



PROTON

Modelling the processes leading
to organised crime and terrorist networks



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Legal analysis of the PROTON simulations and PROTON Wizard

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0 Summary

This deliverable is one of the outcomes of the WP6 (Ethical, Legal and Societal Implications of PROTON) of the PROTON (Modelling the PRocesses leading to Organised crime and TerrOrist Networks) project and analyses the legal impact of the PROTON simulations and PROTON Wizard (the main outcomes of the project) in the light of the legal framework of the Human Rights protection.

Building on the analysis of previous tasks and deliverables (T1.2, T2.2, D6.1, D6.6, D6.4), the present document aims at evaluating the legal issues related to use of the PROTON outcomes (WP5) by policy makers. The following analysis has been focused on the legal implications of the policies that will be tested using PROTON ABM and Wizard.

This deliverable is divided into three parts. First, we provide a synthetic introduction on the human rights framework in the EU. Second, we evaluate: (i) the common legal issues raised by to all the policies that will be testable using PROTON simulations and Wizard; (ii) the specific legal issues raised by the policies for OC; (iii) the specific legal issues raised by the policies for TN. Finally, we summarize our recommendations and safeguards.



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1 Introduction

1.1 The European Human Rights Framework

The analysis of legal issues raised by the use of PROTON outcomes by policy makers needs to be conducted within the frame of human rights. The respect of human rights is a fundamental principle of the European Union, as stated in art. 2 of the Treaty on the European Union (amended by art. 1 of the Treaty of Lisbon): *"The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail"*¹.

According to art. 6 of the same Treaty, the EU recognizes the rights, freedoms and principles set out in the Charter of Fundamental Rights of the European Union of 7th December 2000 (CFR), which has the same legal value as the Treaties. In addition, the EU has acceded to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), adopted by the Council of Europe in 1950. Consequently, the EU has two systems of protection of human rights that have to be respected by all acts adopted by the institutions and authorities of the EU and of the Member States. Therefore, policies adopted to fight OCTNs by European, national and local policy makers must be compliant with the Charter and the Convention.

With particular regard to terrorism (but it is also true in the area of OC), the report of the Council of Europe called *"Positions on Counter-Terrorism and Human Rights Protection"* (2015) recognizes that *"terrorist activity has been [...] a fundamental violation of human rights. However, state attempts to combat it must be human rights compliant and remain within the rule of law. Policies which respect established human rights norms [...] preserve the values the terrorists are trying to destroy [...]. A culture of human rights promotes genuine and lasting security. Conversely, policies which run counter to European democratic values and human rights are not only contradictory to Council of Europe member states' international obligations, but are also counterproductive and contribute to the spread of extremism"*².

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12012M/TXT&from=EN> (last access 22nd May 2019).

² Council of Europe, *"Positions on Counter-Terrorism and Human Rights Protection"*, 2015 (<http://www.coe.int/en/web/commissioner/thematic-work/counter-terrorism>, last access 22nd May 2019).



1.2 PROTON's legal analysis: methodology and limitations

The present deliverable aims at analysing the legal issues raised by PROTON-S simulations and PROTON Wizard. Given that the research activities conducted by PROTON's researchers over the last two years have shown that the recruitment dynamics into OC and TN differ significantly, the partners agreed that it would be difficult to model a unique ABM for both phenomena, and they developed two distinct ABMs for OC and TN. Inevitably, the present analysis follows this distinction. Each ABM will be used to test three different policies, which have been selected considering:

- i) the risk factors analysis carried out by WP1 and WP2;
- ii) the OC- and counter-terrorism policies analysed by T1.2 and T2.2;
- iii) the suggestions given by the Consortium partners during the meetings and workshops.

This being premised, the present deliverable is divided into three parts: i) the first section analyses the legal issues common to OC and TN policies; ii) the second section focuses on specific issues related to the selected OC policies; iii) the third section focuses on specific issues related to the selected TN policies. The analysis, however, has two potential limitations:

- (i) The ABMs are currently still under development, given that the completion of WP5 is due to month 36; hence the following conclusions refer to the state of the art of the project and are indirectly drawn from the available sources (e.g., D4.1), rather than from a direct assessment of WP5;
- (ii) The present deliverable should evaluate the legal impact of the use of PROTON's outcomes by policy makers; yet "policy makers" is an inclusive term, and to date, the identification of the end users of the project outcomes is still open. Depending on the level (global, European, national, local) and nature (agencies, institutions, etc.) of the final end users of PROTON Wizard, the legal assessment of the implications of WP5 may vary.

For this reason, we limit our legal analysis to the European human rights framework, whose protection is fundamental regardless the type of end user.



2 Legal analysis of PROTON's final outcomes

2.1 Common issues to OC and TN

In addition to the specific problems raised by the six policies detailed in the following sections, there is a set of legal issues that are common to all security-related policies, as they regard:

- (i) the respect of fundamental freedoms and liberties;
- (ii) (the possibility of discrimination, stigmatization and respect for diversities.

(i.a) Protecting Fundamental Freedoms: legal issues. The first set of relevant issues regards the protection of fundamental freedoms and liberties. Based on the analysis of the scientific literature and the conclusions of previous deliverables (e.g., T1.2, T2.2, D6.4, D9.6), two sub-sets of issues are especially significant. The first one concerns the protection of fundamental freedoms and social rights. In order to be selected as a target for the tested policy, individuals should first be identified as being at "high risks" of recruitment in OCTN. Such process of identification poses a series of complex legal, social and ethical issues.

As noted in D6.4, however, most of such complexities do not concern the outcomes of PROTON *per se*, as (a) the dataset used to build the ABM do not allow for individual re-identification; (b) the policies that will be tested are focused on prevention rather than on repression; (c) PROTON end users will not be security agencies but policymakers. However, not all of these in-built safeguards might necessarily apply to the actual implementation of policies that have been selected using the outcomes of WP5. In fact, in order to be effective, a preventive policy must then be specified within a certain context. This might require the actual identification of subjects at "high-risk" of recruitment in OCTN.

Concerning this possibility, the legal implications following from the use of WP5 outcomes by policy makers raise the same core issues that have been explored in previous deliverables about the identification, profiling and listing and individual deemed at "high risk" (T1.2, T2.2, D6.4, D9.6).

Specifically, such core issues regard:

- (i) the respect of fundamental freedom of thought, conscience, religion, expression, information, assembly and association (CFR, artt. 1, 6, 10, 11, 12; ECHR, artt. 1, 9, 10, 11);
- (ii) the respect and protection of privacy and personal data (CFR artt. 7, 8; ECHR 8; (iii) the transparency and accountability throughout



the process of identification of “high-risk” subjects and policy implementation.

(i.b) Protecting Fundamental Freedoms: recommendations & safeguards.

Based on the review of the literature and previous deliverables, the following recommendations and safeguards are suggested in order to mitigate the potential legal impact of the use of the outcomes of WP5 by policy-makers on fundamental freedoms and rights of EU citizens:

- (i) Ensure that the actual end-users of the outcomes of WP5 are adequately informed about the possible legal, socio-ethical implications and risks related to the implementation of policies that have been tested using the PROTON ABM;
- (ii) ensure that the actual end-users of the outcomes of WP5 are adequately informed about the possible legal, socio-ethical implications and risk for data protection and privacy in the construction of datasets for individuals at high-risk of being associated with OCTN activities, especially in the light of new regulation such as the GDPR (*General Data Protection Regulation*);
- (iii) ensure that the actual end-users of the outcomes of WP5 are adequately informed about the possible legal, socio-ethical implications related to the need of balancing the secrecy embedded in most security interventions with the need for transparency and accountability related to the implementation of policies in democratic societies. In these respects, it is important to ensure to end users and stakeholders the access to the relevant PROTON deliverables covering these socio-legal and ethical aspects by providing them on the project website.

(ii.a) Discrimination, Stigma & Respect for Diversity: legal issues. The second issue concerns the possibility of discrimination and stigmatization as well as the respect of cultural, religious and linguistic diversity. Concerning non-discrimination, the CFR states that “*Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited*” (art 21), and that “*The Union shall respect cultural, religious and linguistic diversity*”. Similarly, the ECHR recognizes that “*The enjoyment of any right set forth by law shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status*” (P12, art. 1).

Clearly, being identified as someone at “high risk” of recruitment in OCTN – or someone belonging to a familiar, cultural, and religious group stigmatized and stereotyped for being associated with OCTN activities – may negatively impact individuals, families and communities, exposing them to discrimination, stigmatization and violence (T1.2, T2.2, D6.4, D9.6). This includes cases of



“second-order harassment” in which relatives, families and communities are targeted by discriminatory or violent acts just for being related to someone who has been involved in a policy aimed at preventing or repressing OCTN activities.

Multiple deliverables related to the PROTON project have analyzed its possible impact with respect to the fostering of potential discrimination, stigmatization toward individual as well as cultural and religious minorities and communities (T1.2, T2.2, D6.4, D9.6). As in the case of the protection of fundamental freedoms and rights, these risks are mitigated due to the structural safeguards used in building the PROTON ABM (D6.4). However, such legal implications may instead arise with respect to the policies that PROTON end users may implement as a consequence of their use of the outcomes of WP5: such consequences should be avoided by providing proper instructions and training to the end-users.

(ii.b) Discrimination, Stigma & Respect for Diversity: recommendations & safeguards. To prevent and/or mitigate the potential legal issues related to the use of the outcomes of WP5 by policy-makers, it is important to ensure that the end users are adequately informed about the potential risks of discrimination, stigmatization and respect for cultural and religious diversity associated with the implementation of actual policies selected using the PROTON ABM. In these respects, it is important to ensure to the end users have access to the relevant PROTON deliverables covering these socio-legal and ethical issues related to the project.

The following table summarizes the legal issues related to use of the PROTON outcomes (WP5) by policy makers in reference to OC and TN and the human rights framework.

Common legal issues related to the human right framework	Recommendations and Safeguards
Fundamental Liberties and Freedoms CFR: 6, 7, 8, 10, 11, 12; ECHR: 9, 10, 11	a) Ensure that policy-makers are adequately informed about the legal, socio-ethical risks and implications of implementing actual policies on the basis of the outcomes of PROTON WP5 (Wizard) with respect to: <ul style="list-style-type: none"> i. Fundamental freedoms of expression and social rights ii. The respect of privacy and protection of personal data iii. Transparency and public accountability b) Ensure to end-users and stakeholders the access to relevant PROTON deliverables dealing with the legal and socio-ethical assessment of the project by making them accessible on the project website



<p>Discrimination, Stigma, and Respect for Diversity CFR: 21, 22, 23; ECHR: 14, P12(1)</p>	<p>a) Ensure that policy-makers are adequately informed about the legal, socio-ethical risks and implications of implementing actual policies on the basis of the outcomes of PROTON WP5 (Wizard) with respect to:</p> <ul style="list-style-type: none"> i. Non-discrimination, Stigmatization and Respect of diversities ii. possible cases of "second order harassment" deriving from the implementation of such policies <p>b) Ensure to end-users and stakeholders the access to relevant PROTON deliverables dealing with the legal and socio-ethical assessment of the project</p>
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2.2 ABM simulations on Organised Crime

2.2.1 OC POLICIES

Focusing on OC, the ABM reflects and incorporates the outcome of WP1. Specifically, the work carried out by WP1 showed that the recruitment into OC may be affected by different individual and societal conditions of a given context. For this reason, the Consortium decided to run two different setups of the OC-ABM, one modelling the city of Palermo (Italy) and one modelling the city of Leiden Eindhoven (the Netherlands).

The ABM will test three key policies related to:

- i) primary socialisation (family);
- ii) secondary socialisation (school and work);
- iii) law enforcement strategies.

As the present deliverable should assess the legal implications of the use of WP5 outcomes by policy makers, it is necessary to briefly detail both the rationale for each policy intervention as well as how it will be modeled in the ABM.

Primary socialization. It refers to preventive policies addressing children (<18) living in OC families, i.e. where at least one parent is an OC member, and aiming at reducing the influence of OC family members on minors. As reported in D4.1, the ABM will be able to temporarily decrease the relationships that OC members have with their families and children. This circumstance might be due to: court orders that limit the contacts between OC members and their families; OC members' conviction and imprisonment. In such cases, the system will also increase social and welfare support (school/employment) for juveniles at risk.

Secondary socialisation. It refers to preventive policies directed to school age agents (6-18) aiming at influencing personal and professional ties. In particular,



the goal is to decrease the influence of OC-prone social relations and to promote pro-social ties (e.g. non-criminal friends). High risk children will be provided with social and welfare support.

Social support may include:

- a) education-based measures (opening schools in summer, promoting attainment of higher levels of education);
- b) increased social activities between children.

Welfare support may include increased job opportunities.

In the ABM simulations, agents will be able to complete school and/or achieve a higher level of education, will have increased interaction with non-deviant peers and adults and will have more employment opportunities.

Law enforcement. The third type of policies refers to the adoption of different law enforcement strategies in tackling OC. In particular, the potential targets will be:

- a) OC bosses
- b) workers in “facilitator” positions, i.e. logistic workers (e.g. airport workers and long-distance truck drivers), who have increased opportunities for crime thanks to their work position.

This scenario will compare the effectiveness of law enforcement strategies targeting OC leaders and facilitators with regard to reducing both crime rates and recruitment, as separate and combined policies. In the first case (reducing crime rates), policies would imply higher repression of the activity of OC members and criminal facilitators; in the second case (reducing recruitment), they would consist in higher scrutiny of OC leaders and facilitator positions.

2.2.2 OC SAFEGUARDS

The use by policy makers of the outcomes of WP5 raises a host of potential legal issues specifically tied to the above-described policies, which have to be evaluated within the European fundamental rights framework.

Primary socialisation. Literature has widely demonstrated that the propensity towards crime increases when an individual raises and lives in families where there is an unbalanced relation between the acceptance of deviance and the rule of law. Being raised in a context of delinquency and violence represents a serious danger for a child and exposes him to prejudice, psychological suffering, potential imprisonment and even death. Primary socialisation policies aim at providing children at high risk of OC recruitment with an alternative path of growth and education, which implies the reduction of contacts with OC family members (parents included). However, these policies shall act within the human rights framework, which protects family as a fundamental societal unit (art. 33 CFR, art. 8 ECHR) and guarantees the right of every child “to maintain on a regular basis a personal relationship and direct contact with both his or her parents, unless that is contrary to his or her interests” (art. 24 co. 3 CFR).



Hence, every child has the right to live and grow in his/her family, and the limitation of this right is possible only in the light of the child's best interest, which includes the possibility of growing in a violence- and crime-free environment. This evaluation has to consider the child's opinion, as underlined in art. 24 co. 1 CFR, according to which children "may express their views freely. Such views shall be taken into consideration on matters which concern them in accordance with their age and maturity". Consequently, the weakening of the relationships with the family must be justified through solid evidence of its opportunity for the child's interest and must be compliant with international and national law.

The legal framework allowing the reduction of contacts between children and families involved in OC should be stressed with the policy makers that will use this simulation scenario, in the light of what has already happened in Italy. Since 2012, Judge Roberto Di Bella from the Juvenile Court of Reggio Calabria terminates the parental rights of families involved in OC and a draft legislation has been proposed to the Parliament to regulate this issue. Nonetheless, these interventions require a strong support for the children, the foster families and the family of origin in order to avoid measures that are not proportionate to the risk of criminal offence and to guarantee the right not to be "*punished outside of the law*" (ECHR, art. 7).

Secondary socialisation. The second type of policies involves education and employment. Education plays a key role in children/adolescents' life: the odds of recruitment into OC are greater for those agents surrounded by a culture of delinquency and violence that lacks an alternative positive model of behaviour, which could and should be provided through the educational system.

T1.2 showed that policies promoting inclusive education are a core protection factor for the prevention of recruitment into OC. The right to education is promoted in art. 14 CFR, according to which "*everyone has the right to education and to have access to vocational and continuing training*"; similarly, art. 2 prot. 1 ECHR states, "*No person shall be denied the right to education*".

Besides school, education-related policies support the creation of multicultural spaces of dialogue and interaction at the very grassroots level that should promote positive role models and stories of success, soliciting the relationship with non-criminal peers. Field works described in T1.2 demonstrate the effectiveness of "healthy relationships" with peers that reject violence: they become role models in educational and mentoring programs and stimulate critical thinking about risky situations of high-risk adolescents.

These initiatives can be promoted and supported but not imposed to potential targets, in accordance with the right to liberty, freedom of thought and expression (artt. 6, 10 and 11 CFR).

The second area of intervention includes increased job opportunities for agents in working age (>16). In this regard, T1.2 showed that active labour market policies and other programs oriented to creating employment opportunities are already being successfully implemented in some Member States (e.g. Spain, Italy, UK), as they represent a lawful alternative to OC illegal activities (e.g.



drugs dealing). Nevertheless, these policies shall always be compliant with international and national provisions that protect working quality and conditions. According to the CFR, *“Everyone has the right to engage in work and to pursue a freely chosen or accepted occupation”* (art. 15), and *“The freedom to conduct a business in accordance with Union law and national laws and practices is recognised”* (art. 16).

In other words, potential targets of employment policies shall never be coerced to accept jobs on the basis of the risk of being recruited into OC. Importantly, art. 32 CFR prohibits the employment of children: *“The minimum age of admission to employment may not be lower than the minimum school-leaving age, without prejudice to such rules as may be more favourable to young people and except for limited derogations”*. In addition, *“Young people admitted to work must have working conditions appropriate to their age and be protected against economic exploitation and any work likely to harm their safety, health or physical, mental, moral or social development or to interfere with their education”*.

Law enforcement. The third type of policies refers to law enforcement strategies aimed at disrupting existing OC networks and tackling OC recruitment. With respect to the human rights framework, two aspects need to be considered that raise different legal issues. First, the activities aimed at reducing crime rates through higher repression of criminal behaviors shall respect the principles of legality and proportionality of criminal offences and penalties, as regulated in art. 49 CFR: *“No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national law or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed. If, subsequent to the commission of a criminal offence, the law provides for a lighter penalty, that penalty shall be applicable. [...] 3. The severity of penalties must not be disproportionate to the criminal offence”*.

Similarly, the presumption of innocence and *ne bis in idem* are democratic principles that shall always be guaranteed, as stated in art. 48 CFR (*“1. Everyone who has been charged shall be presumed innocent until proved guilty according to law. 2. Respect for the rights of the defense of anyone who has been charged shall be guaranteed”*) and 50 CFR (*“No one shall be liable to be tried or punished again in criminal proceedings for an offence for which he or she has already been finally acquitted or convicted within the Union in accordance with the law”*).

The second aspect refers to the higher scrutiny of OC leaders and workers in facilitator positions. A more intense control by police forces shall always be compliant with the right to private life and the protection of personal data (art. 7 and 8 CFR). In addition, with specific regard to workers in logistic nodes, a more intense scrutiny shall not violate the principle of non-discrimination (art. 21 CFR – art. 14 ECHR).



The following table summarizes the legal issues related to use of the PROTON outcomes (WP5) by policy makers in reference to OC and the human rights framework.

Policies	Legal provisions	Recommendations and Safeguards
Primary socialisation	Family ties: CFR: ART 7, 24, 33 ECHR: 8; 14; P1(2)	<ol style="list-style-type: none"> 1) Consideration of the child's best interest 2) Proactively engage the target population about the scope, modalities and evidence supporting the proposed policy; 3) Ensure the respect of rights and freedoms related to the privacy of personal and family life, especially with minors
Secondary socialisation	Education: CFR: 14 ECHR: P1 (2) Work rights: CFR: 15, 32 Fundamental liberties and freedoms: CFR: Art. 6, 10	<ol style="list-style-type: none"> 1) Ensure that the jobs and positions offered comply with national laws and the principles regulating the workers' right; 2) Proactively engage the target population about the scope, modalities and evidence supporting the proposed policy; 3) Ensure autonomy agency in the decision to join the policy program
Law enforcement	Repression and justice: CFR: 48, 49 ECHR: 7, P7 (2,3,4) Fundamental liberties and freedoms: CFR: 7,8, 10, 11 ECHR: 5,8,14	<ol style="list-style-type: none"> 1) Respect privacy 2) Ensure the compliance with the following principles: ne bis in idem, presumption of innocence, proportionality of criminal offences and penalties, right to defence

2.3 ABM simulations on Terrorism

2.3.1 TN POLICIES

One of the outcome of WP5 will be an ABM to conduct experiments in simulated environments to test the effects of various policies aimed at reducing the radicalization and recruitment in TN. The ABM is built on the outcome of WP2. WP5 will consider both islamic and right-wing terrorism as TN. Hence, two ABM will be developed. Both ABM will be modeled on one of Berlin boroughs, Neukölln, which has been identified "as a representative area to be modeled which can provide results that share highly generalizable to other European cities" (D4.1, p. 71). The model will include four different communities. The ABM will test the following three policies related to:



- (i) Employment;
- (ii) Community-center workers;
- (iii) Community policing.

Employment. The results of T2.1 indicated that unemployment may represent an important risk factor for recruitment. Furthermore, employment has been one of the elements of the integration policies already put in place in Neukölln. The model would test for a specific scenario in which a “*government-led initiative would match employers with a target population of unemployed individuals who are considered at high risk*” based on factors such as age (16-30), immigrant status (first generation), and education (high-school graduates). The employers will be incentivized to hire these individuals, who will become employed at the initialization of the simulation (D4.1, p 73). With the exception of the “immigrant status”, the simulation will be identical for both Islamic and right-wing terrorism. Two scenarios will be tested:

- (a) a world without the employment program;
- (b) a world in which all individuals who meet the threshold are placed in the program.

Community Center Workers. The simulation will test the effects of incrementing the number of community workers. The underlying assumption is that the presence of community workers encourages values that lower the risk of recruitment and radicalization (D1.4 p. 74). Significantly, the model does not foresee the possibility of building new community centers, as this has been judged to be an “unrealistic policy approach” (D1.4 p. 74). Three scenarios will be tested:

- (a) a world with the existing number of social workers;
- (b) a world in which an additional social worker is added to each community center;
- (c) a world in which 2 additional social workers are added to each community center.

Community Policing. Robust empirical evidence indicates that community policing leads to more positive attitudes toward the police (D6 4.1). The ABM is built on the assumption that community policing will always have a “positive impact on possible radicalization and recruitment through their encouragement of procedural justice” (Tyler, Schilhofer and Huq, 2010; D1.4 p. 74). Three scenarios will be tested:

- a) the existing world of policing in the simulation;
- b) each of the communities gets 1 additional community police officer;
- c) each of the communities gets 2 community police officers.

2.3.2 TN SAFEGUARDS



Aside from the general and common issues highlighted above, the use by policy makers of the outcomes of WP5 raises a host of potential legal issues which are specifically tied to the policies that will be tested with the TN ABMs.

(i.a) Employment: legal issues. The specific legal issues concerning the first policy regard the quality and conditions of work that will affect prospective hired individuals. According to the ECHR, “*No one shall be held in slavery or servitude. No one shall be required to perform forced or compulsory labour*” (art. 4 co. 2). Similarly, for the CFR, “*No one shall be required to perform forced or compulsory labour*” (art. 5.2). Also, according to the CFR, “*Everyone has the right to engage in work and to pursue a freely chosen or accepted occupation*” (art. 15), and “*The freedom to conduct a business in accordance with Union law and national laws and practices is recognised*” (art.16).

Such freedom could conflict with the institution proposal of incentivizing certain jobs within a local community. It is thus crucial that the individuals who might be the target of such policy are not forced, coerced or otherwise manipulated into accepting the jobs created for the purpose of reducing their risk recruitment in TN. Likewise, it is important that those accepting the incentives for hiring are not coerced into opening these positions, as well as being supported throughout the process of policy implementation.

Furthermore, the jobs that will be provided using such policy ought to respect certain fundamental standards. Following the CFR, “*Workers or their representatives must, at the appropriate levels, be guaranteed information and consultation in good time in the cases and under the conditions provided for by Union law and national laws and practices*” (art. 27) and “*have, in accordance with Union law and national laws and practices, the right to negotiate and conclude collective agreements at the appropriate levels and, in cases of conflicts of interest, to take collective action to defend their interests, including strike action*” (art. 28). Furthermore, under the CFR, everyone shall have “*Right of access to placement services*” (art. 29), “*Protection in the event of unjustified dismissal*” (art. 30), and “*Fair and just working conditions*” (art. 31). Importantly, “*The employment of children is prohibited*” and “*Young people admitted to work must have working conditions appropriate to their age*” (art. 32); this latter point is relevant insofar a condition for being classified as “high risk” is age (16-30). For young adults (age 16-18), the application of such policy may be controversial, especially if it could interfere with national law regulating mandatory education.

(i.b) Employment: recommendations and safeguards. Following the above analysis and a review of the literature, possible recommendations and safeguards related to a policy aimed at incentivizing the hiring of individual at “high risk” of being recruited and radicalized in TN, are:

- (i) proactively engage the target population about the scope, modalities and evidence supporting the proposed policy of incentivizing the hiring of “high-risk” individuals with the aim of reducing their risk of recruitment and



- radicalization in TM – or provide a viable and legal justification for not abiding to such a duty;
- (ii) ensure that the jobs and positions offered comply with national laws and the principles regulating the right of workers across the EU, especially in the case of young adults and children;
 - (iii) consider the potential exclusion of young adults aged between 16-18 in order to avoid possible conflicts with their rights and laws disciplining mandatory education;
 - (iv) ensure that all the involved parties – i.e. those accepting the incentives for hiring, and those to whom such position are addressed – can exercise their own autonomous agency in deciding whether to be involved (or veto) in such programs in a way that is consistent with their dignity, fundamental freedoms and without material or legal implications;
 - (v) ensure the “inclusion of legal measures in methods used by the police and the general public oriented to prevent possible cases of second order harassment that can suffer the families/communities of suspects/accused of terrorism” (T2.2, p 14).

(ii.a) Community Center Workers: legal issues. With respect to the human right framework, the main legal issues raised by the second policy concern again the possible infringement of fundamental rights and freedom, as well as the possibility of discrimination, stigma and disrespect of diversities. Inasmuch as such issues emerge for the same general reasons highlighted above, the same analysis and recommendations/safeguards apply.

However, the incremental use of community workers touch upon also different principles and rights that are centered around the protection of families, understood as a fundamental societal unit, and children. The ECHR mandates that everyone has a right to respect for his/her private and family life, and that “*There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety [...] for the prevention of disorder or crime [...] or for the protection of the rights and freedoms of others*”. The promotion and intervention of community workers in communities, families and other social groups should thus be always balanced with such right to privacy. This applies also to other rights more related to the wellbeing of children. For instance, the CFR states that “*In all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration*” and that “*Every child shall have the right to maintain on a regular basis a personal relationship and direct contact with both his or her parents, unless that is contrary to his or her interests*” (art. 24). A second issue regards the possibility, as noted above, of “*second-order harassment*”.

(ii.a) Community Center Workers: recommendations and safeguards. Following the above analysis and a review of the literature, possible recommendations and safeguards related to a policy aimed at increasing the



presence of community workers in communities with a “high risk” of recruitment and radicalization in TN are:

- (i) proactively inform and engage the target community in order to explain the scope, modalities and rationale beneath such intervention and facilitate cooperation;
- (ii) ensure the respect of rights and freedoms related to the privacy of personal and family life, especially whether minors are involved;
- (iii) ensure the “inclusion of legal measures in methods used by the police and the general public oriented to prevent possible cases of second order harassment that can suffer the families/communities of suspects/accused of terrorism” (T2.2, p 14).

(iii.a) Community policing: legal issues. In addition to the issues about discrimination, stigma and fundamental liberties, a policy focused on incrementing community policing raises additional concerns that revolve around issues of justice and law enforcement. A first problematic aspect in specifying this policy in real-world contexts regards the possible discrepancy between the assumptions on which the AB has been built and other available data concerning the negative effects deriving from an increase of police interactions. In fact, as noted in T2.1, negative interactions with the police represent a significant risk factor for radicalization. Importantly, survey results suggest that “*more than half of Muslim and non-Muslim immigrants in Berlin have reported negative feelings or views of the police*”, and that “*Neukölln residents report a relatively high rate of negative interactions with police*” (D1.4, p. 74).

In turn, negative interactions with the police might threaten the respect of a set of fundamental rights. Furthermore, the boundary between a preventive and a repressive measure is less clear-cut in the case of enhanced community policing, as the presence of an agent might act as both a deterrent and as a potential intervention to repress crime. As noted above, however, not even the intervention in case of prevention of TN justifies an unlawful derogation from the respect of human rights. All agencies, institutions and police forces should thus “*respect human rights*” (ECHR, art. 1), avoid torture (ECHR, art. 3), respect the “*right to liberty and security*” (ECHR, art.5), which includes “*following the procedure prescribed by the law in case of arrest and detention*”, the right to a “*fair trial*” (ECHR, art. 6 ECHR), and the right not to be “*punished outside of the law*” (ECHR, art. 7).

(iii.b) Community policing: recommendations and safeguards. Following the above analysis, possible recommendations and safeguards related to a policy aimed at increasing community policing in communities with a “high risk” of recruitment and radicalization in TN are:

- (i) proactively inform and engage the target community in order to explain the scope, modalities and rationale beneath such intervention and facilitate cooperation;
- (ii) Ensure that the selected police officers receive adequate and specific training on procedural justice and community policing (D4.1, p 75);



- (iii) Monitor and address the quality of police interactions during the deployment of the policy with the aim of reducing the ratio of negative encounters and enlisting cooperation.

The following table summarizes the legal issues related to use of the PROTON outcomes (WP5) by policy makers in reference to TN and the human rights framework.

Policies	Legal provisions	Recommendations and Safeguards
Employment	Work Rights CFR: 5, 15, 16, 27, 28, 29, 30, 31, 32; ECHR: 4 Fundamental Liberties and Freedoms CFR: 6, 7, 8, 10, 11, 12; ECHR: 9, 10, 11 Discrimination, Stigma, Respect for Diversity CFR: 21, 22, 23; ECHR: 14, P12(1)	1) Proactively engage the target population about the scope, modalities and evidence supporting the proposed policy 2) Ensure that the jobs and positions offered comply with national laws and the principles regulating the workers’s right 3) Consider the exclusion of young adults aged between 16-18 4) Ensure autonomy agency in the decision join the policy program
Community center workers	1. Fundamental Liberties and Freedoms 1. CFR: 6, 7, 8, 10, 11, 12;24, 33, 34 2. ECH: 8, 9, 10, 11 2. Discrimination, Stigma, Respect for diversity 1. CFR: 21, 22, 23; ECHR: 14, P12(1)	1) Proactively engage the target population about the scope, modalities and evidence supporting the proposed policy 2) Ensure the respect of rights and freedoms related to the privacy of personal and family life, especially with minors
Community policing	Repression and Justice CFR: 4, 20, 47, 48, 49, 50 ECHR: 1, 3, 5, 6, 7 Fundamental Liberties and Freedoms CFR: 6, 7, 8, 10, 11, 12; ECHR: 9, 10, 11 Discrimination, Stigma, Respect for Diversity CFR: 21, 22, 23; ECHR: 14, P12(1)	1) Proactively engage the target population about the scope, modalities and evidence supporting the proposed policy; 2) Ensure that the selected police officers receive adequate and specific training on procedural justice and community policing 3) Monitor and address the quality of police interactions during the deployment of the policy



3 Conclusions

This deliverable analysed the potential legal issues raised by PROTON's final outcomes and their use by policy makers. The present analysis followed the Consortium decision to develop two different ABMs – one for OC, and one for TN –, and thus has considered the six policies that will be testable by policymakers using the PROTON simulation and Wizard: (i) primary socialisation, (ii) secondary socialization and (iii) law enforcement for OC; (iv) employment incentives, (v) community workers increase, and (vi) community policing increase for TN.

For each of these policies we have identified a series of specific recommendations and safeguards to ensure their compliance with the European human rights framework.

Beside these aspects, there are also more general legal implications that regard all OCTN policies, and concern (i) the respect of fundamental freedoms and liberties; (ii) the risk of discrimination, stigmatization and disrespect for diversities.

In particular, the present analysis has highlighted that human rights violations might derive from the selection process needed to implement in actual scenarios the policies that could be tested using PROTON ABMs and Wizard. In fact, the need to identify in real-case scenarios individuals at high-risk of recruitment in OCTN in order to implement the policies tested with PROTON ABMs poses a series of complex legal, social and ethical issues, which have been analysed in this and other deliverables (D6.1, D6.6, D6.4).

In order to overcome these issues, the main conclusion of the present legal analysis is that the final end users – i.e. the policymakers and stakeholders – have to be adequately informed about the possible legal and socio-ethical implications related to: (i) the implementation of the policies tested using the PROTON ABM; (ii) data protection and privacy in the construction of datasets for individuals at high-risk of being associated with OCTN activities, especially in the light of the GDPR (General Data Protection Regulation); (iii) the need of balancing the secrecy embedded in security interventions with the need for transparency and accountability related to the implementation of policies in democratic societies. In these respects, it is important to ensure to end-users and stakeholders the access to the relevant PROTON deliverables covering these critical aspects, by making them accessible on the project web site and by a specific dissemination activity.



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