news/facebook_riapre_la_pagina_di_casapound_rispettata_l_ordinanza_del_tribunale_-243_39_90_29/).

In terms of **hate crime and hate speech**, the European Commission against Racism and Intolerance (ECRI) has **recommended the addition of the public dissemination, distribution, production or storage of material with a racist aim or inciting to racial discrimination to the Criminal Code.**<sup>587</sup>

Despite these deficiencies, over the recent years the Italian judiciary has affirmed the protection of minorities through landmark decisions. For instance, in 2018 the Court of Milan sanctioned the mayor of Albettone, a municipality in the Veneto region, for incitement to racial hatred following xenophobic statements against migrants, Roma and Muslims.<sup>588</sup>

Furthermore, the Italian Chamber of Deputies has discussed a legislative proposal to establish a **National Human Rights Institute (NHRI)** which it **has not yet been established**. The NHRI would provide a broader human rights mandate and ensure the monitoring of the Paris Principles in the country.<sup>589</sup> Currently, the UNAR has a double function as an equality body and an implementing body for national anti-discrimination measures. Its collaboration with local authorities ensures points of contact across the country. It also develops responses to hate speech. For example, in July 2020, the Italian Journalists' Professional Association and the organisation *Carta di Roma* agreed to implement training for journalists on racism, xenophobia and discrimination.<sup>590</sup> The ECRI and the Council of Europe (COE) recommend sufficient funding for UNAR in accordance with the Paris Principles and the strengthening of its competencies.<sup>591</sup>

The table below provides a summary of hate crimes recorded, prosecuted and sentenced. As it can be noted, the number of hate crimes recorded by the police doubled between 2015 and 2019, while the number of sentences remains low.

**Table 18: Recorded and prosecuted hate crimes and sentences – IT**

Year	Hate crimes recorded by police	Prosecuted	Sentenced
2019	1119	-	-
2018	1111	613	46
2017	1048	613	40
2016	736	424	31
2015	555	Not available	Not available

Source: OSCE, Hate Crime Reporting (2019)

<sup>587</sup> ECRI. 2016. "Fifth report on Italy (adopted on 18 March 2016)". [http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Italy/Italy\\_CBC\\_en.asp](http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Italy/Italy_CBC_en.asp).

<sup>588</sup> Alietti, Alfredo and Dario Padovan. 2020. "Islamophobia in Italia: Rapporto Nazionale 2018". SETA. <https://setav.org/en/assets/uploads/2020/04/R156lt.pdf>.

<sup>589</sup> European Network of National Human Rights Institutions (ENNHRI). "Relevant developments towards the establishment of a National Human Rights Institution". 26 June 2020. <http://ennhri.org/rule-of-law-report/italy/>.

<sup>590</sup> FRA. 2021. "Franet National contribution to the Fundamental Rights Report 2021." [https://fra.europa.eu/sites/default/files/fra\\_uploads/frr2021\\_italy-frr2021\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/frr2021_italy-frr2021_en.pdf).

<sup>591</sup> COE. Advisory Committee on the Framework Convention for the Protection of National Minorities. 2016. "Fourth opinion on Italy, adopted on 19 November 2015", ACFC/OP/IV(2015)006. <http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806959b9>.

## 10.5. Conclusion

In recent years, Italy has seen the success of radical right political parties, a rising popularity of far-right groups and propaganda as well as several violent attacks committed by right-wing extremists. Due to the country's history of fascism and the growing threat of far-right groups during the 1960s to 1980s, the country has long implemented legislation with the aim to counter-act fascism. Additionally, Italy has an extensive legislative framework on hate speech and hate crime. Law enforcement, state agencies and non-state actors have established some cooperative projects in response to discrimination and right-wing extremism. However, the recognition of right-wing extremism as a substantial threat and initiatives by the state against xenophobia are essential for an effective strategy. In accordance with recommendations from the United Nations High Commissioner for Human Rights, the European Agency on Fundamental Rights and the European Commission Against Racism and Intolerance, the strengthening and the independence of government bodies as the *Ufficio Nazionale Antidiscriminazioni Razziali* (UNAR) and the *Osservatorio per la Sicurezza Contro gli Atti Discriminatori* (OSCAD) and a future National Human Rights Institute (NHRI) would increase the effectiveness of responses to hate crime, hate speech and discrimination. Furthermore, the support of civil society actors and organisations as well as research projects constitutes an important part of an effective response to right-wing extremism. Lastly, as recommended by the OSCE Office for Democratic Institutions and Human Rights, the extension of successful training and sensibilisation programs to all stakeholders would be beneficial for implementing effective responses to right-wing extremism and individuals' deradicalisation.

## 11. COUNTRY FICHE – POLAND

Author: Stefan Ralchev (CSD)

### 11.1. Distinctive features of right-wing extremism in the country

Although right-wing extremism in Poland, as elsewhere in Central and Eastern Europe, has been gaining ground mostly after the fall of the Iron Curtain in 1989, its roots can be traced to Polish nationalist movements in the inter-war period and later. In fact, some of the current extremist formations are the successors or continuation of movements such as the **National Radical Camp** (ONR, founded in 1933, re-established in 1993), **All-Polish Youth** (MW, founded before WWII, re-established in 1989, from 2012 part of the National Movement party, RN) and **National Revival of Poland** (NOP, founded 1981).<sup>592</sup>

The main distinctive features of Polish right-wing extremism can be described as follows:

- There is a clear process of **co-optation** by Poland's biggest party, the ruling and lately dominant PiS, of **ideas espoused by right-wing extremists**, and voters respectively,<sup>593</sup> which started as early as the late 2000s and early 2010s: "The far-right impact on mainstream politics could be observed in Warsaw on 29 September 2012, when a mass, 50,000-strong street demonstration under the controversial slogan "Poland, awake!" was organised jointly by the PiS, the Solidarity trade union and the far-right Radio Maryja movement led by Father Tadeusz Rydzyk, combining various radical messages into a powerful voice."<sup>594</sup> This process has incurred repeated criticism from EU institutions.<sup>595</sup> Indeed, only in 2021 there were a number of reports about figures with controversial record linked to the far-right being appointed at public office (one of whom a deputy education minister).<sup>596</sup> A possible manifestation of this co-optation of right-wing ideas into policies of the state are the alleged recent pushbacks by Polish authorities of migrants at the border with Belarus.<sup>597</sup> As discussed in section 3.4 with regards Hungary, the Court of Justice of the EU recently restated the illegality of pushbacks at the EU's external borders. More recently, the European Commission restated the right for migrants to apply for asylum.<sup>598</sup>
- **Violence** in the actions of extreme right groups is present but **does not seem to be the rule**. According to Europol, there was one foiled right-wing terrorist/extremist attack in Poland in the last several years in 2019; as for arrests, there were two in 2019 and one in 2020.<sup>599</sup> According to ODIHR's Hate Crime Reporting project (not including hate speech), in 2019 out of 972 hate crimes recorded by police, 84 involved physical assault, 31 incitement to violence, 20 damage to property, 4 desecration of graves, 14 attacks against places of worship and 50 threats or threatening

<sup>592</sup> Pankowski, R (2012). "Right-wing Extremism in Poland", Friedrich Ebert Stiftung, p. 3-6. Available at: <https://library.fes.de/pdf-files/id-moe/09409-20121029.pdf>.

<sup>593</sup> Charnysh, V. "How Extremism Is Going Mainstream". *Foreign Affairs*, 18 December 2017. Available at: <https://www.foreignaffairs.com/articles/poland/2017-12-18/rise-polands-far-right>.

<sup>594</sup> Pankowski, p. 8.

<sup>595</sup> See for example Gera, V. "Poland criticised in EU Parliament over courts, LGBT rights," 14 September 2020. Available at: <https://apnews.com/article/discrimination-poland-europe-44f9374a0fbc0e0acadb29bbb1267a7e>.

<sup>596</sup> See for example Sharon, J. "New Poland deputy education minister was member of far-right parties". *The Jerusalem Post*, 27 January 2021, available at <https://www.jpost.com/diaspora/new-poland-deputy-education-minister-was-member-of-far-right-parties-656852>, and Kijek, K., "A fascist sympathiser appointed head of the Wrocław branch of the Institute of National Remembrance", *Wyborcza*, 5 February 2021, available at: <https://wyborcza.pl/7,173236,26761304,a-fascist-sympathiser-appointed-head-of-the-wroclaw-branch-of.html>.

<sup>597</sup> See Ciobanu, C. "Pressure mounts on Poland over migrant rights at Belarus border", *BalkanInsight*, 4 October 2021. Available at: <https://balkaninsight.com/2021/10/04/pressure-mounts-on-poland-over-migrant-rights-at-belarus-border/>.

<sup>598</sup> See <https://www.infomigrants.net/en/post/37885/eu-and-unhcr-raise-alarm-over-pushback-methods-in-poland-lithuania-and-lithuania>

<sup>599</sup> Europol. *Terrorism Situation and Trend report 2021*, p. 19-20. Available at: <https://www.europol.europa.eu/activities-services/main-reports/european-union-terrorism-situation-and-trend-report-2021-tesat>.

behaviour; 617 were unspecified and 3 were thefts or robberies.<sup>600</sup> In the latest Brown Book report of Polish anti-racism, anti-xenophobia and anti-homophobia association Never Again, the majority of incidents listed refer to display of slogans or hate speech, with only a minority mentioning physical violence; also, the majority of mentions are linked to the behaviour of football supporters.<sup>601</sup>

- The majority of right-wing extremist groups and parties subscribe to a **fundamentalist Catholic-nationalist ideology**, the religious element in a way distinguishing them from their counterparts in other Central and East European countries. This ideology goes naturally in tandem with strong traditionalist beliefs about the family and gender. Specific features of Polish right-wing extremism, sometimes in contradiction, are Russophobia and Germanophobia.<sup>602</sup> Antisemitism and intolerance for minority groups such as the Roma and immigrants are also present. As a rule, economic inequality and social issues are less emphasised than identity, and both highly socially-oriented and radical free-market ideas are shared.<sup>603</sup> What is especially pronounced in Poland, compared to other EU Member States, is the high levels of intolerance and violence towards members of the LGBTQ+ community.<sup>604</sup> An interesting trend, resembling that in Hungary and its Jobbik party, is the 'normalisation' of the messages of currently the most popular far-right party, Konfederacja, which for the 2019 election tried to build a "reputational shield by focusing more on economy and corruption."<sup>605</sup>

In line with other countries studied in this report, the ideas espoused by right-wing extremists are also being mainstreamed in the political discourse. In Poland, the more successful groups/parties on the radical-right end of the spectrum, began their existence after 2000 – the **League of Polish Families** (LPR), formed just before the 2001 elections and getting 8% of the vote (38 seats in the Sejm), and **Confederation Liberty and Independence** (Konfederacja), formed in 2018 as a coalition between RN and the KORWiN party (6.8% in the 2019 election, 11 seats in the Sejm).<sup>606</sup> However, the most popular and currently ruling Law and Justice party (PiS), which has incurred repeated criticism from EU institutions.<sup>607</sup> Indeed, only in 2021 there were a number of reports about figures with controversial record linked to the far-right being appointed at public office (one of whom a deputy education minister).<sup>608</sup> These processes may or may not be a response to the overall attitudes of Polish society,

<sup>600</sup> OSCE/ODIHR Hate Crime Reporting. Available at: <https://hatecrime.osce.org/poland>.

<sup>601</sup> See Never Again Association. "A selection of racist, xenophobic and homophobic events which occurred in Poland in 2019 are monitored by the 'NEVER AGAIN' Association and documented in the 'Brown Book'". Available at: [https://www.nigdywiecej.org/docstation/com\\_docstation/172/brown\\_book\\_2019.pdf](https://www.nigdywiecej.org/docstation/com_docstation/172/brown_book_2019.pdf).

<sup>602</sup> Kasproicz, D. (2010). "State, society, NGOs on Right-wing extremism in Poland," Friedrich Ebert Stiftung, p. 2. Available at: [https://www.google.com/url?sa=t&rct=j&q=&src=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKEwjlr\\_rclurzAhXqSfEDHRk-CoQQFnoE\\_CAIQAO&url=http%3A%2F%2Fwww.fesbp.hu%2Fcommon%2Fpdf%2FKasproicz20101119.pdf&usq=AOvVaw34SC9WvnNBVnkUn8yUvG1O](https://www.google.com/url?sa=t&rct=j&q=&src=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKEwjlr_rclurzAhXqSfEDHRk-CoQQFnoE_CAIQAO&url=http%3A%2F%2Fwww.fesbp.hu%2Fcommon%2Fpdf%2FKasproicz20101119.pdf&usq=AOvVaw34SC9WvnNBVnkUn8yUvG1O).

<sup>603</sup> Pankowski, p. 7.

<sup>604</sup> See European Union Agency for Fundamental Rights (2020). *A long way to go for LGBTI equality*. Available at: <https://fra.europa.eu/en/publication/2020/eu-lgbti-survey-results>.

<sup>605</sup> Pytlas. Op. cit.

<sup>606</sup> Ibid.; Pytlas, B. (2020). "The Polish Presidential Election 2020: which role does far-right politics (not) play?", C-REX – Centre for Research on Extremism. Available at: <https://www.sv.uio.no/c-rex/english/news-and-events/right-now/2020/the-polish-presidential-election-2020.html>.

<sup>607</sup> See for example Gera, V. "Poland criticised in EU Parliament over courts, LGBT rights," 14 September 2020. Available at: <https://apnews.com/article/discrimination-poland-europe-44f9374a0fbc0e0acadb29bbb1267a7e>.

<sup>608</sup> See for example Sharon, J. "New Poland deputy education minister was member of far-right parties". *The Jerusalem Post*, 27 January 2021, available at <https://www.jpost.com/diaspora/new-poland-deputy-education-minister-was-member-of-far-right-parties-656852>, and Kijek, K., "A fascist sympathiser appointed head of the Wrocław branch of the Institute of National Remembrance", *Wyborcza*, 5 February 2021, available at: <https://wyborcza.pl/7,173236,26761304,a-fascist-sympathiser-appointed-head-of-the-wroclaw-branch-of.html>.



which according to a number of surveys tends to be one of the less open and more intolerant in the EU. For example, a 2020 study of the European Union Agency for Fundamental Rights (FRA) showed that 42% of interviewed LGBTQ+ people in Poland experienced harassment 12 months before they took the survey and 15% experienced a physical and/or sexual attack for being LGBTQ+ in the five years before the survey, the highest percentage of all Member States.<sup>609</sup> And an OSCE/ODIHR project on criminal justice responses to hate crime found that in Poland, out of some 600 respondents, "18% of Ukrainians, 8% of Muslims and 43% of sub-Saharan Africans experienced incidents having features of a hate crime."<sup>610</sup>

## 11.2. Legal framework

According to Article 13 of **Poland's Constitution**, "Political parties and other organisations whose programmes are based upon totalitarian methods and the modes of activity of Nazism, fascism and communism, as well as those whose programmes or activities sanction racial or national hatred, the application of violence for the purpose of obtaining power or to influence the State policy, or provide for the secrecy of their own structure or membership, shall be prohibited."<sup>611</sup> Further, Article 32 and 35 ban discrimination in political, social or economic life for any reason whatsoever and guarantee the protection of national and ethnic minorities' rights.<sup>612</sup> The latter provisions are further present in other acts such as the Act on National and Ethnic Minorities and Regional Language, the Labour Code Act and the Law on Employment and Countering Unemployment.<sup>613</sup>

The **Polish Criminal Code**<sup>614</sup> (Kodeks Karny), in its Chapter XVI, discusses offences against peace, humanity and war crimes. It penalises crimes motivated by nationality, ethnicity, racism, politics, religion or worldview. A broad range of crimes are covered from genocide, manslaughter, physical harm, relocation to harassment. More specifically, Article 118 criminalises homicide, serious injury, creation of threatening living conditions and attacks against national, ethnical, racial, political or religious group or a group with a different perspective of life and Article 119 criminalises violence or unlawful threats towards a person or group of persons on grounds of their national, ethnic, political or religious affiliation, or lack of religious beliefs. The incitement of others to commit the above-mentioned crimes or to hatred on grounds of national, ethnic, race or religious affiliation, or lack of religious belief is also criminalised.<sup>615</sup> Further on, Article 256 states that "§1. Whoever publicly promotes a fascist or other totalitarian regime state or incites hatred on the basis of national or ethnic differences, racial, religious or non-denominational, shall be subject to a fine, the penalty of restriction of liberty or the penalty of deprivation of liberty up to 2 years. §2. The same punishment applies to anyone who produces or records for the purpose of dissemination or imports, purchases, stores, holds, presents, transports or transmits a print, recording or other item containing the content specified in §1 or being carrier of fascist, communist or other totalitarian symbolism. §3. The perpetrator of the prohibited act

<sup>609</sup> European Union Agency for Fundamental Rights (2020). *A long way to go for LGBTI equality*, p. 40 and 44. Available at: <https://fra.europa.eu/en/publication/2020/eu-lgbti-survey-results>.

<sup>610</sup> OSCE/ODIHR (2018). *Building a Comprehensive Criminal Justice Response to Hate Crime: Project Closing Conference Report*, p. 7. Available at: <https://www.osce.org/odihr/409563>.

<sup>611</sup> Sejm of the Republic of Poland (1997). *The Constitution of the Republic of Poland*. Available at: <https://www.sejm.gov.pl/prawo/konst/angielski/kon1.htm>.

<sup>612</sup> Ibid.

<sup>613</sup> Kasprowicz, p. 3.

<sup>614</sup> Sejm of the Republic of Poland (1997). *Kodeks Karny*. Available at: <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU19970880553/U/D19970553Lj.pdf>.

<sup>615</sup> Ibid.

specified in §2 does not commit a crime, if he has committed this act as part of an artistic or educational activity, collector's or scientific."<sup>616</sup>

Finally, Section 257 sets out the offence of publicly insulting a group of the population or a particular person on the same grounds or breaching the personal inviolability of a person on these grounds.<sup>617</sup>

A report by FRA<sup>618</sup> analysing Poland's legislation in this respect points out that **the Criminal Code does not include any general or specific aggravating circumstance related to bias motivation**. Indeed, in its concluding observations on Poland's latest periodic reports to the body, the United Nations Office of the High Commissioner for Human Rights (OHCHR) expressed its concern that "'colour' and 'descent' as grounds for inciting hatred are missing from [the CC] definition and "that the Criminal Code still does not contain a provision expressly establishing racist motives of a crime as an aggravating circumstance."<sup>619</sup> Yet, Article 53 of the Code indicates that in determining a punishment a judge takes into account a motivations of the wrong-doer.

As regards **hate speech** specifically, a report by the Article 19 civil society organisation financed by the EU says that "although Polish legislation guarantees both the right to freedom of expression and the right to equality, it does not fully comply with international freedom of expression standards applicable in this area. The primary shortfalls include the limited scope of protection against incitement in the criminal law, in particular the failure to include sexual orientation, gender identity, and disability among the protected grounds; as well as the continued existence of provisions prohibiting

### 11.3. Other responses to right-wing extremism

The Polish government has put concrete efforts into countering right-wing extremism, apart from law enforcement measures (on law enforcement effectiveness, see section 1.5 below). According to Poland's latest periodic reports to the UN's OHCHR, as quoted by the latter organisation, "A series of training sessions to combat hate crimes and racist and xenophobic offences had been launched in 2015, focused primarily on the legal aspects of fighting crimes motivated by prejudices, including offences committed through the Internet. Between 2015 and 2019, a total of 196 police officers had been trained. Since 2009, the **Polish Police** has been implementing the Law Enforcement Officer Programme on Combating Hate Crime, focused on ensuring the safety of the potential victims of hate crimes. The Police Action Plan for 2018–2021, a community outreach and prevention programme, aimed to counteract the promotion of fascism and other totalitarian systems and crimes of incitement to hatred based on national, ethnic, race or religious differences or lack of any religious denomination. In 2016, the Office for Combating Cybercrime had been established at the General Police Headquarters to monitor social media channels, online fora, and online portals of particular national groups and identify prohibited acts, including hate crimes. The National Public Prosecutor's Office had taken steps to increase the effectiveness of prosecutions of crimes based on racial, religious, national or ethnic hatred."<sup>620</sup>

<sup>616</sup> Ibid.

<sup>617</sup> Ibid.

<sup>618</sup> European Union Agency for Fundamental Rights (2018). *Hate crime recording and data collection practice across the EU*, p. 74. Available at: [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2018-hate-crime-recording\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2018-hate-crime-recording_en.pdf).

<sup>619</sup> United Nations Office of the High Commissioner for Human Rights (2019). "Concluding observations on the combined twenty-second to twenty-fourth periodic reports of Poland", p. 4. Available at: [https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/POL/CERD\\_C\\_POL\\_CO\\_22-24\\_36935\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/POL/CERD_C_POL_CO_22-24_36935_E.pdf).

<sup>620</sup> United Nations Office of the High Commissioner for Human Rights (2019). "Committee on Racial Discrimination examines report of Poland". Available at: <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=24876&LangID=E>.

In addition, Polish **civil society and media** have contributed significantly. According to an earlier report, "critical interventions by independent media and civil society have been important in limiting the social respectability of extreme-right tendencies in Polish society."<sup>621</sup> The above mentioned civil society organisation, the Never Again association, is one example: it has been publishing its regular *Brown Book* report on incidents involving hate crime and hate speech.<sup>622</sup> The listings are detailed and comprehensive, covering the entire territory of Poland.

#### 11.4. Effectiveness of the response to right-wing extremism

The effectiveness of the **constitutional provisions** relating to right-wing extremism is **questionable**. The UN's OHCHR report further states that, despite the provisions of Article 13 of the Constitution prohibiting some organisations, it is "concerned that the participation in [political parties and other organisations whose programmes or activities sanction racial or national hatred] is not yet prohibited by law."<sup>623</sup>

In terms of the **effectiveness of criminal law**, a report by FRA gives a detailed description of Polish law enforcement procedures and institutional framework in handling **hate crimes**: "Hate crimes are recorded on a general crime form. There are no guidelines on hate crime recording or identification... If the police officer suspects that bias motivation is present, he/she flags the hate crime on the general incident form as well as in the police electronic database... Based on cases flagged as hate crimes in the electronic database, a separate dedicated electronic form is filled in. This form includes various categories to describe particular hate crime cases.... Dedicated forms on hate crimes allow the user to generate information on the legal classification of the incident, the characteristics of the incident, the characteristics of the victim (nationality, citizenship, age and sex), the characteristics of the perpetrator (if identified) and information on the time and place of the incident... Bias motivation is also recorded: race/skin colour, nationality/ethnicity (incl. subcategories such as anti-Roma and antisemitism), promoting totalitarian system, religion (incl. subcategories such as anti-Muslim), sexual orientation and gender identity, world view, disability, sex, other. The form contains the list with all available bias motivations from which the officer can select."<sup>624</sup>

As regard **data collection**, "in 2015, a new hate crime recording system was introduced, with the aim to ensure that the Ministry of the Interior and Administration has the complete picture of hate crime cases in Poland in order to elaborate diverse analysis. Special coordinators at both the central (the National Hate Crime Coordinator in the Criminal Bureau of the General Police Headquarters) and the local levels (*voivodeship* – Polish administrative regional unit), from the police headquarters and in the Metropolitan Police Headquarters, are responsible for compiling the data from their district and reporting them monthly to the National Hate Crime Coordinator... The Coordinator prepares a monthly periodic report on hate crime investigations in Poland and sends it to the Ministry of the Interior and Administration... The Ministry [then] completes the data with information – obtained from courts – about how cases were resolved (for those that were prosecuted)... The data are not public but can be received upon request."<sup>625</sup>

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<sup>621</sup> Pankowski, p. 9.

<sup>622</sup> See Never Again Association, <https://www.nigdywiecej.org/en/brown-book>.

<sup>623</sup> Ibid.

<sup>624</sup> European Union Agency for Fundamental Rights (2018), p. 74-75.

<sup>625</sup> Ibid.

According to data from OSCE/ODIHR, the number of prosecutions of hate crimes has been **steadily rising since 2015** (from 229 to 432 in 2019), even though the crimes recorded by police in 2019 are actually less than those in 2018 (the number of crimes grows between 2015 and 2018). In terms of sentencing, convictions are also rising from 195 in 2015 to 597 in 2019 (hate speech cases are not included here).<sup>626</sup>

**Table 19: Recorded and prosecuted hate crimes and sentences - PL**

Year	Hate crimes recorded by police	Prosecuted	Sentenced
2019	972	432	597
2018	1117	397	315
2017	886	320	260
2016	874	281	236
2015	263	229	195

Source: OSCE, Hate Crime Reporting (2019)

However, in its concluding observations on Poland in 2019, the UN's **OHCHR** states that it is **concerned** "about the extremely low percentage of offences of hate speech and hate crimes that are reported, despite the recorded increase in the incidence of such crimes; about the fact that some of the reported racially motivated crimes remain unregistered and not investigated as such; that the increased number of preparatory proceedings and indictments of perpetrators of racist crimes did not result in a significant increase in the number of convictions; about the lack of detailed information on investigations and prosecutions of, and convictions for, racist hate speech and hate crimes, especially those committed by public figures and politicians."<sup>627</sup> It further is "alarmed by the **continuing existence and open operation of organisations that promote racial hatred in [Poland], in particular those that openly espouse affinity with the ideology and publicly display the symbols of Nazism, fascism or totalitarianism**".<sup>628</sup> The conclusions also express concern with "the prevalence of racist hate speech against minority groups, in particular Muslims, Roma, Ukrainians, people of African and Asian descent, Jews and migrants, refugees and asylum seekers, which fuels hatred and intolerance and incites violence towards such groups; [and] that **leading public figures, including politicians and media officials**, are frequently the source of such offensive statements or fail in their responsibility to strongly denounce hate speech."<sup>629</sup>

<sup>626</sup> OSCE/ODIHR Hate Crime Reporting.

<sup>627</sup> United Nations Office of the High Commissioner for Human Rights (2019). "Concluding observations on the combined twenty-second to twenty-fourth periodic reports of Poland", p. 5.

<sup>628</sup> Ibid., p. 4.

<sup>629</sup> Ibid., p. 4.

## **11.5. Conclusion**

Right-wing extremism in Poland has its roots in the early 20<sup>th</sup> century but the most influential movements and parties came to existence in the 21<sup>st</sup> century. It has specific traits: strong element of allegiance to the Catholic faith and family tradition and of anti-LGBTQ+ ideology; gradual co-optation of far-right and populist ideas by mainstream political parties, particularly the ruling PiS. The country's legal framework, institutional make-up and operational procedures for addressing extremism and hate crime are at place, with some criticisms on their effectiveness.

## 12. COUNTRY FICHE – SWEDEN

Author: Mariyan Sabev (CSD)

### 12.1. Distinctive features of right-wing extremism in the country

The right-wing extremist environment in Sweden mainly consists of the organisations ***Nordiska motståndsrörelsen (NMR, “Nordic Resistance Movement”)*** and ***Nordisk Styrka (NS, “Nordic Strength”)***. NMR maintained its position as the dominant organisation in Sweden in 2020, although NS was attracting an increasing number of members. NMR is a hierarchical organisation, primarily involved in opinion-building activities, but it also has paramilitary characteristics, and it intends to organise, equip and train its members for a future armed struggle.<sup>630</sup> This means that it is prepared to use violence, and it has been observed to do so in the past.

Right-wing extremists are actively trying to extend their influence and activities to other parts of society. Examples of this are crossovers with football hooligans and organised criminal networks. Sweden reported<sup>631</sup> that they observed individuals in the right-wing extremist scene interact with Swedish sports hooligans, although there is no known formal cooperation between the scenes. Rather, their cooperation is more ad hoc and based on personal relationships.

Sweden’s intelligence and security services have issued warnings of a heightened risk of extreme right attacks. As in previous years, the terrorist threat from the violent far-right environment is likely to be based on lone actors, individuals who are no longer part of the organised parts of the environment and from smaller groups on the periphery of the environment. This international trend, combined with extreme right propaganda being spread in wider circles in Sweden, is a dangerous development. The post-election disillusionment with “established” far-right extremist groups risk leading individuals or smaller groups to reach the conclusion that it is time to fight more radically. There is also a development where the focus has shifted **from propaganda dissemination and flyer distribution to more internal activity with increased elements of martial arts training**. According to the *Skärhospolisen*,<sup>632</sup> many of those who have joined the new groups and networks with such focus are young individuals, born around the turn of the millennium.

Sweden observed an increasing interest among right-wing extremists in attending paramilitary, survival and weapons training. For example, it was reported that violent right-wing circles regularly organise gatherings in the form of close combat training sessions, survival training sessions, camps, and field marches, and that interest in participating in international paramilitary training among right-wing extremists has increased in recent years<sup>633</sup>.

Right-wing extremist groups and individuals have a large and established presence on the internet, in social media and via podcasts. The ideology of the far-right, the story of society and strongly biased “news” about, for example, the crime and violence of immigrants are rapidly spreading and reaching

<sup>630</sup> Oesteraas, I. (2021). White supremacy and the future of liberal democracy – the case of the Nordic Resistance Movement. CrimRxiv.

<sup>631</sup> Europol (2021), European Union Terrorism Situation and Trend Report, Publications Office of the European Union, Luxembourg.

<sup>632</sup> Swedish Security Service Yearbook 2020, pp. 37-39.

<sup>633</sup> Europol (2021), European Union Terrorism Situation and Trend Report, Publications Office of the European Union, Luxembourg.



large groups of people, both online and offline, which ultimately results in increased dissemination of extremist narratives.<sup>634</sup>

Violent right-wing extremist organisations in Sweden finance their activities mainly through membership fees and donations from their members and supporters.<sup>635</sup> The use of cryptocurrency for financing purposes is attractive for organisations whose access to the banking system is increasingly restricted. A good example of this can be found on the websites of Nordfront, NS and the NMR, who actively encourage their followers to donate Bitcoin via different websites. The organisations accept donations in cryptocurrencies as they have had their bank accounts terminated by Swedish banks and thus do not have the option of receiving donations in the traditional way via bank accounts.

Sweden was until a few years ago considered a deviant case, which unlike its Scandinavian neighbours Denmark and Norway lacked a radical right-wing party in parliament. Until recently, enduring class loyalties in Sweden (when working-class voters tended to identify strongly with the Social Democratic party) worked against radical right-wing mobilization in the country.<sup>636</sup> The country has for many years been known as a society with solid class voting, a uni-polar ideological conflict pattern organized around economic left and right, a non-polarized political climate and also a social democracy tightly connected to the welfare state.<sup>637</sup> The conditions were therefore not the most favourable for an anti-establishment, populist or radical right-wing party to make a sizable footprint in the Swedish working class. Declining class politics over the past decades has transformed the political landscape.<sup>638</sup> Today, as in most other European countries, support for the radical right-wing parties in Sweden is comparatively strong from the working class – a phenomenon that from the perspective of modern political science might be seen as a paradox. The most recent surveys suggest that the far-right *Sverigedemokraterna* (Sweden Democrats) party may well have the votes to help the conservative opposition secure a majority after next year's elections, and the evidence is mounting that traditional right-wing politicians will be tempted to cut a deal to give the anti-immigrant group a say in government. The emergence of a populist party has tracked the Nordic country's influx of immigrants and the difficulties in integrating them. A worsening in gang-related violence in recent years has also pushed more voters to the right. While Sweden has slashed immigration by half from its peak in 2016, the Sweden Democrats have signalled they would go much further in adopting a wide range of populist measures to stem the flow, including repatriation of refugees to war-torn countries and abolishing benefits to anyone who is not a Swedish citizen (about 9% of the population of 10.4 million).

The Swedish far-right landscape consists of several actors with differences and similarities between them. The populist narrative of a "corrupt elite" that has betrayed "the people" and prejudice and hostility towards immigrants from Africa and the Middle East unites them.<sup>639</sup> Nazis and overt white supremacists are characterised by the anti-Semitic conspiracy theories and the focus on hostility and racism towards non-whites. The national populists are characterised by Islamophobia, anti-immigrant

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<sup>634</sup> Mulhall et al., *State of Hate 2021: Far-right extremism in Europe*, pp 116-117.

<sup>635</sup> Europol (2021), *European Union Terrorism Situation and Trend Report*, Publications Office of the European Union, Luxembourg.

<sup>636</sup> Rydgren, J., van der Meiden, S. "The radical right and the end of Swedish exceptionalism", *European Political Science Vol. 18* (2019), pp. 439–455.

<sup>637</sup> Oskarson M., Demker M., *Another kind of class voting: the working-class sympathy for Sweden Democrats* in Rydgren, J. (Ed.). (2012). *Class Politics and the Radical Right* (1st ed.). Routledge, pp 172-189.

<sup>638</sup> Rydgren, J., van der Meiden, S. "The radical right and the end of Swedish exceptionalism", *European Political Science Vol. 18* (2019), pp. 439–455.

<sup>639</sup> Mulhall et al., *State of Hate 2021: Far-right extremism in Europe*, pp 116-117.

discourse and an emphasis on cultural homogeneity. The ethno-nationalists position themselves somewhere in between.

**Table 20: Main right-wing organisations in Sweden**

Organisation	Ideology
<b>Nordiska motståndsrörelsen</b> (Nordic Resistance Movement)	Neo-nazi
<b>Nordisk Styrka</b> (Nordic Strength)	Neo-nazi
<b>Nordfront</b> (Front at the North)	White supremacist
<b>Det Fria Sverige</b> (The Free Sweden)	White supremacist
<b>Sverigedemokraterna</b> (Sweden Democrats)	Radical right

Source: Swedish Security Police and Expo Foundation

According to the *Skärhospolisen* (Security Police) there are three extremist scenes in Sweden: violence-promoting **Islamic extremism**, the **white power movement** and the **leftist anarchists**. Although these names do not give an altogether accurate description of the movements' characteristics, they are used to emphasize their extremist actions – i.e. the criminal offences – rather than their political views and opinions.

## 12.2. Legal framework

At present, Swedish legislation does not provide a specific definition of the term “right-wing extremism”.

**The Swedish Constitution** provides for a range of rights and obligations that must be taken into account when considering measures related to combating right-wing extremism. Of particular importance is the ban on racist forms of expression, specifically the provision on agitation against a population group. This provision is included in the constitutional “crime catalogue” (Chapter 5 of the Fundamental Law on Freedom of Expression and Chapter 7 of the Freedom of the Press Act) and may in effect constitute a limitation of the freedom of expression as in the exclusion provided under the Fundamental Law on Freedom of Expression and the Freedom of the Press Act.

While Sweden has banned various forms of expressions of racism, there is **no particular ban on racist organizations**. A government investigation report from May 2021 demonstrated a clear need to criminalise racist organizations.<sup>640</sup> It concluded that there is a narrow opening in the Swedish constitutional legal order which could accommodate the criminalization of certain forms of racist organizations. The report further noted that such a ban should be introduced through means of criminalization. More specifically, through criminalizing the act of participating in, forming or providing certain forms of support to a racist organization.

<sup>640</sup> The report of the Investigation Committee can be found in Swedish at: <https://bit.ly/3Ei0cD5>.

**Agitation against a population group** is a punishable offence under the **Swedish Criminal Code**. The description of the offence contains three elements<sup>641</sup>:

- take place in a statement or in another communication that is disseminated;
- consist in threats or expressions of contempt, and
- refer to an ethnic group or other such group of persons with allusion to race, colour, national or ethnic origin, creed, sexual orientation or transgender identity or expression.

Regarding **racism-related offences**, the Government as well as the Parliament, have on several occasions taken the position that the penal provision on incitement of violence against ethnic groups (in combination with the criminalization of abetting of this offence) in practice means that organizations in Sweden cannot engage in any racist activity without committing criminal offences. In practice, however, preparation as well as the attempt to commit agitation against a population group, is not provided for as a punishable offence. Subsequently, a *de facto* statement or another form of communication that has been disseminated must have occurred for an action to fall within the scope of the provision.

Regarding what is to be considered a statement or other form of communication, the Högsta Domstolen (Swedish Supreme Court) has established that signs, symbols and even clothing can be considered a form of communication falling within the scope of the offence.<sup>642</sup> For criminal liability to be established, the recognition factor however needs to be very high. Furthermore, statements that cannot be considered to exceed the limits of objective criticism of certain groups fall outside the scope of application. According to the preparatory work, criminal responsibility may only be established when it is clear that the statement has exceeded the limits of a factual and valid discussion concerning the group in question.<sup>643</sup>

In the case NJA 1996 p. 577, the Supreme Court established that the wearing of symbols associated with Nazi Germany, such as a swastika, was considered to emit contempt towards ethnic groups other than the Nordic one. Correspondingly, in the case law of the Court of Appeal, the expression "sieg heil" and Hitler greetings have been considered to fall within the scope of the provision (see, for example, the cases RH 1997: 53 and RH 2000: 72).

The Court of Appeal has however in a case from 2020 (B 5303-19), regarding events taking place during an unlicensed demonstration arranged by the Nordiska motståndsrörelsen (NMR), found that they did not constitute agitation against a population group. The Court referred e.g. to the lack of direct references to Nazi Germany. In this case, a large number of demonstrators had worn uniform-like clothing as well as shields painted with the symbol of the organization ("tyrurnan", a symbol also used by the Nazis in the 30s and 40s in Germany), one or more protesters had shouted "hell seger" (hell victory/sieg heil) and a speech, regarding the genocide of the Nordic people that is taking place due to the "mass immigration" organized by leaders who receive their power from Jewish people, was held.

In the case of other forms of criminalized acts (assault, harassment, unlawful threats or vandalism), where the motive is based on skin colour, ethnicity, creed or sexual orientation, the Criminal Code provides that the motive shall be regarded an **aggravating circumstance** (Chapter 29, Section 2).

There are clear indications pointing that persecution of people of various ethnic background by organized racist activities has **increased in recent years**. In its yearbook for 2019, the *Säkerhetspolisen*

<sup>641</sup> Criminal Code, Chapter 16, Section 8.

<sup>642</sup> Prop. 1970:87 s. 37 and 73; NJA 1996 p. 577.

<sup>643</sup> SOU 2021:27, p. 120.

assesses that the pro-violence extremism, which was previously primarily limited to a small and organized white power environment, has become increasingly widespread.<sup>644</sup>

The majority of the activities carried out by currently active organizations are opinion-forming activities in public places and consists of flyer distributions, public gatherings and demonstrations.<sup>645</sup> Increased visibility contributes to increasing people's experience of the threat posed by extremist communities. This means that right-wing extremists do not always have to commit crimes in order to be perceived as a threat to society. The *Säkerhetspolisen* also notes in its yearbook for 2018 that right-wing extremist ideas have succeeded in influencing the public discourse and have gained large media coverage.

### 12.3. Other responses to right-wing extremism

#### *Institutional cooperation*

The ***Säkerhetspolisen (Swedish Security Police)*** is an intelligence agency, tasked with monitoring and preventing terrorist and extremist threats in the country. The agency cooperates with other intelligence authorities in Sweden, such as the **Military Intelligence and Security Service and the Swedish Armed Forces Radio Institute**. This cooperation has been institutionalised into the ***Nationellt centrum för terrorhotbedömning (NCT) (National Center for Terrorist Threat Assessment)***, a permanent working group with staff from the three organizations, whose mandate is to make strategic assessments of the level of threat. The *Säkerhetspolisen* also works in close cooperation with the **Police Authority**, with regard to the exchange of information on various threat reports.

Within the framework of the ***Samverkansrådet mot terrorism (Cooperation Council against Terrorism)*** there are fourteen Swedish authorities, which actively cooperate with the aim to strengthen Sweden's ability to counter foreign and domestic terrorism and extremist behaviour.

#### *Public outreach*

Dissemination of knowledge and open discussion are considered important tools for counteracting extremism in Sweden. The *Säkerhetspolisen* participate in the public conversation and collaborate with civil society, researchers and the Crime Prevention Council.

*Forum för levande historia* (Forum for Living History) is an authority that has been commissioned by the government to promote democracy, tolerance and human rights. The agency's special task is to inform about the Holocaust and communist regimes crimes against humanity.

### 12.4. Effectiveness of the response to right-wing extremism

As noted above, while the **Swedish constitution** mentions some forms of banned expressions of racism, it does not include any provision to ban organisations displaying a racist character. As such, there is little to report on the effectiveness of the constitutional law. However, the Office of the United Nations High Commissioner for Human Rights noted in their report during the latest Human Rights Council periodic review that it is concerned about the presence of racist and extremist organizations and their public demonstrations and that there were no explicit legal provisions declaring illegal and prohibiting organizations promoting and inciting racial hatred.<sup>646</sup>

<sup>644</sup> Swedish Security Service Yearbook 2019, pp. 7 and 50.

<sup>645</sup> Swedish Security Service Yearbook 2018. pp. 38-39.

<sup>646</sup> OHCHR, Report of the Office of the United Nations High Commissioner for Human Rights /HRC/WG.6/35/SWE/2.

In term of the effectiveness of the **criminal justice response**, in 2018,<sup>647</sup> national statistics show that approximately 7,090 reported crimes were identified as crimes with hate crime motives, which was an increase of 11% compared to 2016, and 29% compared to 2013. The increase in the number of crimes consisted largely of an increase in police reports related to “agitation against a population group”. The largest increase in the number of crimes with an identified hate crime motive compared with 2016 was crimes with xenophobic, racist and anti-Semitic motives and for the motive concerning sexual orientation. The reports<sup>648</sup> with an identified hate crime motive in 2018 were distributed as follows: xenophobic / racist motive – 69 %; sexual orientation as a motive – 11 %; Islamophobic motive – 8 %; anti-Semitic motive – 4 %; Christo-phobic motive – 4 %; other anti-religious motives – 4 %; transphobic motive – 1%. There is substantive gap between the number of cases of hate speech and hate crimes reported to police, on the one hand, and the number of investigations, prosecutions and convictions of perpetrators, on the other.<sup>649</sup>

The table below provides an overview of recorded hate crimes published by the OSCE. They are provided for comparison purposes with other Member States.

**Table 21: Recorded and prosecuted hate crimes and sentences – SE**

Year	Hate crimes recorded by police	Prosecuted	Sentenced
2019	Not available	Not available	Not available
2018	5858	218	-
2017	Not available	Not available	Not available
2016	4862	257	Not available
2015	4859	255	Not available

Source: OSCE, Hate Crime Reporting (2019)

The United Nations Committee on the Elimination of Racial Discrimination notes in its Concluding observations in the latest periodic report on Sweden<sup>650</sup> a worrying trend of **raising number of reports on racist hate speech** against Afro Swedes, Jews, Muslims and Roma in the political discourse, particularly during election campaigns, as well as in the media and on the Internet. In the same report the Committee expresses its concern regarding reports of attacks against mosques and reception centres for asylum seekers, as well as about the lack of sufficient funding to safeguard mosques and asylum centres and provide insurance against such attacks.<sup>651</sup> The concluding remarks also recommend that Sweden amends its legislation and **prohibit the organization of groups that**

<sup>647</sup> Data on hate crimes for the period after 2018 is not available.

<sup>648</sup> BRÅ, Hatbrottsstatistik, Available at: <https://www.bra.se/statistik/statistiska-undersokningar/hatbrottsstatistik.html>.

<sup>649</sup> UNCERD, Concluding observations on the combined twenty-second and twenty-third periodic reports of Sweden, CERD/C/SWE/CO/22-23, p 7.

<sup>650</sup> Ibid. p 5.

<sup>651</sup> Ibid. p. 4-5.

**promote and incite racial hatred**, to enhance its efforts to **ameliorate its data-collection methods and address underreporting**; however, it remains concerned about the high number of reported hate crimes and the continuation of racist violence in the country and about the lack of information on persons affected by hate crimes on the grounds of multiple and intersecting forms of discrimination, such as gender, ethnicity, colour, religious belief, disability, gender identity or sexual orientation. The Committee recommends that Sweden takes necessary action to ensure that fundamental legal safeguards are effectively applied in order to **prevent and combat racial profiling by police** of all vulnerable groups.

In its latest periodic report on Sweden<sup>652</sup>, the Council of Europe's European Commission Against Racism and Intolerance expressed its concern about the reported discrepancy between increased reports to the police of hate crimes and the decrease in the number of preliminary investigations and convictions, in particular as regards agitation against a national or ethnic group. The Commission recommended the development of a strategy to **ensure scrutiny of the way police and prosecutors deal with hate crimes** and measures such as hate crime units and special investigators in all parts of the country and also that the authorities carry out an in-depth analysis of why the **clearance rates of hate crime incidents remains low** as well as an assessment of what resources the police and prosecution services require to address the issue more effectively.

In terms of administrative provisions, ECRI noted in its 2020 conclusions on the implementation of the recommendations<sup>653</sup> that the country has failed to follow recommendations made during the fifth monitoring cycle on granting adequate powers and expertise to the **Ombuds** institutions in Sweden to investigate discrimination by all public authorities, including law enforcement. ECRI reiterated its concern about the lack of development in the area, underlining the current state of affairs creates a particular problem, inter alia, in the area of law enforcement, which was highlighted by the controversy surrounding the creation of a Roma-database by a regional police force.

## 12.5. Conclusion

While on the outset life in Sweden could be described as fairly calm with only a couple of right-wing related violent incidents registered over the past decade, there is sufficient evidence to suggest that the social environment is swiftly changing towards a much more socially divisive political landscape. At the same time, the existing legal framework towards combating violent right-wing extremism seems rather outdated in comparison to what other EU Member States have adopted as national strategies and legislation to counter this phenomenon. The available data points clearly to the need for adapting the legislative and judicial approach towards right-wing extremists and their networks as well as broadening the preventive strategies in place, especially with regard involving a wider network of regional and local stakeholders and the role that civil society might have in protecting the rule of law and democratic order.

<sup>652</sup> ECRI, Report on Sweden, CRI (2018) 3, Published on 27 February 2018.

<sup>653</sup> ECRI, Conclusions on the implementation of the recommendations in respect of Sweden, CRI (2020) 45, p. 5.



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This study provides a discussion on the distinctive features of right-wing extremism as well as of violent actions perpetrated by right-wing extremists in the EU. It provides an overview and analysis of definitions, recent trends and responses to these actions as well as recommendations.

This study was commissioned by the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs at the request of the LIBE Committee.

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PE 700.953

Print ISBN 978-92-846-9475-4 | doi : 10.2861/ 943269 | QA-07-22-371-EN-C

PDF ISBN 978-92-846-9474-7 | doi : 10.2861/ 462122 | QA-07-22-371-EN-N