

**Opening speech by the Defender of Rights, Jacques Toubon, at the 5th IPCAN Seminar in
Paris, 22 October 2019**

Good morning, everyone,

I am very pleased to welcome you today with, at my side, Michael O'Flaherty, Director of the European Union Agency for Fundamental Rights, with whom we are co-organizing this 5th IPCAN seminar, entitled: "Police-Population Relations: Issues and Practices".

First of all, I would like to mention the specific context these days in France, marked by the murderous attack at the Paris police headquarters which cost the lives of four police officers. This has naturally been a big shock in France for all of us, and I think also in Europe, and I wanted to mention it simply at the beginning of these days because we are not working in a theoretical and absolute situation, we are in a context that, unfortunately, for years, has been marked by this threat and by the crimes that we regularly suffer.

As you know, the Independent Police Complaints Authorities' Network (IPCAN) is a network of independent mechanisms for external monitoring of the security forces.

It was set up in 2013, by a dozen or so counterparts, in Paris, in order to allow exchanges of expertise between peers, even though our structures, by their statutes, powers, areas of competence, etc., differ greatly from one another.

The network now has 22 members, including the Ombudsman of the Netherlands, who joined us this year.

The aim of our network is twofold:

- To share our concerns and expertise between peers on common issues; our work is to exchange expertise between peers, to confront the way we deal with the missions entrusted to us, even if our structures, statutes, powers, perimeters of competence, the way we are appointed, our greater or lesser degree of independence, differ a lot between the different IPCAN members.

- Identify solutions jointly with all the stakeholders concerned by these issues, and first and foremost with the security forces. The principle of adversarial process is part of our DNA, both at the Defender of Rights and generally among IPCAN counterparts. This principle must be retained even more in meetings such as these, which are first and foremost marked by the spirit of dialogue.

Thus, as part of our network, we organize :

- Either closed seminars, during which we exchange on very specific themes. As an example, in December 2018, we worked on the issue of the deontology of law enforcement agencies in their relations with migrants in Europe, a summary of which you can find on the IPCAN website. These seminars have quite a legal orientation and are quite close to the reality of our daily work;

- Or larger-scale seminars, such as today's seminar, because we understand that what is at stake in the individual situations we are dealing with, sometimes goes beyond the specific behavior of one police officer and can take up much wider issues, of a systemic, institutional, political nature. Taking a higher profile and looking at the issues in a much broader way means drawing on what is being done in other countries, particularly in Europe, but also by other stakeholders and also in disciplines other than law, such as, of course, sociology in the first instance, but also issues relating to technology, for example. In 2017, we co-organised with the General Secretariat of the Council of Europe and with the assistance of the Commissioner for Human Rights, a conference on the issue of respect of fundamental rights in a context of strengthening anti-terrorist policies and legislation in European countries, at the very time when, in Brussels, the report on this subject by the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs on anti-terrorist legislation in the European Union was being discussed.

This year, the European Union Agency for Fundamental Rights has agreed to take this seminar on relations between the police and the public with us, and I thank them for this, as it has full competence within the field of fundamental rights, with the Charter of Fundamental Rights, but also, of course, with the application of all the rules, including those of the European Convention on Human Rights.

It should be remembered that relations between the police and the population are rather marked by high levels of confidence among the general population in European countries.

Whenever a survey is conducted on the subject, 80 per cent of people say they are fairly satisfied with the way the security forces operate. However, in some countries today, relations between the police and the population can be characterized by tensions or even a deterioration in the bond of trust with part of the population, in a context of tougher security policies. The reduction in the resources allocated to national law enforcement services, the working conditions, the multiplication of missions assigned to them, the fatigue and the effects of economic and social crises on the population can also be factors of tension, but also of discouragement, irritation, anger and hostility in these relations¹.

Unfortunately, there is an increasing number of suicides among members of the police force. On the other hand, there are renewed and increasingly frequent protests, not only when it comes to law enforcement operations, but more generally on a daily basis, from part of the population.

And these are the situations that IPCAN members have to deal with through the complaints they receive.

To prepare this seminar, we conducted a consultation within the IPCAN network in order to identify common issues and concerns that we should address in terms of police-population relations. Three topics appeared to us as relevant:

The first: discriminatory identity checks and unlawful profiling.

Such complaints are brought to the attention of network members. In addition, we now have many studies, whether European, Michael will refer to the EU-MIDIS surveys conducted by the Agency, or national, which reveal the reality of discriminatory controls. I would like, in this respect, to recall the results of the survey on access to rights of the Defender of Rights, published in 2016, which also point in this direction: they show that, compared to the general population and all other things being equal, young men in France, who are perceived as Arab/Maghrebin or Black, are 20 times more likely to be subjected to identity checks than others.

We had published the study on our site in January 2017, when a tragic confrontation between police officers and young people took place in a Parisian suburb of Aulnay-sous-Bois, with

¹ See Opinion of the Defender of Rights No. 18-08 of March 12, 2018, following the hearing of the Defender of Rights before the Senate Inquiry Committee on the state of internal security Forces in March 2018.

Théo, being injured. It is a case that is still being investigated by the Defender of Rights in the deontology security department.

We also have reports in support, in particular those by ECRI, as well as some national and European case law which refers to such discrimination and which we use in our work. In our country, the Court of Cassation, in 2016, handed down a fairly new, unprecedented ruling recognizing the state's responsibility towards five people because they had been subjected to discriminatory identity checks and deciding that they should be compensated.

Today, this recurring observation calls for us to reflect together on the solutions to be found, in order to overcome the situation of deadlock or inertia that we may be experiencing.

The second subject concerns the reception of the public, victims and vulnerable persons, in particular the refusal to register complaints.

This is a subject dealt with by several of our counterparts, these refusals are sometimes opposed to people in vulnerable situations, women victims of gender violence, LGBTI people, people with disabilities, foreigners etc... in their journey to access their rights and in particular to an effective remedy.

The third proposed theme concerns the management of public demonstrations.

This theme was not chosen because it was one that was commonly addressed by IPCAN members. In reality, we are finally today a limited number of counterparts to deal with claims in this field among which, the United Kingdom, Estonia, Quebec.... The Defender of Rights has produced a report on the doctrine of policing in France, which is inspired by the practices of other European countries. We have done significant work, apart from individual decisions on this subject. It is a report dating from December 2017, which we submitted to the Chair of the National Assembly in January 2018. This study had been commissioned to us by the President of the National Assembly.

The study was coordinated by my assistant. We discussed and proposed ideas and solutions on many subjects that have been topics of controversy since the start of the demonstrations and the Yellow Vests social movement. In this report, one year before, we had made analyses and suggestions that could have been used before we came to the difficulties that have occurred since the end of 2018 and the beginning of 2019.

For the other counterparts, given the current social and climatic situation in particular, it is almost a prospective object.

Police officers directly arrived from England tomorrow will share their experience of the management of the *Rebellion extinction* movement that has taken place in recent days all over Europe but particularly in London.

The aim of today's conference is, on the one hand, to take stock of police-population relations in the Member States of the European Union, which is the purpose of this afternoon's panels. On the other hand, it is a question of assessing the progress made in certain countries thanks to the practices and tools that have been implemented. We know that, in order to be effective and to prove their worth, these solutions must also be the result of reflection that goes beyond the strict scope of police matters. The police are not responsible for everything and the police cannot do everything on their own. These are eminently political issues today, which are a matter for the choices of our governments, our parliaments, the degree to which they listen to civil society, the researchers of the security forces themselves on the ground, and the citizens' recourse structures. In their design and implementation, current security policies question the fundamentals of our societies and our democracies and bring into play - and sometimes in situations of risk - rights and freedoms, and in particular the principle of equality. That is why I think we need to work on these issues. We cannot leave it at that and continue to put two sides at odds with each other. The law is the expression of the general will of everyone. There cannot be, in the long run, a divorce between the two. In order to achieve these improvements, we must work collectively, in a complementary, multidisciplinary and, above all, contradictory manner.

That is why the work that needs to be done to improve police-population relations must be collective, complementary, multidisciplinary and allow for contradictory argumentation. That is why we wanted to bring together for this seminar, alongside the members of IPCAN - and I thank you all for being here today - some 150 experts, representing all stakeholders concerned by the issues dealt with: members of the forces of law and order, representatives of internal inspectorates of security forces, researchers, representatives of civil society, parliamentarians, magistrates, lawyers, representatives of victim support services and representatives of European and national institutions.

I hope that the debates will be rich, that they will enable us to move forward and move forward together. There is no inevitability that the police and the population will get divorced. Quite the contrary. I believe that we can find ways of maintaining law and order, of security

policies that are both respectful of fundamental rights and freedoms and supported by the entire population. This is certainly an important part of our democratic future.

I wish us excellent work.

Thank you very much.