



Institut suisse de droit comparé  
Schweizerisches Institut für Rechtsvergleichung  
Istituto svizzero di diritto comparato  
Swiss Institute of Comparative Law

**E-Avis ISDC 2025**

# **ADDRESSING TRANSNATIONAL REPRESSION: A REPORT ON THE APPROACHES OF Australia, Belgium, Canada, France, Germany, Netherlands, Sweden, United Kingdom, the United States and Italy (addendum)**

**Current to : 11.04.2023/31.12.2024 (addendum)**

---

*Cet avis de droit est publié avec l'approbation explicite de la personne qui a mandaté l'ISDC.*

*Dieses Gutachten wird mit ausdrücklicher Zustimmung der Person veröffentlicht, die das SIR beauftragt hat.*

*Il presente parere giuridico è pubblicato con il consenso esplicito della persona che ha dato all'ISDC il mandato di redigerlo.*

*This legal opinion is published with the express permission of the person who instructed the SICL.*

---

**Sean Stacy and Krista Nadakavukaren Schefer**

**E-Avis ISDC**

*Série de publications électroniques d'avis de droit de l'ISDC / Elektronische Publikationsreihe von Gutachten des SIR / Serie di pubblicazioni elettroniche di pareri dell'Istituto svizzero di diritto comparato / Series of Electronic Publications of Legal Opinions of the SICL*

**Recommended citation:** Sean Stacy / Krista Nadakavukaren Schefer, Addressing Transnational Repression: a Report on the Approaches of Australia, Belgium, Canada, France, Germany, Netherlands, Sweden, United Kingdom, the United States and Italy (addendum), current to : 11.04.2023/31.12.2024 (addendum), *E-Avis ISDC 2025* ([www.isdc.ch](http://www.isdc.ch))

*Ce texte peut être utilisé uniquement à des fins de recherche personnelle. L'Institut suisse de droit comparé n'assume aucune responsabilité découlant d'une autre utilisation du texte, notamment à des fins professionnelles. Toute reproduction à d'autres fins, que ce soit papier ou électronique, requiert le consentement de l'Institut.*

*Das Verwenden dieses Dokuments für private Zwecke ist erlaubt. Das Schweizerische Institut für Rechtsvergleichung übernimmt keinerlei Haftung im Falle einer anderen Verwendung des Textes, insbesondere zu professionellen Zwecken. Eine Veröffentlichung und Verbreitung in Papierform oder im elektronischen Format ist nur mit ausdrücklicher Zustimmung des Instituts gestattet.*

*Questo testo può essere utilizzato solo a scopo di ricerca personale. L'Istituto svizzero di diritto comparato non assume alcuna responsabilità per ogni eventuale uso del testo per scopi diversi. La riproduzione, integrale o parziale, del testo per altri scopi, sia in formato cartaceo che in formato elettronico, richiede il consenso espresso dell'autore e dell'Istituto.*

*This text may be used for personal research purposes only. The Swiss Institute of Comparative Law does not accept liability for any other use of the text. Any additional reproduction for other purposes, whether in hard copy or electronically, requires the consent of the Institute.*

## INDEX

<b>EXECUTIVE SUMMARY .....</b>	<b>2</b>
<b>SUMMARY OF FINDINGS .....</b>	<b>2</b>
<b>I. BACKGROUND.....</b>	<b>4</b>
<b>II. QUESTIONS .....</b>	<b>4</b>
<b>III. ANALYSIS .....</b>	<b>4</b>
<b>1. Transnational Repression .....</b>	<b>4</b>
1.1. What is “Transnational Repression”?.....	4
1.2. Common Forms of TR and the Tools Used to Facilitate TR.....	5
1.3. Response(s) to TR –Freedom House’s Proposals .....	5
<b>2. Country Analysis .....</b>	<b>6</b>
2.1. Introduction.....	6
2.2. Australia.....	7
2.3. Belgium.....	9
2.4. Canada.....	10
2.5. France .....	11
2.6. Germany .....	13
2.7. Netherlands.....	15
2.8. Sweden .....	17
2.9. United Kingdom.....	18
2.10. United States .....	21
2.11. Regional/plurilateral Engagement with TR .....	23
<b>3. Best Practices.....</b>	<b>24</b>
<b>IV. CONCLUSIONS.....</b>	<b>25</b>
 <b>ADDENDUM: ITALY</b>	
<b>I. BACKGROUND.....</b>	<b>26</b>
<b>II. QUESTIONS .....</b>	<b>26</b>
<b>III. ANALYSIS .....</b>	<b>26</b>
<b>1. Transnational Repression .....</b>	<b>26</b>
1.1. What is “Transnational Repression”?.....	26
1.2. Common Forms of TR and the Tools Used to Facilitate TR .....	27
<b>2. Italian Responses to TR .....</b>	<b>27</b>
2.1. Introduction.....	27
2.2. Italy .....	28
<b>IV. CONCLUSION: ITALY IN CONTEXT.....</b>	<b>32</b>

## EXECUTIVE SUMMARY

“Transnational repression” is the term used to refer to extra-legal home-state governmental efforts to control the behavior of nationals living abroad. While it has long been a technique of autocratic regimes, it is only in the last few years that it has been given a name and made the focus of policy discussions. Its rapid integration into discussions at think tanks and in governmental offices has been accelerated by newsworthy events that fit under its definition: the murder of journalist Jamal Khashoggi, the poisoning of former Russian military intelligence officer Sergei Skripol, the allegations of the establishment of Chinese ‘police stations’ in cities across the globe and the hacking of dissidents’ smartphones facilitated by NSO Group’s Pegasus Software.

## SUMMARY OF FINDINGS

This report provides a greater understanding of transnational repression, including its scope and the extent of the governmental response(s) to it.

- (i) **Working definition** – “Transnational repression” refers to efforts advanced by home state (typically authoritarian) regimes to coerce nationals living abroad, through unethical and/or illegal means, to behave in a manner deemed desirable by those in power in the home state or to compel a return of the national to the home state.
- (ii) **Forms** – There are varying forms of transnational repression, including:
  - Acts/threats of violence against diaspora members and/or their families;
  - unlawful detentions;
  - coerced/compelled extraditions; and/or
  - physical and/or electronic surveillance.
- (iii) **Tools** – Diverse tools are employed to facilitate acts of transnational repression, including:
  - e-tracking technology
  - abuse of Interpol procedures (in particular, ‘red notices’ issued in order to facilitate an arrest in a host state); and/or
  - using state-run media to disseminate propaganda.
- (iv) **Combatting transnational repression** – A coordinated agenda for combatting acts of transnational repression is not currently in view. Freedom House, a US think tank that has been one of the primary voices discussing transnational repression thus far, has made general recommendations for preventing or countering acts of transnational repression, including in the areas of immigration and security policy.
- (v) **Country studies** – Each of the nine countries studied can be considered as giving one of three levels of priority to the topic of transnational repression: **elevated priority** (when “transnational repression” has not only entered governmental discussions, but is shaping policy), **medium priority** (when a country has little discussion of transnational repression as standalone issue, yet possesses legal/policy instruments that address acts of transnational repression) or **low priority** (when concerns relating to transnational repression, to the extent they are considered at all, are subordinated to other policy concerns).

The relative priorities assigned by each studied country, as well as a brief summary of each studied country’s engagement with transnational repression, is set forth below (within each category, summaries are provided alphabetically, by country).

- **Elevated Priority**

- **Sweden:** There is awareness of the issue in Sweden and governmental reports reflect an attempt to understand the motivating factors behind acts of transnational repression. At a practical level, Sweden's Security Service notes its dedication to discovering certain acts of transnational repression and its legal system criminalizes a major form of transnational repression, "refugee espionage".
- **United Kingdom:** The phrase "transnational repression" is only beginning to appear in governmental discussions, but the concept is impacting policy in Britain. They have, for example: created a taskforce to combat transnational repression; drafted legislation that would give police enhanced powers in making arrests for offenses often associated with acts of transnational repression; and used targeted sanctions, *persona non gratae* designations and other diplomatic measures in responding to acts of transnational repression.
- **United States:** Of the countries examined, the US is the nation in which transnational repression receives the most attention as a standalone concept/topic. Congress, diplomatic staff, and police engage with the issue. As this engagement is relatively new, it remains to be seen whether the US represents the beginnings of a trend or if it is an outlier.
- **Medium Priority**
  - **Canada:** While Canada has virtually no discussion of transnational repression as a standalone topic in parliamentary proceedings or governmental publications, certain forms of transnational repression are considered/addressed as part of larger policy frameworks (e.g., in immigration policy). Moreover, discussions of transnational repression are growing within academic circles and popular press in Canada, which could indicate that the issue will likely receive more attention.
  - **France:** Transnational repression is not a focus of policy discussions in France. Nevertheless, France does possess certain legal/policy instruments (e.g., the section of the criminal code that addresses espionage) that have been (or could be) used to counter certain acts of transnational repression.
  - **Germany:** Like France, Germany shows little consideration of the overall issue of transnational repression. However, one can find examples in which Germany has responded (or has a law that could be used to respond) to specific instances/types of transnational repression.
  - **The Netherlands:** The concept of transnational repression is currently not a discrete focus of policymakers in the Netherlands. There is evidence to suggest that this may change, however. For example, recognition of certain transnational repression methods, such as surveillance of diaspora members by home states, have not only been recognized, but have shaped recent legislation.
- **Low Priority**
  - **Australia:** Australia has several policies aimed at helping immigrants, but transnational repression is currently not a consideration in advancing those policies.
  - **Belgium:** There is very little engagement with transnational repression issues in Belgium. Moreover, even when there is an acknowledgement of diaspora vulnerability to home-state pressure, the concerns voiced are often expressions of fear about whether the impacted diaspora members will become operatives or radicals, rather than about the health and safety of the immigrant community.

While one can view similarities in the approaches taken by the studied countries in addressing transnational repression, **it is not yet possible to conclude that a set of 'best practices' exists;** or even that it is necessarily developing.

## I. BACKGROUND

- The Swiss Institute of Comparative Law (SICL) was approached by the Swiss Federal office of Justice (FOJ) with a request to provide a report on the strategies and measures taken by certain states to address transnational repression. The FOJ also requested an indication of any examples of “good practice”.

## II. QUESTIONS

Following a meeting with the client, the SICL has responded to the following specific questions:

- What is “transnational repression”?
- What are the common methods used by authoritarian regimes in committing acts of transnational repression?
- How prevalent is transnational repression in Western countries?
- What are some of the general recommendations offered to host-states for addressing transnational repression?
- To what extent are countries – and in particular, Australia, Belgium, Canada, France, Germany, the Netherlands, Sweden, the United Kingdom and the United States –adopting strategies and measures to combat acts of transnational repression?
- Is it possible to decipher a pattern of ‘best practices’ among these actors in their attempt(s) to combat the problem?

## III. ANALYSIS

This **Section III** is structured in the following way. **Section III.1** briefly describes transnational repression, and highlights the commonly cited forms of the phenomenon, as well as some of the means by which home state regimes are facilitated in committing acts of transnational repression. **Section III.2** surveys the policies and practices of countries of interest for what, if anything, each country does to address acts of transnational repression within its borders. **Section III.3** summarizes the extent of any ‘best practices’ that may be developing among the aforementioned states. In the event no such practices currently exist, the section examines other ways to categorize the countries’ efforts where transnational repression is concerned.

### 1. Transnational Repression

The questions posed by the FOJ relate to a relatively new area of focus in academic and policy literature; that of “transnational repression” (TR).<sup>1</sup>

#### 1.1. What is “Transnational Repression”?

TR refers to those efforts advanced by home state regimes to coerce nationals living abroad to behave in a manner deemed desirable by those in power in the home state<sup>2</sup> or compel a return of the national

<sup>1</sup> While the phrase is used intermittently prior to 2015, the majority of discussions of the concept have appeared only in the past few years. The phrases “transnational authoritarianism” and “extraterritorial repression” have also been observed.

<sup>2</sup> For example, by refraining from criticizing the home state government or actively spreading home state propaganda.

to the home state.<sup>3</sup> TR is not a new phenomenon. Nevertheless, greater ease of mobility, more expansive digital toolkits, and an increased awareness of attempts by home states to control or influence their diaspora members, has made TR an increasingly relevant topic of consideration for host state policymakers.

## 1.2. Common Forms of TR and the Tools Used to Facilitate TR

Authoritarian regimes employ various methods in attempting to exert influence over nationals living abroad. These include:

- misuse/abuse of Interpol membership (notably through the issuance of ‘red notices’ by home states to arrange for the arrest and extradition of dissident voices from the host state to the home state);<sup>4</sup>
- harming (or threatening to harm) an expatriate; or
- harming (or threatening to harm) family members (inside or outside of the host state) of an expatriate.<sup>5</sup>

While it is important to understand the various types of TR, it is also critical that host states be aware of frameworks often used by home states to facilitate such actions. A few such examples include:

- digital means (sometimes called “Digital TR”), including, surveillance, online harassment, and disinformation campaigns against migrants with ties to authoritarian countries.<sup>6</sup>
- creating and/or facilitating a hostile environment for (certain) émigrés in the host country. Home states may accomplish this effect by:
  - using business and other ties to exert pressure on diaspora community members;
  - helping to organize events which increase the ‘pride’ or ‘patriotism’ of members of the diaspora community in the home state;
  - planting operatives in diaspora communities or incentivizing people to become operatives;
  - establishing ‘service centers’ in the host state, with the aim of monitoring or disciplining diaspora community members;<sup>7</sup> and
  - manipulation of host-state media.

## 1.3. Response(s) to TR –Freedom House’s Proposals

The literature directly addressing TR is in something of a developmental stage, albeit a rapidly advancing one. Resultantly, a significant segment of the current academic focus is on identifying

---

<sup>3</sup> Moss offers a definition that is sometimes used, stating that TR can be conceptualized as ‘attempts by regimes to punish, deter, undermine, and silence activism in the diaspora’. See, DANA MOSS, *THE ARAB SPRING ABROAD: DIASPORA ACTIVISM AGAINST AUTHORITARIAN REGIMES*, CAMBRIDGE UNIVERSITY PRESS (2022), 71.

<sup>4</sup> ‘Red Notices’ allow member nations to request that an arrest be made by law enforcement entities of other member states.

<sup>5</sup> Dana M. Moss, Marcus Michaelsen & Gillian Kennedy, *Going after the family: Transnational repression and the proxy punishment of Middle Eastern diasporas*, 22 *GLOBAL NETWORKS* 735 (2022).

<sup>6</sup> Marcus Michaelsen and Johannes Thumfart, *Drawing a line: Digital transnational repression against political exiles and host state sovereignty*, *EUROPEAN JOURNAL OF INTERNATIONAL SECURITY* (2022), pp. 1-2, <https://doi.org/doi:10.1017/eis.2022.27>

<sup>7</sup> A Spanish NGO, Safeguard Defenders, alleges that China has established sanctioned and unsanctioned “service-centers” across five continents, “some of which are implicated in collaborating with Chinese police in carrying out policing operations on foreign soil.” See, SAFEGUARD DEFENDERS, *110 OVERSEAS Chinese Transnational Policing Gone Wild*, (2022), <https://safeguarddefenders.com/sites/default/files/pdf/110%20Overseas%20%28v5%29.pdf>.

instances of TR and providing a taxonomy for typologies that fall under the larger rubric. Freedom House's *Defending Democracy in Exile*,<sup>8</sup> which was published in June of 2022, and which is cited by the FOJ in its request to the SICL, goes a step further, however, as it actually provides recommendations for "best practices".

In brief, the 'best practices' set forth by the think tank relate to three broad policy areas: **Security Policy** (for which Freedom House calls for improving education and awareness about the threat of TR, particularly among law enforcement); **Migration Policy** (in which Freedom House calls upon countries to respect rights to asylum and to have a greater awareness concerning groups that may be targeted within their borders) and **Foreign Policy** (in which Freedom House advocates targeted sanctions, greater vetting of diplomats and a greater capacity for tracking TR within its borders).<sup>9</sup> Certainly, there is a lack of specificity in this program. This is likely because Freedom House is one of the first to systematically examine TR. One would expect that more detailed, nuanced, proposals will come from Freedom House and others as TR is further studied.

## 2. Country Analysis

### 2.1. Introduction

This Section attempts to provide a sense of the prevalence of TR and the extent to which TR is both recognized as a standalone issue and addressed by Western countries. This will primarily be accomplished through a series of country studies (in particular, Australia, Belgium, Canada, France, Germany, the Netherlands, Sweden, the United Kingdom and the United States will be examined), though Section III.2.11 will also highlight some of the plurilateral statements/commitments that have been made with respect to the topic.

For each country analyzed in this sub-section, data will be presented from the *Authoritarian Actions Abroad Database* (AAAD) and the Freedom House database in order to provide a sense of TR in the country discussed. The remainder of each country summary will be responsive to **two queries**.

- The first question, which is quite basic, asks whether **the concept of TR has entered into the policy-making discussions of said country and whether the concept of TR is driving those discussions**.

Answers to this question were arrived at by searching legislative and press materials containing the phrase(s) "transnational repression," "extraterritorial repression," "transnational authoritarianism" or the like. Searches also attempted to look for situations where aspects of the concept are being directly and purposefully addressed.

- The **second question probes the types of mechanisms, if any, that are employed in addressing TR** (or one or more types of TR).<sup>10</sup>

<sup>8</sup> YANA GOROKHOVSKAIA & ISABEL LINZER, *Defending Democracy in Exile: Policy Responses to Transnational Repression*, (2022), [https://freedomhouse.org/sites/default/files/2022-06/Complete\\_Transnational\\_RepressionReport2022](https://freedomhouse.org/sites/default/files/2022-06/Complete_Transnational_RepressionReport2022).

<sup>9</sup> It is worth mentioning that there are overlapping recommendations advanced by Freedom House in NATE SCHENKKAN & ISABEL LINZER, *Out of Sight, Not Out of Reach: The Global Scale and Scope of Transnational Repression*, (2021), [https://freedomhouse.org/sites/default/files/2021-02/Complete\\_FH\\_TransnationalRepressionReport2021\\_rev020221.pdf](https://freedomhouse.org/sites/default/files/2021-02/Complete_FH_TransnationalRepressionReport2021_rev020221.pdf), pp. 54-59.

<sup>10</sup> All Western nations contain laws that combat certain instances of TR (e.g., criminal statutes prohibiting assault and battery), despite the fact that TR was not necessarily a motivating factor in the propagation of the rule. Certainly, one could attempt to map the set of domestic laws that are apt to address the various incarnations of TR. However, the analysis to be conducted in this section will avoid this exercise



Obviously, this is a more difficult question to address in countries where an overt discussion of TR is not found. In those cases, the SICL has attempted to identify relevant rules, laws, schemes, etc. that are driven, at least in part, by an attempt to address TR-related vulnerabilities.

- A third question, relating to whether we might observe a **list of ‘best practices’** among the studied countries is the focus of Section III.3 of this Report.<sup>11</sup>

## 2.2. Australia

### 2.2.1. Context

Australia is one of very few countries with a percentage of foreign-born residents (29.9%) as high or higher than Switzerland (29.7%).<sup>12</sup> According to the AAAD database, there were 24 entries for TR events in Australia. With the exception of only one case (in which Turkey attempted to have a journalist extradited), China was the perpetrator of the act in question. While activists, journalists and former government officials were targeted in 3 cases each, average “citizens”<sup>13</sup> of the home state made up of the majority of victims (15 of the 24 cases). For the most part, the act in question was a threat to the target’s family (18 cases). Another 4 cases involved threats to harm the target himself/herself. There was also one recorded abduction and one attempted extradition.

Freedom House’s database, which records only ‘physical’ acts of TR,<sup>14</sup> listed no instances TR in Australia.

### 2.2.2. Has TR entered policy discussions in Australia?

Explicit recognition of TR within the Australian government is not found.<sup>15</sup> There is one direct reference to the term “transnational repression,” and in that context, which was a Parliamentary commission question to the national police, the police indicated that it had no relevant concerns.

---

and instead will attempt to keep its focus on the extent to which the concept of TR (not to mention its many forms) is serving to *independently motivate* policy.

<sup>11</sup> Please note that some of the countries that are addressed herein, have also been covered in case studies by Freedom House. These include Canada, the United States, Germany and Sweden.

<sup>12</sup> See, <https://data.oecd.org/migration/foreign-born-population.htm#indicator-chart>.

<sup>13</sup> The AAAD database, which recorded 1,177 acts of TR incidents between 1991 and 2019, defines average citizens as those “who were not especially politically active abroad but who because of some aspect of their identity were seen as threatening to the source state’s image”.

<sup>14</sup> Freedom House’s data only pertains to “direct, physical incidents of transnational representations”. Such acts include assassinations, assassination attempts, assaults, deportations, apparent kidnappings (‘disappearances’), detentions, and other acts of intimidation. Threats, which make up a large segment of the AAAD database, are excluded. This is one reason for the differences in the AAAD database and the Freedom House database, but it is far from the only one (e.g., Freedom House’s data only concerns events taking place between 2014 and 2021, while the AAAD database covers the years 1991-2019). For a more expansive look at the issues of data gathering and comparison in the realm of transnational repression, see Alexander Dukalskis et al., *Transnational repression: data advances, comparisons and challenges*, 4 POLITICAL RESEARCH EXCHANGE (2022), <https://www.tandfonline.com/doi/epdf/10.1080/2474736X.2022.2104651?needAccess=true&role=button>

<sup>15</sup> For example, a place where there is often a mention of the vulnerability of diaspora communities is in governmental assessments of cyber-security threats (though these often are more focussed on national security outcomes than the fate of the victims involved). Review of documents such as the *Annual Cyber Threat Report 2021-2022*, issued by the Australian Cyber Security Centre, reveal little engagement with TR, however.

Not only does Australia not use the phrase “transnational repression,” consideration of TR as a concept is also absent. For example, while Australia shows concerns for its immigrant communities in its immigration policies, such sensitivity has not led to discussions of acts of TR in related policy documents. Similarly, despite efforts to combat “foreign interference”, acts of TR are not directly considered in that policy area either.

### 2.2.3. Responses to TR in Australia

While TR is not an area of direct focus for Australia, it is worth highlighting a legal instrument that could potentially be used to address certain acts of TR.

Specifically, Australia enacted the National Security Legislation Amendment (Espionage and Foreign Interference) Act 2018, which criminalizes covert and deceptive activities of foreign actors that intend to interfere with Australia’s institutions of democracy or support the intelligence activities of a foreign government.<sup>16</sup> Findings of criminality for committing “foreign interference” can bring imprisonment of up to 20 years.

It would appear that some acts of TR may be subsumed under the act. Consider, for example Section 92.3, which sets forth the criteria to be found guilty of an offense of “reckless foreign interference,” both generally and in interference “involving a targeted person”. The requirements with respect to the latter are as follows:

- (2) A person commits an offence if:
  - (a) the person engages in conduct; and
  - (b) any of the following circumstances exists:
    - (i) the conduct is engaged in on behalf of, or in collaboration with, a foreign principal or a person acting on behalf of a foreign principal;
    - (ii) the conduct is directed, funded, or supervised by a foreign principal or a person acting on behalf of a foreign principal; and
  - (c) the person is reckless as to whether the conduct will influence another person (the target):
    - (i) in relation to a political or governmental process of the Commonwealth or a State or Territory; or
    - (ii) **in the target’s exercise (whether or not in Australia) of any Australian democratic or political right or duty<sup>17</sup>**; and
  - (d) the person conceals from, or fails to disclose to, the target the circumstance mentioned in paragraph (b).

The Act seems to open the door to prosecuting particular acts of TR. However, given that the laws were not specifically established to combat TR and that Australia is not currently inclined toward directly addressing the issue, operationalizing the provision in this manner may not happen.<sup>18</sup>

<sup>16</sup> National Security Legislation Amendment Act 2018, No. 67, (Austl.), <https://www.legislation.gov.au/Details/>.

<sup>17</sup> *Id.*, emphasis added.

<sup>18</sup> Though this is one of very few laws that shows an ability to be used to punish TR-related offenses, it is certainly not the only legislation that *indirectly* relates to TR. For example, Australia enacted the *Foreign Influence Transparency Scheme Act 2018*, which is modelled on the American *Foreign Agents Registration Act*. In brief, the Australian version, which is overseen by the Attorney General’s office, requires persons or entities to register in a ‘Transparency Scheme’ if they are undertaking activities in Australia on behalf of a foreign principal. For more information on the scheme, please see: Department

## 2.3. Belgium

### 2.3.1. Context

According to OECD data, 17.2% of the population in Belgium are foreign born. The AAAD data indicates that there were four TR acts in Belgium, two linked to Rwanda, and one linked to each of China and Turkey. Three of the cases involved threats to the target and one was an attempted extradition of a Turkish journalist. Freedom House recorded one event in Belgium; an attempted assassination of an Iranian national.

### 2.3.2. Has TR entered policy discussions in Belgium?

A search of Belgian legal databases yields only two explicit references to “transnational repression”. Both instances are citations to Freedom House’s report on TR in the context of asylum hearings.<sup>19</sup>

While the phrase “transnational repression” is not used, there is some evidence that the concept has begun to enter into policy discussions in Belgium, particularly in the publications of the State Security Service (VSSE). One of the more overt references to TR was found in the VSSE’s document “Does this Affect You? Espionage and Interference Public Services – Diplomacy.” Specifically, while describing some of the motivations behind conducting espionage (or ‘interference’), the report states “Some states also use espionage and interference as a tool to control and retain a hold over their communities (diasporas) in our country.”<sup>20</sup>

Similar statements of recognition are found in the VSSE’s 2020 Annual Report, where it notes vulnerabilities of Chechens living abroad. The report states, “Since mid-2019, several assassinations have occurred in Europe targeting opponents of the Chechen regime, reigniting worries that Chechnya aims to control its citizens in Europe through brutal aggression tactics.”<sup>21</sup>

### 2.3.3. Belgian Responses to TR

While one finds a few references to the TR concept in VSSE literature, it seems relatively clear that concerns relating to TR are not driving policy. Perhaps illustrative of this fact is the 2021-2022 Security Report which actually devotes *less* space to addressing TR than previous annual reports. In fact, it is only in describing the many techniques that China employs in ‘spreading its influence’ that the Report even mentions TR-related challenges (and not using the term “transnational repression”). In that context, the report notes that certain Chinese ‘influence peddlers’ “provide their services to the Chinese government because they are sympathizers, while others may **come under some subtle form of pressure.**”<sup>22</sup>

Similarly, publications issued by the Office of the Commissioner General for Refugees and Stateless Persons, while clearly recognizing the impact of repressive regimes on citizens still residing in the home

---

of Foreign Affairs and Trade, *Foreign Influence Transparency Scheme*, <https://www.dfat.gov.au/international-relations/Pages/foreign-influence-transparency-scheme>.

<sup>19</sup> Search was conducted on stradalex.com (see, [https://www.stradalex.com/fr/sl\\_rech/search/root/6561cf91a821fcae507cbc07677cb961edef22d5a681f988bba78b9014f8be71::1](https://www.stradalex.com/fr/sl_rech/search/root/6561cf91a821fcae507cbc07677cb961edef22d5a681f988bba78b9014f8be71::1)). In both instances, the phrase “transnational repression” can be traced to a Freedom House special report relating to Rwanda (cited as, Freedom House, Special report 2022, Rwanda: Transnational Repression Case Study, 2021)

<sup>20</sup> VSSE, *Does This Affect You*, 2022, [https://www.vsse.be/sites/default/files/web2-espionage\\_et\\_ingerence-v3-uk-simple.pdf](https://www.vsse.be/sites/default/files/web2-espionage_et_ingerence-v3-uk-simple.pdf), at 3.

<sup>21</sup> ANNUAL REPORT 2020, 1 (2020), <https://vsse.be/sites/default/files/1-ra2020-ukt-l-single.pdf>.

<sup>22</sup> INTELLIGENCE REPORT 2021-2022, 34, <https://vsse.be/sites/default/files/ra-vsse-2022-uk-web.pdf>.

state, do not address the ways which the home state may continue to pressure refugees after their arrival in Belgium.<sup>23</sup>

## 2.4. Canada

### 2.4.1. Context

Immigrants make up roughly one-fifth of the Canadian population (21.33%). Notably, Canada has made efforts to be a place which welcomes immigrants, becoming one of the first countries to create “a dedicated, permanent pathway for human rights defenders”, looking to become a home to “up to 250 human rights defenders per year, including their family members, through the Government-Assisted Refugees Program”.<sup>24</sup>

With respect to acts of TR, the AAAD database records 24 cases in Canada over the period covered. Of these, China was responsible for 10 cases, Turkey for 9 cases, Saudi Arabia and Syria for 4 cases each and Eritrea was listed as the perpetrator in 1 case. 18 of the cases involved threats to the targeted individual or to a family member, while attempted extraditions (all initiated by Turkey) made up the other six actions. There were no recorded cases of ‘physical’ TR in the Freedom House database in which Canada was the host state.

### 2.4.2. Has TR entered policy discussions in Canada?

Searches of both governmental databases and popular press do not reveal explicit discussions of “transnational repression,” “extraterritorial repression” or other catch-all terms. However, this does not necessarily mean that Canada is oblivious to all aspects of TR. Perhaps this is why Freedom House praised Canadian’s overall efforts where TR is concerned. The Freedom House Case Study on Canada states,

In general, Canada’s migration system is both welcoming and well-equipped to avoid undue influence from foreign governments that may be pursuing people across borders.<sup>25</sup>

Freedom House says that Canada implicitly recognizes the problem of TR in its “foreign interference” policies.<sup>26</sup> As evidence, Freedom House points to a 2019 Report drafted by the National Security and Intelligence Committee of Parliamentarians for the Prime Minister which points out certain efforts made by foreign governments in furtherance of their national interests including threats, harassment and detention of family members of dissident voices living abroad.<sup>27</sup>

---

<sup>23</sup> With respect to some refugees, one does see concerns about radicalization, however. See, for example, *Id.* at 16.

<sup>24</sup> Government of Canada, *Minister Mendicino launches a dedicated refugee stream for human rights defenders*, (2021), <https://www.canada.ca/en/immigration-refugees-citizenship/news/2021/07/minister-mendicino-launches-a-dedicated-refugee-stream-for-human-rights-defenders.html>.

<sup>25</sup> YANA GOROKHOVSKAIA & ISABEL LINZER, *Case Study: Canada*, (2022), <https://freedomhouse.org/report/transnational-repression/canada>, at 2.

<sup>26</sup> The Canadian Security Intelligence Service Act (R.S.C., 1985, c. C-23) defines “foreign interference” as “activities within or relating to Canada that are detrimental to the interest of Canada and are clandestine or deceptive or involve a threat to any person.”

<sup>27</sup> National Security and Intelligence Committee of Parliamentarians, *Annual Report 2019*, March 2020. For its part, Freedom House recommended that Canada develop a definition of transnational repression. They also suggested that there should be a greater awareness of TR in areas like policing and immigration, so that vulnerable parties could be identified and helped.

While the government in Canada has not engaged directly on TR, the issue is being discussed in think tanks and in academia.<sup>28</sup> For example, Citizen Lab examined the impacts of DTR in certain diaspora communities in Canada and found that some forms of DTR seriously restrict victims' rights.<sup>29</sup> Five preliminary recommendations for the Canadian government to help address the issue of digital TR in Canada were summarized in a separate article<sup>30</sup>: to make explicit recognition of the threat of TR; to consider creating a specific agency to oversee and address TR, rather than leaving it to existent enforcement and intelligence agencies; to establish robust resettlement and refugee protection programs in Canada; to impose targeted sanctions or the expulsion of diplomats who are known to be involved in TR; and to create legal remedies that victims of TR could pursue in Canadian courts.

### 2.4.3. Canadian Responses to TR

Even if TR is not presently a standalone topic in policy discussions in Canada, the country does possess policies, practices and procedures that suggest an awareness of (or sensitivity to) forms of TR. Indeed, Canada has used sanctions and *persona non grata* designations as a response to particular acts of TR. For example, after attributing the poisoning of Sergei Skripal to Russia, Canada expelled four Russian diplomats and declined to allow the renewal of visas for three other diplomats. Similar actions were taken in response to the killings of Jamal Khashoggi, where targeted sanctions were used against 17 Saudi officials under the *Justice for Victims of Corrupt Foreign Officials Act (Sergei Magnitsky Law)*.<sup>31</sup>

Similarly, though Canada has not created new legislation to deter Interpol abuses (like the US Trap Act, which is discussed in the US report below), one could argue that Canada already possesses appropriate discretion to detect illegitimate requests: a process aimed at substantiating the underlying information in the underlying notice. Information provided in the notice is vetted by the Royal Canadian Mounted Police (RCMP). If information is confirmed by the RCMP, the country which issued the notice is advised to submit an extradition request through Canada's Department of Justice.<sup>32</sup>

## 2.5. France

### 2.5.1. Context

Approximately 13% of the French population is foreign born. The AAAD database recorded 49 instances of TR over the covered period. 28 of the 49 instances involved threats against the target or a family member. There were 4 assassinations, 2 attempted assassinations, 5 attacks, 3 arrests, 3 abductions, and 3 extradition attempts. There were a mix of perpetrators, with Thailand committing the most acts (9), followed by China (6) and Syria (5). 'Activists' accounted for 16 of the targets, while 13 citizens, 8 former government officials, 6 journalists, and 6 'opposition members' were also impacted.

<sup>28</sup> See, for example, University of Ottawa's Centre for International Policy Studies recent article which encouraged the Canadian government to protect activists in exile against transnational repression. See, John Packer & Ghuna Bdiwi, *Canada Must Protect Activists-in-Exile Against Transnational Repression*, CENTER FOR INTERNATIONAL POLICY STUDIES (CIPS) (2022), <https://www.cips-cepi.ca/2022/12/09/canada-must-protect-activists-in-exile-against-transnational-repression/>.

<sup>29</sup> Noura Al-Jizawi, Siena Anstis, Sophie Barnett, Sharly Chan, Niamh Leonard, Adam Senft, and Ron Deibert, *Psychological and Emotional War: Digital Transnational Repression in Canada*, Citizen Lab Research Report No. 151, University of Toronto, March 2022, at 33.

<sup>30</sup> Noura Aljizawi & Siena Anstis, *Wrestling the long arm of authoritarianism*, INSTITUTE FOR RESEARCH ON PUBLIC POLICY, Aug. 2022, <https://policyoptions.irpp.org/magazines/august-2022/transnational-repression-protection-canada/>.

<sup>31</sup> The Act allows for the sanctioning of foreign officials responsible for gross human rights violations or acts of corruption. *Justice for Victims of Corrupt Foreign Officials Act (Sergei Magnitsky Law)*, <https://laws.justice.gc.ca/eng/acts/J-2.3/>.

<sup>32</sup> Gorokhovskaia and Linzer, *supra* note 25, at 6.

For its part, Freedom House recorded six cases of ‘physical’ TR in France. These included 2 acts by Saudi Arabia (both were forced returns of nationals to that country), 2 by Russia (an assault and the assassination of a Chechen in Lille), 1 by Azerbaijan (an assault) and 1 by Kazakhstan (a government-initiated detention).

### 2.5.2. Has TR entered policy discussions in France?

One sees very few direct references to TR among French governmental actors.<sup>33</sup> The most direct mention of TR found by the SICL comes from an expansive report produced by the Institut de Recherche Stratégique de l’Ecole Militaire (IRSEM)<sup>34</sup>, entitled *Chinese Influence Operations: A Machiavellian Moment*. However, the use of the phrase “transnational repression” in the report can ultimately be traced to Freedom House.<sup>35</sup>

There are other policy areas where recognition of TR is reflected, albeit less directly. For example, in early 2022, the Ministry of the Interior’s Direction Générale de la Sécurité Intérieure (DGSi) discussed cyber intrusion as a new vector of state interference and listed surveillance of political dissidents via cyber methods as an area within the DGSi’s competence to investigate.<sup>36</sup>

### 2.5.3. Policy driven by TR?

With the exception of the DGSi’s reference to its own competence to investigate issues relating to the surveillance of political dissidents, there is little to show French policy responses to TR concerns. Rather, responses to incidents falling under the heading are relatively *ad hoc*. Such efforts include:

- an investigation relating to an alleged assassination attempt against a Russian human rights activist and blogger, Vladimir Osechkin, the founder of Gulagu.net<sup>37</sup>;
- measures barring 18 Saudi nationals suspected of involvement in the murder of Saudi journalist Jamal Khashoggi from entering French territory<sup>38</sup>; and
- an investigation into the allegations made by a Spanish NGO that China has established multiple ‘police stations’ in Paris to monitor the behavior of Chinese nationals living there.<sup>39</sup>

<sup>33</sup> Interestingly, reviews of the most recent annual reports on Migration and Asylum as well as that of the *Office Français de L’Immigration et de L’Intégration*, do not discuss TR nor highlight any types of TR that might be of concern

<sup>34</sup> The Institute is a research unit attached to the French Ministère des Armées. See <https://www.irsem.fr/>.

<sup>35</sup> PAUL CHARON & JEAN-BAPTISTE JEANGÉNE VILMER, *Chinese Influence Operations: A Machiavellian Moment*, (2021), 165. For its part, the IRSEM report asserts that China’s objectives in committing acts of TR – which include “death threats, or rape, to physical assault, and include cyber-attacks, pressures on family or relatives still in China, travel restrictions (confiscated passports, revoked visas), surveillance, searches, harassment campaigns on social networks” – are twofold: “to control these diasporas so that they do not represent a threat to the ruling power, but also to mobilize them to serve its interests.”

<sup>36</sup> Ministère de L’Intérieur et des Outre-Mer, *Le cyber, nouveau vecteur d’ingérence étatique*, DIRECTION GÉNÉRAL DE LA SÉCURITÉ INTÉRIEURE (DGSi) (2022), <https://www.dgsi.interieur.gouv.fr/la-dgsi-a-vos-cotes/cyberdefense/cyber-nouveau-vecteur-dingerence-etatique>.

<sup>37</sup> Matt Murphy, *Ukraine war: Russia’s Wagner Group commander requests Norway asylum*, BBC NEWS, Jan. 16, 2023, <https://www.bbc.com/news/world-europe-64296979>.

<sup>38</sup> Ministre de l’Europe et des Affaires étrangères, *Khashoggi case - Q&A - Excerpt from the daily press briefing*, (2019), <https://www.diplomatie.gouv.fr/en/country-files/saudi-arabia/news/article/khashoggi-case-q-a-excerpt-from-the-daily-press-briefing-20-06-19#:~:text=With%20regard%20to%20sanctions%2C%20on,on%20October%202%20in%20Istanbul>.

<sup>39</sup> See, Harold Thibault et Robin Richardot, *Avec ses annexes à Paris et dans toute l’Europe, le bras long de la police chinoise*, November 1, 2022.

In addition to those *ad hoc* actions taken by the French government in response to TR-related concerns, it is worth noting that France possesses a provision criminalizing certain types of espionage that might extend to certain acts of TR. The French Criminal Code dealing with espionage provides:

**Article 411-6:** The act of delivering or making accessible to a foreign power, a foreign company or organization or under foreign control or their agent's information, processes, objects, documents, computerized data or files whose exploitation, disclosure or assembly is **likely to harm the fundamental interests of the nation** is punishable by fifteen years of criminal detention and a fine of 225,000 euros.<sup>40</sup>

The relevant question, which would be the same for other sections of the Code<sup>41</sup> is whether performing these activities in regards to émigrés living in France would be deemed "likely to harm the fundamental interests of the nation". If so, this area of the Criminal Code could be used to punish some acts of TR.

In addition to this criminal statute, France possesses a robust sanctions regime as well as rigorous assessment procedures for Interpol red notices<sup>42</sup> that could also serve to deter TR-related offenses.

## 2.6. Germany

### 2.6.1. Context

In addition to having a population in which approximately 16% of the inhabitants are foreign born, Germany is also a hub for asylum seekers, hosting approximately 2.2 million refugees. This number ranks third behind only Turkey (3.5 million) and Colombia (2.5 million), according to UNHCR.<sup>43</sup>

The AAAD data indicates that 52 TR incidents took place in Germany. The most frequent offenders were Turkey (18 cases), Iran (7 cases), Azerbaijan (7 cases), Russia (6 cases) and China (5). Egypt, Eritrea, Saudi Arabia and Syria were responsible for 2 cases each, while Bahrain was implicated in 1 case. Of the 52 total cases, 21 targets were journalists. In 17 instances, the target was an activist, while 5 cases involved opposition members,<sup>44</sup> 5 were former government officials and 4 were other citizens. Home states used a variety of tactics in Germany. The majority of cases (30) involved threats to the target or family members; 15 cases involved extradition attempts (though only 1 led to an actual extradition); 2 targets were physically assaulted; and 5 were assassinated.

For its part, Freedom House catalogued 7 cases of 'physical' TR in its database. Only one case overlapped with the AAAD database (the assault of a Russian national). The other six cases involved 2 unlawful deportations instigated by Russia, 2 detentions (one initiated by Egypt and the other by Rwanda), a forceable return to the home country of a Vietnamese national, and the assassination of Selimkhan Khangoshvil, a Chechen, attributed to Russia.

<sup>40</sup> Emphasis added. Art. 411-6, Code Penal, France: *Le fait de livrer ou de rendre accessibles à une puissance étrangère, à une entreprise ou organisation étrangère ou sous contrôle étranger ou à leurs agents des renseignements, procédés, objets, documents, données informatisées ou fichiers dont l'exploitation, la divulgation ou la réunion est de nature à porter atteinte aux intérêts fondamentaux de la nation est puni de quinze ans de détention criminelle et de 225 000 euros d'amende.*

<sup>41</sup> E.g., Art. 411-7, which criminalizes "collecting or gathering information, processes, articles, documents, computerized data or files, with a view to supplying them to a foreign power".

<sup>42</sup> Stéphane Bonifassi & Sinem Paksut, *Sanctions France 2023*, ICLG.COM, <https://iclg.com/practice-areas/sanctions/france>. A summary of the overall legal architecture surrounding red notices in France is found at: <https://globalinvestigationsreview.com/insight/know-how/extradition/report/france>

<sup>43</sup> The UNHCR's refugee statistical database can be found at: <https://www.unhcr.org/refugee-statistics/>

<sup>44</sup> All of these five were assassinated in 1992 by Iran.

### 2.6.2. Has TR entered into policy discussions in Germany?

A review of governmental reports indicates an awareness of certain forms of TR - and even an engagement with it, in those instances - but it is generally not a standalone topic of discussion in German policy circles. This dynamic is perhaps best seen in an expansive report, compiled by the German Bundesamt für Verfassungsschutz, in which threats of all sorts are discussed.<sup>45</sup> Notably, despite this breadth, there are no explicit references to “transnational repression,” “extraterritorial repression” or “transnational authoritarianism” (nor any other terms that might serve to encapsulate the dynamic).

However, the report does identify certain problematic occurrences (and their perpetrators) that would certainly constitute acts of TR. For example, in discussing Russian interference, the report notes concerns relating to assassination attempts and certain types of espionage. With respect to the latter, the report states,

Russian cyber-attacks mainly target government entities, parliaments and politicians, the military, supranational organisations, international businesses, and scientific and research institutions. Journalists, NGOs, media companies, major international banks, and **anyone who criticizes the government are also targeted.**<sup>46</sup>

Ultimately, even these types of oblique references to TR are relatively rare in German policy documents.

### 2.6.3. German Response to TR

There is no systematic approach to combatting TR in Germany. However, the German government has, in certain instances, shown an awareness and a responsiveness to acts of TR. This includes, most notably:

- **Countering state-sponsored terrorism:** The 2020 Report on the Protection of the Constitution notes that “German counter-intelligence puts special priority on preventing state sponsored terrorism, **such as assassinations** possibly ordered by the Russian intelligence services.”<sup>47</sup>
- **Policing:** Freedom House’s report on TR in Germany, notes that “German authorities have at times alerted individuals believed to be under surveillance by foreign states and provided police protection to people under threat, though the processes triggering these actions and the frequency of their use are unclear.”<sup>48</sup> More recently, Germany investigated an allegation

---

<sup>45</sup> 2020 REPORT ON THE PROTECTION OF THE CONSTITUTION: FACTS AND TRENDS, (2021), [www.verfassungsschutz.de](http://www.verfassungsschutz.de).

<sup>46</sup> *Id.*, at 39 (emphasis added). Acts of TR are also implicitly attributed to China and Iran. See pp. 42-43.

<sup>47</sup> BRIEF SUMMARY 2020 REPORT ON THE PROTECTION OF THE CONSTITUTION (FACTS AND TRENDS), (2021), [https://www.verfassungsschutz.de/SharedDocs/publikationen/EN/reports-on-the-protection-of-the-constitution/2021-06-brief-summary-2020-report-on-the-protection-of-the-constitution.pdf;jsessionid=17C46FD7E98521E28FA9525E35F1A231.intranet671?\\_blob=publicationFile&v=2](https://www.verfassungsschutz.de/SharedDocs/publikationen/EN/reports-on-the-protection-of-the-constitution/2021-06-brief-summary-2020-report-on-the-protection-of-the-constitution.pdf;jsessionid=17C46FD7E98521E28FA9525E35F1A231.intranet671?_blob=publicationFile&v=2).

<sup>48</sup> YANA GOROKHOVSKAIA & ISABEL LINZER, *Case Study: Germany*, (2022), <https://freedomhouse.org/report/transnational-repression/canada>, at 4, citing Alexander Fröhlich, *Erdogan-Kritiker Werden Eingeschüchtert*, DER TAGESSPIEGEL, Oct. 10, 2018, <https://www.tagesspiegel.de/berlin/polizeischutz-fuer-can-duendar-erdogan-kritiker-werden-ingeschuechtert-in-berlin/23167244.html>; Attila Mong, *For Turkish journalists in Berlin exile, threats remain, but in different forms*, COMMITTEE TO PROTECT JOURNALISTS (2019), <https://cpj.org/2019/07/for-turkish-journalists-in-berlin-exile-threats-re/>; Martin Zagatta, *Geheim Darf Das Ohne Kenntnis Unseres Staates Nicht Geschehen*, (2017), <https://www.deutschlandfunk.de/tuerkische-spionage-geheim-darf-dasohne-kenntnis-unseres-100.html>.



that Chinese ‘police stations’ have been established in Berlin.<sup>49</sup>

- **Counter espionage:** Section 99 of the German Penal Code appears to provide a legal avenue to punish certain acts of TR that are engaged in “for the intelligence service of a foreign power against the Federal Republic of Germany”.<sup>50</sup>
- **Interpol red notices:** According to the Freedom Houses’ Case Study on German responses to transnational repression,<sup>51</sup> “German authorities treat information about individuals received from foreign states, including through Interpol, with well-warranted skepticism.” As such, a rigorous review process has been established for such notices. In particular, “The German Federal Ministry of Justice (BfJ), the Federal Foreign Office, the Federal Criminal Police Office, and other government authorities may be involved in the review process, which includes determining whether there are legal or political reasons not to comply with the request.”<sup>52</sup>
- **Diplomatic measures:** Freedom House notes that over the last decade Germany has expelled 21 diplomats related to three separate acts of TR (including an abduction, surveillance and an assassination). Germany has also advanced the use of sanctions as a Member of the EU (Germany does not impose unilateral sanctions).<sup>53</sup>

## 2.7. Netherlands

### 2.7.1. Context

According to OECD data, 13.4% of the population in Netherlands are foreign born. The AAAD database indicates that there were 5 acts of TR in Netherlands. Azerbaijan was the cited perpetrator in 2 cases (both were threats to the target’s family), Iran was cited in two cases (both cases involved the assassination of activists) and Turkey was linked to one extradition attempt of a journalist. Freedom House tallied three cases of ‘physical’ TR in the Netherlands, one of which overlapped with the AAAD data (the assassination of Ahmad Moal Nissi). The other two cases involved an assassination of Iranian activist Mohammad Reza Kolahi and an assault committed against a Pakistani national in 2020.

### 2.7.2. Has TR entered into policy discussions in Netherlands?

Searches of governmental databases do not reveal use of the phrase “transnational repression,” “authoritarian repression” and “extraterritorial repression,” nor any other similar phrase.<sup>54</sup> However, there is evidence that the Dutch are aware of the issue. In particular, Dutch discussions of espionage and “foreign interference” generally make note of TR dynamics. For example, the most recent Annual

<sup>49</sup> See, for example, Gabriel Rinaldi, *China runs two shadow ‘police stations’ in Germany, says Berlin*, POLITICO, Dec. 9, 2022, <https://www.politico.eu/article/china-shadow-police-stations-germany/>. Germany’s Interior Ministry, after being prompted by lawmaker Joana Cotar, confirmed the presence of the service centers. It’s relatively muted public response thus far has been to state the “The German government is in contact with the Chinese embassy about this matter” and that “Chinese authorities have no executive powers on (German territory)”.

<sup>50</sup> There is scholarship to suggest that “foreign espionage activities targeting their nationals residing within German territory” would be offenses under the law. See Isabel Haider, *Austrian Law as a Safe Haven for Foreign Spies? An Analysis on the Basis of the Recent Phenomenon of ‘Embassy Espionage,’* 26 CRIMINAL LAW AND CRIMINAL JUSTICE 201.

<sup>51</sup> Gorokhovskaia and Linzer, *supra* note 48, at 7.

<sup>52</sup> *Id.*

<sup>53</sup> Michael Walther et al., *Sanctions Germany 2023*, ICLG.COM, <https://iclg.com/practice-areas/sanctions/germany>.

<sup>54</sup> The sole exception seems to be a parliamentarian’s request to the Minister of Foreign Affairs to take this phenomenon into account for the budget of 2023 (see, [officielebekendmakingen.nl](https://www.officielebekendmakingen.nl)). There is no evidence that this request was heeded.

Report of the General Intelligence and Security Service (Algemene Inlichtingen- en Veiligheidsdienst, 'AIVD') of the Netherlands concludes that,

[C]ountries with a large diaspora in the Netherlands carry out intelligence activities here in order to obtain insight into and grip on their diaspora. [...] Intelligence activities can also focus on identifying (supposed) opponents of the regime in order to stifle any critical voices regarding the regime. They gather intelligence on people who participate in demonstrations, for example.<sup>55</sup>

These concerns were a motivating force for the introduction of a bill to criminalize certain acts of espionage, as will be discussed more fully below.

While this is not the only governmental publications where TR is considered (e.g., a governmental report noted the difficulties faced by Turkish Diaspora Members),<sup>56</sup> it is arguably the most direct. This tends to emphasize the relative lack of attention to TR in the Netherlands.

### 2.7.3. Dutch Responses to TR

In 2022, a bill was introduced that would, among other things, expand the scope of punishable actions relating to espionage. One of the catalysts for the bill, according to its sponsor, was “diaspora spying” (*diasporaspionage*). The relevant provision imposes a term of imprisonment of up to eight years for those who ‘perform harmful acts for the benefits of a foreign power’, where the perpetrator knows that ‘the security of one or more persons’ is endangered through the commission of the act.<sup>57</sup>

The aforementioned bill takes the most direct aim at combatting one means of committing TR in the Netherlands. It should be noted, however, that there is a concerted Dutch effort to limit ‘undesired influence’ and/or ‘unwanted interference’ by foreign states.<sup>58</sup> Actions taken in connection with these goals (e.g., a recent bill allowing for the audit of financial contributions made to Dutch organizations by non-EU donors) seem likely to have a secondary impact on TR as well.

<sup>55</sup> AIVD ANNUAL REPORT 2021, 35, <https://english.aivd.nl/publications/annual-report/2022/11/09/aivd-annual-report-2021>, 19.

<sup>56</sup> Parliamentary Committee Report, The Netherlands, (*In*)visible influence: report of the parliamentary committee of inquiry into undesired influence from unfree countries” (generally referred to as the ‘POCOB’ report).

<sup>57</sup> <https://www.tweedekamer.nl/kamerstukken/wetsvoorstellen/detail?cfg=wetsvoorsteldetails&gry=wetsvoorstel%3A36280>

<sup>58</sup> There are many examples of the Dutch concern with foreign interference. For example, in 2022, the Investment, Mergers and Acquisitions Security Test Act (*Wet veiligheidstoets investeringen, fusies en overnames*) was passed. The act features a (prior) notification requirement and security test in the case of investments, mergers and/or acquisitions of foreign entities in certain critical sectors that may pose a risk to Dutch national security. Similarly, in November 2022 the Advisory Council on Science, Technology and Innovation (*Adviesraad voor wetenschap, technologie en innovatie*) issued a report ([Advies: Kennis in conflict - veiligheid en vrijheid in balans | Advies | Adviesraad voor wetenschap, technologie en innovatie \(awti.nl\)](https://www.awti.nl/advies/kennis-in-conflict-veiligheid-en-vrijheid-in-balans)) warning about foreign influence exerted on organizations and persons in the Netherlands involved in research. Recently, request has been filed, pursuant to the Law on Transparent Governance, for the Dutch public authorities to disclose information about China’s influence on higher education. See, <https://www.rijksoverheid.nl/documenten/wob-verzoeken/2022/02/28/1e-deelbesluit-wob-verzoek-chinese-invloed-op-nederlands-onderwijs>

## 2.8. Sweden

### 2.8.1. Context

According to current OECD data, nearly one fifth of the population (19.5%) in Sweden is foreign born. The AAAD database recorded 18 cases of TR, impacting 42 victims. 5 cases were attributed to Syria, another 5 were attributed to Turkey, 3 to Uzbekistan, 2 to Rwanda, and 1 case each to China, Eritrea and Iran. 12 of the cases involved threats to the target's family. There were three extradition attempts and two assassinations (one attributed to Iran and the other to Uzbekistan). Freedom House recorded one instance of 'physical' TR in Sweden, the attempted assassination of a Chechen blogger, Tumsu Abdurakhmanov (attributed to Russia).

### 2.8.2. Has TR entered into policy discussions in Sweden?

The phrase 'transnational repression' is not found in searches of Swedish government databases. The concept, however, has certainly made its way into governmental discussion and policymaking. In particular, the focus on "refugee espionage" (*flyktingspionage*) has been in public discussions for many years and seems to pick up on several forms of TR.<sup>59</sup> This can be seen in the Swedish Security Services (*sakerhetspolisen*) 2020 annual report, which details the types of threats subsumed under this term and the countries generally seen to perpetrate them.<sup>60</sup> With regard to China, for example, the report notes that

China's intelligence activities also involve espionage against dissidents and the Tibetan and Uyghur communities in Sweden. These activities are seen by China as part of its efforts to protect its territorial integrity from perceived threats and to protect the Communist Party.<sup>61</sup>

Not only does Sweden recognize this form of TR, there appears to be a strong awareness of the larger problem confronting emigres from authoritarian home states.

### 2.8.3. Swedish Responses to TR

Notably, acts of "refugee espionage" are not merely discouraged, they are also criminalized. Chapter 19, Section 10b of the Swedish Criminal Code, which has been slightly revised as of January 2023, reinforces the commitment to prevent refugee espionage.<sup>62</sup> The section, states

<sup>59</sup> It is worth noting that the phrase "refugee espionage" is used outside of the Swedish context. Finland likewise punishes "refugee espionage" and discussions about whether the practice should be criminalized have taken place at the UN High Commissioner for Refugees (Relatedly, see, for example, UNHCR, *Comments by the United Nations High Commissioner for Refugees (UNHCR) on the Memorandum of 6 December 2013, proposing Criminalization of Refugee Espionage*, (2014), [https://www.ecoi.net/en/file/local/1261564/1930\\_1479916313\\_5829ad6c4.pdf](https://www.ecoi.net/en/file/local/1261564/1930_1479916313_5829ad6c4.pdf))

<sup>60</sup> In particular, China, Russia and Iran are discussed in the report.

<sup>61</sup> The Swedish Security Service 2020, <https://www.sakerhetspolisen.se/download/18.310a187117da376c66016dd/1638963437953/Swedish%20security%20service%20annual%20report2020.pdf>, at 25.

<sup>62</sup> It is worth noting that **Switzerland** displays similarity to Sweden in both its recognition of the issues that diaspora members face and with respect to its laws governing political espionage. Notably, a [2021 report by the Federal Intelligence Service \(FIS\)](#) highlighted, among other things, that "Espionage by foreign intelligence services continues to affect Switzerland significantly in a number of respects. Large numbers of natural and legal persons resident/domiciled in Switzerland are direct targets of foreign intelligence services. [...] Foreign intelligence services also take action against their own nationals in Switzerland, especially against regime critics, opposition members and members of ethnic or religious minorities." With regard to criminalizing such espionage, Art. 272 states, in relevant part, that "Any person who provides political intelligence-gathering services or organises such services in the interest of a foreign state, a foreign party or any other foreign organisation, to the detriment of Switzerland or its citizens,

A person who, in this country, with intent to benefit a foreign power or equivalent, secretly or using fraudulent or improper means conducts activities whose purpose is to obtain information **about the personal circumstances of another person**, or is an accomplice to such activities other than temporarily, is guilty of unlawful intelligence activities against an individual and is sentenced to imprisonment for at most one year. If the offence is gross, the sentence is imprisonment for at least six months and at most four years.<sup>63</sup> (emphasis added)

As can be seen from the statute, the espionage need not only be directed against the state (though that is criminalized in another provision); rather the target could be ‘an individual’, whether a citizen or a resident.<sup>64</sup>

In addition to the criminal provision, Sweden devotes investigatory resources toward addressing TR-related offenses. In this respect, the Swedish Security Service 2020 report notes that,

[Its] mission is to prevent and counter, but also investigate, crimes against Sweden’s national security, such as espionage and unlawful intelligence activities. The Service also investigates other crimes, such as murder or attempted murder where a foreign regime is suspected of being responsible.<sup>65</sup>

Despite these measures, Freedom House, which conducted a country study of Sweden, found there to be “gaps” in the Swedish approach to transnational repression. Freedom House contended that Sweden had a low level of outreach to at-risk communities and individuals.<sup>66</sup> Besides noting inadequate prevention, Freedom House also suggested that more might be done to punish the state responsible for TR, rather than the individual agents of the state. One such underutilized avenue, in Freedom Houses’ estimation was the ‘naming and shaming’ of foreign diplomats who have been labeled *persona non gratae* and expelled from Sweden on TR-related bases.

## 2.9. United Kingdom

### 2.9.1. Context

Foreign-born persons account for approximately 13% of people living in Great Britain. The AAAD database records 64 instances of TR in the UK, which directly impacted 306 people.<sup>67</sup> Almost half of the cases involved threats to either the target or family members (31 cases), while 12 cases involved

---

**inhabitants** or organisations, any person who recruits others for or facilitates such services, shall be liable to a custodial sentence not exceeding three years or to a monetary penalty. Emphasis added. See: [https://www.fedlex.admin.ch/eli/cc/54/757\\_781\\_799/en](https://www.fedlex.admin.ch/eli/cc/54/757_781_799/en).

<sup>63</sup> Original: *Den som, med uppsåt att gå en främmande makt eller motsvarande tillhanda, här i landet hemligen eller med användande av svikliga eller otillbörliga medel antingen bedriver verksamhet vars syfte är anskaffande av uppgifter om någon annans personliga förhållanden eller medverkar till sådan verksamhet mer än tillfälligt, döms för olovlig underrättelseverksamhet mot person till fängelse i högst ett år. Om brottet är grovt döms till fängelse i lägst sex månader och högst fyra år. Lag (2022:1519). See <https://www.government.se/4adb14/contentassets/7a2dcae0787e465e9a2431554b5eab03/the-swedish-criminal-code.pdf>.*

<sup>64</sup> To emphasize that this is not a new concern for Sweden, one could take note of arrests made in connection with the criminal provision well-over a decade ago. <https://www.thelocal.se/20090604/19876/>

<sup>65</sup> Swedish Security Report 2020, *supra* note 61, at 21.

<sup>66</sup> YANA GOROKHOVSKAIA & ISABEL LINZER, *Case Study: Sweden*, (2022), <https://freedomhouse.org/report/transnational-repression/sweden>.

<sup>67</sup> The AAAD database records ‘events’ of TR. Some events have more than one victim. This is the reason why we see a gap of TR ‘events’ and impacted persons in some country data.

attempted extraditions and 7 were arrests/detentions. There was also one physical attack, one abduction attempt, 6 assassinations and 6 additional assassination attempts. Responsibility for these actions was split among several countries, with Russia (20 cases), Iran (10 cases), Syria (6 cases), Turkey (5) cases and Rwanda (4 cases) representing the most frequent offenders. Other countries implicated in acts of TR in the UK, according to the AAAD database, include: Bahrain (3 cases) Thailand (3 cases), Eritrea (3 cases), Saudi Arabia (2 cases), Libya (2 cases), Kyrgyzstan (2 cases), China (2 cases), and Belarus (2 cases).

The Freedom House database records 3 instances of ‘physical’ TR in Britain. These include the poisoning of Sergei Skripal by Russia, the attempted assassination of Salomen Abaso (attributed to Equatorial Guinea) and an assault against a Saudi national, Ghanem Al-Masarir.

### 2.9.2. Has TR entered policy discussions in the UK?

TR-related discussions have begun to appear in the UK. Most notably, a newly created “Defending Democracy Taskforce” has raised the alarm on TR actions in Britain. The Taskforce, which had its first meeting on 28 November 2022, is chaired by the Security Minister, Tom Tugendhat. Its broad focus is that of “foreign interference,” which the UK governments sees as including “interference in our elections and electoral processes; disinformation; physical and cyber threats to our democratic institutions and those who represent them; foreign interference in public office, political parties and universities; and **transnational repression in the UK.**”<sup>68</sup>

In a speech, Mr. Tugendhat further described the Taskforce’s understanding of TR. He stated,

What we mean by [TR] is the activity of those who seek to stifle free expression in diaspora communities in the UK, those who try to silence the debate that they, as anyone else in the United Kingdom, should be able to enjoy. We have seen the most recent example of this in the so-called overseas police stations that China has set up around the country, and indeed around the world.<sup>69</sup>

Additional examples of Britain’s direct (or indirect) engagement with TR can be seen in several policies, which are the focus of the next section.

### 2.9.3. UK Responses to TR

The formation of the Taskforce is not the only noteworthy governmental attempt to respond to TR in the UK. Below are other notable examples:

- **Sanctions/Diplomatic Measures**
  - In responding to a particularly publicized act of TR in Britain – the poisoning of a former Russian military intelligence officer, Sergei Skripol – the UK declared 23 Russian diplomats *personae non gratae*. They also instituted targeted sanctions, freezing assets that could “be used to threaten the life or property of UK nationals **or residents.**”<sup>70</sup>

<sup>68</sup> British Home Office, *Ministerial Taskforce meets to tackle state threats to UK democracy*, Gov.UK (2022), <https://www.gov.uk/government/news/ministerial-taskforce-meets-to-tackle-state-threats-to-uk-democracy> (emphasis added).

<sup>69</sup> Speech, Tom Tugendhat, UK Security Minister Defending democracy in an era of state threats (December 13, 2022), <https://www.gov.uk/government/speeches/defending-democracy-in-an-era-of-state-threats>.

<sup>70</sup> Reuters Staff, *UK will freeze Russian state assets posing threat to UK nationals, says minister*, REUTERS, Jan. 27, 2021, BV <https://www.reuters.com/article/uk-russian-politics-navalny-britain-asse-idUKKBN29W1JM>. (emphasis added)

- The UK adopted the Global Human Rights Sanctions Regime, which allows targeted sanctions on human rights violators.<sup>71</sup> They subsequently applied such sanctions to 20 Saudi officials implicated in the Jamal Khashoggi killing and also availed themselves of the Regime in responding to Belarus' forced landing of a Ryanair flight.<sup>72</sup>
- Freedom House mentions that UK officials have a history of raising issues of TR in bilateral negotiations.<sup>73</sup>
- **Draft National Security Bill:** The draft National Security Bill, which was introduced in May of 2022, and which has now passed the House of Commons and is under review in the House of Lords,<sup>74</sup> makes a number of notable contributions to combatting "foreign interference", and by extension, some acts of TR. Most notably, the legislation would provide the police with strong tools to investigate and respond to state threats activity.<sup>75</sup> For example, the "the Bill creates a new arrest power where a constable can arrest without a warrant a person whom they reasonably suspect to be involved in foreign power threat activity."<sup>76</sup>
- **Interpol Abuses:** Freedom House notes that, "the UK has strong provisions against unlawful extraditions. Circumstances that bar extradition include the possibility that the individual will face capital punishment in their home country and 'improperly motivated' requests where there is a risk of 'prejudice to the requested person,' which offers a safeguard against politically motivated extraditions. Courts must also consider whether "extradition would be disproportionate or would be incompatible with the requested person's human rights."<sup>77</sup>
- **Investigations of Chinese 'police stations' in Scotland and London:** During an "Urgent Question" debate in the House of Commons on 1 November 2022, the UK Minister for Security stated the so-called stations were under investigation and that a full assessment would be "coming forward urgently".<sup>78</sup> Scotland has also launched an investigation.<sup>79</sup>

<sup>71</sup> YANA GOROKHOVSKAIA & ISABEL LINZER, *Case Study: United Kingdom*, (2022), <https://freedomhouse.org/report/transnational-repression/united-kingdom>.

<sup>72</sup> Foreign, Commonwealth & Development Office, *UK imposes sanctions on Belarus following forced landing of Ryanair flight*, Gov.UK (2021), <https://www.gov.uk/government/news/uk-imposes-sanctions-on-belarus-following-forced-landing-of-ryanair-flight>.

<sup>73</sup> Gorokhovskaia and Linzer, *supra* note 71, at 4.

<sup>74</sup> Status updates, including current draft copies of the Bill, can be found online at: <https://bills.parliament.uk/bills/3154>. TR considerations are clearly motivating aspects of this legislation. The British Home Office has submitted that the notion of "state threats" should refer to actions such as "espionage, interference (e.g., political interference), sabotage, and physical threats to individuals, **such as assassination**" in its comments on the draft bill. Moreover, in advocating for the Bill's passage, the Home Office has asserted that "the Salisbury Incident" (i.e., the poisoning of Sergei Skripol) is the type of incident that could be avoided through vesting police with the powers contemplated in the draft Bill.

<sup>75</sup> Home Office, *Policy paper: Powers of arrest and detention: National Security Bill factsheet*, Gov.UK (2023), <https://www.gov.uk/government/publications/national-security-bill-factsheets/police-powers-national-security-bill-factsheet#:~:text=The%20Bill%20creates%20a%20new%20regime%20whereby%20biometric%20data%20that,is%20charged%20or%20if%20they>.

<sup>76</sup> *Id.*

<sup>77</sup> Gorokhovskaia and Linzer, *supra* note 71, at 7.

<sup>78</sup> UK Parliament, *Overseas Chinese Police Stations in UK: Legal Status*, (2022), <https://hansard.parliament.uk/commons/2022-11-01/debates/997662A6-CD71-41C5-BBE9-33FADDB4B974/OverseasChinesePoliceStationsInUKLegalStatus>

<sup>79</sup> Matt, *Nicola Sturgeon in police talks over "secret Chinese base,"* BBCNEWS, Oct. 27, 2022, <https://www.bbc.com/news/uk-scotland-glasgow-west-63417175>.

## 2.10. United States

### 2.10.1. Context

According to the OECD, roughly 13.2% of those living in the US are foreign born.<sup>80</sup> The AAAD database records 89 instances of TR in the US, involving 124 victims. The leading perpetrators of TR in the US, according to the database are: China (32 cases), Turkey (24 cases), Syria (12 cases), Iran (6) and Russia (5 cases). The overwhelming majority of these cases involved threats against the target (32 cases) or family members (38 cases), while attempted extraditions by the home state made up 17 of the cases. There was also one arrest/detention recorded and one assassination. Interestingly, the Freedom House data shows only 3 instances of ‘physical’ TR in the US, none of which overlap with the AAAD data.<sup>81</sup> Two of these cases involved the detention of a victim at the request of Russia. The other case involved the assault of a Chinese national.

### 2.10.2. Has TR entered into policy discussions in the US?

Of the countries surveyed, the US is the one in which the concept of TR (as a standalone topic) is most frequently discussed. A search of the State Department’s web site alone yields nearly 200 links relating to TR, ranging from country reports to issues of sanctions.<sup>82</sup> Similarly, within both the federal legislature and in the Department of Justice, there is a growing recognition of the problem.

### 2.10.3. US Responses to TR

US attempts to address TR have been launched by the legislature, the Federal Bureau of Investigation (FBI) and the Executive branch. Efforts in each area are summarized below.

#### *Legislative*

There are two pieces of legislation – one which has become law, and the other a draft bill – that aim to address TR in the US. The first was labelled the ‘Transnational Repression Accountability and Prevention Act of 2021’ (the TRAP Act). At its root, the bill aimed to establish requirements related to U.S. cooperation with Interpol communications. In particular, the bill sets forth that

No U.S. agency or department may arrest an individual based solely on an INTERPOL notice without (1) prior verification of the individual's eligibility for extradition, (2) a valid request for arrest from the requesting country, and (3) an arrest warrant.

A U.S. agency or department may not use an INTERPOL communication from an INTERPOL member country as the sole basis for certain actions, such as detaining an individual or denying an individual a visa, without independent credible evidence supporting the communication.<sup>83</sup>

<sup>80</sup> See, <https://data.oecd.org/migration/foreign-born-population.htm>.

<sup>81</sup> Interestingly, the 2015 assassination of a former Russian government official, Mikhail Lesin was not included in the Freedom House database. This arguably speaks to a disparity of confidence amongst different aggregators in assigning culpability of certain actions to state agents, a point noted in Section III.1.4 of this report.

<sup>82</sup> See [https://findit.state.gov/search?affiliate=dos\\_stategov&page=2&query=%22transnational+repression%22](https://findit.state.gov/search?affiliate=dos_stategov&page=2&query=%22transnational+repression%22)

<sup>83</sup> National Defense Authorization Act for Fiscal Year 2022, 135 Stat. 1541, 27 December 2021. <https://www.congress.gov/117/plaws/publ81/PLAW-117publ81.pdf>

The substance of these requirements were ultimately included in the National Defense Authorization Act for Fiscal Year 2022, which was signed into law by President Biden in late 2021.<sup>84</sup>

Very recently, a more general approach to combatting acts of TR has been taken up in Congress. In particular, Congressman Adam Schiff of California has introduced a bill that would both define TR and criminalize it. It is important to note that this **bill is in its earliest stages** and, therefore, **does not yet represent US law**. However, it is interesting to see how the issue is being viewed by at those who wish to address TR directly. For example, the proposed definition for ‘Transnational repression’ in the draft bill is:

any activity by a foreign government, or an agent of a foreign power or a proxy thereof, that meets each of the following criteria:

(A) The activity involves

- (i) Any effort intended to intimidate or coerce, including by force or fear, a person to take an action in the interest of a foreign government;
- (ii) Any effort intended to intimidate or coerce, including by force or fear, a person to take an action to forebear from exercising a right guaranteed to the person by the Constitution or laws of the United States.
- (iii) Enabling an effort specified in clause (i) or (ii); or
- (iv) An extrajudicial killing

(B) The activity is engaged in for the purpose of stifling dissent against or otherwise advancing the interest of a foreign government.

(C) The activity

- (i) Occurs, in whole or in part, in the United States; or
- (ii) Is committed against –
  - (I) A United States citizen;
  - (II) A person in the United States; or
  - (III) A person not specified in subclause (I) or (II) if the activity could reasonably be expected to result in the deprivation of any rights, privileges, or immunities of such person secured or protected by the Constitution or law of the United States.”

In addition to providing a definition of TR, the draft legislation would:

- Criminalize TR as a new offense in Chapter 45 of title 19, United States Code, with a fine and term of imprisonment of up to 10 years;
- Centralize the oversight of transnational repression within the DOJ National Security Division and the Counterintelligence Division of the Federal Bureau of Investigation (FBI); and
- Require an annual report from the DOJ and FBI on incidents of transnational repression in the United States.<sup>85</sup>

### ***Policing/Investigation***

Separate from legislative efforts, the investigative/policing arm of the federal Government, the FBI, has also begun to build a structure to detect and combat it. In particular, the FBI has provided a working

<sup>84</sup> A summary of the legislative path can be found at the Congressional website: <https://www.congress.gov/bill/117th-congress/senate-bill/1605/text>

<sup>85</sup> Press Release, Office of Adam Schiff, Congressman Schiff Introduces Bill to Protect Individuals From Harassment by Foreign Governments (December 7, 2022), <https://schiff.house.gov/news/press-releases/congressman-schiff-introduces-bill-to-protect-individuals-from-harassment-by-foreign-governments>.



definition of TR, housed the category under its ‘counterterrorism’ efforts and has developed the “[Threat Intimidation Guide](#)” for potential victims of TR.<sup>86</sup> The FBI, as well as the larger Department of Justice in which the FBI sits, also publicize(s) arrests for acts of TR.<sup>87</sup>

***Executive Action: Targeted Sanctions and Diplomatic Relations***

In connection with the murder of Jamal Khashoggi, the U.S. Department of State has created a new visa restriction, called ‘Khashoggi Bans’ in honor of the late journalist, pursuant to **section 212(a)(3)(C) of the Immigration and Nationality Act**. It has used the powers set forth in the Act to impose visa restrictions on 76 Saudi individuals believed to have been engaged in threatening dissidents overseas, including but not limited, to the Khashoggi killing.

The US also imposed visa restrictions against Belarusian officials, citing the Lukashenka regime’s transnational repression and its affronts to international norms,<sup>88</sup> and imposed sanctions on an Iranian intelligence official for spearheading an effort to kidnap Iranian dissidents in the US, Canada and the UAE.<sup>89</sup>

## **2.11. Regional/plurilateral Engagement with TR**

While recognition of TR is still inconsistent throughout Western countries, it is worth noting that concept has begun to enter regional and international dialogues. In some instances, countries that may not have otherwise dedicated efforts to combatting TR domestically, are among those pledging to do so in joint statements. A brief selection of these multi-country efforts is set forth below.

- **Council of Europe**
  - The Council’s Committee on Legal Affairs and Human Rights has made “Transnational repression as a growing threat to the rule of law and human rights” part of its working agenda.<sup>90</sup>
- **European Parliament**
  - A motion for a resolution has been submitted based “on reports of the human rights situation in Xinjiang, including the Xinjiang police files”. The resolution would recognize that “China exerts transnational repression via a full range of activities from espionage, cyberattacks, physical assaults, to the issuance of Red Notices via Interpol and more recently the use of the so-called ‘vaccine diplomacy’” and would strongly condemn “any kind of transnational repression or attempts of repression against Chinese dissidents or the Uyghur community representatives residing abroad” as well as “the use of the vaccine diplomacy as a means of pressure to exert transnational repression”.
  - On 20 January 2023, the European Parliament, in substantiating calls for greater sanctions on Iran, stated “[...] MEPs express deep **concern about the transnational repression carried**

<sup>86</sup> See: <https://www.fbi.gov/investigate/counterintelligence/threat-intimidation-guide>.

<sup>87</sup> See, for example, Press Release, Department of Justice, Five Men Indicted for Crimes Related to Transnational Repression Scheme to Silence Critics of the People’s Republic of China Residing in the United States (July 2, 2022), <https://www.justice.gov/opa/pr/five-men-indicted-crimes-related-transnational-repression-scheme-silence-critics-people-s>

<sup>88</sup> Press Statement, Anthony J. Blinken, Secretary of State, Holding the Lukashenka Regime and Its Enablers to Account (June 21, 2021), <https://www.state.gov/holding-the-lukashenka-regime-and-its-enablers-to-account/>.

<sup>89</sup> Press Statement, Anthony J. Blinken, Secretary of State, Sanctioning Iranian Intelligence Affiliates for Targeting Dissidents Abroad (September 3, 2021), <https://www.state.gov/sanctioning-iranian-intelligence-affiliates-for-targeting-dissidents-abroad/>.

<sup>90</sup> [https://assembly.coe.int/committee/jur/work\\_programmee.pdf](https://assembly.coe.int/committee/jur/work_programmee.pdf)

**out by the authorities of the Islamic Republic**, including espionage and murder, against the Iranian diaspora living in the EU. They therefore call on the EU and its Member States to better protect those affected by this repression.”<sup>91</sup>

- A **joint statement** issued by the U.S., Norway, Denmark and Australia considered the possibility of instituting export controls for certain software used to facilitate transnational repression.<sup>92</sup>
- **Joint Statement on “Resilient Democracies”**: The “2022 Resilient Democracies Statement” was issued by the leaders of the **G7 countries** (Canada, France, Germany, Italy, Japan, the United Kingdom and the United State) and other partners (Argentina, India, Indonesia, Senegal, South Africa, the, and the European Union) in late June of 2022. As part of that statement, the countries affirm a commitment to “Building resilience against malign foreign interference and acts of **transnational repression** that seek to undermine trust in government, society and media, reduce civic space and silence critical voices;”<sup>93</sup>
- U.S. Permanent Representative to the United Nations Human Rights Council, Michele Taylor, led a breakout session on TR with Lithuania, Chile, Denmark, Iceland, Japan, Mexico, Poland and Sierra Leone at the 51<sup>st</sup> Session of the UN Human Rights Council (October 2022).

### 3. Best Practices

The countries discussed in the previous section have different approaches to combatting TR. This variety is seen both in the degree to which the concept of TR has made its way into policy discussions and the extent to which the concept drives policy. Given this high level of diversity, **it would be an error to assert that a set of ‘TR best practices’ currently exists (or is clearly developing) among the studied countries.**

Despite the lack of a consistent approach to TR, it should be noted that commonalities can be found and applied as a basis for comparison. One way to categorize the country approaches is with respect to the relative priority placed on addressing acts of TR. Viewed through this lens, one might assert that there are three categories, which this report will call: **elevated priority; medium priority; and low priority.** An ‘**elevated priority**’ can be assigned to a country where one sees robust discussion of TR in policy circles and/or the advancement of legislation aimed at addressing TR within the country’s borders. We can say TR is of ‘**medium priority**’ in a country that has little discussion of TR as standalone issue, but nevertheless shows that it recognizes the damage of TR in certain contexts and/or possesses legal/policy instruments directed at addressing certain aspects of TR. The final category consists of countries that consider TR a ‘**low priority**’. These countries have little or no discussion of TR. Further, while governments of these countries may perhaps recognize certain problematic elements related to TR, they tend to view those issues as secondary to other policy concerns.

The remainder of this section dedicates itself to mapping the countries studied in this report according to these categories.

**Elevated Priority:** There are a few countries – the United States, the United Kingdom and, to a similar extent, Sweden – where the concept of TR is clearly being discussed (in the Swedish case, this is most

<sup>91</sup> Press Release, European Parliament, Parliament calls for more sanctions against Iranian regime (January 19, 2023), (emphasis added), <https://www.europarl.europa.eu/news/nl/press-room/20230113IPR66652/parliament-calls-for-more-sanctions-against-iranian-regime>.

<sup>92</sup> Press Release, White House, Joint Statement on the Export Controls and Human Rights Initiative (December 10, 2021) <https://www.whitehouse.gov/briefing-room/statements-releases/2021/12/10/joint-statement-on-the-export-controls-and-human-rights-initiative/>.

<sup>93</sup> 2022 Resilient Democracies Statement (June 27, 2022) <https://www.consilium.europa.eu/media/57544/2022-06-27-g7-resilient-democracies-statement-data.pdf>.

recognizable in discussions of “refugee espionage”) as a standalone topic. In these settings, recognition of TR issues has led to efforts to combat forms of the phenomenon using different policy levers. In particular, these countries have existing legislation (in the case of Sweden) or draft bills (US and UK) **aimed at addressing** (e.g., by criminalizing) **certain aspects of TR**. In addition to legislation, there is also, in the case of Sweden and the US, an awareness and a professed dedication among policing/investigatory bodies, to be on alert for certain TR-related vulnerabilities. In the US and British cases, response mechanisms (e.g., persona *non-gratae* designations, and/or targeted sanctions) have been relied upon to hold certain state actors accountable. Moreover, both of these latter countries have taken steps to limit Interpol abuses.

**Medium Priority:** There is another group of countries for which TR has started to receive some attention as a concept, but where it is not currently driving policy decisions. Among the countries that fit in this category (Germany, Canada, the Netherlands and France) there are subtle recognitions of the problems facing diaspora communities and there are also legal provisions (or policy instruments) that seem to be responsive to (or, at the very least, might be activated to address), certain types of TR. For example, in the Netherlands, where TR is not generally discussed, there is nevertheless draft legislation created, in part, to address “diaspora espionage”.

**Low Priority:**<sup>94</sup> There is a final group of countries for which very little engagement on the topic of TR is exhibited. In these countries – which arguably include Belgium and Australia – the consideration of TR, to the extent it happens at all, is largely dominated by other policy concerns. That is, a country in this group may recognize some of the vulnerabilities that are experienced by diaspora community members. However, host states in this category tend to focus on whether exertions of home state pressure on a diaspora member will result in radicalization or operationalization (in the sense of becoming a home state ‘agent’) of the impacted person, rather than on whether the host state has ethical or legal obligations to protect the vulnerable immigrant.

#### IV. CONCLUSIONS

It is worth emphasizing that the contents of this report represent only a snapshot of the current situation as it relates to TR. In a very short timeframe, the phrase (and the concept) “transnational repression,” which had received very little attention previously, has become a subject of serious deliberation in a number of countries. Some have even initiated legislative efforts to assist in combatting TR.

Given this rapid rate of change, there is clearly a subjective element in assigning countries to the categories discussed above. However, in a setting where taxonomies are only now being developed and where responses to TR are almost all in their infancy, finding meaningful categorical differences can be difficult. This report presents one possible way to view country differences.

A natural question is whether the same dynamism that we are currently seeing will continue in the months to come. It is not yet possible to answer that. What is evident is that TR (and policy responses to it) warrant(s) continued monitoring.

---

<sup>94</sup> While full country reports were not created for Austria and Italy, the SICL’s preliminary research on these two countries indicate that they too would fall in the “low priority” category.

## ADDENDUM TO THE ‘ADDRESSING TRANSNATIONAL REPRESSION’ REPORT:

### ITALY

## I. BACKGROUND

The Swiss Institute of Comparative Law (SICL) was approached by the Swiss Federal office of Justice (FOJ) in late 2023 requesting that the SICL examine the extent to which Italy currently is responding to ‘transnational repression’.

The SICL offered to provide a brief synopsis of the situation in Italy as of December 2023. This Addendum aims to provide the agreed-upon summary.

## II. QUESTIONS

Herein, the SICL has responded to the following specific questions:

- What is “transnational repression”?
- What are the common methods used by authoritarian regimes in committing acts of transnational repression?
- How prevalent is transnational repression in Italy and to what extent is Italy adopting strategies and measures to combat acts of transnational repression?

## III. ANALYSIS

This **Section III** is structured in the following way. **Section III.1** briefly recounts certain aspects of the TR Report, in particular, providing a working definition of transnational repression, noting commonly cited forms of the phenomenon, as well as some of the means by which home state regimes are facilitated in committing acts of transnational repression. **Section III.2** surveys the policies and practices of Italy where TR is concerned. Additionally, it attempts to assess the Italian response to TR relative to the actions taken by the other States that were examined in the TR Report.

### 1. Transnational Repression

#### 1.1. What is “Transnational Repression”?

“Transnational Repression” (TR) refers to those efforts advanced by home state regimes to coerce nationals living abroad to behave in a manner deemed desirable by those in power in the home state<sup>95</sup> or compel a return of the national to the home state.<sup>96</sup> TR is not a new phenomenon. Nevertheless, greater ease of mobility, more expansive digital toolkits, and an increased awareness of attempts by home states to control or influence their diaspora members, has made TR an increasingly relevant topic of consideration for host state policymakers.

<sup>95</sup> For example, by refraining from criticizing the home state government or actively spreading home state propaganda.

<sup>96</sup> Moss offers a definition that is sometimes used, stating that TR can be conceptualized as ‘attempts by regimes to punish, deter, undermine, and silence activism in the diaspora’. See, DANA MOSS, *THE ARAB SPRING ABROAD: DIASPORA ACTIVISM AGAINST AUTHORITARIAN REGIMES*, CAMBRIDGE UNIVERSITY PRESS (2022), 71.

## 1.2. Common Forms of TR and the Tools Used to Facilitate TR

Authoritarian regimes employ various methods in attempting to exert influence over nationals living abroad. These include:

- misuse/abuse of Interpol membership (notably through the issuance of ‘red notices’ by home states to arrange for the arrest and extradition of dissident voices from the host state to the home state),<sup>97</sup>
- harming (or threatening to harm) an expatriate; or
- harming (or threatening to harm) family members (inside or outside of the host state) of an expatriate.<sup>98</sup>

While it is important to understand the distinct types of TR, it is also critical that host states be aware of frameworks often used by home states to facilitate such actions. A few such examples include:

- digital means (sometimes called “Digital TR”), including surveillance, online harassment, and disinformation campaigns against migrants with ties to authoritarian countries.<sup>99</sup>
- creating and/or facilitating a hostile environment for (certain) émigrés in the host country. Home states may accomplish this by:
  - using business and other ties to exert pressure on diaspora community members;
  - helping to organize events which increase the ‘pride’ or ‘patriotism’ of members of the diaspora community in the home state;
  - planting operatives in diaspora communities or incentivizing people to become operatives;
  - establishing ‘service centers’ in the host state, with the aim of monitoring or disciplining diaspora community members,<sup>100</sup> and
  - manipulation of host-state media.

## 2. Italian Responses to TR

### 2.1. Introduction

This Section attempts to provide a sense of the prevalence of TR in Italy and the extent to which TR is both recognized as a standalone issue and addressed by Italian policymakers. A similar exercise was performed in the TR Report, wherein Australia, Belgium, Canada, France, Germany, the Netherlands, Sweden, the United Kingdom and the United States were examined. The assessment for Italy will follow the same structure as was provided for each of the countries analyzed in the TR Report. Specifically, data will be presented from the *Authoritarian Actions Abroad Database* (AAAD) and the

---

<sup>97</sup> ‘Red Notices’ allow member nations to request that an arrest be made by law enforcement entities of other member states.

<sup>98</sup> Dana M. Moss, Marcus Michaelsen & Gillian Kennedy, *Going after the family: Transnational repression and the proxy punishment of Middle Eastern diasporas*, 22 GLOBAL NETWORKS 735 (2022).

<sup>99</sup> Marcus Michaelsen and Johannes Thumfart, *Drawing a line: Digital transnational repression against political exiles and host state sovereignty*, EUROPEAN JOURNAL OF INTERNATIONAL SECURITY (2022), pp. 1-2, <https://doi.org/doi:10.1017/eis.2022.27>

<sup>100</sup> A Spanish NGO, Safeguard Defenders, alleges that China has established sanctioned and unsanctioned “service-centers” across five continents, “some of which are implicated in collaborating with Chinese police in carrying out policing operations on foreign soil.” See, SAFEGUARD DEFENDERS, *110 OVERSEAS Chinese Transnational Policing Gone Wild*, (2022), <https://safeguarddefenders.com/sites/default/files/pdf/110%20Overseas%20%28v5%29.pdf>. The New York Times also wrote about the phenomenon in the context of New York City (see <https://www.nytimes.com/2023/04/17/nyregion/fbi-chinese-police-outpost-nyc.html?searchResultPosition=1>)

Freedom House database on Italy in order to provide a sense of TR in the country discussed.<sup>101</sup> The remainder of the analysis is responsive to **two queries**.

- The first question, which is quite basic, asks whether **the concept of TR has entered into the policy-making discussions of said country and whether the concept of TR is driving those discussions**.

The answer to this question was arrived at by searching legislative and press materials containing the phrase(s) “transnational repression,” “extraterritorial repression,” “transnational authoritarianism” or the like (in both English and Italian). Searches also attempted to look for situations where aspects of the concept are being directly and purposefully addressed.

- The **second question probes the types of mechanisms, if any, that are employed in addressing TR** (or one or more types of TR).<sup>102</sup>

## 2.2. Italy

### 2.2.1. TR Data

According to OECD data, 10.4% of the population in Italy are foreign born.<sup>103</sup> The AAAD data recorded 7 acts of TR in Italy:

- three cases involved arrests/detentions instigated by the home state;
- two cases involved attempted extradition;
- there was also one abduction of a North Korean citizen; and
- there was one assassination of an Iranian opposition member.

Three of the events were linked to Egypt, while China, Iran, Kazakhstan and North Korea also were accused perpetrators.

Freedom House found three acts of ‘physical TR’ in Italy,<sup>104</sup> one of which (a detention of an Egyptian national) was included in the AAAD data. Two other detentions, one linked to Iran and one linked to Russia, made up the remainder of the Freedom House data.

### 2.2.2. Has TR entered policy discussions in Italy?

In addition to the aforementioned data, Italy was a featured country in the *Safeguard Defenders* report, in which it is alleged that there were/are eleven so-called Chinese ‘police stations’ in operation.<sup>105</sup> *Safeguard Defenders* asserted that the ‘stations’ in Italy are linked to a 2015 bilateral deal that, inter alia, allowed Chinese police officers take part in joint patrols with Italian counterparts in Rome, Milan, Naples and other cities.<sup>106</sup>

<sup>101</sup> For more information on the AAAD database and the Freedom House database, please consult footnotes 13 and 14 of the TR Report.

<sup>102</sup> In the context of the TR Report, it was noted that this second question can be difficult to answer when overt discussion of TR is not found. In those cases, the SICL attempted to identify relevant rules, laws, schemes, etc. that are driven, at least in part, by an attempt to address TR-related vulnerabilities.

<sup>103</sup> See, <https://data.oecd.org/migration/foreign-born-population.htm>.

<sup>104</sup> Please see fn. 14 of the TR Report for an explanation of Freedom House’s methodology.

<sup>105</sup> As noted in the TR Report (see footnote 7 thereof), *Safeguard Defenders* is a Spanish-based NGO, which alleged that China has established sanctioned and unsanctioned “service-centers” across five continents, “some of which are implicated in collaborating with Chinese police in carrying out policing operations on foreign soil.” See, SAFEGUARD DEFENDERS, 110 OVERSEAS Chinese Transnational Policing Gone Wild, (2022), <https://safeguarddefenders.com/sites/default/files/pdf/110%20Overseas%20%28v5%29.pdf>.

<sup>106</sup> Notably, in 2019, Italy became the first major industrialised nation to sign up to its Belt and Road Initiative - a colossal project designed to improve Beijing's trade reach.

In a statement to *Il Foglio* newspaper Italy's interior ministry, Matteo Piantedosi, stated that the alleged Chinese police stations were "of no particular concern".<sup>107</sup> However, questions were subsequently submitted by two MPs, Lia Quartapelle (who asked about whether the government would consider reviewing certain public security cooperation agreements that were in place between China and Italy), and Mary Bizotto (who asked what steps were going to be undertaken to verify that the controversial centers do not pose a threat of espionage or "control over Chinese communities present on Italian territory").<sup>108</sup> Subsequent to those inquiries, Minister Piantedosi launched "targeted investigations" on the 'stations'. According to the Brussels Times, Minister Piantedosi has "pledged to 'personally monitor' the matter and has not ruled out sanctions in case of illegal practices, emphasizing the international significance of addressing this issue."<sup>109</sup>

While the *Safeguard Defenders* allegations have undoubtedly sparked conversations in Italy, there is only spotty evidence to suggest a fuller engagement with TR. Notably, Italy was a signatory to the March 2023 "Declaration of the Summit for Democracy", which states, that signatory countries,

[...] commit to defend against foreign interference, including in elections; transnational organized crimes; [...]; and *transnational repression*, including that of human rights defenders, whatever their origin.<sup>110</sup>

Additionally, Italy was signatory to the "2022 Resilient Democracies Statement", issued by the leaders of the G7 countries (Canada, France, Germany, Italy, Japan, the United Kingdom and the United State) and other partners (Argentina, India, Indonesia, Senegal, South Africa, the, and the European Union) in late June 2022. As part of that statement, the countries affirm a commitment to "Building resilience against malign foreign interference *and acts of transnational repression* that seek to undermine trust in government, society and media, reduce civic space and silence critical voices."<sup>111</sup>

One additional note of recognition by the Italian government to TR-related concerns took place in the realm of Interpol 'red notices'. In particular, after a Ukrainian opera director, Yevhen Lavrenchuk, was arrested in Italy at Russia's request, Italian justice minister, Marta Cartabia requested that the courts release Lavrenchuk. The Minister noted that "in consideration of the dramatic developments concerning Ukraine" Lavrenchuk could be subjected to "treatment contrary to his fundamental rights" if extradited to Russia, owing to the fact that he is Ukrainian and opposed to the Russian president, Vladimir Putin."<sup>112</sup> The courts heeded the Minister's request.

Ultimately, while there are discussions of individual acts that might fall under the category of 'transnational repression', there is very little (outside of language in plurilateral convention) to evidence that TR is considered a stand-alone policy topic in Italy. It is worth noting that the current government in Italy rose to prominence promising to, among other things, "clamp down on unauthorised arrivals from North Africa with harsher immigration laws, restrictions on sea rescue

<sup>107</sup> See, <https://www.theguardian.com/world/2022/dec/05/italy-home-11-unofficial-chinese-police-stations-world>

<sup>108</sup> <https://decode39.com/4881/china-overseas-police-station-italy/>

<sup>109</sup> See, <https://www.brusselstimes.com/809158/chinese-consular-covert-volunteer-network-operating-in-belgium-ngo-claims>; see also, <https://decode39.com/5532/italy-chinese-police-stations/>.

<sup>110</sup> [https://www.esteri.it/en/sala\\_stampa/archivionotizie/comunicati/2023/03/declaration-of-the-summit-for-democracy/](https://www.esteri.it/en/sala_stampa/archivionotizie/comunicati/2023/03/declaration-of-the-summit-for-democracy/) (emphasis supplied).

<sup>111</sup> 2022 Resilient Democracies Statement (June 27, 2022) <https://www.consilium.europa.eu/media/57544/2022-06-27-g7-resilient-democracies-statement-data.pdf> (emphasis supplied). This Statement was referenced in the TR Report (see, p. 26, therein).

<sup>112</sup> SICL did not find evidence of a change in Italian policy with respect to red notices, however.

charities and plans to build migrant reception camps in Albania.”<sup>113</sup> While Italy’s current orientation toward immigrants/immigration — which has been much criticized by Human Rights Watch<sup>114</sup> and others — does not preclude the possibility that TR will be a standalone topic of interest in the country, it would seem to impact negatively on the *likelihood* of such a focus.

### 2.2.3. Responses to TR in Italy<sup>115</sup>

While Italy has reacted at times to specific acts of TR, it is often difficult to connect those reactions to a larger concern with TR (as a phenomenon unto itself). Take, for example, Italy’s relationship with China. Not only has there been a growing response to the ‘police stations’ in Italy, but Italy also recently — and quite publicly — decided to withdraw from a Memorandum of Understanding (MOU)<sup>116</sup> with China in which Italy agreed to cooperate on the promotion of China’s so-called “Belt and Road Initiative” (BRI). While this policy announcement created many headlines, there is little evidence to indicate that TR concerns motivated the decision. In fact, SICL did not find any explicit mention of transnational repression, nor even to Chinese police stations, offered as a reason for withdrawal. Rather, Italian Prime Minister, Giorgia Meloni, has highlighted (albeit prior to the decision to withdraw from the MOU) disappointing economic outcomes as motivating the decision, stating that, “The issue is how to guarantee a partnership that is beneficial for both sides”.<sup>117</sup>

While direct discussions of transnational repression (or of the specific concerns of diaspora community members) are difficult to locate in Italy, it is worth highlighting a few laws that might apply to certain incarnations of TR. For example, the Italian Penal Code criminalizes both “unlawful knowledge or obstruction of telegraphic or telephone communications or conversations”<sup>118</sup> (Art. 617) and “unlawful possession, dissemination and installation of equipment and other means designed to intercept, prevent or interrupt telegraphic or telephone communications or conversations”<sup>119</sup> (Art. 617bis). This has been read by Italian courts to criminalize, inter alia, the installation of the spy software on

<sup>113</sup> See <https://www.reuters.com/world/europe/italys-meloni-talks-tough-migrants-while-opening-up-foreign-workers-2023-12-06/>

<sup>114</sup> See: <https://www.hrw.org/world-report/2024>).  
See also: [https://www.google.com/url?sa=t&rc=j&q=&esrc=s&source=web&cd=&ved=2ahUKewja7Nm7p9DAxV8h\\_OHHanYDVgQFnoECBAQAQ&url=https%3A%2F%2Fwww.politico.eu%2Farticle%2Fitaly-prime-minister-giorgia-meloni-immigrationcrackdown%2F&usq=AOvVaw1YvC4oS\\_P2tVil3nNaqqOl&opi=89978449](https://www.google.com/url?sa=t&rc=j&q=&esrc=s&source=web&cd=&ved=2ahUKewja7Nm7p9DAxV8h_OHHanYDVgQFnoECBAQAQ&url=https%3A%2F%2Fwww.politico.eu%2Farticle%2Fitaly-prime-minister-giorgia-meloni-immigrationcrackdown%2F&usq=AOvVaw1YvC4oS_P2tVil3nNaqqOl&opi=89978449); <https://www.hrw.org/news/2023/05/12/disastrous-clamp-down-migrants-rights-italy>. For a more general look at Italian Immigration, see the Report produced by the EU at: [https://migrant-integration.ec.europa.eu/country-governance/governance-migrant-integration-italy\\_en](https://migrant-integration.ec.europa.eu/country-governance/governance-migrant-integration-italy_en)

<sup>115</sup> As part of the information gathering process, the SICL contacted a scholar who focuses on TR in Italy to determine the extent to which the Italian government is/was engaging with TR-related issues. The SICL was informed that there was little information available about the Italian responses to TR. The scholar’s impression was that Italian authorities were not overly focused/concerned with TR. A lack of empirical data and time, however, precluded an empirical testing of this impression.

<sup>116</sup> The MOU’s full title is: “Memorandum of understanding between the government of the Italian Republic And the government of The People’s Republic Of China on cooperation within the framework of the Silk Road Economic Belt and the 21st Century Maritime Silk Road Initiative,

<sup>117</sup> See <https://www.reuters.com/world/italian-pm-tells-chinas-premier-plan-quit-belt-road-initiative-media-2023-09-10/>. Notably, the MOU was set to expire in March of 2024, regardless of whether Italy withdrew.

<sup>118</sup> *Cognizione interruzione o impedimento illeciti di comunicazioni o conversazioni telegrafiche o telefoniche*. Found online at: <https://www.altalex.com/documents/news/2014/10/28/dei-delitti-contro-la-persona>

<sup>119</sup> *Detenzione, diffusione e installazione abusiva di apparecchiature e di altri mezzi atti a intercettare, impedire interrompere comunicazioni o conversazioni telegrafiche o telefoniche*. Found online at: <https://www.altalex.com/documents/news/2014/10/28/dei-delitti-contro-la-persona>



someone's phone. Similarly, Article 612-bis of the criminal code punishes 'stalking'. The Article provides that,

Unless the act constitutes a more serious offence, any person who, by repeated conduct, threatens or harasses someone in such a way as to cause a persistent and serious state of anxiety or fear or to generate a well-founded fear for one's own safety or that of a close relative or person linked to him by an emotional relationship or to force the same to alter the lifestyle habits.<sup>120</sup>

While every Western country features laws that criminalize certain acts of TR (murder, battery, etc.), these **Italian provisions are notable, in particular, for their capacity to deter Digital TR**, which has become a prevalent medium for abuse of individuals by home-state authoritarian regimes.

---

<sup>120</sup> *Salvo che il fatto costituisca più grave reato, è punito con la reclusione da un anno a sei anni e sei mesi chiunque, con condotte reiterate, minaccia o molesta taluno in modo da cagionare un perdurante e grave stato di ansia o di paura ovvero da ingenerare un fondato timore per l'incolumità propria o di un prossimo congiunto o di persona al medesimo legata da relazione affettiva ovvero da costringere lo stesso ad alterare le proprie abitudini di vita.* Found online at: <https://www.altalex.com/documents/news/2014/10/28/dei-delitti-contro-la-persona>

#### IV. CONCLUSION: ITALY IN CONTEXT

The TR Report demonstrated that countries currently have (sometimes quite) different approaches to combatting TR. Given this high level of diversity, the TR Report noted that *“it would be an error to assert that a set of ‘TR best practices’ currently exists (or is clearly developing) among the studied countries”*.

The TR Report also noted, however, that certain commonalities can be found and applied as a basis for comparison. One way to categorize the country approaches is with respect to the relative priority placed on addressing acts of TR. The TR Report classified countries according to the relative priority that the studied countries dedicated to TR. In that rubric, an ‘elevated priority’ was assigned to a country where one sees robust discussion of TR in policy circles and/or the advancement of legislation aimed at addressing TR within the country’s borders. TR was assessed to be of ‘medium priority’ in a country that has little discussion of TR as standalone issue, but nevertheless shows that it recognizes the damage of TR in certain contexts and/or possesses legal/policy instruments directed at addressing certain aspects of TR. The final category consists of countries that consider TR a ‘low priority’. These countries have little or no discussion of TR. Further, while governments of these countries may perhaps recognize certain problematic elements related to TR, they tend to view those issues as secondary to other policy concerns.

It would appear that Italy fits in the ‘**low priority**’ or possibly ‘**medium priority**’ category(ies) of this rubric. On the one hand, TR is not a focus of policy discussions (at least not as a standalone topic) in Italy. On the other hand, Italy does possess certain legal/policy instruments (e.g., the section of the criminal code that addresses espionage) that have been (or could be) used to counter certain acts of transnational repression (e.g., specific forms of digital TR).

While this represents SICL’s current assessment of Italy’s orientation toward TR, SICL stresses, as it did in the larger TR report, that there is a great deal of dynamism in both the frequency and intensity of discussions/policies relating to TR. It is entirely possible that the level of focus given by Italy to this issue will change in the coming months/years.

#### SWISS INSTITUTE FOR COMPARATIVE LAW

Sean Stacy  
*Legal Adviser, US Law and Common Law*

PD Dr. Krista Nadakavukaren Schefer  
*Vice director, Co-Head of the Legal Division*

*Note of Acknowledgement: Also contributing to this report were Dr. Johanna Fournier, who advised on Germany, as well as Dr. Mathias Wouters, who provided guidance on Belgium and the Netherlands. Any errors, mistakes, etc. contained in this report are exclusively those of the author.*