

AGENDA

JUSTICE PROJECT

Roundtable discussions on the impact of counter-terrorism law on freedom of expression and association

Friday 18 October 2019, 9:00 – 17:30
Madrid

Through roundtable discussions, participants will be invited to share their practices and experiences in the application of counter-terrorism law enshrined in the EU Directive 2017/541 on combating terrorism, within the different legal systems of the European Union (EU) and specifically its impact on freedom of expression and association and on legitimate activities of civil society, such as humanitarian work.

The discussion will allow for comparison between different national legislations and their application and will be assessed in light of international human rights law principles in order to select best practices that could be promoted throughout the EU. This agenda provides some leading questions that will guide the exchanges.

*Please note that this event will be held under the **Chatham House Rule**.*

9:00 – 9:30 Welcome and registration of the participants

OPENING REMARKS

9:30 – 10:00 **Presentation of the JUSTICE project and the EU Directive 2017/541 on combating terrorism**, The main applicable international human rights law principles and European case-law (EU, CoE)

Ignacio González Vega, Juezas y Jueces para la Democracia

Róisín Pillay, Europe and Central Asia Programme Director, International Commission of Jurists European Institutions

SESSION I. FREEDOM OF EXPRESSION

10:00 – 11:30 Laws on indirect incitement, apology for and glorification of terrorism have been criticized in many national systems for disproportionately interfering with the right to freedom of expression. Applying such laws in a way that is, foreseeable and proportionate and thereby respects freedom of expression poses a challenge for the courts.



This session will frame the discussion around participants' experience of the application of such offences in national judicial proceedings, drawing on recent case-law and considering the link between counterterrorism legislation application and freedom of expression.

- How are the offences of "glorification of terrorism" and "apology for terrorism" implemented in different jurisdictions? How is the offence of incitement to terrorist acts being applied?
- How are these provisions interpreted? How have they been dealt with in case-law?
- How is intention to commit these offences being assessed?

Discussion introduced by:

Helen Duffy, Director of Human Rights in Practice and Professor of International Law at the University of Leiden

Vincent Sizaire, Judge, France

Moderator: Róisín Pillay

11:30 – 12:00 *Coffee Break*

12:00 – 13:00 **Session I (part II)**

- How to ensure legal certainty in the definition and proportionality in judicial application of these offences?
- What safeguards are needed to ensure that counterterrorism offences do not disproportionately interfere with freedom of expression?

Moderator: Ignacio González Vega

13:00 – 14:00 *Lunch*

SESSION II. THE IMPACT OF COUNTER-TERRORISM LAW ON FREEDOM OF EXPRESSION ON-LINE

14:00 – 15:00 *The Directive in its Article 21 covers Measures against public provocation content online and mentions freedom of expression on-line in its recitals 22 and 23, stressing the need to comply with existing legal and judicial procedures and the Charter of Fundamental Rights of the European Union.*

- What are the specifics of freedom of expression on-line and how are these applied in different national laws and in court?
- How can freedom of expression be best protected in the implementation of criminal or administrative measures to suppress content on-line on grounds of incitement or provocation of terrorism?
- What judicial safeguards are needed on control of and removal of content



on the Internet?

Discussion introduced by Diego Naranjo, Senior Policy Advisor, European Digital Rights (EDRi)

Moderator: Helen Duffy

15:00 – 15:30 *Coffee Break*

SESSION III. THE IMPACT OF COUNTER-TERRORISM LAW ON FREEDOM OF ASSOCIATION AND ON LEGITIMATE ACTIVITIES, INCLUDING HUMANITARIAN ASSISTANCE

15:30 – 17:00 This session will frame the discussion around participants' experience in how the judicial application of counter-terrorism laws, can impact on freedom of association, in particular in light of offences implementing Directive 2017/541.

- How are "terrorist group", "participation" and "contribution" to activities of a terrorist group defined in national laws? How are these provisions applied by courts?
- How can principles of necessity, proportionality and non-discrimination best be upheld in applying these measures?
- What safeguards are needed to protect freedom of association in practice?

- Are there cases where humanitarian assistance, the defence of human rights, or other exercise of rights of freedom of association, expression and private life by civil society have led to criminal proceedings?
- How can this be best prevented and what are the necessary safeguards?

Discussion introduced by:

Helen Duffy

Maurizio Romanelli

Moderator: Gaetana Morgante, Professor of Criminal Law, Scuola Superiore Sant'Anna

17:00 – 17:30 **Conclusions and best practices**

Gaetana Morgante, Professor of Criminal Law, Scuola Superiore Sant'Anna

19:00 – 21:00 *Dinner*

