

COMPROMISED SPACE

Foreign State Reprisals Against
Unrepresented Diplomats in Europe



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Compromised Space: Foreign State Reprisals against Unrepresented Diplomats in Europe

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EXECUTIVE SUMMARY

Foreign States, including Iran, Russia and China, are in the process of a serious escalation of attacks against diaspora communities, dissidents, human rights defenders, civil society and ethnic minorities in Europe. Often referred to as reprisals, these tactics take the form of direct threats, intimidation, assassination, espionage and other serious harms.

Based on the experience of the Unrepresented Nations and Peoples Organization (UNPO), this report outlines reprisals suffered by European citizens and residents, on the sovereign territories of Europe, orchestrated and implemented by foreign States. It advocates for better coordination and response mechanisms by the European Union (EU) and Member States to deter and prevent increasingly violent and serious attacks which challenge the rule of law and territorial sovereignty of States including France, the United Kingdom, the Netherlands, Denmark, Germany, Austria, Sweden, Belgium and Switzerland.

The report builds on the work of the UNPO, in collaboration with the University of Oxford, concerning compromised spaces for unrepresented peoples. As detailed in “Compromised

Space: Bullying and Blocking at the UN Human Rights Mechanisms”, unrepresented peoples face a growing range of challenges to access United Nations mechanisms and engage in international advocacy. This has been further exacerbated by the Covid-19 crisis, as set out in a subsequent report, “Compromised Space and Undiplomatic Immunity: the Impact of Covid-19 on the Ability of Unrepresented Diplomats to Engage U.N. Human Rights Mechanisms.”

Through an analysis across numerous European states, this report highlights an increase in reprisals and a concurrent failure by European states, including those hosting the U.N. and other international and regional bodies, and the EU to recognize the scope and severity of the issue.

Authoritarian regimes are in the process of undermining sovereignty and fundamental democratic values on which Europe is founded through a range of hostile actions. Iranian government officials, under diplomatic cover, have carried out assassinations on European soil and regularly utilize malware and various forms of espionage to retaliate against perceived dissidents. Chinese embassy officials

regularly target ethnic minorities, including Uyghur and Tibetan diaspora, denying essential documents and threatening family members of those who refuse to cooperate. Russia has been linked to multiple assassinations and poisonings of Russian and Chechen dissidents. Yet investigations and prosecutions into these criminal activities remain limited and many diplomatic officials remain in their posts or freely return to their country of origin.

In the face of these attacks, the UNPO has found that the EU and European states are either unaware, unable or unwilling to confront the rising number of attacks and intimidation conducted on their own territories. Great power politics are having an increasing impact on the internal dimensions of Europe and terrorism and organized crime are no longer the only relevant transnational issues impacting the safety of Europe's citizens. Europe is not doing enough to ensure minority and indigenous communities are properly protected.

The findings in this report show there are significant limitations in the operation of domestic and regional mechanisms intended to prevent or investigate reprisals by foreign State actors against their diaspora and other

groups. Coordination between police, prosecution and justice services appears limited or in many instances non-existent. States have, to the contrary, preferred to assist with repatriation rather than properly investigate and prosecute foreign nationals. The lack of investigation into the issue further obscures the actual number of serious incidents occurring on a regular basis, as individuals are unwilling or unable to report relevant incidents. This includes incidents reported directly to the UNPO which are unable to be publicized due to fear of ongoing reprisals.

The implications of this lack of action are significant. They endanger the Europe and the EU's historical role as a place of safe harbour for vulnerable groups. Minority communities are robust and important components of the life of European societies. The issues raised by these attacks have significant implications for Europe as a centre of progressive rule of law-based government. Failing to act reinforces the aggressive activities of these authoritarian regimes.

Moreover, with United Nations offices across Europe including in Switzerland, the Netherlands, Germany, Austria, Italy, France and Denmark, states within Europe and the

EU itself play an essential role in not only guaranteeing their own citizens' and residents' fundamental rights and well-being, but also in ensuring effective and accessible international and regional systems capable of protecting and promoting the rights of national minorities, human rights defenders, indigenous peoples and other vulnerable populations.

In order to combat this concerning trend, the EU, European states and international organizations, such as the U.N., must prioritize coordinated efforts to support and defend those directly harmed who look to them for protection. It is also essential that democratic States ensure that the rule of law is respected in their own sovereign territory and applied to all, including foreign state actors carrying out crimes on their soil. This is particularly true of the EU, where extant criminal cooperation mechanisms must be utilized and improved to protect European citizens and refute tactics employed by repressive regimes.

This report is the beginning of our analysis of this phenomenon, not the end. The intention of the report is to begin our planned process of engaging with European partners and governments to evaluate how national

authorities, the EU and UN may better respond to foreign state reprisals within Europe. However, some initial recommendations are already clear.

Initial Recommendations

- 1.** The European Union, in coordination with national authorities, should study the phenomenon of and responses to reprisals in Europe. This research could include, for example, a European Parliament Research Service “Cost of Non-Europe” study.
- 2.** The United Nations, through its work on intimidation and reprisals, should initiate a study and assessment of United Nations host country efforts to protect non-state actors and avenues for better coordination with the host countries. This could build on recent efforts to ensure a coordinated and coherent response to reprisals, which includes designation of United Nations staff focal points, sharing of policy developments and good practices and documentation of trends and cases including at the country level to protect relevant individuals and groups.
- 3.** European countries hosting the United Nations and other international or regional organizations should examine their policing and prosecutorial practices and criminal cooperation agreements.

ABOUT THE UNPO

The Unrepresented Nations and Peoples Organization (UNPO) is an international movement and organization established to empower the voices of unrepresented and marginalized peoples worldwide and to protect their rights to self-determination.

The peoples represented within the UNPO membership are all united by one shared condition: they are denied equal representation in the institutions of national or international governance. As a consequence, their opportunity to participate on the national or international stage is limited, and they struggle to fully realize their civil and political rights and to control their economic, social and cultural development. In many cases, they are subject to the worst forms of violence and repression.

The UNPO members provide the organization's core funding and fully govern the organization. Our members include states with limited recognition, governments of sub-national entities unequally treated in domestic affairs, governments-in-exile of occupied states, political parties, people's assemblies, and other indigenous and

minority rights movements, together accounting for over 300 million people worldwide.

We have particularly strong representation from nations and peoples associated with or occupied by the Islamic Republic of Iran, the Peoples Republic of China, and the Russian Federation, the primary subjects of this report.

Our Compromised Spaces Campaign

The UNPO, has been heavily engaged in the growing crisis of international reprisals and closing space for human rights.

Unrepresented peoples are under threat and persecuted worldwide. At the United Nations states seek to exclude their voices and resort to bullying tactics. Across the world self-determination movements are repressed and activists and their loved ones are subjected to reprisals.

We are campaigning for a robust response to suppression of self-determination movements and reprisals against their activists, as well as for reform of the international

system to allow unrepresented peoples to participate and to be better protected when they do.

The Problem

Unrepresented peoples worldwide face enormous challenges when advocating at international forums.

With an increasingly reduced space for civil society worldwide, the democratic nature of multi-lateral international bodies is at stake. Particularly concerning is how restrictive the United Nations mechanisms have become for unrepresented nations and peoples, who do not have a formal seat at the United Nations table.

Advocates for these peoples often face harassment and intimidation from some United Nations Member-states, which resort to a range of “blocking” tactics to silence their voices. Among the many obstacles for effective participation of NGOs and “unrepresented diplomats” at the UN is the politicization of registration with the Economic and Social Council (ECOSOC), which is required in order to fully participate. In practice large numbers of NGOs that wish to engage the UN are kept within the grey area of being officially unregistered.

A particularly deceptive tactic used by some member states has been to establish and/or support government-affiliated NGOs (GONGOs). Once registered with ECOSOC, these GONGOs can operate within United Nations NGO forums and spaces, and counter human rights accounts with government propaganda, all the while in the guise of being genuine, independent entities.

In this context, a recurrent tactic employed by states is the misuse of labels attributed to “unrepresented diplomats”. Some states brand defenders from unrepresented nations as “separatists”, while other defenders are falsely labelled as “terrorists”. There is a pattern of state bullying and repression tactics against activists engaged in promoting the right to self-determination of their communities, including through reprisals, such as intimidation and harassment, travel bans, criminalization of activities, arbitrary arrests, and torture and cruel and inhuman treatment.

What we are doing about it

Since 2015 we have been working with our partners to document instances of reprisals taken out against unrepresented peoples and to build the capacities of unrepresented diplomats.

We released a report with our findings related to the United Nations human rights mechanisms in July 2019 alongside the University of Oxford and Tibet Justice Center and another in November 2020 on the impact of the Covid-19 pandemic.

Moreover, with the University of Oxford we have developed a comprehensive capacity building and mentoring programme for unrepresented diplomats.

Since the release of our 2019 report we have ramped up our efforts to support unrepresented nations and peoples to advocate at the international level and respond to reprisals.

We are also continuing to document and raise awareness of reprisals both

at the United Nations and within other international or regional bodies that are facing similar problems, aiming to build international support to condemn and respond to these individual cases.

In addition, we are documenting attacks and intimidation by authoritarian states against activists engaging with international fora located in Europe and the U.S.A., asking governments to provide greater protection to them when they do, and we are responding to targeted efforts to suppress self-determination movements through awareness raising activities and complaints to United Nations Special Procedures.

INTRODUCTION

Background

The UNPO is running a long-term project to address the increasingly limited space for “unrepresented diplomats” – human rights defenders from unrepresented nations and peoples – to engage in international advocacy. The underlying importance of the issues contained in this report emanate from the reality that millions of diaspora and defenders from unrepresented nations and peoples live in Europe with little-to-no hope to return to their homeland. They consider Europe a safe haven where they may thrive, advocate and raise awareness about their plight without fear of persecution while engaging as productive and responsible members of European societies. They also avail themselves of the numerous and essential international organizations located throughout Europe established to support and promote their human rights and those of their communities abroad.

In this context, the UNPO has commenced a comprehensive assessment of the threats faced by diaspora communities living in Europe and other human rights defenders

travelling to Europe to engage with international and regional bodies, with a particular focus on those threatened by foreign authoritarian regimes including Iran, China, and Russia. This report represents an initial scoping based on publicly available information and information received from members and partners of the UNPO.

There can be no question, based on the findings below and our two prior reports on this topic, that foreign state reprisals represent a direct threat to diaspora communities and human rights defenders from unrepresented nations and peoples as well as to the fundamental values of Europe.

The European Union (“EU”) is uniquely capable of addressing these many challenges. Victims need greater protection and national and regional authorities need to cooperate more effectively to prevent, respond and prosecute the illegal activities committed by foreign states. The EU has the tools at its disposal to help. Moreover, as the host to so many international institutions and to diaspora communities from unrepresented nations and peoples, it has a responsibility to act.

Significant work is needed to better understand these issues. While this report represents the beginning of the process, all relevant actors including the UNPO, the EU, individual member States and other international actors including the United Nations, must work together to map out the nature of the threat and the way forward.

Accordingly, the UNPO looks forward to working with partners, including diaspora and activists, European prosecutors and police and staff of international organizations to better understand the nature and significance of the threats and to develop effective solutions to both deter and respond to foreign state actors.

The UN-EU Nexus

The UNPO, as a membership-based organization, exists to empower the voices of unrepresented people. It has, over its 30-year history, worked to ensure that international mechanisms are open to non-state actors and states with limited recognition. In 2015, in partnership with the University of Oxford and the Tibet Justice Center, the UNPO engaged in a three-year project to study the extent to which the participation mechanisms at the United Nations enabled such

participation, as well as to build the capacities of minority and indigenous human rights defenders to engage with those institutions.¹

This project has highlighted that the United Nations is becoming an ever more difficult and dangerous place for unrepresented peoples to access and work.

In 2019, our findings were published in a report, “Compromised Spaces: Bullying and Blocking at the UN Human Rights Mechanism,” which outlined threats, reprisals, harassment and bullying practices used against activists and human rights defenders at the United Nations in Geneva.²

We call these advocates, “Unrepresented Diplomats”: human rights defenders for people who are effectively disenfranchised in their national contexts and who as a result cannot have their issues properly represented by the governments seated at the United Nations.

Unrepresented Diplomats face harassment and intimidation from some United Nations Member-states, including China, Russia and Iran, as well as blocking tactics meant to silence their voices, such as through the politicization of registration with the Economic and Social Council (ECOSOC). They prevent real NGOs from

registering, but help government-affiliated NGOS (GONGOs) to register, which when registered with ECOSOC counter human rights accounts with government propaganda under the guise of genuine, independent organizations.

These states also carry out reprisals against those who are able to participate at the U.N. These reprisals include intimidation and harassment, travel bans, criminalization of activities, arbitrary arrests, and torture and cruel and inhuman treatment.

The UNPO subsequently published, in November 2020, “Compromised Space and Undiplomatic Immunity: The Impact of Covid-19 on the Ability of Unrepresented Diplomats to Engage UN Human Rights Mechanisms”,³ which outlined additional challenges arising from the global pandemic. These include changes in the operation of United Nations human rights mechanisms which lead to increasing restrictions and an inability to participate in United Nations meetings and forums, further silencing unrepresented voices.

The present report builds on these findings and expands its focus to consider the increasingly compromised space for diaspora and

other affected communities suffering from reprisals throughout Europe. While many States actively target nationals or ethnic minorities abroad, UNPO’s findings clearly demonstrate that Russia, Iran and China resort to particularly egregious and similar practices to target diaspora and minorities who choose to speak out against abuses by regimes in their country of origin. This is a significant concern for multiple reasons.

First, undeterred attacks risk sending a message to these communities that they are not equal, or protected, effectively silencing their voices in the world’s most diverse democratic space. Reprisals intended to silence voices of dissent threaten to make Europe itself a compromised space.

Second, Europe is home to the highest concentration of international organizations headquarters, agencies and sub-offices, including major offices of the EU, Council of Europe, United Nations and Organization for Security and Co-operation in Europe. It is also home to major arbitration bodies and international non-governmental organizations of significant relevance to diaspora communities.

Access to these organizations is essential for diaspora communities, and unrepresented peoples more generally,

to meaningfully engage in their right to self-determination, bring awareness to their struggles and participate in the international community.

Threats and intimidation against these communities not only represents a direct harm, but has the further effect of potentially denying access to the numerous and essential international institutions throughout Europe. This fundamentally undermines the ability of the United Nations to meet its

Charter responsibilities to “develop friendly relations among nations based on respect for the principles of equal rights and self-determination of peoples” and to “achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion.”⁴

Table 1. Non-Exhaustive List of International & Regional Organizations Hosted in Europe

Austria	United Nations Office on Drugs and Crime; Comprehensive Nuclear-Test-Ban Treaty Organisations; Organization for Security and Co-operation, Secretariat; Organization for Security and Co-operation, Representative on Freedom of the Media; European Fundamental Rights Agency; World Bank Group; International Atomic Energy Agency; United Nations Commission on International Trade Law.
Belgium	European Parliament; European Council; European Commission; Council of the European Union; North Atlantic Treaty Organization.
Denmark	United Nations City including UNDP, UNEP, IOM, UNICEF, UNHCR, UNOPS and others; OSCE Parliamentary Assembly.
France	European Court of Human Rights; Parliamentary Assembly of the Council of Europe; Committee of Ministers of the Council of Europe; Commissioner for Human Rights, Council of Europe; United Nations Educational, Scientific and Cultural Organization; Organisation for Economic Co-operation and Development; European Parliament.
Germany	International Tribunal for the Law of the Sea; United Nations Environment Programme; United Nations Volunteers; United

	Nations Framework Convention on Climate Change; United Nations University Institute for Environment and Human Security.
Italy	United Nations Food and Agricultural Organization; World Food Programme; International Fund for Agricultural Development; United Nations High Commissioner for Refugees regional representative; United Nations Interregional Crime and Justice Research Institute; UN System Network on Rural Development and Food Security.
Luxembourg	European Commission; European Court of Justice.
Netherlands	United Nations International Court of Justice; International Criminal Court; Permanent Court of Arbitration; United Nations Residual Mechanism for International Criminal Tribunals; OSCE High Commissioner on National Minorities; Europol; Eurojust; Organisation for the Prohibition of Chemical Weapons.
Poland	Office for Democratic Institutions and Human Rights; Annual Human Dimension Implementation Meeting (“Europe’s biggest human rights conference”).
Switzerland	United Nations Office of the High Commissioner on Human Rights; United Nations High Commissioner for Refugees; International Committee of the Red Cross; International Labour Organization; International Organisation for Migration; World Health Organization; World Trade Organization and numerous others.
United Kingdom	International Maritime Organization; Commonwealth institutions.

METHODOLOGY

The findings in this report are based on publicly available information, information received from members of the UNPO and meetings and workshops of a Working Group on Compromised Spaces of UNPO members established at our last General Assembly in July 2020. The UNPO has also received information from members and other affected individuals which it has been specifically requested to not share in light of ongoing and direct threats to the well being of these persons.

The UNPO acknowledges that some of the allegations contained in the report are difficult to definitively prove in light of the manner in which they were undertaken, namely as clandestine activities related to foreign espionage. The findings, however, make clear that these acts are taking place and solutions are needed.

The UNPO also notes that it is in regular contact with interlocutors directly affected by the reprisals detailed in this report. In many instances, these reprisals are ongoing and were initiated against persons and families due to, amongst others, meetings with United Nations and EU

officials. The level of threat, however, demands that these individuals remain anonymous due to fears of direct retaliation.

The well-founded fear of these reprisals emphasizes the need for swift and decisive action to protect individuals who are targeted because of their ethnicity, the activities of their family members or their own efforts to promote fundamental human rights through universally recognized forms of free speech.

This report, accordingly, represents the first-phase of a long-term analysis and engagement on the issue of reprisals in Europe.

Next steps

The next stage commencing immediately after the publication of this report will include an in-depth series of interviews with a wider set of Europe-based diaspora to understand further both the nature of the threats faced by these communities and the national responses taken. It will further incorporate a youth conference centred on closed spaces to be held at the Council of Europe in Strasbourg in September 2021.

In parallel, the UNPO in collaboration with government, academia and civil society, will study national law and practice in key jurisdictions including those listed in the above chart.

Interviews will be held with police, prosecutors and, where possible, intelligence officials in order to compile a detailed analysis composed of individual case studies that will better guide policymakers on effective responses by the EU as well as polices, procedures and practices which may be adopted and implemented at the national level to better protect victims of state-sponsored reprisals.

The UNPO will further research and draw on its experience to consider how United Nations reprisals

institutions, as well as those of other international organizations, can work with the EU and European host countries, to ensure the protection of diaspora and other communities.

It is anticipated that this process will result in the publication of a detailed report into policing and prosecutorial practices in select European states and into cross-border criminal and security cooperation within Europe in June 2022. It is our hope that during this period the United Nations, European governments and the European Union will kick-start their own processes of evaluation of this phenomenon, beginning a process of recognition of the internal European security crisis that it entails.

FOREIGN STATE ACTORS

While the various States outlined in this paper utilize different methods and engage in repression against individuals and groups for different reasons, they are linked in their ability to carry out serious attacks, threats and intimidation in their own national interest on European soil.

The scope of this paper focuses on reprisals undertaken by Iran, China and Russia. Our focus on these three actors stems from the direct experience of UNPO members and their relationship with the activities of these authoritarian regimes at home and abroad. On the basis of our collection of information to this point, they represent the most serious threat to diaspora communities in Europe.

The UNPO recognizes, however, that other actors actively engage in similar forms of reprisals in Europe and abroad.⁵ This includes, for example, attacks on journalists critical of the government of Pakistan⁶ and surveillance of and threats to political opponents by Turkey.⁷

There are also other actions, not rising to the level of reprisals, taken to counter critics based in Europe, such as through the recently-uncovered

network of fake media organizations and ECOSOC-registered NGOs tied to a private company in India,⁸ and a large-scale disinformation campaigns organized by Russia, largely targeting Germany,⁹ and China.¹⁰

Despite these actions, the three states at the centre of this report appear to present the biggest threat in Europe based on our research and experience, with Iran operating as the most dangerous and brazen actor, and China as the most willing to pervert and interfere with international institutions and bilateral agreements.

All three go far beyond disinformation campaigns, rather, through their actions, directly threatening both the territorial integrity of Europe and the lives of European citizens and residents. By-and-large, the European Union, however, has failed to recognize either publicly or in action the threat to internal security that these countries pose.

Iran

The Islamic Republic of Iran has consistently engaged in a campaign of repression against ethnic minorities, both within its own territory and

abroad, including within the EU. The campaign of repression includes a wide spectrum of reprisal tactics, including assassination, physical intimidation, use of embassies and diplomats, abuses of Interpol Red Notices, spyware, and cyber-espionage. These tools are systematically utilized by the government of Iran, illustrating its disposition to commit serious human rights violations within the territory's of foreign States.

Iran consists of a wide number of major ethnic groups, including Ahwazi Arabs, Azerbaijani Turks, Assyrians, Baluchs, Kurds, and Turkmen.

According to the Islamic Republic of Iran Foreign Ministry Website,¹¹ 29% (1,184,552) of Iranians in diaspora live in Europe including 400,000 in UK, 319,000 in Germany, 116,770 in Sweden, 90,000 in France, 52,000 in the Netherlands, 40,000 in Austria, 38,000 in Italy, 28,700 in Denmark, 20,000 in Belgium, 20,000 in Switzerland, 20,000 in Norway and lesser numbers in other European States. It is not clear whether Iranian refugees are included in the statistics.

In the context of reprisals of minorities on European soil, our research indicates that the majority of victims are Kurds followed by Ahwazi Arabs and Baluch, but also that no

community is spared, and that the numbers are more likely reflective of the size of the diaspora populations present in Europe.

The targets are usually leaders of political parties, outspoken activists, public figures, or family members of well-known activists. Dissidents in diaspora communities often more openly challenge relevant narratives and expose State sanctioned violence and intimidation and reprisals against minority communities both in and outside of Iran. They participate in various legal and democratic structures including government processes of European States, the United Nations, organized rallies and conferences and appearances on international news channels to comment and provide analysis on Iran. Some of the more charismatic activists are instrumental in uniting the various scattered opposition groups.

Iran's external acts of reprisals, which include acts of terror, must be viewed in the context of the Islamic Revolution Guard Corps ('IRGC'). The IRGC was established by direct order of Ayatollah Khomeini, founder of the Islamic Republic of Iran, in 1978 to safeguard the Islamic revolution. They are viewed as a parallel or secret government "with a gun" which exerts a huge

influence on Iranian government politics.¹² The Quds Force (lit. 'Jerusalem Force'), a branch of the IRGC, conducts covert military operations outside Iran's borders and are referred to by Ayatollah Ali Khamenei, the supreme leader of Iran, as "warriors without borders."¹³ The IRGC directly targets citizens abroad and engages in propaganda, including pseudo-documentaries intended to showcase Iran's extraterritorial reach and incite fear among diaspora communities and vocal critics. These videos further normalize and legitimize forced television confessions and violence.

With respect to EU-Iran relations, the EU has generally favoured a diplomatic approach intended to contain Iran. Two important events are relevant to these relations, including in 1997 when several European countries stopped their diplomatic relations with Iran and retrieved their ambassadors following the Mykonos trial. The second occurred in 2015 following the signing of the Joint Comprehensive Plan of Action known as JCPOA or the Iran nuclear deal. Although the United States pulled out of the agreement in 2018, Iran, the EU and other stakeholders remained. The EU has also sanctioned several Iranian individuals and institutions for human rights

violations over the years. Reuters reported, for example, that new sanctions will be imposed on eight Iranian commanders and three entities for their role in crackdown of November 2019 protests in Iran.¹⁴ According to Reuters, the last time the EU imposed human right violation related sanctions was in 2013.¹⁵

China

China, which officially recognizes 55 ethnic minority groups with a small number of other unrecognised ethnic groups, has under the direction of the Chinese Communist Party (CCP) long pursued policies targeting ethnic minorities both internally and abroad. This includes a particular focus on Uyghur and Tibetan peoples, who reside in regions of geopolitical significance to China. In comparison to Iran, China utilizes more subtle and sophisticated methods of intimidation and reprisal against its ethnic minorities.

Uyghur activists and diaspora, who suffer from double discrimination due to their Turkic ethnicity and their Islamic faith, are portrayed by China as separatists. Under the guise of combating terrorism and extremism in East Turkestan or Xinjiang, reports suggest the government has placed two

million Uyghurs and other Muslim minorities in "re-education camps" where they are subjected to forced labour,¹⁶ brainwashing,¹⁷ forced sterilization of women,¹⁸ separation of family members,¹⁹ and a long list of other inhumane practices. Many Uyghurs who have fled East Turkistan live in Central Asian.

According to the World Uyghur Congress, "[t]he European countries with a large Uyghur population are: Germany, Belgium, France, the Netherlands, Norway, and Sweden."²⁰ Tibetans, following decades of repression, have also formed large diaspora communities including in Europe.

Southern Mongolians and individuals from Hong Kong have also been increasingly targeted in recent years.

The CCP attempts to exert significant control on overseas Chinese and ethnic minorities perceived as enemies of the party.²¹ The party commits significant resources to co-opting diaspora and utilizes repressive tools such as physical intimidation, assassination, use of embassies and diplomats, abuses of Interpol red notices, spyware, and cyber-espionage.

In recent years China has increased its intimidation campaign abroad. The PRC's growing global influence and

technological capacity empowers threats of a significant magnitude, both to minorities living abroad and to the rule of law and fundamental democratic values of other countries.

It is notable that, in the backdrop of this situation, ties between the EU and China have increased in recent years. In December 2020, following seven years of negotiations, the parties agreed to the Comprehensive Investment Agreement (CAI). The deal is "the most ambitious agreement that China has ever concluded" by significantly opening up its internal market to EU companies.²²

The agreement has not been without contention with numerous prominent European parliamentarians pushing against the ratification owing to concerns around China's human rights record, particularly around its treatment of Uyghurs.²³ Although over time EU countries have adopted several resolutions that concentrate on the issue of ethnic minorities in China, the CCP has only become bolder in its repression tactics and the EU has not fundamentally changed its approach accordingly.

Russia

Russia is heavily involved in reprisals against activists, human right

defenders and exiles living abroad, including in Europe. This includes the diaspora Chechen community and activists perceived as a threat to national security.

Russia targets critics of President Vladimir Putin and the Head of the Chechnyan Republic, Ramzan Kadyrov. Within Russia, the government regularly regularly engages in aggressive counter-tactics against anti-government demonstrators. This has led to a number of dissidents critical of the Russian government to flee for Europe. In Chechnya, security forces regularly conduct extra-judicial arrests of alleged militants, government critics, the LGBTQI community and others, with evidence of torture following detainment.²⁴ Kadyrov has been consistently vocal about his determination to control Chechens abroad in Europe. For instance, in September 2020, Kadyrov announced the creation of a new agency that will help “Chechens wherever they are”, on condition that they “watch their tongues”.²⁵ This has led to thousands of

Chechens to seek asylum in Europe.²⁶ According to some estimates, there are 130,000 Chechens currently living in Europe.²⁷

While assassinations are the most prominent form of reprisal utilized by Russia, other tools include physical intimidation, sending security agents under diplomatic cover, abuse of Interpol red notices, spyware and cybersex-espionage. Russia has shown itself to participate in a broad pattern of intentional attacks perpetrated by Kremlin agents in recent years.

Russia and the EU have an adversarial relationship. The annexation of Crimea by Russia, the poisoning of Sergej Skripal, a former Russian spy, and Kremlin critic Aleksej Navalny and repression of anti-Putin protests in Russia has resulted in the expulsion of Russian diplomats and the imposition of sanctions against Russian individuals and entities. The Nord Stream pipeline project has further complicated relations between Russia and Europe in recent years.

FORMS OF REPRISALS

Use of embassies, diplomats and diaspora to threaten and intimidate

There is significant evidence of Russia, China and Iran using intelligence agents under diplomatic cover to threaten and intimidate diaspora. In some instances, consular staff directly engage in intimidating dissidents on European soil. Diplomatic access to a wide range of privileges, opportunities and information facilitates these clear abuses of power.

This section outlines instances in which state actors threatened or intimidated persons legally residing in the EU in activities that are not relevant to their official position and are often illegal under national law.

Direct engagement of Iran embassy staff

Iranian envoys partake in direct aggression, including terrorist plots, to target minority dissidents. On several occasions Iranian diplomats have been implicated in attempted acts of terror and violating their diplomatic status in Europe. These threats are manifested

in different forms, such as threatening EU nationals, particularly journalists who work in Farsi-speaking media; tweeting aggressive and accusatory statements by an ambassador; or carrying out a terror plot by a consular staff. Some recently reported instances are discussed below.

On February 4th 2021, an Antwerp court sentenced Asadullah Asadi, the third counsellor at Iran's embassy in Vienna, to 20 years in prison. Asadi was charged with attempted murder and involvement in terrorism for his role in a plot to bomb a rally organized by the National Council of Resistance in Iran, a prominent Iranian opposition group in Paris. He had recruited and paid large sums of money to an Iranian-Belgian couple identified as Amir Saadouni and Nasimeh Naami to carry out the operation.

Asadi is one of the first Iranian diplomats to be tried on terrorism charges in the EU. According to Belgium's federal prosecutor, "Asadi brought the explosives for the plot with him on a commercial flight to Austria from Iran."²⁸ Asadi was identified as a member of the Iranian intelligence service "Ministry of Intelligence and

Security,” whose tasks “primarily include the intensive observation and combating of opposition groups inside and outside of Iran.”²⁹

In January 2020, Albania expelled two Iranian diplomats for activities “not in line with their status.” This is not the first time that Albania has expelled Iranian diplomats.³⁰ In December 2018, it had expelled Iran’s ambassador and another diplomat for “violating their diplomatic status.”

Albania is currently home to 3,000 members of the People’s Mujahideen Organisation of Iran (MEK). The Albanian Foreign Ministry refused to comment on the reason behind the decision when contacted by the BBC.

In November 2019, Hamid Baeidinejad, the Islamic Republic of Iran ambassador to the United Kingdom, accused journalists of being “agents and mercenaries of foreign services, paid by the country’s enemies and acting against the national interest.” In another Tweet he targeted specific news channels by naming them and criticized their coverage of the protests in Iran, describing protesters as “murderers” who are portrayed as dissidents by Farsi-speaking channels.³¹ There have been calls by international organizations to monitor these

activities on the basis of freedom of the media concerns.³²

Ruhollah Zam was a whistleblower, dissident journalist, and founder of a popular telegram channel "Amad News". He sought refuge in France. In October 2019, Mr. Zam traveled to Iraq where he was abducted by the Islamic Revolutionary Guard Corps (IRGC).

Intelligence Service of IRGC published a statement announcing that “IRGC guided Ruhollah Zam inside the country and detained him during a professional and intelligent operation.”³³

Iranian national TV broadcast a documentary “Istgah payani dorogh” (final destination of lie) which contained videos of the moment he was arrested and his forced confession.³⁴ He was executed on December 12th, 2020 in Tehran for the charge of "corruption on earth" and other alleged criminal acts.

EU countries condemned the execution and, as a response, withdrew from the Iran-EU business forum planned to take place on 14 December 2020. However, the French authorities have been accused of not campaigning strongly enough to save Ruhollah Zam's life.

The UN further condemned his execution and published a statement on the issue.³⁵

According to reports, in October 2020, Habib Chaab, a Swedish-Ahwazi activist and one of the former leaders of the Arab Struggle Movement for the Liberation of Ahwaz (ASMLA) travelled to Turkey for a personal visit to meet with Sabern Saeidi, but he was kidnapped upon arrival in Istanbul and transferred to Iran. The Iranian authorities claim that ASMLA was behind the Ahvaz military parade attack which took place in 2018.

According to the Turkish police investigation, a woman lured Chaab into Turkey and Iran's intelligence service hired a well known Iranian leader of a drug cartel "Naji Sharifi Zindashti" to abduct Chaab.³⁶ The alleged perpetrator Zindashti is currently believed to be living in Iran under the protection of Iranian government security. According to reports, Zindashti was arrested in Turkey for drug charges but an adviser to Turkish President Recep Tayyip Erdoğan, Burhan Kuzu, was instrumental in his release.³⁷

The Iranian national TV broadcast a documentary "Farjam Jenayat"(consequence of crime) where

Mr.Chaab made self-incriminating statements.³⁸

China's use of embassy staff and agents

China utilizes a range of tactics to control dissidents living abroad, many of which involve the use of diplomatic staff and embassy officials to directly target exiled minorities.

For instance, in 2014 Czech Republic police arrested a Chinese embassy official and two members of the "welcome group" in Prague for attacking peaceful Falon Gung activists.³⁹ Disregarding police orders to keep distance from the protesters, the Chinese official and members of the welcome group physically assaulted practitioners and tried to snatch their banners.

On several occasions Chinese embassies and consular staff have intervened in the work of European academics who research the Uyghur cause. They have intimidated conference participants in an attempt to discredit academics claims.⁴⁰ For instance, in 2019 Chinese consular staff, disguised as students, disrupted an academic conference on the situation of Uyghurs.⁴¹ Similar cases occurred in Strasbourg, Ireland and Canada.⁴² Additionally, in 2018,

Universite Libre de Bruxelles published an online statement in solidarity with Uyghur academics in Xinjiang.⁴³ In response the Chinese embassy in Belgium asked that the statement be removed “in the general interest of Belgian-Chinese cooperation.”⁴⁴

Other tactics include Chinese security agents approaching diaspora members to recruit or threaten them to work as informants for the CCP to spy on other members of the diaspora. Amnesty International has gathered the testimony of hundreds of Uyghurs in exile who have experienced intimidation or reprisal by the hands of Chinese agents and published a report on the intimidation campaign that has been mounted across Europe and the United States.⁴⁵

For example, individuals have noted they were contacted via WeChat by Chinese security police and asked to gather information on Uyghur diaspora in the Netherlands and send their findings. Mr. Ismayil Osman has stated in testimony that “Chinese policemen asked my brother [in Xinjiang for] my phone number. In November 2014, [the Chinese police] approached my brother and forced him to call me. They took over the phone call and told me that I had to provide information [to spy] on other Uyghurs in the Netherlands.

Otherwise they would take [away] my brother.”

Assassinations

There is significant evidence of politically motivated assassinations in Europe by both Iran and Russia. These acts range from covert operations to high profile plots. As outlined in this section, the victims are diverse, ranging from minority activists to opposition political figures. They often present a clearly established political or strategic threat to the foreign State, which suggests the acts are intended not only to silence critics but send a larger message to the relevant community.

The targets of assassinations have been individuals who showed resilience and persisted in their position against their governments even after leaving their countries. Some are of more influence or higher profile, but what unites all these assassinations is the political motivation.

Authoritarian regimes consider assassination as an effective tool to eliminate those who are deemed obstacles. It sends a strong and a direct message to the supporters of a political figure or a specific cause. The long list of victims targeted by the governments of Russia and Iran demonstrates that

these regimes have been using assassination as a political tool for years. They repeatedly deny involvement in assassination plots, even when there are clear indications of State participation in the criminal act.

Below is a list of assassinations and attempted assassinations by the government of Iran and Russia targeting both ethnic minorities and non-minority individuals. They include leaders of opposition groups belonging to ethnic minorities, journalists, defectors, vocal critics of the state, former political figures and a talk show host.

Iran's long-standing practice of assassinations in Europe

The Government of Iran has carried out a considerable number of assassinations over the past 42 years in an attempt to eliminate dissidents opposed to the regime while reinforcing domestic control. A significant number of these assassinations or assassination attempts have occurred within Europe. The targeted individuals were influential figures each in their own domain.

According to existing information, the highest number of political

assassinations have occurred in France. Some of the reported instances of assassination whose victims belonged to ethnic minorities include:

Austrian KDPI Assassinations

In July 1989, Abdulrahman Ghassemlou, the leader of the Kurdish Democratic Party of Iran (KDPI) was assassinated with two of his colleagues in Vienna.⁴⁶ The other two victims are Mr. Abdollah Qaderi Azar, the Democratic Party of Iranian Kurdistan (PDKI) in Europe and Mr. Fadhil Rsul, an Iraqi Kurdish resident of Vienna and a mediator. Dr. Ghasemlou had been negotiating with the Iranian government representatives on the right of self-determination for Kurds in Iran.

Mohammad Jafari Sahraroudi, head of the Kurdish Affairs Section of the Iranian Ministry of Intelligence and Ghafoor Darjezi,⁴⁷ member of the Islamic Revolutionary Guard Corp Special Force, were accused of being the perpetrators and planners of the assassination. A Vienna prosecutor issued an arrest warrant for both two months after they had already returned to Iran. It has been reported that Mr. Sahraroudi was escorted to the airport by authorities.⁴⁸ In October 2013, Mr. Sahraroudi, then the Chief of Staff to the head of Iran's Parliament,

accompanied Ali Larijani in the Inter-Parliamentary Union Conference in Geneva.⁴⁹ Sahraroudi, also a member of the nuclear negotiating team between 2005-2007, is currently in charge of the office of the Speaker of the Iranian Parliament.⁵⁰ The other alleged perpetrator, Ghafour Darjezy Dolagh assumed responsibility for the security of the Islamic Republic of Iran Broadcasting (IRIB). He is also the general manager of the Saipa football team under the name of "Mustafa Modaber."

Peter Pilz, an Austrian politician and former member of the Austrian Green Party who wrote the book "Escort to Tehran: the Austrian rule of law and the Kurdish murders", has stated in an interview with BBC Persian about Dr. Ghasemlou's assassination that "years later, sources in the German and Austrian intelligence services and the government told me that the Germans had informed Austrian security officials of the possibility of Dr. Ghasemlou's assassination, but the Austrian government did not tell him that he was in serious danger and did not protect him."

According to Pilz, Vienna counter-terrorism police officers informed him that in the first five minutes they would conclude that the assassination of

Kurdish leaders was political, but unlike Germany, the Austrian judiciary is subject to external influence.⁵¹ He said politicians wanted to get rid of the Iranians as soon as possible. "On the day of the killings, members of the Austrian government make an important decision in a brief debate. This decision is the basis of government policy to the end. Should justice be sought, or should the accused be sent to Tehran? Austrian officials and influential politicians believed at the time that bringing them back to Tehran had important economic benefits for all Austrians. That's exactly what they did."

Abdorrahman Boroumand Center, a prominent human rights organization, in their statement on the 25th anniversary of the assassination of Dr. Ghasemlou, note that the families of the victims are critical of the "slow pace" and "negligence" of the Austrian authorities, including the fact that the judicial authorities waited four months before issuing an arrest warrant for the suspects.⁵² The widow of Dr. Ghasemlou filed a case against the Austrian government for "denial of justice", which the court dismissed, ordering her to "pay the government legal fees." The Center claims this failure by the Austrian judiciary amounts to a violation of clauses 1, 2, 4

and 10 of Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions⁵³, which was approved by UN in 24 May 1989, a few months before the assassination was committed.

The Center also republished a quote from a high-level Austrian official, originally published in Time Magazine on 21 March 1994, stating that “No country wants to prosecute a terrorist case. It’s a threat to your government, your stability, to your penal system. A convicted terrorist faces a life sentence, which means, in Austria, at least 15 years. That means that for 15 years you are at risk.”

Assassination of Efat Qazi in Sweden.

In September 1990, Efat Qazi, daughter of Gazi Mohammed, the Kurdish leader and president of the Mahabad Republic, was killed by a letter bomb in Sweden. She was a teacher and member of the Kurdish Democratic Party. Emir Ghazi, Efat Ghazi's husband, was a former member of the Kurdistan Democratic Party. It was believed that the bomb was intended to kill her husband. In an interview, Mr. Ghazi said that the Swedish authorities were not willing to implicate Iran, stating “I think it was mostly because

they were afraid of Iran and worried about their economic interests with Iran.”⁵⁴ According to Mr. Ghazi, “no specific individual was arrested in this case. But later a man named Mohsen Rashidzadeh, an Iranian Kurd, was imprisoned for a time on charges of spying for the Iranian government.”

Mykonos Case in Germany.

Sadeq Sharafkandi became the General Secretary of the Kurdistan Democratic Party of Iran (PDKI) following the assassination of Dr. Abdularahman Ghasemlou. He was murdered in September 1992 along with three other Kurdish activists: Fatah Abdi, the party's representative in Europe; Homayoun Ardalan, the party's representative in Germany; and Nouri Dehkordi (Noorullah Mohammadpour), the party's translator. The attack occurred in “Mykonos” restaurant in Berlin.⁵⁵ A group of four Lebanese and one Iranian by the name of "Kazem Darabi" were arrested for coordinating the operation.⁵⁶ The Lebanese nationals were members of the Hezbollah militia. A German court announced that Ali Khamenei, Iran's supreme leader, Hashemi Rafsanjani, Iran's then-president, Ali Akbar Velayati the foreign minister, and Ali Fallahian the minister of intelligence ordered the assassination. In March 1996, Germany

issued an arrest warrant for Mr. Fallahiyan. In February 1998, Kazem Darabi, an Iranian national residing in Germany was sentenced to life imprisonment for his role in the assassination. He was pardoned after 15 years, and in 2007 was released and sent to Iran. Darabi wrote a book about the Mykonos attack which in December 2019 won the annual book award in Iran.⁵⁷ In the spring of 1997, 13 EU countries withdrew their ambassadors for several months from Iran in response to the Mykonos attack.⁵⁸

Assassination of Ahmad Mola Nissi- An Ahwazi Arab Leader in the Netherlands.

In November 2017, Ahmad Mola Nissi, one of the leaders of the Arab Struggle Movement for the Liberation of Ahwaz (ASMLA), was gunned down by a masked assailant in front of his home in the Hague. He was shot three times in the chest and head. Investigations found that the perpetrators were members of a criminal gang. On 8th January 2019, the Dutch General Intelligence and Security Service (AIVD) announced on their website that "Iran was likely involved in assassination in the Netherlands" and that "it was found that middlemen are used for operations on foreign soil".⁵⁹

Foiled Assassination Attempt in Denmark

In October 2018, the Danish police launched a large-scale operation to thwart an Iranian intelligence plot to assassinate the head of the Danish branch of the Arab Struggle Movement for the Liberation of Ahwaz. According to the investigations, an Iranian-Norwegian man was charged for his role in the assassination attempt.⁶⁰

Assassination Attempt of a member of (KDPI) in the Netherlands.

In June 2020, Sadegh Zarza, a member of the Democratic Party Of Iranian Kurdistan (KDPI) and nephew of the late Dr. Ghasemlou, was stabbed 15 times in broad daylight in the city of Leeuwarden in the Netherlands.⁶¹ He survived the attack. In an interview with the local news outlet, he stated he was certain the attack was at the direction of the Government of Iran. According to De Gelderlander, a local Dutch news website that reported the incident, The PvdA (the Dutch Labour Party) has previously urged Stef Blok, the Minister of Foreign Affairs to set up a special reporting point for Iranians who feel unsafe. In this regard, the member of parliament Liliane Ploumen stated: "the minister did not think that was necessary, because people can

report the matter to the police. Unfortunately, not everyone does that, so I will again ask what possibilities the minister sees to better protect people."⁶²

Assassination Attempt of a Kurdish Women Rights Activist in Sweden.

In late July 2020, it was reported that an incendiary bomb had been thrown on the porch of Soheila Fors' house. Mrs. Fors is a Kurdish-Swedish political and women rights activist and a member of Sweden's Christian Democrats party. She is also an outspoken critic of the Islamic Republic of Iran. She stated during an interview that she received threats from the Iranian regime and that her brother had previously been interrogated by Iranian authorities.⁶³ Similar to Mr. Zarza, Mrs. Fors identifies the Iranian regime as the perpetrator, stating on her Facebook account: "If you ever read that I am gone, know that the Iranian regime is culpable".⁶⁴

Non-Minority Assassinations

Although the primary focus of this consultation paper focuses on reprisals committed by the Iranian Government against persons belonging to ethnic minorities, it also considers cases in which victims are politicians of former regimes, journalists, activists, or

opposition figures of a non-minority background. The following list includes the assassinations committed against Iranian nationals in Europe including France, Germany, Italy, the Netherlands and Switzerland.

- Shahriar Shafiq, the nephew of Shah of Iran was shot in the head in Paris, France in December 1979.⁶⁵
- Gholam -Ali Oveissi, Iranian general and the Chief Commander of the Imperial Iranian Armed Forces was shot dead along with his brother in Paris, France in February 1984.⁶⁶
- Kazem Rajavi, a human rights activist and member of the National Council of Resistance of Iran was shot dead in Switzerland in April 1990.⁶⁷
- Abdolrahman Boroumand, the head of the executive board of National Resistance of Iran was stabbed to death in Paris, France in April 1991.⁶⁸
- Shapour Bakhtiar, the last Prime Minister of Pahlavi era, was stabbed to death in Paris, France in August 1991.⁶⁹
- Fereydoun Farrokhzad, a poet, singer and talk show host critical of the Iranian government, was

stabbed to death in Bonn, Germany in August 1992.⁷⁰

- Mohammad Hossein Naghdi, a member of the national Council of Resistance of Iran was shot dead in Rome, Italy in March 1994.⁷¹
- Reza Mazluman, an opponent of the Iranian government was shot dead in Paris, France in June 1996.⁷²
- Mohammad-Reza Kolahi Samadi (Ali motamed), a former member of the People's Mujahedin of Iran was shot dead in Almere, the Netherlands in December 2015.⁷³

In 1980, a failed attempt to assassinate Mr. Shahpour Bakhtiar was carried out by a Lebanese national, Anis Naccache, a member of Hezbollah Militia. A French judge "documented the Iranian authorities' involvement" and in response, the French President, François Mitterand, called off his trip to Tehran in the fall of 1991. In December 1994, the Special Criminal Court of Paris (la Cour d'Assises Speciales) sentenced Ali Vakili-Rad (member of Iran's Revolutionary Guards Corps) to life in prison. He was released in 2010, and greeted with flowers and cameras in Tehran airports by Foreign Ministry officials upon his return. The other individual was Mas'ud Hendi,

Khomeini's relative and the employee of an Iranian State Television. He was sentenced to ten years imprisonment for being an accomplice to the terror plot. In 1995, five other Iranian individuals with links to the Iranian government were tried in absentia and sentenced to life imprisonment. According to French judge Bruguière, the cases of Mr. Boroumand and Mr. Bakhtiar are inextricably connected.

Recent Russian assassinations

Russian security services are alleged to have assassinated dissidents in diaspora communities in Europe. Victims include journalists, former secret service agents, opposition politicians, and vocal critics of Vladimir Putin and Ramazan Kadyrov. As demonstrated below, these assassinations have occurred in Austria, Germany, The United Kingdom, France, Sweden and Ukraine.

In November 2006, Alexander Litvinenko, a Russian defector critical of Vladimir Putin, and former officer of the Russian FSB secret service, was poisoned by radioactive Polonium-210 in England and passed away six days later.⁷⁴ One year later the British police investigations confirmed that the death of Litvinenko was a "state-sponsored" assassination orchestrated by Russian

security services. In May 2007, Litvinenko's widow raised a complaint against the Russian Federation in the European Court of Human Rights in Strasbourg seeking €3.5m in compensation for her husband's poisoning.⁷⁵ The case posed challenges for the ECtHR in the context of how it applies the principle of extraterritorial jurisdiction, as the assassination occurred in the territory of another country. The UK government refused to directly intervene in support of Mrs. Litvinenko claims, but agreed to cooperate in the collection of evidence.⁷⁶

In January 2009, Umar Israilov, a Chechen fighter during the second Chechen War and former bodyguard of Ramazan Kadyrov, was shot dead in Vienna.⁷⁷ Israilov had previously filed a complaint in the European Court of Human Rights against the Chechen government.⁷⁸ According to Radio Free Europe, Lecha Bogatyryov, a Chechen policeman accused of pulling the trigger fled Austria and is believed to currently be in Russia.⁷⁹ He is on the United States' Magnitsky Act blacklist of Russian rights abusers.⁸⁰ Israilov claimed that Kadyrov was one of his torturers.⁸¹

In August 2014, Said Emin Ibragimov, a member of the Chechen separatist

movement and former communications minister of Chechnya was kidnapped from a park near his home in Strasbourg and tortured for two days.⁸² He said that the captives were speaking in flawless Russian with a Moscow accent.⁸³ Ibragimov had previously spent years gathering evidence against Vladimir Putin to bring Putin to trial for war crimes during the Chechen wars. When asked in an interview by BBC who might be responsible for his abduction, Ibragimov stated "I'm more than sure they were FSB agents. There's no other explanation."⁸⁴

In October 2017, Adam Osmayev and his wife Amina Okueva were attacked in a "military-style ambush" by unidentified assailants.⁸⁵ Okueva died from a gunshot to the head. Osmayev was wounded in the leg and survived the attack. Earlier that year a man posing as a journalist for *Le Monde* shot the couple, though both survived. Okueva was a Ukrainian-Chechen doctor, activist, and outspoken critic of Putin and Kadyrov. She along with her husband fought Pro-Russian rebels as volunteer fighters in Ukraine's military in the Donbas region. According to a BBC report, "Ukrainian officials suspect that the Russian state was involved."⁸⁶

In March 2018, Sergei Skripal, a former Russian intelligence agent, and his daughter Yulia were poisoned by Novichok nerve agent in England. BBC reported that two Russian nationals, Alexander Petrov and Ruslan Boshirov who were members of Russian military intelligence are accused of smearing nerve agent on the front door handle of Skripal's house.⁸⁷ The UK and the EU sanctioned the two individuals along with Igor Olegovich Kostyukov, the GRU chief, and his deputy, Vladimir Stepanovich Alexseyev.⁸⁸ In response to this attack, 25 other countries including 18 EU member states expelled Russian diplomats.⁸⁹

In August 2019, Zelimkhan Khangoshvili, a former Chechen rebel and Georgian national who fought against Russians during the Second Chechen War was shot dead in a park in Berlin, Germany. A Russian national, Vadim Sokolov who travelled with a fake ID was arrested in connection to the case. As a response, Germany expelled two Russian diplomats. The Guardian reported: “The German foreign office on Wednesday morning informed the Russian ambassador to Berlin, Sergei Netschajew, that two of his employees were considered *personae non grata* with immediate effect, citing the Kremlin’s refusal to cooperate in investigations into

Khangoshvili’s murder.”⁹⁰ According to the German federal prosecutor, a “foreign intelligence agency” were behind the attack, stating, “There are sufficient factual grounds to suggest that the killing was carried out either on behalf of state agencies of the Russian Federation or those of the Autonomous Chechen Republic, as part of the Russian Federation.”⁹¹

In February 2020, Imran Aliev, a Chechen blogger and outspoken critic of Vladimir Putin and Ramazan Kadyrov was found dead in a hotel room in Lille, France. Aliev was living in Belgium under police protection due to threats he received from the Russian and Chechen governments. According to the French police, this assassination was “politically motivated.”⁹²

In the same month another Chechen blogger and critic of Russia and Chechnya, Tumso Abdurakhmanov, was attacked by a hammer in Sweden. Abdurakhmanov survived the attack. A 29-year-old Russian man and a 30-year-old Russian woman were arrested for suspicion of attempted murder and alleged accomplice to a murder.⁹³

Threats to family in country of origin

Both China and Iran have been found to coerce diaspora communities and

activists by directly threatening their family members. In many instances, family members, friends, and acquaintances have been reportedly interrogated and intimidated in order to pressure them to contact their relatives and prevent them from continuing their activities. According to our findings, the relatives may at times be detained, denied the right to have a valid travel document, have their assets frozen, or receive threatening phone calls. Due to the fear of retaliation and lack of support and confidence in the relevant institutions in Europe, many victims are forced to stay silent. A number of UNPO members have been able to report to us these recurring instances in confidence. Public instances are reported below.

Iranian journalists in Europe are increasingly the target of threats

Threats against Iranian journalists working for news media outlets in Europe have increased in recent years. These channels formed an important avenue to cover a series of large-scale protests in Iran in 2019. As seen below, Iran often accuses their journalists of spreading propaganda and false information and utilizes a range of intimidation techniques, such as death

threats, threats to family members in Iran, asset freezes and the launch of criminal investigations against employees of these news channels.

BBC Persian⁹⁴ and Iran International⁹⁵ have felt compelled to publish statements in response to these reprisals, calling for the protection of their staff and families and condemning judicial decisions in Iran which froze the assets of their staff.

Furthermore, in January 2020, the international NGO Reporters Without Borders (RSF) published an open letter⁹⁶ concerning threats against Iranian journalists in France, the United Kingdom, Germany, Netherlands, Czech Republic and Sweden. The letter highlights the threats and pressure these journalists endure due to their work, stating “The threats against Iranian journalists abroad have taken the form of cyber-attacks, insults and intimidation on social media. Journalists working for London-based media have even been threatened with “abduction on the street and forced to return to Iran.”

The United Nations Office of the High Commissioner on Human Rights has also published a statement calling for an end to Iranian government intimidation and threats against journalists.⁹⁷ The letter states “We

reiterate our earlier calls to the Iranian Government to cease the intimidation, harassment and threats, including death threats, against BBC and other journalists working outside Iran for Farsi-language news outlets, as well as reprisals against their family members in Iran, which may constitute multiple violations of Iran's international human rights obligations under international law.”⁹⁸

Coercion by Chinese Authorities of exiled activists using detained family members

As a response to the increased oppression exercised against Uyghurs and other Muslim minorities in China, activists in diaspora communities have amplified their voices in condemnation of government activities. As a result, the relatives of activists have become a prominent target for Chinese authorities.

CCP agents routinely threaten the safety of their relatives living in Xinjiang. There are many reported cases⁹⁹ of intimidation and targeting of family members of diaspora activists. Chinese agents direct the activist's relatives to call them and plead them to stop their activism. Following the conversation, at times the agents themselves take the phone and directly

threaten the individual. In addition to threats, Chinese agents offer bribes, among others, to lure activists in cooperating with the government to provide data on other members of diaspora.¹⁰⁰ These tactics are deployed as part of a calculated strategy which is carried out systematically all over the world against Uyghur exiles.

Notably, the December 2019 Resolution released by the European Parliament on the situation of the Uyghurs in China, directly refers to reports on Uyghurs whose families have been detained by the Chinese authorities in order to silence their relatives living abroad.¹⁰¹ The resolution makes reference to the instrumental role of Chinese embassies in “explicit directives to arrest Uyghurs with foreign citizenship and to track down Xinjiang Uyghurs living abroad”.

Espionage and cyber-espionage

Espionage is the activity of secretly collecting and reporting information including confidential political, military, business, or industrial information. Cyber-espionage achieves this through the use of the internet, networks or individual computers via proxy servers, hacking and malicious software including Trojan horses and

spyware. In addition to targeting individuals, such espionage can gain political and economic leverage and be used to influence public opinion about a specific issue.

Inside their borders, Iran and China have dedicated significant resources to collecting data from individuals, as well as restricting their access to social platforms. The aims of state sponsored espionage activities in this context is to monitor and report on ethnic minorities living outside their borders. This is a continuation of these state's policies on the suppression of freedom of speech.

The examples below highlight the extent to which Iran and China are conducting intelligence and espionage activities against diaspora communities, ethnic minorities and others on European soil. Iran is heavily invested in Cyber-espionage. China's extensive technological capacity renders it a major threat, as well, particularly for Uyghurs and Tibetans abroad. Russia also appears to be heavily involved in espionage, however there is less publicly available evidence concerning Russia targeting specific ethnic groups in Europe.¹⁰² Rather, Russia mainly targets EU countries and relevant institutions such as the North American Treaty Organization.¹⁰³

Use of malware against diaspora communities

Iran has become increasingly more creative in the practice of espionage activities against diaspora and other communities residing in Europe. Media reports, as illustrated in the following cases, suggest that one of the main targets of Iran's cyber-espionage activities are dissidents belonging to ethnic and religious minorities in diaspora.

For example, in 2020, malware hidden in a driving license application was detected in Sweden.¹⁰⁴ According to Amir Rashidi, researcher at Miian group, a human rights organization with a focus on digital security, the application targets ethnic and religious minorities.¹⁰⁵ When the application is installed it can record conversations, location and browser history. Swedish Transport Administration's press manager, Bengt Olsson, stated "regardless of the purpose, we are seriously looking at whether someone should try to use something similar to the Swedish Transport Administration's logo or use our reputation."

In a similar case, Dutch website VPRO published an article concerning hacking software discovered in the Netherlands as part of an "espionage campaign" targeting Iranian opposition

figures.¹⁰⁶ Rickey Gevers, a Cybersecurity expert, described the cyber-espionage as “sophisticated” and “real intelligence work”.¹⁰⁷ The hacking software circulated after the kidnapping of Habib Chaab, a former leader of the Arab Struggle Movement for the Liberation of Ahwaz and a Swedish citizen who was abducted from Turkey.¹⁰⁸ This gives place to speculations that Mr. Chaab was monitored in cyber space prior to his kidnapping.

In 2021, a cyber security company determined that Iran is currently conducting two Cyber surveillance operations¹⁰⁹ with six hundred successful infections reported from victims, which include “dissidents, opposition forces and people belonging to the Kurdish ethnic minority in Iran, the US, Great Britain, Pakistan, Afghanistan, Turkey, and Uzbekistan.” The report highlights Iran’s increased investment in cyber operations.¹¹⁰

There are also reports of a data centre near Haarlem in the Netherlands used by Iran to collect data from Iranian dissidents living in the Netherlands, Germany, Sweden and India.¹¹¹ According to the report “the American company that rents the servers immediately stopped cooperation with

the party behind this server” after it was reported.¹¹²

Cyber security firm Check Point discovered malware developed by an Iranian hacking group which has been active for the last six years surveilling “Iranian minorities, anti-regime organizations, and resistance movements such as: Association of Families of Camp Ashraf and Liberty Residents (AFALR), Azerbaijan National Resistance Organization, the Balochistan people.”¹¹³

Espionage and surveillance in Brussels’ European Quarter

The political importance of Europe’s capital makes it an obvious target for foreign espionage. In recent years there have been a number of reports of Chinese espionage activity operating in Brussels. For instance, in January 2020 German prosecutors announces that they were investigating three people for suspected espionage on behalf of China, including a former EU diplomat.¹¹⁴ In May 2020, Le Monde published an article detailing suspicions that China had installed surveillance equipment in the Maltese embassy in Brussels.¹¹⁵ The embassy was allegedly renovated with Chinese financial support back in 2007.

It has been speculated that there are about 250 Chinese and 200 Russian spies active in Brussels.¹¹⁶ The Russian and Chinese intelligence agents are thought to chiefly work at the embassies or trade missions of their home countries. This has led to the internal security service of the EU's European External Action Service to warn European diplomats of Russian and Chinese espionage threats. Officials had been advised to avoid entering certain areas in the EU quarter.¹¹⁷ According to the security service, Russian agents were most often present in the European capital in the past, but no specific figures were given the report claims.¹¹⁸

Increased espionage in European countries

The security services of other European states also face increased prospects of harbouring Chinese espionage activities.

For instance, according to the annual National Threat Assessment report by Lithuanian intelligence bodies, "China's domestic policy issues drive Chinese intelligence activities in Lithuania. For example, it seeks that Lithuania would not support independence of Tibet and Taiwan and would not address these issues at the international level."¹¹⁹ The report highlights China's attempts in

influencing Lithuanian citizens and Chinese sympathizers to gain political leverage.

China does this through "giving gifts, paying for trips to China, covering expenses of training and courses organized there. Chinese intelligence officers treat those gifts as a commitment to support political decisions favourable to China. Chinese intelligence-funded trips to China are used to recruit Lithuanian citizens."¹²⁰ The reports warns that in the future, China will further expand its intelligence activities in Lithuania in parallel to its influence in the EU and NATO.

These issues have led to a shift in the relations between the two countries, From one side there are calls by the Lithuanian parliament's Committee on Foreign Affairs to drop the "17+1" known as Cooperation between China and Central and Eastern European Countries, deeming it not beneficial for Lithuania,¹²¹ referring to an economic engagement with China in the context of EU. Secondly, Lithuania has decided to open trade representation office in Taiwan, hence China's increased espionage activities and attempts at influencing the Lithuanian policy makers are connected to Lithuania's policies toward Beijing.

The Netherlands General Intelligence Security Service (AIVD), in its 2019 annual report,¹²² noted Iran, Turkey and China as countries whose diaspora are subject to intimidation with foreign states collecting intelligence on opponents of their regimes. In addition the report refers to China, Russia and Iran's cyber activities describing them as "very successful at compromising (government) systems within and outside of the Netherlands."¹²³

Likewise in 2019, the Swedish Security Service published a report on its investigations of the main state actors posing intelligence threats to Sweden.¹²⁴ It noted that "China's intelligence activities also involve espionage targeting regime critics and the Tibetan and Uyghur communities in Sweden" adding "The intelligence threat posed by China has become broader and deeper in scope, to also include Cyber-espionage, acquisition of strategic assets, and pressure or threats exerted against Swedish political decision-makers, researchers, public figures and others."¹²⁵

The UNPO is regularly made aware by its members and supporters of agents of the embassies of the PRC in Europe monitoring rallies and taking pictures of participants. In certain cases this has later led to embassy officials putting

the participants on a phone call with their family members in China; a trend particularly prevalent with the Uyghur community. The Swedish Security has referred to this practice as "refugee espionage", defining it as "unlawful intelligence activities against an individual, refers to intelligence activities targeting dissidents and minority groups from other countries in Sweden."¹²⁶

Typically carried out by authoritarian and non-democratic states, such activities make people fear not only for their own security, but also that of relatives in their former home countries.¹²⁷ For example, in March 2010, a Swedish court sentenced a Uyghur man to 16 months in prison for "aggravated illegal espionage activity" on Uyghur diaspora in Sweden, after having infiltrated the World Uyghur Congress.¹²⁸

Similarly, in 2018, a Tibetan man was charged with spying for China through the collection of information about Tibetan refugees in Sweden, in a case that a Swedish state prosecutor described as a "classic example of refugee espionage."¹²⁹

Harassment through the use of criminal cooperation agreements

The use of bilateral and multilateral criminal cooperation agreements between European countries and foreign states can amount to another form of reprisal for minorities residing in Europe. Cooperation agreements, including the Interpol Red Notice system and bilateral extradition treaties, enable repressive regimes to target dissidents abroad. Europe's lack of unity in approach to engagement with these agreements creates further difficulties for minorities exiled in Europe, whose freedom of movement consequently becomes debilitated.

Bilateral cooperation and extradition agreements

Under various criminal cooperation agreements, European states have cooperated with countries such as China to detain, deport or render individuals. China has extradition treaties with 40 countries, including EU member states Bulgaria, Lithuania, Portugal, Romania, Spain and France.¹³⁰ These agreements create opportunities for repressive foreign state actors to target minorities abroad via legal mechanisms with the cooperation of the host countries institutions.

For example, in December 2016, a joint Spanish-Chinese arrested 269 Chinese and Taiwanese nationals living in Spain for alleged criminal activity.¹³¹ Upon China's request, Spain extradited 94 of the Taiwanese citizens to Mainland China to face prosecution. This was the first time a EU country extradited Taiwanese criminal suspects to China, instead of their homeland. In light of legitimate and serious concerns about fair trial rights and long-standing fears about torture or ill-treatment in China, human rights organizations heavily criticized Spain's decision to accept Beijing's request.¹³²

In May 2018, the UN Office for the High Commissioner for Human Rights called upon Spain to halt the extraditions, stating that "the ruling clearly contravenes Spain's international commitment to refrain from expelling, returning or extraditing people to any State where there are well-founded reasons to believe that they might be in danger of being subjected to torture."¹³³

In December 2015, Switzerland and China signed a "Readmission Agreement". The SWISS newspaper NZZ am Sonntag made this secret agreement public in August 2020.¹³⁴ According to the agreement Switzerland allowed agents of China's Ministry of Public Security (MPS) to

travel to Switzerland and conduct investigations with Chinese nationals whose stay in Switzerland is illegal. The press release by the Swiss State Secretariat for Migration states "since being signed at Switzerland's behest in December 2015, it has only been applied on one occasion, when two Chinese officials stayed in Switzerland for several days to interview a total of 13 people."¹³⁵

Safeguard Defenders, a Spanish human rights group, conducted a full report on the case and discovered that the Chinese agents were authorized to travel without official status, stating "in addition, by having the Swiss side agree to make these visiting delegations of selected MPS agents unofficial, we can only assume - unless an additional secret agreement exists - that they are given regular tourist visas, which would give those agents free access to the entire Schengen area. As such, within the time frame of the two-week visit period, intelligence agents from the MPS are, theoretically, given direct access, undercover, to almost all of the EU, and as no border controls exist, and these visits are not supervised by the Swiss side, poses a very significant security risk."¹³⁶

According to a report by the Guardian, the Swiss Secretariat for Migration

(SEM) spokesman told Swiss media that "only people who were not at risk of persecution in their home country would be targeted – so Tibetan and Uyghur asylum seekers were excluded."¹³⁷ This piece of information however is omitted in the Agreement.

While Switzerland's stance has led to significant criticism, other European countries have taken positive steps to protect Uyghur refugees in Europe. Germany, for example, is halting the deportation of Uyghurs due to fear of persecution if they are sent back to China.¹³⁸

Interpol abuse targeting dissidents in Europe

Interpol Red Notices are defined as “[a] request to law enforcement worldwide to locate and provisionally arrest a person pending extradition, surrender, or similar legal action.”¹³⁹ Being listed as an individual on an Interpol Red Notice has many implications, among them travel restrictions and defamation.

Authoritarian regimes commonly abuse the Interpol Red Notice framework by targeting political opponents, often whom are minority dissidents exiled abroad. This enables them to portray activists as dangerous criminals, which subsequently

discredits their statements and activities. It also hinders the work of activists, even if it is temporarily, as the victims of Interpol Red Notice abuse are subject to restrictions of their freedom of movement and have to engage in time consuming and costly legal process in order to prove their innocence and be removed from the list.

Dolkan Isa, Vice-President of the UNPO member, is one of many examples of individuals subjected to the Chinese government's attempt to hinder the activities of human rights activists and members of civil society organizations. In 2018, Mr. Isa was removed from the Interpol Red Notice after years of being subjected to arrests and detentions as he travelled across Europe for the Uyghur cause.¹⁴⁰

The issue of Interpol Red Notice abuse by authoritarian States is now well recognized internationally. According to the Council of Europe, the number of red notices jumped up to 12,787 in 2016, from 2,343 in 2005. The Council of Europe adopted a resolution on the issue, stating “in a number of cases in recent years, Interpol and its Red Notice system has been abused by some member States in the pursuit of political objectives, in order to repress the freedom of expression of or

persecute members of the political opposition beyond their borders.”¹⁴¹

According to a 2019 study requested by the European Parliament Subcommittee on Human Rights (DROI Committee), “the MEPs considered evidence that Russia, China, Iran and Turkey abuse Interpol for political purposes and insisted that Interpol should assess requests before issuing a Red Notice.”¹⁴² A specialised task-force at Interpol currently checks each Red Notice to ensure it is compliant with Interpol rules, however the issuance of politically motivated and inaccurate notices remains a widely reported issue.¹⁴³ The DROI committee suggested that the EU should take further steps to ensure Interpol protocols are followed, for instance by addressing “those individuals affected by wrongful red notices or diffusions, e.g., by supporting NGOs that engage in deletion of such persons from the system”, and ensuring “further transparency concerning the activities of police authorities and their relationship with international organisations and third countries in dealing with red notices.”¹⁴⁴

Despite the principle of mutual trust between member states judiciaries being a core aspect of EU criminal cooperation, the UNPO has observed a

serious lack of mutual recognition of extradition agreement decisions among EU member states. For instance, when a member state decides to refuse a third country's extradition or Red Notice request related to a specific individual, the decision is not necessarily recognized by other member states who may attempt to separately extradite the individual.

Even if there is ultimately no extradition, Europe's fragmented landscape of criminal cooperation agreements with foreign state actors, amplified by its lack of cooperation in mutual recognition of extradition requests, creates a major impediment to free movement in the EU for these communities.

EUROPEAN RESPONSE

Failures to protect and deter

The EU aims to offer a high-level of protection to residents. However, questions arise as to whether it is currently able to adequately protect diaspora communities vulnerable to instances of intimidation, threat, espionage, and assassination committed by states and affiliated actors. The examples set out in this report clearly demonstrate that authorities in Europe are not doing enough to prevent these aggressions from occurring. Even more importantly, authorities in Europe are not ensuring minority communities are properly protected.

The implications of this lack of action are serious. Not only does it compromise the welfare and protection of minority communities who have sought safety in Europe, it also fails to send a message of deterrence to foreign state actors who may intend to commit further acts of reprisals on European Soil. In fact, there have been a number of attacks with perpetrators under diplomatic cover who have been able to return to

office in their own countries. The reoccurrence of reprisal activities in Europe therefore illustrates a significant accountability gap.

In particular, Member States have repeatedly failed to adequately protect victims and their families known to be particularly vulnerable to reprisal activities. The content of this paper show, in broad terms, numerous examples of authorities failing to recognize and pre-emptively respond to threats against diaspora communities.

For example, as set out above, in July 2020 an attempted assassination was carried out against Sadegh Zarza, a prominent Kurdish-Iranian figure. He came to the Netherlands as a political refugee and is the nephew of the late Dr. Ghasmlou, who had similarly been victim of a politically motivated assassination in Vienna linked to the Iranian government. According to the victim's brother, the Dutch authorities had been aware of previous plots to kill him.¹⁴⁵ Considering the characteristics and known likelihood of repeat victimisation, Sadegh Zarza should have been the recipient of special and enhanced levels of protection. While it

is unknown to what degree Dutch authorities had provided protection mechanisms to Zarza and his family, the perpetrated act itself shows a failure to protect.

Even where special police protection is granted, however, reprisals have been undertaken. As discussed above, Imran Aliev, who was a prominent blogger and critic of Russian President Vladimir Putin and Ramzan Kadyrov, was killed in February 2020 when his throat was cut in a hotel in Lille, France. Aliev was a refugee in Belgium, where he was under special police protection because of threats emanating from Russia and Chechnya over his opposition blogging. Asked whether Aliev had notified Belgian authorities of his plan to cross the border into France or of any security coordination with France, the Belgian official refused to comment directly, stating: “I cannot speak directly to whether anyone knew he planned to travel, but I would suggest that arranging protection for someone just a few kilometres over the border would not have been an issue.”¹⁴⁶ The statement suggests that cooperation between France and Belgium was lacking in this instance, while also underlining the need to ensure measures are in place to address criminal justice challenges arising

from the absence of borders within the EU.

The cases presented in this report suggest that not enough is currently being done to protect victims and their families. This sentiment appears to be widely shared by diaspora communities in Europe. For instance, despite being under Dutch police protection at a safe house, the daughter of an Iranian Arab activist killed in the Netherlands in 2017 remarked, “we came here to be safe but we don’t feel safe. European governments should do more to secure the safety of activists.”¹⁴⁷

Utilizing European Union directives and cooperation mechanisms

The responsibility to protect at-risk communities from reprisal attacks by foreign state actors rests both at a national and supranational level. While national authorities of European states are best placed to ensure it’s residents are protected and that perpetrators of offences committed within its territory are held accountable, the EU also plays a key role in coordinating national authorities against serious threats and overseeing the implementation of EU law.

Over the years, the EU has developed a growing competence in the area of freedom, security and justice (AFSJ). The EU's policies on home affairs and justice covers areas such as police and judicial cooperation, access to justice, substantive criminal law pertaining to offences of a serious and cross-border nature such as terrorism and organised crime, common immigration and asylum policy, and measures to combat racism and xenophobia.¹⁴⁸

The need for cooperation in the field of EU internal criminal justice has become increasingly prevalent in light of the opportunities presented to criminal perpetrators via Europe's Schengen arrangements which have seen the abolition of internal border control.¹⁴⁹ The harms outlined in this report, namely instances of intimidation, threat, espionage, assassination, or terrorist plots committed by states or state affiliated actors are all subjected to opportunities created due to the freedom of movement guaranteed within Europe.

In light of the discussion presented within this paper, the following section outlines the potential of this framework to respond to the threats and harms faced by impacted diaspora

communities. This includes (1) EU legislation related to victims right; (2) EU substantive law related to terrorist offences and cybercrime; and (3) EU cross border cooperation in investigation and prosecution of crime.

Victims rights

The Victims Rights Directive (2012/29/EU)¹⁵⁰ requires Member States to implement general victim support services for victims of crime, as well as minimum standards on the receipt of appropriate information and on victim protection rights. Notably, in recognising victims with specific protection needs, the Directive provides that Member States shall:

“ensure that measures are available to protect victims and their family members from secondary and repeat victimisation, from intimidation and from retaliation, including against the risk of emotional or psychological harm, and to protect the dignity of victims during questioning and when testifying. When necessary, such measures shall also include procedures established under national law for the physical protection of victims and their family members.”¹⁵¹

In order to identify the specific protection needs of the individual arising from their particular vulnerability to secondary and repeat victimisation, intimidation and retaliation, authorities should carry out a timely and individual assessment.¹⁵² In this regard, particular attention should be paid to victims of serious crimes such as terrorism, and those who have suffered a crime committed with a bias or discriminatory motive related to their personal characteristics.¹⁵³

The Directive provides for heightened support and special protection for victims and their families who are targeted based on their personal characteristics and who face real threat of further intimidation or retaliation. These provisions are of particular significance in light of the reprisals described in this paper. Again, although it is promising that the EU recognizes special and enhanced levels of protection the victims require in these circumstances, the question of whether Member States are appropriately applying these measures remains.

Terrorism and cybercrime

In relation to substantive criminal law, the European legislature has implemented Directive (2017/541) on

Combating Terrorism.¹⁵⁴ The Directive establishes minimum rules concerning the definition of criminal offences and sanctions in the area of terrorist offences, offences related to a terrorist group and offences related to terrorist activities, as well as measures of protection of, and support and assistance to, victims of terrorism.

The European legislature has also enacted Directive 2013/40/EU on attacks against information systems.¹⁵⁵ The directive aims to tackle large-scale cyber-attacks by requiring Member States to strengthen national cyber-crime laws and introduce tougher criminal sanctions. Member states are required to ensure that illegal access to information systems, illegal system interference, illegal data interference, illegal interception, and the provision of tools do so, are all to be treated as punishable as a criminal offence with specifically issued levels of penalties.

The fact that the Union has harmonised definitions of computer crimes and terrorist offences is important for the facilitation of exchange and cooperation between national authorities via the agencies and mechanisms described above.

In relation to reprisals detailed throughout this paper, it is likely some will fall within the ambit of EU

substantive criminal law, particularly via the legislation relating to terrorism and cybercrime. However it should be noted that neither Directive's specify or mention state sponsored or affiliated offences. While, in principle, its provisions would appear to apply regardless of whether or not it is state sponsored, by failing to provide specific provisions and protections against state-backed reprisals, the EU overlooks a major threat to its internal security and, importantly, to the diaspora communities liable to be targeted.

Nonetheless, as the EU has enacted its terrorism and cybercrime legislation via minimum harmonisation directives, further research into how Member States have interpreted and applied its provisions in relation to state-sponsored or affiliated appraisal would be necessary to grasp the true effectiveness of the EU's substantive legal framework.

It should be noted that within the EU's external policy framework, there is an EU terrorist list and sanctions framework. The Council is empowered to establish the EU terrorist list which consists of persons, groups and entities subject to restrictive measures with a view to combating terrorism.¹⁵⁶ The individuals, groups and entities on the

list are subject to the freezing of their funds and other financial assets in the EU. EU operations are also prohibited from making funds and economic resources available to them. The list is reviewed every 6 months. As of last review in February 2021, there are 14 persons and 21 groups and entities currently on the list, which include six Iranian nationals as well as the Directorate for Internal Security of the Iranian Ministry for Intelligence and Security.¹⁵⁷

Cross-border cooperation in investigation and prosecution of crime

The EU possesses a framework for cross-border cooperation in the investigation and prosecution of perpetrators of reprisals insofar as it falls within the scope of criminal law and has a cross-border dimension. The European Investigation Order (EOI), for instance, enables a structured framework for national authorities to request and exchange specific criminal investigative measures to be carried out, for instance, the hearing of witnesses, telephone interceptions, covert investigations, and information on banking operations.¹⁵⁸ Similarly, the European Arrest Warrant (EAW) provides a simplified cross-border judicial surrender procedure for the

purpose of prosecution or executing a custodial sentence or detention order.¹⁵⁹ An issued EAW is valid throughout the entire territory of the EU, meaning that once an EAW is issued by a national judicial authority, another Member State is obliged to arrest and transfer the criminal suspect or sentenced person to the issuing state. Another mechanism to facilitate the investigation and prosecution of reprisal activity with a cross border dimension is the Schengen Information System (SIS).¹⁶⁰ This is a governmental database enabling judicial and police cooperation by allowing competent national authorities to create and consult alerts on missing persons and on persons or objects related to criminal offences. The database includes, inter alia, biometric data and information relating to entry-bans or suspected terrorist activity.

In scenarios where the perpetrator of reprisal activity (which falls within the ambit of national criminal law, e.g. assault or assassination) have lived in numerous Member States, or have travelled to another Member State for the purpose of carrying out the reprisal activity, or have previously been issued a European entry-ban, for instance, these EU mechanisms function to facilitate national

authorities in their investigation and prosecution. For instance in the assassination case of Umar Israilov, the Polish authorities cooperated with the Austrian authorities under the EU mechanism to arrest one of the accomplices living abroad. Similarly, Asadullah Assadi, a diplomat in Austria, was arrested on his way back to Vienna after a trip to southern Germany and extradited to Belgium because Brussels had issued a European arrest warrant.

In relation to particularly serious cross-border crime, such as terrorism, organised crime, money laundering, cyber crime and human trafficking, there are various specialised EU agencies which supplement and support these mechanisms. The European Union Agency for Law Enforcement Cooperation (Europol) exists to support and strengthen action and mutual cooperation of police authorities and other law enforcement services for serious offences.¹⁶¹

Eurojust offers similar assistance in coordination and cooperation, but amongst prosecutors and magistrates.¹⁶² While neither Europol or Eurojust are empowered to independently arrest, investigate or prosecute serious criminal offenders without prior authorisation by national authorities, the European Public

Prosecutors Office (EPPO) does have the mandate to do so, albeit only in relation to criminal offences against the EU's financial interests, such as fraud.¹⁶³

Therefore, in scenarios where the perpetrators of reprisal activity are involved in serious criminal offences such as terrorism or cybercrime, the various EU agencies can provide supplementary expertise and assistance to Member States in the coordination of investigations, arrests, and prosecution. Since these agencies have limited competence in regards to investigation and prosecution (with the exception of financial crime via the EPPO), the responsibility to initiate criminal proceedings against perpetrators of reprisals rests entirely with the Member States. Further research would be required in order to fully grasp the extent in which national authorities actually utilise these EU mechanisms and agencies specifically in instances of reprisals.

Jurisdictional limitations of European Union criminal law

The UNPO acknowledges that the law and policy discussed above does not apply uniformly across all of Europe. Rather, despite enhanced cooperation efforts in criminal justice over the past few decades, the application of EU

criminal law remains somewhat uneven and fragmented. While countries such as Switzerland, Norway, and the United Kingdom are not EU member states, their shared borders and close relationship with the EU necessitates some level of cooperation on criminal and judicial matters.

Accordingly, a number of cooperation agreements and part-participation mechanisms exist to counter the fluid nature of the borders between these countries, which enables both victims and perpetrators to cross easily. For instance, the United Kingdom's cooperation with the EU on criminal matters is, for the most part, governed by the European Union-United Kingdom Trade and Cooperation Agreement.¹⁶⁴ The Agreement, to an extent, replicates its previous cooperation obligations, with provisions on mutual legal assistance; surrender agreements; the exchange of criminal records, freezing and confiscation; and limited cooperation with Europol and Eurojust.

As part of the Schengen *Acquis*, Norway and Switzerland cooperate with the EU to an extent on police cooperation and cross-border supervision, also enjoying access to the SIS database.¹⁶⁵ Outside of these part-participation agreements, the broader Council of Europe (COE)

criminal justice agreements on extradition and mutual assistance in criminal matters applies to all 47 COE members, which includes Norway, Switzerland and the UK.¹⁶⁶

Even within the EU, the use of opt-outs by certain member states means EU criminal law does not apply to the whole territory equally. Ireland and

Denmark, for instance, enjoy the right to opt-out from all matters related to EU criminal justice law and policy,¹⁶⁷ while Ireland also enjoys an opt-out from the Schengen agreement.¹⁶⁸ The EPPO, which by nature of its formation via the enhanced cooperation mechanism, does not include Hungary, Poland, Sweden, Denmark and Ireland as participants.¹⁶⁹

MOVING FORWARD: CREATING A SAFER ENVIRONMENT FOR AT-RISK MINORITIES

As more and more reprisals are carried out in Europe, many of a serious nature, there is a growing awareness of the capacity of foreign authoritarian States to commit criminal activity on European soil. It is vital that the EU institutions and national authorities together take sufficient steps to support and defend those directly harmed.

The harms outlined in this report, namely assassination and terror plots, espionage, and coordinated attacks by diplomats and other State agents across Europe, committed by states and affiliated actors, require greater collaboration, monitoring and response by EU authorities.

While the responsibility to instigate investigation, arrest and prosecution of reprisals illustrated in this paper rest primarily with national authorities, the EU plays an important role in the facilitation and cooperation of national authorities against threats of a transnational and inter-European nature.

Although the EU possesses a framework which intends to better

facilitate national authorities, current measures by the EU and member states appear inadequate to support and protect victims, prosecute those responsible, and combat the ongoing reprisals conducted by foreign authoritarian states.

As noted above, this report is the beginning of a multi-stage project intended to better identify, and find solutions, to reprisals against diaspora and other communities in Europe. Interviews will be conducted with diaspora communities, national authorities including prosecutors and police, EU officials and members of international organizations. A mapping of national law and practices, as well as EU directives and other legal instruments, will take place in consultation with relevant actors. The intended outcome of these activities is the development of an effective roadmap for policymakers, within the EU and at the national level, to better protect victims of state-sponsored reprisals.

Conclusions

In order to facilitate further discussion and prepare for the next stage of activity, the UNPO would like to highlight a few early conclusions and observations.

First, in light of the lack of protections for victims, European authorities must do more to create a robust and effective protection environment. It is notable that beyond the EU's borders, the European Union External Action Service (EEAS) as well as Protect Defenders.EU have in place mechanisms and guidelines for the protection of human rights defenders in third countries.¹⁷⁰ This includes, for instance, a permanent and rapid response mechanism to provide emergency support and material assistance to human rights defenders and their families in danger.

In contrast, within the EU there is no centralised mechanism or support hotline for human rights defenders in danger, despite the clear presence of similar threats. These external protection mechanisms rely on EU Member States to act as a 'safe haven', although this is clearly not always the case for some diaspora communities.

For example, as reported above, the Dutch Minister of Foreign Affairs had previously been requested to set up a

special reporting point for Iranians in the country who feel unsafe. An initiative such as this, overseen by an EU-wide or Member State specific specialised taskforce, where threatened minorities are able to safely report direct or indirect incidents and suspicions, as well as request special protection, could present a positive step forward for ensuring better protection and the feeling of safety for at-risk minorities.

Second, new avenues of cooperation should also be considered to better protect against reprisals, including with United Nations reprisals mechanisms including those based in Geneva. Such collaboration can help the EU and Member States better identify and protect at risk individuals. It could also facilitate exchange of best practices and lessons learned, while creating a more robust protection framework in light of the shared geographic and thematic concerns shared by the EU and United Nations with respect to the protection of diaspora communities. This work could include country points of contact with authorities in relevant states to ensure more efficient and transparent facilitation of information.

Third, the nature of the threat must be better recognized. While the EU has

directives and other instruments intended to deter and prosecute certain forms of reprisals, a more robust framework is needed. Compared, for example, to the Uyghur Human Rights Policy Act of the United States, the EU does not at present have any guidelines, bodies or laws specifically intended to protect at-risk minorities internally within its borders against harassment and intimidation from countries including Iran, China or Russia. Although a resolution by the European Parliament on the situation of Uyghurs in China passed by an overwhelming majority in December 2019, which called on the EU to step up its efforts to protect Uyghur residents and citizens in Member States from harassment and intimidation by the Chinese authorities, no further action as of yet has been taken on the initiative.¹⁷¹

Rather, the EU has yet to properly acknowledge and respond to the issue of foreign states, such as China, Iran and Russia aggressively targeting dissidents, human rights defenders, diaspora communities, civil society and ethnic minorities in Europe. In light of the EU's role as a place of safe harbour for vulnerable groups, and challenges to the rule of law and territorial sovereignty of States faced when these incidents occur, the EU

should take active steps to monitor the situation and report on relevant issues. In parallel, the EU should continue to monitor and oversee member states compliance with its criminal justice framework, and ensure national authorities are meeting the minimum standards as set out in the relevant directives.

Initial recommendations

- 1.** The European Union, in coordination with national authorities, should study the phenomenon of and responses to reprisals in Europe. This research could include, for example, a European Parliament Research Service “Cost of Non-Europe” study.
- 2.** The United Nations, through its work on intimidation and reprisals, should initiate a study and assessment of United Nations host country efforts to protect non-state actors and avenues for better coordination with the host countries. This could build on recent efforts to ensure a coordinated and coherent response to reprisals, which includes designation of United Nations staff focal points, sharing of policy developments and good practices and documentation of trends and cases including at the country level to protect relevant individuals and groups.¹⁷²

3. European countries hosting the United Nations and other international or regional organizations should

examine their policing and prosecutorial practices and criminal cooperation agreements.

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