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Foreign fighters in Syria and Iraq

Report[1]
Committee on Political Affairs and Democracy
Rapporteur: Mr Dirk Van der MAELEN, Belgium, Socialist Group

Summary

In recent years, many young people have left their home countries in Europe to join "Islamic State" ("IS") and other violent extremist groups in Syria and Iraq. These "foreign fighters" are a cause of serious concern for public authorities and law enforcement agencies as there is a risk that, upon their return to Europe, they will have both the skills and the motivation to carry out terrorist attacks. The recent attacks in Paris provide evidence of the reality of this threat.

Beyond immediate security threats, there are risks of undermining the cohesion and integrity of democratic societies by exacerbating cleavages between various ethnic and religious groups.

The report aims to raise public awareness of the foreign fighters phenomenon, which is a growing threat to domestic and international security. It provides information and food for thought on the scale of the phenomenon, the root causes and the motivations of individuals who turn into foreign fighters, and measures which may be taken at different levels in order to tackle it. Finally, the report suggests a few avenues on how to step up the international response to the problem, and argues for a greater Council of Europe contribution to addressing its underlying causes.

1. Reference to committee: Doc. 13559, Reference 4069 of 3 October 2014.

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A. Draft resolution[2]

1. In recent years, the phenomenon of “foreign fighters” – individuals, driven mainly by ideology, religion and/or kinship, who leave their country of origin or habitual residence to join a party engaged in an armed conflict – has expanded almost worldwide and has become a major global challenge for the international community.

2. The Parliamentary Assembly condemns in the strongest terms the recent terrorist attacks which took away the lives of hundreds of citizens of Turkey, the Russian Federation, Lebanon, France, Tunisia, and of many other countries, and reaffirms its position of principle in support of the fight against terrorism in all its forms and wherever it occurs. It notes with great concern that many of these recent terrorist attacks are claimed by, and may be attributed to, individuals who act in the name of the terrorist entity which calls itself “Islamic State” (“IS”).

3. In this context, the Assembly is extremely worried about the growing flow of foreign fighters – men and women from across Europe – who travel to Syria and Iraq in order to join “IS” and other violent extremist groups which openly reject and attack fundamental values and commit heinous crimes against both European citizens and the local population of the countries where they go to join the “jihad”.

4. Therefore the Assembly deems it of utmost importance to raise public awareness of, understand and address the foreign fighters phenomenon, including the problems related to the return of foreign fighters to their home countries, which is a major and growing threat to domestic and international security.

5. This threat takes on an even greater degree of urgency in the light of the bloody attacks in Paris in November 2015, as well as a number of previous terrorist attacks where there is credible evidence that most perpetrators were linked to “IS” and had fought in Syria/Iraq. This threat should also be considered against the background of the unprecedented wave of arrivals of refugees and migrants in Europe.

6. Furthermore, in addition to direct security threats such as terrorist attacks by returnees, there are risks that foreign fighters seek, both while abroad and after return, to broaden support to their causes and extend radical terrorist networks by recruiting new followers, glorifying terrorist acts and sharing experience with, and providing training in terrorist techniques to, new recruits.

7. More broadly, by misusing religious motivations of their choices and acts, foreign fighters actually do harm to religious communities which they claim to belong to and fight for. As a result, there are risks of undermining the cohesion and integrity of democratic societies by exacerbating cleavages between the various ethnic and religious groups. The Assembly reaffirms in this respect that terrorism should not be associated with any religion, nationality or ethnic group.

8. The Assembly is particularly worried about the growing proportion of women and young girls who travel to join “IS”; in some countries, this exceeds 40% of all departures. While, for the time being, it seems that women and girls do not take part directly in the fighting, it is to be feared that this could happen in the future as “IS” sustains losses in the ranks of its fighters.

9. The foreign fighters problem is likely to remain on the political agenda for years to come, and may even deteriorate. It is therefore essential to deepen the understanding of its root causes and devise appropriate policy responses to address them. While there is a tendency to take quick and visible short-term action focused on protection and punishment in reaction to immediate threats, the Assembly believes that a security-oriented approach is not enough, and stresses the need to put more emphasis on addressing the underlying factors of radicalisation, as well as on prevention, discouragement and reintegration policies which may yield long-term results.

10. According to various studies, becoming a foreign fighter is a result of, and may be an ultimate step in, the process of radicalisation – a complex phenomenon of people embracing radical ideology and intolerant opinions, views and ideas that could lead to violent extremism and the commitment of terrorist acts.

11. Radicalisation is most often a result of the interaction of a series of political, socio-economic, ideological, personal and psychological factors. It may affect men and women of all social origins, particularly the young, including those originating from the middle classes and holding higher education degrees. Individuals feeling marginalised, ill-treated, socially excluded and desperately seeking a meaning to life and a sense of belonging are at high risk of being radicalised, indoctrinated by extremist propaganda, including via Internet and social networks, and being recruited by terrorist groups.

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2. Draft resolution unanimously adopted by the committee on 7 December 2015.

12. As to the driving factors which may lead to a decision to travel to a conflict zone, these may include a sense of outrage at what is alleged to be happening in the country where the conflict is taking place and empathy with the people being affected, adherence to the ideology of the group an individual wishes to join, and a search for identity and belonging. Other drivers may be foreign policy grievances, national policy, intergenerational conflict and peer pressure. In addition, young women and girls may be attracted, via Internet recruiters, by promises of romance and marriage to "IS" fighters and their perceived "true masculinity", and the prospects of building genuine Islamic families in a "Caliphate" under Sharia law and becoming mothers of the next generation of jihadists.

13. The Assembly reiterates that the response to terrorism must comply with international law and the fundamental principles of democracy, respect for human rights and the rule of law, and avoid undermining the values and standards of democracy which terrorists seek to destroy.

14. The foreign fighters problem is being studied and dealt with as a matter of priority by many national governments, specialised agencies, research centres, local authorities, as well as by various regional and international organisations. The Assembly underlines the need for sharing information and best practice and exchanging experiences, and the importance of co-ordinating efforts among all actors involved.

15. Taking into account an ever broadening dimension of the terrorist fighters problem stretching over national, regional and even continental borders, the Assembly believes that the United Nations must continue to play the leading role in shaping a global strategy to counter this dangerous trend. It refers, in particular, to United Nations Security Council Resolution 2178 (2014) on "Threats to international peace and security caused by terrorist acts", which addresses the issue of foreign terrorist fighters.

16. In this context, the Assembly notes with satisfaction that the Council of Europe was the first international organisation to set up a regional legal instrument to implement the provisions of Resolution 2178 by adopting an additional Protocol to the Council of Europe Convention on the Prevention of Terrorism (CETS No. 217). While regretting that the Committee of Ministers did not take into account the proposed amendments contained in Assembly Opinion 289 (2015), the Assembly welcomes the opening for signature of the additional Protocol.

17. The Assembly further welcomes the resolve of the Committee of Ministers to make a strong contribution to the fight against violent extremism and radicalisation leading to terrorism through the adoption of an Action Plan for 2015-2017, which aims to increase the capacity of European societies to reject all forms of extremism. It particularly underscores the relevance of concrete measures for preventing radicalisation through education, in prisons and on the Internet.

18. For its part, the European Union has been active in co-ordinating its member States' response to the problem of foreign fighters, and has developed, *inter alia*, a "Strategy for Combating Radicalisation and Recruitment to Terrorism" encompassing policy responses which are also relevant for countries outside the European Union.

19. Due to their proximity to citizens, local authorities and other actors at local level have a key role to play with regard to the early detection and prevention of radicalisation and departures of Europeans to the conflict zones, as well as the readaptation and deradicalisation of returnees. In this respect, the Assembly welcomes the efforts by the Congress of Local and Regional Authorities of the Council of Europe to bring together representatives of local authorities from across Europe with a view to sharing experiences and good practice on preventing radicalisation, and to promote integrated approaches at local level in order to ensure that all stakeholders – civil society, faith-based organisations and social, educational, security and justice services – are involved.

20. The Assembly calls on member, observer and partner for democracy States to:

20.1. work out a comprehensive response to the foreign fighters problem, striking the right balance between repression of criminal behaviour, protection of populations, prevention of radicalisation, and deradicalisation and re-integration of returnees into their home communities, as well as to address the root causes of radicalisation;

20.2. build partnerships between governments, local authorities, the private sector and civil society to address the threat posed by violent extremist ideologies;

20.3. recognise and enhance the role of local authorities in dealing with the foreign fighters problem, by raising awareness at the local level, strengthening central advisory capacity, collecting, analysing and sharing local-level approaches, developing local multi-agency structures and creating and pooling new resources and tools;

20.4. review the situation in education systems, promote inclusive education and ensure that schools fully play their role in preparing active citizens with a sense of responsibility and critical thinking skills, and prepared to live in diversity and defend the values of democracy;

20.5. devise effective measures in order to detect and stop the dissemination of violent extremist propaganda on the Internet and via social networks and the media;

20.6. make active use of all communication channels, including the Internet and social media, for spreading counter-narratives aimed at exposing extremist discourse and dissipating illusions about the situation in the territories held by “IS” and the fate of its recruits;

20.7. enhance inter-cultural and inter-religious dialogue with leaders of the various communities, with particular emphasis on the prevention of radicalisation and the need to counter hate speech and violent extremist propaganda;

20.8. pay due attention to the education and training of religious leaders in full respect of fundamental democratic values, so as to ensure that they disseminate the message of tolerance and resist hate speech;

20.9. pay particular attention to the prevention of radicalisation and terrorist recruitment in prisons;

20.10. take fully into account the increasing number of women and young girls departing to join “IS”, develop a gender-specific approach in prevention and re-integration, and specific counter-narratives aimed at women and girls, and fully use the social and family role of women in countering violent extremism;

20.11. prioritise deradicalisation programmes dealing with returnees;

20.12. enhance international co-operation between competent national and local authorities and specialised agencies with a view to a swift exchange of relevant information, experiences and good practice for engagement with foreign fighters for prevention, outreach, rehabilitation and reintegration;

20.13. sign and ratify, if they have not already done so, the Council of Europe Convention on the Prevention of Terrorism (CETS No. 196) and its additional Protocol, as well as other relevant Council of Europe legal instruments.

B. Draft recommendation[3]

1. The Parliamentary Assembly refers to its Resolution … (2016) on foreign fighters in Syria and Iraq.

2. The recent terrorist attacks which took away the lives of hundreds of citizens of Turkey, the Russian Federation, Lebanon, France, Tunisia and of many other countries, require the international community to step up co-operation in the fight against terrorism.

3. The Assembly is convinced that the Council of Europe, with its rich experience in consolidating democracy, protecting human rights, strengthening the rule of law and dealing with issues related to democratic security, can make a more substantial contribution to efforts to address the root causes of the foreign fighters phenomenon, and to prevent terrorism generally.

4. The Assembly welcomes the adoption by the Committee of Ministers of the Action Plan on the fight against violent extremism and radicalisation leading to terrorism. It invites the Committee of Ministers to:

4.1. strengthen the Council of Europe's contribution to the fight against terrorism, enhance its capacities and increase the resources available for activities in this area;

4.2. ensure the swift implementation of the measures aimed at preventing and fighting radicalisation contained in the Action Plan, and give more priority to education in democratic citizenship;

4.3. give substance to the proposal to draw up a Committee of Ministers recommendation on terrorists acting alone.

5. Furthermore, the Assembly invites the Committee of Ministers to consider the feasibility of developing, at the level of the Council of Europe, a comprehensive legal definition of terrorism, which would greatly contribute to enhanced pan-European co-operation on preventing and suppressing terrorism, the efficient extradition of terror suspects and the provision of mutual legal assistance between member States in terrorism cases.

3. Draft recommendation unanimously adopted by the committee on 7 December 2015.

C. Explanatory memorandum by Mr Van der Maelen, rapporteur

1. Introduction

1. Since the outbreak of the fighting between various sides in Syria and, more recently, in Iraq and Libya, the international community has been increasingly worried about the growing number of foreigners, mainly young men from many European countries, who are travelling to these areas and joining the fighting.

2. The foreign fighters phenomenon has become a matter of priority for police officers, prosecutors, deradicalisation experts, researchers, policy makers, municipalities, governments, international organisations and think tanks alike.

3. The rise of this phenomenon, which has developed into a global threat to international security, prompted the United Nations to hold an open meeting of the Security Council in September 2014 which was attended by about 50 leaders from all over the world. The meeting unanimously adopted Security Council Resolution 2178 (2014) whereby it condemned violent extremism and decided that member States shall, consistent with international law, prevent and suppress the "recruiting, organizing, transporting or equipping of individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in terrorist acts".

4. In June 2014, I tabled a motion for a resolution on "Foreign Fighters in Syria" (Doc.13559) which was signed by 40 members of the Parliamentary Assembly. The motion called on the Assembly to raise awareness of the phenomenon of "foreign fighters" in Europe, to gain an in-depth understanding of this phenomenon by conducting research into the key push and pull drivers of "foreign fighters", and to provide recommendations for policy makers, civil society and other relevant actors to deter young European citizens from joining conflicts abroad and to deal with terrorism threats once they return.

5. In January 2015, the committee appointed me rapporteur. On 16 March 2015, the committee held a hearing in Paris on this issue with the participation of several leading experts dealing with different aspects of the foreign fighters problem. Following the hearing, I asked one of them, Mr Christophe Paulussen,[4] to prepare a background study on foreign fighters. The present report is largely based on this excellent study. I wish to express my sincere thanks to Mr Paulussen for his valuable contribution.

6. The foreign fighters problem is a complex, multi-faceted and quickly evolving phenomenon. This report, which is not meant to be exhaustive, aims at presenting a few of the main challenges and contains various references to other relevant and insightful sources, including the excellent studies by Dr Sandra Krähenmann and Professor Rik Coolsaet, both of whom attended the Paris hearing. I am confident that these references will enable colleagues to quickly find the necessary additional information on this highly topical issue.

7. The foreign fighters phenomenon has already expanded to several countries of North and Sub-Saharan Africa and Asia. In Syria and Iraq, foreign fighters are reportedly involved on all sides. Moreover, most foreign fighters in Syria and Iraq originate from the region, and Europeans are estimated to make up to "only" 20% of the total number. Therefore I intend to limit the scope of this report and focus mainly on foreign fighters who leave their countries in Europe to join the terrorist group known as "IS" ("Da'ish" in Arabic) and other non-State armed groups in Syria and Iraq.[5]

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4. Dr Christophe Paulussen is a Senior Researcher in international humanitarian law and international criminal law at the T.M.C. Asser Institute in The Hague and Research Fellow at the International Centre for Counter-Terrorism in The Hague (Netherlands). He has published and organised concrete (capacity-building) projects on the topic of foreign fighters and is the co-editor, together with Professor de Guttry and Dr Capone, of a forthcoming collected volume on the subject, which will be published with T.M.C. Asser Press/Springer Verlag. The background paper was finalised on 22 June 2015.

5. Variations in translation have caused the same group to be termed "Islamic State in Iraq and Levant" (ISIL) and "Islamic State in Iraq and Syria" (ISIS) among others. Recently, the group renamed itself simply "Islamic State" (IS). Thus for the purposes of this document, for uniformity, but also in no way conferring recognition of any State status, the group is referred to as "IS".

2. Understanding the "foreign fighters" phenomenon

2.1. General information on the scale of the phenomenon and its definition

8. Almost every article or contribution on foreign fighters starts with the sentence that "this is not a new phenomenon". Indeed, it is not: Osama Bin Laden is probably one of the most famous former foreign fighters;[6] however, who knows that the well-known English writer George Orwell, author of classics such as *Animal Farm* and *1984*, fought in the Spanish civil war against the troops of Franco?[7] Some researchers go even further back in history and refer to the *Zuavi Pontifici,* thousands of young Catholics who, in the 1860s, joined the Army of the Papal States in the struggle against the Italian *Risorgimento* at the call of Pope Pius IX.

9. What is new in the current circumstances, however, is the scale of the phenomenon, and of its potential threat. On 26 January 2015, Peter Neumann, Director of the International Centre for the Study of Radicalisation and Political Violence (ICSR), wrote that according to ICSR's latest estimate to date, the number of foreigners that have joined Sunni militant organisations in the Syria/Iraq conflict now exceeds 20 000, surpassing the Afghanistan conflict in the 1980s.[8] Nearly a fifth of this number, almost 4 000, consists of residents or nationals of western European countries.[9] Neumann notes that this nearly doubles his organisation's estimate of December 2013. A more recent estimate by United States intelligence analysts concludes[10] that nearly 30 000 foreign fighters have travelled to Iraq and Syria from more than 100 countries since 2011.

10. Although the problem is most serious for Syria's neighbouring countries – with up to 11 000 foreign fighters, the Middle East remains the dominant source of foreigners in the conflict[11] – the focus of this report will be on the European context. Neumann notes that the largest western European countries – France, the United Kingdom and Germany – also produce the largest numbers of fighters (1 200, 500-600 and 500-600 respectively), but relative to population size, the most heavily affected countries are Belgium (440, up to 40 per million population),[12] Denmark (100-150, up to 27 per million population), and Sweden (150-180, up to 19 per million population).[13] International comparisons, however, should be treated with due caution, since counting methods can vary widely, even among European Union member States.

11. On 29 May 2015, the United Nations Security Council released the latest available numbers at the time, but these did not pertain to foreign fighters as such, but to foreign *terrorist* fighters – this difference will be explained in paragraph 16 below. In addition, the numbers were not limited to Syria and Iraq. The Security Council expressed "its grave concern that there are now over 25 000 foreign terrorist fighters from over 100 countries who have travelled to join or fight for terrorist entities associated with Al-Qaida, including 'Islamic State of Iraq and the Levant' (ISIL) and Al-Nusrah Front (ANF), and notes that the flow is mainly focused on, but not limited to, movement into the Syrian Arab Republic and Iraq".[14]

12. The figures continue to grow. In September 2015, France's Prime Minister Manuel Valls informed the French Parliament that up to 1 800 French citizens and residents were suspected of being involved in jihadist networks worldwide. Some 500 of them were believed to have taken part in the military action in Syria and

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6. D. Malet, *Foreign Fighters: Transnational Identity in Civil Conflicts*, Oxford University Press: Oxford 2013 (hereinafter: Malet 2013), p. 2.
7. Ibid., pp. 98-99.
8. See P.R. Neumann, Foreign fighter total in Syria/Iraq now exceeds 20 000; surpasses Afghanistan conflict in the 1980s, ICSR, 26 January 2015, http://icsr.info/2015/01/foreign-fighter-total-syriairaq-now-exceeds-20000-surpasses-afghanistan-conflict-1980s/ (hereinafter: Neumann 2015).
9. Ibid.
10. *New York Times*, 26 September 2015, www.nytimes.com/2015/09/27/world/middleeast/thousands-enter-syria-to-join-isis-despite-global-efforts.html?hp&action=click&pgtype=Homepage&module=first-column-region&region=top-news&WT.nav=top-news&_r=1.
11. Neumann 2015.
12. www.egmontinstitute.be/wp-content/uploads/2015/03/academia-egmont.papers.75_16x24.pdf (hereinafter: Coolsaet 2015).
13. Neumann 2015. Although this paper focuses on the situation in Europe, it may also be interesting to note that the highest number of foreign fighters stems from Tunisia (1 500-3 000) (Neumann 2015), but that relative to population size, the most heavily affected country is Jordan (1 500, up to 315 per million population), see Radio Free Europe, Foreign Fighters In Iraq and Syria, www.rferl.org/contentinfographics/foreign-fighters-syria-iraq-is-isis-isil-infographic/26584940.html.
14. See UN Security Council, Statement by the President of the Security Council, S/PRST/2015/11, 29 May 2015, www.un.org/en/sc/documents/statements/2015.shtml.

Iraq, while reportedly 133 had died there in combat[15]. According to 2015 estimates, more than 750 British citizens were believed to have infiltrated Syria and Iraq to take part in terrorist-related activity, a 50% increase from 2014.

13. The phenomenon is not limited to western Europe. Russian President Vladimir Putin stated on 16 October 2015 that there were 5 000 to 7 000 foreign terrorists in Syria who had gone there from Russia and several other former Soviet nations to join "IS".[16]

14. Another new and worrying trend is an increased involvement of young women and girls on the side of "IS", even if there is no reliable evidence of women directly engaging in combat and, therefore, calling them "foreign fighters" is not an accurate term. In the United Kingdom, the disappearance of three teenage schoolgirls who fled their homes to join "IS" in February 2015, and who were subsequently reported to have undergone training for "special missions", gave rise to a broad public and political debate. Although this case may look like an isolated one, it actually reveals a tendency: According to the French Ministry of the Interior, about 40% of people susceptible of being recruited by "IS" are women and girls. Experts also report the growing number of whole family departures to Syria and Iraq.

15. There exists a variety of definitions of the term "foreign fighters". For David Malet,[17] a well-known expert in this field, foreign fighters are "noncitizens of conflict States who join insurgencies during civil conflicts". Sandra Krähenmann, author of the recent study "Foreign Fighters under International Law", adopted the following definition: "A foreign fighter is an individual who leaves his or her country of origin or habitual residence to join a non-State armed group in an armed conflict abroad and who is primarily motivated by ideology, religion, and/or kinship."[18] In the latest study on the issue, which is still under preparation, Andrea de Guttry, Francesca Capone and Christophe Paulussen define foreign fighters as "individuals, driven mainly by ideology, religion and/or kinship, who leave their country of habitual residence to join a party engaged in an armed conflict".[19]

16. Even though the term "foreign fighter" is not absent in United Nations language, this organisation mainly refers to foreign *terrorist* fighters, which means it views this phenomenon more from a counter-terrorism perspective. The term "foreign terrorist fighters" has been defined in the key resolution on this issue, namely United Nations Security Council (UNSC) Resolution 2178 of 24 September 2014, as "individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training, including in connection with armed conflict".[20]

17. However, in the view of many legal experts, this definition is not without problems. First of all, it does not limit its scope to international terrorism,[21] and terrorism itself is not defined.[22] Since UNSC Resolution 2178, comparable to UNSC Resolution 1373 of 28 September 2011, obliges States to criminalise certain conduct that can be related to terrorist acts and terrorist training,[23] States will have to use their national terrorism definitions,[24] which may lead to a risk of fragmentation as each State will use its own definition. Indeed, the operative part of Resolution 2178 stipulates that:

> *"all States shall ensure that their domestic laws and regulations establish serious criminal offenses sufficient to provide the ability to prosecute and to penalize in a manner duly reflecting the seriousness of the offense:*

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15. www.gouvernement.fr/syrie-la-france-est-en-guerre-contre-le-terrorisme-le-djihadisme-l-islamisme-radical-ce-sera-long-2873.
16. *Russia Today*, 16 October 2015, https://www.rt.com/news/318826-putin-isis-soviet-republics-fighters/.
17. Malet 2013, p. 9.
18. Geneva Academy of International Humanitarian Law and Human Rights, Academy Briefing No. 7, Foreign Fighters under International Law, October 2014, www.geneva-academy.ch/docs/publications/Briefings%20and%20In%20breifs/Foreign%20Fighters%20Under%20International%20Law%20Briefing%20no7.pdf (hereinafter: Krähenmann 2014), p. 6.
19. A. de Guttry, F. Capone and Ch. Paulussen (eds.), *Foreign Fighters under International Law and Beyond*, T.M.C. Asser Press/Springer Verlag: forthcoming.
20. United Nations Security Council, S/RES/2178 (2014), 24 September 2014, www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2178%20(2014) (hereinafter: UNSC Res 2178), preambular, paragraph 8.
21. M. Scheinin, Back to Post-9/11 Panic? Security Council Resolution on Foreign Terrorist Fighters, Just Security, 23 September 2014, http://justsecurity.org/15407/post-911-panic-security-council-resolution-foreign-terrorist-fighters-scheinin (hereinafter: Scheinin 2014).
22. K. Ambos, Our Terrorists, Your Terrorists? The United Nations Security Council Urges States to Combat "Foreign Terrorist Fighters", But Does Not Define "Terrorism", EJIL: Talk!, 2 October 2014, www.ejiltalk.org/our-terrorists-your-terrorists-the-united-nations-security-council-urges-states-to-combat-foreign-terrorist-fighters-but-does-not-define-terrorism (hereinafter: Ambos 2014).

(a) their nationals who travel or attempt to travel to a State other than their States of residence or nationality, and other individuals who travel or attempt to travel from their territories to a State other than their States of residence or nationality, for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts, or the providing or receiving of terrorist training;

(b) the wilful provision or collection, by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds should be used, or in the knowledge that they are to be used, in order to finance the travel of individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training; and,

(c) the wilful organization, or other facilitation, including acts of recruitment, by their nationals or in their territories, of the travel of individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training."

18. Furthermore, there is a risk that States will use too broad a definition of terrorism, which could lead to abuse, for example silencing political opponents using the excuse of fighting terrorism.[25]

19. Another issue has been pointed out by Sandra Krähenmann, who noted that "[t]he reference to 'including in connection with an armed conflict' plainly calls acts governed by International Humanitarian Law (IHL) 'terrorist acts', without confining the term to acts prohibited by IHL, such as attacks against civilians or execution of persons *hors de combat*. In addition, she asserts that joining an entity that is both party to an armed conflict and designated a terrorist group may amount to 'receiving terrorist training', notwithstanding the fact that IHL rules may apply".[26]

20. The expression "including in connection with an armed conflict" can surely be interpreted as such, but it can also be read differently, namely to mean that this resolution applies to certain terrorist acts, whether they occur in peacetime or in times of armed conflict. Whatever the case may be, there is a lack of clarity regarding the scope of this resolution, and this is problematic given that, as mentioned, this resolution will have to be implemented at the national level.

21. Although there are also some positive signs, one cannot help but conclude that there is indeed a risk of fragmentation, a risk that States will use too broad a definition and a risk that Ms Krähenmann's fear – that people will be prosecuted for terrorist offences because of their (mere) participation in an armed conflict – will materialise.[27]

22. Finally, and more generally, it should be noted that even though Security Council Resolution 2178 focuses on foreign terrorist fighters, not all foreign fighters are terrorists (nor are they all fighting). We should be careful not to consider the foreign fighters problem solely from a counter-terrorism perspective.

2.2. Root causes and motivations

23. Assessing the dynamics driving the foreign fighters issue is fraught with difficulties, since different paradigms easily lead to different conclusions. Two dimensions are often confused. According to classical terrorism studies, the causes of terrorism lie in a conducive or "instigating" environment that permits its emergence and that provides motivation and direction for groups and individuals to use violence.[28] The more recent radicalisation studies, however, "emphasize the individual and, to some extent, the ideology and the group, and significantly de-emphasizes the wider circumstances" and the context in which it arises.[29] A second dimension concerns the motivating factors behind individuals' journeys into violence. Self-proclaimed motives by these individuals should not automatically be taken at face value as explanations of their behaviour. They might amount to nothing more than a well-rehearsed rationale that he or she developed to

23. UNSC Res 2178, operative, paragraph 6.
24. Ambos 2014.
25. Scheinin 2014.
26. Krähenmann 2014, p. 42.
27. For more information, please see the chapter by S. Krähenmann in the forthcoming collected volume (see footnote 4).
28. M. Crenshaw, "The Causes of Terrorism", in *Comparative Politics*, 1981, 13:4, pp. 379-399.
29. M. Sedgwick, "The Concept of Radicalization as a Source of Confusion", in *Terrorism and Political Violence*, 2010, 22: 4, pp. 480-481.

justify their own behaviour, rather than a truthful attempt to gauge the often complex motivations behind their decision to voyage to a distant war zone.[30] Moreover, such statements are inherently different from motivational factors that are derived from multidisciplinary and comparative studies.

24. There are many ingredients which can lead to the radicalisation of a person, but the recipe is always different. Indeed, each radicalisation process is to some extent unique and individuals will go to Syria, Iraq, and other theatres of war for different reasons.[31] That is why it is also so difficult to come up with *the* solution to the problem.

25. These different ingredients can, for instance, be of a personal, ideological or religious nature. It should be noted, however, that these ingredients do not necessarily explain why people resort to acts of violence. In the words of Pauwels et al: "[M]otives are not and cannot be causes of political violence. Motives explain why it is important to reach a certain goal, but they do not explain why a specific action out of several possibilities is chosen to achieve this goal. They are necessary but insufficient conditions to explain action ... What is needed for extremist motives to become causes is the contributing role of the interaction between situational exposure and extremist propensity."[32]

26. Personal reasons are probably the most important ones. Professor Coolsaet states that "personal estrangement [is] becoming the primary engine of their journey".[33] Youngsters – we are dealing especially with young males here – may feel they lack a future in their country of origin, in today's demanding modern society,[34] and that going to places like Syria might constitute a perfect "reset" of their lives. To quote Professor Coolsaet: "Society today puts much greater pressure on young people than it did 40 years ago. Individualisation and the lifting of traditional political, religious and ideological fault lines leave youngsters much earlier to their own devices and exposed to society than their peers back then. Adolescents' and young adults' need to belong and feel accepted has always been a crucial part of growing up. But, at a much earlier stage than in the past, today's young people have to make their own decisions in a society that offers incomparably more choices in all dimensions of life. Simply put, it is more demanding to be young today than it was back then. Society has become harsher ... Youth representatives in Belgium recently warned that many young people are depressed and feel hopeless. The enduring economic and labour market stagnation is certainly part of the explanation for why youngsters today have the impression that they are just fiddling around without decent job prospects."

27. People with a poor social network can, in their eyes, transform relatively quickly from a mere nobody[35] to a powerful warrior,[36] respected and feared by others. They can escape their problems at home, become part of a "band of brothers/sisters", belong to a group (brotherhood), and finally do something interesting and exciting with their lives.[37] The search for identity and belonging seems indeed to be of paramount importance. According to Professor Coolsaet, "[i]n the aforementioned stories, one cannot fail to notice how frequently they refer to the absence of a future, to personal difficulties that have to be coped with in everyday life. Often these stories point to a desire to leave all this behind, to be 'someone', to be accepted. In short, to find refuge

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30. R. Coolsaet, "What Drives Europeans to Syria, and to IS? Insights from the Belgian Case", Egmont Paper 75, Egmont – The Royal Institute for International Relations, Academia Press, June 2015 (update), www.egmontinstitute.be/wp-content/uploads/2015/03/academia-egmont.papers.75_16x24.pdf (hereinafter: Coolsaet 2015), p. 10.

31. See the interview with Bibi Van Ginkel in "Harde aanpak alléén werkt averechts", *Rechtspraak Magazine*, March 2015, https://www.rechtspraak.nl/Organisatie/Publicaties-en-brochures/Rechtspraak/Pages/default.aspx (hereinafter: Van Ginkel 2015), p. 24.

32. L. Pauwels, F. Brion, B. De Ruyver, M. Easton, N. Schils and J. Laffineur, Explaining and understanding the role of exposure to new social media on violent extremism: An integrative quantitative and qualitative approach, 2014, summary, www.belspo.be/belspo/fedra/TA/synTA043_en.pdf (hereinafter: Pauwels et al. 2014), p. 25.

33. Coolsaet 2015, p. 8.

34. Coolsaet 2015, p. 13.

35. See the qualification by Aydin Soei, a Danish sociologist, of Omar Abdel Hamid el-Hussein, the gunman of the Copenhagen shootings on 14 and 15 February 2015: "This wasn't an intellectual Islamist with a long beard," Mr Soei said. "This was a loser man from the ghetto who is very, very angry at Danish society." A. Higgins and M. Eddy, Anger of Suspect in Danish Killings Is Seen as Only Loosely Tied to Islam, *The New York Times*, 16 February 2015, www.nytimes.com/2015/02/17/world/europe/copenhagen-denmark-attacks.html?_r=0.

36. See also Coolsaet 2015, p. 18: "[T]he available information indicates that a majority of these youngsters were indeed facing a precarious livelihood, combined with personal estrangement. Syria provides them with an escape from this, and an instant opportunity to go from zero to hero. The same also applies to those individuals that plan and perpetrate attacks in their home country, claiming to be part of IS, but without any operational link to the organisation."

37. See also Coolsaet 2015, p. 17: "[S]ome try to escape prison sentences by fleeing to Syria. Others adopt Rambo-style violence and display a 'jihadi is cool' attitude. Some are undoubtedly psychopaths, while still others are adventure seekers, looking for something more thrilling than everyday life in Belgium."

in a more welcoming environment, where they have the impression of not being excluded, and where they will be able to cope with their lives. Looking for absolute certainties, again, is probably a longing adolescents and young adults might have shared in the past too, but this is undoubtedly stronger for this subgroup, as a way out of the complexities of their surrounding environment. And this, 'Islamic State' can offer. Other motives can also be identified. They want to look up to heroes – or to be one themselves".[38]

28. Some experts believe that disappointment with social conditions and the search for identity and meaning are key elements of vulnerability to the "Islamic State" appeal. According to Pauwels, "Instead of focusing on motivations and ideology, attention should go to structural issues, group processes and perceived individual strains as the breeding ground of violent radicalisation. The real (compelling) reasons … to join extremist groups are often social in nature and based upon feelings of indignation and being lost … Individuals searching for social inclusion, searching for identity/meaning and experiencing injustice are particularly susceptible to violent extremism. Extremist groups often enhance, cultivate and even install these grievances by using a polarising discourse and providing in simple, logic and hands-on answers. More specifically, extremist groups answer to the needs of individuals by offering them 1) a strong sense of identity, 2) a political activist answer to injustice and 3) a warm home and sense of belonging … If these things may not be found in the rest of society (or society fails to offer them), extremist groups may become very attractive to the individual".[39] In addition, psychological health issues may also play a role in this context, although different views can be discerned here.[40]

29. Ideologically, many of those who travel abroad may simply be angry or extremely disillusioned, and in many instances for valid reasons. Angry for what is happening in the Middle East (the brutal way in which the Assad regime in Syria crushed the initial protests), and disillusioned as a result of a western world not doing much about it or even aggravating the situation[41] (for example, the US intervention in Iraq in 2003, labelled as illegal by former United Nations Secretary-General Kofi Annan).[42]

30. According to the recent research by Ross Frenett and Tanya Silverman based on interviews with individuals who have been affected by the foreign fighters phenomenon, the key driving factors for a decision to travel to a conflict zone in order to participate as combatants are: "1) outrage at what is alleged to be happening in the country where the conflict is taking place and empathy with the people being affected; 2) adherence to the ideology of the group an individual wishes to join and 3) a search for identity and belonging. … Additional drivers that are also thought to be common … are: foreign policy grievances, national policy, intergenerational conflict, and peer pressure."

31. As to the religious dimension, young Muslims may be struggling with the big questions in life – why am I here? what is my destiny? – but may decide not to go to the Mosque and Imam for answers. They might create their own "DIY Islam" in basements, facilitated by recruiters, and via the Internet – an Internet that can be as un-nuanced as you want and thus very attractive for people who want clarity and direction. More specifically, according to a recent report by the Institute for Strategic Dialogue, three main motivations for joining "Islamic State" related to Islam are: 1) the protection of the Muslim community [Ummah] against attacks; 2) the building of the Caliphate; and 3) compliance to individual duty and identity.[43]

32. In view of the growing number of young women and girls who travel from Europe to join "IS", it is important to understand their profiles and motivations. Recent studies by the Institute for Strategic Dialogue[44] on this issue show that female recruits from Europe are younger and younger and some come from rather comfortable social backgrounds. While, in each particular case, there is a different mix of reasons and motivations for joining "IS", many are similar to the reasons that male fighters travel: a feeling that the Muslim

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38. Coolsaet 2015, pp. 11 and 19. See also ibid., p. 17. See finally S. Maher, The roots of radicalisation? It's identity, stupid, *The Guardian*, 17 June 2015, www.theguardian.com/commentisfree/2015/jun/17/roots-radicalisation-identity-bradford-jihadist-causes.

39. Pauwels et al. 2014, p. 25.

40. See also A.W. Weenink, Behavioral Problems and Disorders among Radicals in Police Files, *Perspectives on Terrorism*, Vol. 9, No. 2 (2015), www.terrorismanalysts.com/pt/index.php/pot/article/download/416/826. But note this latter study has also been criticised, see Jennie Barbier and Maarten Keulemans, "Heeft merendeel jihadisten psychische problemen?", *De Volkskrant*, 11 June 2015, www.volkskrant.nl/dossier-klopt-dat-wel-/heeft-merendeel-jihadisten-psychische-problemen~a4070300/). See finally Pauwels et al. 2014, p. 24: "Early on in our research it was clear that violent extremists are not mentally insane or delusional when committing acts of political violence."

41. See also Coolsaet 2015, p. 17.

42. E. MacAskill and J. Borger, Iraq war was illegal and breached UN charter, says Annan, The Guardian, 16 September 2004, www.theguardian.com/world/2004/sep/16/iraq.iraq. Note that ISIS is the successor of ISI (the Islamic State of Iraq), which, in turn, is based on AQI (Al Qaeda in Iraq), founded by Al-Zarqawi in response to the 2003 US invasion.

43. C. Hoyle, A. Bradford and R. Frenett, "Becoming Mulan? Female Western Migrants to ISIS", Institute for Strategic Dialogue, 2015.

community is under attack, an ideological and religious duty to do something, and a search for comradeship and meaning in their lives. However, the attraction of the "State building" mission of "IS" seems to be stronger among women. Additionally, young women may be attracted, via Internet recruiters, by promises of romance and marriage to "IS" fighters and their perceived "true masculinity", and the prospects of building genuine Islamic families in a "Caliphate" under Sharia law and becoming mothers of the next generation of jihadists. In many cases, young girls' travel follows a virtual online "love story" with a supposed "lover" who turns out to be a skilled recruiter.

33. As to the role of New Social Media (NSM), it may be interesting to refer to the major study by Pauwels et al., which "assesse[d] the impact of exposure to extremist content through NSM on the processes of radicalisation and recruitment among Belgian adolescents. The central research question focuse[d] on the role of NSM in the process of violent radicalisation".[45] The study concluded:

> *"1. It must be kept in mind that, next to ENSM [exposure to extremist content through NSM], real world/ offline exposure (e.g. peers) is equally important.*
>
> *2. Especially active ENSM is of importance. The effect of deliberately sought after extremist information and propaganda is much stronger than the effect of the same information and propaganda when came across by accident.*
>
> *3. The effect of ENSM rises exponentially for very high rates of exposure. This means that the largest danger lies with repeatedly and constant ENSM compared to low or medium rates of exposure.*
>
> *4. There is an interaction between individual propensity to violent extremism and exposure to violent extremism through NSM. ENSM will have a much stronger effect on individuals with already strong extremist attitudes compared to individuals with only low or medium extremist attitudes.*
>
> *5. Up until a certain level, the effect of ENSM is not problematic, irrespective of the level of propensity and exposure. However, after a certain breakpoint, this effect rises exponentially. This means that, although ENSM always has an influence on individuals, it is not worthwhile to panic over small levels of ENSM (even when active), because they only result in a very small rise in political violence. Of course, the challenge is to determine where the breakpoint lies in reality."*[46]

34. In addition, the political climate in potential foreign fighters' countries of origin may be perceived as aggressive and conducive to alienation. Statements from right-wing politicians like Dutch MP Wilders might arguably push some youngsters away from Dutch society. Discrimination in the labour market is equally problematic and may exacerbate the fact that people, rightly or wrongly, feel excluded from society and look for another place to continue their lives.[47]

35. It is also important to stress that motivations may change in the course of the conflict, as the conflict itself may change in its nature. Some people may initially have gone to Syria for ideological reasons, namely to defend helpless civilians from a brutal dictator, and may have ended up at the service of the "Islamic State of Iraq and Syria" (ISIS) "caliphate". Others might find themselves involved in criminal organisations, in the trafficking of arms, drugs and human beings.

36. It is clear that the word "may" has often been used in this subsection. Thus, there is a need to develop a far better understanding of drivers/push and pull factors of the foreign fighters phenomenon.

2.3. Implications for countries/societies of origin

37. The impact of the conflict in Syria and Iraq is most serious for the countries themselves, in terms of fear, destruction, loss of innocent lives etc. Neighbouring States, which have to accommodate hundreds of thousands of refugees, and which may be confronted with a spillover of the conflict, also suffer greatly from the war.

38. However, for Europe, the biggest fear in connection with the foreign fighters phenomenon is undoubtedly that we may face a Madrid or London-style terrorist attack from Europeans returning from the conflict zone to their country of origin. During the hearing in Paris, Mats Benestad, Coordinator of the Council

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44. See, for instance, C. Hoyle, A. Bradford and R. Frenett, "Becoming Mulan? Female Western Migrants to ISIS", and E. M. Saltman and M. Smith, "Till Martyrdom Do Us Part, Gender and the ISIS Phenomenon", both publications by the Institute for Strategic Dialogue, 2015.
45. Pauwels et al. 2014, p. 2.
46. Ibid., p. 13. See also Coolsaet 2015, pp. 11-12.
47. See also Coolsaet 2015, pp. 15-16.

of Europe Committee of Experts on Terrorism's (CODEXTER) Sub-Group on radicalisation and the receiving of training for terrorism including via the Internet, warned that "[w]hat we can learn from historical conflicts like Afghanistan, is that the risk of foreign fighters being further radicalised by their participation in conflicts is very real. The training in handling weapons and explosives may be used for carrying out terrorist attacks upon their return to Europe".[48]

39. The question is how big the risk is that such an attack will occur. "Of all of those who have been convicted of jihadist terrorism-related activities in Europe between 2001 and 2009, about twelve percent had been abroad prior to their attack, either for ideological training, military training or participation in foreign conflicts."[49]

40. Even though this percentage may seem relatively small, the absolute numbers are rising, and with that the probability of an attack, since that same percentage applies to higher numbers. Furthermore, it should be realised that, despite all calculations based on percentages, in the end only one returnee may suffice to perpetrate a successful attack, as exemplified by the attacks in Toulouse (Merah) and Brussels (Nemmouche). Recent attacks in Paris provide further evidence of the reality of this threat.

41. One should also not underestimate the risk from people who do not even go to Syria or Iraq, but who nevertheless sympathise with the violent jihad. These extremists might engage in copycat crimes at home that can also cause serious harm, without having crossed any borders, as was the case in recent incidents and attacks in Australia, Canada and Denmark.

42. In addition to lone actor attacks, there is also the risk of the formation of new or the strengthening of existing terrorist networks. Al Qaida was established by a network of former foreign fighters at the end of the Soviet intervention in Afghanistan in the late 1980s, but already now, there are more foreign fighters than after ten years of Afghan war.[50] Networks are now being formed between individuals (either within Iraq and Syria or with individuals residing in other countries, including their home countries) and even between organisations as such (see for instance Boko Haram's pledge of allegiance to the "Islamic State").[51]

43. In the longer term, and even more worrisome for society, "the route that these youngsters choose is one that not only leads them to extremism and terrorist violence, but also engenders a backlash in their home country by enhancing the animosity against Islam and against Muslims – which is precisely part of the environment they fled or reacted to in the first place".[52]

3. Responses at national and local level

44. To stem the flow of foreign fighters to Syria and Iraq and to counter the risk returnees may pose, there are various responses available, at different levels. These include prevention policies, deradicalisation programmes, counter-narrative campaigns, criminal prosecutions, monitoring and administrative sanctions, including the removal of passports and even the withdrawal of citizenship.

45. Although there is a growing understanding of the need for a balanced approach combining security-oriented measures and prevention, the former have been so far seen as a priority. Edwin Bakker and Mark Singleton point out that "[i]n the West, the political response to radicalisation, violent extremism and terrorism has focused more on protection and punishment than on dissuasion or reintegration. In the United States, Australia and Canada, radicalisation, violent extremism and terrorism have traditionally been viewed through the prism of 'homeland security', often with little distinction between causes and objectives of the various manifestations thereof. In Europe, during the summit of European Heads of State on 12 February 2015, new measures to counter the perceived threat were adopted and legitimised in terms of protection of Western values and society. Concrete measures focus largely on short-term, mainly 'hard end', repressive actions, addressing symptoms rather than root causes. Aimed to deter, disrupt, detect and detain, separate and raise

48. See Council of Europe 2015.
49. See E. Bakker, Ch. Paulussen and E. Entenmann, Dealing with European Foreign Fighters in Syria: Governance Challenges & Legal Implications, ICCT Research Paper, 16 December 2013, www.icct.nl/download/file/ICCT-Bakker-Paulussen-Entenmann-Dealing-With-European-Foreign-Fighters-in-Syria.pdf, p. 4.
50. See also R. Briggs and T. Silverman, Western Foreign Fighters: Innovations in Responding to the Threat, Institute for Strategic Dialogue, 2014, www.strategicdialogue.org/ISDJ2784_Western_foreign_fighters_V7_WEB.pdf, p. 49: "We also know from previous conflicts that individuals come home well connected and trained, and the last time something similar happened al-Qaeda was formed."
51. See "Nigeria's Boko Haram pledges allegiance to Islamic State", BBC, 7 March 2015, www.bbc.com/news/world-africa-31784538.
52. Coolsaet 2015, p. 18.

the 'cost' of radicalisation, the measures include, *inter alia*: criminalisation of intent or actions, granting of more powers and resources for security forces, enhanced border controls, and – most notably, considering previous opposition from the European Parliament and national legislators – adoption of thus far controversial Passenger Name Record (PNR) data sharing".[53]

46. At the same time, "[a]t the other end of the spectrum, we have also seen Western governments and voices in society underscoring the importance of 'softer' preventative measures: normative barriers through positive messaging, community engagement, a halting of recruitment via transmission of counter narratives; and the need for societal inclusion through disengagement, education and employment programmes".[54]

47. On the other hand, in the countries outside Europe, "we observe a tendency towards hard, kinetic measures that risk violating human rights and rule of law principles. The rise of 'Islamic State' in Iraq and Syria and affiliated violent non-State actors in e.g. Pakistan, Libya and Egypt, and the growing number of foreign fighters emanating from the Middle East and North Africa region (MENA), have provided these regimes with a convenient excuse to consolidate their internal powerbase, clamp down not only on Islamist opposition groups such as Salafists, the Muslim Brotherhood, Hamas and the Pakistani Taliban, but also on critical secular opposition from civil society organisations. By adopting new anti-terror legislation that may reduce the space for legitimate opposition, there is a realistic chance that extremism will be fuelled, rather than diminished".[55]

48. Even though on paper, there is currently a greater focus on the preventive side than in the past (see also Security Council Resolution 2178), it seems that in practice, States still mainly want to "show muscles".[56] Not to the extent of the situation directly following the 9/11 terrorist attacks in New-York and Washington, but we must still be careful not to fall into the post 9/11 trap.[57] United States President Obama's remarks on Guantánamo[58] are exemplary of the difficulties that States may face as a result of repressive policies.

49. Public discourse, in framing the different responses, is also of importance. It is arguably not wise to say that here, in Europe, we are at war with the terrorists, like the French Prime Minister Manuel Valls has done.[59] This would, after all, pay too much credit to the terrorists, since they *want* to be seen as combatants,[60] which they are not since they kill unarmed civilians. Rather, it is recommended that outside of armed conflict situations, they are framed as mere *criminals*, who should be dealt with, in a sober way, via, *inter alia*, the regular criminal law system, taking into account the specifics of the case, including the fact that certain persons may be very young. If you follow the terrorists in their war rhetoric, you do exactly what these terrorists want you to do.

50. Focusing on criminal prosecutions, it is of course extremely difficult to establish and prove what exactly people are doing in Syria or Iraq, in view of the chaotic situation there, unless they film their crimes and put the videos online.

51. The statements of co-travellers may also be very valuable. An example is the case of Jejoen Bontinck, a former member of Sharia4Belgium. On 11 February 2015, the Court of First Instance of Antwerp issued its judgment in the case against 46 alleged members of this group, "Europe's biggest trial of those accused of

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53. E. Bakker and M. Singleton, "Foreign Fighters in the Syria and Iraq Conflict: Statistics and Characteristics of a Rapidly Growing Phenomenon", in: A. de Guttry, F. Capone and Ch. Paulussen (eds.), *Foreign Fighters under International Law and Beyond*, T.M.C. Asser Press/Springer Verlag: forthcoming.
54. Ibid.
55. Ibid.
56. A. Reed, J. De Roy van Zuijdewijn and E. Bakker, Pathways of Foreign Fighters: Policy Options and Their (Un)Intended Consequences, ICCT Policy Brief, April 2015, www.icct.nl/download/file/ICCT-Reed-De-Roy-Van-Zuijdewijn-Bakker-Pathways-Of-Foreign-Fighters-Policy-Options-And-Their-Un-Intended-Consequences-April2015%281%29.pdf, p. 7: "In the context of policies on (returning) foreign fighters, the general trend is a slow but steady move towards more repressive measures and the prosecution of returnees."
57. Scheinin 2014.
58. Remarks by the President on National Security, The White House, Office of the Press Secretary, 21 May 2009, https://www.whitehouse.gov/the_press_office/Remarks-by-the-President-On-National-Security-5-21-09/: "Instead of serving as a tool to counter terrorism, Guantanamo became a symbol that helped al Qaeda recruit terrorists to its cause. Indeed, the existence of Guantanamo likely created more terrorists around the world than it ever detained."
59. France attacks: War with terrorism not Islam, PM Valls says, BBC, 13 January 2015, www.bbc.com/news/world-europe-30794973.
60. See also G. de Kerchove and Ch. Höhn, Counter-Terrorism and International Law Since 9/11, Including in the EU-US Context, in: T. D. Gill, T. McCormack, R. Geiss, R. Heinsch, Ch. Paulussen and J. Dorsey (eds.), *Yearbook of International Humanitarian Law*, Vol. 16 (2013), T.M.C. Asser Press: The Hague 2015, p. 27: "Terrorism is a crime that needs to be investigated and prosecuted. Treating terrorism as the crime that it is de-glorifies terrorists and shows them as the criminals they are (they would rather be seen as combatants and martyrs)."

fostering Islamist violence in Syria".[61] The statements of Jejoen, who was detained by some of his co-defendants in Syria, proved to be very useful for the prosecution and the judges, who noted his "comprehensive and credible" testimony.[62]

52. The criminal law approach is obviously just one of the many possible responses and clearly a repressive approach alone will not be effective. In fact, it may even be counter-productive.[63] According to Singleton, "Empirical data indicates that the perceived legitimacy of counter-terrorism policies is the primary factor shaping the willingness of Muslim communities in the US and the UK to support and help. Aggressive counter-terrorism policies, on the other hand, have had the effect of alienating Muslim communities everywhere. We should never allow the attacks in Paris on civil rights and liberties to open up another Pandora's Box of draconian measures that, in the end, only serve to limit the foundations of our societies and render us more vulnerable".[64] There must be a balance of the various measures, and States should arguably focus more on prevention policies, instead of fighting symptoms, which do not really address the underlying issues.

53. While, in the long term, preventive measures should most certainly contribute to effective policies, the success of these "soft" measures is not immediate and is difficult to ascertain. It is easier to show that the police arrested a certain number of suspects and that courts convicted a certain number of people, than to prove the effectiveness of preventive measures. How can you prove that someone did *not* become radicalised? Indeed, it is almost impossible to prove the success of prevention. However, that does not mean that societies should not invest in this, as the indirect effects certainly address the root causes, which contribute to a sustainable approach of dealing with – or perhaps "containing somewhat" – this problem in the long term.[65]

54. To illustrate the potential preventive effects of certain measures, one can distinguish solutions available at the individual level (for example an emergency phone line for parents with radicalised children), at the group level (for example a credible counter-narrative, preferably from a former and disillusioned foreign fighter),[66] but also at the level of the society/State.[67]

55. States have to make serious efforts to eradicate, for instance, discrimination in the labour market. Indeed, the results of the analysis by Pauwels et al. has also shown that "1) elements of poor social integration, 2) perceived group discrimination and perceived personal discrimination and 3) the perception of the authorities as being unjust and subsequently illegitimate greatly contribute to political violence".[68] More concretely, one could think of discrimination in the housing or job market, or the feeling of being singled out during police controls, etc.[69]

56. More attention should thus be paid to these elements when developing prevention policies. For instance, "policy should … work on enhancing general perceptions of trust and legitimacy of the authorities and more specifically address (perceptions of) unjust and biased police actions."[70] At the same time, "young people can be made more resilient to violent extremism by training in how to deal with problems and difficult situations".[71]

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61. R.-J. Bartunek, In Europe, parents' dismay as Syria jihad lures troubled teens, *Reuters*, 8 February 2015, www.reuters.com/article/2015/02/08/us-mideast-crisis-belgium-trial-idUSKBN0LC0II20150208?feedType=RSS&feedName=worldNews&rpc=69.
62. Rechtbank van eerste aanleg Antwerpen, Press Release on the 'Syria Fighters Trial', 14 January 2015, www.rechtbankeersteaanlegantwerpen.be/index.php/83-persinformatie/110-terro, p. 80.
63. Van Ginkel 2015, p. 24.
64. M. Singleton, Paris 7-8 January: Darkness in the City of Light, ICCT Op-Ed, 9 January 2015, http://icct.nl/publication/paris-7-8-january-darkness-in-the-city-of-light/.
65. See also Pauwels et al. 2014, p. 27: "[I]t is problematic that, so far, only a few projects are scientifically evaluated. However, research into projects aimed at reducing youth violence in general show that only those projects starting with prevention from a very early stage are effective on the long term."
66. R. Barrett, Foreign Fighters in Syria, The Soufan Group, June 2014, http://soufangroup.com/wp-content/uploads/2014/06/TSG-Foreign-Fighters-in-Syria.pdf, p. 30: "A returning fighter will have a great deal of credibility in radical circles at home, and if he argues against participation in the war, and against the al-Qaeda narrative more generally, this is likely to be more effective than anything a government can do."
67. Van Ginkel 2015, p. 24.
68. Pauwels et al. 2014, p. 26.
69. Ibid.
70. Ibid., p. 27.
71. Ibid., p. 28.

57. Prevention policies must be based on a clear understanding of which societal groups are most vulnerable to extremist discourse and are at risk of being radicalised and recruited to travel to Syria or Iraq. For instance, schools, universities and prisons are among the most significant places where radicalisation occurs.

58. In this respect, education systems may play an essential role in preparing active citizens with a sense of responsibility and critical thinking skills, and prepared to live in diversity and defend the values of democracy. In order to do so, more prominence should be given to teaching in human rights, democratic deliberation and decision making, social justice, multicultural society, tolerance and mutual respect. It is also important that the theories that are learned are actually practised in classrooms. Thus, the attitude of a teacher vis-à-vis pupils may contribute to developing tolerance, respect of others, and a co-operative approach to solving problems.

59. Taking into account the worrying trend of increased departures of young women and girls, particular attention should be paid to reaching out to this audience, and specific counter-narratives should be developed to dispel jihadist propaganda which depicts a happy and heroic life under Sharia rule and a glorious fate of being an "IS" fighter's wife. Stories of returnees showing the reality of life in "IS" which are probably the best weapon to use in order to discourage people from going to the conflict zone, may have a particularly strong impact on women and girls.

60. Identifying sympathisers and potential supporters of "Islamic State" at an early stage could prove to be the most efficient means of prevention. In this respect, there are some national experiences which are worth sharing. For instance, the French Ministry of the Interior opened, in April 2014, a free phone number for those who were worried by the behaviour of their relatives and feared that they may be victims of extremist indoctrination. By October 2015, more than 3 000 individuals at risk had been identified and taken care of. In addition, videos with interviews of parents whose children had left for Syria are being run on national television channels.

61. It is essential that young people feel at home and included. Too often, political leaders make statements that undermine that idea. The mayor of Rotterdam has stated that if Dutch citizens want to leave for Syria and Iraq, they should go, but then "there is no way back. Hand over your passport and risk getting bombed".[72] And the Dutch Prime Minister recently agreed with a statement during an election debate that it would be better if Dutch jihadists who travel to Syria died there rather than return to the Netherlands.[73] Such statements arguably will only increase the problem.

62. At the same time, one cannot but agree with Coolsaet that we must realise "that government action can only be part of the solution, perhaps even only a small part. In the realm of security, authorities play an irreplaceable role. In prevention, however, responsibility is much more widely shared and the involvement of many is needed".[74]

63. However, when looking at more repressive measures from the side of the State, it appears that several such measures are today proposed and adopted, without really assessing whether they are effective or necessary. An example is the call for new terrorism legislation, while the necessity is dubious, and the inadequacy of the existing legislation not proven. Omar H., suspected of preparing crimes in the context of "jihad" travel to Syria, was, for instance, convicted in first instance in the Netherlands on the basis of ordinary criminal law, not on terrorism provisions.[75]

64. Additionally, there is the measure of taking away passports and even citizenship. Under certain circumstances, this can even lead to statelessness: the United Kingdom Home Secretary can strip a naturalised person of British nationality, even if it renders that person stateless, where there are "reasonable grounds to believe" that he or she can acquire another nationality.

65. However, Van Waas has pointed out that this theoretical possibility is not the same as the actual acquisition of that nationality and that one can wonder which country would be willing in practice to extend its citizenship to someone who has conducted himself in a manner that is "seriously prejudicial to the vital

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72. Rotterdam's mayor praised in Britain for 'f*** off' jihadi stance, DutchNews.nl, 13 January 2015, www.dutchnews.nl/news/archives/2015/01/rotterdams-mayor-praised-in-britain-for-f-off-jihadi-stance/.
73. Prime minister defends 'better dead' jihadi comments, DutchNews.nl, 6 March 2015, www.dutchnews.nl/news/archives/2015/03/prime-minister-defends-better-dead-jihadi-comments/.
74. Coolsaet 2015, p. 24.
75. Ch. Paulussen, *The Syrian Foreign Fighters Problem: A Test Case from The Netherlands*, *ICCT Commentary*, 2 December 2013, http://icct.nl/publication/the-syrian-foreign-fighters-problem-a-test-case-from-the-netherlands/.

interests" of the United Kingdom.[76] Are such measures really necessary and effective or is it simply a symbolic measure, meant to brand the foreign fighter as an outcast of society? (Which should arguably *not* be the message.)

66. According to Van Ginkel, "many recently adopted measures have been presented to have a deterrent effect, whereas this is – at best – debatable … This is, for instance, the case with the prosecution of those who attempt to travel to Syria and Iraq, or those acting as recruiters. The threat of prosecution or more severe punishment does not appear to work as deterrence. The same is true for measures to revoke citizenship, or for the prosecution of those who incite to commit acts of terrorism. Clearly, there might be other policy reasons to adopt these measures, such as the fact that it is the State's prerogative to punish and apply sentences that reflect the sentiments of horror with the general public for the atrocities committed. However, policymakers and politicians should be aware of the fact that not all measures they adopt have a deterrent effect, and on occasion might even have an opposite effect. Only when all these potential effects are taken into account will it be possible to draft a comprehensive and effective counter-terrorism policy".[77]

67. In short, there is a clear need for an effective monitoring and evaluation framework to analyse the impact and effectiveness of existing and future policies and practices.

68. Also, one should realise, when adopting responses, that many States are struggling with this issue and that all can learn from each other. Therefore, it is important to exchange experiences and share best practices. Luckily, this is increasingly being done.[78]

69. Moreover, the point should be made that a growing number of organisations is getting involved in the foreign fighters issue, which is of course a positive step given the seriousness of the threat, but it is also very important to coordinate the different initiatives to make sure there is not too much overlap.[79]

70. Finally, it should be realised that while the international, regional and national levels are important to counter this threat, the focus should arguably be on the local level, where families, friends, teachers and youth and social workers can make the difference.[80]

4. International response

4.1. United Nations

71. As mentioned above, the rise of the foreign fighters phenomenon, which has developed into a global threat to international security, prompted the United Nations to hold an open meeting of the Security Council in September 2014 which was attended by about 50 leaders from all over the world. The meeting unanimously adopted Security Council Resolution 2178 (2014) whereby it condemned violent extremism and called on member States of the United Nations to take a series of measures aimed at preventing and curbing the flow of foreign terrorist fighters to conflict zones.

72. In accordance with Resolution 2178 (2014), member States shall, consistent with international law, prevent the "recruiting, organizing, transporting or equipping of individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning of, or participation in terrorist acts".

73. In particular, all States shall ensure that their domestic laws and regulations establish serious criminal offences sufficient to provide the ability to prosecute and to penalise in a manner duly reflecting the seriousness of the offence, those travelling abroad for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts, or the providing or receiving of terrorist training, as well as the wilful provision or collecting of funds for, and the wilful organisation or other facilitation of, such travels.

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76. For more information, please see the chapter by Van Waas in the forthcoming collected volume (see footnote 4).
77. B. Van Ginkel, The (In-)Effectiveness of "Deterrence" as an Instrument Against Jihadist Terrorist Threats, *ICCT Commentary*, 30 March 2015, http://icct.nl/publication/the-in-effectiveness-of-deterrence-as-an-instrument-against-jihadist-terrorist-threats/.
78. An example is the Global Counterterrorism Forum's The Hague-Marrakech Memorandum on Good Practices for a More Effective Response to the FTF Phenomenon, https://www.thegctf.org/documents/10162/159879/14Sept19_The+Hague Marrakech+FTF+Memorandum.pdf.
79. This also goes for organisations and departments within one country, see for example, Coolsaet 2015, p. 4 and Pauwels et al. 2014, p. 28.
80. See also Pauwels et al. 2014, p. 28.

74. Taking into account an ever broadening dimension of the terrorist fighters problem stretching over national, regional and even continental borders, the United Nations must continue to play the leading role in shaping a global strategy to counter this dangerous trend.

4.2. European Union

75. The European Union has been active in co-ordinating its member States' approaches to the issues of radicalisation and foreign fighters. In November 2005, it adopted a Counter-Terrorism Strategy which, under a "Prevention" pillar, aimed at combating radicalisation and recruitment of terrorists by identifying the methods, propaganda and the instruments used by terrorists. The Strategy is under constant review and issues related to radicalisation and foreign fighters are among the top priorities.

76. For its part, the European Commission launched in September 2011 the Radicalisation Awareness Network (RAN) which brings together experts and practitioners from the EU member States and Norway involved in preventing radicalisation and violent extremism, such as social workers, religious leaders, youth leaders, policemen, researchers and others who work on the ground in vulnerable communities, in order to exchange ideas, knowledge and experiences. The RAN includes eight working groups consisting of practitioners and researchers with concrete and practical involvement in preventing radicalisation. It provides recommendations to policymakers based on practical experience, and compiles best practices (for example, the RAN Declaration of Good Practices for Engagement with Foreign Fighters for Prevention, Outreach, Rehabilitation and Reintegration).[81]

4.3. Council of Europe

77. Following the adoption of Security Council Resolution 2178 (2014), the Committee of Ministers of the Council of Europe initiated the drafting of an additional Protocol to the Council of Europe Convention on the Prevention of Terrorism (CETS No. 217). This Protocol is aimed at addressing the phenomenon of foreign terrorist fighters. It was adopted at the Ministerial session of the Committee of Ministers in Brussels on 19 May 2015.

78. On 22 October, the additional Protocol was opened for signature at a conference held in Riga (Latvia). Nineteen member States signed it: Belgium, Bosnia and Herzegovina, Bulgaria, Estonia, France, Germany, Iceland, Italy, Latvia, Luxembourg, Norway, Poland, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine and the United Kingdom. The European Union also signed the Protocol together with the Convention on the Prevention of Terrorism (CETS No. 196).

79. The Council of Europe thus became the first international organisation to set up a regional legal instrument to implement the provisions of Security Council Resolution 2178 (2014) on foreign terrorist fighters.

80. In addition, the Committee of Ministers adopted, in May 2015, an Action Plan on the fight against violent extremism and radicalisation leading to terrorism, to be implemented in 2015-2017. Its purpose is to develop, within the Council of Europe mandate and drawing on the Organisation's strengths and comparative advantages, targeted activities capable of supporting and reinforcing the efforts of member States and to contribute to the objectives defined at United Nations level.

81. The Action Plan has two objectives: to reinforce the legal framework against terrorism and violent extremism, and to prevent and fight violent radicalisation through concrete measures in the public sector, in particular in schools and prisons, and on the Internet.

82. As regards the strengthening of the common legal framework, the priority is to help member States, and neighbouring countries to sign and ratify relevant Council of Europe instruments:

– The Convention on the Prevention of Terrorism (2005) (CETS No. 196) – so far 34 countries have signed and ratified it;

– The Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism (2015) (CETS No. 217) – as mentioned above, 21 member States have signed it but none have ratified it to date;

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81. The RAN Declaration of Good Practices for Engagement with Foreign Fighters for Prevention, Outreach, Rehabilitation and Reintegration: www.icct.nl/download/file/RAN-Declaration-Good-Practices-for-Engagement-with-Foreign-Fighters.pdf.

– The Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (2005) (CETS No. 198) – so far 27 countries have signed and ratified it;

– The Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems (2003) (CETS No. 189) – so far 24 countries have signed and ratified it.

83. The Council of Europe Committee of Experts on Terrorism (CODEXTER) will continue its review of the Council of Europe legal instruments in the field of counter-terrorism, assess possible gaps in the legal framework provided by the Council of Europe in the area of the prevention and suppression of terrorism, and review the assistance available to member States needing to overcome obstacles to signature and ratification.

84. In addition, the Action Plan suggests elaborating a new recommendation on terrorists acting alone, providing guidelines to member States on how to efficiently prevent and suppress this particular form of terrorism.

85. As regards the prevention of, and fight against radicalisation, the Action Plan puts the emphasis on education. Concrete action is foreseen to work out the model on competencies required for democratic culture and intercultural dialogue to be used in school curricula across Europe. The objective will be to ensure that young people acquire values, knowledge, understanding and the ability to act as responsible citizens.

86. Another project, entitled “Building Inclusive Societies,” aims to support, through concrete initiatives, the work of actors such as local authorities, media, civil society (including the private sector), social workers and educators which are key in the construction and in the consolidation of more inclusive societies. It will include initiatives to combat stereotyping and discrimination, to support inclusion strategies at local level, to build trust among citizens across social and cultural differences and to support intercultural communication and skills.

87. The third education priority, entitled “Providing a counter-narrative to the misuse of religion” aims to counteract the destructive messages of extremists with counter narratives, and should provide a platform for religious leaders and academics who speak with authority about how the activities of terrorist organisations are in conflict with religion.

88. The Action Plan also aims to address, through concrete measures at the level of the Council of Europe, the issues of radicalisation in prisons and the use of the Internet and social media for hate speech, radicalisation and recruitment of terrorist fighters.

89. In my view, the Action Plan touches upon some of the areas which are of key importance in order to counter radicalisation, and thus contributes to tackling the problem of foreign fighters. These activities should be given greater priority on the Council of Europe political agenda. More generally, Council of Europe action aimed at addressing the root causes leading to terrorism should be stepped up and be provided with additional funding.

90. As mentioned earlier, action at local level is of growing importance to deal with the root causes of radicalisation, prevent departures of European would-be fighters to conflict zones, and ensure that those foreign fighters who return to their home countries are taken care of as regards deradicalisation and re-integration. In this context, I should refer to the work of the Congress of Local and Regional Authorities of the Council of Europe which brings together representatives of local and regional authorities from across Europe with a view to sharing experiences and good practice on preventing radicalisation and promoting integrated approaches at local level in order to ensure that all stakeholders – civil society, faith-based organisations and social, educational, security and justice services – are involved.

5. Conclusions

91. The foreign fighters topic is set to stay with us for many years to come. It is therefore of the utmost importance to raise public awareness and deepen our knowledge about the root causes of this phenomenon and to adopt adequate responses that will bring results in the long term. This should be done firstly by focusing on the root causes and then think about responses – and not the other way around.

92. The current responses sometimes appear to point to a lack of strategy and understanding, and also their necessity and effectiveness is not always clear. Although it is quite understandable that politicians are tempted to adopt as many measures as possible, in the hope of not being reproached afterwards by their

constituents of not having done enough to thwart an attack – which Europe may yet again witness – we should continue to strive for necessary, proportionate, sustainable and international law and human rights-respecting responses only, targeting a phenomenon we (more or less) understand.

93. At the same time, people in Europe should also understand that 100% safety is not possible and that even with all the most repressive measures in the world combined, an attack is always possible. Therefore, the political response to the terrorist threat should be judged on the basis of the quality, and not the quantity, of counter-terrorism proposals.

94. Moreover, society should not hide behind politicians, but assist them in finding solutions to the complexities of the constantly evolving foreign fighters phenomenon. In the words of Coolsaet: "[T]he efforts of many are needed: government, civil society, media and citizens. Only when hope in the future is offered will the breeding ground dry up, and youngsters cease to be drawn 'to a country they do not know, in a culture they are not familiar with, and where a language is spoken that they do not understand.'"[82]

95. The Council of Europe, with its experience and knowledge in the fields related to democracy, protection of human rights and the rule of law, as well as with its legal instruments, has to contribute more actively to the search for ways to address root causes of radicalisation leading to violence, and to the strengthening of the legal framework for prevention of all forms of terrorism.

96. With this in mind, I propose a series of actions to be taken in Council of Europe member States which should contribute to countering, preventing, and dealing with the consequences of, the phenomenon of foreign fighters. These actions, contained in the draft resolution, are aimed at:

– working out a comprehensive response at all stages;

– building a partnership between all actors of society;

– enhancing the role of local authorities;

– promoting inclusive education of active citizens;

– countering violent extremist propaganda and developing positive counter-narratives;

– enhancing dialogue with leaders of various communities;

– paying greater attention to the education of religious leaders;

– preventing radicalisation in prisons;

– developing a gender-specific approach;

– giving priority to deradicalisation of returnees;

– enhancing international co-operation and sharing of information and experience;

– encourage States to join relevant Council of Europe legal instruments.

97. In addition, I propose a draft recommendation to ask the Committee of Ministers to strengthen the Council of Europe's contribution to the fight against terrorism by enhancing its capacities, and in particular to make operational the proposal to elaborate a Committee of Ministers recommendation on terrorists acting alone, and to give more priority to education to democratic citizenship – both these elements are contained in the 2015-2017 Action Plan on the fight against violent extremism and radicalisation leading to terrorism.

82. Coolsaet 2015, p. 24.