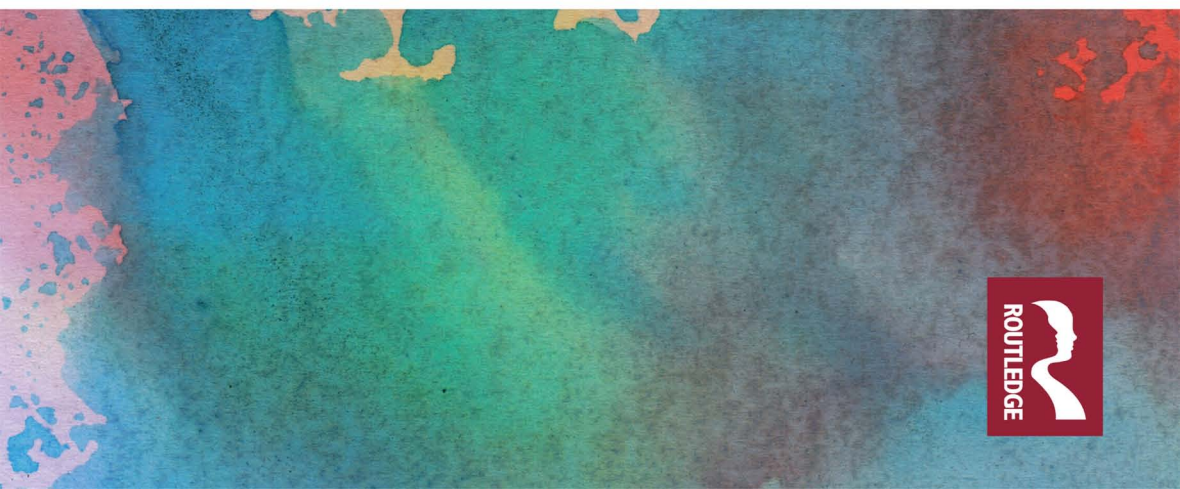
Contemporary Terrorism Studies

JIHADISM, FOREIGN FIGHTERS AND RADICALIZATION IN THE EU

LEGAL, FUNCTIONAL AND PSYCHOSOCIAL RESPONSES

Edited by
Inmaculada Marrero Rocha and
Humberto M. Trujillo Mendoza



ROUTLEDGE

Jihadism, Foreign Fighters and Radicalization in the EU

Jihadism, Foreign Fighters and Radicalization in the EU addresses the organizational and strategic changes in terrorism in Europe as a result of urban jihadism and the influx of foreign fighters of European nationality or residence.

Examining the different types of responses to the treatment of radicalization and its consequences in the recruitment of young urban fighters and jihadists, this book offers a framework for understanding the process of violent radicalization. It critically analyses political and legal responses that have taken place within the European framework, whilst also examining a series of functional responses from social and behavioural psychology. This book then goes on to develop an explanatory model from an economic standpoint, exploring the need to adapt the fight against the financing of terrorism to changes in the sources of financing jihadist cells and foreign fighters. Furthermore, the volume draws on experience from the prison sector to assess the process of radicalization and the possibilities of intervention.

Taking an interdisciplinary approach, this book will be of great interest to students of terrorism and counter-terrorism, radicalization, European politics, radical Islam and security studies.

Inmaculada Marrero Rocha is Senior Lecturer of International Relations at the University of Granada, Spain and Executive Director of the Euro-Arab Foundation for Higher Studies.

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Edited by Inmaculada Marrero Rocha and Humberto M. Trujillo Mendoza

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Preface

The present work is the result of an interdisciplinary research study we directed at the University of Granada, which began in 2015 and in which researchers from the Universities of Córdoba, the Basque Country, Madrid Autonomous University and the National University of Distance Education participated. The work has mainly been funded by the Spanish Ministry of Economy and Competitiveness and the European Regional Development Fund (MINECO/FEDER) within the framework of the Research Project with reference DER2015-63857-R. At the end of 2016, the objectives of the research were broadened by the participation of researchers from European Project TAKEDOWN (Understand the Dimensions of Organized Crime and Terrorist Networks for Developing Effective and Efficient Security Solutions for First-line Practitioners and Professionals (2016–2019) 700688-H2020 FCT-162015), under the coordination of the Euro-Arab Foundation for Higher Studies, an institution that Professor Marrero has managed since 2014 and that is a member of the consortium. Participation in this second project has meant collaboration with other researchers and has allowed us to explore new hypotheses and methodologies when facing the analysis of responses to the phenomena of foreign fighters, jihadism and radicalization in the European framework. Later, the Euro-Arab Foundation for Higher Studies facilitated our participation in two other European projects, the DERAD 'Counter-Radicalization Through the Rule of Law' project, funded by the Directorate General for Justice of the EU Commission (JUST/2015/JTRA/AG/EJTR, 2016–2018) and the project TRAINING AID 'Mobile assistance interagency teams to detect and prevent the escalation of violent radicalism', financed by the Security Fund of the EU's Directorate General for the Interior (HOME/2015/ISFP/AG/2016–2018). These two projects allowed us to contact prison workers who had collaborated closely with the Radicalisation Awareness Network (RAN), Centre of Excellence, linked to the European Commission, and in this way we were able to access the data of the field work RAN had done in Spanish prisons and incorporate these professional experiences into our research.

We would like to take this opportunity to thank the Euro-Arab Foundation for Higher Studies and the University of Granada for providing us with a quality

framework, and guiding us in participating in European and national research projects that have allowed us to show in this work our conviction of the need for an interdisciplinary approach to the object of study, and the necessity for professionals and researchers to work together to obtain useful results in solving the problems that affect European societies.

Introduction

Inmaculada Marrero Rocha and Humberto M. Trujillo Mendoza

Introduction

Jihadism, Foreign Fighters and Radicalization in the EU: Psychosocial, legal, political and functional responses is a work that addresses the phenomenon of jihadist terrorism in urban contexts, through the creation of local terrorist cells, and in armed conflicts, through the recruitment of foreign jihadist fighters who have become part of the insurgent forces. Urban jihadism has claimed 597 fatalities and thousands of injured in the territory of the European Union since 2004 and the recruitment of foreign jihadist fighters has reached estimated figures of between 25,000 and 35,000 men and women, of whom 20% were European citizens. The activities of jihadist fighters during armed conflicts have provoked great rejection for their extreme use of violence, the use of terrorist strategies and the commission of war crimes and crimes against humanity, which fundamentally affect the civilian population. In both cases, urban jihadism and foreign 'terrorist' fighters are individuals who obey the directives of global terrorist organizations, such as Al-Qaeda, Daesh and other groups or organizations derived, affiliated to or dependent on these first two, which challenge established borders, seek to reconfigure hegemonic relations worldwide and develop their political project in the states in which they have managed to establish themselves. These terrorist organizations exercise an ideological-religious control over the decentralized structures, cells in urban areas and militias in conflict zones, which promote their presence in many areas and regions of the planet. Decentralization does not prevent the actions of these terrorist groups from having a global impact, because they are conceived within the same logic and ideological programme that gives them their own specific identity.

Global terrorist organizations that recruit urban jihadists and foreign fighters to carry out various acts of terrorism have a radical and violent religious ideology, which rejects the socio-political organization systems of Western countries, as well as the traditional cultures and structures from many Muslim countries. The global terrorist organizations aim to build a new transnational community based on a violent radical Islamist conception of Islam in which individuals must 're-educate and profess correct Islam'. The process by which urban jihadists and foreign jihadist fighters decide to take that ideology to its ultimate

consequences, imposing it on others and even dying for it, is called violent radicalization; this phenomenon has never been the subject of as much attention as it is now. But as repressive measures to combat jihadist terrorism and the waves of foreign fighters have not yielded the expected results and this phenomenon continues to grow in international society and in the European Union, violent radicalization has captured the interest of states and international organizations.

In order to analyse the phenomenon of jihadism in Europe and its responses, it is necessary to understand the process by which nationals or residents of the Member States of the European Union join urban jihadist cells or have abandoned their countries and families to accept an extreme belief system and a willingness to use, support or facilitate violence and fear to impose their ideas. Only a study that addresses the psycho-social parameters that are identified with the phenomenon of radicalization, that investigates the most vulnerable contexts, such as certain urban or prison environments, in which capturing, recruiting and training of future jihadists is produced, which identifies psychological models of recruitment and evaluates the policy responses and legislative developments can provide us with the keys to understanding this phenomenon and make possible the proposal of solutions that can improve its treatment.

Obviously, in order to carry out such a complete and complex analysis, we have needed perspectives and methodologies from different disciplines, such as social psychology, behavioural psychology, law and international relations, and contributions from the judiciary and the prison system. Thanks to this multidisciplinary approach and the contributions of professionals who work daily with the phenomenon of radicalization and terrorism, we have been able to access relevant information and data that has enabled us to specify many of the analyses and proposals that are set out in different chapters of this work.

The work is divided into three fundamental parts. In the first part, entitled **Foreign fighters, radicalization and jihadist terrorism as a challenge for the European Union**, a general conceptual framework is developed on the three objects of analysis – foreign fighters, jihadism and radicalization – the evolution of the nature of these phenomena and their implication for European security, in addition to the responses that the European Union and its Member States have given to the challenges and the dangers they imply.

The first chapter, *A psychosocial evidence-based approach to radicalization and terrorism*, by Humberto M. Trujillo Mendoza and Manuel Moyano Pacheco, assesses many of the problems associated with research on radicalization and terrorism that are similar to those found in social sciences in general. However, there are currently a number of specific problems, such as the paucity of empirical data, the small sample size or the abundance of unconstrained theories. In addition, available research too often lacks a properly scientific methodology. This implies that the actions planned to manage risk are based on questionable premises, as there is no global scientific model that can guide the understanding of how and why such terrorism develops, maintains and, eventually, extinguishes this psychosocial phenomenon. This chapter explains and advocates the need for an

evidence-based approach, defined as the conscious, explicit and judicious use of the best available scientific evidence to improve decision-making. We also review some evaluation tools and techniques, such as a toolbox, that could be useful in the assessment and risk management of professionals and researchers and finally offer some proposals and future challenges, trying to emphasize the applicability of this perspective to the challenges for international security that exist at the moment.

The second chapter in this first part, *Urban jihad: new operational trends affecting Salafist jihadist groups acting in Europe, Africa and the Middle East*, written by Carlos Echeverría Jesús, deals with the emerging practice of 'urban jihad' among Salafist jihadist groups since 2008 in different places of the international society. The author focusses his attention on Europe since 2015, which has also become a setting for urban jihad since attacks in France, the United Kingdom, Germany, Belgium, Sweden and Spain have become the main places of its implementation. This urban form of jihad has become attractive for jihadists. This hypothesis obliges the author not only to study this topic but also to explore formulas for confronting it.

The third chapter, *The European Union's foreign 'terrorist' fighters*, written by Inmaculada Marrero Rocha, traces the historical record of the evolution of European foreign fighters and how they came to be terrorists in recent years. It also analyses the elements that show how foreign combatants pose a threat to international security and, in particular, to European security and the difficulties faced by the Member States and the European Union itself in identifying terrorist combatants and applying repressive measures. Finally, the chapter assesses the effectiveness of these repressive measures adopted by the Member States and the need to concentrate on developing means to prevent terrorist attacks, radicalization and rehabilitation and reintegration of returnees.

Once these first three chapters have analysed the meanings, evolution and implications of the terrorist phenomenon of radicalization, jihadism and foreign fighters in the European Union, the book offers two case studies in which data collected in Spain are set out, which corroborate the more conceptual analyses set out in the previous chapters. The fourth chapter, written by Luis de la Corte Ibáñez, *Urban environments vulnerable to jihadist radicalization: a study of two Spanish cities in North Africa*, starts from the conviction that the early identification of such micro-environments should be a priority in programmes aimed at preventing violent extremism. This chapter proposes an organized set of analytical criteria and indicators that help to assess the risk related to the transformation of specific urban areas (cities or neighbourhoods) into areas of radicalization and recruitment for terrorist purposes and offers a comparative study undertaken in the cases of two Spanish cities, Ceuta and Melilla, which explain and test the criteria previously discussed. The two localities studied were selected for two reasons: first, their exceptional and distinctive attributes compared to the rest of Spanish cities (Spanish enclaves located in North Africa and bordering Morocco); second, the significant information and evidence that has appeared since the year 2013 that has identified them as two of the main focuses of radicalization and jihadist capture in Spain.

In the fifth and final chapter of this first part, prepared by Salvador Berdún Carrión, *From classic terrorism to jihadist terrorism: the evolution of the type of prisoners linked to jihadism in Spain*, the main objective is to analyse the characteristics of the Spanish penitentiary population linked to jihadism and the difficulties presented by the monitoring and control systems of these prisoners based on tools that have an important component of ambiguity and subjectivity and that had been designed for prisoners for terrorist crimes within the framework of organizations like ETA. These are no longer useful to control those condemned by jihadism and to prevent them from recruiting other convicts to introduce them into terrorist organizations. The results of this work can be extrapolated to the situation of those convicted of jihadism in other European prisons.

The second part of this work is entitled **Legal and political responses to the challenges of radicalization and recruitment of jihadists and foreign fighters** and begins with two chapters in which the foundations of the strategic-political and legal responses of the European Union and its Member States are analysed in a general way, from a political and legal point of view, and how they have sought to confront the phenomenon of radicalization and jihadist terrorism. The strategies and legal measures applied by the Member States of the European Union have, on many occasions, collided with the fundamental rights of the citizens to whom they are addressed as well as the citizens that these measures are intended to protect. In Chapter 6, *The European Security Agenda in the fight against terrorism*, José Luis del Castro Ruano delves into the origins and the strategic-political novelties of the European Union to face the phenomenon of jihadist terrorism and examines the extent to which these measures guarantee an adequate response to jihadist terrorism. This chapter focusses precisely on the nature, scope, results and main problems of the development and implementation of the European Security Agenda as the EU's main strategic document in its fight against terrorism.

Pablo Martín Rodríguez in the seventh chapter analyses the extent to which the fight against terrorism has affected the rule of law in the European Union. The rule of law is an essential principle and cannot be renounced in the political and legal architecture of free societies and is declared as such in the European legal system. The fight against terrorism and radicalization inevitably involves rethinking the balance between freedom and security, which essentially affects the principle of the rule of law. The purpose of this chapter is precisely the analysis of the particular balance between the difficult and complex configuration of this legal category in European Union law and the special legal articulation of the fight against terrorism and radicalization. The inexorable rethinking of the balance between freedom and security in this process is an unexplored field in the EU legal system.

After these two chapters, the rest of this second part addresses more precise legal questions that respond to the problems raised in the chapters by Pablo Martín Rodríguez and José Luis del Castro Ruano about the suitability of the European Union's political-legal framework in the struggle against jihadist

terrorism and the elements that collide with the pillars of the rule of law in the Union. For this, Antonio Segura Serrano, in the eighth chapter, entitled *National measures implementing United Nations resolutions on foreign fighters*, discusses how European Union Member States have tried to avoid the lengthy judicial investigation procedures that lead to the prosecution and subsequent conviction of suspected terrorist jihadists by applying administrative sanctions instead. The withdrawal of travel documents and the suspension or withdrawal of residence permits or nationality to prevent jihadist fighters from embarking on their journeys or returning to European soil after their participation in armed conflict do not usually have the necessary legal guarantees and can be contrary to fundamental rights and freedoms.

In a similar vein, Francesco Seatzu in the ninth chapter, entitled *The compatibility of the Additional Protocol on Foreign Terrorist Fighters with international human rights law*, examines whether the Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism – the so called 'Riga Protocol' – adopted in 2015 after Resolution 2178 (2014), is compatible with international human rights law. The Protocol has obliged the European states to adopt a series of reforms of their penal codes that entail an excessive criminalization of the foreign combatants and, in practice, the application of these legislative measures calls into question important pillars of the international protection of fundamental rights. Finally, Florentino G. Ruíz Yamuza, a magistrate and expert in the fight against terrorism, in the tenth chapter, *Preventing and countering Islamic radicalization in prison through restorative justice*, offers an alternative legal scheme in the fight against terrorism and radicalization. These restorative justice techniques confront the consequences of criminal behaviour in our legal environment, applied inside or outside prison, during the stages of trial and execution of sentence. Judge Ruíz Yamuza is convinced that this type of measure can be a more useful alternative to prevent the radicalization of other individuals and the reintegration of those convicted of crimes of jihadist terrorism.

The third part of this work offers **Functional responses to the challenges of radicalization and recruitment of jihadists and foreign fighters**, from the psychosocial point of view, examining social intervention in prisons and providing a financial analysis. In the eleventh chapter, *Towards the study and prevention of the recruitment of jihadists in Europe: a comprehensive psychosocial proposal*, Professors Humberto M. Trujillo Mendoza and Manuel Moyano Pacheco, who in the first part of this book analysed the existing psycho-social models in Europe in the identification of radicalization, now focus their attention on the physical environment of European cities with present and future concentrations of Muslim population. The authors start from the premise that the recruitment, radicalization and violent mobilization of young people in the European space is a complex problem and requires complex, consistent, integrated solutions free from ambiguities and simplifications. The chapter addresses early prevention and, in particular, the functional interactions between psychological, cultural, economic, contextual and political factors that are associated with the mental and

ideological alienation of people who have not yet fallen under the control of groups. The authors make a consistent, comprehensive proposal for the prevention of recruitment and mobilization of young jihadists in the European space, taking into account different aspects related to the behaviour of the individual, the culture and the social and physical environment.

In the twelfth chapter, *Counter-terrorism financing architecture and European security*, Javier Ruipérez Canales analyses the evolution of the financing model of jihadist terrorism in Europe since 2001 and how the measures adopted in the European Union to fight this method of financing terrorism have become obsolete. These measures follow guidelines from international organizations worldwide that do not respond to the specificities of the European territory. That is why Javier Ruipérez Canales proposes a change of perspective in the fight against the financing of terrorism so that it is not only an instrument that prevents terrorists from having the necessary resources, but also allows states to know their *modus operandi* and to prevent future acts of terrorism.

Finally, Manel Roca Piera and Carles Soler Iglesias offer a final chapter on *Intervention in radicalization processes in the prison context*. This shows how combating radicalization in prisons has become one of the major working areas for national and European counter-terrorism strategies. The chapter analyses the status of radicalization within the penitentiary system by analysing the precursory factors leading to the radicalization process. It examines, first, the different European approaches to violent extremism in prison and probation. Second, it analyses the tools, mechanisms and needs, and offers a summary of the key factors to transform the prevention of radicalization leading to terrorism and violence in prisons.

Part I

Foreign fighters, radicalization and jihadist terrorism as a challenge for the EU

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1 A psychosocial evidence-based approach to radicalization and terrorism

Humberto M. Trujillo Mendoza and Manuel Moyano Pacheco

Introduction

Violent radicalization and terrorism receive priority attention from Member States of the European Union; however, this problem is not new in Europe. Thus, some authors have distinguished between what has been termed 'old terrorism' and 'new terrorism' (Laqueur, 1999, 2002). From this perspective, within 'old terrorism' we could include the different waves of political violence deployed in the 1970s and 1980s by organizations that operated at a very localized level and that sought social revolutions, independence or the promotion of nationalism. Among those groups we could mention Die Rote Armee Fraktion (RAF), Euskadi Ta Askatasuna (ETA), Brigate Rosse or the Irish Republican Army (IRA). On the contrary, 'new terrorism' refers to those groups that seek to transform reality based on a fundamentally religious ideology, attacking people and objects indiscriminately throughout the world. Since the terrorist attacks of 11 September 2001 (11S), 11 March 2004 (11M) and 7 July 2005 (7J), the main threat comes from these types of groups, ideologically inspired by jihadist Salafism.

Although there are also terrorist incidents unrelated to jihadism, it is jihadism that produces the most serious forms of terrorist activity, having increased in number progressively and exponentially over the last decade (Wensink et al., 2017). In the last three years, different jihadist attacks have occurred in European cities, such as Paris, Nice, Stockholm, Berlin, Manchester, London, Brussels and more recently in Barcelona and Cambrils. According to the latest annual report on the situation and trends of terrorism in the European Union (European Union Agency for Law Enforcement Cooperation [EUROPOL], 2017), a total of 142 attacks were counted in 2016, of which 135 (95%) were jihadist, with 718 arrests in the European Union. In contrast to nationalist and separatist terrorism and most manifestations of extreme-right-wing and extreme-left-wing violent radicalism, jihadism has a transnational character. Thus, instability in regions such as the Middle East, North Africa or Southeast Asia has inexorable repercussions in the old continent. Taking into account both the internal dynamics of the countries of this environment regarding the integration of Muslims, as in the international context, the risks derived from jihadism have become a structural challenge and,

therefore, of great social importance for security, democratic values and social cohesion. In addition, this threat will persist over the coming years, with no sign of having simple solutions in the short term.

In the current context, the phenomenon of foreign terrorist fighters travelling to different places to join the jihad, as well as their potential return to their countries of origin, has created new problems that need to be answered from a social, legal and security point of view (Cragin, 2017; Marrero, 2016). By early 2016, the number of people who had travelled to Iraq and Syria to take up arms with Islamic insurgent groups and terrorists as foreign terrorist fighters had increased to over 42,000, and a significant proportion of these individuals came from European countries (Perliger & Milton, 2016). In addition, a recent report by the International Centre for Counter-Terrorism estimates that of around 3,922 to 4,294 foreign terrorist fighters from Europe, about 30% have returned to their countries of origin (Van Ginkel & Entenmann, 2016).

Thus, most European countries have developed national strategies that serve as a framework for addressing radicalization and terrorism. Programmes have also been developed to identify people vulnerable to violent radicalization in order to refer them to the appropriate devices and interventions, either from a police point of view or as a psychosocial educational intervention. To cite just a few examples, in the United Kingdom the Channel Project was introduced; Spain introduced the Stop Radicalisms programme; and France has the Stop Djihadisme programme. Other actions have focused on developing local anti-radicalization initiatives or on programmes to rehabilitate and reintegrate extremists – some of which have been unsuccessful (El-Said, 2015; Horgan & Braddock, 2010; Schuurman & Van Der Heide, 2016).

Despite the widespread attention of the mass media on the phenomenon, very little is known about the strategies applied and the protocols derived from the anti-radicalization programmes to address this social problem in the short and long term. Today there are a series of unresolved problems resulting from the very complexity of the phenomenon. In general, we can say that we do not have enough scientific data to explain, predict and prevent radicalization, nor the behaviour of the terrorists and the groups that support them. Therefore, in the psychosocial study of this complex phenomenon, there are a number of unresolved problems that make it difficult to be effective in understanding, coping with and preventing it (Moyano & Trujillo, 2013; Trujillo, 2009). Among other problems, the following may be mentioned: (1) questions about violent radicalization and terrorism have been asked essentially from a sociology and political science perspective, usually using a descriptive and rarely an explanatory-predictive methodology for responses; (2) the forecasts made from the answers to these questions are not at all useful for carrying out effective anti-radicalization and anti-terrorism operations, as they are based on the description (what happens), not on the explanation of what, when, where and how it happens; (3) a good number of the published works related to this social problem are not rigorous from a scientific point of view, since their contents can be understood as merely intuitive and speculative generalizations from descriptive data obtained

once the terrorist action has already taken place; and (4) there are no empirical studies on critical incidents, nor much likelihood of any, since it is not easy to access data and classified information from the operational practice of the different security agencies.

On the basis of all of the above, we must admit that at present our scientific understanding of radicalization and terrorist behaviour, as well as the functioning of social groups that legitimize it, is relatively poor, which promotes levels of cognitive dissonance at the time of making decisions about how to anticipate, prevent and treat these phenomena.

This chapter reviews and discusses a number of aspects related to the scientific status of knowledge about terrorism, arguing for an evidence-based approach. The structure of the chapter is as follows. First, the evidence-based approach is explained by introducing the concepts of systematic review and meta-analysis and points out how they could be useful in the area of counter-terrorism. Second, those aspects that have characterized research on this phenomenon are set out and the challenges that should be addressed to improve their status are discussed. Some research and works with practical implications for researchers and practitioners are then reviewed and discussed. The chapter finishes with some conclusions and future proposals for a confrontation of radicalization and evidence-based terrorism.

Although the chapter will address the phenomenon of radicalization and terrorism in a generic way, it will further illustrate jihadist terrorism and, in particular, the new threat from the mobilization and potential return of so-called foreign terrorist fighters that can be represented from the point of view of risk management.

Towards an anti-terrorist psychosocial proposal based on evidence

The development of policies and professional practices aimed at solving social problems should be based on the best scientific evidence. This proposition, reasonable but not always assumed, can be applied to any professional field and, as such, to anti-terrorism interventions. To do this, one would have to answer questions such as the following: What are the phases underlying the recruitment and mobilization of terrorists? How should we act to minimize the legitimacy of terrorism? How do prejudice and discrimination influence violent radicalization? What are the risk and protection factors that contribute to radicalization? What are the psychosocial factors that make a person vulnerable to recruitment, psychic subjection and ideological indoctrination, and therefore recruitment by radical groups? How can we de-radicalize people who are already radicalized? Are terrorist rehabilitation programmes effective?

Decision-makers and practitioners in the field of counter-terrorism should decide what strategy, programmes, treatment or interventions to apply based on the evidence accumulated in objective and rigorous empirical evaluative studies, duly designed and implemented. In addition, social, educational, health and public safety policies should also be decided by taking into account the

accumulated scientific evidence, which confirms how best to deal with existing problems and challenges.

To this end, the evidence-based practice (EBP) approach has emerged as a strategy to ensure that the programmes, treatments and interventions that are applied in practice are as rigorous as possible. The concept of EBP, as well as systematic reviews and meta-analyses, is briefly discussed below.

Evidence-based practice

Evidence-based practice refers to those practices, actions and decisions that are grounded on objective evidence obtained from scientific research. It is intended to minimize the presence of biases, personal opinions or emotions, which can contaminate the decision-making process, thus leading to measures that produce better results. The concept of EBP originated in the 1990s in the field of medicine (Sackett, Rosenberg, Gray, Haynes & Richardson, 1996). Basically, evidence-based medicine could be defined as the systematic, rigorous and judicious use of the best current evidence to make decisions about patient health (Hjørland, 2011; Jovell & Navarro-Rubio, 1995). From this approach, physicians seek to treat patients with those methods that have proven to be effective. Currently, this trend has been consolidated as part of the culture in health sciences. Although there are still significant gaps between existing evidence-based knowledge and its application, the general trend is in the direction of using basic and applied scientific research to guide practice (Glasziou, Ogrinc & Goodman, 2011; Pope, Mays & Popay, 2007). Due to its importance, institutions, managers and health professionals refer to evidence-based medicine as a quality aspect that improves their effectiveness and efficiency. The point is to avoid subjectivity and for opportunistic guesswork to be minimized. Due to the potential benefits, EBP has been extended to other social science disciplines, generating currents such as evidence-based psychology, education, criminology or economics (Sánchez-Meca, Boruch, Petrosino & Rosa, 2002).

Although each discipline, whether in the realm of physical-natural sciences, health or social sciences, has its own characteristics, nature and challenges, the principles underlying evidence-based practice are similar. That is, in any field, the systematic, rigorous, judicious – and therefore scientific – use of the best available empirical evidence is sought in order to decide the most appropriate roadmap in order to obtain the best results in the practice.

Systematic reviews and meta-analyses

However, for the EBP perspective to be operational, systematic reviews of empirical studies are needed to provide information on which programmes are most efficacious and effective in resolving or preventing a given problem (Sánchez-Meca & Botella, 2010). Basically, a systematic review is an objective review of a clearly formulated question whose answer should integrate the empirical studies that have been carried out. If statistical methods are applied to

the results of empirical studies, then this systematic review is called a meta-analysis, which is the most potent review possible (Sánchez-Meca & Botella, 2010). Meta-analyses thus provide crucial information that, used properly by managers and politicians, can help to optimize professional practice. As a result of the increase in the EPB approach, there are many initiatives being taken at the international level to promote this approach, as well as systematic reviews and meta-analyses. In this sense, it is necessary to mention initiatives derived from the Cochrane Collaboration (in the field of medicine and health sciences) and the Campbell Collaboration (in the context of social, educational and behavioural sciences). These two international organizations promote high-quality meta-analytical studies on the effectiveness of interventions in different settings (Sánchez-Meca et al., 2002).

In the field of counter-terrorism, since the 11 September 2001 attack there has been a significant increase in economic and temporal investment in anti-terrorist strategies and programmes. This increase in spending has placed a crucial question in the spotlight: do these interventions really work? The truth is that a large number of counter-terrorism measures that have been applied (and are being applied) are not based on evidence or have not been rigorously evaluated and checked. As we will see below, obtaining scientific evidence in the field of radicalization and terrorism is not an easy task. Many of the difficulties associated with this field of research are similar to those found in the social sciences in general (Finkel, Eastwick & Reis, 2016; Ioannidis, 2005; Kruglanski, Chernikova & Jasko, 2017; Motyl et al., 2017; Munafò et al., 2017; Open Science Collaboration, 2015). But, in addition, this topic has specific problems and challenges.

Difficulties, challenges and methodological proposals

We now describe the methodological aspects that characterize the current situation in research on the clichés typical of terrorism in general and jihadism in particular, trying to unravel the difficulties in developing an evidence-based practice, as well as suggesting proposals to mitigate them.

Lack of empirical data

Possibly, one of the main challenges faced by researchers is the scarcity of available data and the limited size of the existing samples to carry out the systematic study of terrorism, especially suicide terrorism (martyrdom, self-sacrifice) (Mintz & Brule, 2009; Moyano, 2011; Schmid & Jongman, 1988; Schuurman & Eijkman, 2013; Silke, 2001, 2007, 2009; Victoroff, 2005). In general, we can say that, at present, we do not have enough scientific data to be able to explain, predict and prevent radicalization or the behaviour of terrorists and the groups that support them. This is due to several reasons. First, because terrorism is obviously an unusual phenomenon and, in general, there are not many terrorists among the normal population. Second, because it is not easy to

access samples. And, third, because obtaining data can be potentially dangerous (Moyano & Trujillo, 2013). Today, it is essential to have more empirical data and objectives that allow policies based on scientific evidence to be implemented, much more so since the approach to this phenomenon does not provide easy answers and simple solutions. As argued by Mintz and Brule (2009), when academic recommendations are offered based on inferences from limited samples, there is a considerable margin of error. Thus, such recommendations may be dubious and, therefore, relatively ineffective.

Excessive number of theories

In research on radicalization and terrorism there has been a tendency to theorize speculatively, without basing claims on scientific data. Currently, the existence of more theories that precede facts (deductive logic) than events that precede theories (inductive logic) is obvious. Moyano and Trujillo (2013) give the example of physics. According to these authors, there are two main pillars on which modern physics is based. On the one hand, the theory of general relativity formulated by Albert Einstein, which focuses on the understanding of the universe at its maximum scale (stars, galaxies, expansion of the universe). On the other hand, quantum mechanics, an essential framework for understanding the universe on a minimal scale (molecules, atoms and subatomic particles). To date, apparently, almost all of the predictions made by each of these theories have been confirmed experimentally, but – paradoxically – as they are formulated at present, both cannot be true at the same time. Or, in other words, they are mutually incompatible. In recent years, an emerging perspective, the superstring theory, aims to resolve that tension. As we shall see, while in physics researchers operate with a small number of theories, in social sciences it is quite common to find dozens of theories and analytical proposals that have not previously passed through the filter of objective data. According to Moyano and Trujillo (2013), this proliferation of theories about terrorism could be caused because questions about violent radicalization and terrorism have been carried out fundamentally from sociology and political science, normally using a descriptive and rarely an explanatory-predictive methodology. Therefore, the forecasts made are limited to carrying out effective anti-radicalization and anti-terrorism operations, since they are based on description (what happens) and not on explanation (why, when, where, how and for what reasons it happens). Therefore, it is necessary to establish a solid and consistent theoretical-conceptual framework, supplied with empirical data obtained with rigorous methodologies that allow an explanatory approach and are thus predictive, when dealing with radicalization and terrorism.

Correctly narrowing the topics of study

In order to evaluate any aspect of reality, it is necessary to delimit and agree on an operational definition of any term. However, the concepts of radicalization and terrorism are permanently changing. When reviewing the available literature

it can be seen that different authors refer to the same thing using different concepts, there being no unit of criteria in the use of certain terms and constructs (Moyano, 2011; Schmid & Jongman, 1988). This fact makes it difficult for scientists and analysts to communicate with each other when referring to the same thing. The lack of consensus is due, among other things, to the variety of motivations, the heterogeneity of terrorist conduct and the individual subjectivity of the experts themselves (Hoffman, 1998; Jenkins, 1982; Pape, 2003; Weinberg, Pedahzur & Hirsch-Hoefler, 2004). In addition to the above, any empirical study on radicalization and terrorism can be ambiguous if it does not stratify the findings and clearly describe the sample studied according to a given level and role. Possibly, the pyramid model (McCauley & Moskalenko, 2008, 2017) and other similar typologies may have a relevant value for researchers to classify the samples being studied into categories. What is clear is that a sample of nonviolent individuals who sympathize and support violence is not the same as a sample of violent individuals willing to execute it. In short, the complexity and controversy when delimiting this field of study can cause important problems when operationalizing the constructs associated with radicalization and terrorism and, therefore, it is complex to study them with a minimum of rigour.

Prejudices and dependence on culture

Research on terrorism can be especially vulnerable to the existence of prejudices and cultural dependencies. Let us not forget the following reflection: what is (or is not) a behaviour or attitude (act, thought, emotion) considered normal or extreme will be in accordance and in intimate relation with the culture in which it is produced, as well as with the characteristics of the issuer's reference group. Somehow, 'something' is radical or not with respect to 'a referent', be it a person, a group, a social order or a culture. Researchers themselves are not exempt from these biases. Therefore, subjective character and reductionism have been quite common. The negative aspects of some of the speculative approaches popularized among the scientific community could be summarized as a kind of Charcot effect, where researchers tended to 'find' in reality what they themselves 'promulgated', projecting their own personal prejudices and falling, in this way, into a vicious circle of great explanatory clumsiness (Moyano & Trujillo, 2013; Pérez-Álvarez & García-Montes, 2007).

The problem of social desirability

It is difficult to assume that a violent radical or a terrorist will participate in a scientific investigation in a sincere way and without disguising their response. In that sense, the bias of social desirability refers to the tendency of research participants to give socially desirable responses instead of choosing responses that reflect their true behaviour, thoughts or emotions (Holden, 2010). This bias in responses becomes a major drawback when the scope of a study involves socially sensitive issues such as terrorism. However, there are several methods to

control and attenuate this effect. The most popular may be to measure the degree of bias present in the responses by incorporating into the investigations a scale or indicator related to social desirability (Crowne & Marlowe, 1960). Other options are the training of researchers (pollsters, interviewers, observers) and the collection of data through methods that do not require the presence of an interviewer. These options include the use of document analysis, non-participant systematic observation (natural observation) and participant observation in its three versions: the observer as a participant, the participant as an observer and full participation (Trujillo, 1999).

Conduct research 'out of the laboratory'

As we have previously explained, a large number of approaches describe what happens in radicalization, so it is necessary to address the study of contributing psychosocial factors in a more systematic way in order to try to explain why it occurs, or, in other words, to move from a descriptive level to an explanatory-predictive one. To do this, Ginges, Atran, Sachdeva and Medin (2011) argue that perhaps the greatest theoretical challenge is to better understand how and why sacred causes and moral imperatives influence a certain group and motivate certain individuals to commit violent actions. For this challenge, laboratory studies can be a useful but limited tool. The spectrum of applied strategies should be opened up and researchers should try to carry out field research contextualized to the reality where conflict and violence occur; that is, carry out real field experiments.

The challenge of falsifiability

In the philosophy of science, it has been usual to argue that scientific progress is achieved by comparing the new explanations (current data) with those that went before (past data) (Kuhn, 1970; Lakatos, 1970; Popper, 1972). In that sense, it would be desirable that the theories about terrorism be logically consistent, explicit, testable and falsifiable (Mintz & Brule, 2009; Victoroff, 2005). Thus, for researchers to demonstrate that the new theories are better than the old ones, it would be necessary to identify new hypotheses, provide data that corroborate them or that, on the contrary, may falsify (refute) such hypotheses. All this, while controlling other possible tentative forecasts (alternative hypotheses).

Although the challenge or requirement of replicability is not the only one existing in the social sciences (there are other important mechanisms, such as empiricism, verifiability or parsimony) to prove or falsify a theory, methodologically similar repetitions, also known as direct replications, prove the basic existence of phenomena and ensure that cumulative progress is possible. Without prioritizing replicability, a set of hypotheses on a research topic is not empirically falsifiable (LeBel, Berger, Campbell, & Loving, 2017). The problem is that on the topic of radicalization and terrorism there are many theories that are not falsifiable (due to the way they are enunciated), or that are not easily falsifiable

(due to the difficulty of performing basic and applied research). As can be supposed, in this area it is difficult to find investigations that are easily replicable. However, it is necessary to continue accumulating data and, thus, knowledge of the phenomena, in order to consolidate a sufficiently transparent, powerful and falsifiable approach making use, mainly, of the logic of hypothetical-deductive thinking, but also of inductive logic in the case of not having sufficiently consolidated theoretical models.

Use of anecdotal evidence that can be refuted

In addition to the above, it has been argued that a good number of published works are not rigorous from a scientific point of view, since their content can be understood as intuitive and speculative generalizations from descriptive data obtained once the phenomenon of study has already taken place (process of radicalization, indoctrination, terrorist act etc.). In that sense, Mintz and Brule (2009) argue that a habitual deficit is the use of anecdotal evidence that could be contradicted by another type of alternative evidence. Thus, instead of applying a systematic research design as a strategy of obtaining data, a variety of tests are gathered to support a specific approach. These tests (interviews, case studies) can serve to illustrate or describe a fact, but it is difficult to make explanatory and predictive inferences with sufficient guarantees. Or, in other words, they can be refuted simply by presenting some evidence to the contrary.

Consolidate multivariate approaches

To this day, it cannot be said that there is a single 'causal' factor of radicalization and terrorism. There is a certain consensus that the analysis of these processes must be done taking into account the intersection of numerous psychosocial variables (Kruglanski et al., 2014; Moyano, 2011; Victoroff, 2005). The theoretical perspectives that have affirmed the single cause or the predominance of one of these factors over the others are premature and daring, taking into account that, until now, few studies have systematically examined some of the many factors involved. To deepen the study, it is a challenge to work together with cognitive, behavioural, emotional factors, as well as ethnic, anthropological, social and cultural aspects (Moyano & Trujillo, 2013). All of these aspects would be modulated, in turn, by contextual influences and group dynamics. The degree to which each of these factors can contribute will probably vary according to the circumstances. This makes us think that radicalization is a complex, multidimensional process in which numerous variables may be involved as contributing factors (which are not clearly causal). All these contributing factors can foster or inhibit radicalization and the violent extremism resulting from it. Indeed, as with other types of psychosocial risk processes, we would have to begin by assuming that there are a number of risk factors and another series of protection factors, and that these risk and protection factors are sensitive to the context. This finding demands multivariate approaches that take into account

numerous contributing factors (ideology, emotional states, oppression, humiliation, relative deprivation, psychobiological factors and cognitive variables, among other possible elements).

The measurement problem

Radicalization and terrorism, as well as their contributing factors, are social aspects that can exist in different degrees and, therefore, if we want to modify them we should be able to measure them in some way. That is, calibrate them, diagnose them and evaluate them. However, measuring the risk of radicalization and terrorism is not an easy task, and the available instruments often do not have scientific guarantees (Moyano & Trujillo, 2013; Scarcella, Page & Furtado, 2016; Victoroff, 2005). Therefore, it is necessary to continue to make advances in the development of reliable and valid instruments in order to be able to adequately evaluate the phenomenon.

Ethical aspects and human rights

There are a number of ethical concerns that are related to human rights and data protection that further complicate research on radicalization and terrorism. As Atran, Axelrod, Davis and Fischhoff (2017) argue, the obligation to stick to legal and ethical protocols designed to protect the rights and freedoms of potential participants, as well as obligations to funding institutions, can slow down or simply make certain research impossible.

Increased funding and institutional support

It is essential that basic and applied research receive economic and institutional support. Although in recent years investments have been made in counterterrorism, different authors have argued that government support for research has been, comparatively and in general, scarce (Lum, Kennedy & Sherley, 2008; Sageman, 2014; Silke, 2001, 2009). But, in addition, in this competitive environment, scientists must more than ever maintain their independence to avoid complicity with interests that are not concerned with the common good and fulfil their functions in an ethical and complete way (Atran et al., 2017).

Collaboration with security agencies

The scarcity of empirical studies on radicalization and terrorism is also due, in part, to the difficulty of accessing classified data and information from the operational practice of the different intelligence and security agencies. From an anti-terrorism point of view, government agencies should make it easier for researchers to evaluate the effectiveness of certain policies and thus help optimize public spending (Lum et al., 2008; Sageman, 2014; Victoroff, 2005). Therefore, with due controls, there needs to be a continuous transfer of

information of the knowledge provided by scientific research and applied to daily tasks in the practice of public and private security (state security forces, armed forces and intelligence services, among others).

Cooperation and interdisciplinary research

Radicalization and terrorism are studied from different levels of analysis and from disciplines such as psychology, sociology, law, anthropology, political science or criminology, to name a few. This fact should result in scientists assuming the limitations of each area and accepting the role that other disciplines can contribute to obtain a global and integrating vision (Lum et al., 2008). Along these lines, different authors have proposed the need to encourage the creation of multidisciplinary groups (Freese, 2014; Scarcella et al., 2016; Victoroff, 2005). Therefore, all academic areas have to contribute their theoretical-conceptual, technical-methodological, analytical and practical resources to confront the social and political problem of radicalization and terrorism; a problem that, in the end, sends us back to the bases of human behaviour (Moyano & Trujillo, 2013).

Some examples with practical implications

Beyond the difficulties and previous challenges, some works have shown that it is possible, albeit not without difficulty, to develop approaches based on evidence that will prove useful for counter-terrorism. Below, we review five investigations from which practical implications can be drawn from a strategic point of view and for professional practice.

The Campbell Collaboration on counterterrorism

Lum et al. (2008) conducted a review on terrorism and counter-terrorism, through 17 databases and with research dating back to the 1960s, thus trying to cover different disciplines such as medicine, criminology, psychology, political science, sociology and other physical-natural sciences. This preliminary search yielded more than 14,000 records. One of the most singular findings was the temporal distribution of the publication of this type of study. Specifically, among the localized works, approximately 54% were published between 2001 and 2002, which represents an exponential increase in the research interest on this topic. The authors of this paper argue that this strong trend was not observed after the Oklahoma bombing, after the sarin gas attacks in the Tokyo subway in 1995 or after the attack on the World Trade Center in 1993. They also found that approximately only 3% of the published articles were reviewed by experts (peer review) and could be considered empirical works, approximately 1% could be defined as case studies and the rest (96%) were essays or works of a purely theoretical nature. Subsequently, they conducted a Campbell Collaboration on the effectiveness and efficiency of the anti-terrorist strategies developed. The results

obtained after this meta-analytical review suggest that there is an almost total absence of evidence on the effectiveness of the interventions, concluding that, in general terms, anti-terrorist policy is not based on empirically confirmed evidence. As a consequence, the investment of money, time and human resources is too often undertaken without having sufficient guarantees that the measures that are carried out are really effective.

A systematic review on risk assessment

Scarcella et al. (2016) carried out a systematic review that investigated the methodological and psychometric quality of the instruments developed to identify and evaluate the risk factors associated with terrorism, extremism, radicalization, authoritarianism and fundamentalism. To do this, they conducted a systematic search to identify instruments and studies developed to detect individuals at risk of committing extremist crimes. Twenty different databases were used on different areas of knowledge, among which were law, medicine, psychology, sociology and political science. The extracted information was summarized in a checklist of twenty-six items, which provided information on the psychometric properties of each tool and different indicators of their methodological quality. A total of thirty-seven articles met the established criteria. Among them, four were intended to be used operationally by professionals, seventeen were developed for research and nine had not been generated from previous research.

Among the results, it should be noted that more than half of the instruments did not provide quality methodological information. In addition, the category that presented the least satisfactory results in this respect was that of the four instruments specifically designed for use in the applied field (Scarcella et al., 2016). These results are relevant because they indicate that it is still necessary to make progress in the development of reliable and valid instruments for assessing the risk of terrorist violence. In that sense, the governments of different states are currently using instruments such as the Extremism Risk Guidelines (ERG22+), the Violent Extremism Risk Assessment (VERA) or the Terrorist Radicalization Assessment Protocol (TRAP-18) when taking police, legal and/or psychosocial intervention. Although these tools are a reference for the evaluation of risk in people who pose a potential threat, they should be applied with caution and triangulated with other sources. Moreover, they have not been exempt from criticism and controversy. Thus, by way of example, the Extremism Risk Guidelines (ERG22 +) have been used in the framework of the Channel Project and the government strategy Prevent in the United Kingdom, trying to involve civil society and organizations in order to detect and intervene with people vulnerable to violent radicalization. However, in a study prepared by Qureshi (2016), these guidelines have been criticized on the grounds that the government developed them in secret and with controversial empirical evidence. This author raises far-reaching questions about the lack of evidence and credibility of the state strategy against terrorism, and received the support of more than 140 academics who

signed a joint letter criticizing, in general, the lack of scientific grounding in certain government strategies.

An assessment of the risk of radicalization in prison settings

Prisons are settings where psychosocial and contextual conditions favourable to radicalization processes exist. Trujillo, Jordán, Gutiérrez and González-Cabrera (2009) developed a research project that set out the following objectives: (1) to draw up a questionnaire that would be useful to evaluate the level of Islamist radicalism in Spanish prisons; (2) study what dimensions of the manifest behaviour of Muslim prisoners predicted Islamist radicalism; and (3) to study whether the manifest behaviours of Islamist radicalism were greater in prisons with a larger concentration of Muslims and the presence of those condemned for Islamist terrorism than in prisons with a low concentration of Muslims and in which there were no prisoners condemned for Islamist terrorism. To achieve these objectives, they developed a forty-nine-item questionnaire that was applied to 192 officials from twenty-five Spanish prisons. The results showed that in the prisons where the study was conducted, psychosocial and contextual conditions were found that could facilitate the radicalization processes, especially in those where there was a greater concentration of prisoners condemned for jihadism.

An empirical evaluation of a de-radicalization programme

The de-radicalization of terrorists is a fundamental component of a comprehensive anti-terrorist approach, and it is estimated that throughout the world forty such programmes are being developed (El-Said, 2015). In addition, the assessment of their effectiveness derives almost exclusively from expert judgments and recidivism rates, which can be potentially biased (Feddes & Gallucci, 2015; Horgan & Braddock, 2010; Koehler, 2016). Recently,Webber et al. (2017) published one of the few existing empirical evaluations of programmes of this type: the Sri Lanka rehabilitation programme for former members of the Liberation Tigers of Tamil Eelam. Based on the theory of the search for meaning (Dugas et al., 2016; Kruglanski et al., 2014) and using different psychometric instruments for evaluations, these authors found that interventions aimed at providing the recipients of the programme with a personal meaning (sense of life) significantly reduced extremism. It was also observed that when released, the beneficiaries showed levels of extremism lower than those of their community of reference. These findings highlight the critical role of personal significance in attempts to de-radicalize terrorists (Webber et al., 2017). Based on these results, it would be advisable that the programmes that are implemented offer the extremists alternative routes to achieve personal meaning, and that they compete with the potential appeal of violence. This means providing people in rehabilitation with programmes that include educational, vocational and psychosocial components, something that will provide them with personal resources to enable

them to abandon violence permanently and integrate into a social environment with more adaptive and promising schemes.

An investigation into the relationship between radicalization and social exclusion

Lyons-Padilla, Gelfand, Mirahmadi, Farooq and Van Egmond (2015) carried out an investigation into the American situation that can be quite easily transferred to the European context. These authors argue that in Western societies much of public opinion has maintained a belligerent attitude to the admission of refugees, as well as towards Muslim immigrants in general. However, an increasing number of research studies suggest that a hostile attitude on the part of the host society can reinforce the narrative of terrorist groups such as the self-styled Islamic State and, in this way, increase extremism. To prevent intergroup polarization and radicalization, it would be advisable to actively neutralize discrimination against Muslims and promote policies that allow Muslims to integrate into Western societies and cultivate the cultural identity of the host country, while, at the same time, maintaining their origin. Lyons-Padilla et al. (2015) argue that groups and organizations such as the so-called Islamic State can take advantage of vulnerable young people who lack a personal meaning, who have lost the meaning of life, by promising belonging, status and recognition to those who are linked to the cause. Thus, this hypothesis may be plausible for certain American Muslims who, when they perceive a lack of meaning in their lives, report being more attracted to radical groups and ideologies. Lyons-Padilla et al. (2015) found that the more discrimination experienced by Muslim Americans, the less purpose and meaning they have, especially in the case of those who perceive themselves without a cultural referent; that is, those who do not feel linked either to a culture of origin or to that of the host society. Another relevant finding was that immigrants and minorities are better integrated when they can make their American identities compatible with their cultural identities of origin.

Some recommendations can be drawn from these results to try to prevent radicalization. First, it would be advisable to foster an institutional and political discourse in which opposition to the Islamic State is shown, but not towards Muslims. If public figures speak out against Islam, Muslims may feel excluded and insecure about their own identity in American society, and some will be motivated towards radicalism. Second, to help Muslim refugees and immigrants to adapt and forge an identity anchored in the host society, as well as to make it clear to all that people of all religious and cultural origins are received with respect and welcome. Third, to promote gradual integration and even assimilation, but without demanding that people abandon their culture of origin. Fourth, to guide and support Muslims at risk of radicalization – and, more specifically, for those young people at risk of exclusion, policies should be developed that foster a social adaptation and a sense of current life associated with a promising future.

Conclusions

Violent radicalization and terrorism in general, and the jihadist form in particular, are topics of permanent relevance. In recent years, numerous violent critical incidents and terrorist attacks with ideological motivations of different types have been evident, requiring this social problem to be tackled as a priority and with an integrated approach. Likewise, the perception of risk has also increased due to the media impact of terrorism and political violence. In this chapter an analysis has been carried out on the current state of the research on the topic, the methodological challenges and the importance of making an approach based on the empirical evidence in decision-making and in the practice of the professionals involved in this ambit.

In general, we can assert that existing research has important shortcomings. After a review of the available literature, it could be argued that the total number of published theories paradoxically exceeds the number of empirical studies performed. But, in addition, available research too often lacks a strictly scientific methodology. Therefore, we can understand that to the extent that decision-makers rely on little rigorous knowledge about radicalization and terrorism, the preventive actions planned to manage risk will be based on questionable premises, will be intuitive and with a high level of bias, in the absence of a global scientific model that can guide the scientific understanding of how and why it develops, maintains and, if necessary, extinguishes this psychosocial phenomenon. Given this fact, the best solution is to test hypotheses through scientific research and policies based, as far as possible, on empirical evidence.

At present, the challenge is to provide rigorous and systematic research on radicalization and terrorism. Compared to other types of criminal violence, terrorism is a major challenge in terms of collecting empirical data. In addition, although research on the effectiveness of antiterrorism has grown exponentially in recent years, it has rarely been evaluated with rigorous methods. From our point of view, for long-term purposes the emphasis on early prevention must be increased; that is, the analysis of the interaction between those psychological, cultural, economic and political factors that can influence the radicalization of people who have not yet fallen under the control of radical groups but who are at risk.

Sometimes, reality is ahead of the possibility of evaluating interventions on it. Currently there are a number of emerging challenges, but it is a matter of priority to attend to some, such as counteracting the narrative that radical groups develop on the Internet, preventing the creation of segregated and excluded urban environments, preventing radicalization in prisons or developing appropriate policies related to returned terrorist fighters. Equally, it would be desirable to develop a greater amount of meta-analyses and systematic reviews in order to establish the current status of the issue and to be able to translate the accumulated scientific knowledge into practice.

For the Member States of the European Union, the European Parliament (Wensink et al., 2017) has to evaluate the Community's strategy against terrorism. To this end,

a special commission on terrorism has been set up, which will have twelve months to assess the extent of the terrorist threat in Europe and determine the existing shortcomings that have allowed attacks to be carried out in the Member States. This type of political action should take into account the state of affairs to develop systematic assessments of the effectiveness of the policies applied. Beyond the intrinsic motives of scientific progress, society in general requires that the contributions made should be practical, in order to be able to develop policies and manage risks adequately. And, as Kurt Lewin argued more than seventy years ago, 'research that produces nothing but books will not suffice' (Lewin, 1946).

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2 Urban jihad

New operational trends affecting Salafist jihadist groups in Europe, Africa and the Middle East

Carlos Echeverría Jesús

Introduction

Although the Salafist jihadist groups that operate today throughout the world do so in all kinds of scenarios, rural and urban, and in countries of the Arab-Muslim world, Western countries and other regions (Russia or China), this research intends to demonstrate that everything points to the fact that their favoured scene for action now is urban centres, and this will be their priority in the not-too-distant future. These terrorists have been operating in cities for many years, committing attacks or carrying out other criminal activities (robberies, kidnappings, recruitment, armaments and logistics etc.), but fixing the cities as a specific battlefield has begun to consolidate over recent years at the hands of groups such as Al-Qaeda and the Islamic State (IS), among others.

Salafist jihadist terrorist activism developed in urban environments: from the classic attacks to the sustained armed effort

Salafist jihadist terrorism receives much attention from analysts around the world. Its ideology, its methods and its main protagonists have been the more developed objects of study until now (Echeverría Jesús, 2015).

There are few specific studies on the general decision of these groups to treat cities as their favourite battlefields. Although the attack against Mumbai on 26 November 2008 was, to a large extent, the starting point of 'urban jihad', before this cities had been the targets of Salafist jihadist groups in particular, and of radical Islamists in general, including the Palestinian Hamas and the Lebanese Party of God (Hezbollah). The particular goal of these groups was both to carry out attacks in cities andto face their enemies in their streets. This chapter will not concentrate on isolated attacks committed by jihadists in urban settings, but will delve into what the Mumbai attack represented as a reference for an organizational development that has now been reached (Marigella, 2011).

The aim of Salafist jihadists in the urban environment is to break the will to resist of the civilian population and/or to use it as a hostage, and this not only forms part of their combat tactics, but also connects with the idea of martyrdom derived from the religious component of their ideology.

It is interesting to note here that although until the Algerian War of Independence (1954–1962) the revolutionary, independence and insurgent groups had preferred to use the rural environment as a battlefield, it was in Algiers where the revolutionaries of the National Liberation Front (FLN) would establish, with the so-called 'Battle of Algiers', a solid and sustained effort in a big city to subdue its French enemy there, creating a precedent that must now be evoked as the oldest example of urban jihad (Giménez Chueca, 2017). This is true not only because Algiers as a battlefield offers all the elements for the designers of urban jihad today to be inspired by such an experience, but also because Algiers is perceived as the 'land of Islam', or 'Giving Islam', and the Algerian revolutionaries described themselves as 'mujahidin', sacred warriors of Islam.

There have always been terrorist attacks in urban environments, but without giving the medium central importance. In the 1970s, aeroplanes and embassies were attacked, selective assassinations took place and bombs were placed. With the emergence of religiously inspired terrorism by several radical Islamist groups, our hypothesis is confirmed by Hezbollah's urban bombings in Beirut and other Lebanese towns in the 1980s, the sustained armed effort of radical Islamist groups in cities like Grozny (the capital of the Russian region of Chechnya), Mogadishu or Algiers in the 1990s and, more recently, in the consolidation of the urban battlefield in countries like Afghanistan, Iraq, Syria, Libya, Nigeria or the Philippines, among others.

This study will avoid focusing particularly on Western urban scenarios– which is the temptation of many– and will perceive the world as a whole, drawing lessons and trends regardless of where urban jihad actions have been carried out. The year 2015 was particularly rich in terms of the execution of attacks, with those produced in Paris having a huge media impact; we will highlight in parallel those produced in other latitudes, and particularly in the Arab-Muslim world – since some jihadists consider the whole world to be their battlefield.

The object of this study are: the attacks suffered in Paris in January 2015, with armed clashes sustained for hours on its streets (a fact that changed the modus operandi of groups that, like the Algerian Armed Islamic Group (GIA), had been attacking in Paris since the summer of 1995 but with classic actions such as the placement of bombs in the metro); the continuation of the attacks in Copenhagen the following month (a filmmaker and a security guard at the main synagogue were killed, and five policemen were injured); and, above all, the simultaneous and much more lethal attacks in Paris on 13 November 2015.

The backdrop of this accelerated 'urbanization' of jihadist combat is now facilitated by groups such as Al-Qaeda and IS, both with their particular contributions in terms of ideological dynamism and invitation to activism. While the 2008 attack in Mumbai was committed by Al-Qaeda, the revitalization of urban activism throughout 2015 and since, and its dissemination in various areas, is a direct effect of the rise of IS.

The fact that the embryonic caliphate of IS is currently being reduced due to the combined efforts of different actors does not affect the dynamics explained here, since IS's wide influence allows it to carry out attacks of varied magnitude

in places far away, as happened in the second half of 2017 in Afghanistan and the Philippines.

Justification of the chosen topic

We start from the hypothesis that various jihadist groups have already fixed the cities as their particular battlefield, something reflected in both actions and doctrinal views. Although the jihadist attack on Mumbai in 2008 is often used as the initiating and stimulating milestone of this current trend, the truth is that attacks in urban settings have occurred since ancient times, but the obsessive fixation with them marks a strong trend that has come to stay. Mumbai is evoked more and more frequently as an example of the lethal force with which jihadist groups commit their actions in urban environments. Ten heavily armed terrorists challenged the Indian state and shook the world as television footage of the attacks was broadcast. They disembarked on 26 November 2008 in the town of Maachimar Nagar, having sailed from Pakistan; acting by binomials in five groups they carried out nine fierce attacks in less than an hour (at a railway station, a synagogue and hotels) and then barricaded themselves at three key points in the south of the city. Only one of the terrorists survived, a twenty-one-year-old Pakistani who confirmed the attack to have been authored by the group Lashkar e Taiba (LeT) as well as details such as the meticulous month-long preparation of the attack. The terrorists showed a substantial change in deciding not to take hostages, something usual until then in similar attacks. They killed 166 people, twenty-three of them foreigners, in sixty hours (Dolnik, 2015, p. 6). It was therefore an attack carried out by a well-structured, trained and armed group that maintained a sustained effort and contemplated martyrdom as the natural end of its action.

Mumbai produced scenes that evoked later attacks in various locations – mostly Asian, from Kabul to Islamabad through Lahore and Karachi – but none reached similar levels of ambition until the synchronized and sustained attacks in Paris of 13 November 2015.

The urban environment offers jihadists extraordinary possibilities in access to multiple objectives, hard and soft, impossible to protect in their entirety – in essence, the possibility of producing a high death rate. This environment is ideal in propaganda terms because trying to prevent such attacks feeds the debate between freedom and security, the protection of privacy and so on that usually divides society; furthermore, jihadists can pass unnoticed more easily, they can capture and recruit, light weapons are the ideal tool for killing many victims and transport and concealment are simple in urban centres.

The antecedents of jihadist fixation on urban scenarios

Jihadist groups have traditionally operated in all kinds of scenarios, without showing a predilection for cities, and what have traditionally dominated their actions in urban areas have been explosive attacks – suicidal or not. Chechen,

Algerian or Somali jihadists exported their model in 1990s, as the GIA did in Paris and in other French cities, in an already unstoppable process. In parallel, Al-Qaeda was emerging as a transversal organization, inspiring or committing attacks such as those launched against the World Trade Center in New York (1993) or against the US Embassies in Kenya and Tanzania (1998) among others. In parallel, Mogadishu was consolidated as the epicentre of a combat perceived as chaotic – involving militias and warlords – but from which the main protagonists would emerge as jihadist actors.

The following decade marked the consolidation of urban jihadism, in a first phase led by Chechen terrorists attacking the Dubrovka Theater in Moscow, where 129 hostages were killed in 2002, or against School Number 1 in Beslan (North Ossetia), where 334 hostages died in 2004. In Beslan, around seventy terrorists took 1,300 hostages; they distributed 127 bombs around the school, which up to three terrorists could activate; and to demonstrate their determination they killed twenty-one hostages upon beginning their attack (Dolnik, 2015, p. 6). That decade added other attacks in Iraq, Afghanistan and in the Gaza Strip and the Palestinian refugee camp of Nahr al-Bared in Tripoli (Lebanon), among other situations that were still being studied as suitable for jihadist methods of combat. Hamas in Gaza instrumentalizes a highly populated and urbanized scenario to make it difficult for Israel to combat its attacks, and the jihadists of Fatah al-Islam have firmly settled in Nahr al-Bared, making it difficult for the Lebanese Army to regain control of the refugee camp.

The Mumbai attack saw the term ‘urban Jihad’ become fixed, with the development of its study andjihadist ranks swelling through its use. On 15 April 2013 the Tsarnaev brothers murdered three people and wounded 200 during the celebration of the Boston Marathon, managing to hold the population in suspense for four days, until on 19 April one of the brothers was killed and the other arrested. This action was highly praised by Al-Qaeda in its publication *Inspire*, which appeared in the summer of 2015 (Centro de Análisis y Prospectiva de la Guardia Civil [CAP-GC], 2015, p. 9). The following month, on 22 May 2013, the assassins of the British soldier Lee Rigby generated terror not only in London, but throughout the world thanks to the exploitation of an urban scene that was transmitted via social networks (Pantucci, 2015, p. 16). Although both actions were isolated and of limited incidence, the key thing is that media dissemination did the rest, an advantage that the urban environment provides automatically.

Urban jihad is exploited by jihadists not only in Western cities, where the media echo is enormous, but especially in cities of the Arab-Muslim world, where they generate the same terror and perfect their procedures. For the jihadists, the whole world is a battlefield, and lessons learned are drawn from any scenario. Thus, the attack on the ‘Taverne du Liban’ restaurant in Kabul on 17 January 2014 was an important precedent for jihadists. It killed twenty-one people, thirteen of them foreigners, being the most tragic attack in Afghanistan in terms of foreign victims produced since the beginning of the intervention led by the US in 2001. This attack was the beginning of many others that continue to

take place in restaurants and hotels in different parts of the world with the aim of producing as many foreign victims as possible. Another urban setting is Mogadishu, used by the terrorist group Al-Shabab, being the group's great projection in terms of urban jihad inside and outside Somalia – particularly in Kenya, with its emir Ahmed Godane. Although Godane was killed in an attack by an American unmanned aircraft (UAV) on 1 September 2014, his legacy endures (Dolnik, 2015, p. 9).

The Arab Revolts, commonly known as the Arab Spring, which generated battlefields in Libya and Syria, contributed to the expansion of this method. In September 2012, the then-Prime Minister of Australia, Tony Abbott, declared that intelligence analysis indicated that local militants were planning 'massacres in the streets of Australia on behalf of the *Islamic State of Iraq and the Levant (ISIL)*'; as IS grew in Syria, its actswould end up hitting Australia years later, in December 2014 and January 2018 (Kohlmann & Alkhouri, 2014, p. 5).

The revolts have destabilized Libya, as well as its neighbours Tunisia and Mali. In Tunisia, where an attack by a terrorist group with links to Salafist Group for Preaching and Combat on the capital in 2006 had been the only previous embryonic experience of urban jihad, the attack on the US Embassy in Tunis in September 2012 and the work of Ansar Al-Sharia, led by Seifallah Ben Hassine, was an indicator of the growing deterioration of the situation. Throughout 2012, in Mali several northern cities (Timbuktu, Gao and Kidal) were no longer controlled by the Bamako authorities in the context of the dangerous expansion of groups such as Al-Qaeda Jihadist Groups in the Islamic Maghreb Lands (AQIM), Movement for the Oneness of Islam and Jihad in West Africa (MUYAO) and Ansar Eddine (Jones, 2014, p. 30). Niger also suffered this destabilizing effect with two suicide attacks in the cities of Agadez and Arlit in May 2013, executed by terrorists from southern Libya (Boukhars, 2015).

The consolidation of urban jihad in the jihadist strategy and its implementation by both Al-Qaeda and IS (2013–2015)

Urban jihad has become a globalized method of combat. From Asia and Africa it has expanded throughout the rest of the world to Europe and America. The last five years have offered us more and more examples of its increasing implementation.

On 21 September 2013, Al-Shabab terrorists carried out an attack in Nairobi that is emblematic in terms of urban jihad. The assault on the Westgate Mall shopping centre caused the death of sixty-eight people – Kenyans, French, Chinese, Canadians and British, among other nationalities – out of a total of 200 who were trapped inside, causing severe problems for the Kenyan authorities for five days and showing the world the hard pulse maintained by the terrorists (International Institute for Counter-Terrorism [ICT-Herzliya], 2013). They released the Muslims and then proceeded to indiscriminately eliminate the rest, showing their abilities in terms of intelligence, surveillance, reconnaissance, equipment, attack tactics and propaganda management while their action lasted. (Jones, 2014, p. 26). Three years earlier, in July 2010, Al-Shabab had killed

eighty-three people in a suicide bombing in Kampala (Echeverría Jesús, 2013). Although Al-Shabab had already hit Kenya before 2013 with its attack on Garissa University and several actions in Mombasa, the attack on the Westgate Mall was its most iconic action in terms of urban jihad. The emir of Al-Shabab, Godane, ordered the attack on the Westgate Mall in parallel to his continued attacks in Mogadishu in an attempt to regain control of the capital (Nzes, 2014, p. 24).

Around 2014 and 2015, the maturation of the urban jihad formula and its fixation as an objective in the jihadist propaganda, from Al-Qaeda to IS, was recorded. The 2014 spring issue of *Inspire* (no. 12) invited Godane's followers to attack urban targets in the US; although he prioritized classic attacks, he specified in his instructions targetting scenarios in Washington, DC, New York, Chicago and Los Angeles (Tobajas, 2014, p. 6). Since the Boston bombing of 2013 – as well as two attempts to commit suicide bombings in Times Square in New York by Pakistani Najibullah Zaziand by Pakistani Faisal Shahzad in May 2010 – there had not been any high-profile urban action in Western countries, but attacks carried out in Sydney and Brussels in 2014, and in Paris in 2015, altered that relative calm (Jones, 2014, p. 38).

The immediate antecedent of the attacks in Paris in 2015 was the one executed by Haron Monis, a psychopath who flew the flag of IS, against the Lindt Chocolate Café in Sydney on 15 December 2014. He kept seventeen people hostage for sixteen hours and two police officers and the terrorist died in the ensuing assault. This attack, just less than a month after those in Paris against *Charlie Hebdo* and a kosher supermarket, made many wonder if we were already facing a new trend – urban jihad extended to the West – because before these events there had not been so many consecutive attacks in Western countries (Dolnik, 2015, pp. 5–7).

Between 7 and 8 January 2015, the brothers Said and Cherif Kouachi, Frenchmen of Algerian origin, kept Paris and the world in suspense with their attack on the satirical magazine *Charlie Hebdo*, an attack almost synchronized with the one made by Amedy Koulibali against a kosher supermarket, in which he killed a police officer and then four customers, between January 8 and 9. These actions, the first claimed by AQAP and the second by IS, produced seventeen deaths (Dodwell, 2015, p. 2).

The Paris attacks of January 2015 took place in Europe, as did the one carried out in Brussels on 24 May 2014 against the Jewish Museum by Mehdi Nenmouche, a Franco-Algerian who, acting on behalf of IS, murdered four people (Kohlmann & Alkhouri, 2014, pp. 4–5). Nenmouche used an AK-47 assault rifle; the images of security cameras disseminated by the media gave even more echo to his 'feat', and he crossed several borders until he was arrested in Marseille with gun and flag, getting off a bus. IS claimed the action. The presence of automatic weapons and of individuals prepared to use them effectively has become increasingly visible in Western countries, and in August 2015 the jihadist Ayoub El Khazzani repeated this action. He boarded the Thalys Amsterdam–Paris train with an AK-47, nine loaders and a gun with ammunition.

Fortunately, he was reduced by some passengers. In the context of the reinforcement of IS, in the scenario of Syria-Iraq but also in Europe, then-British Prime Minister David Cameron affirmed, on 17 August 2014, that if he did not confront IS, this group could become 'stronger until it can hit the streets of Britain'. This was as premonitory a vision as his Australian counterpart Tony Abbot's had been two years before. After the attacks in Paris in January 2015, a similar one would occur in Copenhagen in February.

Inspire magazine would serve as a loudspeaker to glorify these attacks, one described by Sheikh Nasr Al-Anisi as the 'blessed battle of Paris', emphasizing the need to attack emblematic buildings in Western cities supported by two types of weapons– 'a firearm, preferably an automatic, and a grenade' – and in the August issue of that year the son of Osama Bin Laden, Hamza, an emerging figure in Al-Qaeda until the present, called on jihadists to 'attack several Western cities'(Tobajas, 2014, p. 6).

Al-Qaeda franchises were to follow the guidelines of central Al-Qaeda, particularly AQIM in the Sahel, Al-Shabab in Somalia and AQAP in Yemen, although focusing largely on their activism in their areas of action and not so much on the West. AQAP, which claimed responsibility for the *Charlie Hebdo* attack, had been carrying out urban jihad actions in Yemen: the attack on Shabwah local government facilities on 20 September 2013, killing fifty-six soldiers, and the one carried out on 5 December the same year against the Ministry of Defence complex in the capital Sana, killing forty soldiers (Jones, 2014, p. 36).

In other latitudes, the jihadists of Russian Transcaucasia tried to infiltrate urban environments beyond the federated republics where they have terrorist groups (Chechnya, Dagestan etc.), and tried unsuccessfully to make attacks during the 2014 Sochi Winter Games (Jones, 2014, p. 43). There was also a reproduction of urban jihad scenarios in China; in March 2014, at the Kunming train station in Yunnan Province, Uyghur jihadists armed with knives killed thirty-one people and wounded 141 before themselves being killed (Dimitrascu, 2017).

IS deployed its actions of urban jihad in the West in parallel to its sustained effort in urban settings in its main areas of activity in Syria and Iraq, highlighting the taking of Mosul, Iraq's second city, populated by two million inhabitants. On 6 June 2014 the attack against Mosul began, and on 10 June the regular Iraqi Army accepted the impossibility of maintaining control. Hundreds of vehicles full of combatants, arriving from Syria, consolidated a practice that IS had been implementing for years, consolidating its positions in Iraq and Syria. Control of Mosul and other cities in Iraq had been forged by IS since Al Baghdadi came to lead the group on 15 May 2010. He took advantage not only of the departure of US forces from Iraq and the outbreak of the riots in Syria but also the experience his men had acquired in urban combat, plus that added by foreign fighters from Russia – with experience in Chechnya or Dagestan – or in the Balkans. The assault on the Adhamiyah police station on 29 June 2010 allowed the then-Islamic State of Iraq (ISI) to occupy the central-Baghdad building for days. It was Al Baghdadi's first visible urban action and encouragement for later ones; opening breaches with suicide bombers, dressed in uniform to be able to get

close to their goals, the members of ISI successfully made their way in. In short, relying on suicide attacks – as Boko Haram also did in Nigeria at the same time – deploying highly motivated forces in Syria and Iraq and with well-considered tactics, they were gaining ground (Knights, 2014, p. 1).

The strengthening of IS in the first half of the current decade is explained by its particular dedication to urban jihad in various scenarios. Between 2012 and 2013, Al-Baghdadi used waves of car bombs with or without suicide bombers to attack cities and, in the first half of 2014, IS conquered Iraqi cities such as Fallujah and Ramadi while committing daring attacks in Beirut. In the summer, after the capture of Mosul, other cities would fall (Knights, 2014, pp. 3–4). Since 30 September 2015, when Russia began to collaborate in a powerful and sustained way with its Syrian ally and as IS began to suffer military setbacks and lose territory, the tendency to consolidate the Caliphate embryo and its surrounding positions has been weakening – and the exercise of urban jihad too. One of the most recent examples of this dwindling effort, at a time when urban jihad is propitiated by terrorist groups in other latitudes, is the attack launched on the city of Kirkuk on 21 October 2016, which caused thirty-nine deaths, eighteen of them IS. The terrorists launched a wave of suicide bombers at dawn, took control of the Tanma Mosque, from which they harangued the population, and from the Amaq agency they boasted of controlling half the city (Ayestarán, 2016).

On 13 November 2015, again in Paris, an eight-member IS attack team coordinated by Abdel Hamid Abaaoud caused 130 deaths and wounded 350, attacking six targets in a synchronized manner. Their original aspirations were in fact much more ambitious, as two members of the group had been arrested in Salzburg, thus reducing their capabilities. Here again, as in Mumbai, it was a sophisticated, powerful and well-planned attack. The attacks in France, both those of 2015 and the most rudimentary chain of urban jihad actions, which have continued until now, keep the country in a state of emergency, with thousands of police and military personnel deployed under the Vigipirate Plan – activated since 1995 in the context of the GIA attacks – and updated to the Centinele Plan.

Jihadist groups also draw lessons from the actions of other terrorist groups, for example from Hamas, whose tactics of war against Israel, or the objective of killing civilians inside Israel, feed the jihadists who use urban jihad. Hamashas developed since it controlled Gaza in 2007 and until today has used successful tactics and shown a great capacity for resistance against three Israeli war offensives. It converted civilian areas into defensive shields, extensively built tunnels and accumulated enormous firepower. While in the 2009 war they killed ten Israeli soldiers, in 2014 they managed to kill sixty-six. Faced with Israeli precision weapons, Hamas places its arsenals and command-and-control centres in civilian areas, and in the face of Israeli control of the skies, Hamas uses the urban environment and tunnels to camouflage itself (White, 2014, p. 9).

Parallel to the implementation of urban jihad in European countries the same process occurs in Libya, Tunisia and Egypt. In January 2015, the Hotel Corinthia in Tripoli was assaulted, and that year there were three major attacks in Tunisia: against the Bardo National Museum in the capital in April, with

twenty-two dead; against a hotel in Sousse in the summer, with thirty-eight dead; and a suicide attack in the capital in November that caused fourteen deaths. This served as a preamble to a major attack launched on the Tunisian city of Ben Guerdane in March 2016, which was prepared in neighbouring Libya.

The profile of the Libyan jihadist actors, linked either to Al-Qaeda or to IS, must be highlighted. Ansar Al-Sharia (AAS) stands out with its urban vocation, with epicentres in Dernah, Bengazi or Misrata. AAS showed all its strength in the streets of Bengazi in June 2012, and three months later was behind the attack on the same stage against the US Consulate, killing the Ambassador and three other compatriots. An added problem is that other Libyan and non-Libyan jihadist groups – for example, AAS Tunisia – have also been settled in cities like Dernah and Ajdabiya (Jones, 2014, p. 29).

The case of Egypt must be mentioned, where to the classic terrorist attacks against Coptic Christians and state officials in Cairo and Alexandria we have to add Ansar Bait Al-Maqdis, the IS franchise in the Caliphate province of Sinai since December of 2014, with a large concentration of urban jihad attacks in the capital of the province, El-Arish.

Finally, we should highlight Boko Haram, active in the northern federated states of Nigeria, such as Borno, Yobe, Kano, Kaduna and Sokoto, in which for years it has hit both cities and the rural world. In the years of its greatest activity we can emphasize the progressive urbanization of its battlefield, from its early attacks on churches during Christmas 2010 through the two suicide attacks carried out in 2011 against the General Headquarters of the UN and against the General Headquarters of the Federal Police in the federal capital, Abuja – and the fixation on Maiduguri, capital of Borno, which continues. In 2014, and in parallel to its loyalty to IS, Boko Haram attacked and occupied cities and in one of them, Gwoza, came to proclaim the Caliphate (Aminu, 2014). It has also attacked cities in northern Cameroon, southern Niger (Diffa) and has even committed attacks in the Chadian capital, N'Djamena, mainly following the positioning of Chadian President Idriss Déby in support of France and the participation of Chad in the Mixed Multidimensional Force (FMM) that fights the group (Menner, 2014, pp. 11–12).

Consolidation of trends to date (2016–2017)

Attacks in Europe intensified in 2015 and have lasted over the following two years, expanding the attack scenarios, even though most of them have been less sophisticated than those carried out in 2015 – except for those suffered by Brussels on 22 March 2016 and those that hit Barcelona and Cambrils on 13 August 2017, although fortunately in a less lethal way than initially expected. On the other hand, the scenarios outside the West were also extended, with a significant concentration of activity in African and Asian countries.

Let us remember in the European/Western case that when the attacks occurred in Brussels (May 2014), Sydney (December 2014), Paris (January 2015), Copenhagen (February 2015) or Paris again (November 2015), IS was in its moments

of splendour and nobody spoke of the danger of the returnees – something that is discussed now as IS suffers difficulties in its embryonic Caliphate. However, the global dimension of the jihadist battlefield has been confirmed again and the radiating power of IS ideology has energized actors in distant places. Between the attacks in Paris in November 2015 and in Brussels in March 2016, urban jihad took place as far apart as Jakarta, in January 2016; Mogadishu and Baidoa in Somalia, in February and March 2016; and in Ben Guerdane in Tunis in March 2016. Furthermore, during that time there was non-stop Boko Haram activism inside and outside of Nigeria. The chain of attacks by Al-Shabab in Mogadishu and Baidoa, between February and March 2016, was very illustrative; on 26 February it murdered fourteen people in Mogadishu and two days later it killed thirty-nine people in Baidoa (Elorriaga, 2016, p. 10).

It is important to stress the attack on the Tunisian city of Ben Guerdane, launched on 7 March 2016, under the manual of urban jihad, executed by IS. The sequence of events is worthy of being highlighted because it enables us to observe how the lessons learned from previous situations are incorporated (Oueslati, 2016). This city of 60,000 to 80,000 inhabitants, an important point of contraband exchange due to its proximity to the Libyan border (twenty-five kilometres to the border crossing of Ras Jedir) was targeted by IS terrorists, who had become strong on the other side of the border, in Sabratha. Relying on sleeping cells settled in the Tunisian city, IS launched the assault at dawn on 7 March, when about 200 terrorists, spread over several groups as in Mumbai and reacting to a call to prayer that had been set up as a signal, eliminated in their homes those responsible for the security of the city. For five days the terrorists kept the authorities in check and the final tally gives figures of eighteen soldiers, police and civilians killed against more than fifty dead terrorists. On the first morning of the assault, there were already thirty-six dead (Sellami, 2016). The jihadists first attacked the barracks, the police station, the National Guard post and the customs office in Ben Guerdane.

This action was precipitous because on 19 February 2016, a US air strike against Sabratha made it possible to know the plans for an attack on the Tunisian town. In addition, days before the assault on Ben Guerdane, five terrorists from Libya were killed nearby, and the growing threat was ascertained. Following the Tunisian authorities' recovery of control of the city, four important arsenals were located, with quality weapons such as RPG-7 grenade launchers and Dushka light guns (*Agence Tunis Afrique Presse*, 2015).

Boko Haram has seen its capabilities weakened thanks to the greater commitment of the Nigerian state in the fight against the group and the contributions that the country's affected neighbours also make through FMM. That is why, while Boko Haram is still active today, it is in a more limited situation than two years ago, operating in the Lake Chad region and with suicide attacks against cities in Nigeria and Cameroon. In Nigeria it continues to concentrate its efforts on Maiduguri, where it was founded in 2002 and where it hits using suicide bombers. On the other hand, the fixation of Boko Haram on cities in the north of Cameroon continues, having been especially intense between April and

August 2017 when it attacked the city of Kolofata nine times and the city of Mora three times (Amnesty International, 2017).

In Somalia the fixation of Al-Shabab on cities, and particularly on Mogadishu and its surroundings, has been permanent, and proof of this was the attack carried out on 19 October 2016 against the strategic city of Afgooye, 30 kilometres from the capital. It had dislodged the combined thrust of forces loyal to the Transitional Federal Government from the capital and those of AMISOM (African Union Mission in Somalia) to Al-Shabab in May 2012, after having evicted it from Mogadishu in August 2011, but the pressure of the terrorists on both has lasted until the present; the most fatal and illustrative action occurred on 14 October 2017, instantly killing more than 300 people in Mogadishu (Warner & Chapin, 2018, p. 35).

Apart from in Nigeria and Somalia, jihadist terrorism that explores urban terrorism has been practised consistently in the sub-region of the Western Sahel. Emblematic of this was the attack on 13 August 2017 in Ouagadougou, the capital of Burkina Faso, the objective being theAziz Istanbul restaurant, in which eighteen people were killed (Echeverría Jesús, 2017b, p. 5). Before this, other identical attacks had taken place since 2015 and over a wide number of countries in the sub-region. On 6 March 2015 the La Terrasse bar in Bamako was attacked, causing five fatalities; this was claimed by Al-Mourabitoun. In November of the same year and also in the capital of Mali the same group attacked the Hotel Radisson Blu, killing seventeen people. Al-Mourabitoun also attacked two places in Ouagadougou in January 2016: the Hotel Splendid and the Café Cappuccino, causing thirty deaths. Shortly thereafter, the Resort Grand Bassam, close to Abidjan, Ivory Coast, was attacked, with fifteen people being assassinated by three jihadists in an action claimed by AQMI (Lebovich, 2016). Four people were killed in an assault on a tourist camp, the Kangaba, close to Bamako on 17 June 2017.

In the West the trend has been identical – although generally with more limited results – with many fatalities, such as in Paris in 2015 and in Nice and Berlin in 2016. Attacks in the US, Canada or Australia confirm the trend, and in addition the case of Israel give many examples, before and after Mumbai, which frequently and as in the case of Afghanistan or Iraq are often diluted in the general context of the conflict in the country and in the region.

The attacks on the Brussels airport and metro on 22 March 2016 undoubtedly appear among the more sophisticated, involving a large number of actors, complex logistics and the use of triacetone triperoxide (TPTA), an explosive that requires knowledge and appropriate facilities for its manufacture. These and the following attacks on Western countries vary in terms of their characteristics but all have in common, on the one hand, that they follow the instructions given on 22 May 2016 by IS's Abu Mohammad Al-Adnani, who called on militants to carry out attacks against civilians in Europe and the US, and on the other hand to provoke death and terror. The guidelines of Al-Adnani, shared on social networks and the airwaves since 2015, have continued to spread even after he was eliminated by an attack launched in 2016 by a US UAV, and his legacy is fully in force. Al-Adnani's

invitations also include those of Al-Qaeda, and in particular those launched by Hamza Bin Laden in 2016, which have also inspired attacks in European countries, in Turkey and in the USA in recent years (Blanco Navarro, 2016).

Two attacks in USA enable us to go more deeply into the proliferation of attacks in recent years: that carried out in December 2015 in San Bernardino (California) by a man and a woman who murdered fourteen people in a disabled centre, and that made by Omar Mateen, a twenty-nine-year-old American of Afghani parents, who murdered forty-nine people on 13 June 2016 in a shooting at a gay club in Orlando (Florida), which continues to be evoked to describe the threat (White, 2014, pp. 3–4). Jihadists in the USA chose an identical modus operandi to the one that with certain frequency is used in non-jihadist situations and terrifies the population of the USA and of the world, with the lethal use of firearms against concentrations of people in concerts, university campuses or commercial centres, like the one executed by Stephen Paddock on 2 October 2017, killing fifty-eight people and wounding 515 by indiscriminately firing at a concert in Las Vegas in an action that the Amaq agency of IS came to claim (Martín Guirado, 2017).

In Turkey there have been several jihadist attacks in recent years, of which two are relevant for urban jihad. The attack against Istanbul Atatürk Airport on 28 June 2016 by three suicide bombers wearing explosive vests and using assault rifles killed forty-one people and wounded 239. Another attack was carried out on 1 January 2017 by an Uzbek jihadist – armed with an AK-47 assault rifle and showing great skill in its use – against the Queen of Istanbul nightclub, causing thirty-nine deaths.

Together with these sophisticated attacks, we witness the proliferation of more rudimentary attacks, but still carried out with motivation, coolness and preparation, allowing results as lethal or more lethal than the previous ones. This is the case of running victims over with vehicles and attacks with knives, invoked from the past by both Al-Qaeda and IS. On 14 July 2016 the most lethal of the last years' attacks occurred when a large truck ran along the Promenade des Anglais in Nice, killing eighty-three people and causing dozens of injuries before the driver could be killed. A few days later, on 22 July, in a video with a backdrop of the shocking the images of Nice, IS called on its members to slaughter the infidels on 'the streets of Marseille, Paris and Nice'. On 19 December 2016, another hit, this time with a truck launched against a Christmas market in Berlin, killed twelve people (International Institute for Counter-Terrorism [ICT-Herzliya], 2016). On 22 March 2017, an individual ran over several people on Westminster Bridge and stabbed a policeman in an attempt to gain access to the Houses of Parliament. After these attacks there have been more roadblocks but this trend, which started years ago – for example, in Israel – has between May 2014 and April 2017 produced a total of 173 dead and 667 injured in seventeen attacks of this type throughout the world (Alberto Notario, 2016, p. 2).

With regard to the use of bladed weapons, one of the most recent calls came from the Al Nasher agency, which published posters encouraging stabbings and attacks

with vehicles on 24 June 2017. Several jihadists ran over and stabbed passers-by on London Bridge in June and an individual ran down a group of soldiers in Levallois-Perret, outside Paris, on 9 August 2017, causing six injuries. On 17 August, a dozen jihadists sowed terror by running people down in Barcelona and Cambrils, leaving fifteen dead. In this last case, and reflecting the sophistication of the jihadists who acted in Brussels in March 2016 and combining it with the most rudimentary attacks – running over people in Las Ramblas – we see once again the terrorists' adaptability; the accidental explosion on 16 August in the town of Alcanar, in the province of Tarragona, shows that terrorists had prepared sophisticated attacks in Barcelona but had to complete their plans early. On 17 August another jihadist carried out an attack with a knife in Turku, Finland. In France, two days after the attack on the nightclub in Orlando, Florida, on 15 June 2016 a Police Commander and his partner were stabbed to death in the Mureaux Police Station in Yvelines (Mebarek, 2016). In October, 2017, France was once again the scene of the same type of attack: two women were stabbed to death by the Saint Charles railway station in Marseille on the same day that five people were injured in a car attack in the Canadian town of Edmonton (Iturribarria, 2017).

Although such a cadence of attacks on Western, and especially European, towns may lead many to consider that the epicentre of the threat represented by urban jihad is in Western Europe, or in the USA or even Australia, the truth is that in numbers of victims we must continue to look much further afield and in different directions, towards Africa and Asia. The suicide attack executed in Kabul on 31 May 2017 with a truck full of explosives, claimed by IS and which caused 150 deaths, is the worst terrorist attack suffered in the city since 2001. Finally, another Asian scene, the Philippine city of Marawi, attacked on 23 May by the Maute group, the IS franchise in the archipelago, saw more than 800 people die in the autumn of 2017 (Remitio, 2017). Curiously, if Asia was the birthplace of urban jihad (Mumbai), Asia is also one of the most mournful scenarios of its implantation today (Echeverría Jesús, 2017a). More recently, on 14 October 2017, Al-Shabab produced in the Somali capital the worst slaughter committed until then in the country: more than 300 deaths and hundreds of injuries caused by the synchronized explosion of two truck-bombs full of powerful explosives, surpassing even the apocalyptic attack carried out by IS in Kabul on 31 May, mentioned above (Burke, 2017).

Conclusions

Urban jihad as an increasingly prevalent practice of jihadist groups brings them diverse advantages, hence its growing use. Beyond Western scenarios, it is in other latitudes where it is used most frequently and devastatingly.

The Mumbai model (2008) has been continued by attacks that have occurred in places that are not submerged in war or conflict zones. It is important to note that even when attacks occur in wars, the practice is still useful for jihadists – who always draw lessons learned – and it should therefore attract our interest to design responses to prevent and/or counteract them.

In moments of greater ambition, jihadists have attacked and taken control of cities, or at least large parts of them. On other occasions they have been content to commit bloody attacks on them and to open new avenues of combat that they maintain in a sustained manner. From the attack on Mumbai to attacks within cities but more focused on one or a few targets– shopping centres, hotels and restaurants– through major and increasingly tragic recent attacks in Marawi, Kabul or Mogadishu, we see how the various modalities of urban jihad are marking trends.

Urban jihad allows attacks on soft targets in which there is a strong concentration of potential victims. As Salafist jihadist terrorists are highly motivated people, they accept that this type of attack will cost them their lives, but they will be able to produce multiple casualties before being killed and spread terror far more effectively and efficiently than in other scenarios.

The means used can be sophisticated or rudimentary, since urban jihad allows for both types. They can be used by isolated individuals or complex groups, but the important thing is motivation and organization so that actions are effective. In Mumbai (2008), with good organization and coordination there were many casualties with just a few troops, as in Paris (November 2015). In Nairobi (September 2013) against a very specific goal, or in Marawi (Philippines, from May to the end of 2017) against a whole city, jihadists showed their motivation, their well-studied coordination, their management of armaments and their desire to create many victims.

Both Al-Qaeda and IS call on their followers to emulate past actions, to take advantage of experiences in recent combat (Iraq, Syria, Libya etc.) and even to draw lessons learned from acts of violence not necessarily carried out by terrorists (attacks in crowded places in the USA, for example), all having urban settings in common.

We must not forget that urban jihad has been and is the phenomenon that is causing many states to raise alert levels and keep them in place over time, something that no major terrorist attacks committed in the immediacy of Europe and the West had achieved previously. This was so from Algeria to Egypt, and in more distant places – Afghanistan or Kenya – or even in the attacks suffered in Europe, the USA (2001), Spain (2004) or the United Kingdom (2005). After those attacks, and even when security had been reinforced, life sooner or later returned to normal. But the advantage of urban jihad for terrorists is that it guarantees a state of permanent alarm (see France) fuelled by different efforts applied anywhere in the world.

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3 The European Union's foreign 'terrorist' fighters

Inmaculada Marrero Rocha

Introduction

In 2014, the UN Security Council, in its Resolution 2178, alerted states to the increase in the number of individuals leaving their states of origin to join the ranks of terrorist groups fighting in Syria and Iraq. Likewise, the same resolution pointed out the danger that these terrorist fighters pose for both international security and their countries of origin. About 20% of foreign combatants who have participated in the conflicts in Syria and Iraq are nationals of, or are residing in, a Member State of the European Union and are considered dangerous for their possible involvement in activities directly or indirectly related to terrorism. This chapter will address the evolution of foreign fighters of European origin and how they came to be terrorists in recent years. Second, it will examine the elements that justify how foreign combatants pose a threat to international security and, in particular, to European security. It will also examine the difficulties faced by Member States and the European Union itself in identifying terrorist combatants and in applying repressive measures and, finally, the need to concentrate on developing means to prevent terrorist attacks, radicalization and the rehabilitation and reintegration of returnees.

Foreign fighters versus 'foreign terrorist fighters'

The phenomenon of foreign combatants is not something new for the Member States of the European Union (EU). Throughout history, many cases of individuals who have left their countries of origin to join an insurgency in a foreign state have been known (Hegghammer, 2010; Malet, 2013; Rekawek, 2017).[1] Examples such as that of Lord Byron, who died fighting in the Greek War of Independence in 1820, through to the volunteers who left European territory to join the pan-Arab brigades or the Zionist movement in the 1940s, or the 35,000–50,000 volunteers

1 Thomas Hegghammer also added that to differentiate them from mercenaries, these fighters must not have had previous ties to the state or different factions in the conflict, nor belong to an official military organization or have a financial objective – although foreign fighters normally receive payment or compensation as soldiers of the insurgency (pp. 57–58).

who moved to Spanish territory to fight in the International Brigades and, to a lesser extent, the nationalist coup-plotters fighting on the Fascist side during the Spanish Civil War, demonstrate that the phenomenon of foreign combatants is nothing new in Europe (Johnstons, 1967, p. 37; Levenberg, 1993, pp. 41–43). In fact, foreign fighters have made their mark on the collective imagination throughout history, as heroes who risked their lives to defend ideas inspired by political or religious convictions that sought to preserve the dignity, freedom and justice of certain peoples (Al-Shishani, 2006; Schindler, 2007; Williams, 2007).

Nor is it new to have a flow of European fighters who have joined the Salafist jihadi insurgency in various parts of the world, even if they did not have the media publicity of those who do so today. During the 1980s and 1990s, around 30,000 Muslim fighters nurtured the ranks of the insurgency in the conflicts in Afghanistan, Bosnia-Herzegovina, Chechnya, Kashmir or Somalia, many of whom were European, but their states of origin did not prevent these journeys and did not bring them to justice when they returned to European soil (Arasli, 2015, p. 69; Peeters, 2014). Today, we are witnessing a new wave of combatants coming to the call of terrorist organizations such as Al-Qaeda and the Islamic State of Iraq and the Levant (ISIS), who have been able to improve their recruitment pattern, using new technologies and society (Noonan, 2011; Rich & Burchill, 2017).

Nevertheless, there are aspects that mark differences between foreign fighters of the Muslim religion who fought in earlier campaign and those who do so now in Syria and Iraq. First, there has been a quantum leap in the number of foreign combatants involved in these conflicts. In particular, the figures show an exponential growth in the number of people who decide to leave their countries to go to these territories for jihad. In 2011, when the war broke out in Syria, it was estimated that there were between 1,000 and 1,500 foreign fighters, while in 2016 figures of between 25,000 and 30,000 individuals from more than 100 different nationalities were suggested, and it was estimated that the number of Europeans reached 20% of the total (Reed & Pohl, 2017a; Schmid, 2015).[2] From that date, the number has been stabilizing and there has perhaps even been a decrease in the number of combatants. Among the reasons for this are ISIS's loss of positions and territories and the stagnation of the jihadist narratives in the network. However, these figures presented by the authorities of the EU Member States, research institutes and think-tanks are not very convincing, bearing in mind the divergence and the round numbers they offer, as well as the difficulties in confirming them on the terrain (Third Report on the Implementation of Resolution 2178, 2014, pp. 11–14). These estimates are drawn from investigations by the state security services, which often obtain their data from the same

2 It is thought that the numbers have increased as follows: 1,000 in 2011, 3,500 in 2012, 5,500 in 2013, 18,000 in 2014 and more than 25,000 in September 2015 (Schmid, 2015, pp. 1–26). However, by December 2016 the number of foreign fighters who crossed the Turkish border had decreased from 2,000 a month to 50, and it is estimated 15,000 fighters remained in Syrian territory, some 10,000 fewer than the previous year (Reed & Pohl, 2017a).

propaganda as terrorist insurgent groups on the network, where these groups exaggerate their achievements and the number of combatants they have in their ranks. Data are also obtained from the confessions obtained in arrests and information from individuals trying to return or travel to Syria and Iraq (Van Ginkel & Entemans, 2016, pp. 64–67).

The second change that the current wave of foreign Muslim fighters presents with respect to the previous ones is the qualification or description of terrorists that they receive derived from the nature of the insurgent groups to which they are joined. According to Security Council Resolution 2178 (2014) and reiterated in the Resolution 2368 (2017) (United Nations Security Council, 2017), foreign terrorist fighters are classified 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.
>
> (United Nations Security Council, 2014, p. 2)

Therefore, there are three factors that give current combatants the status of terrorists. The first is that many of these fighters join the ranks of the self-proclaimed ISIS, Al-Nusra Front and other cells, affiliated entities or groups split or derived from Al-Qaeda, considered terrorist groups according to Resolutions 1267 (1999), 1989 (2011) and 2253 (2015) of the United Nations Security Council. The second factor is the likelihood that these individuals will participate directly or indirectly in the commission of terrorist offences in combat zones. And the third, and most important, is the intention that these combatants may have to attack assets and people on European territory, which did not happen with the Muslim fighters who returned from previous conflicts. In short, the definition of a foreign terrorist fighter given by the Security Council is based on the affiliation and intentionality of committing terrorist acts or terrorist offences, both in the conflict zones to which they are transferred and in the territory of which they are a national or resident upon return. However, this definition involves investigation, on a case-by-case basis, to obtain evidence and demonstrate the individual's affiliation and intent to commit terrorist offences, and to obtain evidence of the offences they have already committed (Geneva Academy, 2012). In addition, in the course of such investigations it may be discovered that foreign combatants should be charged with crimes against humanity if they have committed acts such as murder, imprisonment, severe deprivation of physical liberty, torture or inhuman treatment (Van Ginkel, 2016). In addition, the International Committee of the Red Cross has stated that foreign combatants involved in an armed conflict are subject to international humanitarian law, whether or not the conflict is of an international character (2015, pp. 19–20).

And the third element that characterizes today's foreign fighters is the fact that they have been the subject of an international response that condemns and

penalizes their status and practices. The numerical increase in foreign combatants and their direct or indirect involvement in terrorist attacks on European soil have necessitated a series of normative updates that respond to terrorism as an individual phenomenon and to the behaviour referred to in Resolution 2178 (2014) of the Security Council. In the European case, the Council of Europe Convention for the Suppression of Terrorism in 2005 already existed, but an Additional Protocol to the Convention[3] was adopted in 2015 for State Parties to incorporate more specific provisions into their legislation regarding attempts or participation in the commission of crimes of terrorism and the use of communication technologies for the induction or complicity in the commission of this type of crime. In the case of the EU, the Framework Decision 2002/475/JAI, which had hitherto been the cornerstone, was replaced by Directive 2017/541/JHA on combating terrorism on 15 March 2017 (European Parliament & Council, 2017). This was the criminal law response of Member States against terrorism, thus fulfilling the obligations established by Security Council Resolution 2178 (2014) and also by the Additional Protocol to the Council of Europe Convention for the Prevention of Terrorism of 2015. The Member States of the European Union have harmonized their criminal law in order to establish a common European understanding of foreign terrorist combatants and crimes of a preparatory nature which may lead to the conclusion of terrorist offences in order to increase the effectiveness of justice for the prevention of terrorism.

Today, the phenomenon of jihadist Islamist foreign terrorist fighters coexists with other movements of combatants who base their struggle on different religious principles or who do so on political-ideological principles. These are the cases of combatants who have joined pro-Russian or pro-Ukrainian militias in the framework of the Ukrainian conflict or those who are fighting ISIS in the ranks of the Kurdish militias (Agenfor, 2014). Therefore, we have to take into account the different realities of foreign fighters, and that this is a phenomenon linked to radicalization, which may have secular and nationalist and, at other times, religious roots, be they Jewish (during the 1948 conflict in Israel), Christian (such as the Christian militias of Sutoro in Syria, which have even recruited combatants from East Timor) or Islamist (Afghanistan, Myanmar,

3 The Council of Europe Convention for the Prevention of Terrorism of 16 May 2005 entered into force in 2007 and is open for signature by the EU, according to Article 23 of the Convention. The EU has the power to sign the Convention and its Additional Protocol of 19 May 2015 and to become a party to the Convention with its Member States. See the proposal for a Council Decision on the signing, on behalf of the EU, of the Council of Europe Convention for the Prevention of Terrorism (CETS No 196), COM (2015) 292 final, 15.06.2015. The Additional Protocol to the Convention includes a number of provisions in order for the signatory states to criminalize new conduct related to terrorism. It also encourages the exchange of information between states on persons travelling abroad for terrorist purposes. Among the most interesting aspects are the following: it criminalizes the preparation of terrorist acts, provides a definition of participation in groups or associations for terrorist purposes, includes training for these purposes, provides states with new legal instruments to deal with threats resulting from such conduct and criminalizes travel abroad for terrorist purposes, as well as funding, organization and any form of facilitation.

Bosnia, Libya, Kashmir, Syria etc.) (Moniz Bandeira, 2017). However, what many authors agree about when examining the characteristics of foreign terrorist combatants, regardless of their motivation, and of other individuals who can participate directly or indirectly in terrorist actions, is the process of radicalization to which they have been subject.

Pressman (2008) defines radicalization as 'the process by which an extreme belief system is assumed and the willingness to use, support or facilitate violence and fear as a method to promote change in society' (p. 482). While for Hoffman (1998), religious terrorism is not specific to Islam or other religions on behalf of which violent acts have been developed, but is:

> a type of violence motivated by the absolute belief that a supernatural power has decided and directs violent acts terrorist for the greater glory of the faith. Acts committed in the name of faith will be forgiven by supreme otherworldly powers and even rewarded in the afterlife.
>
> (p. 38)

An individual can become a religious radical and decide to promote their ideas, support the armed struggle of others or even participate directly in an armed conflict to promote their religious ideals, as is the case of foreign fighters with Islamist motivations, without participating directly or indirectly in the commission of terrorist acts. Radicalization is an ancient, global phenomenon that is not only associated with Islamism. The Islamist narrative is only part of a broader phenomenon, and we assume that in reality we can access the information necessary to know the roots of the problem and design effective policies of de-radicalization, as will be discussed in other chapters of this work, which will analyse the causes, development processes and tools for its treatment from a multidisciplinary perspective (Borum & Fein, 2017).

Unfortunately, there is significant confusion between groups of foreign fighters and other individuals or groups of individuals related to terrorism. We are referring, for example, to terrorist cells that are created inside a state and that develop their activities in an urban area, whether or not they are actually linked to a hierarchically superior organization, although their members have links with terrorist organizations and some of them may have been foreign fighters or intend to be foreign fighters in the future, as will be discussed in the chapter on urban jihadism (Valasik & Phillips, 2017). These are also confused with isolated individuals, called lone wolves, who sometimes have mental problems and who undergo a process of radicalization by assimilating messages they receive from the network, which can lead them to commit terrorist attacks on behalf of the organization with which they have the most empathy and the one that provides the means – although, sometimes, it is the terrorist organization itself that benefits from the situation and assumes its authorship, without having directed the terrorist action of the individual (Toboso Buezo, 2015).

The European Union's foreign terrorist fighters and the challenges for European security

As noted in the previous section, the international movement of foreign fighters, including jihadist Islamists, is not a novel phenomenon; what is new is its consideration as a danger to international security and, in particular, to European security. However, in previous times and conflicts, the practices of foreign fighters did not displease the international powers, provided they were not contrary to their strategic interests. Moreover, they could be considered an instrument of interference in internal conflicts by the international powers and were therefore not only tolerated but facilitated, as was the case during the invasion of Afghanistan, in which foreign combatants became the best way to counter the progress of the USSR, without causing a direct confrontation between the two superpowers (Emadi, 1990, cited in Bradsher, 1990). Something similar occurred during the Bosnian conflict, since had it not been for the incorporation of foreign fighters, it would have been very difficult to push back the Serbian occupation and achieve the present status of Bosnia-Herzegovina (Black, 2007; Blackburn, 1993). Therefore, the increase in the number of foreign combatants in certain insurgent groups modifies the quantitative and qualitative strength of the combatant parties and can increase and diversify the number of factions in conflict.

Foreign terrorist fighters reduce the influence of public actors, especially states, which have always been the protagonists of armed conflicts, and augment the participation of interests and objectives of private actors, such as transnational terrorist groups (Betts, 2017). They are more loyal to transnational recruitment networks than to the insurgency they join, and so the incorporation of foreign fighters into the insurgent population is sometimes not easy (Van Zuijdewijn & Bakker, 2014). This is because they have a different and sometimes stronger motivation than that of the local combatants as a result of the process of violent radicalization they have undergone and that has led them to leave their countries and develop practices of brutal violence, which come from the training and strategies inculcated by the terrorist groups in which they have enlisted (Jäckle & Baumann, 2017).

As for the dangers to European security, these are based on two premises. The first is the conviction that the European fighter who travels to Syria or Iraq does so to join the ranks of ISIS or Al-Nusra, but little is known about the large number of militia fighting in Syrian territory and the humanitarian, non-violent-idealistic Islamist organizations that operate there. It is therefore complex to identify individuals joining insurgent groups who have been qualified as terrorists and to know if they have participated in terrorist acts during their intervention in the conflict (Bianchi, 2015).

The second premise supporting the alleged danger of foreign combatants is that they may develop the intention to participate directly or indirectly in acts of terrorism against the persons, property and interests of the state from which they come. It is true that it is complex to recognize the life cycle of a foreign

combatant, although Reed, Van Zuijdewijn and Bakker (2015) have developed a model of analysis that encompasses three vital itineraries: 1) death, 2) remaining in Syrian or Iraqi territory, or 3) leaving Syrian or Iraqi territory. The first route is quite probable, taking into account the mortality levels in combat that occur in both territories. Within the second itinerary, the combatant has several options ranging from remaining in the territory of Syria and Iraq to continue fighting within the insurgent group, helping to prepare terrorist attacks that will be perpetrated in other countries, or even enrolling in the ranks of another terrorist group. They can also opt to abandon arms and take up a pacific role among the communities that live in that territory. The third course would be to return to their countries of origin, to Europe in the case of European fighters, or to travel to other non-Western countries. The return can be by peaceful integration, in which the individual can become an active agent against the narrative of radicalization and jihad, although they may continue to be an activist of their religious ideas and values, adopting a peaceful position, or simply not participating in any type of activism and trying to return to the life they led before becoming a combatant. It is also true that, after returning to Europe, the combatant may have the intention to participate directly or indirectly in the development of terrorist activities on European soil.

The concern of the EU and its Member States is mainly focused on the returned combatants who could participate directly or indirectly in terrorist acts on the territory of the Union – provided that they can be identified as having been a combatant with insurgent terrorist groups, and the type of activities in which they had been engaged. Before 2015, some studies indicated that the involvement of returning combatants in terrorist incidents in Western Europe were minimal (Bigo et al., 2015; Cragin, 2017, pp. 212–226).[4] There only existed unconfirmed suspicions on the stay in Syria of Nemmouche Mehdi, the author of the bombing in the Jewish Museum of Brussels in 2014 (Penketh, 2014). However, the terrorist attacks in Paris of 13 November 2015 and those in Brussels of 22 March 2016 marked a 'before' and 'after' in considering the foreign combatants from a potential danger to a real danger, since the authorities firmly believed that some of the authors of these attacks had experience in combat training in Syria (Chauzal, Paulussen & Van Ginkel, 2015; Martins & Ziegler, 2018).

Now, the difficulties in identifying both the affiliation and the activities developed by foreign fighters during conflicts and the intentions that they may have when returning to their countries of origin are still a concern for European security, taking into account the knowledge that these individuals acquire in the combat zones, in military training and in the handling of weapons and explosives, which becomes an important activity for jihadist cells operating in

4 See Bigo et al., 2015 for further information on all the means that have been adopted after the Paris and Brussels attacks, including the recommendation of the approval of the Passenger Name Records (PNR) by the European Parliament, finally concluded on 14 April 2016.

European urban contexts. At the same time, a foreign combatant narrative can be very effective for recruiting others and facilitating the necessary means and contacts to travel to combat zones. However, many returnees attempt to continue with the lives they left behind before becoming combatants and can even become great assets in understanding the processes of radicalization and countering the jihadist narrative (Bassou, 2017).

In short, until the beginning of the war in Syria, foreign fighters had not been pursued, even if they had fought with the insurgency of other countries with violent Islamist motivation, as they were not considered a danger for the states of their nationality or residence. Hence, EU Members States were not concerned about the nature of the violent actions that those violent combatants carried out in the territory of other states, even if they participated in war crimes, crimes against humanity or acts of terrorism (Bures, 2018). And, on occasions, the motivations that led these individuals to move to other wars and unite with insurgent groups coincided with the foreign policy interests of their states of origin, while they are now joining insurgent groups that have not been rejected by EU and Member States. But the fact that EU territory has become a niche of foreign fighters moving to Syria and Iraq and that these fighters can subsequently plan and commit terrorist attacks on European soil, incite others to do so, offer them training and recruit future combatants who want to attack EU Member States has given rise to a response especially focused on repressive legal and administrative instruments (Byman & Shapiro, 2014).

Member States' prosecution of foreign fighters

The EU and its Member States have long experience in the fight against international terrorism. In order to deal with this phenomenon, from 2001 a wide range of measures and instruments have been progressively established in various areas within the EU's competence, irrespective of whether or not the individuals involved in these crimes were foreign combatants (Hayes & Jones, 2013; Monar, 2015). In fact, before the UN Security Council issued Resolution 2178 (2014), the EU already had a Counter-Terrorism Strategy (Council of the European Union, 2005), a Counter-Terrorism Coordinator and two cooperation agencies for police and the judiciary, Europol and Eurojust, which have been very useful in articulating cooperation between Member States in this field (Davies, 2018; Den Boer, 2015; Ryan & Hamilton, 2016). But the most important progress has undoubtedly been the harmonization of the criminal laws of the Member States and the promotion of police and criminal cooperation.

As from Resolution 2178 (2014), Member States have concentrated their efforts on stopping the flow of foreign fighters back and forth and pursuing them for terrorist actions they are planning to commit or have committed on foreign soil. Although Member States had already criminalized terrorism-related activities and preparatory acts of terrorism, they were also aware of the power of new technologies in facilitating the rapid diffusion of radical jihadist narratives and encouraging the commission of criminal offences of terrorism and that serve

as a communication tool between terrorists (Framework Decision 2008/919/JAI) (Council of the European Union, 2008). Subsequently, criminal offences for this type of practice have been updated, as have the penalties imposed by Directive 2017/541/JHA (European Parliament and Council, 2017), the purpose of which is to curb the flow of foreign combatants, criminalizing foreign travel for terrorist purposes, and actions aimed at facilitating and financing these journeys, which contribute to the intensification of the terrorist threat.

The first groups of foreign combatants who returned to Europe between 2013 and mid-2014 were not prosecuted or brought to justice because most Member States had not criminalized combating with foreign insurgency, provided it was not in the ranks of a faction or government that was in conflict with the state of nationality or residence of the combatant. But, since the end of 2014, states have prosecuted foreign fighters if they suspected that they had joined the ranks of terrorist groups or participated in the preparation or commission of a terrorist act in Syria or Iraq.[5]

Since 2015, there have been many Member States in which returnees from Syria or Iraq have been convicted of terrorist offences, but the problem remains in demonstrating that those individuals have joined or are planning to join terrorist organizations that have committed acts of terrorism or are planning to do so because this entails a long process of investigation leading to arrest, detention, prosecution, conviction and imprisonment (Paulussen & Pitcher, 2018). In addition, there are more and more foreign combatants returning to European soil and the workload for judicial institutions accumulates, and this goes against the very security of states. That is why administrative sanctions are an alternative when it is difficult to gather evidence to try an individual for terrorism-related offences. Measures such as travel or entry bans, confiscation of passports, loss of social benefits and the revocation of residence or even nationality may serve to persuade individuals not to leave the country to join terrorist groups and prevent others who have already done so from returning to European soil. Such measures have very serious consequences for those suspected of being foreign terrorist combatants, without any legal proceedings being instituted.[6]

Among administrative sanctions, the revocation of nationality is the most repressive measure, and only a few Member States have contemplated it because of the

5 Earlier, on 23 October 2013, the Rotterdam District Court for the first time convicted an individual for preparing crimes in the context of jihad and travelling to Syria, based on its criminal code, without recourse to the provisions on terrorism. At no point did the court determine that it was illegal to travel to Syria to fight, but it was illegal to prepare the commission of crimes and it chose to treat a fighter who had killed unknown civilians on the battlefield as a criminal and not as an author of an act with intentions to infuse terror (Rechtbank Rotterdam, Anonomiseren uitspraak 10/960019–12, 23 October 2013).

6 Nor do German laws criminalize foreign fighters, but German passport law allows identification documents to be confiscated when the individual may be a danger for internal or external security of Germany and its allies. Germany has confiscated passports and Austria has refused nationality to residents who wanted to travel to Syria.

significant consequences of its application. This measure eliminates the possibility that the individual may re-enter the country, which is different from the confiscation of the passport to prevent the individual from moving to the conflict zone. The revocation of nationality can take place before departure from the country, during the period in which the combatant is in the armed conflict or afterwards. Member States which provide for the withdrawal of nationality do so when it has been obtained through fraudulent means or to protect a public good that is seriously threatened. States such as the Netherlands and Austria have developed normative reforms that allow the revocation of nationality for these reasons, but only to individuals with more than one nationality (Boutin, 2016). In other countries, such as France, this type of initiative has not prospered and in Spain this question has not even been raised. The UK case has been the most controversial. For decades, it has used the revocation of nationality as part of its anti-terrorist policy, but in May 2014 it passed a law whereby for security reasons the Home Secretary could revoke the nationality of individuals who solely possessed British nationality, and that same year the measure was applied on fourteen occasions.[7]

Member States have made numerous efforts to target foreign terrorist fighters, notably by applying criminal and administrative sanctions, and the EU has established itself as one of the most advanced regions in the implementation of Resolution 2178 (2014). This was confirmed in the comparative analysis of the Report of the Counter-Terrorism Committee of the Security Council on 'Implementation of Resolution 2178 (2014) by States Affected by Foreign Terrorist Fighters' of September 2015 (Second Report on the Implementation of Resolution 2178 (2014)). But, interestingly, the report on the review of the implementation of this Resolution by the EU Counter-Terrorism Coordinator pointed to the desirability of taking measures relating to the integration and rehabilitation of foreign terrorist combatants rather than measures of a criminal nature.[8] In particular, it points out that in most states prosecutions face difficulties in obtaining admissible evidence abroad, particularly in conflict zones, or in converting intelligence or data obtained from information obtained through information and communications – in particular social networks – into evidence. The investigation and prosecution of suspected foreign terrorist fighters as a preventive measure is another challenge for all regions, particularly in the light of human rights and procedural safeguards concerns. Many states continue to

7 Nationality Immigration and Asylum Act, 2002; Immigration, Asylum and Nationality Act 2006; and Immigration Act 2014.

8 Gilles de Kerchove (Council of the European Union, 2013b), the EU Coordinator against terrorism, showed his concern for the measures that should be developed to confront the phenomenon of EU foreign fighters and warned: 'Balance the use of criminal sanctions and administrative sanctions. You may decide to freeze assets. You may decide to expel radical preachers. You may decide to withdraw social benefits. So these are non-criminal sanctions, but which may have some impact. So we have to discuss all this. We have asked Eurojust, which is the EU agency for police [sic] cooperation, to collect the best practices, convene the prosecutors involved in concrete cases and to come back to us with concrete proposals of criminal policy.'

have difficulty in identifying appropriate responses to the potential threat posed by certain categories of returnee travellers (Third Report on the Implementation of Resolution 2178 (2014), p. 58).[9] Resolution 2178 (2104), in addition to indicating to states the need to improve border surveillance, coordination and cooperation between police and intelligence services and to update their criminal legal frameworks to punish such activities, emphasizes the need to work in the field of prevention, radicalization and de-radicalization in collaboration with civil society, professionals in the field, religious leaders and family, and in this way to develop an integrated strategy.[10]

In an analysis by the Global Center on Cooperative Security, the Human Security Collective and the International Centre for Counter-Terrorism at the Hague (2014), the three institutions agreed on the need for countering the negative effects that the legislation on the fight against terrorism sometimes has on policies of prevention and reintegration, and that Resolution 2178 was a great step forward in this sense, although its formulation was not very clear and left the door open to different interpretations that could serve as a pretext enabling states to develop legislation that was too restrictive, disproportionate and at times counterproductive and failed to establish mechanisms to guide the states to collaborate with civil society.

In short, the Member States have been able to update their instruments to combat this new manifestation of terrorism developed by foreign combatants, but mainly aimed at penalizing their practices and preventing their return to European soil. And despite efforts and improvements in the development of repressive instruments, the flow of foreign fighters leaving EU territory has not slowed down, and the development of numerous jihadist cells on European territory has been linked to this. It is therefore necessary to examine whether the European Union and the Member States have been able to take up this comprehensive approach to the problem by harmonizing their activities in the prevention of radicalization and counter-radicalization.

9 See the Third Report on the Implementation of Resolution 2178 (2014) of the Security Council on states affected by foreign terrorist fighters (2015). In the recommendations for regions included in the same document, Western Europe is the region that has developed most measures to confront the threat of foreign terrorist fighters, although in general terms it has not promoted sufficient integrated policies that include rehabilitation and reintegration. In fact, the recommendations are focused on the need to respect international law and human rights when applying sanctions, improving cooperation with those European countries that belong neither to the EU nor to the Council of Europe and, finally, connecting border control services and police stations directly to system I-24/7 of Interpol (p. 58).

10 'Encourages Member States to engage relevant local communities and non-governmental actors in developing strategies to counter the violent extremist narrative that can incite terrorist acts, address the conditions conducive to the spread of violent extremism, which can be conducive to terrorism, including by empowering youth, families, women, religious, cultural and education leaders, and all other concerned groups of civil society and adopt tailored approaches to countering recruitment to this kind of violent extremism and promoting social inclusion and cohesion' (Security Council Resolution, 2178 (2014), p. 6).

Radicalization and counter-radicalization in the European Union

The detailed regional analysis carried out by the Counter-Terrorism Committee of the Security Council on the measures applied to foreign terrorist fighters is based on a comprehensive approach to the fight against incitement and violent extremism by correcting the conditions that promote the spread of terrorism. However, Member States have adopted measures and instruments to enforce national legislation in this regard, but have not implemented a coordinated and effective policy of rehabilitation, reintegration and prevention of returnees. The Third Report (2015) detected an imbalance between measures aimed at prosecuting and punishing foreign combatants and those aimed at preventing and rehabilitating them. It also demonstrates how counterproductive it may be to use 'rigid practices and policies of persecution' against foreign terrorist fighters and states that: 'Member States should consider alternatives to imprisonment as appropriate, as well as rehabilitation and possible reintegration, in a positive work and social environment, of returnees, prisoners and detainees', taking into account that prisons, if not well managed, can provide refuge for terrorists who promote radicalization and violent extremism. Therefore, alliances with local communities, non-governmental actors and families can be very useful (pp. 10–11).

Given the evidence that repressive measures were not sufficient to curb the phenomenon of terrorist fighters or the processes of radicalization on which it is based, the EU Council accepted the need to revise the strategy for combating radicalization and terrorist recruitment, which was adopted in 2005 and revised in 2008 and adapted to the new circumstances (Council of the European Union, 2013a). In January 2014, the Commission presented a communication on the prevention of radicalization that resulted in terrorism and subsequently in extremist violence. Later, in May 2014, the Council adopted the revised EU Strategy to combat radicalization and terrorist recruitment (European Commission, 2014). One of the fundamental pillars of this revised strategy is to prevent radicalization and to prevent the proliferation of generations of people who may be responsible for acts of terrorism; it highlights the need for Member states to take appropriate action, taking into account that the phenomenon of radicalization has its peculiarities depending on the state concerned and the group that is most affected. In addition, the revised strategy includes an important pillar of prevention, whereby much of the work to be done by the Member States has to be done in collaboration with the communities and social actors closest to the individuals who can undergo this process, by answering and drafting counter-narratives to the messages that are issued to radicalize and recruit future terrorists, in addition to strengthening civil society to resist these types of terrorist strategies (Institute of Strategic Dialogue, 2015).

However, the harmonization of criminal legislation and application of administrative sanctions have become less complicated for Member States than the development of policies to prevent radicalization and the reintegration of returnees for various reasons. First, because the EU strategy in this area and the

provisions of Resolution 2178 (2014) do not set out concrete formulae for articulating cooperation with civil society when designing processes to prevent radicalization and promote reintegration. Such social intervention programmes fall within the competence of the Member States and are therefore not amenable to legislative harmonization. Although the European authorities are aware that the so-called 'soft' measures are those that can curb the circle of radicalization, the only significant action that the EU Commission has been able to undertake in this respect has consisted of the creation of the Radicalisation Awareness Network (RAN), which became a center of excellence to advise the Union's institutions and its Member States in 2015. RAN is a network of radicalization workers and experts that pool best practices, while offering tools and resources to help Member States fight against this phenomenon both in the field of prevention and in early identification of vulnerable individuals and counselling on reinsertion (RAN, 2017). In January 2014, RAN stated that:

> Only repression (. . .) will not solve the problem. Prevention, signalling and providing programmes to help (potential) foreign fighter to leave the path of violent extremism are necessary as well. These actions are often organised on a local level.
>
> For instance, first-line practitioners, such as teachers and youth workers, can be trained to recognise and refer those who are being influenced to go on jihad. Also, families can be partners in both detecting potential fighters and convincing them to deploy their engagement in a non-violent way.
>
> (RAN, 2014, p. 1)

Second, States should know how to adapt these processes, which are not the same in each state. They should also distinguish between prevention programmes and rehabilitation and reinsertion programmes for former combatants. This latter area is where the least has been done and now seems to be a priority due to the influx of returnees, especially given the potential of returned foreign terrorist fighters to identify and radicalize the processes of radicalization of others. Many of the returnees who abandon violence and extremism contribute to restraining other young people from suffering the same process, but at the same time have to withstand the pressures violent radical groups whose ideology they used to share. For this reason, an excessive criminalization of returnees can be counterproductive and provoke feelings of victimization (Amnesty International, 2017).

Third, for the application of both preventive and curative measures it is necessary to know and understand the phenomenon of radicalization, its causes, vulnerable groups, detection processes and instruments of de-radicalization, among others, as will be shown in another of the chapters in this work. The identification of individuals who are prone to or have already developed a process of radicalization is a prior step, and has become a field in which sociologists, psychologists, political scientists and social workers, among others, want to shed some light, identifying the conditions of radicalization (Moyano, Expósito & Trujillo, 2013, pp. 501–508; Moyano & Trujillo, 2013) The

sociological and individual or collective psychological reasons that end in a personal crisis make individuals more vulnerable to radical messages. This, together with self-identification with the propaganda these individuals receive on injustice, racism, Islamophobia etc., provoke processes of self-exclusion and alienation, which separate them from their previous identity to assume a new, much stronger one, capable of withstanding the alleged attacks they receive (Gambetta & Hertog, 2017; Klandermans, 2014). Finally, the identification of a radical religious conversion process that leads to the need to use violence and participate in terrorist attacks also needs tools, such as those offered in other chapters of this book, elaborated from a multidisciplinary and contrasted perspective through extensive fieldwork (McCauley & Moskalenko, 2017; Shaffer, 2016).

Finally, the development of policies that give rise to intervention programs and tools in the field of prevention as well as rehabilitation and reintegration requires close collaboration with sectors of civil society and broad institutional support and participation. However, identifying the sectors of civil society with which to work and assigning them a specific role in this area is complex, for two fundamental reasons (Precht, 2007). The first is because the authorities in many of the Member States have no experience in collaborating with civil society on matters so sensitive to state security and even less so when it comes to terrorism-related issues. And, second, because many leaders of the communities to which the policy recipients belong – families, associations and non-governmental organizations – are reluctant to collaborate when the information they provide may lead to repressive measures or sanctions against individuals who are subject to these policies (Entenmann, Van der Heide, Weggemans & Dorsey, 2015; Gielen, 2015).

The policies against extremist violence being developed by the Member States have very different perspectives on the involvement of civil society (Feddes, Mann & Doosje, 2015). While in Germany the philosophy has been to support local and regional non-governmental organizations to carry out prevention and rehabilitation initiatives throughout the country, in France, these policies are supported in the prefectures that represent the regions and departments, so that it is they who decide the programmes and the authorities that must be involved (Reed & Pohl, 2017b). In the case of Spain, its radicalization prevention plan (the Strategic National Plan for the Fight against Violent Radicalization) is very governmental, since it is the government authorities who decide who are the representatives of civil society that must participate and at what time, and which also supports them, them especially in municipalities and local security forces and in social services (Spanish Ministry of the Interior, 2015). The Danish model, on the other hand, seeks to combine institutional participation at all levels (medical services, prisons, mental health, security forces, schools and social services) to establish a structure that is easily accessible to civil society.[11]

11 Aarhus model: Prevention of Discrimination and Radicalisation in Aarhus. Retrieved from https://ec.europa.eu/home-affairs/node/7423_en.

In short, the measures taken by the Member States with the largest number of foreign combatants who have left from or returned to their countries have been disparate in their philosophy, nature and their involvement of public authorities and civil society. States such as Denmark, Germany, the Netherlands and the United Kingdom were the first to include preventive and reintegration measures in their strategies against radicalization, adding them to the measures and penal reforms they had already carried out and which were the most important, while countries such as Spain and France implemented this type of policy much later and administrative and criminal measures continue to play a leading role, despite the fact that their numbers of foreign combatants are much greater (RAN, 2016). Therefore, the Member States' interpretations of Resolution 2178 (2014) and the new EU strategy against radicalization and terrorist recruitment in developing a comprehensive management of the phenomenon of combating foreign combatants with repressive and preventive measures have been very disparate and do not show a common approach in this respect, as exists in the case of legislative reforms in penalizing new activities related to terrorism, but which in themselves do not stop the phenomenon of radicalization (Sarma, 2017).

Final remarks

The EU and its Member States have more than enough tools to deal with terrorism, but not to understand and neutralize the processes of radicalization suffered by some of their citizens and residents, which lead them to attack their own countries of origin. In this regard, Security Council Resolution 2178 (2014) introduced this problem for the first time, and the EU institutions and Member States should not concentrate their efforts exclusively on repressive measures but on combining them with a common, concerted strategy and with soft measures for the prevention of radicalization – a key issue in order to prevent future recruitment of foreign fighters who later become terrorists. However, not all Member States have developed this comprehensive approach equally, because the majority have concentrated mainly on improving and implementing repressive measures. RAN, which certainly proposes a new governance of this problem, in which the participation of private actors in European civil society is crucial, can be a great tool for harmonizing Member States' best policies. It promotes the sharing best practices that are developed in various areas of work that aim at an early identification of individuals who are prone to or are already in the process of radicalization, in order to prevent future recruitment that can increase threats on Union territory. Although the EU Commission has been the first to highlight the need to develop an integrated approach to this phenomenon, encouraging the creation of RAN, without the collaboration and participation of Member States in tackling this problem from a rehabilitation perspective, the results cannot be guaranteed.

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4 Urban environments vulnerable to jihadist radicalization

A study of two Spanish cities in North Africa

Luis de la Corte Ibáñez

Introduction

In recent years certain neighbourhoods of different European cities have become a matter of concern, having a significant number of residents allegedly radicalized and involved in activities related to jihadist terrorism. The emergence and proliferation of spaces or urban micro-environments affected by a high presence of people, networks or groups involved in illegal activities inspired by some extremist ideology can raise the risk of violent incidents and increase the flow of people displaced to countries in conflict, with a view to fighting in the ranks of terrorist organizations. Consequently, the early identification of such micro-environments should be a priority in programmes aimed at the prevention of violent extremism (both linked to jihadist Salafism and any other radical and undemocratic ideology capable of inspiring violent actions). This chapter attempts to fulfil three objectives related to that general purpose. In the first place, a general model is proposed for the assessment of the risk of extremist ideology that different geographical areas or territories may face. Second, the proposed model is then used to carry out a risk analysis of Ceuta and Melilla, two North African Spanish cities and therefore subject to the jurisdiction of the European Union. They have been considered to be the main urban centres of radicalization and jihadist recruitment existing in Spain, although situated in North Africa. The aim of this analysis of these two cities is to determine their actual level of extremist involvement and the extent of their jihadist roots. The results of this study will allow us to judge the extent to which the empirical evidence collected and analysed is consistent with the risk estimates established from the valuation model proposed here.

Looking for criteria to assess the territorial risk of extremist involvement

We are seeking here the existence of evidence relative to the verification of a certain degree of influence exerted by some extremist ideology. The most direct way to detect such an influence is to identify the existence of people or groups of people (social networks, groups and organizations, segments of a population or

entire populations, communities etc.) whose characteristics, behaviour and discourse can be taken as evidence or indication of their affinity or adherence (to different possible degrees) to a specific extremist ideology. From theoretical constructs and theories able to identify the factors and variables that usually act as causes and conditions that enable some process of extremist influence, it should also be possible to develop verifiable criteria and indicators that could help estimate the probability that a person or group of people (by reason of their attributes and personal experiences, relationships, circumstances and other diverse conditions – structural, cultural etc.) will come to be influenced by some extremist ideology. This will enable an assessment of the risk of extremist involvement of the individual or individuals to be made from the criteria and indicators chosen, which in practice constitutes one of the main purposes that has inspired the growing research carried out in academic fields on such phenomena as the processes of violent radicalization, integration in extremist groups or organizations and participation in violent activities resulting from extremist motivation.

On the other hand, given that human beings and groups susceptible to adopting an extremist ideology often concentrate in a space or clearly defined common area, the concept of extremist involvement can also be used to refer to different types of environments (for example, urban, rural, religious, educational, prison environments etc.), as well as territories that can be delimited according to physical criteria (according to their size) or geographical and political zones (continents, regions, countries, regions within the same country, cities, towns, neighbourhoods etc.). Thus, environments and territories could also be analysed and compared in terms of their respective degrees of extremist involvement, real or potential, this being the task now to be developed.

To assess the levels of extremist involvement in a given territory over a certain period of time, it is necessary to identify some indicators, as can be seen in Table 4.1 (see p. 66), showing the multiple options.

Estimates of the potential for extremist involvement can also be drawn up from a list of indicators of 'risk factors': attributes, circumstances and events whose presence or development increase the probability of emergence or progression of extremist threats. In principle, the relationship between such threats and the variables identified as risk factors is merely contingent or empirical, but, in some cases, it may also indicate a causal link. It can be assumed that, to the extent that a territory incorporates a sufficient number of such factors, this territory could be defined as a 'risk scenario'. As shown in Table 4.2 (see p. 67), the list of possible factors mentioned in the specialized literature due to their influence on the emergence of extremist agents and structures is long and varied.

The notion of a 'risk scenario' has an eminently comparative meaning. A geographical environment will only deserve to receive such a title by comparison with somewhere else. Thus, the subsequent assessment of the risk of extremist (jihadist) involvement for Ceuta and Melilla will require comparison with data corresponding to the whole of the Spanish territory, the geographic space that

Table 4.1 Possible Indicators to Define and Assess the Extremist Involvement in a Territory

Variables or Indicators
1. Number of violent incidents (completed or attempted).
2. Nature of the incidents (for example, according to number and type of victims caused).
3. Modality of the incidents (selective attacks, indiscriminate attacks, kidnappings, entrenchments).
4. Number of police operations.
5. Number of individuals arrested, prosecuted and/or convicted.
6. Profile, activities and career of the detainees, accused and/or convicted.
7. Number of disarticulated groups.
8. Activities carried out by detainees, defendants and/or convicts and/or disarticulated groups.
9. Profile, activities and trajectory of the detainees, accused and/or convicted.
10. Time of activity of disarticulated individuals and groups.
11. Possible existence and scope of international connections.
12. Number of individuals recruited to be sent to conflict zones.

includes them but whose dimensions (both in physical extension and in population size) make them a micro-stage.

Comparing the risk of extremist involvement in two territories, A and B, can be a complicated exercise. Sometimes, the simple verification that scenario A has a clearly higher number of risk factors than those that occur in others (B, C, E, F etc.) is sufficient reason to attribute the condition of scenario of risk, although a more thorough analysis could take into account other qualitative criteria. To identify the attributes and circumstances that determine a particular risk in one or several territories, it is convenient to distinguish between permanent and temporary factors. Permanent risk factors refer to those characteristics of a territory and its population that operate in a stable manner and that, despite being able to undergo changes or variations, will hardly do so quickly or suddenly, for example, its geography, its political status, its economic structure etc. Thus, temporary risk factors correspond to events or certain supervening circumstances that may occur inside or outside the territory studied. The influence of these variables can be intense, but they will be less durable than the so-called permanent factors. It occurs with changes that may arise from certain decisions and events (internal or external) with immediate consequences on the functioning of institutions and public services, opinion states and collective sentiments. For example, two of the temporary factors that have in recent times exerted a greater influence on the levels of extremist risk are the permanence in activity of some great organization that can be recognized as the vanguard of an extremist movement and the existence of some armed conflict that involves similar organizations or their followers. Any of these circumstances can enhance the extremist risk, both within the territory where the organization is based or the conflict in question takes place

Table 4.2 Possible Risk Indicators of Extremist Involvement Associated with a Territory

Geographical	1.	Proximity of outbreaks of extremism (internal or foreign).
	2.	Border shared with countries that operate as centres of extremism or affected by extremist penetration.
	3.	Connection with migratory routes originating in countries that are centres of extremism.
	4.	Complex mountain landscape that makes it difficult to access territories that can serve as a refuge for extremist elements.
Demographics	5.	High growth rates.
	6.	High population density.
	7.	High proportion of unemployed youth population.
	8.	Sectors of population with low educational level (failure or early school leaving).
	9.	Significant proportion of population belonging to the reference community of extremist agents.
	10.	Existence of migrated communities with a predominance of second generations.
	11.	Profusion of cross-border kinship networks linked to countries affected by extremist penetration.
	12.	Diasporas from other countries affected by extremist penetration.
Policies and Institutions	13.	Belonging to a State involved in internal armed conflicts with an extremist component.
	14.	Belonging to a State involved in external armed conflicts with an extremist component.
	15.	Repressive state dynamics.
	16.	State fragility and governance problems.
	17.	Territorial disputes susceptible of instrumentalization for the purpose of extremist mobilization.
Economics	18.	Poverty (generalized or localized in some collective or minority).
	19.	High rates of inequality (generalized or with special effects on some group or minority).
	20.	High rates of unemployment and/or underemployment (generalized or localized in some group or minority).
Socio-cultural	21.	Tensions and community conflicts with an ethnic and/or religious component.
	22.	Minorities or groups affected by perceptions and feelings of discrimination and social exclusion.
	23.	Historical referents and symbolic aspects susceptible of instrumentalization by extremist rhetoric.
	24.	Circulation of political or religious ideas ideologically or doctrinally related to extremist currents.
Urban and Welfare	25.	Existence of urban areas with deteriorated environments.
	26.	Disorder and urban irregularities.
	27.	Lack of infrastructure and basic services.
	28.	Residential segregation.
	29.	Existence of marginality niches or urban ghettos.
	30.	Urban areas with reduced presence of law enforcement.

(*Continued*)

Table 4.2 (Cont.)

Criminology	31.	High crime rates (generalized or concentrated in some cities or urban areas).
	32.	Active presence of criminal networks and incidence of illicit trafficking.
	33.	Existence of collectives and urban areas marked by manifest hostility to law enforcement.
Related to the extremist threat	34.	History of attacks or other violent and illegal actions of extremist authorship.
	35.	Active presence of extremist agents and structures or related backgrounds.
	36.	Aggressive depiction of the territory in extremist propaganda.
	37.	Situations, locations, buildings or facilities of high strategic or symbolic value.
	38.	Presence or transit of groups or persons designated as preferred targets of extremist violence.

Source: author's own work based on specialized bibliography (Bjorgo, 2005; de la Corte, 2006, 2017; de la Corte & Blanco, 2014; de la Corte & Hristova, 2017; Groppi, 2017; McCauley & Moskalenko, 2017; Reinares, 2011).

and outside it, in other scenarios near or far, although obviously with substantial variations in terms of risk levels, in one or the other case.

An added difficulty in comparing two territories arises when the first macro-scenario is included in the second (micro-), resulting in them sharing a certain number of attributes. Thus, apart from the external variables and circumstances to influence above all the territories concerned with the same threat, certain of the same internal jihadist factors that affect Ceuta and Melilla are also present in many other localities and regions of Spanish territory. Consequently, the more risk factors that two or more territories share, the less there are reasons to distinguish them from each other –and vice versa; the greater the number of risk factors present in only one territory, or that operate in the first one with an intensity greater than that reached in other territories, the more sense it will make to attribute a comparatively higher level of risk to that first territory.

In short, the factors with capacity to condition the risk of extremist involvement of a micro-environment, such as that represented by one or more cities of any country, are distributed in different classes or categories, depending on whether they are external or internal, shared or distinctive and permanent or temporary. From the crossing of these dimensions, the six categories contained in Table 4.3 (see p. 69) are derived.

The shading of two of the boxes included in the table distinguishes those factors that correspond to specific and non-shared vulnerabilities whose presence can generate a qualitative difference in the levels of risk that affect a micro-scenario and that can negatively distinguish it from the macro-scenario of which it is a part. In addition, due to its greater stability or durability, it seems reasonable to assume that type 5 factors (highlighted in the table with an asterisk) could still provide a serious supplement compared to those of type 6.

Table 4.3 Types of Risks Factors that Can Affect a Micro-Scenario

		Permanent	*Temporary*
External		1	2
Internal	*Shared*	3	4
	Distinctive	5*	6

The object of this study: the cities of Ceuta and Melilla

The choice of Ceuta and Melilla as locations for this study responds to two complementary reasons. The first has to do with various signs and evidence about the two cities that have appeared since 2013, consistent with their designation as two of the main focuses of radicalization and jihadist recruitment in Spain. Thus, as early as December 2006, the information provided by the local press about the first important arrests made in Ceuta against individuals suspected of jihadism was framed with a headline that characterized it as the 'cradle of radicals' (Echarri, 2006). In the following years, similar terms and descriptions would appear insistently in various media. It is striking that although neither Ceuta nor Melilla have suffered any terrorist attack to date (2017), many of the alarming headlines were published in several newspapers issued in Madrid, the very city that in 2004 suffered the most lethal attack ever perpetrated on European soil by jihadist elements, but that did not lead any of the media to define Madrid, the capital of Spain, as the 'capital of jihadism in Europe'. Interestingly, in early 2015 an international digital newspaper considered it appropriate to apply that title to Ceuta (Nadeau, 2015). Therefore, it is undoubted that the terrorist risk attributed inside and outside Spain to Ceuta and Melilla has probably been overestimated. Moreover, the penetration of jihadism in Ceuta and Melilla and its growth in recent years has been confirmed by three types of evidence: 1) the emergence of networks created and integrated by individuals adhering to the principles and values of Salafi jihadism; 2) their involvement in different activities of an illegal and terrorist nature; and 3) the displacement of citizens born or residing in those enclaves to countries in conflict to integrate themselves into jihadist structures as combatants. The concern raised by these signs has also been reflected in public statements made by institutional officials and in reports and notes that appeared in the press after being prepared by the Spanish Security Forces and the National Intelligence Centre. In addition, the issue has also been addressed in various analyses and studies related to the jihadist problem in Spain, including some monographic investigations. While most of these contributions have coincided in identifying Ceuta and Melilla as scenarios potentially vulnerable to jihadism (de la Corte, 2007; Jordán & Trujillo, 2006; Llamas, 2011), there have also been some analyses that sought to clarify the situation and aimed at detecting possible exaggerations in this regard (for example, Kenney, 2011). However, practically all of these investigations date back several years, so they do not integrate the information gathered from certain changes lately detected in the two autonomous cities.

The second reason for taking Ceuta and Melilla as a case study refers to certain exceptional attributes that distinguish them from any other Spanish and European city. In particular, their high percentage of population of Islamic faith and Maghrebi origin and their status as geographical enclaves, both located in North Africa, which makes them land borders for Spain and the European Union with Morocco, a Muslim country located in the westernmost part of the Maghreb.

General factors related to the risk of jihadist involvement in Ceuta and Melilla

For years, the territories of Ceuta and Melilla have been exposed to the risk of jihadist involvement for three reasons. The first, on which we cannot deal at greater length here, corresponds to the characteristics and evolution of the jihadist threat itself and several of its tendencies and attributes. Above all, the presence of powerful jihadist organizations in certain countries of the Maghreb, the Sahel and the Middle East and the attraction of important contingents of foreign terrorist fighters of diverse origin to these areas. These and other aspects, to which we necessarily return later, work as external risk factors (therefore, corresponding to types 1 and 2 of our previous classification), which not only affect the autonomous cities but also an extremely important region, at least in size, and involve all the countries located in the Mediterranean arc.

The second source of risk refers to factors type 3 and 4, that is, to those characteristics and circumstances of Ceuta and Melilla that are derived from their condition as Spanish cities and that affect the rest of the Spanish territory and its entire population. In general terms, different studies and analyses have shown that Spain shares a variety of risk factors related to the jihadist threat with the rest of the European countries (on this, see de la Corte, 2014). However, both the levels of real impact experienced since the 1990s, measured in terms of attempts (successful and frustrated) of terrorist attacks, as well as certain vulnerabilities of their own, classify Spain as a country most at risk, closely behind the United Kingdom, France or Belgium, and at least at the same level as Germany, Italy, Holland or Denmark (Jordán, 2012; Reinares, 2011). The only element with respect to which Spain does not reach magnitudes of risk comparable to that of other neighbouring countries lies in the number of volunteers who since 2011 have moved to the jihadist fronts in Syria and Iraq, which is clearly lower than that recorded by most of the states in the European Union (Institute for Economics and Peace, 2015, p. 47). Table 4.4 offers a list – though certainly not exhaustive – of the risk factors that Ceuta and Melilla share with any other Spanish and European location.

Some of the factors included in the table are highlighted with an asterisk because, although shared with Europe and the rest of Spain, they more relevant in Ceuta and Melilla. This connects with their non-shared risk factors types 5 and 6 in the earlier classification, which we will deal with in greater detail below.

Table 4.4 Jihadist Risks Factors for Spain

Shared with Europe	*Specific to Spain*
• Colonial past. • European and Western condition. • Military involvement in Muslim countries. • Diasporas originating from Muslims countries.* • Presence and economic interest in Muslim countries. • Continuous activity of jihadist cells, • Intense anti-terrorist response to jihadism. • Urban marginal districts with a high concentration of Muslim population.* • Exit of volunteers to jihadist fronts.*	• Myth of Al Andalus. • Proximity to North Africa.* • Main port of entry for migratory flows from North Africa.* • Signs of jihadist propaganda.*

Sources: de la Corte (2014); Reinares (2011); authors' own work.

Specific vulnerabilities and related hypotheses

A brief review of the available information on the demographic, economic and social characteristics of Ceuta and Melilla shows that both cities score positively on a large number of indicators related to the risk of extremist involvement. Many of these variables are closely related, justifying their grouping into a more inclusive classification.

Generic attributes of cities

With 84,963 and 84,509 officially recognized residents (Instituto Nacional de Estadística [INE], 2014), Ceuta and Melilla have the only two land borders of Spain with Morocco, so constitute the two main entry gates from Africa to Europe. Also due to their geographical position, over the last ten years both have received many irregular immigrants. In 2012, there were 2,841; the following year, the figure rose to 4,235 (an increase of 48.5%); it rose again in 2014 to 7,845 (an increase of 77%). Consequently, the official number of inhabitants is necessarily lower than the real number, which cannot be calculated accurately. Among the irregular immigrants have been individual quotas from Syria: 273 in 2013 and 3,305 in 2014. The transit of the two borders is high and is closely linked to illegal trade, for which purpose some 30,000 people cross the border of Ceuta daily, with another 5,000 crossing that of Melilla (Arteaga, 2014).

The populations of Ceuta and Melilla are heterogeneous, young and constantly increasing. The Spanish Christian majority is in decline, while the large and growing Muslim group of Moroccan origin will become a majority; there are several other small minorities. Against a Spanish average of 31.1%, the rate of

minors under thirty years of age is 41.3% in Ceuta and 61.7% in Melilla (Eurostat, 2015). According to data from 2014, Melilla has the highest birth rate in Spain (19.3%) and Ceuta is second (14.20%). For this reason, and also because of the return of immigrants previously resident in mainland Spain, since 2008 the populations have increased – by 9.2% in Ceuta and by 17.2% in Melilla, more than in any other Spanish province (Eurostat, 2015). In addition, the projections are of an uninterrupted growth for the next few years (INE, 2012). The population density is high: 4,248 inhabitants per square kilometre in Ceuta and 7,042 in Melilla.

In 2014, Ceuta and Melilla were the regions with the second- and third-highest unemployment rate in the European Union, respectively, with 35.6% and 34.4%. In addition, compared to the rest of the Spanish autonomous communities, Ceuta had the highest youth unemployment (67.5%) and Melilla was fifth (57.3%). In the educational field, the two cities jointly occupied the third position in school dropout rates in Spain, with a figure of 24.7% (Ministry of Education, 2015). These parameters were not very different in previous years. Finally, crime rates have also traditionally been high. In 2014, the two cities registered the highest figures among all the Spanish autonomous communities – 30.1 crimes for every 1,000 inhabitants in Ceuta and 22.8 in Melilla, with a national average rate of 7.3. Likewise, Ceuta had the highest number of criminal offences committed by minors (53.1 per 1,000 inhabitants) and Melilla was third (28.5) (INE, 2015). To this must be added that since the 1980s, Ceuta and Melilla have both been starting points for the illicit traffic of Moroccan cannabis towards Europe, giving rise to the proliferation of gangs and criminal structures dedicated to drug trafficking and responsible for a large part of their domestic crime (de la Corte & Giménez-Salinas, 2010; International Narcotics Control Board, 2015, p. 55).

Situation and features of Muslim communities

While the Muslim community is officially only 3.9% of the total Spanish population (2014 figures; it is probably higher in reality), the proportion of Muslim residents of Moroccan origin is up to 43% in Ceuta (36,492 residents) and 51% in Melilla (43,238) (Unión de Comunidades Islámicas de España [UCIDE], 2015; INE, 2015). In approximate terms, these two cities alone account for 17.5% of all Muslims living in Spain (UCIDE, 2015). Thanks to their integration in cross-border family and social networks, many of the Muslims living in Ceuta and Melilla maintain strong ties with Morocco, forming something very similar to a diaspora (Waldmann, 2010), although these groups are predominantly national. Although in 2013, 22% of the people registered in Melilla and 10% of the residents of Ceuta had been born in Morocco, most had acquired Spanish nationality. In 2014, the number of foreign Muslims in Ceuta was 4,721, with 10,949 in Melilla, equivalent to 12.9% and 25.3% of their respective Muslim populations (UCIDE, 2015). Thanks to high birth and marriage rates, the rest of the Muslims are young second- and third-generation descendants of the first migrants. In 2011, 75% of children born in both cities

had parents with Arabic surnames; 50% of primary and secondary school students in Ceuta and 60% of those in Melilla are Muslims.

Members of the Muslim communities of the two cities have the highest number of cases of precarious, unstable and irregular employment and unemployment in Spain. In 2000, 80% of students in Ceuta and Melilla who did not pass secondary education were Muslims (González Enríquez & Pérez González, 2008). They also live in the poorest neighbourhoods. In Melilla, Muslims are present throughout the city, but distribution is very unequal: 80% are concentrated in three districts and 30% in one. In Ceuta, residential segregation is even higher and Muslim-majority neighbourhoods are located in the periphery (Rontomé, 2012).

A significant proportion of Ceuta and Melilla Muslims consider themselves discriminated against, if not excluded, and treated as second-class citizens. Such perceptions and feelings are reinforced and instrumentalized through the circulation of victimist and conspiratorial discourses promoted by some political and religious actors. However, identification with the cities in which they reside is also strong. The Muslims of Ceuta, for example, defined themselves as belonging to Ceuta rather than to Spain or Morocco. Moreover, Muslims in both cities consider their religion to be an important or decisive component of their identity (Rontomé, 2005, 2012).

On the common base of the Sunni tradition and the Maliki legal school, predominant in all North Africa, the forms of religious identification of the Muslims of Ceuta and Melilla are diverse (Briones, Tarrés & Salguero, 2013). Since the end of the last century the two cities have seen their own associative and institutional fabric grow, as well as the penetration of different doctrinal currents, both aimed at regulating and refining religious practice. Among them, it is worth mentioning the influence of non-violent rigorous movements such as Justice and Spirituality or the Community for the Propagation of Islam (Jamāʿat al-Tablīgh). Although with a very minor impact and diffusion, in recent years the introduction of Salafist preachers and ideas (and even Takfiris) has also been noted, with a translation into some violent episodes. The burning of two marabouts or religious enclosures in Ceuta in 2006 and the murder of two Melilla citizens in 2009 were carried out by radicalized individuals and have been investigated in several of the police operations to be examined later.

Marginal neighbourhoods

Much of the evidence collected on the active presence of jihadist elements in Ceuta and Melilla point to events, people, structures and activities located in their two most marginal neighbourhoods, where a large part of their Muslim communities are concentrated and where most of the police operations against jihadism have been carried out: La Cañada Hidum in Melilla and Prince Alfonso in Ceuta. In each of these neighbourhoods no less than 15,000 people are crowded together, which adds to the precariousness of their personal situation and that of the neighbourhoods in which they reside. Although there are no two

absolutely identical districts, both neighbourhoods share many problems and deficiencies (de la Corte, 2007; Jordán & Trujillo, 2006; Llamas, 2011):

- maximum proportions of unemployed inhabitants, inhabitants in irregular situations and unemployed youth
- a highly deteriorated environment and urban disorder
- a shortage of equipment and shops
- the precarious functioning of basic public services (electricity and lighting, sanitation network, cleaning)
- a climate of impunity, reflected in frequent anti-social behaviour, violent altercations and high rates of crime
- the presence of criminal gangs, drugs and weapons
- institutional rejection, expressed through aggressive reception to security forces and dispensers of other public services (fire, emergency, garbage collection)

Although in recent years some efforts have been made to alleviate some of these conditions (for example, through a new policy of providing equipment, the construction of hospitals, schools, workshops and sports facilities and assistance and mediation) most of the problems mentioned above persist. Because of their precariousness, these marginal districts bear a certain resemblance to the suburbs of some Moroccan cities where jihadist preachers and recruiters have been most successful. Because of the mixture of isolation and impunity, they also recall some more or less depressed areas of several European cities crowded with representatives of second and third generations of immigrants who have also functioned as centres of radicalization and recruitment (Ranstorp, Gustafsson & Hyllengren, 2015).

Aspects related to the jihadist threat

Some characteristics and circumstances of Ceuta and Melilla turn them into scenarios of particular interest for jihadist agents and organizations. Various statements issued by leaders and jihadist spokespersons (mainly from Al-Qaeda and its branch in the Maghreb) have made explicit mention of both cities, insisting on attributing to them the status of 'occupied territories' to be liberated, equating them with Chechnya or Palestine (Torres Soriano, 2017, p. 2). The first recorded mention of this was in 2005. However, between that year and 2014 a minimum of twenty-one mentions were registered, with five cases in both 2008 and 2013 (Figure 4.1). No other Spanish city has received so many specific mentions.

In order to maximize damage and media resonance, most jihadist plans for attacks in Western territory have chosen large cities as a scenario. However, the general pattern may be altered if other locations are identified that offer some symbolic or strategic incentive. The representation of Ceuta and Melilla as spaces stolen from Islam can fulfil that role, as well as the opportunity to

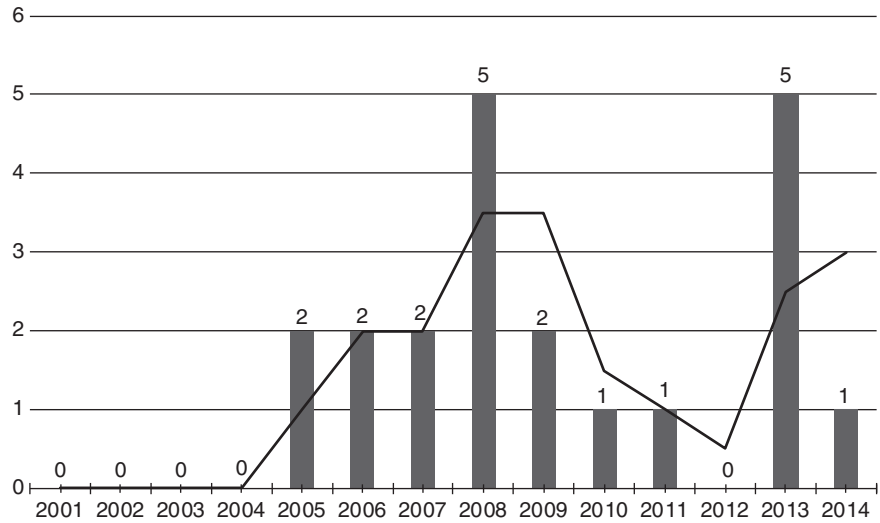

Figure 4.1 Signs of jihadist propaganda in Ceuta and Melilla (2001–2014)
Source: authors' own work, with data from Grupo de Estudios de Seguridad Internacional (2015a)

access certain environments, buildings and sites of high value for a possible attack, such as their seaports, the ferries that cross the Strait of Gibraltar daily, the airport of Melilla, its various barracks with their abundant military personnel or the borders with Morocco. Equally, an attack directed against institutional symbols or certain people or groups would unleash a cycle of hostilities directed against the Muslim population, an aspiration that cannot be ruled out among jihadists (de la Corte, 2007; de la Corte & Jordán, 2007).

The proximity to Morocco is in itself a risk for Ceuta and Melilla, since the neighbouring country has long suffered from a jihadist presence, with several serious attacks, and has carried out an intense repressive action against that threat and, in recent years, has become one of the main exporting countries of displaced volunteers to fight in jihadist ranks in Syria and Iraq (Palmer, 2014). A few months after the leader of Daesh, Abubakr al-Baghdadi, declared the establishment of a new Caliphate in Mosul, the Interior Minister of the Kingdom of Morocco, Mohamed Hassad, said in a public statement that Moroccan citizens were the second-largest contingent of foreign terrorist fighters integrated into the ranks of that jihadist organization (Cembrero, 2014a). In that sense the most recent reliable accounts speak of more than 1,500 Moroccans leaving the country to fight in Syria and Iraq since 2011 (Institute for Economics and Peace, 2015, p. 46). In turn, some of the main points of recruitment of these volunteers are in several locations that, for family and social reasons and for their proximity, maintain a close relationship

with one or another of the autonomous cities: Castillejos, Tetouan and Tangier in the case of Ceuta, and Nador for Melilla. At the end of the chapter we shall return to this matter.

Other factors capable of feeding or reactivating the jihadist problem in Ceuta or Melilla are the presence of agents and terrorist structures linked to this radical current, observed for more than ten years, and police operations directed against such elements, whose study will be dealt with in the next section.

Global assessment of jihadist risk factors and related hypotheses

If we disaggregate the information in the previous sections and compare it with the list of indicators related to the risk of jihadist ideology in this work, it will be seen that the two autonomous cities meet thirty-four of the thirty-eight indicators cited (see Table 4.5 on p. 77).

From this exceptional accumulation of risk elements, a series of hypotheses can be derived that contrast with the results of the following empirical study. The main hypothesis postulates for Ceuta and Melilla are a level of jihadist affectation significantly higher than that faced in other Spanish localities during the period analysed. This general hypothesis is accompanied by several more references to the possible functions assigned to the two cities by the agents and jihadist structures present there. The functions to be tested would be:

1. Ceuta and/or Melilla as scenarios of terrorist attacks or other violent actions.
2. sanctuaries for jihadist militants outside the cities or returnees from conflicts
3. secure bases to carry out operative, logistic, economic or communicative support tasks (propaganda)
4. gateway to Spain and Europe, to infiltrate terrorists or introduce some kind of materials or goods useful for jihad(weapons, equipment of double or multiple use, money, illegal goods, vehicles)
5. radicalization and recruitment nodes
6. point of export of volunteers to jihad fronts (zones of conflict) or training camps
7. We shall now examine to what extent these hypotheses coincide with the data.

Description and analysis of the police operations against jihadism in Ceuta and Melilla

Approach of the study and methodology

The purpose of this study is to identify different indicators, indications and evidence about the active presence of agents and jihadist networks in Ceuta and Melilla, from information derived from the police operations developed there. The sample of the study covers all the operations that have involved the arrest of one or more suspects of jihadist affiliation in Ceuta or Melilla since 1995, the date of the first recorded operation against jihadism carried out in Spain, until mid-December 2015, the period during which data collection was terminated.

Table 4.5 Indicators of Risk of Jihadist Involvement in Ceuta and Melilla

1.	Proximity of foci of jihadist activity.	●
2.	Border shared with countries affected by jihadism.	●
3.	Connection with migratory routes originating in jihadist countries.	●
4.	Complex orography that makes it difficult to access territories that can serve as a refuge for extremist elements.	
5.	High growth rates.	●
6.	High population density.	●
7.	High rates of youth unemployment.	●
8.	Sectors of population with low educational level (failure or early school leaving).	●
9.	Existence of migrated communities with a predominance of second generations.	●
10.	Significant proportions of population related to the reference community of jihadist agents.	●
11.	Profusion of cross-border kinship networks linked to countries affected by jihadism.	●
12.	Diasporas from other countries affected by jihadism.	●
13.	Penetration of orthodox ideas and currents with some doctrinal aspects close to jihadism.	●
14.	Repressive state dynamics.	
15.	State fragility and governance problems.	
16.	Belonging to a State involved in internal armed conflicts with a jihadist component.	
17.	Belonging to a State involved in external armed conflicts with a jihadist component.	●
18.	Territorial disputes susceptible of instrumentalization for purposes of jihadist mobilization.	●
19.	Poverty.	●
20.	High inequality rates.	●
21.	High unemployment and / or underemployment.	●
22.	Tensions and community conflicts with an ethnic and / or religious component.	●
23.	Minorities affected by perceptions and feelings of discrimination and social exclusion.	●
24.	Historical referents and symbolic aspects susceptible of instrumentalization by extremist rhetoric.	●
25.	Deterioration of the environment.	●
26.	Disorder and urban irregularities.	●
27.	Lack of infrastructure and basic services.	●
28.	Residential segregation.	●
29.	Existence of marginal districts or urban ghettos.	●
30.	Urban areas with reduced presence of law enforcement.	●

(*Continued*)

Table 4.5 (Cont.)

31.	High crime rates.	●
32.	Active presence of criminal networks and incidence of illicit traffic.	●
33.	Existence of groups and areas marked by manifest hostility to law enforcement.	●
34.	History of attacks or other violent and illegal incidents of jihadist authorship.	●
35.	Active presence of jihadist agents and structures or related backgrounds.	●
36.	Aggressive territory marking in jihadist propaganda.	●
37.	Locations, buildings or facilities of high strategic or symbolic value.	●
38.	Presence or transit of groups or persons designated as preferred targets for jihadism.	●

The development of the research has included several phases: the development of a list of thematic categories that would guide the selection and classification of the information to be collected; the design of a database according to these categories; information collection; quantitative analysis of the information introduced in the database; and interpretation of the results of the analysis based on the theoretical and evaluative criteria discussed above.

Results

As can be observed in Table 4.6, since March 2005, the date of the first arrest of individuals suspected of jihadism in one of the autonomous cities, until the end of 2015, a total of nineteen anti-jihadist police operations were carried out in Ceuta and Melilla.

The total number of arrests was seventy-five, although the total number of detainees is seventy-four, as one of them, Karim Abdesalam Mohamed, was detained twice (Duna and Cesto operations). The number of arrests per operation is varied. Of the nineteen operations, thirteen involved the dismantling of a total of twelve more or less complex jihadist networks (a network comprises an active group formed by a minimum of two people), while the remaining six operations were aimed at arresting specific individuals: fugitives if there was an international arrest warrant, volunteers in transit to conflict areas, activists and (apparently) independent and returned captors. In turn, most of these suspects were also linked to some jihadist structure.

Of nineteen operations, ten caused arrests in Ceuta and ten in Melilla, with a single operation involving arrests in both cities. In addition, five of the ninteen operations led to arrests in other Spanish locations, such as Barcelona and Gerona, or foreign countries, mainly in several Moroccan cities near Ceuta or Melilla, but also in Vilvoorde (Belgium) and in a town in Turkey.

The temporal distribution was not equitable. In the years 2007 and 2009–2011 there was no police operation. The four operations carried out in 2005 and 2011 comprised 21.6% of the entire sample. After three consecutive years without any

Table 4.6 List of Operations between March 2005 and December 2015

	Date	*Operation*	*Location*	*Disarticulated Network*	*Detainees*
1	March 2005	Complot ferry	Ceuta	•	2
2	May 2006	Rally	Melilla		2
3	December 2006	Duna	Ceuta	•	11
4	April 2008	Moroccan OID	Melilla		2
5	June 2012	Takfiris	Melilla	•	2
6	June 2013	Cesto	Ceuta, Castillejos and Vilvoorde (Belgium)	•	9
7	January 2014	Málaga Airport	Ceuta		1
8	March 2014	Azteca	Melilla, Málaga and Morocco	•	7
9	May 2014	Javer	Ceuta	•	6
10	June 2014	Hamido	Ceuta		1
11	August 2014	Kibera	Melilla	•	2
12	September 2014	Farewell	Melilla and Nador	•	9
13	December 2014	Women's Recruiter	Ceuta, Melilla, Barcelona and Castillejos	•	7
14	January 2015	Jackal	Ceuta	•	4
15	February 2015	Jardín	Melilla, Barcelona and Gerona	•	4
16	March 2015	Jackal Expansion	Ceuta	•	2
17	April 2015	Fleeing to Turkey	Melilla and Turkey		2
18	July 2015	Daesh Recruiter	Melilla		1
19	December 2015	Gungan	Ceuta		1
				Total: 12	**Total:** 75

detention, there were two more (2012–2013) with a single annual operation, equivalent to 10.5% of the total. Finally, between 2014 and 2015, thirteen operations covering 68.4% of the sample were carried out (see Figure 4.2 on p. 80).

Table 4.7 (see p. 80) shows how the detainees could be connected to different criminal terrorist-related activities. There was some degree of specialization in various networks, but also several cases of multi-activity.

The most frequent activities were proselytism and recruitment, aimed at promoting radicalization and integrating those captured in the jihadist networks established in Ceuta and Melilla or in others already existing outside the cities or

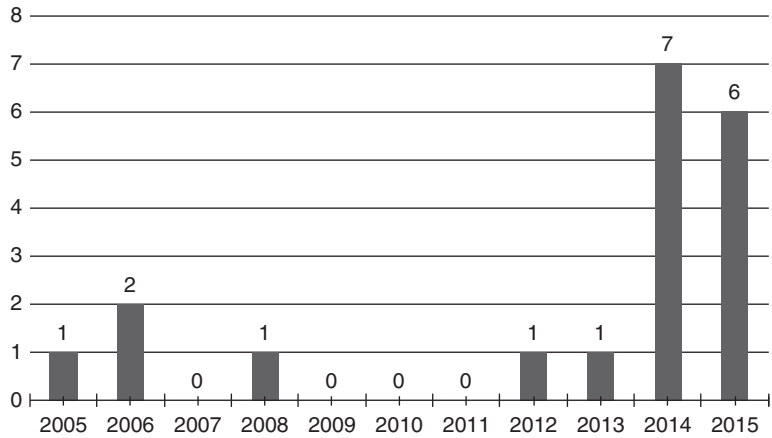

Figure 4.2 Operations per year

Table 4.7 Activities and Purposes of Disjointed Networks and Detained Individuals

Activities and Purposes	*Cases*
Proselytizing and recruitment	14
Sending volunteers to conflict zones	9
Dissemination and elaboration of propaganda	8
Plans or attempts to attack	8
Return from conflict zones	1

in Spain. This activity often overlapped with other complementary ones: the diffusion and elaboration of propaganda, which is yet another way of capturing and radicalizing and constitutes a tool for future captures; or the sending of volunteers to conflict zones, almost always Syria or Iraq. All the operations related to this last occupation were carried out from 2013 and it was the dominant activity among the detainees in 2014 and 2015.

Among the eight operations in which indications were detected about the existence of intentions to act with violence, there was only one accomplished aggression (a murder), albeit not strictly a terrorist action, since its perpetrators avoided giving it any kind of advertising. In the rest of the cases, the intention to commit a terrorist attack was inferred from statements made by some detainees, or the availability of firearms or efforts to acquire weapons or explosives. With the available information it is not possible to discern to what extent the detainees were determined to act and to do so imminently.

The data collected on the twelve disjointed jihadist networks have been plentiful and can be summarized as follows:

Half of the disbanded jihadist networks included members of various nationalities and among these almost all were Spanish-Moroccan (Table 4.8). Almost all the remaining cases were networks made up of Spanish nationals, practically all of them born in or residents of Ceuta or Melilla. Only one network was exclusively composed of Moroccans. In the majority, the existence of neighbourly links between members was verified, proving that many networks had their centre of gravity in specific neighbourhoods, such as El Príncipe in Ceuta. The transnational nature of most of the networks was made in three dimensions. The transnational networks had some member residing in the north of Morocco, or in some cases in Belgium or France, where they developed part of their jihadist activity, or they had links with some foreign jihadist organization established outside Spain (in 83% of cases). These links were Maghrebi and Syrian-Iraqi, with eight of the twelve networks having a connection with Daesh.

As shown in Table 4.9 (see p. 82), most of the detainees were Spanish, almost all from Ceuta or Melilla. Only five of the twenty foreigners detained were not Moroccans. The proportion of women is low and all were detained between 2014

Table 4.8 Attributes of Jihadist Networks Associated with Operations

Attributes	*No. of Networks*	*Proportion of Networks (%)*
Multinationality	7	50
Totally indigenous	5	41.6
With members of Moroccan nationality	7	58.3
With members of other nationalities	2	16.6
With structure, division of functions and tasks	10	83.3
With identified and influential leaders	6	50
Members with criminal records	5	41.6
Family links between members	2	16.6
Links by neighbourhood between members	9	75
Links with some mosque	5	41.6
Implementation in other Spanish cities	4	33.3
Links with other pre-existing jihadist networks or groups	4	33.3
Links or contacts with jihadist organizations abroad	10	83.3
Transnational networks (members residing abroad)	10	83.3
Involvement in other illegal activities	6	50
Possession of weapons	5	41.6
With technological resources and competences (internet, IT)	7	58.3

Table 4.9 Some Characteristics of Detainees

Attributes	*No.*	*Proportion (%)*
Spanish nationality	49	66.2
Foreigners	24	32.4
Naturals of Ceuta	29	39.1
Naturals of Melilla	17	22.9
Moroccans	20	27
Other nationalities	5	6.7
Men	57	77
Women	7	9.4
Minors	2	2.7
In transit to conflict zones	2	2.7
Returned from areas of conflict	2	2.7

and 2015. In several of the latest operations, networks specialized in recruiting female volunteers for their transfer to conflict zones were dismantled. Only two cases of arrests of individuals upon their return from conflict zones were detected.

Analysis compared to the evolution of jihadism in Spain

As may be observed in Figure 4.3, between March 1995 and the end of 2015, Spanish security forces carried out up to 100 operations against jihadism. Eighteen were fully or partially developed in Ceuta and/or Melilla, both jointly being the third-most common location for anti-jihadist operations. Only Barcelona and Madrid, much more extensive and populated provinces, outnumber them in number of operations.

The frequency of operations grew over the years, both in Spain as a whole and in Ceuta and Melilla (Figure 4.4 on p. 84).

The operations carried out in Ceuta and Melilla have accounted for 18.4% of all police investigations carried out in Spain during the period studied (see Table 4.10 on p. 85). However, while the first one in Spain took place in 1995, no operations took place in Ceuta or Melilla until 2005.

Although the absolute number of operations in Ceuta and Melilla in 2005 and 2006 was low (only three), these investigations contributed a substantial percentage to the total of those carried out in the national territory: 18.4%. As can be seen in Table 4.10, in 2014 (but only in that year), most of the operations in Spain (58.3%) took place in Ceuta and Melilla.

The arrests made during this period reveal a similar appearance in national jihadism and specifically in Ceuta and Melilla, highlighting the following common features:

1. integration in networks or groups as a habitual way of involvement in jihadist activities;

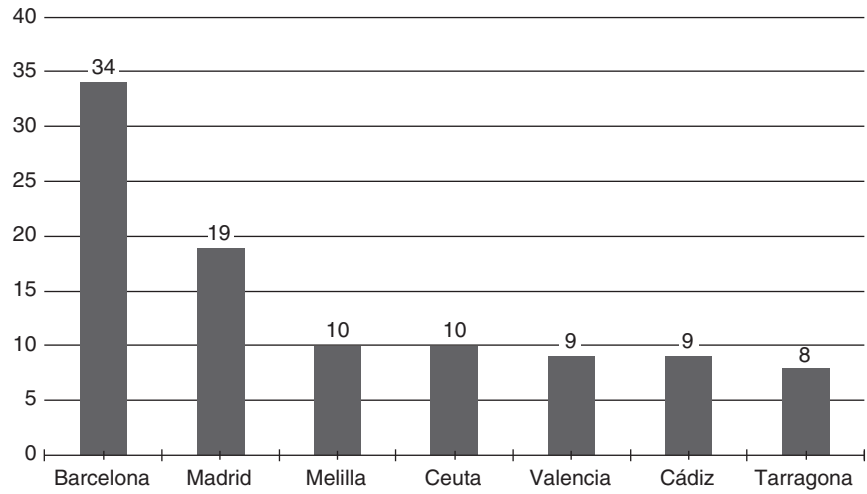

Figure 4.3 Spanish provinces with the highest number of anti-jihadist operations

2. abundance of links with large foreign jihadist organizations;
3. scarce representation of 'lone wolves', thus a phenomenon alien to the autonomous cities;
4. predominance of non-operational functions (logistical, proselytizing, recruitment and mobilization, propaganda) as opposed to operational; although eight operations of those developed in Ceuta and Melilla provided indications of aggressive intentions, only a few networks disarticulated that they were exclusively or mainly occupied in preparing attacks;
5. wide range of age and mainly male detainees;
6. recent emergence of female members, via programmes directed at their recruitment;
7. direct relationship between the recent increase in police operations developed and the integration of jihadist elements in the process of mobilizing terrorist fighters towards Syria and Iraq.

It has also been possible to detect some differences of interest. For example, it is striking that neither Ceuta nor Melilla played any role in the first wave of volunteers sent to Iraq during the first years of the conflict in that country in 2003, despite the thirteen operations carried out in Spain against networks facilitating such displacements (Ponte & Jordán, 2014). It is also worth highlighting the predominance of Spanish nationals among those detained in Ceuta and Melilla, corresponding to 65% of the cases registered throughout the period covered by this study. In contrast, the global frequency of foreign individuals among detainees in Spain since 1996 remained until 2012 at a ratio of 8:10 (Reinares & García-Calvo, 2014). That distribution changed drastically from

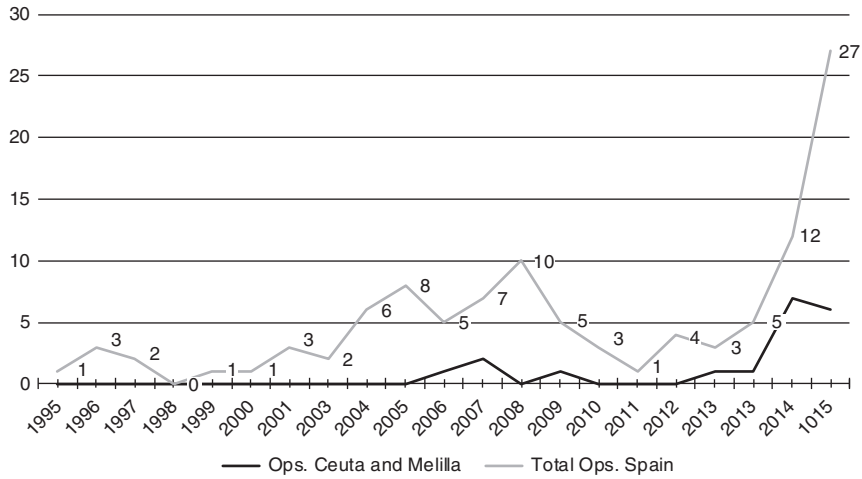

Figure 4.4 Operations in Spain (Ceuta and Melilla disaggregated)

2013, increasing to 45% of the total number of Spanish nationals apprehended between January 2013 and the end of November 2015 (Reinares & García-Calvo, 2015). However, 39.1% of those persons had been born in Ceuta and 36.7% in Melilla, where they were detained.

Discussion

The data collected have allowed us to verify several of the previous hypotheses, summarized below.

1. The level of jihadist involvement in Ceuta and Melilla is higher than that detected in the average of the Spanish towns affected by this problem.
2. Since the mid-2000s, both cities, and particularly some of their marginal areas, have fulfilled several of the functions that an extremist network can assign to a territory.
3. Autonomous cities have long been exposed to the possibility of suffering a terrorist attack, having been seen as a scenario of possible attacks by individuals detained there. However, given that this has also occurred with respect to other Spanish cities, and taking into account that none of the jihadist networks detected in Ceuta or Melilla have managed to complete an attack, the risk of attack may have been overestimated.
4. Since the middle of the last decade, Ceuta and Melilla have been functioning as important nodes of radicalization and scenarios of intense activity of indoctrination and recruitment for terrorist purposes.

Table 4.10 Proportion of Operations in Spain with Arrests in Ceuta and Melilla

Year	*Total*	*Ceuta and Melilla*	*Proportion (%)*
1995–2003	19	0	0
2004	8	0	0
2005	5	1	20
2006	7	2	28.5
2007	10	0	0
2008	5	1	20
2009	3	0	0
2010	1	0	0
2011	4	0	0
2012	3	1	33.3
2013	5	1	20
2014	12	7	58.3
2015	27	6	22.2
Total	**103**	**19**	**18.4**

Source: author's own work with data from Grupo de Estudios de Seguridad Internacional (2015b).

5. More recently, these two cities have become points of export of volunteers to jihad fronts (in particular to the Syrian-Iraqi front), only surpassed in that sense by the node located in the metropolitan area of Barcelona.

The conventional or habitual explanations of why Ceuta and Melilla have become two of the Spanish cities most affected by the jihadist problem refer to several of the factors included in the risk assessment model outlined in a previous section and highlighted by their exceptional incidence in both cities. More specifically: their high percentage of Islamic population; the precarious economic, social and marginal conditions under which large segments of the Muslim communities live; the identity tensions supposedly characteristic of those populations in non-Islamic countries whose Muslim minorities are predominantly composed of children or grandchildren of immigrants, constituting the so-called problematic 'second or third failed generations' (Aparicio & Tornos, 2006; Kepel, 2001; Portes, 1996; Rabasa & Benard, 2015; Roy, 2002). However, a careful analysis of the data from this study shows that none of these factors has had a decisive impact on the increase in the level of jihadist affectation detected in Ceuta and Melilla as of 2013. The truth is that the three previously mentioned risk factors (high proportion of Muslim population, problems of precariousness/marginality in their Islamic communities and the existence of second- or third-generation Muslims), already defined the social reality of Ceuta and Melilla long before there was any detention of suspects involved in activities supporting

jihadism. It is very possible that the existence of those risk factors would have ended up facilitating the emergence of the jihadist problem in Ceuta and Melilla, and that their influence needed a long time to come to fruition. However, in scientific terms it is necessary to assume the intervention of some other variable that, in interaction with the pre-existing factors, could have functioned as a trigger of the emergence of jihadist militancy detected from 2013. Moreover, to the extent that neither city studied has undergone any social change that can be clearly related to the advance of jihadism, we will have to seek answers in their external circumstances, or in the general parameters of evolution of the jihadist phenomenon. Thus, the most important recent change observed in this respect has been the wave of mobilization of jihadists to Syria and Iraq, which began in 2012, and whose figures are unparalleled, with estimates pointing to a minimum of 25,000 foreign terrorist volunteers moving to these two countries until the end of 2015 (Institute for Economics and Peace, 2015, p. 45). This trend has involved some thousands of people born or residing in European countries, including several hundred departures from Spain. The fact that many of these volunteers who left Spain were mobilized by disjointed jihadist networks in Ceuta or Melilla shows that the increase in vocations and jihadist activities in those cities was closely related to the conflicts in Syria and Iraq. Like other urban areas and localities in Europe for the same reason (The Soufan Group, 2015), as of 2013, Ceuta and Melilla became authentic hotbeds of jihad volunteers.

But how can we explain that the jihadist mobilization to Syria and Iraq had more resonance in Ceuta and Melilla than in most Spanish cities? Without discounting the influence of factors already discussed, it is likely that the most important cause has to do with another distinctive feature of the two cities, namely, the sharing of a border with Morocco, one of the countries that since 2012 has sent the greatest number of foreign terrorist volunteers to Syria and Iraq – about 1,500, according to figures from the Institute for Economics and Peace (2015, p. 46) mentioned earlier. It is also no coincidence that several of the Moroccan cities highlighted for their contribution of foreign combatants to these two open conflicts are located near the border with one or another of the two cities studied, specifically: Castillejos, Tetouan, Rincón and Tangier, near Ceuta, and Nador, near Melilla (Casqueiro, 2014; Cembrero, 2014b). To this must be added the fact that several of the volunteer-sending networks dismantled in Ceuta and Melilla also operate in Morocco, counting among them members who resided in those Moroccan cities or travelled frequently to them. In short, all this evidence is consistent with the hypothesis that the transformation of Syria and Iraq into a new epicentre of global jihadism, and the consequences that this has had on Morocco and on some localities close to Ceuta and Melilla, has worked as the main catalysing element of the recent increase in the presence of jihadists and their activity in these two cities.

Conclusions

The image of Ceuta and Melilla resulting from the study described in this chapter is that of two micro-scenarios that, despite having been exposed to a risk higher than

that faced by other regions of Spain for many years, have only recently experienced a sudden and substantial increase in their levels of affectation by the jihadist problem. The study also supports the idea that, apart from its geographical position in North Africa, no other attribute or internal and distinctive problem of the cities studied has been as influential on its level of jihadist militancy as the open situation in the Near East from 2012 and its particular impact on several cities located nearby in Morocco. This conclusion, together with the data and arguments that support it, has important theoretical consequences, both for the validation of the territorial risk assessment model of extremist influence proposed in the initial part of this chapter, and for the understanding of the evolution of the jihadist phenomenon.

The application of this model to the analysis of the territories of Ceuta and Melilla and the contrast with the data obtained in the subsequent empirical study shows that, despite collecting a large number of relevant indicators, the ability to assess the real risk of extremist involvement is limited, at least for the two cases studied here. The limitations in this respect come from the exclusive attention of the model to the characteristics of the territories to which it applies, without considering other factors of an exogenous nature whose influence on the emergence of extremist people and groups can be decisive.

Regarding the evolution of the jihadist threat, this study on the cases of Ceuta and Melilla seems to show that the incidence of that phenomenon on specific territories is clearly affected by the interaction between endogenous and exogenous factors, local and global, in concrete geographical spaces, rather than the predominant or exclusive effect of one or the other. In other words, regarding the conditions that propitiate the durability and extension of the jihadist problem, both the opportunities and inherent problems in the scenarios and specific geographical environments are as relevant as those that derive from globalization.

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5 From classic terrorism to jihadist terrorism

The evolution of the type of prisoners linked to jihadism in Spain

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Methodology

In the preparation of this study we have sought a preferably practical approach linked to the perspective of how the phenomenon of the jihadist radicalization is perceived by the prison professionals who have most contact with the prison population. This takes into account the information provided by sixty internal surveillance officers assigned to three different prisons, with whom semi-structured interviews were conducted in which they answered homogeneous questions concerning the conduct of inmates linked to jihadism. In addition, the direct observation of more than forty inmates linked to jihadism or subjected to special surveillance as they were considered radicalized or susceptible to radicalization was undertaken. In addition, we took into account information from three inmates linked to Operation Nova who at the time were on trial in the National Court. It should be noted that the author's professional experience results from more than fifteen years spent in departments dedicated to the custody of this type of inmate and that during his work he has carried out participating observation of the prison population that includes inmates prosecuted or convicted of jihadist activities as well as Muslim inmates linked to common delinquency. In the latter case, attention has also been paid to the Muslim prison population not subject to special surveillance to see if they were subject to possible processes of radicalization. In this sense it has been important to establish individual and group behaviour as specific aims of observation as well as observation of the use of common and, above all, private spaces (cells). Finally, we found many parallels in our conclusions with those of Farhad Khosrokhavar's study on radicalization in prisons in the case of France (2013), particularly in matters relating to the absence of large radicalization structures, preference for small-scale radicalization and the absence of external evidence of radicalization.

Summary

Traditionally, the classic terrorist organizations to which we were accustomed in Europe and Spain reproduced their structures in prisons, which they considered an advance in the development of their activity. Twenty years after the appearance of jihadist terrorism in Spain, the entry and behaviour of inmates linked to

this phenomenon in our prisons is not similar to the terrorist organizations we knew. As compared with the closed collectives linked to organizations such as GRAPO and ETA, who were determined to seek different treatment from the prison authorities, and which functioned (and still do) as homogeneous groups with very refined organizational structures, the Spanish prison population linked to jihadism does not present definite and clear characteristics. Equally, our control system is based on tools that are ambiguous and subjective, which involves an important element of prejudice when it comes to tackling the problem of monitoring this phenomenon and can give rise to a possible feeling of resentment in the target population.

The jihadist prisoner in Spain: a new phenomenon

The first arrests resulting from the conviction of individuals implicated in jihadist activities in Spain date back to 1995, when Gebrid Mesaud was arrested in Barcelona returning from France after a failed arms delivery operation, and 1997, when the forces and state security bodies arrested individuals of Algerian origin linked to the Armed Islamic Group (GIA) in Barcelona and Valencia, respectively, which at that time in Spain was mainly engaged in the logistic activities of financing and proselytizing. Over the years and with the evolution of jihadist terrorism, we would see the entry into Spanish prisons of inmates linked to the Salafist Group for Preaching and Combat and, later, new inmates related to jihadism were linked, either through real or virtual ties, to Al-Qaeda (and its supporters). Finally, the leading role in the last three years has been taken by the inmates linked to Daesh. The last twenty years (1997 to 2017) have seen the emergence of a jihadist cell inside prisons (disarticulated in Operation Nova in 2004). Similarly, there has been an evolution in the organization of jihadist terrorism and its structures and, at the same time, there has been a development in the type of inmates linked to this form of terrorism.

Prisons in Spain, like many countries in the world, traditionally constitute a further front for the development of the activities of terrorist groups, so that the entry of their members into prison is a risk included in their calculation of probabilities. As a result, terrorist organizations design schemes for planning and conducting terrorist activities, recruiting new members or engaging in indoctrination (Cuthbertson, 2004).

For the Spanish penitentiary system, the presence of inmates linked to terrorist activities was by no means a new phenomenon. For more than four decades, Spanish prisons have held prisoners of two very strong terrorist groups, ETA and GRAPO, and others of lesser importance, linked to briefer nationalist groups such as Guerrilla Army of the Galician Peoples Ceive and Terra Lliure. The emergence of terrorism in Spain and the phenomenon of radicalization in prisons, on the other hand, did constitute a novelty for the Spanish penitentiary system, where radical proselytism was an unknown phenomenon, and the distance between the political prisoners of ETA and GRAPO and the rest of the penitentiary population marked the respect shown to them. However, the new jihadist terrorism did see prisons as a perfect field for recruiting new members in

Europe (Leiken, 2005). This was particularly so in Spain, where it was discovered that some of the members of the cell that perpetrated the attacks on the suburban railways in Madrid on 11 March 2004, causing nearly 200 deaths, had been radicalized in prison. The same year also saw the dismantling of a new cell formed in prison and so revealed the prison system's lack of preparation to manage this phenomenon (Gutiérrez, Jordán & Trujillo, 2008). The need to deal with it forced the Spanish Penitentiary Administration to react, which went from denying the phenomenon to the adoption of a series of measures that were carried out by Instruction 04/08 of 30 July 2008, and then to the creation of the so-called Monitoring and Control Groups, regulating their composition, functions and structure through a confidential protocol of sixteen pages.[1]

The legal regime of these groups was established by Royal Decree 419/2011, 25 March amending the Penitentiary Regulation approved by Royal Decree 190/1996, 9 February. This normative change was mainly due to the need to regulate the procedures of security, control and prevention of incidents caused by highly conflictive or maladapted inmates. There was thus a legal endorsement of these procedures, which were in turn understood to be within the wider field of general security policy. With this regulation it was finally seen that what happened in prisons could affect the general security of the state. The penitentiary system was therefore understood as a pillar of what should be an information and intelligence system that could contribute to improving the prevention of activities related to terrorism and organized crime. This Regulation established the possibility of articulating the appropriate measures for the control of inmates who presented certain profiles that required intense control. This Royal Decree thus came to give legal coverage to the existence of the File of Special Follow-Up Interns without the inclusion of a person in it, implying the application of a prison system different from that which should be applied to it by regulation.

The last step taken by the administration in relation to the problem of jihadist radicalization in prisons has been the approval of the so-called Programme for the Prevention of Radicalization in Penitentiary Establishments, approved by Instruction 8/2014 of the General Secretariat of Penitentiary Institutions.

It is important to point out the differences between jihadist groups and the ETA and GRAPO groups of prisoners, who used to reproduce organizational and control structures in the prisons that mimicked those of the original terrorist groups. These organizational structures ensured the cohesion of the prisoners and were clearly hierarchical and specialized, and the members of the group usually had no relationship with most of the rest of the prisoners. The communication channel was unique, upward and downward. Thus, these structures were very successful in maintaining the ideological discipline of these prisoners and avoiding the failure of individual reinsertion policies (Buesa, 2012, pp. 3–15).

This was totally different from the jihadist prisoners in Spain; for them we cannot even use the word 'collective' in the sense of a structured and organized

1 Specialized groups of prison officers monitoring radical proselytism in prisons.

group. On the contrary; the main case concerning a jihadist network in Spanish prisons (the network of Operation Nova) was a clear example of a group without clearly defined structures and with an opportunistic rather than structural character, whose gestation and recruitment was based largely on situations of chance, on informal relations outside the typical norms of the functioning of organizations based on principles of hierarchy and formality typical of conventional terrorist groups. In short, we cannot speak of 'collective' in the sense given to the ETA and GRAPO prisoners as traditional terrorist organizations. Therefore, when we think of jihadist networks in prisons we must think of networks, with very few elements of a formal organization. They are, fundamentally, grids, with all their advantages and disadvantages. On the other hand, the prisoners of ETA or GRAPO, even showing their solidarity (more feigned than real) with the other prisoners, maintained a clear distance from them and did not contemplate the rest of the prisoners as likely to contribute potential candidates to the organization.

Unravelling the myth: jihadist prisoners do not constitute an organized collective

Contrary to what happened with GRAPO and ETA, prisoners linked to jihadist activities do not constitute a structured and organized collective. Another relevant distinction is that for ETA and GRAPO, the claim of the status of political prisoner for its members was one of the defining signs of its members in prison, and seeking to obtain recognition of its character as a group distinct from the rest of the prison population was a constant demand for each organization. In this sense, the prisoners of both bands claimed their status through a whole liturgy, which was manifested in their relations with officials and with the administration. For ETA prisoners, for example, this included the way of signing any petition to the centre's management, attempts to have senior prison staff as interlocutors (so trying to avoid dealing with officials responsible for their direct supervision), their way of dressing, the decoration of their cells or the carrying out of protests – more symbolic than effective (such as not taking prison rations on certain days to protest against their dispersion from the Basque Country from where they came, or not going down to the exercise yard for the same reasons) – were all attempts to make themselves visible to the prison authorities and even to the rest of the prison population, whom they usually called 'social prisoners', that is, not political prisoners, as they saw themselves. They initiated protests that did not involve any serious risks (such as hunger strikes), and with the passing of time they have become mere anecdotes that create no greater difficulties for the administration than bureaucratic red tape. In the same way, ETA prisoners maintained a cold and distant relationship with the officials.

On the contrary, jihadist prisoners in Spain do not have the character of a homogeneous group. The composition of the prison population linked to jihadist terrorism has much to do with the organizational structures that this type of terrorism adopts abroad. Thus, if we take as reference the data from the Ministry of the Interior for the year 2016 (Spanish Ministry of the Interior, 2016b), we see that many of the twenty-four operations carried out against jihadist terrorism only detained one or two

people. This, translated into the penitentiary world, means that there are a series of people linked to an ideology, but not necessarily linked to the same organizational structure, nor linked to each other.

As a general rule, jihadist inmates, both convicted and in pre-trial detention, tend to have a fairly open and relaxed attitude towards surveillance officials[2] and other prison staff. They usually deny that they belong to any type of jihadist group (normally they say that it is a police set-up) and they even reject violence (and condemn it), while saying that it is not proper for Muslims to attack innocent people. They are not usually demanding and when they ask for something, they usually do it politely. On the other hand, they do not have the external support of ETA inmates, who have important political, social, legal and economic support outside the prison, which guarantees the possibility of receiving visits from relatives and friends, contact with the outside, the assistance of lawyers and economic support that allows them to buy goods in the prison shops or to request articles from outside through the Demand Service[3] of each prison. In contrast, the economic situation of jihadist prisoners tends to be more precarious (as it is in many cases for their families), they are less likely to receive visits than ETA inmates (mainly for economic reasons, although on other occasions for lack of family or personal roots in Spain) and, sometimes, they do not have pocket money for the commissary (the canteen).

In addition, this finding that the group of jihadist prisoners held in Spanish prisons is not an organized and hierarchical group is accompanied by a profound change resulting from the evolution of the phenomenon of jihadist terrorism. Thus, three periods of time can be distinguished that involve, in turn, transformations in the prison population linked to jihadist activity.

Between 1995 and 2004, the main group was the Algerians. These networks were highly internationalized, networked, flexible and integrated into higher structures. The leaders of these networks in Spain had direct and real contact with leaders of other networks, and even with the ideological and operational directions in London. Those detained in these operations were already experienced and integrated into the GIA[4] from the outset. They were, therefore, flexible and grid-form networks, with professional members with operational

2 As an anonymous officer who had met in various prisons with Soubi Kunic, Bachir Belhakem (Operación Apreciate and Operación Nova), Mazari Djilali (Operación Nova) and Abdelmajid Bouchar (11M) said, 'None of them admitted any militancy whatever or supported them to obtain different treatment. They were always cordial and it was difficult for them to cause problems connected to the daily routine of a Section'.

3 This a service within the Penitentiary Regulations that enables prisoners to acquire permitted goods from outside the prison through a regulated procedure.

4 Group Islamique Armée (Armed Islamic Group). In the 1990s, an internationalisation of the Algerian conflict occurred, and many of the members of GIA who fled to European countries made contact with members of groups from other countries such as Tunisia, Libya or Egypt and whom they also met in Europe. All of them (Gunaratna, 2002) were characterized by a firm commitment to jihad, but from a local perspective. This ideological sympathy gave rise to the emergence of an international jihadist network. The network was greatly influenced by the Algerian conflict, which enabled these networks to spread across Europe.

experience acquired previously and with multiple real (not virtual) contacts with other cells and with the group's leaders. It is necessary to emphasize at this time the group formed by the escapees from the Syrian regime of Hafez al-Assad in the 1980s (Marco Mañas, 2009). Some 500 Syrians came to Spain, some of whom had been in the Muslim Brotherhood. There were also individuals with strong ideological backgrounds who were already committed and experienced militants. They soon engaged in proselytizing and recruiting combatants to intervene in Bosnia. At this point in the life of the cell, international contacts would begin, mainly promoted by the Spanish-nationalized Syrian, Mustafa Setmarian (alias Abu al-Suri). Once the leader, Sheikh Salah, had moved to Pakistan, Abu Dahdah (Imad Eddin Barakat Yarkas) took the lead. Abu Dahdah had contact with the jihadist nucleus installed in London, around the Finsbury Park Mosque, and also with other cells, like the one linked to the GIA dismantled in Operation Fox and directed by Boualem Khouni. In a final phase, the cell tightened its ties with Al-Qaeda, thanks to the good relations maintained with Abu Qatada and Mustafa Setmarian. Abu Dahdah, on the other hand, had financed operations planned and carried out by the Algerian Djamel Beghal. Once the Abu Dahdah network was dissolved, the Moroccan subgroup of the dismantled cell constituted the leaders of the cell responsible for the 11 March attack on the suburban railway, and were among those who fled to the town of Leganés and committed suicide there. They included Allekema Lamari, a survivor of Algerian networks, who was arrested in 1997 and who had become even more radicalized during his stay in prison. The influence of the Islamic Moroccan Combatant Group and Central Al-Qaeda in these attacks was evident. This period is characterized, therefore, by the entry into prison of inmates with experience in combat and clandestine life, belonging to very professional, international networks and with real contacts between their leaders. This meant that many of the inmates who were imprisoned for activities related to jihadism came from networks and so that entailed the entry of a relatively large groups of inmates, in respect of whom the policy of dispersal was applied by different prison centres.

Between 2004 and 2013 a substantial transformation in the type of jihadist activity and those involved in it began to take place. Thus, until 2008, the influence of consolidated and structured organizations (mainly related to Al-Qaeda in the Islamic Maghreb, Al-Qaeda in Iraq and Central Al-Qaeda) still prevailed. However, from 2008, more and more operations began to be conducted by unrelated actors. This resulted in the entry into prison of less experienced and important individuals and hierarchies with jihad organizations and structured networks.

The period between 2013 and 2017 has brought important developments in the characteristics of people linked to jihadist terrorism in Spain and who therefore enter prison with significant differences compared to the previous period from 1995 to 2012. There was a considerable increase in the presence of Spanish nationals detained and imprisoned, as well as converts, and a notable increase in women linked to jihadism and a younger population detained in police operations. The presence of Spaniards is explained by the

introduction of jihadism into the autonomous cities of Ceuta and Melilla and by the existence of a second generation of immigrant Muslims who have acceded to Spanish nationality. In terms of age, as already indicated, there is a widening of the base of recruitment of jihadism from below, in the case of the population bands below fifteen and nineteen years and between twenty and twenty-four years old (Reinares & García-Calvo, 2016, pp. 21–23). This has been reflected in Spanish prisons by the presence of internal FIES 3[5] (related to terrorism) under twenty-one years of age, which according to the prison legislation must be subject to a specific treatment, even more so if they are in a closed regime, as is usual in these cases. The testimonies of supervising prison officers often emphasize the inmates' immaturity and lack of experience in the prison world when compared to other prisoners of their age who are in prison for common crimes.

With regard to gender, a very significant number of very young women have been admitted to prison compared to the previous period. Those detained for activities related to jihadism and who find themselves interned in Spanish prisons have an average age of almost ten years younger than their male counterparts. The testimonies of the officials in charge of their custody indicate that they tend to behave in a non-conflictive way and that they are often characterized by a certain personal immaturity.[6] The incorporation of women into the ranks of jihadist organizations has occurred in Spain in the context of the current mobilization linked to the conflicts in Syria and Iraq and to the emergence of the Islamic State, or Daesh (García-Calvo, 2017, pp. 2–6), as the main reference organization. This perception of immaturity, spoken of by officials interviewed, is consistent with the strategy of Daesh to recruit women whose identity is still in the process of formation, making them especially vulnerable to the adoption of this extreme and rigorous view of the Islamic creed. In fact, prison staff in charge of their custody often distinguish between recruiters (those who qualify are more outgoing and sociable) and those who have been recruited (who are described by the staff in charge of their supervision as introverts, very timid and at times with family problems).[7] On the other hand, none had a criminal history, so this was their first contact with the reality of prison.

5 FIES is the acronym for Fichero de Internos de Especial Seguimiento (Dossier of Specially Monitored Inmates). It is a dossier that includes inmates who have to be subject to special supervision.

6 'What caught my attention was how young she was and how she behaved with extreme shyness'. Evidence from an anonymous officer about a young Muslim prisoner who had wanted to travel to Syria. 'She used to be a girl who had problems with her family, who did not know what she would do when she left'. Testimony from an officer about a young Spanish convert who had tried to travel to Syria, converted by her recruiter.

7 The testimony of the supervising officers for a young converted prisoner who had tried to travel to Syria, and who had told them a story full of personal and family problems, is also significant.

The future? The invisibilization of jihadist radicalization processes in prisons

When we talk about the problem of jihadist radicalization in prisons, probably heavily influenced by the scale of the phenomenon in neighbouring countries like Belgium and France,[8] with Muslim populations overrepresented in their penitentiary systems, we tend to think that these processes involve numerous groups of inmates and the existence of highly organized networks. The penitentiary reality in Spain, however, seems to indicate otherwise (*El Confidencial Digital*, 2016). As we may observe in Table 5.1, of the jihadist activities that have led to the development of a police operation in Spain inside the prisons (a total of five) with the intervention of the judicial authority, only one of them had come to create an authentic network, perfectly organized and structured, composed of an appreciable number of individuals. The rest of the cases have normally involved only one individual and activities that did not require great preparation or the gathering of important resources for their execution.

Programmes for the prevention of jihadist radicalization in prisons in Europe, and therefore in Spain, tend to rely mainly on external evidence, fundamentally linked to the behaviour or physical appearance of individuals as basic detection tools. However, this type of tool, probably very useful until a little more than ten years ago (the case of Operation Nova, for example, was characterized by the existence of numerous external signs of radicalization in many of the members of the network), are too ambiguous and not very decisive in practice. The recruitment processes of the classic terrorist organizations (basically ETA and GRAPO in Spain) were those of a classic recruitment structure, top-down, promoted by the organization itself and in no case produced within prisons. On the contrary, when we think of processes of jihadist radicalization in prisons, we think instead of horizontal recruitment processes and alien terrorist organizational structures (at least purely and formally). Here, what matters are the group dynamics of peers and, therefore, informal social networks. And prison dynamics that allow the intense coexistence between individuals, the formation of groups, victimization or the search for solutions and justifications in a traumatic situation like the entrance into prison will also be very important. All this makes prison an ideal space for recruitment and proselytism, but it is the very fact that known prison dynamics are used that causes this phenomenon to pass completely unnoticed.

There is a tendency, when speaking of processes of jihadist radicalization, to approach the problem by studying them as if they are well-articulated and complex processes, with well-defined phases that are depended upon to continue the fulfilment of goals according to a perfectly defined programme.[9] In the same way, it is

8 In prisons close to the big French cities, the proportion of Muslim prisoners can reach between 50 and 70%.

9 The manual of Abu Amr Al Qa`idi, *A course in the art of recruiting*, follows this model (trans. 2010). It is a text of 44 pages, which establishes the profile of ideal candidates for recruitment and those that should be rejected. The phases of the process are also set out: knowledge, closeness, introduction to religious concepts, indoctrination and finally the creation of a cell.

Table 5.1 Police Operations against Jihadists inside Spanish Prisons

Date	*Penitentiary Facility*	*Prisoners Detained*
March 2005[1]	Ceuta	Two detainees in preventative prison for planning an attack on the Algeciras-Ceuta ferry.
October–November 2004	Topas, Bonxe, Puerto 1, Almería, Villabona, A Lama, Teixeiro, Zuera and Córdoba	Operation Nova 16: the detainees met in prison and formed part of a network that intended to attack the National Court.
October 2015[2]	Segovia	Two arrested for sending a letter to the Popular Party threatening to attack it in the name of Daesh.
November–December 2015[3]	Segovia	A prisoner arrested for recruiting and persuading prisoners to join Daesh.
December 2016[3]	Valdemoro (Madrid)	A prisoner who had made threats of an attack against the prison of Palencia.

Notes
1 Yoldi, J. (2005).
2 *El Mundo* (2015).
3 *El Mundo* (2016).

assumed that the recruitment processes are directed to a series of candidates that meet ideal characteristics. On the contrary, penal measures, in spite of their advantages, also have important disadvantages, such as the lack of intimacy, permanent supervision by surveillance officials, limited access to religious literature or radical audiovisual media,[10]difficulty in carrying out activities in groups etc.

It is prison dynamics and the awareness by the possible actors of a process of radicalization that they are in a controlled environment with important limits of all types (physical separations, difficulty in the possibility of communication between inmates, possible informers etc.) that makes the radicalization process something that has to be adapted to the limitations of the environment and of the population that can be recruited and captured.

Therefore, it will not be a process of radicalization like those that are usually described in the theoretical models, but will depend on the use of informal communication channels, generally oral and improvised. It cannot be otherwise, since the environment obliges actors to limit and prioritize recruitment actions. The preference for the individual *dawah* (proselytizing for Islam converts) is logical since, based on the victimization that characterizes most of the prison population, it has the potential to thrive in this environment. An individual

10 Recruitment manuals usually recommend a series of specific readings and also involve the use of specific audiovisual material from known radical clerics. All this material is theoretically difficult to obtain in prison.

dawah allows a close personal relationship between recruiter and candidate and also allows the message to be adapted to each individual and for the candidate's progress to be carefully monitored. It presupposes that a discrepancy cannot arise within the group, or allows the recruiter's arguments to be debated, while clearing any doubts about the candidate; it also allows the introduction of concepts of jihad that must be kept hidden from the supervision of the Penitentiary Administration and, on the other hand, allows a margin of safety and inconspicuity, since it does not involve the formation of groups (something that is always easier to detect).

This type of *dawah* is perfectly compatible with the way in which prisoners relate to one another. It is usual that two people who share a cell or who are of the same nationality maintain a close relationship and do all kinds of favours for each other. The companions of the exercise yard or cell influence the other inmates, and the fact that an inmate is integrated into another small group of inmates with similar characteristics is also a logical part of life in prison. The group will only begin to attract attention when it tries to gain control of the module (in order to control drug traffic, paid destinations, mobile phones etc.) or when it begins to pose a problem for compliance and maintenance of the penitentiary regime. The case of Operation Nova is very indicative of why the future of the processes of radicalization involves avoiding the attention of the penitentiary authorities if it is to be successful, since the abusive occupation of common spaces, the formation of a group with numerous personal and postal contacts (up to 412 letters sent between members of the network) and confrontation with supervising officials[11]– at the same time as the defence of a radical ideology was not concealed – inevitably raised all the alarms. The adoption of informal structures that vary their methods and avoid attracting attention is the most intelligent and logical response to a controlled environment such as the penitentiary (López Torrijos, 2014, pp. 14–17).

Despite all this and the inconvenience that a prison environment implies in the development of recruitment activities, it is no less true that such a lax system as Spain's offers multiple opportunities to avoid supervision and surveillance. Going to the socio-cultural modules or to the sports centre, participating in matches on the football field, going out to chat rooms or meeting in the infirmary are ways of communicating outside formal and controllable channels; in fact, there can be dozens and even hundreds of daily contacts that are difficult to record. The sending of messages or letters abroad or even the possibility of

11 The Judgment of 6/2008 of the Criminal Court of the National Court refers to the confrontations of the group formed in the prison of Topas in June 2004 with supervising officers due to their proselytizing activities. Abdelkrim Bensmail, a prisoner in Vilabona and condemned for membership of GIA, also led confrontations with prison officers, uttering threats and expressions such as 'I tread on your laws and regulations since the only Law is that of Allah' and 'I will do whatever is necessary to fulfil it'. He also influenced other inmates until he succeeded in making them demand a Muslim diet and pray with him, as well as maintain confrontations with the officers that the inmates considered racially motivated.

making use of the call codes of other inmates[12] are goods susceptible of being exchanged for products of the commissary or making payments abroad to relatives or the service provider.

On the other hand, we must conclude that the processes of radicalization will avoid being conspicuous and will depend very much on the concept of opportunism and taking advantage of the circumstances. Time will sometimes be limited and discourse may not always have the depth that is supposed to a process of such grave personal consequences as that of radicalization. Prison entails limits and attitudes that once called attention, such as wearing traditional attire or a beard, religious routine or confrontation with regulations and prison authorities, but now these are very unusual attitudes. The emergence of numerous groups linked to radical proselytizing activities does not seem to be the most likely future trend in Spanish prisons, or of those countries in its immediate surroundings. Quite the contrary, what is predictable is the opposite tendency, the will to go unnoticed. Likewise, the tendency of an inmate to get rid of religious literature when observed or the fact that books tend to circulate among inmates of a module make it difficult to track inmates whose profile may be striking. The processes of radicalization will be invisible and will sometimes be undetectable. In this sense, the theory of radicalization 'on a small scale' is very interesting (Khosrokhavar, 2013, pp. 288–290), that is, the processes of radicalization will be based fundamentally on close relations between individuals (he who radicalizes and he who is radicalized) which entail the existence of micro-nets rather than the formation of larger groups outside the prisons.

Radicalization in prisons, as Khosrokhavar asserts, changes in scale and nature with the processes of radicalization that occur abroad. Those who work in prisons know how true this statement is. We can add that radicalization can be promoted by very common problems in some European penitentiary systems, like the Spanish or the French, such as overpopulation, lack of monitoring (for example, in Spain it is normal for a single officer to have up to 100 inmates in his custody, as well as rotations of officers or the transfer of prisoners between different modules and even between different prisons, so officers can hardly have a deep knowledge of the people in their charge). The reality is that the tendency is for the processes of radicalization to go unnoticed because their actors will avoid conflicting attitudes and confrontations with the penitentiary authority, while at the same time it will not be normal for large groups of inmates to form in connection to these processes.

12 The inmates had an identification number (NIS) assigned to them. In order to make telephone calls they had to obtain authorisation for the telephone numbers they wished to call by presenting the identification, and they also had to present the contract of a telephone line or a prepaid ticket. On occasions a FIES inmate was detected using the NIS of another inmate. This was not frequent but is difficult to detect since in some departments prisoners make dozens of calls a day and officers have problems in verifying the frequency with which an inmate enters the telephone cabin (in theory, ten calls a week are authorized).

New answers to an evolving phenomenon

Detection of radicalization criteria based on external clues should be reviewed

The manuals prepared and distributed by the European penitentiary administrations among their personnel (as is the case in Spain of the Ministry of the Interior's Instruction 8/2014 on the New Programme for the Prevention of Radicalization in Correctional Facilities or the joint manual used by Germany, France and Austria), set out criteria that may well have been valid in the scenario of ten years ago, but do not even contain cultural or religious references used by jihadists for their benefit.[13] To this day, however, they can be considered to have value, but only as a secondary and complementary tool. Emphasis on religious practice, behavioural change, group integration or having religious literature are criteria that are becoming less and less likely to be useful because individuals susceptible to radicalization know they are monitored. Likewise, the possession of religious books, even of authors like Ibn Hanbal or Ibn Taymiyya, does not in itself imply a sign of radicalization. In fact, even among inmates in prison for their connection to jihadist activities, the non-possession of radical material is usual. Almost all of the religious literature circulating in prisons is harmless[14] and limited to copies of the Qur'an, texts on Hadith, Qur'an Commentaries, selections of suras of the Qur'an or similar works. This is also the focus on religious material circulating in French prisons, where Khosrokhavar's research yields the same result; the texts written in Arabic and reviewed by this researcher only found traditional religious material without any radical connotation. The possession of these books is not even indicative that their possessors have a deep knowledge of them; sometimes they do not even have sufficient knowledge of Arabic culture to understand the text. It is counterproductive to categorize an inmate as susceptible to radicalization according to this criterion (and it is something that is often done), both in the sense of fomenting the victimization of the affected inmates and in placing people under supervision who lack interest, with the consequent waste of resources. In addition, these are criteria loaded with an element of ambiguity and excessive subjectivity.

13 In the Islamic tradition, the *taqiyya*, called *kitmān* in the Shiite sphere, is the act of dissimulating one's religious beliefs when one fears for one's life, those of one's family or for the preservation of the faith. It is most often used in times of persecution or danger.

14 When speaking of the edition of the Qur'an and its printing in and for Spain, it will depend on whether one is speaking of the original version or of translations. In the first case, it is clear that they usually come from foreign countries, especially from Lebanon, Saudi Arabia, Egypt, Turkey and Morocco. Of these, Lebanon and Egypt are the countries with the most publishing houses, in general. However, in Spain, many Qur'ans in their original version come from Morocco. The translation to Spanish that is edited and disseminated from Saudi Arabia is the work of a Spanish convert, Abdelghany Melara (also published by the Spanish editorial *Nuredduna*). This is used by Centro del Rey Fahd, the institution that now invests most money in the translation, edition and promotion of the Qur'an, for the translation of the Holy Qur'an in its Spanish edition.

We must rely on a proactive system of control and monitoring rather than relying on obsolete criteria for categorizing radical internal assumptions into categories

The Spanish system for the prevention of radicalization is based on the classification of inmates affected by radicalization processes in different categories, depending on whether they are convicted or prosecuted for activities related to jihadist terrorism or are not linked to activities related to jihadist terrorism, but inmates whom recruiters or their collaborators consider susceptible to radicalization or recruitment. Except for the first group (which logically must be included in the FIES file), the inclusion of the other inmates in the classification groups, sometimes based on rather subjective criteria and not very well determined, may involve distracting resources necessary for the surveillance of other inmates and equally put the individual subject to such surveillance on guard, as well as labelling (on occasion without justification) an inmate, with the negative consequences that that may have. A proactive surveillance system should be used to cover all possible contacts of the FIES inmates (Spanish or non-Spanish), keeping the most permanent surveillance possible on any inmates who have come into contact with the at-risk population. The system currently suffers from a bureaucratization based on the monitoring of individuals classified in groups according to their supposed degree of radicalization and whose control is also performed on the basis of control sheets that were intended for ETA inmates and for their habits of life and institutionalized protests. This requires the introduction of a new culture of active and non-passive safety. However, good practices based on the knowledge that the surveillance officers have of the personnel in their charge should be the essential basis of a system that must be based on prevention.

The need to equip the monitoring and control groups with adequate tools to carry out their functions

Bearing in mind the growing difficulty in detecting the radicalization processes, due to the tendency already explained of concealment and non-formation of large groups, the information of recording communications, financial transfers, postal correspondence etc. becomes highly relevant in the absence of visible and determinant external signs of radicalization. It is imperative to start computerizing all the records that have to do with the communications of the inmates with the outside world and vice versa, as well as the financial movements both from outside the prison inwards, and the reverse. At the same time, due to the volume of information to be processed,[15] the introduction of computerized data analysis and integration tools is vital, as well as the introduction of data mining in order to process and integrate the volume of data generated by the prison population. This is of special relevance because the quantity of data that the Penitentiary

15 In a population of some 51,000 inmates there are some tens of thousands of postal addresses, telephone numbers or bank transfers to control.

Administration handles is enormous and there are neither methodologies nor tools for the analysis of that data that would surely bring many surprises. The absence of a true database sometimes makes it impossible to take into account information that may have some kind of relevance. It is worrying to know that there are certain records of information that only work at the level of each prison and that are not interconnected, so an individual writing to inmates distributed in different prisons goes undetected. We must bear in mind that the prisons of the Spanish state house in total about 60,000 inmates.[16] If we think simply of the numbers of authorized telephones, money transfers, persons authorized to communicate etc. we are speaking of hundreds of thousands of items of data that are not being treated or properly exploited.

Compiling a catalogue of radical material circulating in prisons

There will come a time when it is necessary to draw up a catalogue of publications, symbols and other resources of radical content that have been found in Spanish prisons since the creation of the monitoring and control groups. Moreover, that catalogue, as well as informing the staff of the penitentiary centres about the material whose possession may radicalize their possessors, would allow officers to know which groups have influence in prisons, or at least which have most sympathizers. It would also make it possible to know if there are peculiarities in these activities according to the geographical areas in which the prisons are located or according to the nationality or other personal circumstances of the radicalized individuals. Furthermore, it would serve to try to determine which groups try hardest to introduce their ideology into prisons. It is not possible to speak in a generic sense of radical texts[17] without defining what they are. The Spanish penitentiary administration suffers in this sense from a total lack of response by talking about radical material without specifying or defining what that material is. If we take into account that, according to the figures given by the General Secretariat of Penitentiary Institutions, more than 1,500 inmates susceptible to radicalization have been monitored, some conclusions should have been drawn. To speak of a massive control of inmates without specifying the indications or the guidelines by which this control is decided on is to base the control of the population at risk on extremely ambiguous and subjective criteria. It is necessary once and for all to define who are considered radical preachers, what books are radical and if it is necessary to provide the religious literature that the inmates demand.

16 The statistics of the Secretary General of Penitentiary Institutions dependent on the Spanish Ministry of Interior in February of 2015 gave the total number of inmates in the state of Spain as 65,342, and 56,072 if we include only the prison population dependent on the General Administration of the State (Central Administration).

17 The author of this text has only been able to find two books that are normally in the literature to which Muslim prisoners have access, one on the life of Ibn Hanbal and the other refering to Ibn Taymiyya.

Promotion of initiatives aimed at promoting knowledge of a tolerant Islam

Without reaching the extreme of countries in which de-radicalization centres have been established, such as Saudi Arabia, Yemen, Singapore or Indonesia, it would be a good idea to adopt measures that foster the knowledge of a moderate Islam and that enable the inmates to have a proper knowledge of Islam, so that their religious convictions cannot be manipulated. This could be done through talks given by moderate clerics or facilitating access to books that present a vision of Islam as distinct from extremism. Even classes of Arabic and the Qur'an could be taught with emphasis on those passages that promote tolerance and reject any violent approach to the interpretation of Islam. It should be noted that the Penitentiary Administration is failing to undertake this important job because it is not meeting a basic need of the Muslim prison population. If we consider the statistics prepared by the Andalusian Observatory, linked to the Union of Islamic Communities of Spain, as at 31 December 2015, 88% of prisons lacked Muslim religious assistants and 99% of them lacked authorized Muslim volunteers. Nevertheless, it is estimated that a year later there were about eleven Muslim religious assistants in the Spanish prisons that depended on the state, according to Riay Tatary (Garbajosa, 2016), President of the Islamic Commission of Spain, a number that in any case is clearly insufficient if we take into account that seventy-two prisons and thirty Social Insertion Centres depend on the state. It is a vacuum that must be filled as soon as possible. Studies in prisons show that Muslim religious assistants do not pose a risk of radicalization, but quite the contrary. It is the penitentiary system itself and specifically the institutional abandonment, the lack of Halal food or in general the ignorance of Muslim religious guidelines that are an element that exacerbates the possibilities of radicalization. Thus, this slowness of the Penitentiary Administration promotes an image of 'Islamophobia', denounced by the Andalusian Observatory, which when speaking of the penitentiary institution denounces discrimination against Islam when compared to other religious denominations.[18] This is also a feature of the French prison system, which had only eighty Muslim religious assistants for a prison system with a clear over-representation of Muslim inmates (estimated to be 50% of the prison population) (Khosrokhavar, 2013). The Spanish Penitentiary Administration, through Instruction 2/2016, presented a 'Framework Programme for Intervention in Violent Radicalization with Islamist Inmates'(Spanish Ministry of the Interior, 2016a) which in a few months proved to be ineffective in view of the fact that experts considered that the de-radicalization of these people required a period of five to seven years. On the other hand, perhaps they had to begin by implementing programmes of demobilization and eliminating violent conduct. But before planning such ambitious initiatives,

18 A Declaration of the Observatory, when speaking of the religious attendance in prisons, is forceful in declaring, 'Some religious attendees' proposals, with preparation for social reintegration, are not authorized or are revoked by the state prison administration without any explanation whatever, even though they fulfil all the legal requisites and regulations, which makes one suppose that there is a great deal of prejudice against attendees who move in marginal spheres to help the unfortunate'.

it is vital to choose measures like the proposals that at this point are basic. To do otherwise is to start building the house from the roof.

De-radicalization initiatives taken by the administration should pay special attention to younger inmates and women

The prison staff has observed that this type of inmate is usually very receptive in dealing with prison officers. In the case of young men, the impression we have received from the testimony of the prison staff interviewed (both supervision and treatment) who are in direct contact with them is that they are inmates with little awareness of their situation and with very little knowledge of the prison environment, so that gathering positive factors would enable a useful intervention with them. In the case of women, the impression is that in many cases they are very young and subject to the will of third parties (relatives or acquaintances), often without having been able to make decisions independently. In other cases, these young people often have family problems. All this encourages us to propose what are considered to be priority intervention groups by the areas of prison treatment directed at groups of radical inmates or those susceptible to radicalization.

Exchange of prison information between Member States of the European Union

Often persons with a police record in other European countries and sometimes with prison records from their stay in prisons in other Member States enter Spanish prison centres. One only has to think of the numerous inmates of Belgian and French nationality who profess the Muslim religion who are in Spanish prisons. There are established mechanisms for the exchange of information between police forces from different countries. The main tool of this cooperation is the European Police Office (Europol),[19] which is a central element of the internal general architecture of European internal security and which has Community rules based on Articles 33 (customs cooperation), 87, 88 and 89 of the Treaty on the Functioning of the European Union (TFEU). However, and in spite of the regulation of the European Penitentiary Space and the existence of the European Prison Rules,[20] the collaboration between prison

19 www.europarl.europa.eu/atyourservice/es/displayFtu.html?ftuId=FTU_5.12.7.html.

20 Through the initiative of the Parliamentary Assembly of the Council of Europe (PACE), those rules were reformulated at the end of the following decade through the new Recommendation nº R (87) 3, 12 February 1987, of the Committee of Ministers on the European Prison Rules with 100 principles drafted as a guide for the forty-seven Member States of the Council of Europe. With the change of the century and taking into account the important social changes that had influenced significant developments in the field of criminal law in Europe over the previous twenty years, the authorities in Strasburg considered that the Recommendation of 1987 should be totally revised and updated to reflect the changes produced in criminal policy, the condemnatory practices and the management of prisons in general in Europe; for that reason Recommendation Rec (2006) 2 of the Committee of Ministers of the Council of Europe to the Member States, on the European Prison Rules, was adopted by the Committee of Ministers on 11 January 2006; it contains 108 rules in total, which are applied to persons in preventive imprisonment or who are deprived of liberty under a conviction.

systems with regard to information on prisoners which may have relevance not only in terms of security, but also on aspects on health or penitentiary treatment, has not been developed. To explain it graphically, the Spanish penitentiary system may be 'blind' with respect to a Belgian inmate detained in Spain for a crime against public health and who, having been in prison in Belgium, may well have been the object of attention of the Belgian penitentiary authorities because of their radical behaviour. We can also give the example of a French Muslim inmate who, having been hospitalized in a Spanish prison where he had maintained a network of extortion that reached several modules of the prison, had been extradited to a French prison from which he continued to maintain contact with inmates in the Spanish prison. In both cases, the exchange of information would be relevant and perhaps we should move forward in the framework of Community legislation in relation to a European penitentiary file that allowed the exchange of sensitive information that may affect the security of prison systems or the general security of Member States, but with the appropriate legal regulation and the appropriate legal guarantees. The European Security Agenda has led the European Commission to present 'The fight against radicalization in penitentiary centres: exchange of experience between Member States to develop guidelines on mechanisms and programmes to prevent and combat radicalization in prisons and to contribute to rehabilitation and reintegration' as a measure in which cooperation between Member States can add significant value. If the development of joint programmes and protocols to prevent or at least reduce the risk of radicalization in prisons is considered, perhaps it is time to advance in the standardization of processes by creating an information collection system that maintains common criteria and computer tools for all Member States as far as possible.

Conclusions

The phenomenon of jihadist radicalization in Spanish prisons has evolved at the same speed as global jihadism. In spite of this, we can expect it to adopt a low profile and develop silently. This makes the criteria on which we traditionally rely to detect the radicalization process, such as its external indications, the training of groups or confrontation with prison authorities, are increasingly less valid to deal with this problem. If we do not explore new ways like those outlined above, we run the risk of basing any new warning system on ambiguous variables that may have the opposite effect and not the reliability necessary to ground the control of people by itself. The moment has come to create true relationships of cooperation and exchange of information of prison intelligence and to apply true intervention and assistance for the population at risk.

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PART II

Legal and political responses to the challenges of radicalization and recruitment of jihadists and foreign fighters

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6 The European security agenda in the fight against terrorism

José Luis del Castro Ruano

Introduction: European citizens' perception of terrorism

Between 9 and 18 April 2016, 30,000 citizens were surveyed for the special Eurobarometer on Europeans' perceptions of the fight against terrorism (European Parliament, 2016). A few days before – on 22 March 2016 – Brussels had suffered terrorist aggression and other European states had previously been attacked. Perhaps these facts explain why 69% of respondents believed that the fight against terrorism by the European Union was insufficient and 82% wanted more action from the EU. According to this survey, the fight against terrorism should be the EU's priority, followed by the fight against unemployment, against tax fraud, immigration, protection of the external borders and the environment. Forty per cent of respondents considered the risk of attacks high (at between 8 and 10 on a scale of 1 to 10).

Subsequent to this macro-survey, terrorist attacks have continued to occur in Europe, even changing their nature and in the instruments used to carry them out so that the population's perception of vulnerability has increased at festivals or sports, political or other types of event where a large number of people are concentrated. The so-called Islamic-based global terrorism (Reinares, 2003), an expression for the new terrorism (Antón-Mellón, 2017), has become an explicit threat to Europe's security. It is a threat not connected to any specific state, whose response must be tackled by the states and built at the community level with the simultaneous use of different instruments of police, judicial, legislative, intelligence, diplomatic, social and religious control and repression and so on. It is guided by the values that have always characterized the 'European model of the fight against terrorism' (Fernández Tomás, 2005), also made explicit in the Global Strategy for Foreign Policy and Security of the European Union:

> We will work in the fight against radicalization, expanding our partnerships with civil society, social agents, the private sector and victims of terrorism, as well as through intercultural and interreligious dialogue. And *most importantly, the EU will live up to its values* internally and externally: *it is the best antidote we have against violent extremism*. We will also continue *to*

> *develop an anti-terrorist cooperation that is respectful of human rights* (. . .) (emphasis added).
>
> (European Union, 2016, p. 16)

In recent years, the fight against terrorism has become a recurring theme of the EU's agenda. On 28 April 2015, the European Commission approved the European Security Agenda (ESA), the Community's main strategic document in the fight against terrorism, which sets out the principal measures to be taken to confront threats to security. This paper will focus on the development and application of the ESA, as well as on the latest EU instruments for the achievement of the so-called Security Union.

The European security agenda as a strategic framework for joint action

The ESA is the framework document that sets the EU's security strategy for the period 2015–2020 (European Commission, 2015a). It expresses the centrality that the fight against terrorism occupies today in the European agenda, something that was not always the case; until 11 September 2001 (9/11), more than half of the Member States lacked legislation explicitly designed to combat terrorism. Only Germany, Italy, Spain, the United Kingdom, France and Portugal had legislation in that sense; in other states, acts of terrorism were prosecuted as common crimes (Glennon, 2008). The ESA is the last rung of an instrument that was progressively incorporated into the community framework in the wake of a terrorist attack (Castro Ruano, 2011). After the attacks of 9/11, the fight against terrorism would occupy a central place in the community agenda (Ramón Chornet, 2002). Terrorism would no longer be considered a domestic phenomenon and would adopt a community approach, although without forgetting that internal security is a state competence (Article 4.2 of the TEU and Articles 72 and 84 of the TFEU). Cooperation is necessary since we enjoy a union without internal borders, where the internal security of one Member State is that of the whole.

The ESA is conceived as a shared agenda between the Community institutions and the Member States, to which it provides added value; it lays the foundations for promoting the exchange of information between EU agencies and state police and judicial authorities. To this end, the Schengen Information System is the preferred information exchange instrument; in addition to the Europol Secure Information Exchange Network and the European Criminal Records Information System (ECRIS) which are used by twenty-six Member States. It also aims to improve operational police cooperation through the Standing Committee on Operational Cooperation (COSI) provided for in Article 71 of the TFEU and composed of officials of the European security forces. EU agencies – mainly Europol and Eurojust – as well as joint investigation teams bring together police officers from different states that carry out cross-border cooperation work. The ESA proposes synergies and better coordination between existing operational

cooperation instruments. It identifies three priorities for the five years of the 2015–2020 period: a) terrorism and radicalization with special attention on the phenomenon of foreign terrorist fighters and others such as the financing of terrorism, security at borders etc; b) organized cross-border crime and other serious forms of crime, such as the smuggling of migrants and trafficking in human beings, weapons, drugs, financial crime etc; and c) cybercrime.

At present, there are already certain instruments and procedures in all these areas; the ESA intends to establish the bases for a maximum exploitation of all of them, establishing new ones when necessary and proceeding to more effective coordination and joint action strategies, all with the aim of increasing the internal security of the EU. The ESA will be the main document that will lay the foundations for the replacement of the Internal Security Strategy (ISS) of 2010.

The renewed strategy for internal security of the EU for the period 2015–2020

The ISS (Internal Security Strategy, 2010) is a common action programme to develop links between internal and external security, given their interdependence. Thus, the external relations of the EU must also be consistent with the principles of the ISS. This strategy, which will now be renewed, was prepared following the wake of the Foreign Policy Strategy – *European Security Strategy. A secure Europe in a better world of 2003.* It is a political document that identifies common threats ('the greatest challenges for the internal security of the EU') for the Member States – terrorism in any of its forms, organized crime (trafficking in human beings and trafficking in drugs and weapons, child pornography, economic crime and corruption), cybercrime and cross-border crime, in addition to violence itself, such as youth violence or that which takes place at sporting events, natural disasters and disasters caused by human beings, among others. The ISS also focuses on the principles and values that must be respected in the fight against these threats to security, inspired by the Charter of Fundamental Rights: human rights and fundamental freedoms, international protection, the rule of law and privacy, the protection of victims of crime, transparency, social inclusion and the fight against discrimination, as well as solidarity among the Member States.

The strategy establishes certain lines of action to guarantee the internal security of the EU in the coming years. From its reading it could be assumed that it establishes a kind of common internal security policy; however, this statement would seem disproportionate since the Treaty does not define such a policy, but only recognizes the existence of different sectoral policies on border control, asylum and immigration, in terms of visas etc. (Arteaga, 2010). The document also tries to make explicit the European security model, consisting of the relationship between security, freedom and privacy, cooperation between the Member States and with the Community institutions, and favouring the participation of all sectors that have a role to play in their protection (whether political,

social or economic). Moreover, it seeks to deal with the causes of insecurity, and not only the effects.

The European Council of June 2014 called for the renewal of the ISS of 2010, based mainly on the ESA, which provided the fundamental content of the Renewed Strategy for European Union Internal Security 2015–2020, approved by the Council on 16 June 2015. This renewed strategy gives continuity to the actions designed by the first ISS, especially in what is referred to as the 'European Security Model', although it emphasizes the importance and the fundamental role that the Permanent Committee of Operational Cooperation should play in terms of Internal Security (COSI) to guarantee the promotion and strengthening of operational cooperation in matters of internal security within the EU. COSI was created on 25 February 2010 and its function is to encourage and intensify the coordination of operational actions among the EU Member States in matters of internal security. This coordination refers mainly to police and customs cooperation, to the protection of external borders, as well as to judicial cooperation in criminal matters corresponding to operational collaboration for internal security. It will also facilitate the coordination of different European agencies with competences in the field of justice and internal affairs (Europol, Eurojust or Frontex), guaranteeing synergies in their activities. In addition, in the event of a terrorist attack, COSI will assist the Justice and Home Affairs Council in application of the Solidarity Clause provided for in Article 222 of the TFEU; it will also be responsible for preparing the specific priority measures to implement this renewed strategy, as well as periodically evaluating its execution.

Finally, we must note the link that the renewed strategy between internal and external security includes, relying on developing synergies between the Common Security and Defence Policy and the Area of Freedom, Security and Justice and proposing a joint reading between this strategy and the Global Strategy for the Foreign and Security Policy of the European Union, drafted and approved in 2016 and which will also focus on terrorism (Alonso, 2016).

Towards a genuine and effective Security Union

The Security Union (European Commission, 2016b) finds its foundations in the ESA. Although internal security is the responsibility of Member States, a common European approach is required to tackle the fight against terrorism. The aim is to build security infrastructure at the European level so that state authorities can cooperate effectively. The Security Union involves joint actions, even going beyond the idea of cooperation to converge in the collective protection of the security of the EU as a whole. This is illustrated with an example from the document itself:

> In the Security Union, a police officer of a member state must have the same reflex to share relevant information with his counterparts on the other side of the border as he would have to do with his counterparts in his country (. . .)

> This requires a change of culture at the level of the Member States, so that their police authorities, up to the last police officer, acquire the habit of sharing information and cooperating systematically. A sense of common responsibility, and the willingness and ability to turn it into action are essential if we are to overcome the fragmentation that terrorists and criminals exploit so effectively.
>
> (European Commission, 2016b, p. 3)

This communication, which illuminates the Security Union, develops a road map that lists eight priority areas in the fight against terrorism in which specific measures have been approved.

1. Confronting the threat posed by foreign terrorist fighters. For this purpose, it proposes to have a record of its movements shared among states and community agencies. It is common to hear after each attack that their perpetrators were known radicalized individuals, with movements detected and reported on police databases or intelligence services, or were even pursued by police authorities of some countries but unknown to those of others. The Schengen Information System, the largest security database in Europe, which includes more than 64 million descriptions introduced by twenty-nine Member States, is a perfect tool for this.
2. Preventing and fighting radicalization. Initiatives have been launched, such as the creation in 2015 of the Centre of Excellence of the Network for the Sensitization of Radicalization, that support states in the work of tracking on the Internet, programmes to that effect inside prisons and educational programmes for young people that promote understanding between cultures etc.
3. Punishing terrorists and those who support them. The prosecution of complicity with terrorists, incitement, material and logistical support etc. was already subject to attention under current legislation, but the new directive in the fight against terrorism refines this issue, as we will examine later.
4. Improving the exchange of information. The adoption of the new Europol Regulation (which we will examine later) is a decisive step in turning this police agency into a centre for the exchange of information between EU police authorities.
5. Preventing access to firearms and explosives by terrorists, for which the Action Plan to that effect and the revision of the Directive on control of the acquisition and possession of weapons have been developed. The biggest problem in this regard is the illegal trafficking of arms facilitated by smuggling in some regions bordering the EU.
6. Preventing terrorists from accessing funding. There is an Action Plan for this, in addition to the Anti-Money Laundering Directive.
7. Protecting citizens and critical infrastructure to reduce the vulnerability of large public events, transport infrastructure etc.
8. Ensuring greater coherence between the internal and external dimensions of security measures. To this end, the EU, through EEAS and the Coordinator of

the Fight against Terrorism, encourages the adoption of anti-terrorism associations with certain countries such as Jordan, Lebanon, Morocco, Tunisia and Turkey.

In short, the concept of a Security Union refers to the opportunities offered by the adoption of a community-wide approach to maximize security, using police, judicial and border control tools and exploiting the synergies and interoperability between all of them, minimizing the gaps resulting from interstate fragmentation in the mechanisms of control and prosecution that terrorist organizations take advantage of to act across borders. The importance given to the Security Union is evidenced by the associated institutional dimension. Thus, in 2016, a specific portfolio was created in the hub of the Commission and organized in its different facets. It works in coordination with the Commissioner for Home Affairs and the Counter-Terrorism Coordinator in the fight against terrorism and organized crime.

Action plans

The Commission has adopted various action plans leading to compliance with the ESA and the Security Union. There is the *Plan of action against illicit trafficking and against the use of firearms and explosives* (European Commission, 2015b), whose objective is to improve the detection, investigation and seizure of firearms and explosives destined to terrorist ends. Its key aspects are: restricting access to firearms and illegal explosives; increasing operational cooperation by strengthening controls at the external borders as well as police and customs cooperation through controls on goods arriving in commercial traffic and/or passenger transport; improving the exchange of operational information; intensifying cooperation with third countries to reduce illegal importation of firearms and access to explosives in the EU (attention is particularly focused on the western Balkans, the Middle East and North Africa, as well as Turkey and Ukraine). Most of the measures included in this Action Plan have already been executed. For example, the revision of the Firearms Directive (European Parliament and European Council, 2017b), to prevent legal access to military assault weapons and to expand the range of prohibited weapons and/or restricted use.

Next is the *Plan of action to intensify the fight against the financing of terrorism* (European Commission, 2016a), which has the objective of aborting the sources of financing of terrorists. A central aspect is the fight against money laundering, and, for this purpose, the amendment of the Money Laundering and Terrorist Financing Directive – the fourth Anti-Money Laundering Directive, adopted on 20 May 2015 – is proposed, which allows, among other issues, the criminalization of money laundering, as well as the fight against illicit movements of cash related to terrorism and crime. For example, although the EU regulation establishes that a declaration must be submitted to enter or leave the EU with an amount equal to or greater than 10,000 euros, there is no legal

provision on money sent by mail, transport or courier, so that it is easy to resort to sending cash through these means to transfer money. The current norm also does not allow the authorities to withhold cash when movements of amounts below the referred threshold that may be related to illicit activities are detected. In order to correct these and other limitations, a new regulation is proposed regarding the illicit movements of cash that broadens the scope of the current one.

As another aspect of the Security Union referring to the external dimension of the fight against terrorism, the EU is establishing joint work plans with other countries. Thus, there is the joint work plan with Tunisia reached in 2017, the most advanced expression of dialogue with third parties; but there are also established dialogues with Saudi Arabia, Russia, Egypt, Israel etc. We must also mention the anti-terrorism experts featured in different EU delegations and/or in the embassies of the Member States. There are experts of this nature in Bosnia-Herzegovina, Chad, Lebanon and so on.

Europol: new regulation and new instruments

In the field of police cooperation, the European Police Office Europol has been in operation since 1999 to assist state police in the prevention of and fight against international crime. It provides exchange of information and data in criminal analyses, but it does not have full operative functions (it does not carry out executive activities such as surveillance, follow-ups, telephone interventions etc.). Its sources of information are provided by the security and intelligence bodies of the Member States. Created under the legal form of an international convention among the Member States, subsequent protocols have expanded its functions and operational capacity – Europol became an EU agency. The form of a convention was a very rigid legal basis with limited powers and two important restrictions: any issue had to have a community dimension and affect two or more Member States; in addition, Europol could only act in certain types of crimes. Despite its transformation into a Community Agency, abandoning the intergovernmental regime, Europol continues to be an instrument facilitating interstate police cooperation, without developing its full potential due to its own limitations and the distrust of national police.

The succession of attacks on European territory has evidenced the persistent deficiencies in the treatment and exchange of information. Inter-police cooperation often fails to prevent the commission of attacks or does not make it possible to detain their perpetrators, even in situations where perpetrators were found in the files of the police authorities of some Member States but not of others. Europol is the main instrument for operational cooperation for this purpose, with the Europol Information System (EIS), Europol's central database for the exchange of information and criminal intelligence, containing information related to international crime, suspects, convicts and 'Potential criminals', criminal structures, crimes and the means used to commit them.

On the basis of Article 88 of the TFEU, the Europol regulation was reformed in May 2016 (European Parliament & Council, 2016b). The new regulation, in force since May 2017, grants new powers to the European Union Agency for Europol Police Cooperation, reinforcing its mandate against terrorism and cybercrime; it will facilitate the creation of specialized units to deal more quickly with emerging threats, simplify the establishment of centres such as the new European Centre against Terrorism and facilitate the exchange of information with private companies so that, for example, Europol can request the removal of content published by terrorist groups from Facebook, Twitter, Google or Microsoft. The new measures come accompanied by strong safeguards to guarantee data protection and democratic control of these activities, foreseeing the creation of a Joint Parliamentary Control Group with representation from the European Parliament and the State Parliaments (Avramopoulos, 2017), establishing a control procedure in terms of data protection, communication of possible violations of personal data to the interested party (Article 35 of the Regulation), right of access to information (Article 36 of the Regulation) and a mechanism to address possible complaints of citizens affected by personal data processed by Europol (Articles 37 and 47). In accordance with its respective status in the area of freedom, security and justice, Ireland notified its desire to participate in the application of this regulation, Recital 72– not so the United Kingdom or Denmark (Recitals 73 and 74), that did not participate in its adoption or were not linked to its application.[1]

The Europol European Centre for Combating Terrorism was launched in 2016 to increase synergies between the different anti-terrorism and organized crime authorities in the EU. It consists of various entities, such as the Internet Content Notification Unit, the Terrorism Financing Tracking Programme between the EU and the USA, the European Data System on Explosive Devices and so on. This centre is the cornerstone of the EU's action against terrorism; it acts as a nucleus of information and cooperation in support of Member States, analyses terrorist activity, assesses threats and supports the development of operational plans to

1 The Danish people rejected participating in the new Europol in a referendum held in December 2015; Thus, Denmark left Europol in May 2017, when this regulation came into force, although a Cooperation Agreement with the Agency will allow it to participate in the exchange of information, preserve its access to the Community database and maintain the essential cooperation between the two. It will have an Observer status that will also allow it to participate in high-level meetings of the Agency, but without voting. In addition, the Danish authorities should, from now on, justify their requests for information, which is not necessary for the countries that make up Europol. On the other hand, Theresa May indicated in November 2016 her intention to participate fully in Europol. It is well understood that such participation is conditioned by the evolution of Brexit, a question that some anticipated would end up having a negative impact on the design of the EU's fight against terrorism after Premier May's threat to condition its collaboration in this field on the success of the negotiations; the succession of attacks on British territory throughout 2017 (on 22 March on Westminster Bridge, on 22 May at the Manchester Arena, on June 3 in London again) probably induced May to announce an unequivocal British commitment to the communitarian anti-terrorist fight, something which it neither wants nor can free itself from (Ramón, 2018, pp. 108 and 121).

combat terrorism. It is helping to increase the flow of information shared between the forces and security bodies that work in the fight against terrorism, adapting the infrastructures to the needs of all the services that work in this fight.

The European Border and Coast Guard

With the creation of the European Border and Coast Guard, according to the new 2016 Regulation (European Parliament & Council, 2016c), a step forward will be taken in the joint and integrated management of the EU's external borders. The objective is to acquire more effective border control instruments to improve the fight against irregular immigration and cross-border crime, as well as to guarantee a high level of security within the EU, facing threats such as terrorism (Acosta Sánchez, 2016).

The European Border and Coast Guard is formed by the European Agency for the European Border and Coast Guard (hereinafter referred to as the Agency) and the state authorities in charge of border management, including coast guards insofar as they carry out border control tasks (Article 3.1 of the Regulation). It was launched on 6 October 2016 without the participation of the United Kingdom, Ireland and Denmark, but with Switzerland, Iceland, Norway and Liechtenstein.

This new agency with new powers extends the work of the previous Frontex (European Agency for the Management of Operational Cooperation in the External Borders of the Member States, created in 2004), which it will replace (although the new agency will provide regular monitoring of the external borders, monitor migration flows and carry out risk analyses covering all aspects of their integrated management, assess their vulnerability, identify shortcomings, provide technical and operational assistance to states; the Agency will also be called Frontex). It must contribute to the prevention and detection of serious crimes of a cross-border dimension, such as migrant smuggling, trafficking in human beings and terrorism (Recital 19), although it would be a mistake to magnify the control of borders as an instrument for the prosecution of terrorism. It can be effective in certain cases, but let us not forget that the attacks committed in European capitals in recent years have been perpetrated mainly by Europeans.

The Agency will provide regular monitoring of the external borders, monitor migration flows and carry out risk analyses covering all aspects of their integrated management, assess their vulnerability, identify shortcomings and provide technical and operational assistance to states to strengthen their ability to control external borders; it will be able to organize and coordinate rapid border interventions and deploy teams of the European Border and Coast Guard as a rapid reaction contingent. The Agency shall have the necessary staff for its deployment in any Member State within five days of joint operations or rapid border interventions; for this purpose it will have a permanent body formed by at least 1,500 border guards and other competent personnel (Article 20.5). Thus, the EU is endowed with a permanent response agency in situations of border

overflow, instead of relying on the uncertain voluntary contributions of states, as has been the case until now.

An important innovation of the new Regulation concerns the protection of fundamental rights. The lack of respect for human rights in the operations developed by Frontex had been criticized. The European Border and Coast Guard has to guarantee the protection of fundamental rights in carrying out the tasks it develops (Article 34.1). The Regulation introduces a complaints mechanism that enables any person directly affected by the actions of personnel participating in an operation of the Agency, and who considers that their fundamental rights have been violated, to file a complaint with the Agency (Article 72.2).

The European Border and Coast Guard increases the powers of the former Frontex. The most relevant and controversial change is the possibility of intervening directly in the territory of a state if deficiencies in the control of its external borders endanger the functioning of the Schengen Area:

> When the control of the external borders becomes so ineffective that it could endanger the functioning of the Schengen area, because: a Member State does not take the necessary measures (. . .) or a Member State that faces a specific and disproportionate challenge in the external borders has not requested sufficient assistance from the Agency (. . .) The Council, acting on a proposal from the Commission, may adopt without delay, by means of an implementing act, a decision setting out the measures to be taken by the Agency for the purpose of mitigating these risks and in which the Member State concerned is required to cooperate with the Agency in its application (. . .) In order to mitigate the risk endangering the Schengen area, the Agency may (. . .): a) organize and coordinate rapid border interventions and deploy teams of the European Border and Coast Guard of the rapid reaction contingent (. . .); b) deploy teams of the European Border and Coast Guard within the framework of support teams for the management of migration at critical points; (. . .) d) deploy technical equipment; e) organize return interventions.
>
> (Article 19)

In other words, this Regulation provides the new Agency with a binding intervention capacity for a state affected by a situation of border vulnerability and it may intervene directly in the face of state inaction, whether due to lack of will or capacity. Some have seen in it the possibility of moving toward an 'Authentic European policy of external border management' (Acosta Sánchez, 2016, p. 11). Others, however, are more pessimistic about the real possibilities of the Agency's ability to impose the application of certain means to a Member State without its acquiescence (Fernández Rojo, 2017).

In short, we are facing another step in the construction of the area of freedom, security and justice, which is the integrated control of the external borders. However, two things must be made clear: despite the ambitious name of 'European Border and Coast Guard', we are not dealing with a true European

body of borders with direct executive powers to control the external borders of the EU. It is something more limited, although it extends the functions and competences that Frontex had previously carried out (Fernández Rojo, 2017) and, ultimately, 'the launching of operational actions will depend on the last national will to lend or transfer national contingents' (Acosta Sánchez, 2016, p. 16), since the Member States continue to be those mainly responsible for the management of the external borders (Soler García, 2017). Second, as previously pointed out, the control of external borders, albeit necessary, would not have prevented the commission of many of the attacks carried out by European terrorists, which in some cases were not even carried out by those of jihadist indoctrination.

The Passenger Name Registration Directive

In 2016 the Council adopted the Directive on the use of data from the PNR Passenger Name Registry for the prevention, detection, investigation and prosecution of terrorist and serious crime offences (European Parliament & Council, 2016a), hereinafter the PNR Directive.

PNR data are personal information provided by passengers when acquiring flight tickets and required by the airlines. They include all the necessary information for the control of reservations and are made for each flight.[2] The purpose of this directive is to regulate the transfer of PNR data by air carriers to law enforcement authorities and their treatment in order to prevent, detect, investigate and prosecute terrorist crimes. Terrorist activities often involve international travel, be it in its execution, preparation or phases of indoctrination or radicalization. Thus, the evaluation of PNR data may allow 'the identification of *persons not suspected* of being involved in terrorism offences before an analysis of their PNR data indicates that they may be involved in them, and must be the subject of further investigation by the parties of the competent authorities'. It is a kind of 'early warning' to identify suspicious flights and, thus, identify a potential terrorist in advance; for example, someone who travels from Belgium to Syria, where they get training, from where they move to another country in the region, return to Belgium

2 The Directive includes, in Annex I, the nineteen PNR data to be collected by the airlines: situation of the PNR Register; date of issue or reservation of ticket; expected travel date(s); passenger name and surname; passenger address and contact information; payment information including billing address; full trip itinerary for the specific PNR; information about frequent travellers; travel agency/travel operator; passenger's flight situation (confirmations, billing, non-appearance or last-minute passengers without reservation); split/split PNR information; general observations (including information available on unaccompanied minors under eighteen years of age, accompanying persons at departure and arrival airports etc.); information about the ticket (ticket number, date of issue etc.); seat data; information about shared codes; all the information related to the luggage; number of travellers and other names of travelers that appear in the PNR; any information collected in the advance information system about passengers (identity document, country of issue, expiration date etc.); the history of changes of the PNR data indicated in the previous list.

and repeat the itinerary later. This is known from the PNR; the police analysis may conclude that whoever makes these trips is suspect, despite having a 'normal' life, without a criminal record; but this traveller's behaviour may provoke anticipation of the commission of an attack on European soil.

According to the Directive, airlines will be obliged to provide PNR data for flights entering and/or leaving the EU (Article 2.1 also provides for the possibility of applying it to domestic flights within the EU, if the state so decides). PNR data can be used for the pre-arrival or departure evaluation of passengers in comparison with predetermined risk criteria or to identify certain persons and with a view to specific investigations or prosecutions (Article 6.2 of the Directive). The Directive also establishes the procedure for Europol's access to and transfer of such data to third countries in special circumstances; even the possibility of transmitting the data without the prior consent of the Member State from which they were obtained is contemplated, if there are 'exceptional circumstances and only if: they are essential to respond to a specific and real threat related to terrorism offenses (. . .) and prior consent cannot be obtained in due time' (Article 11.2). Air carriers must send the PNR data that they collect in the normal course of their activity to the Member State in whose territory the flight will land or from whose territory the flight will depart (Article 8.1), between twenty-four and forty-eight hours before the departure of the flight, immediately after its closure – that is, once passengers have boarded the plane and it is not possible to board or disembark passengers. Member States should establish a system of penalties applicable to air carriers that fail to comply with these procedures (Article 14).

The Directive establishes guarantees for the adequate protection of personal data and privacy and the right to non-discrimination. The European Parliament (EP) denounced a lack of guarantees on personal data in the draft Directive of 2011 and postponed its approval until they were obtained. Thus, the Directive includes a series of limitations in the transfer, treatment and preservation of PNR data; they can only be kept for five years and must be depersonalized after six months so that the interested party cannot be directly identified (Article 12); the collection and use of sensitive data, such as ethnic origin, political opinions, religious beliefs, union membership, health data and sexual orientation is prohibited (Article 13.4); each Member State will create a national control authority to manage the data, protect the fundamental rights of citizens, hear complaints submitted by any interested party and verify the legality of data processing (Article 15); the automated processing of PNR data cannot be the only basis for making decisions that have adverse legal consequences or that seriously affect a person (Article 6.5).

In spite of these guarantee measures, the Directive has been criticized, arguing that it collides with the European tradition of respect for freedoms. Many question the obsession with the PNR, when the police are so reluctant to share information; many wonder about the relevance of establishing such a complex PNR data management system, when we are unable to detect terrorists who move from Molenbeek to the centre of Brussels in time to commit an attack. It is not so much being opposed to the regulation of PNR data as to the massive collection of data of all passengers and their automatic storage and analysis that resembles

a kind of mass surveillance executed by an omniscient 'big brother'. In the EP, some groups wanted data collection to be selective and limited to suspects and/or certain high-risk destinations. The situation finally approved, they said, establishes a kind of disproportionate generalized and potential suspicion about each traveller. Many think that the CJEU will end up throwing away this directive just as it did with the 2006 Data Retention Directive declared invalid in the Judgment of 8 April 2014 because it considered that it constituted interference in the fundamental right to respect for private life, privacy and personal data protection.

The United Kingdom and Ireland decided to participate in the implementation of this directive, unlike Denmark. The deadline for the full application of the Directive is May 2018.

The Directive on the fight against terrorism

One of the last steps of the EU in this matter is the Directive on the fight against terrorism, approved in March 2017 (OJ L 88, 31.03.2017) (European Parliament & Council, 2017a). This is a consequence of the evolution of the terrorist threat (Piernas López, 2018) and aims to strengthen the normative framework to prevent terrorist acts by focusing on the emerging phenomenon of foreign terrorist fighters, which, although not new, has acquired increasing relevance in contemporary armed conflicts (Marrero Rocha, 2015). Thus, this directive fills a gap in the treatment of the terrorist phenomenon, updates the existing instruments and responds to the requirements on the subject of different international texts: Resolution 2178 (2014) of the United Nations Security Council and the Additional Protocol to the Convention of the Council of Europe for the prevention of terrorism (Convention No. 196 of the Council of Europe of 16 May 2005) adopted on 22 October 2015 and whose specific objective is to combat the phenomenon of foreign terrorist fighters. Both documents require states to criminalize journeys made for terrorist purposes, as well as their financing and organization. This Additional Protocol was initialized by the EU in 2015 on behalf of the twenty-eight Member States (something that had never happened before). Its signature necessarily implies the acceptance of the Matrix Agreement also on behalf of the EU and as a ratifying international organization, it is obliged to incorporate it into its own legal system, which justifies the adoption of a directive in this regard (Salinas, 2016, pp. 250–251).

The Council Framework Decision on the fight against terrorism of 2002 – replaced by this directive – was an important step in the fight against terrorism in the EU. For the first time, a common definition of the crime of terrorism[3] was

3 According to its Article 1.1, certain infractions can be considered acts of terrorism when they are committed to 'seriously intimidate a population, unduly compel the public authorities or an international organization to perform an act or to refrain from doing so, or seriously destabilize or destroy fundamental structures political, constitutional, economic or social policies of a country or of an international organization' (be they murders, kidnappings, unlawful seizure of means of transport,

included in the ambit of the community, which will be a first step in the harmonization, characterization and joint classification of certain practices as terrorist crimes that Member States should compulsorily incorporate into their legislations: the commission of attacks, participation in the activities of a terrorist group, financial support for such activities, provocation, recruitment and training of terrorists etc. However, it was necessary to include new activities carried out by people travelling abroad to participate in terrorism offences or to provide or receive training for this, behaviour that did not fit in the cases foreseen by the cited Framework Decision; besides fulfilling the international obligations already contracted, as indicated previously.

The Directive penalizes the making of journeys abroad for terrorist purposes (Article 9 of the Directive), the organization, facilitation and financing of such journeys (Articles 10 and 11) or participation in a training camp, as well as facilitating or receiving training for terrorism (Articles 7 and 8). It also makes it possible to improve the current rules for the exchange of information on terrorist crimes as well as including provisions to respond to the specific needs of victims of terrorism through the provision of support and protection. The Member States must transpose this Directive no later than 8 September 2018. In accordance with their specific statutes regarding the area of freedom, security and justice, the United Kingdom, Ireland, and Denmark decided not to be bound by this Directive.

The inaccuracy of many paragraphs of the Directive has been criticized, which even criminalize preparatory acts and aggravate 'the confusion between consummated crimes and preparatory conducts to a degree that is far removed from any form of execution, such as the reading of texts, possession of propaganda, training and passive indoctrination or transfer to conflict zones (. . .)' (Jiménez García, 2016, p. 291). Different civil rights organizations have expressed fear that the text would attack fundamental freedoms and have a discriminatory impact on some religious and ethnic communities, criminalizing certain public demonstrations. These organizations called on the Member States to include supplementary guarantees to respect human rights at the time of the transposition of the Directive.

Conclusions

In spite of everything, compared to other countries, acts of terrorism in Europe are scarce; 94% of the attacks and 84% of the victims of terrorism occur in the Middle East, Africa and Southeast Asia (Institute for Economics and Peace, 2017). In 2016, Iraq, Afghanistan, Nigeria, Syria and Pakistan suffered 75% of the total victims of terrorism, amounting to 30,000; of these, only 0.5% were

manufacture and illegal possession of explosives and weapons, attacks on infrastructures and/or communication systems etc.). See Framework Decision 2002/475/JHA of 13 June 2002 on the fight against terrorism, DOCE, nº L 164 of 22 June 2002.

Europeans (Gaub, 2017). Between 2006 and 2016, the security forces of the Member States detained more than 7,000 people connected to terrorist activities. Of these, 2,334 were jihadists; among them, 1,556 were finally convicted (Regalado, 2017). How many attacks were avoided with these arrests? We will never know, but the data reveal the importance of the fight against terrorism, despite the anxiety caused by each attack.

We cannot know the real, quantifiable functionality of an action programme as intensive as the one described in these pages. The community approach to the terrorist threat fits perfectly with the so-called epistemological crisis of counter-terrorism (Jackson, 2015) that assumes terrorism as something that will inevitably hit us, even if we do not know when, where, how or who. If we start from the basis of the fact that terrorism is here and will hit us at some time and place and with any element at hand (from an explosive to a car at high speed), the security measures to confront it can be endless. If nothing and nobody is safe from the potential terrorist threat, nothing and nobody will be exempt from the adoption of measures. Thus, the fundamental challenge – in addition to preventing a terrorist attack – is to avoid a weakening of the rule of law in our fight against terrorism. The analyses from the so-called critical studies of terrorism (Jackson, Breen Smyth & Gunning, 2009; Tellidis & Toros, 2015), put the accent on the social cost derived from the extension of the fight against terrorism to practically all areas of personal and public life.

> In most Western countries, measures against terrorism have become an apparently permanent and completely normalized part, among other aspects, of travel, banking, sporting events, security, surveillance police, politics, law, charities, the media, entertainment, communications, religion and education (. . .) there are so many areas of private and social life that have become subject to measures against terrorism designed to control the risk of attacks, that some have defined this process as governance through terrorism.
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> (Jackson, 2016, p. 11)

They even put the accent on the relatively low risk posed by the terrorist threat compared to natural disasters, diseases, gender violence or traffic accidents. We seem unaware that the social impact of a certain event does not necessarily derive from the effects of its quantitative dimension.

In our opinion, the conclusive reflection must be different and refer to the need to maintain the fundamental characteristic of the European response to terrorism, which is to pay due attention to the causes that originate it and not only to its effects. And we should equip ourselves with the necessary tools to face this real and increasingly present threat.

Frequently, terrorism takes root in situations of lack of democracy and fundamental rights, decomposition of the state and multiple deficiencies and where the impossibility of changing the situation is perceived – contexts and scenarios of social injustice, ethnic and/or religious discrimination, among others (Thieux, 2004). The Global Terrorism Index of 2016 reveals that more than 90%

of deaths from terrorism occurred in countries involved in some type of internal or international conflict; whilst only 0.5% of the total amount of victims of terrorist attacks were European. If terrorist sanctuaries are found in these scenarios, the way to confront them will be to contribute to the strengthening of the 'decomposed' states and to the construction of minimum conditions of sociability in those sectors of the population willing to commit terrorist acts. It is about prioritizing the preventive dimension, as opposed to the classic reactive approach.

If we want to talk about a European model of response to terrorism, it will be characterized by the existence of a multiplicity of instruments of different nature (legal, political, police, economic, social) and the concurrence of numerous actors, public and/or private, state and/or community, to face the effects of terrorist action, but also its causes. All this involves the need to adopt transversal instruments and measures: maintaining a balance among prosecution and repression to combat a phenomenon that attacks our system of freedoms, and safeguarding those very freedoms and fundamental rights. The risk lies in the fact that the succession of attacks is conditioning public opinion to demand greater measures of police repression that end by unbalancing the model.

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7 The rule of law and the fight against terrorism and radicalization in the European Union

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Introduction

The European Union (EU) has become a key actor in the fight against international terrorism during the past fifteen years. Running parallel to its development as an area of freedom, security and justice (AFSJ) introduced in the Treaty of Amsterdam (1997) but particularly fuelled by the terrorist attacks of 9/11, the EU has acted as a strong political driver and as an ever-growing coordination platform for its Member States' (MSs) actions and policies in this complex and controversial field, whose epitome is probably today represented by the fight against radicalization.

This distinctly Europeanized feature is expected not to weaken but rather to strengthen. The prominence of terrorism within the EU political and legislative agenda is paramount, as once again shown by the recent Joint Declaration on the EU's legislative priorities for 2018–2019, signed by the three Presidents of the Council, Parliament and Commission (European Commission, 2017). The Renewed Internal Security Strategy (2015–2020) already pinpointed it as priority number one, and broadly described it as:

> tackling and preventing terrorism, radicalization to terrorism and recruitment as well as financing related to terrorism, with special attention to the issue of foreign terrorist fighters, reinforced border security through systematic and coordinated checks against the relevant databases based on risk assessment as well as integrating the internal and external aspects of the fight against terrorism.
>
> (Council of the European Union, 2015)

In the same vein, the Global Strategy for the EU's Foreign and Security Policy affirms not only the need to address terrorism as an external threat but also acknowledges its profound internal-external nexus (Council of the European Union, 2016). The Juncker Commission itself decisively assumed this policy priority 'from day 1', envisaging the accomplishment of a 'genuine and effective Security Union' on whose progress it delivers a periodical report (European

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Commission, 2018)[2] and thus signals the importance and centrality of the European Agenda on Security (European Commission, 2015).

Yet, the response to terrorism has not developed without harsh criticism from a legal point of view. As part of their extensive counter-terrorism (CT) strategies, states have reinforced legal means to fight terrorism by increasing police investigative and surveillance powers, broadening criminalization and strengthening international cooperation. The impact of these measures on the fundamental rights and freedoms of persons suspected of engaging in terrorism, but also of the general public, is profound and particularly visible when formal declarations of a state of emergency have been issued.[3] In addition, the resort to military actions (the so-called 'War on Terror') has indeed blurred the lines that once organized the use of armed force between states in international society. As a result, core concepts such as international and non-international armed conflict, self-defence, combatant status, humanitarian relief personnel and so on have fallen into a grey area, often displacing legal protection for individuals or plainly violating their basic human rights.

International institutions have not been strange to this phenomenon, but part and parcel of it. By considering international terrorism as a threat to international peace, the Security Council has placed the fight against international terrorism under the remit of Chapter VII of the Charter of the United Nations, opening its tremendous legal possibilities, including the overriding legal force laid down in its Article 103. Thus, smart sanctions (i.e., addressed to individuals and non-state actors) or normative resolutions have been enacted under this legal provision. Resolution 2178 (2014) is paradigmatic as it introduces the ambiguous category of 'foreign terrorist fighters' and sets out an extensive regulation that states have to comply with in order to tackle it. As mentioned, the EU is no exception, sometimes assuming a leading role as the EU Counter-terrorism Coordinator precisely asserts with regards to foreign terrorist fighters (De Kerchove & Höhn, 2016, p. 330). Being thus deeply involved in and/or affected by this trend, the EU has been subject to those very same criticisms.

This convoluted picture has frequently been analysed using the notion of 'rule of law'. Since this concept tries to capture the balance between freedom and security within liberal societies, it seems appropriate to assess to what extent the response to terrorism has gone too far from a legal point of view.[4] Douglas-Scott

2 The next report is announced by June 2018.

3 In the aftermath of the terrorist attacks of 13 November 2015, the French Government enacted the Decrét nº 2015–1475 declaring *l'état d'urgence.* This state endured until 1 November 2017 (719 days). States of emergency may justify derogating to international treaties protecting human rights, as France did with regard to the European Convention of Human Rights. France also invoked the mutual defence clause (Article 42(7) TEU) and not the solidarity clause (Article 222 TFEU), which is another sign of the desire of states to remain as free as possible when they deem their national security at risk.

4 Even when they may be relevant, this chapter does not deal with other sociological or political perspectives, such as the overrating of terrorism as a real threat to European states and societies (Martín Rodríguez, 2017, pp. 8–12) or the assessment of CT measures of social legitimacy – for instance, the EU Project SECILE accounts for 239 EU CT measures between 2001 and 2013 casting a poor performance in either *ex ante* or *ex post facto* assessments, where the societal impacts, including negative impacts on human rights, are significantly missing (de Londras & Doody, 2015).

(2017, p. 59) even suggests adopting the rule of law to engage in a 'critical legal justice' analysis. However, the rule of law is in itself a complex notion, whose universality – sometimes sought by Western political thought – is far from proved (Hertogh, 2016). In addition, despite its common use, a genuine applicability to international law and international organizations raises many doubts (Liñán Nogueras, 2018).

Consequently, the first question to address is what the 'rule of law' means in the EU legal order. This is a pressing issue since the rule of law has taken over current European legal debate. Although the fight against terrorism is not alien to this debate (Magen, 2016; Murphy, 2012), two different topics have unleashed the 'great debate on the rule of law in the EU' (Kochenov, Magen & Pech, 2016), namely the controversial illiberal developments in certain MSs (Closa & Kochenov, 2016) and the legal articulation of the European response to the financial and debt crisis (Kilpatrick, 2015). This 'rule-of-law blossoming' has in fact shown how and to what extent the EU legal system uses and internalizes the principle of the rule of law and that it is a much more complicated question than presumed. There are two main underlying causes: the difficulty in conceptualizing the rule of law in EU law and the consequences of the particular allocation of competences between the EU and its MSs. Both are reflected in the legal mechanisms ensuring the respect of the rule of law within the EU.

The rule of law in the EU legal system

At the forefront of the difficulty of conceptualizing the rule of law in the EU lies the noteworthy diversity of national understandings. The concrete legal features of the rule of law are consequently sensitive to the different legal traditions and cultures. Concepts such as *Recthsstaat, état/prééminence de droit* or *Estado de Derecho* show these varied origins and evolutions, although they are considered 'equivalent' today.

This lack of uniformity also exists in the legal literature. As is well known, there is a lengthy doctrinal debate on the meaning of the 'rule of law' that is usually represented by opposing thin and thick versions.[5] Thin versions focus on formal features of the legal system, such as the requirement that public authorities only act through laws that are accessible, general and foreseeable – including the non-retroactivity of criminal law. In addition, individuals must be able to hold those authorities accountable and enforce their rights through access to impartial and independent courts in due process. Contrariwise, thick versions claim that those formal requirements are genuinely unfit to protect citizens

5 There is still a third strand of dialogical rule of law theories that are inspired in legal pluralism. Some conspicuous authors within this strand sustain, for a number of reasons, that EU law is self-referential and, therefore, that it does not genuinely comply with the rule of law (Kochenov, 2015; Kochenov & van Wolferen, 2018; Palombella, 2016, pp. 37–39).

against arbitrariness if they do not go hand-in-hand with some substantive requirements related to respect for democracy and fundamental rights.

Accepting that the rule of law is a concept largely dependent on its historical context (Burgess, 2017), the distance between both approaches is, in my opinion, smaller in today's European legal landscape, which seems to adhere to a sort of a 'thickened' version. This 'third version in between' agrees on a core content for the rule of law and its necessary complementarity with a democratic system and respect for fundamental rights – at least as a 'rule-of-law-enabling environment' (Venice Commission, 2016, pp. 9–10). This core content includes, at least, these six components: (1) legality, including a transparent, accountable and democratic process for enacting law; (2) legal certainty; (3) prohibition of arbitrariness; (4) access to justice before independent and impartial courts, including judicial review of administrative acts; (5) respect for human rights; and (6) non-discrimination and equality before the law (Venice Commission, 2011, p. 10; European Commission, 2014).

This 'conventional' meaning is significant because EU law does not solve the conceptual issue. Along with democracy or respect for fundamental rights, the rule of law is mentioned among the 'founding values' common to the EU and MSs in Article 2 of the Treaty of the European Union (TEU). It is a condition for admission to the EU (Article 49) and its promotion is a guiding objective of EU external action (Article 21). But nowhere in the Treaties can a definition be found of what this common value is or what content it entails, despite the fact that Article 7 TEU sets forth a procedure for preventing or correcting serious breaches of the common founding values by MSs, including, therefore, the rule of law.

It is not clear either whether this notion has the same legal implications when applied to MSs and when applied to EU institutions. Indeed, many authors point to the consequences of translating the concept of the rule of law outside the framework of a state so as to show that its content loses clarity and concreteness. Thus, a certain 'conceptual stretching' of the notion of the rule of law is noticeable in EU law (Konstadinides, 2017, p. 38), making it more difficult to reach a definition.

Those are the reasons why it is submitted that the six core components mentioned above retain utmost importance as the Court of Justice of the European Union (ECJ) has largely recognized them as general principles of EU law. In that condition, those core components pertain to primary law and bind not only EU institutions, but also MSs when implementing EU law. It may well be, as commonly stated, that the rule of law is not *a* rule of law, but through these general principles it gets actual teeth within the EU legal system because, generally speaking, a breach of any of them leads to striking down or setting aside the conflicting measure. So, as argued elsewhere, understanding how the rule of law really operates in the EU legal order requires analysing how each of those general principles is in itself conceptualized, applied and enforced in EU law, and this may involve a whole variety of legal issues that may not be common to all of them, showing that here technicality matters substantially (Martín Rodríguez, 2018).

The vertical allocation of competences between EU and MSs in the security field

The EU legal system is based on the principle of conferral (Article 5 TEU). The EU is thus limited in the objectives it can pursue and in the legal powers conferred on it to achieve them. As a result, all non-conferred competences remain with the MSs. This is particularly relevant because security is placed at a crossroads. EU competences are mainly placed in the AFSJ, which is focused on 'internal security'. According to Article 3 TEU, 'The Union shall offer its citizens an area of freedom, security and justice without internal frontiers, in which the free movement of persons is ensured in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention and combating of crime'. Articles 67–89 of the Treaty on the Functioning of the European Union (TFEU) confer significant competences on the EU, including approximation of MS criminal laws, creating judicial cooperation tools and promoting police cooperation.

However, outstanding legal caveats have been imposed to safeguard MS powers to the point of being, in my opinion, the cornerstone to understanding the former EU competences, even after the Treaty of Lisbon 'communitarized' the old third pillar, originally called Justice and Home Affairs (JHA). As almost every single EU political or institutional document acknowledges from the very beginning, the safeguard of security is first and foremost the responsibility of MSs, as stated on numerous occasions throughout the Treaties. As early as Article 4 (2) TEU – the so-called 'national identity clause' – the Treaty clarifies that the EU 'shall respect [their] essential State functions, including ensuring the territorial integrity of the State, maintaining law and order and safeguarding national security. In particular, national security remains the sole responsibility of each Member State'. This is not surprising. Frankly, in international treaties the word 'security', with many possible adjectives (public, internal, external, national and so on), is usually used for granting states waivers or derogations. States do not easily admit any international meddling when it comes to their security. EU law is not really an exception (e.g., Articles 36, 45, 52 and 65 TFEU concerning the internal market, or more clearly Articles 346 and 347 TFEU), and the AFSJ does not fundamentally change this idea since it 'shall not affect the exercise of the responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of internal security' (Article 71 TFEU). This gives EU competences a sort of 'national imprint' translated in the general absence of EU operational and/or coercive competences and the need EU measures have of 'added value'. It also explains the substantial control that MSs retain over the development of the AFSJ and very particularly over the definition of what the threats to security and the necessary responses are. Finally, it points to the repercussions that securitization has on the EU level, with other EU policies to be tainted or instrumental to security purposes (Ruiz Díaz, 2017). The European Agenda on Security or the introduction of internal security concerns in the Common Foreign and Security Policy (CFSP), including the European Security

and Defence Policy (Moser, 2017) are two remarkable examples. Thus, many EU competences are now involved in the fight against radicalization and terrorism and, therefore, the legal issues posed from a rule of law perspective vary greatly. This is especially the case of EU external action due to the fact that there remains a stark legal difference between the JHA external dimension and CFSP (Article 40 TEU). This chapter cannot expand on those questions and only the main JHA competences will be reviewed briefly here.

Approximation of criminal laws

In the first place, the EU can approximate MS criminal laws through directives establishing the minimal rules concerning the definition of certain criminal offences and sanctions with cross-border dimensions, among which terrorism is included (Article 83 TFEU). This slight harmonization of criminal law is and has proved extraordinarily relevant. EU law indeed obliges MSs to criminalize some conduct and at least apply certain degrees of sanction (so-called minimum maximum penalties), but it may also involve some important rules regarding jurisdiction and prosecution, the degree of involvement (principal, accessory, aiding and abetting, inciting and attempting), mitigating and aggravating circumstances or the liability of legal persons. Thus, EU law can profoundly influence MS criminal policies, even though their criminal legal systems remain disparate.

This is obviously a crucial competence whose exercise by the EU has been severely criticized, particularly by criminal law doctrine and human rights advocacy. The current Directive 2017/541 on combating terrorism (OJ L 88, 31/3/2017) summarizes the alleged flaws tainting previous framework decisions and, for some, even amplifies them. Three main strands of criticisms have been suggested: (a) a percolation effect undermining national legislatures; (b) a broad wording leading to incriminating vague, even immaterial conducts; and (c) a pre-emptive approach anticipating the punitive threshold in a disproportionate way, encroaching not only upon the principle of legality in criminal matters but other relevant fundamental rights (Cesoni, 2017; Murphy, 2012). It is, in fact, difficult to disagree with this general diagnosis, which is so alarming in terms of rule of law. Some moderation in the criticism is in order though:

a) Obviously, the very existence of Directive 2017/541 compels MSs to transpose its content into national criminal law by 8 September 2018 and, like any other similar international criminal law rule, restricts the margin of discretion of the national legislature. No one would dispute that this increasing criminalization blurs the identity of the real legislator. However, from a rule of law perspective, i.e., looking at the principle of *nullum crimen sine lege*, the real issue lies in assessing whether this amounts to a fundamental challenge to the mandatory democratic foundations of criminal law. Reaching this conclusion would require – putting it bluntly – rebutting the democratic credentials of the EU or, at least, of EU criminal law. This is obviously a far-fetched conclusion without seriously engaging in a much

deeper and more complex discussion on democracy, especially after the Treaty of Lisbon put criminal law approximation under the ordinary legislative procedure that places the Council and the European Parliament on an equal footing. This does not mean denying less-evident yet problematic effects of this EU law criminalizing vigour.

b) Unlike international law, EU law has arrived at an admittedly broad consensus on the definition of terrorism. This common definition has made it possible – in fact, has obliged it – to incriminate not only terrorist acts but also participation in terrorist organizations and groups as such (i.e., without regard to the commission of an actual terrorist act causing any tangible damage), also very loosely defined. In addition, it would be cynical to deny that the description of terrorist offences and of offences related to terrorist activities is, on many occasions, fairly vague. This is true and makes the earlier criminalizing vigour of EU law all the more troublesome. However, the usual allegation that this implies, again, a clear violation of the principle of legality in criminal matters due to the lack of legal certainty (*lex certa* and *lex stricta*) is somewhat misguided. Directive 2017/541 cannot produce direct criminalization (*X*, 2004; *Berlusconi*, 2005; *Advocatenvoor de Wereld*, 2007). This can only happen through national criminal law and, from the point of view of EU law, MSs are obliged to implement it respecting those legal certainty requirements. So the problems are again more subtle and relate to the terms in which the national legislator does its job, i.e., transposing the directive, and the interpretative effects that the latter might have on national courts applying the corresponding national law.

c) The pre-emptive bias of EU counter-terrorism law is certainly questionable. Title III of Directive 2017/541 defining offences related to terrorist activities is riddled with blatant examples of incriminating behaviour that are not even preparatory acts. Articles 5 (public provocation), 8 (receiving training), 10 (facilitating travelling), 11 (terrorist financing) or 12 (c) (forging or using false documents even for travelling purposes) are self-explanatory. This criminalization hubris is, in my opinion, the most concerning issue of all, since it signals a disquieting detour from well-established fundamentals characterizing modern criminal law to provide a more-than-doubtful efficacy and at the price of interfering very seriously with basic freedoms in decent democracies, especially if one bears in mind the above-mentioned extensive and vague definitions. Criminalizing those behaviours is not only relevant in itself but also, and equally important, because it brings with it investigative and surveillance powers for law enforcement agencies (LEAs) that in matters of terrorism and organized crime are usually significantly increased by admitting special investigation techniques. Criminal proceedings bring the extraordinary weaponry of EU judicial cooperation, too.

Having said that unambiguously, certain remarks need to be added. This trend is not idiosyncratic of the EU but quite the contrary, since it mirrors international society's inclinations and those of the MSs as well (a MS could always

refuse to accept this harmonization according to Article 83 (3) TFEU). Thus, the EU shows itself as an active part of a larger social picture dominated by securitization and the concomitant immoderate resort to criminal law. As has been nicely put, the EU has acted more like a 'sword' than a 'shield' (Hamilton, 2017). Nevertheless, from the point of the rule of law, the decision to criminalize conduct belongs entirely to the democratic legislature, which is bound by the respect for fundamental rights – that can only be restricted if complying with the principle of proportionality, as Article 51 of the EU Charter of Fundamental Rights (EUCFR) requires. Beyond that, deference to the democratic legislator is constitutionally due, it being difficult to contend that control over the substantive criminalization decision is different in the sense of being much stricter in MS constitutional settings (Peršak, 2018). Ultimately, it is also important to consider that criminal proceedings involve a firm set of procedural guarantees for the rights of the defence that are not absent but significantly modified when, instead of using criminal law, individual rights are restricted by means of administrative sanctions, as some EU MSs have decided to generously employ (Garbay, 2014). Those MS measures generally fall outside the scope of EU law.

Judicial cooperation in criminal matters

In the AFSJ, a key competence is conferred on the EU to facilitate judicial cooperation in criminal matters via *mutual recognition*, which operates directly between the MS judicial authorities. The latter will execute each other's decisions independently of a previous harmonization of national criminal or procedural laws due to the *mutual trust* that should prevail among the EU MSs. This is illustrated by the elimination of the double criminality requirement for a list of thirty-two criminal conducts (terrorism naturally being included) when the maximum penalty according to national law exceeds a certain threshold (certainly not very high). Mutual recognition in criminal matters poses a crucial issue from the point of view of the rule of law as to the effects and scope of mutual trust (Baratta, 2016, p. 360). The ECJ has unambiguously deemed mutual trust to be the result of the common founding values shared by all MSs and, therefore, the rule of law. This implies that a MS should presume that the other MSs abide by those values even when they act outside the scope of EU law and, consequently, it may not check, save in exceptional cases, whether the other MSs have actually, in a specific case, observed the fundamental rights guaranteed by the EU (Court of Justice, 2014, paras. 168, 191 and 192; *F.*, 2013, para. 48).

Until 2009 (through The Hague and Tampere Programmes), the EU focused on the creation of mutual recognition instruments – among which the European Arrest Warrant (EAW) stands out – whose effectiveness has been heavily enhanced by the ECJ case-law (Herlin-Karnell, 2013). Only after 2009 (since the Stockholm Programme under the regime of the Lisbon Treaty) did the EU address the serious gap, and has since enacted several directives regulating procedural guarantees and fundamental rights for suspects, detainees and

convicted persons, such as the right to a lawyer, the presumption of innocence, the right to be present at the trial and the right to legal aid (Peers, 2016). As rightly put, the 'Stockholm package' possesses a 'transformative potential' (Mitsilegas, 2016, p. 167) because of its formidable impact on judicial cooperation in the EU, as it will soon produce a level playing field across MS criminal proceedings in terms of individual guarantees. To this extent, it seems central for ensuring the rule of law in general, even if it does not solve entirely the contentious relationship between mutual recognition, mutual trust and fundamental rights (Martín Rodríguez, 2016).

In any case, the problematic functioning of mutual recognition without criminal procedural law harmonization is still present, as legal doctrine has once again shown in the European Investigation Order in criminal matters (EIO) (Directive 2104/41, OJ L 130, 1/5/2014), because investigative powers of the police and other LEAs are fairly disparate among MSs and lack common rules on the admissibility of evidence in criminal proceedings (Jimeno Bulnes, 2016; Kusak, 2016; Rodríguez-Medel Nieto, 2016), the thorniest issue being probably e-evidence – crucial for tackling current terrorism (Cannataci & Mifsud Bonnici, 2015). Such heterogeneity may gain technical relevance due to the remaining differences between adversarial and inquisitorial criminal justice systems of the MSs (Spencer, 2016). The next future praxis of EIO will be extraordinarily interesting as it inaugurates a somewhat modified mutual recognition approach that pays more attention to respect for human rights, which is welcome but not unproblematic (Bachmaier Winter, 2014).

Before the criminal proceedings stage, i.e., in the field of crime prevention, the EU can only promote and support MS actions, but legislative harmonization is excluded (Article 84 TFEU), which is of major importance in the fight against radicalization.

Police cooperation

The EU competences in police cooperation are essentially aimed at information collection, exchange, storage and analysis between LEAs, as well as establishing mechanisms and rules promoting operational cooperation between MS LEAs (Article 87 TFEU). This is also the approach of Europol – the European law enforcement agency laid down in Article 88 TFEU and Regulation 2016/794 (OJ L 135, 24/5/2016) – which the Stockholm Programme described as 'a hub for information exchange between the law enforcement authorities of the Member States, a service provider and a platform for law enforcement services'.

Thus, EU action (including Europol) in this field is heavily dependent on reliable information duly gathered and provided in time by MSs and the existence of effective information exchange mechanisms on which to ground operational cooperation; hence, the obligations incumbent upon MSs to provide and share information set forth in different legal acts;[6] the establishment of a

6 Decision 2005/671/JHA for terrorism (OJ L 253, 29/9/2005) and Framework Decision 2006/960/JHA on simplifying the exchange of information and intelligence between national law enforcement authorities (OJ L 386, 29/12/2006), the so-called Swedish Initiative.

noteworthy number of EU large-scale database and information systems to be nourished by MS authorities (SIS II, VIS and Eurodac are paramount); and the granting of access to other MS national databases (the principle of information availability) where the so-called Prüm Decision (Decision 2008/615/JHA, OJ L 210, 6/8/2008) stands out concerning DNA, fingerprints or vehicle registrations. This massive information collection and data exchange, to which the PNR will soon be added, must be pursued fully respecting fundamental rights, and, in particular, the *rights to privacy and personal data protection* enshrined in Article 16 TFEU and Article 8 EUCFR. This has been a controversial issue due to the piecemeal and unsatisfactory state of play, which was subject to bitter criticism by legal doctrine and the European Data Protection Supervisor (EDPS). Directive 2016/680 on data protection in the criminal sectors (OJ L 119, 4/5/2016)– applicable from May 2018 – has been a significant improvement, although serious concerns remain as to the limitation of its scope – e.g., MS actions outside the scope of EU law (Bonfanti, 2016) or EU institutions and the maintenance of prior EU legal acts or international agreements (EDPS, 2015). Data protection is one of the most sensitive issues posed by the fight against terrorism and radicalization in terms of respect for the rule of law (Venice Commission, 2016) and where future developments require new thorough assessments as the intended interoperability shows (EDPS, 2018).

EU law mechanisms ensuring respect for the rule of law

This complex legal picture derived from the peculiarities of the notion of the rule of law in the EU legal system and the distribution of competences between the EU and MSs has of course had a profound impact on the legal mechanisms that control respect for the rule of law by MSs and by EU institutions. If we consider this control over the rule of law, the role of the judiciary stands at its very heart, and particularly the jurisdictional powers of the ECJ.

These powers constitute the *general enforcement mechanism* that EU law applies to guarantee respect for the rule of law. As mentioned above, given the fact that the rule of law is legally translated into EU law via general principles and/or other EU primary norms (such as the Charter), this respect is to a great extent assured. The ECJ has the competence to strike down an EU measure if it contradicts any of these general principles or norms. The *Kadi* saga, even if disputable (Avbelj, 2018), is proof of this general control mechanism. This case concerned the sanctions imposed on certain individuals following their inclusion on the UN terrorist sanction lists. The ECJ held that these sanctions were imposed without respecting the fundamental rights of the individuals concerned and as a result struck them down. It is worth quoting an argument that is recurrent in ECJ case law:

> the Community [Union] is based on the rule of law, inasmuch as neither its Member States nor its institutions can avoid review of the conformity of their acts with the basic constitutional charter, the EC Treaty, which

> established a complete system of legal remedies and procedures designed to enable the Court of Justice to review the legality of acts of the institutions.
> (*Kadi v Council and Commission*, 2008, par. 281)

The data retention regime provides another example. In *Digital Rights Ireland Ltd.* (2014), the ECJ annulled the data detention directive 2006/24 on the ground that the interference caused to the right to respect for private life was disproportionate (i.e., it went beyond what is strictly necessary in pursuing the legitimate aim of fighting against organized crime and terrorism). This general mechanism reaches MSs when they are acting under the scope of EU law. In *Tele Sverige 2* (2016), the ECJ considered the data retention regulations in Sweden and the UK, as well as public authorities' access to those data in the light of fighting crime. The ECJ found that these laws did not respect fundamental rights as protected in EU law, insofar as they provided for general and indiscriminate retention of all traffic and location data of all subscribers and registered users relating to all means of electronic communication or were not restricted solely to fighting serious crime, where access was not subject to prior review by a court or an independent administrative authority, and where there was no requirement that the data concerned should be retained within the European Union. Personal data protection has also been the ground on which some international agreements with third countries have been considered to be violating EU primary law (*Schrems*, 2015; Court of Justice, 2017a; 2017b).The problematic question regarding this general mechanism lays not so much in the legal and judicial means available to enforce it, but in the definition of the EU legal standard to be applied by the ECJ and the national judiciaries, as well as its compatibility with MS constitutional standards and/or other international standards (e.g., those applied by the European Court of Human Rights). In particular, the primacy of EU law and the autonomous character of the EU legal system may result in lowering the constitutional level of protection of fundamental rights – as occurred in the *Melloni* (2013) case regarding the right to be present at the trial – or, to say the least, to confrontational situations – as the *Taricco* and *M.A.S.* cases have illustrated with regard to the principle of legality in criminal matters (*Taricco and Others*, 2015; *M.A.S. and M.B.*, 2017).

Finally, it is important to recall that the jurisdiction of the ECJ (i.e., this general enforcement mechanism) is limited in two aspects of great relevance in this field. First, the ECJ cannot legislate in CFSP matters (Article 24 TEU) except for reviewing the legality of decisions providing for restrictive measures against natural or legal persons (Article 275 TFEU), such as those referred to in the *Kadi* saga or more recently in the *Rosneft* case (*Rosneft Oil Company v Her Majesty's Treasury and Others*, 2017), hence, the need to differentiate between CFSP and the AFSJ external dimension, which was mentioned before. Second, and equally relevant, is Article 276 TFEU concerning police and judicial cooperation in criminal matters, which deprives the ECJ of 'jurisdiction to review the validity or proportionality of operations carried out by the police or other law-enforcement services of a Member State or the exercise of the responsibilities incumbent upon Member States with regard to the maintenance

of law and order and the safeguarding of internal security'. This confirms a major exception to the general enforcement mechanism that is in consonance with the distribution of competences between the EU and the MSs in terms of internal, external or national security.

The limits of the general mechanism directly point to the critical issue of respect for the rule of law in the MSs and the capability of the EU to ensure this respect outside the scope of EU law. This is addressed by a *special sanction mechanism* laid down in Article 7 TEU. As mentioned, this procedure addresses respect for the founding values enshrined in Article 2 TEU, hence the rule of law, with both a preventive and a corrective arm. In paragraph 1, the Commission, the European Parliament or a third of the MSs may draw the attention of the Council to the existence of a clear risk of a serious breach of those founding values. The Council will decide thereon by the unusually high majority of four-fifths, after having heard the MS in question, and will later follow up on the permanence of this risk.

The corrective arm is of course more stringent. The decision that one MS is seriously and persistently breaching those values is a matter for the European Council – i.e., the heads of states or governments – by unanimity and with the consent of the European Parliament, once again after inviting the MS to submit its observations. The corrective arm may end up by suspending the rights of the latter, including its voting ones. The obvious political character of this sanction mechanism is confirmed by the exclusion of the ECJ, which would be able to review the procedure but not the substantive decision (Article 276 TFEU).

As can easily be guessed, the stratospherically high level of political consensus required to launch and apply this procedure makes it quite unrealistic. The utmost gravity of the consequences has given it the deserved qualification of a 'nuclear option'. That seems appropriate; if we ever saw this procedure applied to its end, we would be witnessing a nuclear landscape, politically speaking.

At this point, and keeping in mind the recurrent rule of law concerns that have occurred in several MSs since 2012, it is almost natural that the European Commission has sought to act at an earlier stage by putting in place, not without a certain resistance by the MSs and the Council, a pre-Article 7 procedure precisely to address *systemic threats* to the rule of law in any of the twenty-eight MSs (a framework to safeguard the rule of law in the EU). This procedure is based on a continuous dialogue with the MS concerned trying to solve a problem (which is by no means an ordinary or minor one) and it is deemed to be complementary to any infringement procedure that could be brought to the ECJ in case some EU law rules were also being breached. The pre-Article 7 procedure somewhat replicates the early steps of the infringement procedure before the action is taken to the ECJ. In three stages – rule of law opinion, rule of law recommendation and follow-up – the Commission would decide whether the situation is such as to resort to Article 7. Without understating its importance, the sad truth is that, without modifying the Treaties, the powers of the Commission in this pre-Article 7 procedure cannot be more than of a persuasive nature. That is why several proposals try to explore legal ways to expand or convey the general enforcement mechanism for respect for the rule of law outside the scope of EU law.

Coming back to reality, it has to be said that until now terrorism has not played a significant or even insignificant role in the development or application of this *special sanction mechanism*. The weight of the MS security responsibilities and caveats is of course heavy to the point of thinking that a MS's actions against terrorism or radicalization in those matters remaining within their competences could unleash Article 7 or pre-Article 7 procedures are pure legal science-fiction.

Instead, the material concern has been the preservation of the integrity of the judicial system, in particular its independence, as the real key to guarantee that MSs abide by the rule of law, proving once again that EU law cannot remain unaffected by those MS developments related to the founding values occurring outside its scope. As said above, mutual recognition grounded in mutual trust poses this problematic connection in inescapable terms. To this conundrum, the ECJ has given a discrete response in the *Aranyosi* case concerning the protection of fundamental rights (*Aranyosi and Căldăraru v Generalstaatsanwaltschaft Bremen*, 2016) and showing that mutual trust does not equal blind trust (Lenaerts, 2017; Prechal, 2017). Should systemic deficiencies in this regard occur in a particular MS, other MSs' judicial authorities are not bound to execute mutual recognition unless they are assured that the fundamental rights of the individual in question will not be encroached upon. Yet, it would be an exceptional case whose requirements are quite exigent, since deficiencies must be systemic and assessed on information that is objective, reliable, specific and properly updated. In fact, this is a sort of non-contamination device as this non-recognition by other MSs' judicial authorities has no real impact in solving systemic deficiencies, but it at least precludes that other MSs are involved in them (Martín Rodríguez, 2016). It is therefore a fairly limited response.

Conclusion

As seen, the concerns about EU counter-terrorism law compliance with the rule of law are well grounded. Securitization has also taken over the EU, bringing together all its legal powers and institutional capabilities to ensure internal security against certain threats – and very particularly terrorism – in an approach dominated by MSs that still retain the chief responsibilities in security matters. This EU response has not adopted the form of a EU state of emergency, but instead has introduced extraordinary legal means in supposedly 'ordinary law', giving credence to the criticism that the EU has opted for a sort of a permanent state of emergency hardly compatible with its founding value of the rule of law that is translated into the EU legal system through general principles of law. The EU possesses a sufficiently solid general enforcement mechanism guaranteeing respect for the rule of law that mainly rests within the ECJ. Although this mechanism has slowly started to deliver some positive results, concerns about its legal limits are fully justified. Those are evident in the case of the EU external dimension, but are especially worrying when considering the possibility for the EU to ensure that MSs abide by the rule of law outside the scope of EU law. This puts extra pressure on the ECJ to assume

the highest standards in EU law – when assessing the proportionality of EU measures and their compatibility with fundamental rights – expecting them to influence MS policies and actions.

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8 National measures implementing United Nations resolutions on foreign fighters

Antonio Segura Serrano

Introduction

The foreign fighter phenomenon has recently witnessed an upsurge in relation to the Syrian war and the emergence of the Islamic State in Iraq and Syria (ISIS; or Islamic State, IS). This increase has triggered an overwhelming reaction on the part of the international community as a whole within the already existing framework built to confront the threat of international terrorism. This reaction mainly consists of the criminalization of the activities concerning foreign fighters, although there is also an approach based on the adoption of administrative measures, which in turn poses new problems from the point of view of international law.

This chapter first aims to reflect briefly on the UN Security Council measures specifically adopted to fight the foreign 'terrorist' fighter phenomenon, namely, Resolutions 2178 and 2396. Those resolutions imply that the main effort of the international community to combat this phenomenon consists of the criminalization of all foreign terrorist fighter activities. Second, from the European perspective and experience, some of the most commonly used non-criminal measures will be analysed, such as restrictions on the freedom of movement and the deprivation of citizenship. The underlying idea is that these administrative measures are not requested by United Nations resolutions on foreign fighters nor in accordance with international law norms.

UN Security Council resolutions and criminalization

Although the UN has been concerned with terrorism for decades, the emergence and growing importance of IS prompted a Security Council reaction in 2014. Resolutions 2170 and, specifically, 2178 have addressed the foreign fighter phenomenon in a comprehensive way. Both resolutions were adopted under Chapter VII of the UN Charter which means that, according to Article 25 of same, they have binding force and may even override previous international obligations pursuant to Article 103 of the UN Charter. However, the most important decision is Resolution 2178. This resolution includes two kinds of measures in what has been called a holistic approach (Van Ginkel, 2014). Indeed, if criminalization of foreign fighter activities is the main answer to this

phenomenon, alternative measures dealing with de-radicalization have also been endorsed by the Security Council. In 2017, the Security Council adopted Resolution 2396, reinforcing Resolution 2178.

Resolution 2178

Resolution 2178 was adopted on the basis of a draft resolution submitted by the USA, and building upon *The Hague Marrakech Memorandum on Good Practices for a More Effective Response to the Foreign Terrorist Fighter Phenomenon*, published by the Global Counterterrorism Forum. To start with, Resolution 2178 demands that all foreign terrorist fighters disarm and cease all terrorist acts and participation in armed conflict. In this way, Resolution 2178 creates binding obligations on individuals, which in turn may have a normative justification in the avoidance of a regulatory gap (Peters, 2014a). Furthermore, although there is no agreed universal definition of terrorism itself, Resolution 2178 (2014) provides the first definition of foreign terrorist fighters at the international level 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.
>
> (United Nations Security Council 2014, para. 8, lines 2–5)

Resolution 2178 comprises four broad sections. The first section focuses on the states' obligation to address the threat posed by foreign terrorist fighters. The measures chosen by the Security Council to prevent the movement of those terrorists are effective border controls, controls on identity papers and travel documents, as well as evidence-based traveller risk assessment and screening procedures including the collection and analysis of travel data. In close connection with these measures, Resolution 2178 also imposes Member States to require airlines operating in their territories to provide advance passenger information of individuals designated by the 1267 Committee.

However, the most important measures adopted in this resolution are criminalization-based. So, in order to suppress and prevent the recruitment, organization, transport and equipment of foreign fighters, the Security Council mandates states to adopt domestic laws and regulations in order to prosecute as serious criminal offenses:

- their nationals and other individuals who are foreign terrorist fighters, that is, who travel or attempt to travel abroad to participate in any way in terrorist acts or receive terrorist training
- the wilful provision or collection of funds by their nationals or in their territories with the intention or knowledge that they are to be used to finance the travel of foreign terrorist fighters

– the wilful organization, or other facilitation, including acts of recruitment, by their nationals or in their territories, of the travel of foreign terrorist fighters

The second section of Resolution 2178 deals with the need to improve international cooperation to prevent the travel of foreign terrorist fighters through increased sharing of information and best practices, better assistance in connection with criminal investigations and more support to build national capacity.

The third section is devoted to countering violent extremism and, finally, section four is about the UN commitment on the foreign fighter threat. Noting that foreign terrorist fighters may be included on the Al-Qaeda Sanctions List, Resolution 2178 also directs UN counter-terrorism bodies such as the Counter-Terrorism Committee Executive Directorate (CTED) and the Counter-Terrorism Implementation Task Force (CTITF) to devote special focus to this threat.

Several authors have critically assessed Resolution 2178. First, there is a notable concern regarding the disrupting effects of this resolution. Singularly, Scheinin (2014), former UN Special Rapporteur on Human Rights and Counter-Terrorism, questioning whether there was a reversion to the state of post-9/11 panic, has pointed out that this resolution

> constitutes a huge backlash in the UN counter-terrorism regime (as) it wipes out the piecemeal progress made over 13 long years in introducing protections of human rights and the rule of law into the highly problematic manner in which the Security Council exercises its supranational powers.

Second, there are also concerns regarding the far-reaching powers used by the Security Council. In several of Resolution 2178's operative paragraphs, the Security Council *decides* on certain measures to be adopted by states, specifically regarding the setting up of criminal offences to prosecute foreign fighters, so that no foreign-fighter suspect could be tried and sentenced on the legal basis of Resolution 2178 alone (Peters, 2014b). This obligation to criminalize has, in turn, led some commentators to speak of the legislative character of this resolution (Van Ginkel, 2014). It should be recalled that this normative character of Security Council resolutions was highlighted for the first time regarding Resolution 1373 (2001), and also Resolution 1390 (2002). Although some scholars welcomed this precedent for further legislative activities (Szasz, 2002, p. 905), many others were very critical, as they believed that the Security Council was acting *ultra vires* (Happold, 2003, p. 607). Other commentators have warned that the Security Council may have some legislative role but must also respect legal, political and practical limits (Hinojosa Martínez, 2008, p. 333).

Third, the wide scope of applicability, together with the lack of clarity, makes it difficult to apply this resolution in a way that avoids the risk of abuse (Van Ginkel, 2014). Indeed, instead of being clear and precise, Resolution 2178 is very broad and vague. To begin with, without offering a definition of terrorism, it identifies terrorism in all forms and manifestations as one of the most serious threats to international peace and security, instead of limiting the threat to

specific forms of terrorism. It is difficult to make this resolution compatible with the rule of law if the phenomenon to be combatted, i.e., terrorism, is not defined (Ambos, 2014). Moreover, it imposes sweeping new legal obligations on Member States to criminalize and prosecute foreign terrorist fighters beyond what is provided for in any universal anti-terrorist treaty, without trying to define or limit the specific categories of persons who may be identified as terrorists, leaving it to states to decide and to identify them. In this sense, the absence of any mention whatsoever of Resolution 1566 (2004), which in turn comprises the customary international law definition of international terrorism, is considered a backlash and a failure in order to limit the scope of the resolution (Scheinin, 2014). As was the case with Resolution 1373, Resolution 2178 may lead to abuses by oppressive regimes wanting to use it in order to crack down on their political opponents or even to mark out social groups they do not like.

There are at least two other specific instances of concern regarding Resolution 2178. To start with, it is true that this resolution rules out profiling based on stereotypes founded on grounds of discrimination proscribed by international law, although it may be difficult to implement it realistically (Ambos, 2014). However, it also imposes on Member States the obligation to require airlines to provide advance passenger information to national authorities in order to detect the departure from, or attempted entry into or transit through, their territories of individuals designated by the 1267 Committee, without providing proper safeguards. The respect of privacy rights should be included in the resolution, as well as proper safeguards in the form of oversight and redress mechanisms in order to avoid states using these data records for different purposes (Van Ginkel, 2014).

Moreover, Resolution 2178 to a large extent muddles the distinction between terrorism and armed conflicts, as Resolution 2170 already did. This end result is not a theoretical issue, as Resolution 2178 introduces legal consequences for foreign fighters that travel or intend to travel abroad to join any group that engages in terrorism, 'including in connection with armed conflict'. Foreign fighters may be criminalized on the basis of this resolution even if they join a terrorist group during an armed conflict, notwithstanding the fact that international humanitarian law rules may apply (Kraehenmann, 2014, pp. 41–42). Even if the 'terrorist purpose' could be used to define foreign fighters envisaged by the resolution, whether they carry out their terrorist activities in peacetime or in the context of actual armed conflicts, there is a lack of clarity in the legal situation affecting them pursuant to Resolution 2178 (Chowdhury Fink et al., 2014, p. 10).

However, some commentators have praised Resolution 2178 as it marks a departure from Resolution 1373 in that it is far stronger on human rights and, for the first time in a Chapter VII resolution, the prevention of radicalization is considered an 'essential element' in order to tackle the foreign fighter threat (Chowdhury Fink, 2014, pp. 3–4). Truly, the Preamble to Resolution 2178 recalls Member States' obligations under international human rights law, international refugee law and international humanitarian law (also operative paragraph 5), and highlights that respect for human rights, fundamental freedoms and the rule of law are an essential part of a successful counter-terrorism effort. The Security

Council even notes that failure to comply with these international obligations is one of the factors contributing to increased radicalization. Respect for human rights and fundamental freedoms is also included in operative paragraphs 11 and 17 of the resolution. Moreover, one author asserts that the 'resolution's language is quite strong on human rights' if it is compared with Resolution 1373, and that is why it received broad support at adoption. In this vein, it is submitted that the potential for misuse of Resolution 2178 'is no different and no more severe that the threat posed by previous Security Council resolutions' (Kopitzke, 2017, pp. 323–328).

Resolution 2396

Security Council Resolution 2396 (2017) is the third and most recent instance in the attempt to address the foreign fighter phenomenon, with the focus now on returnees. Resolution 2396 builds upon the *UN Counter-Terrorism Committee's 2015 Madrid Guiding Principles* and the *Hague-Marrakech Memorandum Addendum on Good Practices for a More Effective Response to the Foreign Terrorist Fighter Phenomenon*, adopted in 2016 by the Global Counterterrorism Forum. In a nutshell, this resolution acknowledges that there is a threat regarding returning foreign fighters as they have participated in attacks in their countries of origin, including against 'soft targets', and that IS has called on its supporters to carry out attacks wherever they are located.

After recalling Member States' obligations under Resolution 2178 to prosecute and penalize the travel, recruitment and financing of foreign terrorist fighters, operative paragraphs of Resolution 2396 are organized under four main headings. The first is focused on border security and information sharing and calls upon Member States to prevent the movement of terrorists by effective border controls and controls on travel documents. It also mandates Member States to notify upon travel, arrival or deportation of suspected terrorists, including foreign fighters. Moreover, it also imposes the obligation to assess and investigate suspected individuals and distinguish them from accompanying family members not engaged in terrorist offences, including by employing evidence-based risk assessments, screening procedures and analysis of travel data, without resorting to discriminatory profiling. The resolution also requests Member States to exchange relevant operational information and downgrading for official-use intelligence threats related to foreign terrorist fighters. According to paragraph 9 of Resolution 2178, the Security Council decides, moreover, that Member States establish advance passenger information (API) systems, and collect passenger name record (PNR) data, in order to detect foreign fighters and individuals designated by the 1267 Committee. It similarly decides that Member States develop watch lists or databases, and systems to collect biometric data, including fingerprints, photographs and facial recognition in order to identify terrorists, including foreign terrorist fighters. All this information must be shared through bilateral or multilateral mechanisms, including Interpol (International Criminal Police Organization).

Under the heading of 'Judicial Measures and International Cooperation', the Security Council decides that Member States develop and implement appropriate

investigative and prosecutorial strategies regarding the offences described in paragraph 6 of Resolution 2178. The third heading is devoted to 'Prosecution, Rehabilitation and Reintegration Strategies' that must be applied by Member States after assessing and investigating suspected terrorists, including returning foreign fighters and their family members, through comprehensive risk assessments. This resolution takes into account gender and age sensitivities regarding women and children associated with foreign fighters when developing tailored prosecution, rehabilitation and reintegration strategies. It also recognizes the role civil society organizations can play in this regard, together with the importance of implementing affective counter-narrative strategies. Finally, the last heading focuses on the 'UN Efforts on Returning and Relocating Foreign Terrorist Fighters', including the 1267 Committee and the Counter-Terrorism Committee.

Resolution 2396 has been critically assessed in a way very similar to Resolution 2178. Accordingly, experts have highlighted two instances of concern regarding Resolution 2396 (NíAoláin, 2018). First, this resolution is based again on a strong criminal approach, as reflected in operative paragraph 18, which mandates Member States to 'develop and implement appropriate investigative and prosecutorial strategies'. Therefore, this resolution adds to the debate regarding the legislative capacity of the Security Council and the intrusion upon national sovereignty that it may involve, as it seeks to effectively standardize global criminal law practices. The result is that criminal law is outsourced to the Security Council. Second, the information gathering and information sharing mandated by Resolution 2396 through the development of watch lists and databases, including PNR data and API systems, but also the obligation to develop and implement systems to collect biometric data, including fingerprints, photographs and facial recognition, seem expansive, intrusive and unbalanced, as constitutional and legislative protections for privacy are not taken into account. Finally, this resolution may be used by some governments in order to target civil society activists or dissenters. The protections included in the resolution referring to international law and human rights law seem superfluous and do not effectively provide for a proper rule-of-law limitation or safeguard in the implementation of the mentioned criminal law regulation, as monitoring or reporting requirements are not properly incorporated.

National legal measures: a European perspective

According to one survey (Tayler, 2016), since 2013 and in response to or in anticipation of Resolution 2178, approximately fifty governments have adopted national laws and regulations against foreign terrorist fighters, which have introduced sweeping powers in the form of an array of police measures, bans and restrictions, such as powers of search and seizure; speech restrictions; religious constraints; collection of personal data; prolonged detention; use of special courts; secret intelligence; lengthy prison terms or even the death penalty. Those measures potentially entail a broad and dangerous erosion of internationally protected human rights.

Among those national measures, there are two kinds of measures that need to be underscored because they have been generally used, especially by European governments: restrictions on freedom of movement and the deprivation of citizenship. These are administrative measures with an allegedly preventive function, although most of them appear to have been used as sanctions (Boutin, 2016, p. 137). Those two types of measures pose many problems from the point of view of human rights protected by international law. As stated by the OSCE (Organization for Security and Co-operation in Europe) Office for Democratic Institutions and Human Rights, measures to fight terrorism that run contrary to international human rights are counter-productive, because they weaken the rule of law, the credibility of governments and their ability to counter the threat posed by terrorism.

Restrictions on freedom of movement

Travel bans through suspension and confiscation of national identity cards and passports as well as control orders are among the most common and easiest forms of restricting the movement of foreign terrorist fighters where states suspect that they intend to exit their territories to join ISIS or other groups, or to return home after fighting in the Middle East. In this chapter, those European countries most active in the use of these measures will be reviewed. Other non-European countries, such as Australia and Canada, have also adopted similar measures (Tayler, 2016, p. 462).

France

France is the most interesting case study because of the breadth of the measures put into effect as a result of a series of attacks killing and injuring hundreds of people. In order to complete existing legislation punishing 'criminal association in relation to a terrorist undertaking', and therefore implementing Resolution 2178 (Council of the European Union, 2015, pp. 36–38), the renowned *Loi Cazeneuve* was passed in 2014, despite the criticism it attracted before its adoption (Human Rights Watch, 2014). This law set out the offence of 'individual terrorist undertaking' in order to combat lone wolves, which in turn has been the reason for its recent reinterpretation by the Constitutional Council (Pascual, 2017). However, this legislation allows the government to revoke passports of French nationals and to prohibit them from leaving the national territory for up to six months, renewable for up to two years, where there are 'serious reasons to believe' that the individuals intend to participate in terrorist activities, or if the Interior Minister suspects they are travelling to a place where there are terrorist groups in conditions which in turn may entail a threat to public safety in case they return home (Law No. 2014-1353). According to this law, the government may also expel from or ban the entry of foreigners, including EU citizens, to the French territory. Finally, this legislation provides for the blocking of Internet sites that incite or express support for terrorism and sets up additional penalties for the offence of expressing support for or inciting terrorism (Embassy of France, 2015). After the

attacks in Paris of January 2015 at the satirical weekly *Charlie Hebdo* and at a Jewish supermarket, the government issued several decrees aimed at implementing some of the provisions of the 2014 anti-terrorism law. In the aftermath of the attacks in and around Paris on 13 November 2015 that resulted in 130 deaths and hundreds of injuries, the government declared a state of emergency, which was extended through a Parliamentary bill and which in turn provided for a range of measures that deviated from the ordinary criminal law regime (Law No. 2015-1501). Those measures, including house searches without a warrant, forced residency and the power to dissolve associations or groups deemed to be breaching public order, without pre-judicial authorization, have been very much criticized (Amnesty International, 2016). UN Special Rapporteurs have also stated that the state of emergency and the ensuing legislation bring about excessive and disproportionate restrictions on fundamental freedoms (UN Office of the High Commissioner on Human Rights, 2016).

Even before eighty-six people were killed in the attack of Nice in July 2016, Parliament passed new legislation (Law No. 2016-731) in order to reinforce administrative and judicial powers in the area of counter-terrorism, i.e., granting the Minister of the Interior authority to use administrative control measures against individuals allegedly returning from conflict areas who are deemed to constitute a threat to public security. Aimed to complete the 2014 law, it also creates a system of administrative control of returns to the national territory of persons who have joined the theatre of operations of a terrorist group. These measures may be applied for up to one month regarding the obligation to remain at home or in a specific area, and up to six months with respect to the declaration of residency, means of communication and movements. Failure to comply with these restrictions is a criminal offence (French Ministry of the Interior, 2016). In October 2017, Parliament passed new legislation (Law No. 2017-1510) aiming to incorporate new counter-terrorism measures into ordinary law. This legislation allows the Interior Minister and the prefects to impose administrative measures on individuals where there is not enough evidence to start a criminal investigation, including restrictions on freedom of movement, house searches, closures of places of worship and the establishment of security zones. Only searches may require previous judicial authorization.

Amnesty International (2017, p. 50) has pointed out that hundreds of administrative orders banning entry or assigning residency have been issued without giving the affected individual any specific information or formal evidence indicating the reason to be considered a threat to national security or public order. In this regard, before the adoption of the 2017 legislation, the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism had warned against transposing state-of-emergency measures into ordinary law (NíAoláin, 2017).

The United Kingdom

In the UK, the criminal law reaction to combat foreign fighters came with the Serious Crimes Act 2015. Through a modification of Section 5 of the 2006

Terrorism Act, the Serious Crimes Act established the offence of preparing terrorist acts abroad and participation in foreign terrorist training. However, concerning non-criminal measures, the UK had long before introduced a regime of control orders, in the wake of the 9/11 attacks. First, the Anti-Terrorism, Crime and Security Act 2001 included the administrative detention of non-national terrorist suspects, which was eventually repealed. Then the Prevention of Terrorism Act 2005 allowed the executive to impose restrictive measures concerning residence, travel and movements, among others, within the UK, a legal situation which has been severely criticized (Amnesty International, 2006, p. 23). The Terrorism Prevention and Investigation Measures (or TPIM) Act 2011 was introduced, allowing the Secretary of State to impose measures on UK nationals and foreigners, limited to two years, such as assigned overnight residence, travel bans outside the UK or specified areas and exclusion orders regarding particular areas or types of places such as Internet cafes (Amnesty International, 2012, p. 27). The Counter-Terrorism and Security Act 2015 abolished control orders through the repeal of the Prevention of Terrorism Act 2005 and amended the TPIM Act. The new law reintroduced the contentious forced relocation measure provided for by the 2005 Act, brought about a replacement system on control orders and lowered the threshold for imposing a TPIM. Among the measures incorporated, there are two types of TPIMs of interest for this subject. The first is the power to seize and retain all of a suspect's travel documents where this person intends to leave the United Kingdom for the purpose of terrorism-related activity outside the UK. The travel documents may be retained for fourteen days but this period may be extended to a thirty-day period if the judicial authority so decides following a senior police officer's request. Second, this Act also includes a power to temporarily exclude individuals from the UK, which may last for up to two years, and can be renewed, in order to disrupt the return to the UK of a British citizen suspected of involvement in terrorist activity abroad. When the temporary exclusion order comes into force any British passport held by the excluded individual is invalidated. Those two measures have been critically assessed as they entail the use of a broad and undefined categorization of 'terrorism-related activities' and might render the affected individuals *de facto* stateless, respectively (Paulussen & Entenmann, 2016, pp. 405–406).

In addition, there is the Royal Prerogative, which, if the Home Secretary is satisfied that it is in the public interest to do so, grants the power to cancel and seize the passports of British nationals involved in terrorism-related activities, a power not abrogated by the 2011 Act (McGuinness & Gower, 2017, pp. 12–15). Recently, the Court of Appeal found that the Home Secretary's decision to withdraw the passports of two appellants on the basis of their involvement in terrorist-related activity was a proportionate restriction on their freedom of movement in accordance with both domestic and EU law (UK Court of Appeal, 2017).

Germany

Turning to Germany, the country passed new legislation in 2014 incorporating new criminal offences aimed at prosecuting membership or support for ISIS. In

order to implement Security Council Resolution 2178, Germany also introduced provisions relating to preparatory terrorist acts, including preparation to travel abroad and terrorist training, as well as terrorist financing (Paulussen & Entenmann, 2016, p. 418). Regarding specifically the freedom of movement, Germany had already adopted anti-terrorism measures in 2014 that included the possibility of revoking or refusing to issue a national identity card for ISIS supporters (Gesley, 2015) together with the prohibition of leaving the country and the obligation to report to a specific police station at regular intervals (Heinke & Raudszus, 2015). Besides, one of the changes brought about by a new law adopted in 2015 is the enactment of national identity card and passport restrictions on foreign fighters. According to the new law, German citizens who are considered a threat to the internal or external security or to other significant German interests may have their national identity cards and passports revoked. Alternatively, these citizens are to be issued with a substitute identity card stating that they are 'not valid for travel outside Germany', which in turn has been dubbed the 'terrorism ID card'. This way, foreign fighters are barred from using third Schengen countries in order to travel to Syria, Iraq or other countries. These measures have been severely criticized and even labelled as unconstitutional (Baron van Lijnden, 2015).

The Netherlands

The Netherlands has enacted or reinforced administrative measures affecting the freedom of movement since the adoption of the Dutch Comprehensive Action Programme to Combat Jihadism. According to Dutch legislation, the Interior Minister has the authority to revoke the passport of any person who may commit acts abroad that may pose a threat to the country. Likewise, Dutch authorities have the power to issue entry bans against foreigners that also pose a threat to national security or public order. Moreover, Dutch individuals acting abroad as foreign fighters may see their social welfare benefits terminated (Boutin, 2016, p. 138).

The Netherlands adopted three new laws in February 2017 as part of the previously mentioned Comprehensive Action Programme to Combat Jihadism (Zeldin, 2017), two of them directly affecting the freedom of movement. The Interim Act on Counterterrorism Administrative Measures authorizes the Minister of Security and Justice to impose restrictions on any person involved in terrorist activities that may be a threat to national security. Among the administrative measures provided for by this new law, there are restrictions, such as the duty to report regularly to the police, travel restrictions (if the person is deemed likely to abandon the Schengen area to join a terrorist organization), limitations on access to certain places and areas and restrictions on contacting specific people. In order to comply with those measures, technological devices (ankle tags) may be used. These measures may be imposed for a period of six months, renewable for a second period. Moreover, those suspected of terrorist activities may see their social benefits rejected or cancelled. Besides, another law amending the Passport Act has been adopted whereby the imposition of a travel ban on an individual will automatically lead to the

expiration of the person's passport and identity card. These measures have been largely criticized by, among others, the Commissioner for Human Rights of the Council of Europe (Council of Europe Commissioner, 2016) as they embrace administrative law to *by-pass* the stricter legal safeguards of the criminal law process; in other words, they avoid any requirement regarding prior judicial authorization (Paulussen, 2016, pp. 15–16).

Deprivation of citizenship

Deprivation of citizenship is the other commonly used tool to which European states are resorting in order to address the foreign fighter phenomenon. This administrative measure is applied by the executive and is normally subject to limited judicial review. Other non-European governments have also applied this type of restriction, such as Canada and Australia (Tayler, 2016, p. 468), although Canada reversed this measure in 2017.

The United Kingdom

The United Kingdom is the country that has developed the broadest powers to remove citizenship, perhaps prompting other countries to follow suit. After 9/11, the UK passed the Nationality, Immigration and Asylum Act 2002 modifying the British Nationality Act 1981. According to this change, the Home Secretary may deprive a person of British citizenship status, even of those acquiring it through birth, if it 'is conducive to the public good' and would not make the person stateless. A second amendment was introduced by means of the Immigration Act 2014 conferring on the Home Secretary the power to strip citizenship obtained through naturalization where the person has conducted him or herself in a manner prejudicial to the vital interests of the UK and there are reasonable grounds to believe that this individual may become a national of another country. The latter modification was to a large extent a reaction to the Al-Jedda case and was very controversial (Paulussen & Van Waas, 2014). This change was also criticized by David Anderson, the previous Independent Reviewer of Terrorism Legislation, not only because of its capacity to create statelessness, but also because of the breadth of the discretion afforded to the executive, in the sense that conviction for a terrorist offence is not needed, and due to the absence of any requirement of previous judicial approval (Anderson, 2016, pp. 13–15). Moreover, it has been contended that deprivation orders have been issued while individuals have been overseas, resulting in their being stranded abroad while legal appeals against deprivation may take years to resolve (Ross & Galley, 2013). Indeed, appeals against deprivation decisions are heard by the Special Immigration Appeals Commission, where the government may rely on secret evidence in closed sessions and the individual is represented by a court-appointed special advocate with restricted access to the individual, limiting his ability to challenge the information reviewed (Amnesty International, 2012, p. 10).

The Netherlands

The Netherlands had already introduced in 2016 an amendment to the Dutch Nationality Act expanding the grounds to strip an individual of Dutch citizenship in case of conviction for a terrorist offence, including preparatory acts such as training for armed jihad in the Netherlands or abroad. However, as part of the country's Comprehensive Action Programme to Combat Jihadism, a new law was adopted in February 2017 amending the Dutch Nationality Act and allowing the government to withdraw Dutch citizenship without a criminal conviction. Accordingly, the Minister of Justice may revoke citizenship of a person sixteen years of age or older who joins the armed service of a state involved in combat operations against the Netherlands or its allies. As a second ground, an individual who has reached sixteen years of age may see his nationality revoked by the Justice Minister if it appears that he has joined an organization which has been placed on a list of organizations that constitute a threat to national security. These changes affect people already outside the country and therefore will allow the stripping of nationality *in absentia*, without prior judicial authorization, and with mere evidence (no need of proof) of the individual's plans to become a terrorist. After notification, individuals affected by an administrative order stripping nationality may lodge an appeal directly or through a relative and appoint a legal representative or special agent.

These amendments have been adopted despite general criticism against them (Paulussen, 2016). First, it has been submitted that the lack of adequate legal protection is evident, because there is no prior judicial review and no effective participation of the person in the administrative law procedure, as this individual is normally located abroad and the decision is taken on the basis of secret information not accessible to him. Second, as statelessness is not allowed (Netherlands Nationality Act, Article 14, section 6), nationality will be revoked only in cases of dual citizenship, which in turn will create a discriminatory effect, distinguishing between Dutch citizens who have or do not have dual nationality. Even worse, as the stripping measure was proposed in the framework of the Comprehensive Action Programme to Combat Jihadism, it will primarily affect Muslims, which may lead to division and xenophobia (Amnesty International, 2017, p. 62).

France and Belgium

Regarding France, Article 25 of the Civil Code provides for the stripping of nationality from naturalized individuals in cases of terrorism, although statelessness is to be avoided. However, in 2016 the government proposed an amendment to the Constitution allowing deprivation of French nationality for French-born dual citizens. But, due to lack of agreement between the Senate and the Assembly and the political backlash generated, including the resignation of the Minister of Justice, this proposal was soon abandoned, which means that French-born nationals may not be deprived of their nationality. This also reveals the

rather symbolic purpose of the measure (Boutin, 2016, pp. 140–142). Therefore, despite attempts to introduce stripping of citizenship as an administrative measure, France still does not allow denationalization if it is not the result of a criminal offence.

A similar situation may be found in Belgium. Although Belgian law has provided for the stripping of nationality since 1919, an amendment introduced in the Code of Belgian Nationality in 2015 specifies the crimes that may lead to its deprivation. Terrorism-related offences are among them, but only dual nationals may see their citizenship revoked, as statelessness is to be avoided, and only after a prior judicial authorization. However, in 2015 a new amendment was introduced providing for the stripping of Belgian nationality from naturalized individuals with dual citizenship in case they are convicted of a terrorism-related crime and sentenced to five or more years' imprisonment. This modification has created great unease because it may lead to a two-tier citizenship system, as those Belgians of North African origin may be seen as second-class. Likewise, the simultaneous application of two systems leading to the deprivation of nationality may create discrimination, as different safeguards and scopes apply (Amnesty International, 2017, p. 60).

International law assessment

The above-mentioned measures adopted by European authorities pose several legal issues. To start with, these administrative measures are troublesome (Amnesty International, 2017, p. 48) because, generally speaking, they entail a punishment before any crime has been committed without the safeguards applicable within the criminal justice process, including the right to fair trial if evidence is kept secret (Amnesty International, 2012, p. 4). Moreover, from an international law point of view, and specifically regarding travel bans and the cancellation of passports, these administrative measures may conflict with the right to freedom of movement as set out in some international agreements, such as Article 12 of the International Covenant of Civil and Political Rights (ICCPR), and Article 2 of the 1963 Protocol 4 to the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR). Therefore, international law grants anyone the right to freedom of movement and to leave any country, including his or her own. However, this right may be restricted, but only if limitations are lawful, pursue a legitimate aim and are necessary to achieve that aim. Although national security is a legitimate aim, measures based on this aim must accordingly comply with the principle of proportionality. The three-pronged criteria derived from this principle, as they have been coined by the UN Human Rights Committee (1999), require that measures are appropriate to achieve their protective function, the least intrusive means available to achieve the desired goal and proportionate to the interest to be protected (proportionality *stricto sensu*). In this regard, general and automatic restrictions are unjustified so any limitation of the right to freedom of movement must be based on the specific circumstances relating to the individual concerned. Individuals also have the right to appeal restrictions affecting their right

to freedom of movement, both on a formal basis regarding the procedure followed and on a substantive basis regarding the material reasons justifying the decision (Kraehenmann, 2014, pp. 58–59).

Deprivation of citizenship is also problematic from an international law point of view. As is well known, even if states have the right to regulate the acquisition and loss of nationality, international human rights set limitations to states' discretion (UN Secretary-General, 2009, pp. 5–6). Indeed, according to Article 15 of the Universal Declaration of Human Rights (UDHR) and the array of international legal instruments reaffirming it, everyone has the right to a nationality, namely to acquire, change and retain a nationality. This is a fundamental right which also allows for the enjoyment of other human rights and, as stated by Article 15.2 UDHR, it entails the prohibition of arbitrary deprivation of nationality (Human Rights Council, 2009). According to international law, there are also two other limits, i.e., the duty to avoid statelessness and respect for the principle of non-discrimination (Van Waas, 2016, p. 476).

In order not to be arbitrary, a state decision stripping nationality must comply with five requisites as sketched by the UN Secretary-General (2009, p. 7), i.e., it must be in accordance with domestic law; conform to the due process principle; serve a legitimate purpose; be the least intrusive means available; and be proportionate. Allegedly, the legal framework derived from the national measures described above does not respect of most of these conditions, as it grants a wide margin of appreciation to governments (as in the UK case); it limits the right to appeal of individuals, who may be located abroad and so the decision is taken *in absentia*, or who may be unable to access the secret information that served as the basis for the decision (as is the case with the recent Dutch amendment); and, finally, it seems to seek the expulsion of the individual as the true reason behind denationalization (again, the UK case), which runs contrary to Article 15.2 UDHR, as stated by the International Law Commission (2014, p. 32).

Likewise, the prohibition to render an individual stateless has only one exception provided for in Article 8 of the 1961 Convention on the Reduction of Statelessness, namely, 'where conduct is seriously prejudicial to the vital interest of the State', that must be interpreted narrowly (UN Secretary-General, 2013, p. 7). The standard set out by the UK legislation is lower, i.e., that conduct is not 'conducive to the public good', which may lead to a wider margin of appreciation inconsistent with the Convention (Goodwin-Gill, 2014, p. 6). However, the clause allowing the Home Secretary to deprive a naturalized individual of his citizenship where there are 'reasonable grounds to believe that the person is able to become a national of another country' is most troubling, as it openly leads to statelessness. Conversely, as statelessness is to be avoided, dual nationals will be the target of national laws that have recently incorporated the stripping of nationality as an executive measure, as in the case of the Netherlands, which in turn runs contrary to the principle of non-discrimination (Van Waas, 2016, p. 482).

Finally, some other international law rights may be negatively affected (Kraehenmann, 2014, p. 60), like the principle of *non-refoulement*, if the

individual is finally expelled after the stripping of his nationality and transferred to another state where his fundamental human rights may be at risk, i.e., the right to life, or because of practices like torture or inhuman treatment, among others. The right to return to one's own country, as provided for by Article 12 ICCPR, may also be breached if citizenship is revoked while the person is abroad. The right to family and private life as protected by Article 8 ECHR will likely be affected too.

Concluding remarks

Security Council resolutions on foreign fighters require Member States to set out in their national laws several measures that criminalize the activities of those fighters. Among the measures mandated by the resolutions are the prosecution of activities like travel (or attempted travel), financing and the recruiting or training of foreign fighters, as well as the establishment of border controls and controls on travel documents. As previously discussed, Security Council resolutions with a legislative character are troublesome, as they may provide some governments with the justification needed to introduce repressive measures. However, Resolutions 2178 and 2396 explicitly provide for respect for international law norms, specifically international humanitarian law and international human rights. As set out in the Preamble and some operative paragraphs of Resolutions 2178 and 2396, the Security Council:

> *Reaffirm[s]* that Member States must ensure that any measures taken to counter terrorism comply with all their obligations under international law, in particular international human rights law, international refugee law, and international humanitarian law, *underscor[es]* that respect for human rights, fundamental freedoms and the rule of law are complementary and mutually reinforcing with effective counter-terrorism measures, and are an essential part of a successful counter-terrorism effort and notes the importance of respect for the rule of law so as to effectively prevent and combat terrorism, and *not[es]* that failure to comply with these and other international obligations, including under the Charter of the United Nations, is one of the factors contributing to increased radicalization to violence and fosters a sense of impunity.
>
> (United Nations Security Council 2014, 2017, para. 7)

European governments, like many others worldwide, have implemented a wide array of national measures in order to counter the foreign fighter phenomenon, ranging from criminal offences to administrative law measures. Those administrative measures, specifically the restrictions to the freedom of movement and deprivation of citizenship, have been widely incorporated into the domestic legal systems of the European countries examined in this chapter, among others. However, those measures are not always introduced in accordance with the international legal framework. As pointed out, travel bans and control orders may be contrary to ICCPR and ECHR. Likewise, denationalization

measures do not always comply with the rules prohibiting the arbitrary deprivation of nationality, the duty to avoid statelessness and the principle of non-discrimination.

Although governments normally justify the adoption of this kind of measure on the basis of the implementation of UN Resolution 2178 (Amnesty International, 2017, p. 52), it is submitted in this chapter that the way these administrative measures have been incorporated into the domestic legal systems of European countries is not explicitly mandated by UN Resolutions 2178 and 2396. It is true that those UN resolutions may be rightly criticized because they may lead some Member States to legislate in a very restrictive manner. However, European countries may not find any legal justification in these resolutions in order to implement administrative measures that run contrary to the human rights and fundamental freedoms protected by the international legal system. In short, the measures adopted by the European countries are not lawful from an international law point of view and explicitly disrespect the mandate incorporated in the UN resolutions requiring Member States to conform to international humanitarian law and fundamental human rights. European States may well be sending the wrong message to the international community as they seem to be using UN resolutions as an alibi to try to by-pass the stricter legal safeguards of the criminal law process, at the same time breaching the fundamental rights and liberties protected at the international level, in order to combat the foreign fighter phenomenon. Besides, this kind of behaviour on the part of European authorities seems very unfair, as many of those administrative measures simply do not solve the problem, so they are simply passing it on to other states (Murmokaité, 2015, p. 19).

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9 The compatibility of the Additional Protocol on Foreign Terrorist Fighters with international human rights law

Francesco Seatzu

Introduction

The risk posed by returning foreign terrorist fighters is one of the most significant threats to Western society in recent years (Bakker, 2011). Western security agencies have assessed that over 27,000 foreign fighters have travelled to Iraq and Syria since fighting broke out in 2011 (Archick, Belkin, Blanchard, Humud & Mix, 2015). The number of foreign fighters from Western Europe has more than doubled since June 2014, while it has remained relatively flat in other regions such as North America (Spencer & Connor, 2015). The UK has seen an estimated 760 jihadists travel to Syria and Iraq (Kirk, 2016). Some estimates say that half of these have returned to the UK, while more than fifty are reported to have died (Weggemans, Bakker & Grol, 2014). France, Britain, Belgium and Germany have the largest numbers of citizens in the fight, while Belgium has the highest per-capita number of foreign fighters in Europe, with 350 out of a population of 11 million (Wiegmann, 2016). While the phenomenon of foreign fighters is not new (Zeiger & Aly, 2004), the current issue of European foreign fighters and returnees is complex and dynamic because of the difficulty in tracking them and knowing their intentions (Zeiger & Aly, 2004). Since the Islamic State (IS) declared a caliphate in June 2014 (Hashim, 2014), recruitment of foreigners has surged, bringing in fighters at a faster rate than in any previous jihadist conflict, including the Soviet–Afghan war in the 1980s and Iraq after the American invasion in 2003 (Hegghammer, 2010/2011).

As a result, and given also the fact that the threat posed by Europeans being radicalized is likely to persist in the coming years (Jenkins, 2015), there has been a rise in criminal legal provisions and 'repressive' administrative sanctions, emblematic of which is the criminally punitive denationalization against returning foreign fighters at national and regional levels in almost all Western European states (Casiello, 2017). According to a well-established opinion, the increase in harsh policies, in particular the politicization and automatic criminalization of foreign terrorist fighters, did not, however, achieve the objective of repressing the foreign fighter phenomenon and terrorism (Marrero Rocha, 2015). The main explanation of this failure has been lucidly illustrated by Professor Martin Scheinin, who also pointed out that the criminalization approach to foreign terrorist fighters carries a

huge risk of abuse, as various states apply notoriously wide, vague or abusive definitions of terrorism, often with a clear political or oppressive motivation (Scheinin, 2014b).

Another concurrent explanation is that a human rights approach is indispensable in effectively counteracting foreign terrorist fighters. In this respect it is worth highlighting that: 'Human rights compliance is essential both for the short and the long-term effectiveness of any measure to address the phenomenon', as recalled by Omer Fisher, Head of the ODIHR (Office for Democratic Institutions and Human Rights) Human Rights Department, who also noted that: 'Jeopardizing human rights protection in the course of responding to the threat will not solve, but rather exacerbate the problem, because human rights violations provide fertile ground in which terrorism can thrive.' (Organization for Security and Cooperation in Europe [OSCE], 2017).

As a consequence, while the conventional criminal justice approach is needed to stop foreign terrorist fighters, a human rights approach is also critical to guarantee complementary and mutual reinforcement between security and human rights (Capone, 2015; Dyzenhaus & Hunt, 2007). At the international level, attempts to reconcile both aspects of the foreign fighter phenomenon have been made, though generally without much success. The UN Security Council Resolution 2178 on foreign terrorist fighters was adopted under Chapter VII of the UN Charter to address both the criminal aspect and the human rights aspect of the foreign fighter issue (Ambos, 2014). This UN Resolution 2178 indicates that foreign fighters are a phenomenon that cannot be defeated by military force, law enforcement measures and intelligence operations alone and focusses on ways to prevent, suppress and punish transnational crimes committed by foreign fighters while encouraging Member States to develop and enforce rehabilitation and reintegration strategies (UN Security Council, 2014). This chapter concentrates on whether this aim of reconciling criminal justice and human rights is effective or feasible. It will attempt to study the compatibility of one of the international instruments on countering terrorism with the general idea of human rights found in international human rights law. Because much research has already been carried out on UN Security Council Resolution 2178 (e.g., Rona, 2017) – truly a landmark resolution on counter-terrorism – the subject of this work will be the Additional Protocol on Foreign Terrorist Fighters (Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism, 2015).

The study on compatibility will be carried out by first looking at the general development of legislation on foreign terrorist fighters in international law up to the time of the adoption of the Riga Protocol. Second, it will deal with the role played by counter-terrorism and measures against foreign terrorist fighters, state sovereignty and general international law in shaping the rules of the Riga Protocol. Finally, the human rights provisions within the Protocol will be used to discuss the major strengths and weaknesses of a human rights-based approach to the phenomenon of foreign terrorist fighters, comparing the Riga Protocol with state practice and the international, regional and domestic normative stances on the foreign fighter issue.

The core question of the present chapter is whether the provisions of the Riga Protocol pose a compatibility problem when juxtaposed with the existing body of international human rights law. The subsequent paragraphs will address specific human rights such as the right to nationality, the right to free movement, the right of assembly, the right to life and freedom of expression with key human rights principles like freedom from discrimination, respect for human dignity and due process.

The main argument is that the Riga Protocol is an international legal tool that contracting states purport to use to protect their sovereignty due to the perception of foreign terrorist fighters as a threat to the security of the state, as evidenced in the Protocol's strong criminal justice focus. This chapter maintains, then, that the current state of international law concerning the sovereignty of the state and the practice of human rights is not at the stage of development where a good balance can be found between security and liberty, as indirectly confirmed by the contradictions and problems within the Protocol and state practice. The third argument is that the elasticity of the culture of fundamental rights enables it to contract and expand according to the rate of evolution of state sovereignty and international legislation on the phenomenon of foreign terrorist fighters.

A brief survey of the development of legislation regulating foreign terrorist fighters in public international law

Although foreign fighters are not a new phenomenon, dating back at least to the Spanish civil war, with foreign volunteers fighting with the International Brigade and a much smaller number of foreigners joining nationalist factions, interest in regulating them internationally is relatively new (Strazzari, 2016). In fact, and more precisely, it was only in 2014 when the question of how to prevent and suppress the massive flow of foreign terrorist fighters to Syria and Iraq emerged that it was widely debated and an *ad hoc* international legal regulation of foreign terrorist fighters was considered (Malet, 2010). The reason behind this emerging interest within the international community for a specific international legal framework applicable to foreign terrorist fighters is both logical and straightforward; the current foreign fighter mobilization has taken place at an unprecedented rate and is on an unprecedented scale and breadth of geographical origin (Krähenmann, 2014). In its May 2015 report, the Analytical Support and Sanctions Monitoring Team to the Al-Qaeda Sanctions Committee reported that there were more than 20,000 foreign fighters from over 100 countries active in Syria and Iraq, including approximately 4,000 from Western countries (Neumann, 2015). With these numbers, there were more foreign fighters active at the same period in Syria and Iraq than in any other previous conflict, and there were more European foreign fighters than during all the armed conflicts of the last twenty years combined (Bakker & Singleton, 2016). But while this was perhaps the main reason, it was not the only one. Another reason that can be put forward to explain the international community's change of attitude is the widespread appreciation of the distinction between foreign fighters and mercenaries, both in legal and non-legal usage (Chesterman, 2016). This is because the final

outcome of this appreciation was the discovery that the definition of mercenaries currently available in international law could hardly be applied to foreign fighters, given in particular that, unlike mercenaries, the primary motivations of foreign fighters are not material or financial. A further, but no less important, reason was the clear and direct link between foreign terrorism and foreign terrorist fighters that makes the involvement of returning foreign fighters a determining factor of terrorism casualty rates (Mehra, 2016).

Dealing now with the first (chronologically) of the two 'foreign terrorist fighters' resolutions, UN Resolution 2170 was adopted on 15 August 2014, significantly just one week prior to the harsh criticisms made by the then UN High Commissioner for Human Rights, Navi Pillay, against the UN Security Council for its lack of response to the terrorist activities of IS and the Al-Nusra Front (ANF), as well as other bodies associated with Al-Qaeda (Jones, 2014). The resolution heightened the criminal judicial response to the perpetrators of terrorist activities across borders, obliging states to cooperate to fight against the phenomenon of the Islamic terrorism (Scheinin, 2014a). Most importantly, Resolution 2170 prescribes three sets of specific obligations and duties on all states that had not existed as such in international law before: action against the export of terrorist fighters, which respectively encompasses a duty to discourage individuals who are at risk of recruitment and violent radicalization to travel to Syria and Iraq for the purposes of supporting or fighting for IS and ANF, as well as a duty to prevent direct and indirect supply, sale or transfer to IS, ANF and other individuals and groups associated with Al-Qaeda of arms and related material, as well as assistance and training related to military activities; action against the financing of terrorism activities, including the duty to prevent economic resources being made available for the benefit of these groups; the third responsibility implies the obligation to submit lists of individuals and entities supporting IS, ANF and similar groups to the official sanctions list (Davis, 2014).

Unlike Resolution 2170, Resolution 2178 was entirely focused on the foreign terrorist fighter phenomenon, which was perceived as requiring separate attention from international terrorism (Tayler, 2016). But this is not the only noteworthy thing in this resolution, as it also imposed on Member States a positive obligation to criminalize a series of terrorism-related activities that were not previously criminalized in any universal international tool governing the prevention and suppression of terrorism (Milanovic, 2015). This is extremely interesting and politically significant, which is evident especially when considering that the conduct criminalized encompasses a wide range of behaviour that is quite removed from the core crime, i.e., an act of terrorism. Similar considerations apply, *mutatis mutandis*, to the general duty to prevent the movement of 'foreign terrorist fighters' that was qualified by the drafters of Resolution 2178 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' (Milanovic, 2015). While *prima facie* accurate, it is unclear, however, how one is to distinguish a person who travels abroad for legitimate

purposes from a person who travels abroad with a terrorist purpose without resorting to ethnic profiling, as Sandra Krähenmann has correctly claimed (2014). Having looked briefly at how international law affecting foreign terrorist fighters developed through the impulse of the UN Security Council and how this has affected the provisions and rules of the Riga Protocol, the most common perceptions of the foreign fighters phenomenon must be examined.

The fight against foreign fighters as a public order issue

The foreign terrorist fighter phenomenon is described by some as a public order issue (Ojanen, 2013). This is certainly not surprising, and not only at first sight, since, in fact, the reasoning behind this description is clear and not hard to understand, as it is supported by strong facts and clear evidence: (a) the majority of measures, including administrative measures like travel bans, expulsion orders, entry bans, control orders and assigned residence orders that both Western and non-Western European states have adopted so far to protect individuals from acts of terrorism committed by foreign terrorist fighters are repressive and usually adopted in states of emergency. The reference here relates to the administrative and criminal measures adopted by some governments, like the Dutch, French and United Kingdom Governments, after a series of violent riots caused in their respective territories by returning foreign fighters (Witte, 1996). (b) Returning foreign fighters are almost universally perceived as a national security threat, not only to their countries of origin but also and even more to their countries of habitual residence or third countries (de Roy van Zuijdewijn & Bakker, 2014). In this last respect, it has been observed more than once that returning foreign fighters pose a national security threat to their countries of residence or third countries in different ways, including, and in particular, by instructing or coordinating terrorism plots, carrying out lone-wolf attacks or supporting domestic extremist networks (Weggemans et al., 2014).

Again, and equally importantly, it has been put forward in support of the above description of the phenomenon of foreign terrorist fighters that although there are existing cooperation initiatives and devices in place on the international as well as European Union level, such as UN Resolution 2178 and the Radicalisation Awareness Network, it is primarily the responsibility of individual Member States, as enforcers of public order through their police forces, to deal with foreign fighters (Bakker, Paulussen & Entenmann, 2013). This point has been elaborated in particular by Tom Ruys, who has maintained the existence of a state's obligation to prevent the movement of foreign terrorist fighters to armed and other violent groups. In this author's view, this obligation would be a due diligence obligation, subject to states' specific knowledge of such activities (Ruys, 2014). Furthermore, it would be an obligation implicit in the international customary principle of non-intervention in the internal affairs of states and, more particularly, in the international legal duty of states to prevent harm emanating from their territory (Ruys, 2014). Incidentally, it may also be worth recalling that the existence of a specific international legal duty on states to prevent the

movement of foreign terrorist fighters to armed groups which the UN Security Council has declared as entities of Al-Qaeda (Islamic State, Al-Nusra) has been explicitly confirmed and further developed by UN Security Council Resolutions 2170 (2014) and 2178 (2014) in the case of foreign terrorist fighters in Syria (Krähenmann, 2014). According to UN Security Council Resolution 2178, adopted unanimously on 24 September 2014, all Member States also have an additional and no less important – though less enforceable – international obligation to enact laws enabling criminal prosecution of travel or attempted travel for terrorism purposes. As set out in more detail below, this latter duty has also been replicated and developed in the Riga Protocol.

An important and noteworthy consequence of the above description of the foreign fighter phenomenon in terms of public order and police control is that foreign fighters are inevitably perceived as the 'other' – more precisely, as the most prominent enemies in non-Muslim countries. While this may be understandable for the reasons described above and for other good and valuable considerations, it also implies a rejection of any possible alternative approach, including a human rights-based approach. This is so notwithstanding that it has been recognized and widely accepted, since the plenary session of 2003 at the 11th OSCE Ministerial Council in Maastricht, that practices related to discrimination and intolerance both threaten the liberty and security of individuals and may give rise to wider-scale conflict and violence (Moeckli, 2008). Moreover, the Council of Europe Guidelines on Human Rights and the Fight against Terrorism assert that:

> all measures taken by States to fight terrorism must respect human rights and the principle of the rule of law, while excluding any form of arbitrariness, as well as any discriminatory or racist treatment, and must be subject to appropriate supervision.
>
> (Council of Europe, 2002)

The aims of the Riga Protocol and its intersection with state interests and international institutions

The Riga Protocol is not, in essence, a human rights tool. As a consequence, its purposes have another focus. It is mainly a criminal law tool and a legal framework for international cooperation and state action on issues concerning state interests and the implementation of UN Resolution 2178 at the national level. Specifically, the Riga Protocol is essentially about prosecuting certain activities which are related to terrorist offences committed by foreign terrorist fighters, and cooperation among the Council of Europe (CoE) Member States in that respect. It is a product of states' perception of terrorism acts and activities and in particular of the preparatory acts to terrorism and is a criminal justice response to the foreign fighter phenomenon that focuses on prosecution and punishment of a criminal offence. It has two main objectives, according to its Article 1, set out in the following two sections.

Criminalizing the preparatory acts of terrorism

Although the Riga Protocol facilitates international cooperation through information exchange, it also aims at preventing terrorist attacks by prosecuting 'preparatory' acts of terrorism in all CoE Member States. This reflects that states recognize that prevention of jihad terrorism cannot be accomplished efficaciously without an extensive and far-reaching use of repressive normative instruments and provisions, including criminal law instruments and provisions. Article 4, paras 2 and 3 state:

> 2. In implementing this Protocol, each Party shall adopt such measures as may be necessary to establish 'travelling abroad for the purpose of terrorism' (. . .) from its territory or by its nationals, when committed unlawfully and intentionally, as a criminal offence under its domestic law. In doing so, each Party may establish conditions required by and in line with its constitutional principles.
> 3. Each Party shall also adopt such measures as may be necessary to establish as a criminal offence under, and in accordance with, its domestic law the attempt to commit an offence as set forth in this article.

In a similar vein, Article 3, para. 2 provides that:

> Each Party shall adopt such measures as may be necessary to establish 'receiving training for terrorism', as defined in paragraph 1, when committed unlawfully and intentionally, as a criminal offence under its domestic law.

Again, Article 6, para. 2 states that:

> Each Party shall adopt such measures as may be necessary to establish 'organizing or otherwise facilitating travelling abroad for the purpose of terrorism', as defined in paragraph 1, when committed unlawfully and intentionally, as a criminal offence under its domestic law.

It is clear through this language that although the Protocol aims at ensuring the prevention of terrorist attacks, nevertheless, it still remains entirely up to the state to establish what the indispensable actions and measures for the criminalization and prosecution of offenders involved in preparatory terrorist activities means. Who decides if the level of indispensability is sufficiently met? There seems to be an underlying uncertainty of the extent to which contracting states are requested to criminalize and prosecute certain acts related to terrorist offences.

Furthermore, and more precisely, there seems to be a discrepancy between the call for the respect of fundamental freedoms and rights in the fight against foreign terrorist fighters and the emphasis put in the Protocol on repressive 'solutions', such as the criminalization of preparatory acts of terrorism. This

discrepancy is also made more complex and evident by the Protocol's reliance on the goodwill of contracting states to abide with other overarching duties and standards in international human rights law.

It starts from the assumption that contracting states already have complete knowledge of their duties and obligations under international human rights and humanitarian law and that they will comply with those duties and obligations (and, therefore, the succinct references to those specific duties and obligations within the Protocol). This is an evident signal that the Riga Protocol is not a human rights tool and that states are already aware of what the international legal order prescribes in relation to respect for human rights and freedoms in the fight against terrorism. It leaves it up to the contracting states to keep the commitments they made by ratifying various human rights tools and concentrates almost exclusively on strengthening a concerted response for the prevention through criminalization and punishment of the certain preparatory acts of terrorism by foreign terrorist fighters. As a matter of fact, nevertheless, the protection of human rights in the prevention and fight against Islamic terrorism is not as developed as perhaps the drafters of the Riga Protocol presumed.

In support of this statement, one can recall, in particular, Article 8, where an impressive number of international legal tools and instruments are listed in order to provide relevant human rights standards to which contracting states of the Riga Protocol should adhere, as they represent duties deriving from international law. Unfortunately, however, a large majority of these instruments, including the International Convention for the Suppression of the Financing of Terrorism of 1999, do not serve this purpose, and this is because they are not relevant in relation to the phenomenon of foreign terrorist fighters due to their substantive scope of application, as noted by Professor Martin Scheinin, who claimed that in relation to this there was an identical provision in the draft Protocol (Scheinin, 2015). This further and clearly defeats the Protocol's purpose of protecting human rights and freedoms while preventing and combating terrorist acts of foreign fighters.

A further dilemma is generated by the dichotomies in the ascertainment of foreign fighters, as the Riga Protocol refers to 'foreign terrorist fighters' created in the codification of the international law applicable to the foreign fighter phenomenon, leading to serious irregularities and inconsistencies in the interpretation and enforcement of one of the few legal tools that focuses directly and specifically on foreign fighter issues.

Strengthening state cooperation and supervision in the prevention of and fight against foreign terrorist fighters

The Protocol strengthens the right of the CoE Member States to tackle the foreign fighter phenomenon within their territories because the very purpose of the Protocol is to prevent the potential threat posed by returning foreign fighters. The Protocol affirms the right of CoE Member States to criminalize and prosecute people for certain preparatory conducts that have a potential to lead to terrorist acts. It also aims, through the mechanism of 24/7 points of contact, to foster the exchange of

police information between parties concerning persons alleged to have committed the crime of travelling abroad for the purpose of terrorism.

Via the Protocol, contracting states are entitled to decide if they wish to criminalize the offence in Article 6 (organizing or otherwise facilitating travelling abroad for the purpose of terrorism) as a preparatory act or as aiding or abetting the main offence. The Protocol, *inter alia*, concerns the criminalization of the act of funding 'travelling abroad for the purpose of terrorism', as defined in Article 4, para. 1 of the Protocol. However, it also deals with the right to education, namely the right to receive an education and the right to choose an education, in international law, when it prescribes the criminalization and prosecution of the receiving of training enabling the recipient to carry out or contribute to the commission of terrorist offences. This gives it a unique status among international tools in that regard. The Protocol is an important piece of the current array of suppression instruments that purport to discipline the conduct of non-state entities that are potentially harmful to certain protected interests, which include the control of terrorism risk.

The Protocol clarifies that the prevention of and the fight against the foreign fighter phenomenon remains within the domain of internal affairs of contracting states, enabling them to use counter-terrorism powers to control foreign terrorist fighters and to maintain the status quo of territorial exclusivity while tackling an international problem. In terms of its purpose in international law, the Riga Protocol aims at reinforcing the current normative framework and state cooperation on the prevention of Islamic terrorism by upholding the principle that states are ultimately responsible for the implementation of UN Resolution 2178. Upholding this principle in the Protocol also indirectly strengthens the internal sovereignty of the CoE Member States.

There are various problems that may result as a direct consequence of this objective of the Protocol. It stresses criminal offences and criminal justice response as the proper method of stemming the flow of foreign terrorist fighters to Iraq and Syria. Nevertheless, fundamental rights and freedoms are central to the reason thousands of young people join foreign terrorist fighters. The Protocol does not address the 'root causes of the foreign fighter issue'. That specific area is entirely, and regrettably, left to the internal discretion of the CoE Member State. By stressing crime, the primary centre of interest becomes one of national interests and security, rather than the rehabilitation and reintegration of returning foreign terrorist fighters.

The conceptualization of foreign fighters within the logic of transnational organized crime

The Protocol embraces a perspective that ensures states' interests and only marginally refers to the relationship between the counter-terrorism strategies to be used against foreign terrorist fighters and human rights. As the Riga Protocol is one of the few legal tools that deals directly with foreign fighter issues, there is little or no conceptualization of the foreign fighter phenomenon apart from the transnational crime area. The Protocol might have been a more powerful tool if it

was not restricted, as it currently is, to transnational offences. Rather, the Protocol additionally blurs the line between counter-terrorism and state interests and, as a result, reduces the human rights dimension of the foreign fighter phenomenon – albeit unintentionally.

The Protocol compartmentalizes the identities of individual foreign fighters into very rigid binary categories, such as 'foreign terrorist fighters', when in reality identification generally requires more sophistication. This virtually opens the door to potential injustices, potential push-backs, *refoulement* of returning foreign fighters and –perhaps most important – even to the major risk of having little understanding of what the real situation of foreign fighters is about.

By basing this compartmentalization of foreign fighter types on the performance of preliminary acts of terrorism, the Protocol further complicates the status of foreign fighters and the responses that contracting states can make in relation to them. It inevitably chooses which foreign fighters are 'terrorists' and which are not. This generates problems of identification, because the Protocol is unclear about inherent characteristics of foreign fighters in general and of 'foreign terrorist fighters' in particular, apart from the participation of the latter in certain preliminary acts of terrorism that are criminalized in Articles 3–6 of the Protocol.

The Protocol further strengthens the demarcation line between what is 'legal' and what is 'illegal' in the conceptualization of the foreign fighter phenomenon. This helps to circumscribe the identification of foreign fighters and their movements to the internal sovereignty of the contracting states, because the concept of illegality or legality clearly rests upon national laws. It reinforces the exclusivity of the state.

The interpretation of Article 8 on the safeguards and conditions that contracting states shall respect in the enforcement of the Protocol does not encompass either a provision on the presumption of innocence, as in the International Convention for the Suppression of the Financing of Terrorism ('Financing Convention'), or a provision on the requirement of legality in criminal law (precision, non-retroactivity, clarity and foreseeability). One might suspect, as does Martin Scheinin, that as a direct result of the latter omission there is a real risk that when enforcing the Riga Protocol, Member States will encompass the domestic law criminalization imposed by Articles 2–6 but not restrict them to terrorist offences within the meaning of the Terrorism Prevention Convention of 2005 (2015). Rather, as Scheinin notes and stresses: 'member states might include a number of new crimes in their penal codes that use a domestic definition of terrorism, with very different consequences in different member states' (Scheinin, 2015). While this might appear to be an attractive possibility because of the virtually non-existent scope of application of the new criminal offences as indicated in the Protocol, a closer examination reveals that this possibility could easily be used to justify a much wider range of new criminalization than what is presently encompassed by the Protocol.

The drafting of the Protocol was confronted with two needs whose reciprocal reconciliation was objectively difficult: the need to support CoE Member States

in enforcing UN Resolution 2178 by stipulating – through a legally binding tool – specific conduct to be criminalized in the internal criminal laws of each Member State and the parallel need to guarantee that all the measures taken to prevent or prosecute the commission of the preparatory acts of terrorism indicated in Articles 2–6 of the Protocol will be in conformity with human rights and the rule of law, including, where applicable, international humanitarian law. The Protocol uses strong language to describe the offences to be criminalized under it, but is ineffective when it comes to describe the conditions that must be fulfilled by the contracting states in the implementation and application of the criminalization under Articles 2–6 of the Protocol.

As articulated above, the Protocol holds a unique position in international legislation on counter-terrorism since it is, together with UN Resolution 2178, the only international legal instrument that specifically focuses on foreign fighter issues. As mentioned above, the Protocol presents certain inconsistencies between its objectives and its perception and classifications of foreign fighters. This naturally leads us to the most relevant question of this chapter: can the Riga Protocol be considered compatible with international law on human rights?

The compatibility of the Protocol with international human rights law

In order to understand whether the Riga Protocol is compatible with international human rights law, we shall start by considering what the Protocol itself indicates about the human rights duties and obligations that contracting states have in the specific context of the implementation of Articles 2–7 of the Protocol. There is just one article in the Protocol that deals with these duties and obligations. Article 8 holds that:

1. Each Party shall ensure that the implementation of this Protocol, including the establishment, implementation and application of the criminalization under Articles 2 to 6, is carried out while respecting human rights obligations, in particular the right to freedom of movement, freedom of expression, freedom of association and freedom of religion, as set forth in, where applicable to that Party, the Convention for the Protection of Human Rights and Fundamental Freedoms, the International Covenant on Civil and Political Rights (ICCPR) and other obligations under international law.
2. The establishment, implementation and application of the criminalization under Articles 2 to 6 of this Protocol should furthermore be subject to the principle of proportionality, with respect to the legitimate aims pursued and to their necessity in a democratic society, and should exclude any form of arbitrariness or discriminatory or racist treatment.

Here, the Protocol generally refers to obligations under international human rights law, particularly the right to freedom of movement, the right of association

and the freedom of expression. In addition, the Protocol identifies the principle of non-discrimination as a part of the duties and obligations of the contracting states in the implementation of Articles 2–6 of the Protocol in their internal legal systems. The Protocol enumerates various general principles of international human rights law, like the principle of proportionality, the principle of 'legitimate aims' and the principle of necessity in a democratic society to establish a basic level of human rights commitments. Unfortunately, nevertheless, there is more than one reason to doubt that the reference to these and other analogous principles of international human rights law would succeed in achieving that objective in practical terms. The most important one is perhaps that the references to these principles are clearly inappropriate in the context of criminalization provisions. As Martin Scheinin puts it, instead of 'proportionality', 'legitimate aim', 'necessity in a democratic society' and so on, the focus of the 'safeguard clause' in the Protocol should have instead been on the requirement of legality in criminal law, the presumption of innocence and the question of the burden of proof, especially in respect of the 'purpose' element of the indicated new criminal offences (2015).

The brevity of the Protocol's reference to fundamental rights and freedoms in Article 8 indicates that the Protocol did not aim to deal with this issue in an in-depth and satisfactory way. Far from being surprising, this decision of the drafters of the Protocol was clearly instrumental to an easy-to-predict desire to facilitate the adhesion to the Riga Protocol by the largest possible number of the CoE Member States. The dichotomies generated by the Protocol in the ascertainment of the foreign terrorist fighters would have been greatly reduced if the Protocol itself had been less equivocal and more forthright about the individuals falling within the category of 'foreign terrorist fighters'. Maybe the drafters of the Protocol considered that it would be wiser to concentrate on a criminal justice response and interstate cooperation as the core of the Protocol, leaving fundamental freedoms and rights to the already-established international treaties. Nevertheless, as indicated above, these different reasons for reducing human rights in the Riga Protocol could prove to be more harmful than beneficial.

The following paragraphs will concentrate on specific human rights duties and obligations that can arise in the enforcement of the Protocol's objectives.

The right to freedom of movement

The right to freedom of movement is an established principle in international human rights law via Article 12 of the International Covenant on Civil and Political Rights (ICCPR) and Article 2 of Protocol No. 4 to the European Convention on Human Rights (ECHR). According to Article 12 of the ICCPR:

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.
2. Everyone shall be free to leave any country, including his own.

3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (*ordre public*), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.
4. No one shall be arbitrarily deprived of the right to enter his own country.

Jane McAdam lucidly clarified (as did the Human Rights Committee in its General Comment No. 27 of 1999) that the right to freedom of movement has emerged and been consolidated as a multifaceted human right that includes much more than merely the right to move freely within a country or to choose one's place of residence there; it embraces the right to cross an international border, expressed as the right to leave any country, including one's own (McAdam, 2011). This definition looks at the right of movement as a foregoing of a state's sovereignty to control its internal borders. Protection of freedom of movement being a constituent element of personal liberty ensures the upholding of the right not to be subject to arbitrary arrest, the right not to be detained or exiled and the right to seek asylum (Elazar, 2010). The idea of foregoing sovereignty is clearly at odds with the Riga Protocol, since this instrument strongly supports the sovereignty of the state over counter-terrorism measures.

As indicated above, Article 8 of the Protocol holds that the carrying-out of the duties of the Protocol must not affect the right to freedom of movement contained in the ICCPR and ECHR when dealing with the criminalization of those acts preparatory to terrorism indicated in Articles 2–6 of the Protocol. This means that contracting states to the Protocol are supposed to ensure that the right to freedom of movement of suspected foreign terrorist fighters who are intent on travelling abroad to participate in terror activity will not be deprived of any practical meaning as a result of the implementation of the new criminal offence provisions in their internal legal systems. By referring to the right to freedom of movement as well as to other fundamental rights and liberties set out in the ICCPR and ECHR, Article 8 of the Protocol ensures that states at the very least guarantee that foreign terrorist fighters, whether merely suspected or known to be guilty of the new criminal law offences, are fairly assessed and fairly treated. The non-insertion of the right to freedom of movement in the Protocol would have rendered it incompatible with international human rights law in general and with the ICCPR and ECHR in particular since contracting states to the Protocol would have been free to issue automatic and general travel bans and cancellation of passports, and this is notwithstanding that these measures constitute interferences with the right to freedom of movement set out in Article 12 of the ICCPR and Article 2 of Protocol No. 4 to the ECHR.

Nevertheless, it is also true that the inclusion of the right to freedom of movement in the saving clause in Article 8 of the Riga Protocol does not shelter alleged foreign terrorist fighters from any risk arising from inappropriate restrictions on their freedom of movement. This is for the very simple reason that much remains to the discretion of the state and the state's perception of the threat posed

by foreign terrorist fighters. States, including current contracting states to the Riga Protocol, have frequently been inclined to see restrictive measures like travel bans towards alleged terrorists as irreducible elements of their national security (Witte, 1996). Very few are willing to acknowledge, for instance, that any interference with the right to freedom of movement must take into consideration the specific situation of the individual concerned. Instead, they use different types of mechanisms to block suspected terrorists from reaching their territories.

The non-discrimination principle and foreign terrorist fighters

The non-discrimination principle is another well-established principle in international human rights law and is reflected in all the major international human rights tools and instruments today at international, national and regional level. All the measures in the prevention and prosecution of foreign terrorist fighters and in the process of counter-terrorism are supposed to be adopted in a non-discriminatory manner. Nevertheless, the Riga Protocol fails to indicate how its provisions should be interpreted in order to be fully compatible with non-discrimination. This is indeed highly problematic because human rights are one of the main issues when it comes to counter-terrorism actions and measures. Human rights breaches and injustices are part of the very reasons why thousands of young people decide to become foreign terrorist fighters in Syria and in Iraq. Treating fundamental freedoms and rights as superficial within the Protocol inevitably produces holes in both interpretation and implementation of the measures against foreign terrorist fighters that the Protocol upholds. It does not contribute to enhancing an effective response to the foreign fighter phenomenon based on human rights. The basic and few protections that the Protocol sets out are not detailed in a manner that proves the necessity and significance of a human rights-conscious implementation of the new criminal law provisions for the prosecution of foreign terrorist fighters (Articles 2–6 of the Protocol). In fact, since the emphasis was put on the criminalization and repression of those allegedly involved in preparatory acts of terrorism, human rights remain on the sidelines.

The flexibility of the notion of human rights within the Riga Protocol

The starting point here is that international human rights provisions have a major influence on counter-terrorism strategies, even to the point of restricting the discretion of states in that matter, and even though there is not yet a generalized complete consciousness about this fact (Burke-White, 2004). The main reason behind this can be illustrated as follows: human rights issues should not be subordinated under any circumstances to national security issues. In the Charter on Preventing and Combating Terrorism, OSCE participating states implicitly acknowledge this when they refer to both the importance of enforcing effective actions and measures against terrorism and of conducting all counter-terrorism strategies in accordance with the UN Charter, the rule of law and the relevant rules of public international law, including international rules and standards of

human rights and, where applicable, of international humanitarian law (OSCE, 2002). When they refer to the fact that national security, counter-terrorism, human rights and law enforcement in the context of terrorism threats must be framed to operate together it is that counter-terrorism actions and measures need human rights rules to guarantee that their enforcement does not impair their main aim to maintain a society founded on democratic principles. At the same time, human rights rules and standards may require counter-terrorism actions and measures to guarantee that fundamental rights and freedoms can flourish.

There is already a strong support system for human rights in the international legal order that may confer support for the framework of the Protocol. In other words, the Protocol does not add any extra value via the saving clause of Article 8; the saving clause in itself is just functioning as a 'narrative normen', that is, as a simple reminder to the contracting states of the Protocol that there do already exist restrictions to state sovereignty regarding the treatment to be given to terrorists in general international law. In fact, the saving clause was inserted towards the end of the Protocol, just as an endnote.

This chapter has already considered the Protocol's intersection with international human rights law. It has been maintained that while the saving clause of Article 8 reminds contracting states of their duties under international human rights law, there are still various problems with the Protocol's objective of guaranteeing the respect for fundamental rights and freedoms in the implementation of Articles 2 to 6 of the Protocol. This is mainly due to what is at the very heart of the Riga Protocol, that is, the protection of state interests in controlling and punishing foreign terrorist fighters, rather than that the protection of the interest that fundamental rights and freedoms be given priority when national criminal law is used to criminalize certain kinds of behaviour and punish private individuals' conducts. In other terms, the Protocol is somewhat compatible with international human rights law since it demands states guarantee to meet their duties within that sphere, but it is not entirely compatible since fundamental rights and freedoms are secondary in the Protocol's focus.

Notwithstanding international human rights tools have flourished to defend individuals and their safety and interests, human rights have not been able to avoid some internal contradictions between themselves and territorial sovereignty, as can be easily realized by looking in particular at the field of migration, as reported by Cathryn Costello (2015).

The numerical increase of international human rights tools has not led to the establishment of an absolute right to freedom of movement. It is still the norm for states to treat defensively intruders who act criminally; a state may still expel a foreign terrorist, regardless of the potential abuses, vulnerabilities or the conditions that the terrorist has faced or may face elsewhere. The duty of a state to protect the fundamental rights and freedoms of a terrorist ends when the terrorist is expelled from its territory. As a consequence, states generally resort to any device to ensure that foreign terrorists do not stay. Thus, though the Protocol relies on the duties and principles of human rights law, because there is no change in the perception of states on the links between terrorism and human rights, there is effectively no guarantee of protection.

In addition, human rights are premised on the vulnerabilities and necessities of groups or single individuals, rather than motives or status. The Protocol's approach focuses on crimes that have a *mens rea* requirement (such as intentional conduct), as confirmed by a reading of Articles 2–6. As the previous paragraphs suggest, Article 4, para. 3 is problematic in relation to Article 8, encompassing a saving clause for human rights. In fact, there seems to be a tension between Article 4, para. 3, which upholds state sovereignty, and Article 8, which upholds international human rights duties and provisions.

Granted, the main purpose of the Riga Protocol is to prevent and prosecute certain preparatory acts of terrorism as a transnational criminal offence, and the respect for fundamental rights and freedoms in the implementation of Articles 2–6 at the domestic level is just a secondary appendage to guarantee compliance with international human rights rules and provisions like the right to freedom of movement and the principle of non-discrimination. Nevertheless, there is a missing link between the human rights approach and the criminalization approach within the Protocol. The rationale behind Article 8 is not so clear in the other provisions of the Protocol; the saving clause for human rights in Article 8 looks like a passing reference, rather than a feature that is part and parcel of the whole structure and functioning of the Protocol. The Protocol tests the flexibility of the notion of fundamental rights and freedoms because it acknowledges the necessity of respecting core human rights, like those of freedom of movement, freedom of association and freedom of religion in the implementation of the Protocol, but refuses to indicate precisely what this respect must be.

The contraction of the notion of human rights within the Protocol

Little doubt persists that the Riga Protocol was, more than anything else, a response to a new threat to state security. Before the Protocol (apart from the so-called 'foreign fighters' resolutions of the UN Security Council), there was nothing dealing specifically with that type of threat in international law. In that respect, the Protocol filled a serious lacuna. It was a soft normative response to fill out the gap that existed to deal with the transnational phenomenon of foreign terrorist fighters. Nevertheless, although the Protocol filled this lacuna, it did not do so regarding the protection of fundamental rights and freedoms that might be compromised by the enforcement of preventive and repressive actions and measures against individual foreign fighters or groups of foreign fighters.

The Protocol has contributed little to the advancement of a human rights approach to foreign fighter issues. This is because the flexibility of conceptualization of human rights within the Protocol was hampered by the necessity to address the concerns of the contracting states on the issues of foreign terrorist fighters domestically.

The Protocol additionally stretches the reaches of national sovereignty by establishing and supporting measures, like those against subjects involved in the organization or facilitation of travelling abroad for the purpose of terrorism, that permit contracting states to enforce counter-terrorism measures outside their territories.

The Protocol reinforces the impenetrability of state sovereignty and misses a good opportunity to explicitly clarify the holistic approach that must be followed in the treatment of foreign terrorist fighters. This is a major problem with the Protocol in relation to its coherence with the existing corpus of international human rights law norms. Domestic laws often create a system that only aims at the criminalization of alleged foreign fighters. The Riga Protocol may have filled a lacuna if it had made it a strict duty for contracting states to modify their domestic laws that only criminalize foreign fighters.

Final remarks

Several conclusions can be drawn from the paragraphs above. The first is that the conceptualization of the foreign fighter phenomenon in the Riga Protocol is framed within state sovereignty. It is fair to say that this is not an unexpected outcome if one considers the aversion to foreign terrorist fighters which prompted the drafters of the Protocol to overlook the rules and provisions of international human rights law, as indicated in paragraphs 8 and 9. And also, perhaps most significantly, if one considers respectively the drastic changes of the concept of national security produced by the new forms of international terrorism after 11 September 2001 and the increased push/pull issues influencing the widespread criminal terrorist acts committed by foreign fighters, especially the recurrent use of Islamic terrorism as a tool for influencing popular support internally and the strong preference for a criminal justice approach to the foreign fighter phenomenon in almost all CoE Member States.

The second conclusion is that the saving clause for human rights in Article 8 of the Protocol must operate as a device through which other state duties and obligations under international law can flow in the enforcement of the Protocol. There are already certain standards and norms in international human rights law that can satisfactorily fill in most of the gaps within the Protocol. Nevertheless, some rules of the Protocol undermine each other and thus generate inconsistencies and potential problems in interpretation and enforcement, which ultimately could lead to a substantive rejection of a human rights-based approach towards foreign terrorist fighter issues. The saving clause for human rights has not done much to clarify the duties of the contracting states to the Protocol in dealing with foreign terrorist fighters. As a result, the Protocol ends up by being a deterrent to any approach other than a purely criminal law one to foreign terrorist fighter issues. This explains why the language on fundamental rights and freedoms is not expressive and strong enough. Yet anything more effective and stronger would have gone against state interests in stemming foreign fighters.

Related to this is the third and last conclusion: that the Riga Protocol holds state interests much higher than human rights in its content. This produces a confusing message about the place of human rights in the fight against Islamic terrorism and permits contracting states to the Protocol to escape their human rights duties and obligations and hide behind criminal justice – and this is notwithstanding human rights should be indispensable ingredients in any effective counter-terrorism strategy.

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10 Preventing and countering Islamic radicalization in prison through restorative justice

Florentino G. Ruiz Yamuza

Introduction: Islamic radicalization in prison

Although the terminological options are not peaceful, we can define the process of Islamic radicalization as the means by which there is an overflow or extension of religious doctrine to take it to the field of politics, sociology or others. This process sometimes ends with the commission of terrorist actions, the expression 'jihadist terrorism' connoting the exacerbation of a religious doctrine and taking a part of it to justify acts of violence according to a para-war ideology.

The texts of the European Union frequently resort to the words 'religious fundamentalism' and 'radicalization' and predominantly use the expression 'Islamist' or 'Islamic terrorism' (Wensink et al., 2017). In fact, there is no unified definition of the very concepts of radicalization and terrorism, whose patterns are constantly evolving (Council of the European Union, 2014); the authors point out the difficulty of finding a satisfactory definition for all the disciplines that study these phenomena (Mulcahy, Merrington & Bell, 2013).

One of the main lines of research in the studies on the causes of jihadist terrorism is the analysis of the impact that the living conditions in prison have on the phenomena of indoctrination, radicalization and recruitment of people for terrorist aims.

The Council of Europe draws attention to the importance and the need to investigate this specific problem and stresses that no approach can work without a precise and up-to-date knowledge of the phenomenon to be addressed.

We cannot ignore the impact of the context and regime of life in prison on the processes of radicalization. Although the proportion of radicalized people in prison may not be high, the total number of prisoners with the profile of being *at risk of radicalization* is considerable.

As pointed out by the United Nations in its *Handbook on violent and extremist prisoners and the prevention of radicalization in prison* (United Nations Office on Drugs and Crime [UNODC], 2016, p. 109):

> prison conditions may activate social and psychological mechanisms that can, in certain circumstances and for certain individuals, induce a change towards violent extremist attitudes and behaviour that are later interpreted as radicalization.

However, the process of radicalization does not affect all at-risk inmates, nor do all those who become radicalized end up committing acts of terrorism. On the other hand, radicalization patterns usually present a series of stages that are covered successively, although the vectors towards intransigence and hate speech can follow different channels; this enables us to diagnose episodes of the cycle to prevent radicalization or to reverse the process already started. These two objectives, countering and preventing the ideological fanaticism of Islamism in prison, are the subject of this chapter.

The statistics suggest that radicalization affects especially certain population groups (male Muslims under thirty years of age and residents of metropolitan areas) and also that processes are developed preferably in certain spaces; homes, places of religious worship and prisons tend to catalyse activities of recruitment and indoctrination. The most common scenario of radicalization is that which occurs in the company of other people, under the direct influence of leaders, activists or religious ministers, combining personal discourse and debate with the use of graphic, printed, digital materials and so on. Lately, self-radicalization via the Internet is frequent, continuing with another phase of social or community radicalization or culminating in a terrorist performance that is known as a 'lone-wolf' act.

The radicalization that takes place in prison presents peculiar aspects that sharpen some problems and mitigate others, therefore demanding a specific approach. People in prison may be more vulnerable to the processes of radicalization due to the living conditions and circumstances present in them, such as marginalization and social maladjustment, poverty, greater receptivity to radical discourse due to the resentment generated by entering prison, contact with radicalized people etc.

However, other circumstances favour the prevention and fight against radicalization: the impossibility of access to the Internet, the daily control of contacts and activities, and the regime and treatment measures in general, among which we would highlight rewards for participating in programmes on deradicalization.

The hypothesis: restorative justice as a way of countering Islamic radicalization in prison

Our contribution to this monograph dedicated to the study of Islamic radicalization focuses on the reality of the fulfilment of penalties, resocialization and prevention. We will present some lines of action, inspired by experiences of restorative justice in the resolution of conflicts in criminal matters and expressly confront violent extremism (White & McEvoy, 2012), which may be somewhat novel as methods of combating and preventing radicalization in prison.

The use of restorative justice techniques to confront the consequences of criminal behaviour is common in our legal environment, applied inside or outside prison, in the stages of trial and execution of sentence, as reflected in the Council of Europe document *Restorative justice in prisons: Methods, approaches and effectiveness* (Johnstone, 2014).

Different models have been implemented in Europe aimed at counteracting the phenomenon of radicalization through community-oriented approaches. Most are not related to work in prison; rather, the prevention and counter-narrative work is done with people who are at liberty. Nor are all directly related to Islamic radicalization; some even fight against Islamophobia. Nevertheless, many of the problems that are faced are common to those in the prison environment and, consequently, many of the lessons that can be learnt from these programmes (such as EXIT or PASSUS in Sweden, for example, helping young people to leave radicalized gangs) can be enormously valuable in the penitentiary field. Particularly interesting is the experience in Northern Ireland of using community restorative justice to confront violence, which included numerous former IRA combatants as volunteers in the respective programmes.

In relation to the use of restorative justice in the European Union, there are numerous experiences and schemes implemented in prison as well as in the context of probation or alternative measures. By way of example, we can cite the experiences in the United Kingdom, which highlight the positive results obtained by the Restorative Justice Capacity Building Programme implemented by the National Offender Management Service (Wigzell & Hugh, 2015), or France, that with the modification of Article 10-1 of the Code of Criminal Procedure by Law 2014-896 of 15 August 2014 expressly opens the possibility of resorting to restorative justice throughout the criminal process, which includes the execution phase.

We will focus on a clearly defined range of possibilities, related to the combined application of institutions and techniques of restorative justice within prisons (Biermans, 2002; Ríos Martín & Bibiano Guillén, 2005) to prevent crime and combat radicalization. And, never forgetting the essential component of any restorative process: repair of and relief for the victims.

As a starting point, we can distinguish three close but different realities: restorative justice in the execution phase of the sentence; restorative justice in the execution of the sentence of imprisonment; and penitentiary restorative justice.

The first refers to the channel of dialogue and mediation that is opened between the victim and the offender once he has been found guilty of a crime by final judgment (condemned to a prison sentence or otherwise is serving the sentence, or it has been suspended or replaced). The second concerns the process that is established between the victim and the offender sentenced to a custodial sentence who is also serving it and is in prison for that same crime. The third has to do with the processes of restorative justice that are used to resolve conflicts that have arisen purely in the penitentiary sphere, either between inmates or as disciplinary problems. Of the three modalities, the first two are the most obvious that can be used in the fight against radicalization.

Implementation scheme: preventive/restorative procedures

Objective elements

Restorative justice is not only linked to the reparation of the consequences that the crime has caused the victim, nor only to the search for a solution to the

victim/victimizer conflict, for whose solution Nils Christie (1977) claimed the initiative of the victim. It also has a dimension linked to the prevention of crime that can be presented cumulatively to the victim's compensation, or exclusively preventive, in those cases in which the crime has not occurred.

For expositive purposes we can label restorative justice as classic when it participates preeminently as an instrument of reparation and conflict resolution, in contrast to the other variety of restorative justice, which is aimed at prevention.

The relevant role that restorative justice can play in terms of preventing crime and recidivism is widely recognized in supranational texts; the United Nations *Handbook on restorative justice* (UNODC, 2006) and the 2014 Council of Europe report cited above (Johnstone, 2014) echo this possibility.

Restorative justice programmes can transcend attention to the needs of the victim, even though this is their primary goal and application paradigm, as shown in Directive 2012/29/EU, on the rights and protection of victims (European Parliament & Council, 2012). This, in its Article 12, regulates the guarantees in the context of restorative justice services, among which is the concern to avoid any secondary victimization, noting that among the conditions that should be given priority is, in Article 12.1 (a), 'that remedial justice services are used if they are in the victim's interest, taking into account security considerations, and are based on the victim's free and informed consent; which may be withdrawn at any time'. In the same sense, throughout the Preamble, several references to restorative justice are always made from a victim-centred perspective; it even contains a definition along this line:

> 'restorative justice' means any process that allows the victim and the offender to participate actively, if they give their consent freely to do so, in the solution of the problems resulting from the criminal offence with the help of an impartial third party.
>
> (European Parliament & Council, 2012, Article 2.1(d))

The *United Nations Handbook* (UNODC, 2006, p. 9) sets out a series of main objectives for restorative justice processes that demonstrate such teleological plurality:

a) Supporting victims, giving them a voice, encouraging them to express their needs, enabling them to participate in the resolution process and offering them assistance.
b) Repairing the relationships damaged by the crime, in part by arriving at a consensus on how best to respond to it.
c) Denouncing criminal behaviour as unacceptable and reaffirming community values.
d) Encouraging responsibility taking by all concerned parties, particularly by offenders.
e) Identifying restorative, forward-looking outcomes.
f) Reducing recidivism by encouraging change in individual offenders and facilitating their reintegration into the community.

g) Identifying factors that lead to crime and informing authorities responsible for crime reduction strategy.

We are especially interested in three of these possible purposes: the understanding of unacceptable behaviour, the reaffirmation of community values and the social reintegration of offenders.

Likewise, for a preventive approach to Islamic radicalization that is based on restorative justice, the empowerment of the community in the search for solutions is crucial and cannot be achieved only with the sole effort of governments (Council of the European Union, 2014, p. 5). To combat or prevent the phenomena of radicalization, it is necessary to involve both people in prison and other social groups – victims, relatives of convicts, members of religious communities and so on.

On the other hand, there may be a complete use of restorative justice or only one of its elements to achieve the aforementioned purposes or only some or some of them. The range of possible situations takes us to scenarios that vary from acting in a context of pure victim–offender mediation, which in the end may offer a result that impacts the offender, giving him an understanding of the facts that can lead him to abandon the radicalization process and to go to other realities that may make community reparation (Sullivan & Tifft, 2006, sections 4 & 5). The variety of programmes that can be used is very broad (UNODC, 2006, p. 14) in line with the various restorative methodologies that can be used, even combining or adapting their characteristics and elements to try to make the most of their possibilities and avoid some of the drawbacks (Habili, 2016; Umbreit & Coates, 2000).

The target spectrum, which is described in Table 10.1 (see p. 191), basically follows the taxonomy of the *United Nations Handbook* (UNODC, 2006, pp. 19–31), in which restorative justice programmes are varied in their characteristics, attributes and typology. Due to its characteristics, the classification parameters range from the programme's relationship with the criminal justice system to the involvement of the community and the offender, voluntariness or emphasis on the rehabilitation of the perpetrator.

As for its attributes, the opportunities or benefits that both victims and offenders can obtain from their participation are related. Finally, the typology includes victim–offender mediation, community conferences and family groups, sentencing circles, programmes for minors, indigenous and traditional justice forums and so on.

In most of the states of Europe, America (Coolsaet, 2011, Part 4) and other continents, there are numerous projects and initiatives aimed at combating radicalization, both outside and inside prisons (Vidino & Brandon, 2012). We can distinguish between those whose priority is on aspects related to security and prevention, and others that are clearly oriented to the rehabilitation and reinsertion of offenders, some even taking restorative justice as reference initiatives.

The Spanish experience, of all the possible options for combating radicalization in prison, has prioritized those based on control and security, as opposed to those

Table 10.1 Scheme of Characteristics, Typology and Objective Elements that may be Present in Processes of Countering, Prevention and Opposition to Islamic Radicalization based on Restorative Justice

Main Characteristics	*Typology*	*Objective Elements*
– Possibility of working jointly with other programmes or systems of conventional justice. – Involvement of offenders and persons at risk. – High involvement of the community. – Variable involvement of the victim, – Focus on rehabilitation of the offender, avoidance of recidivism and prevention. – Not directed by the administration. – Incentive for participation. – Possibility of applying it to other delinquents.	– Victim–offender mediation. – Community conferences. – Conferences of religious groups. – Circles to evaluate conduct (sentencing circles). – Programmes for minors. – Indigenous and traditional programmes. – Meetings with victims, their families or associations. – Meetings with deradicalized persons or their families. – Combination of some of these.	– Apology, pardon and reparation. – Empathy and understanding of the consequences of the crime and of the suffering of others. – Understanding of the real risk of radicalization or situation of radicalization and its consequences. – Integration with other programmes of restorative justice and deradicalization. – Repercussion of the programme in the penal process and the prison situation. – Diffusion and use of the results of the programmes.

that function with criteria grounded on reinsertion and restoration. This tendency of tackling the problem in different ways must be overcome, fostering alternatives of de-radicalization based on dialogue, reparation of victims and reintegration.

The National Strategic Plan to Combat Violent Radicalization (Spanish Ministry of the Interior, 2015b), includes institutions and state resources at all levels, from intelligence to international relations or control of cyberspace. It establishes three areas of action: a) prevention; with activities aimed at social integration, promoting diversity and the resolution of conflicts, favouring ideological and political diversity within a framework of education and social awareness; b) surveillance; and c) action, with a preponderant presence of intelligence and police reaction, but with the possibility of returning the situation to a non-police and judicial path if the radicalization evolves favourably.

For the most part, the fight against Islamic radicalization in prison basically revolves around prevention based on observation, classification and control and addressing a very limited prison population, as can be seen from the set of Instructions 8/2014, 2/2015 and 2/2016 (Spanish Ministry of the Interior, 2014, 2015a, 2016). Although the strategy contains provisions related to collaboration with imams and moderate Muslim inmates and provisions that seek to reinforce

social empathy and overcoming extremism, it focuses on aspects essentially related to the classification, supervision, control and penitentiary regime of convicts.

The basic structure of these three Instructions, aligned with the recommendations of the Council of Europe Guidelines to prison and probation services on radicalization and violent extremism (Council of Europe, 2016), is based on the classification and control of inmates, with special monitoring of jihadist terrorists and those at risk of radicalization, and their observation and surveillance.

Precisely the study of this concrete reality leads us to consider it necessary, among other measures, to broaden the focus, to expand the group of situations in which we act to prevent and fight against radicalization, to complete the approach based on control and security with another based on the possibility of social reintegration, to involve different actors and to offer consideration to those who successfully follow the appropriate programmes.

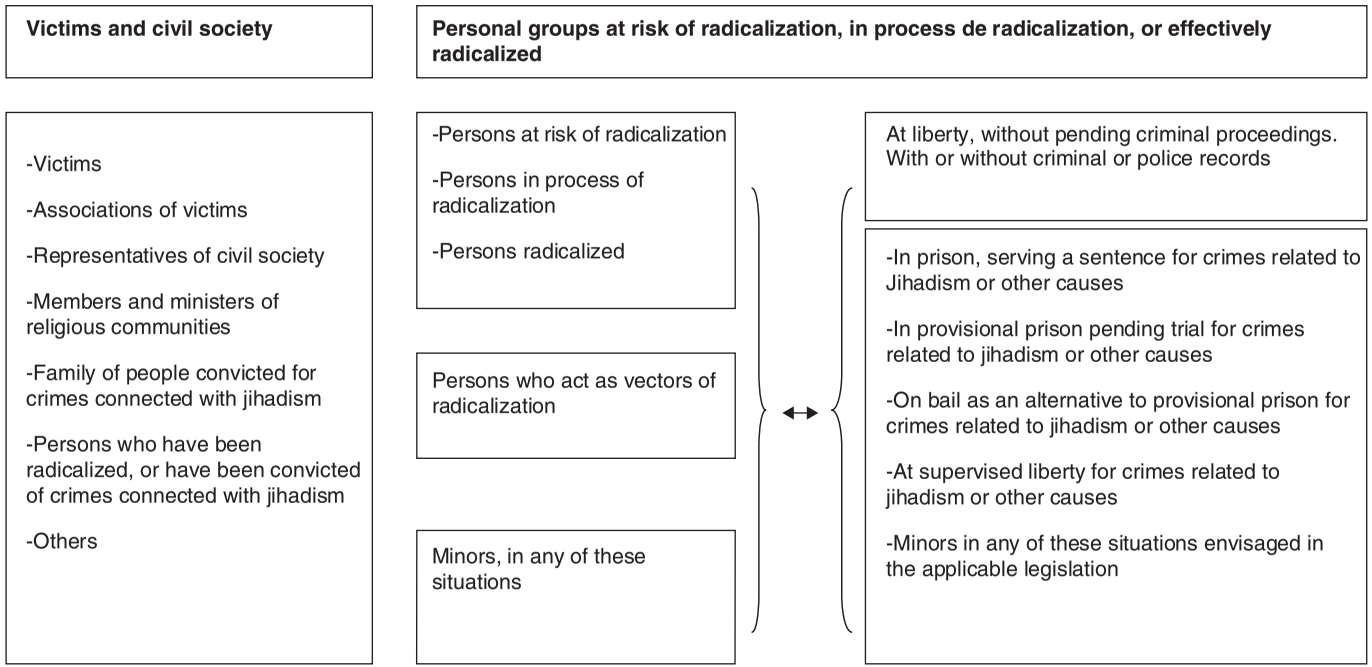
Subjective elements

The map of personal elements involved in these processes can be complex, as described in Table 10.2 on p. 193, taking into account the list of subjective situations in relation to the criminal phenomenon and radicalization. On one hand, there are the people and entities that converge in the processes of deradicalization: direct and indirect victims, associations, religious communities, NGOs, people who have abandoned radicalization (whether having been condemned for crimes related to it or not, or who may even be found in prison serving a sentence). The involvement of people close to the offender, such as family members, who make the inmate aware of the so-called tertiary victimization, and that of convicts who have abandoned their own radicalization is of great interest, even for those sentenced to prison for jihadist crimes, who are serving their sentence.

On the other hand, those radicalized people who are in the process of, or at risk of, being convicted may be in different frames of mind depending on the stage of the criminal process related to their criminal activity. Table 10.2 aims to show the different situations of those people, according to the stage of the proceedings for jihadist or other types of crimes.

Finally, it is necessary to emphasize the particular situation of minors. In most states, they cannot be sent to prison, as reflected in the report *Minimum ages of criminal responsibility in Europe* (Children Rights International Network, n.d.). Even if they are sent to prison, in this exceptional event, according to Section 11.2 of the European Prison Rules, Recommendation (2006) 2 of the Committee of Ministers to the Member States of the Council of Europe, MSs must have regulations that implement extraordinary measures to meet minors' status and special needs. But for offences committed between fourteen and eighteen years of age, individuals can enter centres where the problems of indoctrination and radicalization can present at the same intensity as in prison. Moreover, when dealing with minors, the need to act on them has to be carefully considered when their criminal behaviour has not meant that they have been sentenced to a closed centre (as in most cases), or they have left it.

Table 10.2 Scheme of Personal Elements that May Participate in the Processes for Prevention and Opposition Countering Islamic Radicalization Based on Restorative Justice



In the Spanish experience, we again find the personal scope of action for the fight against radicalization in prison too restricted. Thus, Instruction 8/2014 cited above contemplates limitations on access to prison benefits and the special control of particularly dangerous inmates; Instruction 2/2015 regulates the inclusion in the file of special follow-up inmates (FIES); and Instruction 2/2016 establishes three categories within the FIES: a) inmates condemned for belonging to or collaboration with terrorist groups; b) inmates with skills in leadership, recruitment and indoctrination; and c) internalized radicalized inmates, or those in the process of radicalization.

It also includes actions that consolidate a 'therapeutic alliance with the inmate', to promote their empathic capacity and internalization of the values of coexistence of a democratic state. For some of these objectives it is envisaged to count on the collaboration of Muslim support inmates and moderate imams in the framework of the agreement between the General Secretariat of Penitentiary Institutions and the Islamic Federation.

One of the proposals that we support is the possibility of expanding the list of people participating in prevention programmes and in the neutralization of Islamic radicalization processes in prison based on elements of restorative justice and using as far as possible the different levels from which to counteract radicalization, within the area of prevention, ranging from police efforts to education in the community, with very varied possibilities within the penitentiary environment. Our thesis is that, through processes based on restorative justice models, we could go beyond the current framework of ways of combating radicalization both within and ouside prisons.

From an objective perspective, we propose that situations are approached carefully when they are not directly related to the criminal conduct that has caused the conviction of the people involved in these processes, as well as the contribution of new ways of dialogue and prevention that go beyond those employed at present. And from a subjective point of view, we advocate the expansion of groups of inmates who can benefit from these programmes, including those convicted for causes related to jihadism and 'common' crimes. We would even suggest the extension to the stages of provisional freedom (bail), conditional freedom (parole) and suspension of the condemnation of the effects of these processes that may imply an interesting expansion of its spectrum with respect to existing models.

Normally, radicalization is linked to people who are either in prison for committing some type of crime related to jihadism, from terrorist attacks to acts of proselytizing, recruitment and indoctrination, or because of religious extremism, characteristics and personal circumstances that have been categorized as radical or at risk of being so.

Understanding the radicalization process and being able to determine when a person is radicalized or at risk of being radicalized is not a simple task. The process can be completed through a series of typical phases according to a structured sequence (Bjelopera, 2014; Dyer, McCoy, Rodríguez & Van Duyn, 2007; Silber & Bhatt, 2007), within defined segments of the population, or it can

occur without the occurrence of any of them; it can move at an unusual speed or expand to social sectors or individuals that would not be initially classified as at risk. According to the studies cited, the radicalization that leads to participation in terrorist activities can be divided into four stages: first, a pre-radicalization phase in which the attitude of individuals does not relate to religious fundamentalism or violent jihad; second, a process of self-identification in which some factors (loss of employment, death of a relative, social alienation or international or other conflicts) can act as triggers for the exploration of radicalism; third, individuals follow a process of indoctrination or adoption of jihadist ideals combined with views of religious radicalization, with a primordial role of the spiritual leader or charismatic figure; fourth, radicalization evolves to jihadization, with the person making a self-reference as a jihadist and with an involvement in the preparation or execution of terrorist attacks.

With regard to radicalization in prison, the outlook may be slightly different due to several factors; for example, many of the influences transmitted through the Internet are not available, but on the other hand the starting situation of the people deprived of liberty can result, almost by definition, as a predisposing factor so that they become radicalized and their life circumstances are so specific that they bring numerous distinctive elements such as greater proximity with radicalized elements, emotional stress and social rejection etc. There are even certain approaches in prison policies and ways of treatment and re-education of these inmates that can indirectly have counterproductive effects in relation to this process, as the Report of the International Committee of the Red Cross (ICRC, 2016) expressly warns. Counterproductive practices include: errors in the categorization of the radicalization of individuals; the imposition of excessive restrictions; a defocused approach to religious phenomena, sometimes aimed at underlining negative aspects, which are presented as generalized, and failure to praise the positive ones; a lack of staff training and supervision; a lack of investment in detention and probation services; discriminatory practices regarding 'radicalized' inmates. Avoiding these requires a careful determination of the persons eligible to participate in the programmes, a rigorous choice of intervention models, proper financing of initiatives and the training of professionals.

Consequently, although the model of intervention whose study we propose includes groups at risk of radicalization (whether the individuals are aware of it or not), vectors of radicalization and those effectively radicalized, it is also essential to start from an adequate study and assignment of people to these groups to implement the different lines of action.

The terminological pairs of radicalization/violent extremism and radicalization/terrorism are sometimes used interchangeably but correspond to different realities and with different motivations (Bjørgo & Horgan, 2009; Heath-Kelly, 2013) that must be taken into account to design an effective prevention strategy. In addition, radicalization does not invariably give way to violent extremism or the assumption of jihadist activity. Not every individual who holds radical ideas ends up developing violent behaviour, much less become involved in acts of terrorism; there is no single profile nor a single evolutionary line.

In parallel, one of the expected characteristics of intervention programs based on restorative justice must be absolute voluntariness, and that individuals are not directed by the authorities related to the criminal process (judicial, police, probation services) or penitentiaries. Along with this operation outside the criminal justice and penitentiary system, and therefore treated with the utmost confidentiality, the participation of inmates should be encouraged by the expectation of tangible benefits. These should be, among others, key, defining and distinctive notes, as opposed to other options of disengagement and de-radicalization, of which there is an interesting variety of proposals and criteria for action, as set out in the Council of Europe manual for prisons and probation services (Council of Europe, 2016).

Both notions refer to the prevention or reversion of the situation in which a person is linked to a radical or violent group or immersed in a radical ideology. Following the Council of Europe *Handbook for prison and probation services regarding radicalization and violent extremism*, we can define disengagement as: 'to prevent or change an offender's relationship with a violent extremist group, cause or ideology' and deradicalization as: 'to prevent or change an individual's ideological convictions, attitudes or ways of thinking which motivate and/or justify extremist offending' (Council of Europe, 2016, p. 20).

Independence of the administration's action, which we have just mentioned as a distinctive feature, cannot be understood as a total disconnection; on the contrary, an appropriate flow of information from the programmes to the prison and judicial authorities must be guaranteed in order to apply them to the inmates who participate to profit from the benefits, to which we will refer later, as well as facilitating the interconnection of penitentiary or extra-penitentiary programmes, even from different states.

Finally, the participation and empowerment of the community in the fight against radicalization is crucial. The contribution of educators, psychologists, organizations and relatives of victims, people who have left the world of radicalization and moderate religious ministers, among others, may be essential for any of these modes of action, presided over by dialogue, empathy and synergy, to confront a problem that repeatedly hits society in a transversal way beyond the concrete manifestations of terrorist attacks. In this sense, we must emphasize the importance that the participation of the community plays in the process of deradicalization, as set out in the study of the University and Police Department of Victoria, Australia (Tahiri & Grossman, 2013) or the fundamental relevance of the involvement of religious ministers (European Organisation of Prison and Correctional Services [Europris], 2016).

The role of victims' associations or other entities that replace victims in victim–offender mediation or similar models will be particularly valuable when the victims cannot or do not wish to take part in the restorative justice experience, as social partners of a community entirely struck by terrorism and radicalization. In Table 10.2 detailing personal elements, annexed below, a synoptic list is made of the persons and institutions that may intervene in the different programmes and their particular situations for those deprived of liberty or subject to criminal procedure.

Just as the participation of the convicts must be voluntary and stimulated by certain benefits if it is to be successful, the participation of NGOs, associations, relatives, religious entities and others must be encouraged by the appropriate means, compensating the expenses that may be incurred, signing agreements for this purpose and developing the appropriate strategies of information, selection, financing and so on. Apart from that, the experts and technicians who design, direct or supervise the programs and their development must have the appropriate training and qualification.

Programmes

The general structure and contextualization of the programmes whose study we propose present the common note of being based on elements of restorative justice. Nevertheless, their specific content, without prejudice to the common notes and the principle of interconnection with other initiatives both nationally and internationally, should be determined according to the specific needs of each region, city or even detention centre, and the concrete models that for this purpose should be put into operation will have to be rehearsed and explored in daily practice.

Therefore, to design and improve the specific content of each programme and to test its evolution it is essential to make a pilot of some of these experiences in the framework of a European Union programme that could be developed in prisons in Spain, Italy and the United Kingdom, and even other Member States that would like to join such an initiative. These experiences would be developed in collaboration with the Ministries of Justice and Interior and the state penitentiary administrations, as well as with the collaboration of victim assistance offices and victim associations, religious confessions and their ministers, academics and experts in restorative justice, among others.

The main characteristics of these programmes should be their adaptability and compatibility. The former will allow adaptation to the needs or demands of inmates of an area or establishment, and the latter should apply at various levels: with the conduct of criminal and penitentiary proceedings; with other conventional restorative justice programmes aimed at reparation for the victim; with other initiatives of deradicalization that run according to their own designs but are in parallel to a programme of prevention of radicalization based on restorative justice.

Adaptability and compatibility do not imply that programmes of this type can be carried out in every case. There will be situations in which they will be counter-indicated; on other occasions it will be necessary to combine them with other initiatives or to superimpose them on certain procedural phases for a particular subject.

To ensure the suitability of potential candidates to participate in the programmes as well as the compatibility of these with the procedural circumstances of each subject requires a panel composed of prison experts, probation services

and restorative justice experts that, after consultation if necessary with the judicial authorities or the police, can advise on the procedure for this route.

Each case should be studied individually, taking into account the personal situation of the candidate, his maturity and psychological predisposition regarding this initiative, the difficulty of reconciling this programme with other conventional restorative justice initiatives, the prison situation, an individual's possible participation in other crimes for which he is being investigated and so on.

Although the seriousness of the crime being considered for a restorative justice process may be the subject of controversy, there are some opinions that the most serious offences should be omitted from restorative justice programmes. We believe that this should not necessarily be the case, with the agencies responsible for implementing the programmes deciding whether to include or exclude serious crimes for both classical mediation and preventive measures, or to avoid radicalization.

Finally, the adaptability of the programmes means that with common basic structures or models, they can be configured according to the individual nature of the group to which they are directed.

Informality and adaptability, especially when compared with criminal procedural law, are essential keys of constructing restorative justice. But as the authors remind us (Lynch, 2010), the limits of restorative justice are found in the protection of fundamental rights and the procedural guarantees of victims and offenders.

The majority position, which we follow (Ward & Langlands, 2008), considers that anti-formalism and adaptability cannot be opposed to the preservation of fundamental rights either of the offenders or, of course, of the victims.

In spite of the variety of programmes and their adaptability, there are some common phases to all of them that are detailed in Table 10.3 (see p. 204) and that can be divided into phases, set out below.

Phase I: determination of risks and personal classification

The core of the struggle against radicalization based on elements and institutions of restorative justice must be fundamentally outside the spheres of the activity of the judicial, penitentiary or police administration. This offers radicalized inmates or those at risk of radicalization possibilities that will not be linked to initiatives coming from the authorities and penitentiary institutions, which can be thought of as part of a repressive, scarcely motivating, institutionalized reality. However, the administration must intervene in this first phase, studying the inmates, determining their degree of radicalization and proposing, where appropriate, the possibility of inserting themselves in any of these programmes. The decision on referral to restorative justice programmes must be taken, after the appropriate study in phases I and II by the prison administration, by the relevant Judicial Authority or by the authority responsible for the enforcement of the judgement.

This decision, after verifying the suitability of the candidate and the compatibility of the programmes, which would be included among the competences in terms of treatment, offers the prison administration an interesting position to evaluate the attitude of the inmates regarding their insertion in any of the programmes. An inmate's rejection may suggest a certain psychological predisposition, especially considering that participation in programmes should invariably be linked to some tangible prison benefit. And, on the contrary, an inmate's request to be included in a programme, especially if the administration has ruled out this possibility, may offer the opportunity to extract interesting consequences.

Phase II: compatibility study

The development of this stage must also be attributed to the administration. While the first phase revolved around the evaluation of the inmate, Phase II focuses on the technical compatibility of the programmes with the procedural reality of the prisoner, with other conventional restorative justice processes or with other programmes of deradicalization.

The decision adopted at the conclusion of Phases I and II could be reviewed by the institution that adopts it or by way of appeal before the judge of penitentiary surveillance or the execution of sentences or a competent body, following the model in force in each state. Alternatively, it could be reversed if the circumstances that advised their adoption change, or in the case of undue evolution of a particular programme.

As we explained above, the use of these programmes is not restricted to the prison, but also to other situations in which the people concerned are at liberty. In Spain, the Penitentiary Treatment Board that exists in each centre as a plural collegiate body (consisting of those responsible for the direction of the centre, educators, medical services, criminologists, sociologists etc.) would be the ideal body to study the viability of ascribing a prisoner to one of these programmes, since among its competences is the establishment of treatment programmes or individualized models for each inmate of the centre to serve his sentence, defining the activities to be carried out based on the peculiarities of his personality and the approximate length of time of his sentence.

When the situation is one of parole, probation or another, the body responsible for assessing the viability of a programme for an individual would have to be the specialized social services or the probation officers, depending on the legal system of each state that takes the initiative in these phases.

However, we believe that, in any case, restorative justice experts and organizations must be heard, and the judicial authorities must be consulted about the origin of a person's assignment to a programme.

Phase III: the design and implementation of the specific programmes

The management and confidentiality of the information generated in the programmes, which is part of the restorative justice process, and drawing

conclusions and evaluations are tasks that should not be entrusted to the administration – on the one hand, because the experts and institutions of restorative justice are the ones indicated to develop the programmes, but also because one of the ways to present participation as attractive to inmates is to make them see that the administration will be left out of the design and direction of programmes that for the most part have to be open, plural, active and followed by actors on an equal footing, regardless of the moral authority or respect that the victims, religious ministers, volunteers or others deserve.

We consider that the design of each of these programmes should start from a free and autonomous conception that in each case allows maximum flexibility and adaptability to enhance its efficiency. In this way, it will be possible to rely on a victim–offender mediation or conference circle model, or a conference model of religious groups etc., even choosing and combining in each situation those elements that best suit the needs of the person whose deradicalization is intended.

However, we do consider that there are some patterns that should have a homogeneous formulation for certain types of people (minors, primary at-risk delinquents, radicalized individuals and others) that would allow entry of the administration's point of view and prevent the system being broken up into a multitude of schemes and experiences from which we could not extrapolate conclusions from a generality of cases to make resources more efficient for implementing this type of programme.

All these possibilities must be carefully studied in pilot projects that are put into operation in a multidisciplinary context. In Table 10.1 (see p. 192), concerning objective elements, and Table 10.2 (see p. 194), concerning personal elements, our aim is to point out the different typology of institutions and mechanisms of restorative justice that can be resorted to and to offer an overview of the subjective situations of the possible recipients of the programmes.

Phase IV: evaluation of programmes and determining their use and consequences

At the conclusion of each programme the institutions in charge of developing it should prepare a final report on its results in general and for each of the participants (it may also be of interest, if the programme in question has a long duration, for periodic reports to be issued) and a report with follow-up proposals, if applicable. This documentation should be sent to the administration so that first, it is received as a matter of protocol by the same services that agreed to the participation of an inmate in it, with information related to its conclusion.

Second, the institution should evaluate its result and determine whether it has been followed profitably, sending a proposal to the competent authorities regarding the benefits that could be granted to the people who participated and establish, if appropriate, follow-up mechanisms.

Third, all the documentation with the appropriate proposal regarding the impact that the result of the programme could have on the granting of penitentiary benefits or evaluation of the inmate's procedural situation should be referred to the competent judicial and penitentiary authorities (being those authorities that have to decide on the matter according to the legislation of each state).

In this sense, and adhering to the Spanish legal framework, there are several ways to transfer the positive effects of the conclusion of the mandatory programme to the procedural and penitentiary situation of the person who has participated in it. We can cite as examples: taking into consideration the positive result of the programmes when participation in them had been imposed as a condition for the suspension of the execution of the sentence imposed (Articles 80 and 83.1.6ª of the Penal Code, 2015); the evaluation of the positive result of the programmes for conditional release (parole) (Article 90.1, para. 2; Article 90.2 (b) and (c) of the Penal Code); taking into account the good result of the programmes for the suspension of the execution of the reviewable permanent prison sentence (Article 92.1 (c) and 92.2 of the Penal Code); or the impact that positive participation in the programmes may have on the awarding of rewards, permits or other penitentiary benefits, as well as on the classification and progression of the prisoner's grade (Articles 46, 47 and Title III of Organic Law 1/1979 of 26 September, General Penitentiary, 1979). The same can be said regarding the opportunities offered by Organic Law 5/2000 of 12 January, regulating the criminal responsibility of minors, in Title VII on the execution of the measures imposed in accordance with it.

Even persons convicted of terrorist offences sentenced to the most severe penalties, such as a permanent reviewable prison sentence, can benefit from the review or suspension of their sentence when, in accordance with certain requirements, the prisoner shows unequivocal signs of having abandoned the ends and means of terrorist activity. This may be evidenced by an express declaration of repudiation of their criminal activities and abandonment of violence and an express request for forgiveness from the victims of their crime, as well as by technical reports proving that the prisoner is really dissociated from the terrorist organization and the environment and activities of associations and illegal collectives that surround it, and evidencing his collaboration with the authorities.

When the programmes are not developed in prison but for people who are on provisional liberty, probation or other analogous situations, or are at a phase of investigation and trial if there is a risk of proven radicalization, it will be the judicial or probation authorities, depending on the configuration of each state, that decide, on previous appropriate reports, whether a person should be allotted to a certain programme, benefits, follow-up and reversion. This interrelation between restorative justice processes and their reflection in judicial proceedings is expressly mentioned in the *United Nations Handbook* (UNODC, 2006, p. 34). The benefits will also be different and may be granted to those participating in these programmes by deductions in the penalty imposed, suspension of the

execution of the sentence and dismissal of the proceedings to carry out the commitments reached, among others.

Fourth, the information obtained about the final result of each initiative should be shared with people involved, activities developed, conclusions drawn etc. However, this stage should preserve the confidentiality of the internal development of the process that should be beyond the control of the administration, as expressly provided in the *UN Handbook* (UNODC, 2006):

> 'Confidentiality of proceedings': Discussions in restorative processes that should not be conducted in public should be confidential, and should not be disclosed subsequently, except with the agreement of the parties required by national law.
>
> (p. 34)

Such information can be shared by the authority that decided to monitor the programme at several levels: a) with conditional freedom and probation services so that they can have a reliable report of the evolution of the people with whom they work; b) with other national or international programmes based on restorative justice or aimed at the prevention of and fight against radicalization; c) with national and international entities and organizations for monitoring and analysing programmes, the repository of good practices, data collection etc.

Conclusions

As a recapitulation of the ideas we have developed above, we must highlight that: a) the institutions, procedures and models of restorative justice can serve the purposes of preventing and combating Islamic radicalization in prison; b) the objective scope of application of the different programmes should include not only radicalization in prison, but also in situations of provisional freedom, conditional freedom, probation, parole and others, as well as the corresponding ones in which minors can be found; c) those susceptible to follow these programmes are not only those convicted or prosecuted for crimes related to jihadism, but also for common crimes, if they are radicalized, in the process of radicalization or at risk of radicalization; d) the involvement of the community is essential for the success of these initiatives; e) the programmes must be varied and adaptable, developed independently of the judicial, police and penitentiary authorities or of execution, contemplating rewards for those who complete them satisfactorily; f) the scheme of implementation of the programmes requires the intervention of the administration both in the analysis and inscription phase and in the evaluation of results, the determination of beneficial legal consequences in each case and the monitoring and transfer of data between national and international administrations; g) there is a need to define in detail and to develop and test the appropriate programmes for what would be necessary to implement as an initiative in several Member States of the European Union.

Table 10.3 Programmes

Phase I *Determination of Risks and Personal Classification: Administration*	***Phase II*** *Decision on Suitability and Compatibility: Administration*	***Phase III*** *Development: External Bodies and Organisms*	***Phase IV*** *Transferring Results, Evaluation of Consequences and Follow-up: Bodies, Administration*
A. At risk of radicalization. B. In course of radicalization or radicalized. C. Convicted for activities connected with jihadism. D. Vectors of radicalization.	– On trial, in phase of proceedings or execution. – In course of restorative justice in which the person finds himself involved with the reparation of the consequences of a crime. – With other deradicalization programmes (possibility of participating in more than one programme). – Revision and reversion of decisions.	– Acceptance phase by the corresponding team. – Inscription to one of the available programmes. – Drawing up a personalized plan of action. – Development of the programmed sessions and activities. – Intermediate reports. – Final report. – Follow-up proposals. – Action Proposals.	– Receiving results, analysis, proposals and transferring to: – Judicial authorities for application, when relevant of benefits derived from restorative justice in proceedings phase of suspension of execution of sentence, parole, etc. – Prison authorities to apply penitentiary benefits when relevant. – Services of probation and parole. – To other national and international programmes. – To national and international bodies and organisms for follow-up and analysis. – Judicial authorities and competent organisms for minors.

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Part III

Functional responses to the challenges of radicalization and recruitment of jihadists and foreign fighters

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11 Towards the study and prevention of the recruitment of jihadists in Europe

A comprehensive proposal

Humberto M. Trujillo Mendoza and Manuel Moyano Pacheco

Introduction

Islamist-based violent radicalization and the consequent jihadist terrorism in Europe continue to be one of the main challenges for the security of the Member States, despite the policies developed and the heavy investment of economic and human resources destined to counteract these phenomena. What is more, according to the Institute for Economics and Peace (2016), the jihadist threat does not seem to have a simple solution in the short term; there are data indicating that its support and legitimation are not declining, but rather the contrary, since its presence has increased progressively in the last decade (Wensink et al., 2017). A clear indicator of this is the different jihadist attacks that have been perpetrated recently in cities such as Paris, Nice, Stockholm, Berlin, Manchester, London, Brussels, Barcelona and Cambrils, and very recently in Carcassonne. According to the latest annual report on the situation and trends of terrorism in the European Union, in 2016 there were more than 100 jihadist attacks that caused many victims. Another fact provided by this report is that almost 1,000 arrests for jihadism took place in the European area (European Union Agency for Law Enforcement Cooperation [Europol], 2017). Therefore, it is clear that there is a social problem whose solution requires clear and integrated/comprehensive strategies in the short, medium and long term, and attention should be paid not only to reactive police actions but also, and above all, to prevention.

In addition, because jihadist terrorism is currently transnational in character, the conflicts in Syria, Iraq and North Africa are having an impact on Europe. Thus, the phenomenon of foreign fighters, of whom a large part come from European countries (Perliger & Milton, 2016), who move to different areas of war to join the jihad and, moreover, probably return to their countries of origin, should be considered a major problem that must be answered from a security, psychosocial and legal point of view (Cragin, 2017; Marrero, 2016). It is estimated that around a third of a total of approximately 4,100 foreign fighters who left Europe for jihad have already returned to their countries of origin (Van Ginkel & Entenmann, 2016). Moreover, the integration policies seeking to integrate Muslims in European countries have not always been the right ones; since this aspect has often been confused with mere legalization through the

granting of residence permits at best, it can be understood that the threat of jihadism will continue to be present in Europe in the coming decades.

According to different empirical studies, currently the religious group with the greatest difficulty of socio-cultural integration in Europe is that of Muslims (Cinalli & O'Flynn, 2014; Koopmans, 2015; Wike & Grim, 2010). In addition, Europe's recent economic crisis and the consequent slowdown of the current economy in European countries has resulted in the quality of life of Muslim minorities in general being much lower than that of non-Muslim majorities (Joppke, 2014). This causes a confrontation between the minority culture of different generations of Muslims with the prevailing majority culture in the host society, which is leading to an increase in fundamentalist communities (Cano, 2010; Trujillo, Águila & Cano, 2018). Because of this, it would seem that some Muslims face a serious problem, since they easily suffer segregation and, therefore, cannot achieve true integration (Cinalli & O'Flynn, 2014; Koopmans, 2015). To this must be added the problems arising from certain critical urban environments, which have favoured, and continue to favour, the isolation of Muslim communities in ghettos and are breeding grounds for marginality and social exclusion (Brady, 2016).

In this work we will assume that behaviour is a complex phenomenon, the result of the interaction of individuals with their social and physical context. We can see that this creates diverse personal, social and urban environmental variables involved in such interactions and so in the resulting attitudes. Thus, starting from this premise, it must also be assumed that the recruitment and radicalization of people is a multifaceted phenomenon that presents many diverse psychosocial, contextual, legal, cultural, economic, political, media and strategic chasms. However, often the measures implemented to prevent both the recruitment and the violent radicalization of recruits disregard this complex reality.

Although many of the authors investigating the recruitment and violent radicalization of jihadists take an interactionist approach, paying special attention to the link between individual, group and contextual factors (Kruglanski & Fishman, 2009; Kruglanski et al., 2014; Moyano & Trujillo, 2013, 2014a; Navarro-Carrillo, Torres-Marín, Dono & Trujillo, 2017; Victoroff, 2005; Webber et al., 2018), however, when designing intervention programs aimed at prevention, the diversity of aspects involved in these processes is not always integrated and consistent, which causes them to be less effective than desirable. As already indicated in Chapter 1 of this book, some examples of this are found in several programmes that are currently being applied in Europe, such as the 'Stop Radicalism' programmes in Spain, 'Stop Djihadisme' in France and the 'Channel Project' in the United Kingdom, as well as other initiatives focused on anti-radicalization and the rehabilitation of extremists, which have not generated the expected results (El-Said, 2015; Horgan & Braddock, 2010; Schuurman & Eijkman, 2013; Schuurman & Van Der Heide, 2016; Van Ginkel & Entenmann, 2016; Wensink et al., 2017).

As has already been shown, the recruitment, radicalization and violent mobilization of young people in Europe is a complex and important problem, which requires the implementation of complex, integrated and consistent measures for

their prevention without ambiguities and simplifications. For this, the emphasis on early prevention should be increased, stressing the analysis of the functional interactions between psychological, cultural, economic, contextual and political factors that are associated with the mental and ideological alienation of people who have not yet fallen under the control of radical groups but that are at risk. It will be in this individual-group environment interaction where we will have to work forcefully if we want to improve the results obtained until now.

Thus, the fundamental objectives that this chapter seeks are the following: 1) to specify in an integrated and detailed manner the factors involved in the general process of recruitment and violent radicalization of jihadists; and 2) to make a comprehensive and consistent proposal for the prevention of recruitment and mobilization of young jihadists in the European space, taking into account different aspects related to the behaviour of the individual, the culture and the social and physical environment. But before tackling the two objectives described, we will now focus on aspects related to the physical environment of European cities and the present and future concentration of the Muslim population within Europe.

Urban isolation and demographic growth of the Muslim population in Europe

Europe is characterized by having cities with a large number of inhabitants and, therefore, with high population density, where coexistence in certain neighbourhoods is characterized by overcrowding and the presence of marginal ghettos, where there is often social exclusion, delinquency and scant awareness of others and, consequently, enclosed cultures and hermetic groups.

In the last sixty years town planning in European cities has led to isolated and socially and economically depressed areas, virtual ghettos marked by marginality, exclusion and social segregation at all levels (Segado-Vázquez & Espinosa-Muñoz, 2015). In addition, endemic culture and multicultural juxtaposition prevail in each of these zones, where stigmatization and despair produce frustration because the people cannot enjoy the same living conditions as the rest of the communities settled in other areas of the same city. Clearly, European ghettos are normally subsidized social environments, in which spatial confinement and monocultural organizations prevail, and where the collective and individual feeling of not belonging reinforces one's own subculture and distance from other groups.

According to Maxwell and Bleich (2014), many Muslims are inclined to live in ghettos in the poorer outskirts of cities, where the inhabitants are clearly segregated. In these environments it is obvious that coexistence occurs without access to possible influences of the non-Muslim population, promoting cultural isolation for Muslims and with little possibility to mix with the prevailing sociocultural majority. Over time these ghettos become sanctuaries for the recruitment (identification, indoctrination and training) of people who fuel fundamentalist movements and that lead to radical religious and/or cultural behaviour.

The current socio-economic situation of the West in general, and of Europe in particular, causes Muslim minorities in ghettos to develop feelings of anger and wrath towards the non-Muslim society and the government that represents it (Moyano & Trujillo, 2013, 2014a). Non-Muslims must realize that the emergence of ghettos is a consequence, among other causes, of the need for minorities to protect their religious-cultural identity and interests against the identity and interests of the majority. Clear examples of the above are what happens in some neighbourhoods of different European cities, such as, among many others, El Puche in Almería, El Príncipe in Ceuta, La Cañada in Melilla, Molenbeek-Saint-Jean in Brussels, Kreuzberg in Berlin, the historic centre of Bologna, Le Marais in Paris, Fener and Balat in Istanbul, Mouraria in Lisbon, Lavapiés in Madrid and El Raval in Barcelona.

The current ghettos have to be eliminated and the emergence of new ones prevented. For this it would be necessary, for example, to achieve the multi-functionality of spaces in cities and, above all, to avoid certain areas being isolated, since otherwise a negative image of that area develops, with consequent negative social and economic effects (Rogers & Gumuchdjian, 1997).

Dealing with the demographics, according to the Pew Research Center (2017), the total Muslim population now in the twenty-eight countries that make up the European Union, plus Norway and Switzerland, was as little as 25,800,000 (4.9% of the population) in 2016. Looking at different migration scenarios, and thinking of 2050, Muslims could represent between 7.4% and 14% of the European population. Thus, in a first scenario, assuming zero immigration and, therefore, an immediate and permanent cessation of legal immigration, it is estimated that the Muslim population will go from 4.9% in mid-2016 to 7.4% of the total of European inhabitants in 2050. This growth is explained by the fact that, on average, Muslims are thirteen years younger and have higher fertility – almost one child more per woman – than other Europeans. A second possibility is that, assuming average immigration, it is estimated that the Muslim minority will reach 11.2% of the total European population in 2050. Finally, according to the third scenario, assuming high immigration, it is estimated that the Muslim population could reach up to 14% of the European population, a proportion almost three times higher than at present. It should be noted that, according to this study, Muslims in France would continue to form the largest Muslim community in Europe in 2050 in all three scenarios. Thus, in the case of zero immigration, it would be 8.6 million (12.7%); with mid-level immigration it would be 12.6 million (17.4%); and with high immigration it would reach 13.2 million (18%). Another factor is that in 2016, 67% of Muslims were aged between zero and forty-four years, while non-Muslims in this age range represent 52%. Currently, it is estimated that the average age of Muslims in Europe is thirty years, while in non-Muslims it is forty-four years. According to a moderate estimate, the number of Muslims in Europe will double between 2018 and 2050. This assumes that migration returns to normal levels prior to the massive influx of migrant refugees of recent years. However, the non-Muslim population will decrease by 7%, even taking into account new non-Muslim immigrants. Another important aspect that will favour the increase of the Muslim population versus non-Muslim is

Muslims' greater interest in having children. Thus, while the fertility rate of non-Muslims in different European countries has shown and continues to show a downward trend, typical of developed countries, the fertility rate of relatively young – and relatively poor – Muslims in Europe shows a rising trend. Among non-Muslims, the average fertility rate is 1.6 children per woman, while for Muslim women it is 2.6.

The reader should be aware that the demographic information provided in the previous section has certain limitations, since it does not include the number of Muslims not officially registered but that moves through the different countries of Europe, a result of the latest migratory flows that is subject to little administrative follow-up. We think that this particular aspect complicates things even more, since this type of population becomes more socially marginalized more easily than the official one, fostering a greater risk of exclusion and social isolation.

Given this demographic scenario it is important to prevent new generations of Muslims becoming marginalized, since this will encourage radicalization and recruitment by opportunistic leaders. It should be noted that the higher the density of the Muslim population, the more the fusion of personal and cultural identity and, therefore, the greater commitment to peers, which could involve a greater cultural juxtaposition and, therefore, more isolation and, as a consequence, lesser integration with non-Muslims.

Next, after making an analysis of the different phases that make up what we understand as *the process of recruitment and/or mobilization of young people for jihad*, a psychosocial proposal for the prevention of this phenomenon will be developed, paying special attention to the interaction between Muslims with their social and physical environment. To do this, we start with a series of general assumptions that, among others, characterize some European Muslims connected to their social environments and contextual scenarios (Moyano & Trujillo, 2014a, 2014b). These are as follows: a) certain groups of Muslims are not really culturally integrated in the cities in which they live, being in closed and monocultural ghettos and, as a consequence, unconnected to the non-Muslim population; b) some of them are in a state of personal crisis and emotional uncertainty and, therefore, have little psychological autonomy and low personal fulfilment; c) their daily activity is limited almost exclusively to the neighbourhoods they live in, where marginality and common delinquency prevail and where the risk of social exclusion and the perception of hostile threats is highly probable; and d) a great number of them have low academic and professional qualifications, limiting their possibilities of personal fulfilment.

Phases and variables involved in the general process of recruitment and radicalization for the violent mobilization of young jihadists in Europe: integrating concepts

The process of recruiting an individual for jihad goes far beyond merely attracting him; for it to occur the individual has to be moved, induced and guided by the manipulators or recruiters through the following phases (Trujillo, 2016a): a) identification of an individual in critical environments (marginal

scenarios); b) taking up an individual who is mentally insecure (first approach to the potential recruit); c) psychological subjection and consequent psychological alienation; d) political and religious ideological indoctrination (doctrinal alienation); e) violent disinhibition through the application of strategies aimed at legitimizing violence; f) training for the exercise of violence; and g) logistical support for the execution of violent actions.

In addition, we think that although radicalization takes place throughout the recruitment process, fundamentally it is forged in the phases that we will call *psychological subjection, political-religious ideological indoctrination and violent disinhibition* (Trujillo, 2018b). Thus, in the phase of psychological subjection (psychological abuse and submission), the individual will be able to adopt a radical and inflexible attitude to life (thoughts, emotions and conduct) – what we will call *psychic radicalization*. In the phase of ideological indoctrination, the person is radicalized in a political and religious ideology – what we shall call political and religious *doctrinal radicalization*. And, finally, in the phase of disinhibition and legitimation of violence, young people will have to consider violent actions to be lawful and instrumentally valid to achieve their objectives, the same as those imposed by their group – which we shall call *violent radicalization*.

The reader will have already realized that, from this perspective, radicalization can be understood as a dynamic process underlying and parallel to the recruitment process. So a young person will become a violent radical after having gone through the three phases of coercive manipulation already indicated: psychological subjection, political-religious ideological indoctrination and violent disinhibition. Therefore, jihadist radicalization can be defined as a dynamic process that psychologically and ideologically directs a person without sufficient psychological autonomy towards an extreme, inflexible and dichotomous vision of reality, which they accept without any type of objection as a political-religious doctrine and they consider that the use of violence is the best instrumental means to achieve objectives of a personal and group nature (violent extremism).

Environments and critical contexts of identification and catchment in Europe

There are various critical environments for the identification and capture, as well as subjection, indoctrination and violent disinhibition, of young people for jihad (Trujillo, 2017). Among other possibilities, we include the following:

a) prisons
b) centres for the placement of juvenile offenders
c) marginal ghetto neighbourhoods or areas with a high concentration of Muslims
d) surroundings of port areas with high passenger traffic
e) reception centres, both for adults and minors, and centres for the protection of unaccompanied minors

f) middle education centres located in marginal environments, especially educational compensation centres and preferably educational action centres
g) some mosques, oratories and other places of worship, especially those located in the unprotected outskirts of large cities
h) some Koranic schools
i) military barracks and garrisons located in critical areas
j) universities
k) social contexts for youth leisure activities and urban gangs
l) some radical Islamic associations
m) the Internet

In general, the behavioural typology or the psychological profile of vulnerable young people and, therefore, people susceptible to being identified as potential candidates for recruitment and subsequent submission and indoctrination for violence in the contexts indicated above, is that of people with high psychological affectation and without a minimum of psychic autonomy that would enable them to make useful and adaptive decisions. In these environments it is important to attend to certain essential indicators, among which we would highlight the levels of personal crisis and psychological affectation of young people, their kinship, bonds of affection and friendship, and individuals or groups of individuals who opt for isolation or are segregated by the rest of predominant social groups.

Catchment of the individual in mental imbalance (first approach of the recruiter)

In this phase, it is observed that in different environments and settings considered critical the recruiter makes a first approach to the young person, with the first exchanges of conversations and friendly activities. The objective of the recruiter is to gain the trust of the young person identified as vulnerable, offering gratifying little pleasures that make them feel special and assisted by their new friend. The effect of this strategy is very strong, since this type of young person is often in great need of social support due to the large number of material and emotional deficiencies they present, which makes them highly sensitive and receptive to any attention provided by third parties (Trujillo, 2018b). The recruiter is very critical of society, labelling it as perverse and as the culprit of all the ills that people suffer but, at the same time, he is very affable with the young person, highlighting at all times the potential strengths and new opportunities that they will have if they follow the guidelines that will be marked out and depart from the mundane.

Risk factors of catchment promoting radicalization

According to Trujillo (2016a, 2016b), the vulnerability of young people at risk of recruitment is due, at least, to the following: a) their basic needs are not fully covered; b) they have suffered from previous stress, being in a state of

hypersensitivity to various stimuli and, therefore, in personal and hypervigilant crises; c) they have little tolerance for uncertainty and, therefore, a high need for cognitive closure; d) they are and have been subject to social exclusion; e) they present disorders by avoidance of adverse experiences, the result of the permanent and inflexible need to avoid discomfort and obtain wellbeing immediately; f) they have been oppressed and humiliated; g) they have lost personal meaning (importance) and the meaning of their existence; h) they perceive themselves as isolated; i) they feel unable to cope effectively with the demands of daily life, causing them to be in a continuous state of perceived stress; j) they suffer emotional distress, frequently feeling sadness, fear, anger, hatred etc.; k) their social relationships take place in extremely restricted environments and are confined to incompetent people, from whom they can learn little and are without utility; l) they hold certain cultural values of young Muslims, as is the case of their high fatalism to life associated with non-analytical thinking and non-hypothetical reasoning, and their high ethnocentrism and hierarchical distance in social treatment; m) they show a negligent and uncommitted attitude to medium- to long-term objectives; n) they do not have real social support networks; and o) they have a low level of professional and academic qualification.

To all the above we must add that, in general, this type of young person does not have in their behavioural repertoire enough behavioural, cognitive and emotional bases to be robust from a psychic point of view; consequently, their psychological resilience is very low (Trujillo, 2015, 2016a). They tend to be very needy and, although sometimes active, they do not know how to channel their activity to meet their daily needs, because they do not have enough *psychological toughness, social support* or *competent models* to emulate, or a minimum of *qualifications* to meet such needs successfully. One could say without much room for doubt that, as a consequence of the above, they have low motivation towards personal achievements, which fosters negligent attitudes towards themselves and the people around them. In addition, such negligence will make them prone to resigning themselves and to self-pity, which, in turn, will further increase their low motivation towards achievement, entering a hellish circle from which they will hardly be able to get out on their own.

Factors that protect from catchment and radicalization

In the concept of psychological robustness and from a more detailed level of analysis, it is possible to refer to a series of factors and aspects that underlie it and that if they are not available, the ability to successfully face everyday challenges with psychological autonomy will be compromised (Trujillo, 2016a, 2018a). They are the following: a) self-efficacy and self-esteem and, therefore, personal confidence; b) personal control in different social contexts; c) personal coherence, as a result of a sufficient equivalence between thinking, saying and doing; d) acceptance of problems and commitment to solve them; e) cultural intelligence in its meta-cognitive, cognitive, motivational and behavioural dimensions; f) social skills; g) a strong internal control locus; h) resistance to suffering;

i) tolerance to uncertainty, which could imply a low need for cognitive closure and, therefore, little aversion to ambiguity; j) tolerance to frustration; k) emotional wellbeing based on a minimum of tranquility, certainty, vigour and enthusiasm; l) personal meaning and meaning of existence; and m) enough behavioural repertoire to be able to make decisions individually.

Of all the factors indicated in the previous paragraph, it is worth highlighting the relationship between tolerance to uncertainty, personal meaning and propensity to extremism. Recently, Webber et al. (2018) observed that the loss of personal meaning promotes extremism through the need for cognitive closure. The loss of meaning induces an attitude aimed at the search for certainty, which has been conceptualized as a need for cognitive closure (Kruglanski, 2004; Kruglanski & Webster, 1996). There is empirical evidence that the increase in the need for cognitive closure stimulates the development of strong, stereotyped beliefs. From a psychological point of view, humiliating experiences would raise the sense of personal uncertainty, generating a need for answers and certainties, as well as an aversion to ambiguity (Kruglanski, Chen, Dechesne, Fishman & Orehek, 2009; Kruglanski et al., 2014). Therefore, extremist ideologies would be especially attractive, since they offer unequivocal means towards the restoration of personal meaning. Thus, extremist conduct is considered as a means for individuals to gain or restore their sense of importance and personal meaning.

Before going into the development of the later sections dealing with psychological subjugation, ideological indoctrination and induced violent disinhibition, it should be clarified that the greater or lesser effectiveness of recruiters to achieve such goals will depend on the levels of risk and protection they present to the young people recruited.

Psychological subjection and psychic alienation (submission)

In this phase, the young person loses their psychological autonomy and, therefore, becomes a person totally dependent on their new friendships and, thus, a collaborator with them (Trujillo, 2015, 2016a, 2018b). It is about making them see that they have to purify themselves to enter into a new way of life with more meaning than they have had up to now.

The stages that usually occur in psychological subjugation to achieve emotional alienation of the young person by applying persuasive and aggressive communication strategies are the following:

- *Social isolation*. This prevents the person from being influenced by someone who is not the recruiter and who attends only to the stimuli and contingencies coming from the new social context generated by it.
- *Induction of physical weakness*. The recruiter makes the young person suggestible by inducing various sleep disorders and attentional and amnesic pictures, which usually result in stress and, thus, in psychosomatic disorders as a result of a malfunction of the so-called ‘suprarenal hypothalamic-

pituitary axis' (Trujillo, Oviedo-Joekes & Vargas, 2001). The affected young person ends up losing contact with their personal reality.
- *Induction of confusion between reality and fantasy.* This manages to nullify in the young person the awareness between innocence and guilt.
- *Balance between fear and hope*. This causes the young person to be in a continuous state of worry and, as a consequence, to lose the motivation to gain personal achievements and a sense of individuality.
- *Emotional balance*. The recruiter manages to keep the person in a continuous state of crisis in which alternate emotional states of displeasure-relaxation (sadness, apathy, boredom etc.) vie with states of displeasure-excitement (hatred, anger, tension etc.).

As a result of what has been described, the individual enters a general state of learned helplessness and loss of psychological autonomy. In other words, the manipulator creates a young person suffering from weakness, restlessness and induced dependency. They are malleable and collaborate with any person or group of people who can take them out of that situation and help them to achieve a new sense of purpose in their life.

Although it is normal for the young person to be emotionally subject to manipulative people who abuse them psychologically, it is also true that, sometimes, the presence of such manipulators is not necessary. That is, we have observed how a young person, unprotected and without resources, whose daily life takes place in a hostile environment, can lose their psychological autonomy and enter a learned state of helplessness as a result of the multiple interactions suffered from the threats of their environment. And this is because they do not have sufficient behavioural repertoire to confront the demands and requirements with a minimum of success. They become depressed and apathetic, in which state negligence, resignation and the absence of objectives of life (loss of meaning and personal importance) are all-powerful. It will not be difficult under these conditions to fall under the control of certain jihadist narratives broadcast on the Internet.

Whatever the circuit by which the young person loses their psychic autonomy, induced or self-induced, what seems clear is that the result is that they end up adopting a radical and inflexible attitude to life (thoughts, emotions and conduct) that will make them a radical from a psychological point of view, due to the overload of rigid and obsessive thoughts that grip them. That is, they finish as a radical with high levels of psychological affectation, which can cause various psychological disorders of greater or lesser intensity.

Political-religious ideological indoctrination (ideological radicalization)

In general, indoctrination is achieved through the application of strategies of psychological manipulation and reform of individual and group thinking for the establishment of new behavioural repertoires. These are based on new beliefs (thoughts considered true), roles (expected and accepted behaviours), norms

(rules that regulate the conduct, beliefs and emotions desirable in a culture), symbols (elements with a common and relevant meaning for a group) and values (goals and principles to follow that serve as a reference of the good and that guide beliefs, emotions and accepted behaviours) (Trujillo, 2013; Trujillo, Alonso, Cuevas & Moyano, 2018; Trujillo, Ramírez & Alonso, 2009; Trujillo, Jordan et al., 2009).

For this purpose, the indoctrinators usually use, fundamentally, though not only, the following procedures or strategies:

a) social isolation of the person intended to be indoctrinated
b) control and manipulation of the information to be received
c) control over their personal and family life
d) emotional abuse continued over time
e) implementation of a new political and religious belief system that is absolute and Manichean, while establishing new norms of behaviour, roles, symbols and values that must be followed indisputably
f) imposition of a unique and extraordinary authority
g) highlighting the present as meaningless, from which one must escape if one wants to regain one's lost personal meaning
h) describing a promising and true future if the guidelines are followed
i) building a new personal identity and developing a sense of group belonging
j) establishing a renewed motivation for achievement and new desire to live
k) developing beliefs about a better life with more meaning

The result of this phase will be extreme radicalization in a political-religious ideology, the loss of personal identity by merging it with the identity of the new group and fanaticism as a consequence of the ideological alienation suffered.

Violent disinhibition through the application of strategies aimed at legitimizing violence

In order for someone, after being indoctrinated, to go one step further and end up being a violent extremist, they must firmly believe in the legitimacy of violence. For this, recruiters often use strategies based on narratives that legitimize such violence (Trujillo, 2015, 2018b). Among other possibilities, it is worth highlighting the narratives that: a) praise the mistreatment unjustly suffered by the previously indoctrinated person; b) search for and clearly identify those guilty of the mistreatment suffered by the new jihadist, who will be the victims of the violent actions of the latter; c) attribute the guilt of all the ills suffered by the potential victims, who are, in addition to being clearly guilty, deserving of the greatest punishment; d) dehumanize victims through the use of adjectives that reify them or treat them as animals; e) displace the responsibility for exercising violence towards a superior and unquestionable being, God; f) justify violence based on superior principles that transcend the indoctrinated one (moral values, symbols, norms, roles etc.); g) disperse the responsibility for exercising

violence, so that the indoctrinated recruit is made to realize that everyone has it; and h) extol violence as the only instrument for the indoctrinated one to recover from the mistreatment suffered, showing revenge as the best instrument to achieve a new, more dignified life and with more sense and certainty for all.

The result will be the emergence of extremist attitudes of violence and the need for revenge. In other words, in this phase of disinhibition and violent legitimation, the new jihadist will end up considering violent actions as lawful and instrumentally valid to achieve their objectives, which will be those imposed by their group. Sometimes, given the right conditions, the young, well-indoctrinated and radicalized person may end up believing firmly that they need to die by killing to give the maximum possible meaning to their existence and to be able to enjoy a pure life beyond the mundane, thus opening the way for martyrdom through immolation.

Training and logistical support for the execution of violent actions

Now it only remains to train the recruit to learn to exert violence and to provide them with the necessary logistical support so that they can carry out terrorist actions. This has happened in Europe for some time without the need for training camps, given that returned combatants can train the new jihadist tactically and strategically, as a reference of the good and to guide accepted beliefs, emotions and behaviours (Trujillo, 2015).

What can be done to prevent recruitment, violent radicalization and the mobilization of young people for jihad in Europe?

As explained in the previous sections, the reader will have already realized that the general process of recruitment and extreme radicalization of an individual for their mobilization as a terrorist is a phenomenon of great complexity, in which many aspects of a contextual, social and personal nature are involved. Therefore, any practical initiative aimed at its prevention must take into account these aspects and the functional relationships existing between them in an integrated manner.

Below are several actions that, among possible others, we understand are fundamental for the prevention of recruitment, radicalization and subsequent mobilization of individuals for jihad:

- It is vital to change the social policies that manage the urban integration of Muslim groups throughout Europe. For this, the first thing will be to work on the elimination of the ghettos in which marginality prevails and in which the risk of social exclusion is high. That is, at the urban level, the necessary measures must be taken so that the functional relationships between the individual, the group and the physical environment are as adaptive as possible. With the elimination of the ghettos, monocultural endemism and multicultural juxtaposition will be avoided and, thus, the stigmatization and despair that generate frustration, as well as individual and collective feelings

of non-belonging. This is a consequence of not being able to enjoy the same conditions of life as the other communities settled in other areas of the same city, and will prevent the strengthening of the subculture itself, the distancing of other social groups perceived as hostile and, in general, the feelings of anger and wrath projected towards the non-Muslim society and the government that represents it.

- Closely related to what has just been described, policy-makers should be alert to the demographic fluctuations of the Muslim population in the European space, in order to properly manage their location in urban environments and thus avoid increasing the number of ghettos and/or increasing the size and population density of those already existing. If this aspect is not taken care of correctly then the proliferation in quantity and quality of more recruitment and radicalization focuses will be fostered.
- The different European organizations and social actors involved in the management of this problem should put into practice measures that allow the authorities to monitor as thoroughly as possible the conduct of vulnerable young people to the identification and recruitment located in the different contexts or environments considered of high risk, as already described in this chapter. For this purpose, it will be necessary to evaluate different essential indicators in such environments, among which the following should be highlighted: levels of personal crisis and psychological involvement of young people, kinship among them, bonds of affection and friendship, identification of individuals or groups of individuals who opt for isolation or are segregated from the rest and detection of what individuals or groups do now that they did not do before, and what they do not do now that they did before. It will be at this point that the members of the different intelligence agencies and information services of the agencies involved in the security of the European states, making use of experience and excellent qualifications, will be able to exercise good preventive actions in addition to the action that now fundamentally characterizes them – the purely reactive.
- In order to diminish the capacity for manipulative manoeuvring of the recruiters and, in addition, reduce their ability to reform the thinking of the recruits throughout the process of recruitment and radicalization of young people susceptible to being manipulated psychologically, from the opportune European instances, social policies should be developed for the adequate management to deal with both risk factors and the protection from such manipulation. To do this, it is necessary to design comprehensive intervention programmes that take into consideration the various aspects connected with risk and protection from recruitment already described above.

On the one hand, to reduce the risk it would be necessary, always in conjunction with what is indicated in points a, b and c of this section, to: a) meet the basic needs that allow young people to lead a dignified life; b) attend to possible cases

of post-traumatic stress and personal crisis, especially in the case of new arrivals due to migration displacement; c) increase tolerance to uncertainty and decrease individuals' need for cognitive closure; d) avoid social isolation and social exclusion; e) psychologically treat the possible disorders derived from the continuous avoidance of potentially negative experiences, increasing their cognitive and behavioural flexibility and reinforcing their commitment to the acceptance of and coping with their problems; f) avoid them perceiving themselves as oppressed and humiliated; g) encourage them to develop a positive sense of their existence and of individual certainty associated with clear anchor referents for the development of pro-social attitudes; h) counteract the perception of loneliness; i) help them to face efficiently the demands of their daily lives to avoid the states of perceived stress; j) avoid the emotional discomfort associated with states of sadness, apathy, fear, anger and hatred; k) develop attitudes of active commitment with medium- and long-term objectives; l) expand the real social support network; m) open their social relations to wider environments, where they can find competent models from which they can vicariously learn useful strategies to achieve their personal goals; and n) improve their professional and academic qualifications.

In addition, in order to increase the resilience or psychological robustness of these people it will be necessary to influence the following aspects specifically related to protection: a) increase self-efficacy and self-esteem and, therefore, personal confidence; b) get the individual to increase their perception of control, by generalizing their personal confidence to other and different social environments; c) reinforce personal coherence, increasing the equivalence relation between what they think, say and do; d) develop cultural intelligence in its meta-cognitive, cognitive, motivational and behavioural dimensions; e) improve social skills; f) enhance the internal control locus; g) teach resistance to suffering and tolerance to frustration and management of ambiguity; h) train skills for a successful management of emotions (emotional intelligence); i) train them to be able to make decisions individually; j) reverse the fatalistic attitude towards life, extinguish the need for hierarchical social treatment and reduce ethnocentrism; and k) teach them to think analytically and to reason in a more flexible and hypothetical way.

It must be made clear that if risk and protection factors are adequately managed in people susceptible to being recruited and radicalized, counteracting the former and reinforcing the latter, then it will be possible to increase their *personal motivational achievement* levels, a key aspect to stop the manipulative capacity of the indoctrinators. Having high levels of motivation for personal achievement implies having enough psychological autonomy to be able to make decisions of one's own and, therefore, not be resigned or negligent, which means not depending on the decisions and guidelines set by third parties. In other words, when someone has enough behavioural repertoires to mark their own course then they do not need anyone else to set out the direction to follow. Notwithstanding this, it is necessary to emphasize that the aspects that reinforce the motivation of personal achievement are, among others, all those that

reinforce the psychological robustness (resilience), together with real social support, the presence of adaptive models to emulate and to achieve academic and professional qualification.

Furthermore, it should not be forgotten that radicalization takes place, as indicated at the beginning of the third section of this chapter, throughout the phases of psychological subjugation, political-religious ideological indoctrination and violent disinhibition. Therefore, whatever intervention programmes are implemented to have a detailed impact on the risk and protection factors and thus help increase the motivation of personal achievement, they will undoubtedly reduce the possibility of mental and ideological alienation induced by the manipulators, which will avoid radicalization in its psychic, ideological and violent dimensions. In short, if at the time of designing programmes for the prevention of recruitment in general, and violent radicalization in particular, the actions indicated above are followed in an integrated, detailed and systematic manner, and diffuse, simplistic, unstructured, preventive intervention programmes are omitted, perhaps then better results can be achieved by addressing this problem than those gained so far.

Although what we are going to discuss next is a little beyond the brief for this chapter, we are reluctant to end this section without first shortly referring to what can be done with those already radicalized in violence, as is the case of jihadist terrorists in general and ex-combatants returned to Europe in particular. It should be borne in mind that the probability that a violent extremist abandons violence depends on the degree of commitment they have to the group with which they identify and to which they belong. In turn, this degree of commitment will depend on the emotional ideological links (the level of political-religious indoctrination and violent disinhibition) and functional bonds (rewards and punishments received) they have with the membership group. Therefore, to ensure that this type of person dissociates from the group to which they are committed and abandons violence as a sign of their own identity, it will be necessary to act systematically and in detail on the three indicated links. That is, in order to reverse or at least reduce the level of commitment with the group, it will be necessary to apply, gradually and by successive approximations, strategies for behavioural change based, fundamentally and in this order of priority, on mechanisms of moulding (establishment of contingencies and differential reinforcement), modelling (vicarious learning of alternative models to violent ones) and following rules and verbal norms (narratives with contents opposed to extremist discourse). It should be noted that the possible achievement of positive results with this type of intervention will always be medium- to long-term and never short-term, since extinguishing and/or modifying the previously established conduct under multiple stimuli is a complicated task. Therefore, in the short term the only efficient option will be disconnection from the group and the decontextualization of the violent radical, which, in turn, should be considered as a fundamental first step, prior to the fact of starting to work more in the medium and long term to reduce the degree of commitment to the group of which he is a member.

Conclusions

In general terms, the contents of this chapter have focused on the development of a psychosocial integrative action proposal aimed at the early prevention of the recruitment of jihad foreign terrorists and fighters, which aims to be comprehensive, systematic and detailed, having considered various psychological, group, socio-cultural and contextual aspects together. To this end, the phases of the general process of recruiting new jihadists have been defined according to this order: identification, recruitment, psychological subjection, ideological indoctrination, violent disinhibition, training and logistical support to be able to carry out violent actions. Likewise, the extreme radicalization construct has been broken down into three conceptual axes called *emotional-mental radicalization* (psychological alienation), *doctrinal radicalization* (political-religious indoctrination) and *violent radicalization* (violent disinhibition), while at the same time we have described in detail strategies used by manipulators to achieve recruitment in critical environments, the psychological subjugation of the people captured, ideological religious-political indoctrination and violent disinhibition. The risk and protection factors involved in recruitment in particular, and radicalization in general, have also been described in detail.

Furthermore, in order to improve the programmes for the prevention of recruitment and violent radicalization, the importance of changing the social policies for the urban integration of Muslims throughout Europe has been highlighted, in order to avoid the emergence of new pockets of marginality, with the structure of a monocultural ghetto, or the strengthening of existing ones, in order to reduce the risk of social exclusion and cultural juxtaposition. To this end, and in close connection with the above, the need to monitor the new migratory flows has also been indicated so that newcomers do not end up feeding the existing ghettos or fostering the proliferation of new ones. A special effort has also been made to describe in detail a series of strategies and actions aimed at increasing the psychological robustness and achievement motivation of those susceptible to being recruited, in order to be able to prevent their early recruitment.

Moreover, although everything described in the sections above is intended to be applied to Arab-Muslims susceptible to being recruited, it could and should be applied, albeit with the appropriate qualifications and adjustments, to those people settled in a culture different from the Muslim one. It must be realized that in Europe a number of perfectly decent non-Muslims, even atheists, coming from marginal social groups where common crime prevails may also be recruited for jihad after being converted, induced and subjected to Islam.

In short, the general process of recruitment and violent radicalization is a phenomenon of great complexity for which simplistic and disintegrated solutions do not serve. The solution to this problem requires strategies and systematic actions that take into account in a detailed and comprehensive manner the largest possible number of psychosocial variables involved, as well as the existing functional relationships between them. We must be aware that today there is no easy solution to this problem, which should serve as a stimulus to continue

working with responsibility and rigor. We must ignore those proposals and initiatives that lack details and content, that show opportunistic overtones, since the only thing they achieve is to generate false expectations, increase uncertainty, hinder decision-making and, therefore, generate more problems to add to existing ones. Let us work in describing and explaining this complex phenomenon with enough scientific rigour to be able to predict it, because only then will we be able to increase the possibility of being able to prevent it.

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12 Counter-terrorism financing architecture and European security

Javier Ruipérez Canales

From terror corporations to low-cost attacks: counter-terrorism financing as a major European concern

Terrorism as well as its financing are difficult if not impossible to avoid completely but, undoubtedly, all terrorists, from big international organizations to small cells and lone wolves, always need money for their activities (European Commission, 2016; Keatinge & Keen, 2017, p. 1; Giménez-Salinas, 2007, p. 196; Marrero, 2017, p. 153; Normark & Ranstorp, 2015, p. 2; Sánchez, 2008, p. 51). Financing is therefore a part of terrorism and terrorists' need for financing constitutes one of their weak points: limited funding makes their activities more difficult and becomes an opportunity for security, since the financing process offers different options to prosecute and disrupt terrorism. Identifying and sanctioning terrorist financing activities as well as making it more problematic for terrorists to obtain and move the money they need is the idea underlying international efforts to combat the financing of terrorism (CFT), or, as it is also called, counter-terrorism financing (CTF). This has become a core component of the EU's strategy in the fight against terror (Wesseling, 2014, p. 9).[1]

The existing CTF architecture, which can be traced back to the 1990s (Bantekas, 2003), was strongly developed after 11 September 2001 (9/11) and later adjusted during the first decade of the twenty-first century by means of urgency-based policies and measures (European Parliament, 2014; Giménez-Salinas, 2007, p. 208). All of those measures seemed ineffective to confront the outbreak and economic growth of ISIS and the great number of individuals who left Europe to fight in Syria and then returned to sow terror in Europe. These recent threats have heavily influenced the EU's strategy in the fight against terrorism and forced it to develop a relevant range of CTF measures (Wensink et al., 2017, p. 15), giving renewed importance to both terrorist financing and counter-terrorism financing. In any event, terrorists have continued to raise and move money and resources globally (Keatinge, Keen & Moiseienko, 2018) but

1 As on the European Commission Home Affairs website: https://ec.europa.eu/home-affairs/what-we-do/policies/crisis-and-terrorism/financing_en.

the renewed importance of terrorism and its financing offer new opportunities to review and improve European CTF strategies and existing solutions.

This first requires consideration of the different forms of terrorism posing different threats, and therefore requiring different and specific responses and solutions, despite their interrelationship. Whether they are international terrorist organizations controlling territory or terror- and crime-related networks, small cells and lone wolves in Europe, all of them need to raise and move money and resources, and therefore the same CTF measures cannot necessarily serve to address all of them (Keatinge et al., 2018, p. 3). On one hand, and going beyond the current 'Caliphate in decline' theory (Heißner, Neumann, Holland-McCowan & Basra, 2017), international security needs to deal with the operations, growth, emergence and possible resurgence of terrorist organizations in and around fragile states whose context even facilitates the strategic cooperation of terrorists and armed groups with organized crime (Marrero Rocha, 2017). Although influenced by the international context, direct and specific threats like home-grown terrorism and the influence of returnee foreign terrorist fighters (FTF) are challenging European security within a particular context; first, to update to the recent changes in the modus operandi of terrorist attacks linked to ISIS marketing, propaganda and indoctrination efforts accompanied by the group's strategy of inciting worldwide attacks with tactical and economic independence (European Union Agency for Law Enforcement Cooperation [EUROPOL], 2016, p. 8); second, because of the unpredictable consequences and the possible effect of already-trained and returnee FTFs and their role in fostering radicalization by creating cells, developing networks or linking the group with more radicals to plot in Europe.

In order to design specific CTF solutions, a deep knowledge and analysis of the different forms of terrorism and their financing in relation to the past and existing CTF, as well as their impact and effectiveness, are needed. But that knowledge and analysis are nowadays hampered due to a lack of understanding related to the complexity of both terrorism and counter-terrorism when considering the financing side. The first obstacle is the conceptualization of terrorist financing that makes it difficult to define CTF and its scope due to the controversial discussions around the terrorism concept (Martínez, 2016, p. 67) and the absence of an agreed definition of terrorism (Aliu, Bektashi, Sahiti & Sahiti, 2017, p. 98; Keatinge et al., 2018, p. 2). This in effect means that CTF's main objectives and its place in the fight against terrorism are not clearly established. A second problem for CTF analysis is the difficulty of measuring its effectiveness due to its preventative nature (Wensink et al., 2017, p. 58). This in turn has a serious consequence, since many measures were and are being developed without adequate evidence of the effectiveness of previous solutions (Wesseling, 2014, p. 31) – even more so if we consider that effectiveness has to be measured in relation to unclear CTF objectives and avoiding terrorist financing as a separate goal to stop terrorism or even terror attacks resulting from finance (Keatinge, 2016). A third obstacle lies in the lack of terrorist financing data and reliable studies, especially significant in reference to the knowledge of

the financial behaviour associated with major European security threats as posed by high-budget international terrorist organizations like ISIS (Stergiou, 2016, p. 189) or lone wolves and small cells perpetrating attacks (Keatinge & Keen, 2017, p. vii). In times during which terrorism acquires specific forms in different contexts, this lack of data makes it difficult to design better CTF solutions. While recent developments in CTF research have started to address the specific financing of several terrorist forms,[2] those efforts need to be reinforced and the knowledge generated must be comprehensively translated into the overall CTF architecture.

Of course, to turn those inadequacies into improvement opportunities for CTF solutions to better face future challenges requires delving more deeply into the CTF structures, measures, evolution, scope and effectiveness after almost thirty years of developments. But in addition, knowledge of terrorist financing – from the needs, budgets and amounts of the overall process to the ways in which money and resources are obtained, moved and spent – is fundamental to inform the design of effective CTF strategies to safeguard EU security (Oftedal, 2014, pp. 3, 7). Finally, both terrorist financing and CTF need to be compared, checking mutual influences and confronting different specificity levels within counter-terrorism efforts.

While terrorism has traditionally been considered an expensive activity (Sánchez Medero, 2008, p. 51), some scholars noted how even prior to 9/11 there were already ongoing discussions over the insignificance of the amounts of money involved in terrorism (Wesseling, 2014, p. 9). The debate is relevant since ISIS quickly grew as a huge international threat after the start of the Syrian civil war, as well as due to assumptions about the simplicity and cheap ways to carry out the terrorist attacks in Europe in 2017 that have dramatically contributed to increased social anxiety. Despite differences about estimates due to lack of data, the budgets of big international terrorist organizations have historically been huge, but it has been difficult to know exact figures. While groups such as the Palestinian Liberation Organization (PLO) had accumulated incomes of between eight and fourteen billion US dollars in the mid-1990s, according to CIA reports (Napoleoni, 2014), Hezbollah's annual budget was estimated to be between US $100 and 400 million (Levitt, 2004) and Al-Qaeda's annual budget estimates range from US$16 to 30 million (Shapiro & Siegel, 2007, p. 407). Within an expansionist territory of conquest-and-control schemes, ISIS's incomes and capital, despite variations, reached overwhelming amounts – so that its maximum in 2014 moved between US$1.89 billion (Heißner et al., 2017, p. 9) and US$2.9 billion (Centre for the Analysis of Terrorism, 2016, p. 7).

In Europe, and often placed within the so-called 'low-cost terrorism' category (Acharya, 2009a; Levitt, 2017), attacks from 2015 have kept all of society in suspense (Nitsch & Ronert, 2017). One of the few empirical studies on the

2 As FTF (Keatinge, 2015), terrorist cells in Europe (Oftedal, 2014), small-cells and lone-wolves (Keatinge & Keen, 2017) or even the financing of the recruitment process (FATF, 2018).

financing of European plots was made by Oftedal (2014), analysing forty European jihadist cells in the period 1994–2013. One of the main findings is that the estimated cost of 75% of the plots in the overall period was lower than US$10,000 and only 8% of plots cost over US$20,000. While on one hand this shows that the cost associated with the plots is not high, on the other hand it reveals how this is not a recent phenomenon, since those attack costs were already low in the twenty years previous to the ISIS irruption. Moreover, if we look at the terrorist attacks causing most casualties in the West we discover that their cost is not low. Estimates on the cost of the 9/11 Twin Towers and Pentagon attacks vary by up to 25% depending on the source; the US Federal Commission made calculations concluding that the cost was around €400,000, but different sources place the total operational cost of the attack at up to €500,000 (Giménez-Salinas, 2007, p. 206). The estimates about the total cost of the 2004 Madrid attack vary by 90%: While FATF reports from 2008 put the direct cost of the conspiracy at US$10,000, other authors raise the amount to €60,000 or even €100,000. The cost of the London Underground bombing in July 2005 is estimated at between US$8,000 and US$15,000.[3] Since then, and despite data discrepancies, the cost of the terror attacks of greatest impact has not been low; estimates for the 2015 Paris attacks reach up to €25,800 for January, while the November attack is estimated at €82,000 (Brisard & Poirot, 2016, p. 3). While we are still without reliable information, the 2016 Brussels Airport bombing cost more than €3,000 in cash to prepare (Keatinge & Keen, 2017, p. 15). The August 2017 plot in Barcelona and Cambrills was expensive because of the cell size, in addition to vehicles and weapons; the group had to rent a house for a long period to manufacture the bombing devices there; they accidently exploded these the night before, so killing the terrorists manipulating them.

Therefore, low costs cannot be considered something permanent in terms of terror attacks within Europe and we must look at further trends. Even though the total number of terrorist plots in Europe did not grow during the latest period (European Union Agency for Law Enforcement Cooperation [EUROPOL], 2017), the number of incidents with fewer casualties but carried out with rudimentary or crude tools in countries such as the UK, France or Germany has increased since 2013.[4] The biggest terror attacks have combined, therefore, with others like those in Nice, Berlin or London and respond more to the profile of so-called 'low-tech terrorism' (Witherspoon, 2017; Zoli, 2017). CTF difficulties face bigger or smaller attacks because in both there is little that distinguishes terrorists' financial activities from any others, with the exception of buying weapons and bomb-making ingredients, especially so in the case of small cells

3 The cost of the Madrid and London attacks are taken from FATF (2008, p. 7), Oftedal (2014, p. 54, pp. 57–58) and Passas & Giménez-Salinas (2007, p. 510).

4 According to the study by Witherspoon (2017, p. 5) analysing the number of such type of incidents in the period 2001–2016 in the USA, UK, Canada, France and Germany; these clearly increased from 2013 onwards.

and lone wolves (Keatinge & Keen, 2017). The basic member's subsistence is an irremovable part of the required budget in addition to the operating costs, and therefore the financing need is conditioned by cell size and the nature of the target. Subsistence and direct operational costs together make the difference between reduced-cost actions, such as lone-wolf or low-tech plots, or those with higher budgets in which cell members use weapons, accommodation, sophisticated bombing devices, travel, mobile and communication means or even false documents.

But the comparative review between international terrorist groups and attacks in Europe needs to recognize that all those forms of organizational terrorism also connect at the financial level and despite their different financing needs any CTF analysis must consider those connections. This is not only because of the direct funding examples of terrorist cells receiving external support from supra organizations,[5] but because no other cash-related connections have a financing impact that in turn comes from a financing need. Even lone wolves arise from organizations behind which there may or may not be directly funded plots, but which may dedicate part of their big budget to inspire, indoctrinate and train recruits. In general terms, the operational attack cost of a terrorist organization varies depending on the size, type and activity (Acharya, 2009b, p. 24) but may account for only 10% of the total budget (Oftedal, 2014, p. 14). Therefore, terror attack costs are somehow part of a bigger organizational budget needing bigger incomes to satisfy further structural and organizational expenses.

The terrorist financing process: raising and moving money and resources for terrorist purposes

The review of terrorist financing methods suggests many different ways to obtain and move funds and it is not difficult to extract common patterns or find common classifications, categories or explanatory models (Normark & Ranstorp, 2015, p. 24). Some proposed classifications are the three categories described as legal, illegal and state sponsorship (Krieger & Meierrieks, 2011), the four fund-raising categories of Oftedal (2014), the five models of terrorism financing (Acharya, 2009b; Bell, 2003) or the six-criteria theory of terrorist financing with four types of funding sources (Freeman, 2011). But new methods to generate and move funds may continuously appear with terrorist evolution and especially considering the new options that information and communication technologies may offer emerging terrorist threats and vulnerabilities (FATF, 2015a, pp. 30–39). Mechanisms such as fundraising using social media combine with innovative methods for both raising and transferring money.[6] The mere use of those platforms to exchange payment details in order to receive money, the use of virtual currencies such as

5 Some examples can be found in Keatinge & Keen (2017, p. 15), Oftedal (2015) or FATF (2008, 2015a), among others.

6 A set of materials about virtual currencies and ICT in terrorism financing can be found in the FAFT's repository on its website: www.faft-gafi.org.

bitcoin, prepaid cards as substitutes for traditional travellers' cheques or new Internet-based payment systems open up a wide range of opportunities for terrorists, thus creating a new battlefield for CTF.

During the Cold War period, state sponsorship was usual (Financial Action Task Force [FATF], 2015a, p. 13; Sánchez Medero, 2008, p. 51) as well as relevant for the development of big terrorist organizations (Napoleoni, 2003). Also helped by UN sanctions developed in the 1990s, the importance of state support was drastically reduced mainly when states were no longer interested in financing armed terrorist groups after the fall of the Iron Curtain (Krieger & Meierrieks, 2011; Marrero Rocha, 2017) and there is no current evidence of states financing terrorist organizations such as Al-Qaeda (Passas & Giménez-Salinas, 2007), ISIS (Centre for the Analysis of Terrorism, 2016) or European cells (Oftedal, 2014).While some terrorist groups have stopped their activity, others have looked for new funding sources and financing strategies (Bantekas, 2003). On one hand, non-state external sponsors and other private donors' support of terrorism increased (Passas & Giménez-Salinas, 2007, p. 496) and, furthermore, financial market deregulation within economic globalization provided new ways for financing what in turn reinforced new methods and strategies. Armed terrorist groups intensified their relationships and diversified their funding scope, globalizing their activity and search for resources (Marrero Rocha, 2017, pp. 153–156; Sánchez Medero, 2008, p. 52). Terrorist organizations also developed financial skills, economic strategies and economic engineering, including individuals in more specialized human resources roles in charge of accountability and economic strategy (FATF, 2015a, p. 11; Napoleoni, 2014).

Money obtained for terrorist purposes can often proceed from two main categories that comprise different kinds of external support: on one hand, self-financing by legal or illegal activities and, on the other, those funding methods in combination that cover the several financing sources of international terrorist groups as well as terrorist attacks in Europe. As an example, external private donations were an important source for Al-Qaeda, which used business and investments as well as different illegal activities to finance its activities (Passas & Giménez-Salinas, 2007, pp. 498–500). ISIS directly controls a vast territory whose size is far and away larger than other groups such as Al-Shabab or PLO, providing the group with economic sufficiency within a self-financing model (Napoleoni, 2014). Mostly self-financed, ISIS's major funding sources were the exploitation of the resources of the territory it controlled and criminal activities such as extortion, counterfeiting many kinds of goods and materials, bank robbery, kidnapping, ransom and human trafficking (Centre for the Analysis of Terrorism, 2016). But while 93% of the group's revenue of US$2.435 billion was from self-financing activities, and external donations may be considered an insignificant part of the group's overall budget (Heibner et al., 2017, p. 9), the remaining 7% totals more than US$170 million of external support, which cannot be ignored. Even more relevant, analysis of the external financing support within the FTF data shows how European terrorist cells with FTF often received support from international groups (Oftedal, 2014, p. 26).

Family and other support through legal activities or petty criminality have also been common sources for European individuals travelling to Syria to join ISIS (FATF, 2015a; Keatinge, 2015). Specific analysis on FTF financing methods[7] found that savings, individual resources and family support, as well credit and loans, subsidies or government benefits combined with petty criminality, were the most common sources to cover travel, subsistence and additional money saved to contribute to the group on arrival abroad. Regarding cells, legal methods also included one's own salary, loans, business profits, the sale of one's own goods or whatever legal income from individuals or organizations (Biersteker & Eckert, 2008; FATF, 2008, 2015a; Giménez-Salinas, 2007; Oftedal, 2014). Oftedal's research found fifteen different combined income sources, including personal assets and family support, with 90% of cells involved in different self-financing legal and illegal activities, showing how terrorists raise, move and spend money in ways that are 'remarkably ordinary' and in which cell members' salaries and savings are the most common funding source, followed by petty crime – while almost no cells rely entirely upon external support (Oftedal, 2014, pp. 16–21, p. 45). Legal fundraising activities extend from FTF and lone wolves to bigger cells, networks and international terrorist groups that use real or ghost companies to both raise and move funds for both terrorism and money laundering purposes.

Terrorist organization-owned businesses also allow access to the diversion or erasure of traces of money and are at the same time one of the issues that relates terrorism fundraising with anti-money laundering (AML) activities. Moreover, this kind of company can be used to raise funds through investments, both directly in the company with the consequent money laundering, or indirectly to invest in financial markets and obtain profits later directed to financing terrorist activities. The modern international financial infrastructure and investment options within an interdependent system of intermediation also offers weapons of war (Lin, 2016, pp. 1380–1382) as safe havens to provide opacity for terrorists (FATF, 2008, p. 19; Sánchez Medero, 2008, pp. 64–66). Such kinds of operations are available for everyone with the necessary capabilities, something now widespread for sophisticatedly managed terrorist organizations integrating more and more qualified individuals. Even the use of financial markets to profit from the privileged information of a big terrorist attack like 9/11 has been the object of research into how terrorist attacks can directly serve as a funding source through financial markets (Buesa, Baumert, Valiño, Heijs & González Gómez, 2007) but no conclusion has yet been drawn, despite suspicious financial market movements around the time of attacks.

Another legal – and controversial – method of raising funds for terrorist financing is the use of charities (FATF, 2014) and non-profit organizations (NPOs), which has received a lot of attention (Oftedal, 2014, p. 13) since those kind of entities appeared within terrorism investigations (FATF, 2008,

7 Further specific information can be found in Keatinge (2015) or the FTF-specific section of FATF financing methods and techniques (2015a, pp. 13–23).

2012, updated October 2016; Normark & Ranstorp, 2015).[8] Muslim NPOs may act as encounter points allowing invisibility, and nowadays there is very weak evidence of their real use for terrorist financing purposes in the West; Giménez-Salinas (2007) found a lack of strong evidence and the Norwegian Defence Research Establishment (Oftedal, 2014) found only weak and indirect relationships in two of the forty plots studied in the period 1993–2014. The issue should, then, be treated in a careful and delicate manner (Passas & Giménez-Salinas, 2007, p. 497) since Muslim charity surveillance, if is not strongly justified, can negatively impact communities fostering radical arguments.

Illegal fundraising methods have historically been used by terrorists to obtain resources (Napoleoni, 2003). Those mechanisms[9] are used by the whole range of groups, from small cells to international terrorist organizations, including both legal and almost every kind of illegal activity we can think of. While petty crime, common delinquency, robberies – including of individuals, shops, houses and businesses, and not only of money but also of resources to be sold on the black market – or petty drug trafficking are mostly used by cells, other more complex and profitable methods can be used exclusively by international terrorist groups, like mass drugs, arms or human trafficking, extortion, kidnapping and ransom and the smuggling of gold or other luxury articles and prime raw materials such as oil, gas, antiques, tobacco, agriculture and other goods. Illegal terrorist financing methods become a relevant element in the study of the links between organized crime and terrorism networks (Marrero Rocha, 2017), and additionally serve to argue the links of petty criminality with terrorist engagement (Basra & Neumann, 2016).

Once money is obtained and before it is spent, it is often moved, again disrupting detection. A review of mechanisms used by terrorists to move and transfer money may be a powerful source for intelligence to identify and follow footprints left in the transfer process, and may disrupt terrorist activity. The most obvious mechanisms are direct physical transportation and handouts by terrorists or cash couriers and the use of common means like the formal banking system.[10] These are used and combined with money shipping services, money value transfer systems and other remittance businesses as well as informal transfer methods (FATF, 2008, pp. 21–25, 2015a, pp. 21–22). Among such informal systems, '*hawala*'[11] is one of the most commonly exploited. Sometimes the transfer can be indirect and associated with secondary goods being moved from origin to destination to then be sold and converted into cash (FATF, 2013).

8 This may have its basis in *zakat*, Muslims' religious obligation to donate some amount – around 2.5% of their income – to helping the unfortunate.

9 This even extends to fraud-related mechanisms, such as counterfeiting, credit card fraud, insurance fraud and tax evasion.

10 One of the best examples is the 9/11 attacks.

11 *Hawala* means transfer in Arabic, and has different names, such as *fei-chi'i* (China), *padala* (Philippines), *hundi* (India), *huikuan* (Hong Kong) or *peikwan* (Thailand) (Passas & Giménez Salinas, 2007, pp. 503–504).

Secondary goods may even be directly the goods required for terrorist purposes, such as weapons, or even both mechanisms can be mixed, as in the 11 March 2005 attacks in Madrid, in which the terrorists engaged in drug trafficking and then exchanged drugs for the explosives used in the plot (Passas & Giménez-Salinas, 2007). In addition, mechanisms such as false trade invoicing or even the use of high-value commodities (Freeman, 2011) are mixed with the use of traveller's cheques, pre-paid cards or other mechanisms related to the possibilities offered by new technologies (FATF, 2015a, pp. 21–23; Normark & Ranstorp, 2015, pp. 18–22).

In addition to knowledge of mechanisms, CTF needs to understand the different variables that may influence terrorists to use or choose between the different available techniques (Freeman, 2011; Freeman & Ruehsen, 2013). This may help to increase knowledge of terrorist behaviour and support the design of specific CTF strategies. Detection risk is probably the key element terrorists may consider, requiring methods that guarantee anonymity – and that need will influence the other parameters. Reliability, as a guarantee on the money reaching its final destination, is related to another key variable like simplicity; terrorists will choose the mechanism that, with equal levels of risk of detection or reliability, requires the fewest steps or fewer and more simple procedures, and the combination of those aspects will determine the need for technological means or different kinds of intermediaries. The origin, destination and final use of the funds to be moved will determine the convenience of some methods over others. For instance, money can come from or go to areas in conflict or zones with or without a more developed banking system and be used to buy weapons or simply to maintain the members of a cell. This is closely linked to the volume of money to be moved, since not every terrorist purpose requires the same amount and not every method allows the transfer of any amount of money. Finally, other parameters, like the cost of each mechanism or the speed and agility in moving the funds, will influence the choice of method, and that is another advantage of informal methods such as *hawala*, in which the expenses are around 1–2% of the total amount (Freeman & Ruehsen, 2013; Passas & Giménez-Salinas, 2007).

European CTF instruments and solutions

In addition to counter-terrorism, the main European CTF competences lie in Member States' national authorities within a legal and policy framework established by the EU in legislative and non-legislative measures acting to harmonize efforts and establish mechanisms for cooperation between countries. The range of measures and their implementation have been adopted and developed in line with the UN Security Council and the Financial Action Task Force (FATF) (Wensink et al., 2017, p. 58). Created in 1989 to enact an international framework for AML, the FATF has developed the main international tools regarding CTF, including the FATF's Special Recommendations, which are universally recognized as the international standard for combating money laundering, terrorist financing and arms proliferation as well as for monitoring that jurisdictions

criminalize terrorist finance as a separate offence.[12] The UN sanctions of the 1990s to countries giving economic support to terrorism were introduced to confront state sponsorship and were later extended to entities and individuals (Wesseling, 2014, p. 9). In 1996, given the scope of the new and complex techniques of financial engineering in money laundering, the FATF's forty recommendations were revised and their scope extended to other criminal activities (2012). Following the 1998 Al-Qaeda attacks on the US embassies in Kenya and Tanzania, in 1999 the United Nations launched the International Convention for the Suppression of the Financing of Terrorism, reinforcing the specific relevance of combat financing beyond terrorism, and UN Security Council Resolution 1267 specifically focused on Taliban finances.

However, the 9/11 Al-Qaeda attacks were a turning point that heavily influenced and reshaped the international counter-terrorism scenario, with terrorist financing becoming an urgent priority and core component of international and European agendas (Giménez-Salinas, 2007, p. 208). Since attacks were financed by large amounts of money passing through the formal banking system, new measures to improve control on terrorist-related financial movements were strongly pushed at international level, putting the role of financial institutions in the spotlight. In Europe, the focus was on implementing and developing measures in line with the international action of UN Security Council Resolution 1373 and the FATF IX Special Recommendations on terrorist financing. In the December 2001 Common Position 2001/931/CFSP, EU governments agreed to draw up of a list of individuals, groups and entities involved in terrorist acts whose funds and financial assets had to be frozen, while Council Regulations (EC) No 2580/2001 and (EC) 881/2002 came to address the FATF Special Recommendations I and III on ratifications of UN instruments and freezing the funds of terrorist suspects.

However, another major change after 9/11 covered the extension of public-private cooperation and massive surveillance of data from financing institutions became acceptable and possible due to technical smart software possibilities (Wesseling, 2014, p. 9). This in turn served to start the Terrorist Finance Tracking Program (TFTP) set up by the US Treasury Department, by which the Society for Worldwide Interbank Financial Telecommunications (SWIFT) gave access to its database, resulting in 2010 in the EU–US TFTP Agreement also giving European Member States access to SWIFT's database (European Commission, 2017a).[13] Those changes in the use of financial information placed financial institutions on the frontline of CTF (Lin, 2016) and pushed the further

12 In 2015, after the Paris attacks, FATF prepared a review of CTF measures implemented for G20 leaders (FATF, 2015c) stating how most jurisdictions had separately criminalized terrorist financing but almost without any convictions.

13 The agreement took effect after EU requirements were satisfied for providing the appropriate safeguards to accommodate legitimate concerns about security, privacy and respect for fundamental rights.

development of specific financial intelligence (FININT). In FININT and collaboration efforts, the EUROPOL FIU.net is a decentralized computer network of the Member States' national Financial Intelligence Units (FIUs), while the informal Egmont Group provides FIUs around the world with a forum to exchange information confidentially.

The terror attacks in Madrid in 2004 and in London in 2005 were another turning point that served once more to reactively develop new measures in the fight against terrorism. The United Nations Counter-Terrorism Implementation Task Force (CTITF) was established by the General Secretary in 2005 to ensure overall coordination and coherence in the counter-terrorism efforts of the United Nations system and established a specific Working Group on Tackling the Financing of Terrorism to assist states in CTF regards. At European level, a range of fundamental measures were developed that aimed at identifying and disrupting movements of funds related to terrorism by cutting off terrorists' access to financing. The European Union's Strategy on combating the financing of terrorism was presented in December 2004 and was later revised in 2008 and 2011, in which freezing financial assets or tracking transactions are presented as not mutually exclusive.

The Third Anti-Money Laundering Directive (2005/60/EC)[14] was the most comprehensive EU measure. Following international trends joining AML and CTF efforts, it extends the scope of the AML regime to terrorist financing. Turning from previous rule-based approaches to a more flexible risk-based approach, the directive addresses the overall nine Special Recommendations enhancing the 'know your customer' approach to financial institutions to increase surveillance and report suspicious transactions to a national FIU. The cash control Regulation[15] (EC) No 1889/2005 and Regulation (EC) No 1781/2006 on information on the payers of fund transfers implements FATF Special Recommendations IX and VII to ensure cash courier control and that identifying information accompanies wire transfers. FATF Special Recommendation VI is addressed by the Payments Services Directive 2007/64/EC with regard to alternative remittance systems. Those measures, but especially the Third AML Directive, reinforced the public-private cooperation in security but can be considered discrete in the intelligence-led fight against terrorism (Wesseling, 2014, pp. 8–15; Wensink et al., 2017, pp. 143–151).

After the Syrian civil war, spotlights previously on Al-Qaeda moved to ISIS, whose irruption, accompanied by the FTF phenomenon and the different attacks in Europe, again modified the context and once more forced CTF to be reactively adapted to the emerging terrorist financing methods and trends (FATF, 2015a, p. 40; Wensink et al., 2017, p. 34). Directive 2014/42/EU set minimum standards and reinforced cross-border cooperation for the orders of freezing and

14 The directive is result of previous AML Directives 91/308/EEC and 02001/97/EC.

15 This regulation requires the disclosure of the possession of cash or equivalent in excess of €10,000 when entering or leaving the EU.

confiscation and aimed to improve cross-border cooperation in relation to freezing assets. The Payment Services Directive 2015/2366/EU amends, among others, Directive 2002/65/EC, while Regulation (EU) 2015/847 giving information on payers and beneficiaries accompanying money transfers expands the scope of surveillance by financial institutions. Later specific efforts include Council Decision 1693/2016 and Council Regulation 1686/2016 to establish an EU-Autonomous ISIS/Al-Qaeda regime, which capacitates the EU to adopt restrictive measures independently from the UN (European Commission, 2017b, p. 36).

In February 2016, the European Union's Strategy on combating the financing of terrorism gave way to the European Commission's Action Plan to strengthen the fight against terrorist financing, which is the main ongoing European instrument to articulate current and future CTF efforts and EU policy. The Action Plan, whose final steps on adoption and full implementation are still to be achieved, contains legislative and non-legislative initiatives as well as actions to be implemented in full for the different treaties. The plan identifies two main objectives: disrupting terrorist revenue sources on one hand, and preventing and detecting fund transfers on the other – tracing terrorists through financial movements – which recognizes that financial information can be used to detect terrorists and their networks (European Commission, 2017b, p. 34). As part of the Action Plan, in July 2016 the Commission presented a proposal to revise the Fourth Anti-Money Laundering Directive to further strengthen EU rules on anti-money laundering and improve counter-terrorist financing. The proposal sets out a series of measures to ensure increased transparency of financial transactions, the use of virtual currencies or pre-paid cards and enhances the access of FIUs to information. To reinforce cooperation and coordination, the European Counter-Terrorism Centre (ECTC) launched in 2016 by Europol includes within its focus the sharing of information, intelligence and expertise on terrorism financing (European Commission, 2017b).

A new perspective for European CTF solutions

Terrorism, as well as its financing, is a complex and diversified phenomenon with different actors and associated threats that have different financing needs and use a comprehensive variety of methods and techniques to raise, move and use money and resources. Also influenced by CTF measures, terrorist financing has a tendency to independence and self-finance, which in turn results in a greater degree of specificity between the different forms of terrorism, from international groups to terror plots and attacks in Europe. With the main objective of combating the financing of terrorism, nowadays CTF, with the financial sector at its core, results from a historical evolution that shows how measures and solutions have been reactive to terrorism as it has evolved and adapted to CTF developments. Mainly conditioned by Al-Qaeda, and later by ISIS, and strongly developed by the timing and urgency of the bigger terror attacks, CTF has had few structural and strategic changes and terrorists continue to raise and move money and resources for their activities (Keatinge et al., 2018).

While the end of state sponsorship and sanctions increased the use of other external donors and supporters, CTF structures created after 9/11 first served as barriers limiting terrorists' options to externally support it. However, as well as forcing terrorists to look for alternative funding sources, more sophisticated terrorist financing techniques appeared within the context of globalization and financial deregulations. As a response, international CTF strategies have mainly focused on disrupting income sources on one hand and preventing and identifying the movement of money and funds with terrorist purposes on the other. In line with international efforts, Europe has developed and implemented a good range of measures and controls, with the financial sector on the frontline. By way of response, terrorism has adapted and evolved in a growing trend to economic sufficiency, independence and specificity that has prompted changes that make CTF obsolete.

Aspirations of the control of territory and expansion for big-budget international groups or independent and more rudimentary terror attacks in Europe have translated terrorism sufficiency into practice. International groups' independence reinforces their own sustainability, since third parties' economic dependence, as well as that of states and private donors, may not only mean subordination to financers' control but risks leaving terrorists' existence and subsistence in the sponsors' hands, as happened with state sponsorship. Besides helping to dodge CTF controls by only inspiring and tactically supporting terror attacks without directly funding them, terrorist organizations' indoctrination and recruitment efforts, marketing campaigns and the development of manuals and materials giving tactical support to those committing attacks are a valuable resource – separate from money – in fostering terrorism. In Europe, within the changes in the modus operandi (EUROPOL, 2016), terrorism has combined big expensive plots with low-tech but high-impact attacks supported by home-grown violent radicalization and recruitment efforts. In the fight against terrorism, both big plots with many casualties and low-cost or low-tech but high-impact attacks increase insecurity perceptions and again translate self-sufficiency into practice. The higher the sophistication, preparation and cost of an attack, the higher the possibility of it being identified or disrupted, while independence from international groups leaves the operative in attackers' hands and reinforces the difficulty of distinguishing terrorists. Independence and self-financing appear, therefore, as a logical solution, even more so if we consider that self-financed cells in Europe are more likely to finally execute a planned attack (Oftedal, 2014, p. 26). This reduces CTF options to cutting off, preventing, monitoring or detecting the financing of the terrorist and independently operative, cheap, easy plots that require few suspicious fund movements, instead using transactions that are difficult to distinguish from normal ones and leave fewer footprints. At the same time, those attacks require less transnational communication, coordination, operative organization or money transfers and allow for cell and lone-wolf autonomy from supra-organizations. This means that, especially in Europe, terrorism evolves in more and more specific ways.

This strategic terrorist financing that evolves to independence, self-sufficiency and specificity today needs more specific responses, which require structural and strategic reforms, which of course demand that CTF is implemented and

completed with specific and closer approaches. To do so, despite the difficulty in measuring CTF effectiveness, we must recognize its impact on the ways terrorism is financed, which in turn extends to changes in terrorist activity and operations. CTF's impact on terrorism suggests that CTF must be treated as a terrorist issue that goes beyond financing. If efforts to combat the financing of terrorism influence and contribute to modifying terrorists' behaviour, causing them to look for alternatives and change their modus operandi to continue their activity, CTF needs to be comprehensively and jointly approached in coordination with counter-terrorism. This complementary perspective has important implications since countering the financing of terrorism is a target that can coexist with the objective of contributing to counter-terrorism from its financing. In addition to cutting off terrorist financing or identifying, pursuing and building barriers to limit terrorist access and movement of funds, this means reinforcing and approaching them through policies and measures that look at terrorist financing as a part of terrorism and that use their financial needs in the most efficient way to counteract it. While an approach to address the financing of terrorism has been comprehensively integrated in CTF strategies and measures, the second complementary view of using finance to counter terrorism from its financing (CT-F), now offers a much greater margin for further developments in policies and specific solutions (Keatinge, 2016).

Recent developments, such as the 2016 EU Action Plan, are starting, in part and rather gently, to address this approach, recognizing the failure of the counter-terrorism policies to identify the high relevance of terrorist financing. However, increasingly, terrorist finance is less distinguishable and alarms appear less from financial information and more from analysis combining CTF and counter-terrorism. Home-grown terrorists use methods like common legal economic activities, the misuse of loans or subsidies or petty criminality, among others, in which responses are remote from the financial system. While data show that, for example, cells involved in crime to finance their activity are not more often detected than others (Oftedal, 2014, p. 27), we may argue that joint financial and intelligence analysis would be more effective. For terrorist needs and budgets, rudimentary terror attacks cost less than €10,000, which is the regulatory amount established for controls and which cannot be addressed by financers. Big terror attacks have required a dedicated budget for rentals, weapons or bombing devices, which can only be detected by joint analysis incorporating FININT. The financial sector can provide valuable information and has a relevant role in controlling and reporting suspicious movements or financial transactions to and from high-risk countries, among others. However, private finance sector capabilities are far from analysing terrorism-related associated risks, comparing financial data with other non-financial information or establishing financial patterns that result in counter-terrorism alerts.

European policies can reinforce this recognized but underused CT-F approach, emphasizing its potential in plans and strategies that coordinate national security actions and extend its scope to CT-F. Furthermore, actions must address specific security threats and update the role of intelligence and law enforcement to balance public-private cooperation. The improvement of

national security and law enforcement roles and the dissemination of knowledge on financial intelligence and terrorist financing are a priority. Establishing analysis mechanisms covering security and terrorist financing are a challenge but they can be improved; Europe already has instruments such as Europol, CTFC or FIUs coordinating strong and specific Member States actions, as well as instruments to support authorities and law enforcement agencies, to share information and knowledge and finally to make links with financial institutions. In addition, previous impact assessment tools to predict, value and mitigate the influence and impact that CTF has shown to have in terrorist evolution or adaptation would be required as effectiveness indicators. Finally, these must translate into specific solutions and tools integrating financial patterns into counter-terrorist analyses and taking care of data privacy and the fundamental rights of EU citizens.

This complementary CT-F approach would need to be accompanied by updated solutions for the evolution of terrorist financing to address its integration into security, including the different data collection systems and their interoperability. Since more and more terrorists finance their actions in ordinary and indistinguishable ways, suspicious financial movements only relate to patterns and unusual operations of terrorism. In this sense, integrating more sophisticated financial techniques into counter-terrorism solutions to develop updated techniques would contribute to implementing a complementary CT-F approach. As well as terrorists benefitting from ICT possibilities, current advances and technological developments allow the creation of specific solutions that combine financial and security issues and highlight patterns that would otherwise be treated separately. Research efforts have already shown ICT's possible contributions to examine the CTF impact on terrorists' tactical operability and lethal consequences due to terrorists' funding constraints (Shapiro & Siegel, 2007). Further financial information incorporating terrorism into related social network analysis as a methodological toolkit may be useful for bigger cells and networks and major terror attacks, but small cells and lone wolves require closer, more specific solutions.

European strategies therefore need to develop a range of complementary solutions that look closer at specific levels and value the role that security and law enforcement must play in CTF as well as the role of CTF in the fight against terrorism. However, only a change in the perspective to establish mechanisms integrating terrorist financing within counter-terrorism and accompanying them with the proper solutions will serve as innovative contributions to avoid falling back into the same strategies and to create measures to deal with a quickly evolving phenomenon.

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13 Intervention in radicalization processes in the prison context

Manel Roca Piera and Carles Soler Iglesias

Radicalization in prison

We cannot deny that one of the main risks that currently threaten the security of European society is the arrival of religious terrorism, in the form of organizations such as Al-Qaeda or Daesh (or the Islamic State; IS), that has appeared on the international scene.

There are multiple indicators that show the magnitude of the problem. Obviously the most visible are the repeated attacks in various European cities, such as Madrid (2004), London (2005, 2017), Paris (2015, 2016, 2017), Brussels (2016), Nice (2016), Berlin (2016), Stockholm (2017), Istanbul (2017) and Barcelona (2017). Further evidence is provided by the numerous operations carried out to dismantle cells that prepared attacks or were engaged in the recruitment, financing and propaganda in favour of the Islamic State as well as the phenomenon of foreign fighters who have gone to Syria and Iraq to join 'jihad'.

When developing security policies to combat this phenomenon, it is necessary to know how and where these radicalization processes are taking place. Both the media and academic articles on radicalization make references to the Internet, mosques and prisons as the main places at risk of jihadist radicalization, with prisons as the main focus, but always without data that endorse such affirmations. Can we provide an explanatory model of a phenomenon without any reference to the data that support it?

The difficulty in finding studies that provide data on these processes in prison is possibly due to three fundamental reasons. The first is the usual opacity of prison systems when it comes to providing data and studies of the processes that take place inside them. The second is the difficulty of analysing cognitive phenomena without the express collaboration of the person, a difficulty that increases if that person is an inmate in prison. The third is the novelty of the phenomenon – the first analyses on radicalization in prison appeared very recently, around 2012. Radicalization in prisons only became a priority in the Western political agenda after the *Charlie Hebdo* attacks in Paris in January 2015; two of the attackers had met in prison, where one was radicalized and the other intensified his violent jihadist beliefs.

One of the few studies that have rigorously analysed the weight of the different places to develop radicalization is the one carried out by Reinares and García-Calvo (2016). It examines all detainees in Spain for crimes related to jihadist terrorism between 2013 and 2016. The results show that radicalization was developed mainly in mixed environments, where offline and online are combined. In addition, the authors note that 'the number of individuals radicalized only offline is markedly superior to that of radicalized only online' (p. 15). Their data suggest that only 18.4% of detainees would have been radicalized exclusively through the Internet, 28.9% would have been radicalized in various offline spaces and 52.7% would have undergone the process with both offline and online influences.

Therefore, the importance of offline spaces as the starting point of the radicalization process seems relevant. Penitentiary centres are included within this area. Reinares and García-Calvo analyse different places of offline radicalization, with the results set out in Table 13.1.

Following the publication of the study by Reinares and García-Calvo, the Directorate General of Penitentiary Services of the Generalitat de Catalunya analysed how many of those detained in police operations against jihadism in Catalonia had already been radicalized in prison. The analysis covered the same period, and therefore the cases analysed were already included in the study by Reinares and García-Calvo. In our examination we tried to see the incidence of radicalization in prisons in Catalonia, and the same assessment criteria were used. The result obtained was that only 2% (a single case) had been radicalized in prison in Catalonia.

In European radicalization studies, there are few references to radicalization in prison. The only comparable study in the method of analysis is that published by Basra, Neumann, and Brunner (2016). The authors analysed seventy-nine cases of European jihadists and detected twelve cases (15.2%) that had been radicalized in prison. But, if the data do not place prison as one of the main focuses of radicalization, why is this idea so widespread? Can the characteristics of the prison system help to make this untested idea become a reality? What prison policies must be carried out to try to prevent the phenomenon?

Table 13.1 Scope of Offline Radicalization

Scope of Offline Radicalization	
Private addresses	73.3%
Places of worship	53.3%
Outdoor activities and excursions	26.7%
Penitentiary centres	6.7%
Other social places	6.7%
Study places	3.3%

Source: authors' own work, with data from Reinares & García-Calvo (2016).

Factors for radicalization in prison

There is some controversy about how the prison environment can influence radicalization. It has been argued that the presence of groups of inmates condemned for acts of terrorism may be a focus to capture other individuals who have a baggage of social exclusion and antisocial features that makes them especially vulnerable to this process, while the fact of being imprisoned and subject to special scrutiny would strengthen their antagonism against conventional society and reinforce the links with the group and extremist ideologies (Jones, 2014).

In our opinion, the prison-radicalization link among the general public is due to the fact that many of those detained for this type of crime have criminal records for common crimes. Basra et al. point out that the connection between terrorism and prior criminal activity has existed in other terrorist groups. However, the phenomenon has increased, and is more significant, in the jihadists of European countries. Analysing the data of the studies of Basra et al. (2016), Reinares & García-Calvo (2013, 2016) and internal data from the General Directorate of Penitentiary Services about the detainees in Catalonia show how prison can be considered a significant factor in jihadists, both in those acting in European territory and those moving as foreign fighters to Syria (see Table 13.2).

In addition, there are factors specific to prison entry that imply that this is an environment of vulnerability for inmates, facilitating possible radicalization. Although at present there is no fully verified evidence regarding the specific factors that make some individuals more predisposed to these processes, there is a certain consensus regarding the influence of three elements to consider:

- Personal factors can make the individual more permeable to influence and more predisposed to engaging in radical and excluding attitudes.
- Situational factors, such as the presence of captors in prisons, can facilitate radicalization.
- A lack of social protective factors, such as a network of supportive relationships that encourage the inclusion of the inmate, exert a pro-social influence and respond to their psychological and material needs.

Table 13.2 Percentage of Detainees for Jihadist Terrorism with Criminal Records for Common Crimes

Works	*Previous Convictions*
Reinares & García-Calvo (2013, 2016)	22.2% 44.6%
Direcció General de Serveis Penitenciaris Catalunya	8.1%
Basra et al. (2016)	57%

Source: authors' own elaboration, with data from Basra et al. (2016), Reinares & García-Calvo (2012, 2016) and the General Directorate of Penitentiary Services of Catalonia.

Inmates in prisons, generally, have to confront the following:

- an identity crisis
- a need for change
- social uprooting
- a need for support and protection
- a desire to belong
- group pressure
- contact with proselytizers

Considering these factors, time in prison can lead some people to become more interested in religion than before. Religion can help them change their lives for the better. However, as converts may initially be poorly informed about their faith, they may be vulnerable to the proposals of proselytizers who attempt to impress them with a distorted version of theology.

The diminution of the awareness of their own identity, or the desire to make a radical change in their lives, often facilitates the internalization of religious discourses such as that offered by jihadist Salafism. Radical discourse endows the individual with a rigid, interpretative frame, giving him a feeling of pride in his identity and 'rebirth'. This framework facilitates the individual's search for redemption, and he easily finds the meaning of his criminal vocation in jihadist militancy. The subject 'stops being a delinquent' to become a committed Muslim, even though on leaving prison he commits the same common crimes that he did previously.

This is a recruiting method known as the 'narrative of redemption'. This narrative, designed by IS to capture 'soldiers' who already have skills and training for violent action and have had a life of crime, is based not so much on offering them new religious values or spirituality, but the redemption of their committed crimes. The Islamic State does not demand knowledge or learning of a complex theological discourse and it offers them power, violence, a strong identity and a rebellion against the 'establishment', making the latter responsible for their previous criminal behaviour. All this narrative is reinforced by its propaganda and impact messages.

Framing the problem from this perspective, it is clear that although there is no direct relationship between the process of radicalization and stay in prison, it seems necessary to address radicalization from the prison systems and the fact that a high percentage of the jihadists have gone through prison; in addition, in this environment we can act to detect possible future cases, to prevent new processes of radicalization and to intervene with those already condemned in the de-radicalization processes.

Approaches to counteracting violent extremism in prisons

The worldwide emergence of jihadist radicalization and the need to carry out an approach from the prison environment has led to the development by institutions and public agencies of various recommendations and lines of action. The most relevant are those raised by the Council of Europe, the RAN (Radicalisation

Awareness Network) of the European Commission, and by the United Nations through its Office on Drugs and Crime.

The recommendations of these three organizations agree on the need to strengthen, within prisons, the essential elements of what we understand by a healthy environment:

- the existence of a fair penitentiary system, which guarantees human rights
- the creation of a secure environment, with approaches based on the principles of dynamic security
- the promotion of constructive relationships between staff and inmates
- strengthening of the pro-social links of the inmates with the people of their social network
- a prison intervention model that offers opportunities for personal and social development
- the creation of a preventive context of the radicalization process through the contact of the inmates with alternative narratives to the radical ideology
- influence in the processes of de-radicalization by including in the prison's work plans interventions specifically aimed at people immersed in radicalization processes together with structured plans for their reintegration upon release from prison

Actions in different European penitentiary systems

The EU Member States lack a common model of prison system. Thus, in the approach to inmates with crimes of violent extremism, there are systems that opt for concentration, others for dispersion and others for mixed formulas. Not all these types of inmates are in high-security prisons (which some countries do not have), while some Member States have prisons dedicated to inmates accused or convicted of terrorist offences. But, driven by external events, penitentiary policy and practice are rapidly changing and countries continue to explore different options for action. The European countries whose prison systems have suffered most from the actions of jihadist terrorism in the last decade are Germany, Belgium, France, the United Kingdom and Spain.

Germany

Across all of its Bundesländer, Germany has 183 prisons.With a prison population of 64,193 inmates, Germany had 156 radical Islamists in 2016, a significant increase of 30% compared to the previous year. On the other hand, it is estimated that some 700 Germans have moved to the conflict zone to fight for IS, which has generated a great concern that many more extremists will, in the coming years, enter the country's penitentiary system, increasing the risk of radicalizing other prisoners.

In Germany, the penitentiary system is decentralized through the sixteen Bundesländer of the country, with no unitary approach to action. The federal

system means that prison conditions are completely different between states, as well as different approaches when dealing with the issue of radicalization.

According to Dorle Hellmuth, author of the study 'Countering Jihadist radicalization in prisons in Germany and the United States' (2017), in Germany, de-radicalization programmes do not exist at the federal level, but only in some states. These programmes are mainly based on the work of the NGO Violence Prevention Network, whose social workers, psychologists and pedagogues attend to the Salafist prisoners in an attempt to desacralize the young people in prison.

Until 2014, this programme was developed in all Bundesländer with funding from the European Union. At the end of this funding, the programme has only been maintained in Berlin, Hesse, Lower Saxony, Bavaria and Baden-Württemberg.

Belgium

The Belgian penitentiary system has thirty-five penitentiary facilities, which house a population of 11,071 inmates. It is one of the European penitentiary systems that, in proportion to its population, has the greatest number of radicalized inmates. According to data released by the Belgian Ministry of Justice, in 2015 the prisons of this country held 450 inmates who had been identified by the state security services as radicalized and who had adopted extremist Islamic ideas.

To deal with this problem, in March 2015, the Federal Public Service of Justice launched the 'Action Plan against radicalization in prison' (Belgium, 2015). The central objective of the Action Plan is twofold and consists of, on the one hand, preventing prisoners from becoming radicalized in prison and, on the other, developing a specialized supervision system for radicalized persons during their detention.

An 'Extremism' unit has been created in the General Directorate of Prison Administration that develops and coordinates the implementation of the action plan. This unit is responsible for formulating proposals regarding the necessary infrastructure, the regime to be applied and the degree of control of the contact of extremist inmates with the outside world. Some of the actions proposed by the plan are:

a) better living conditions in penitentiary institutions
b) the strengthening of information networks
c) sensitization and basic training with a view to better detection
d) a policy of dispersion of radicalized inmates
e) systematic participation of the representatives of the different religions
f) de-radicalization and withdrawal programmes
g) enhanced cooperation with the local community, federal entities and Europe

The United Kingdom

In the United Kingdom, there are several differentiated prison systems that are structured around the territories of England and Wales, Scotland and Northern Ireland.

The Prison Service of England and Wales has the largest penitentiary structure according to the number of centres and inmates who depend on it. Within the Ministry of Justice, several services coexist with differing functions, such as Her Majesty's Prison Service (HMPS), the National Service of Management of Offenders, the National Probation Service and inspections of services and conditional freedom. It has 123 prisons for a population of 86,294 inmates.

The Northern Ireland Prison Service (NIPS) operates two prisons and a juvenile facility, with a total of 1,440 inmates, and the Scottish Prison Service (SPS) has fifteen prisons, two of which are privately run.

England and Wales

The prisons and the probation services of England and Wales depend on the National Service of Management of Offenders (NOMS). In 2015, the penitentiary system had an adult prison population of 84,968 inmates, of whom 12,300 were Muslims (14.5%); this figure represented an increase of 122% since 2002, while the total prison population had only increased by 20% in the same period.

The available figures indicate that in England and Wales, 600 inmates are being controlled by radicalization processes, a number much higher than the 186 in the system convicted of terrorism or violent extremism. If we analyse the sample of people convicted of terrorism or violent extremism, we see that 67% (123 prisoners) are Muslims.

It is estimated that at least 800 Britons have travelled to Syria and Iraq to fight with the Islamic State, while others have travelled to Afghanistan, Somalia and Yemen. A significant number of them have already returned to the United Kingdom, of whom some will enter the criminal justice system. Therefore, we can expect the number of inmates with these characteristics to continue increasing.

In 2015, the British Government published its *Counter-Extremism Strategy* (UK Home Office). When discussing the threat of extremism, this plan pointed out that radicalization among equals was one of the main models of peer recruitment and especially relevant in the prison environment. The studies indicated that there were 1,000 prisoners whose behaviour in prison raised concerns about extremism.

The Home Office regulated, through the Order for Detention Services 1/2015, the guidelines for personnel action to report on extremist inmates or radicalization. These actions are included in the prevention strategy, which is part of the government's broader anti-terrorism strategy, regulated by the Anti-Terrorism and Security Law 2015.

Until 2017, the penitentiary policy followed by dispersal has been maintained, with the aim of preventing prisoners from coalescing as a pressure group inside prisons. But the contagion effect of the jihadist ideology on other prisoners of recent years has led the Home Office to change the line of action, creating isolation units where the prisoners evaluated as high-risk for jihadist terrorism are confined.

Scotland

The Scottish Prison Service (SPS) is an Agency of the Scottish Government created in 1993. It has thirteen publicly managed and two privately managed prisons. In 2015, the system housed 7,883 inmates, of whom 2.5% were Muslims.

The incidence of jihadist radicalization is much lower than in England, and its policy of action on radicalization is based on *The Prevent Duty Guidance for Scotland*, an orientation guide for terrorism prevention actions derived from the Counter-Terrorism and Security Law of 2015.

France

The French penitentiary system, managed by the Direction de l'Administration Pénitentiaire of the Ministry of Justice, has 188 penitentiary establishments that house 70,018 inmates.

In 2015, 152 inmates were convicted of crimes related to Islamist terrorism; this figure has increased by more than 100% in two years, currently reaching 349 inmates.

In 2016, there were 1,336 inmates who were identified as radicalized, which is the highest number in all prison systems in Europe.

The French penitentiary policy in the fight against radicalization is derived from the *Plan of action against radicalization and terrorism* prepared by the French Government and published on 9 May 2016 (République Française, 2016). As a development of this plan in October 2016, the plan named *Penitentiary security and action against violent radicalization* was initiated (French Ministry of Justice, 2016).

Some actions derived from these plans are:

a) to create an intelligence unit within the penitentiary administration
b) to continue to develop and implement an evaluation model that allows better detection of radicalization
c) to develop programmes to attend to detainees after their release in specialized units
d) to incorporate new personnel and penitentiary counsellors for insertion and probation
e) to strengthen the action of the prison imams to stop the spread of extremist speeches in prisons
f) the creation of specialized penitentiary units for the control of high-risk inmates who have been arrested for terrorism and radicalization

Spain

In the Spanish state there are two penitentiary administrations. The first is the General Secretariat of Penitentiary Institutions, under the Ministry of the Interior of the Government of Spain, which has 102 prisons with an occupation of 51,109 inmates; 149 prisoners have been convicted of crimes related to jihadist terrorism.

The second is the General Directorate of Penitentiary Services, under the Ministry of Justice of the Government of Catalonia, which has thirteen penitentiary establishments with 8,552 inmates.

Both penitentiary administrations are governed by the General Penitentiary Organic Law of 1979, but they have differentiated organizational structures. The General Secretariat of Penitentiary Institutions directs the penitentiary policy on prisons throughout the Spanish state, except Catalonia – this being the only Autonomous Community that has had powers of penitentiary execution transferred to it.

The penitentiary policy applied by the General Secretariat of Penitentiary Institutions is regulated through Instruction 8/2014, 'Programme for the prevention of radicalization in penitentiary establishments' (Spanish Ministry of Interior, 2014), an instruction revised in 2015 (Spanish Ministry of Interior, 2015a) following the entry into force of the *National Strategic Plan of struggle against violent radicalization* (Spanish Ministry of Interior, 2015b).

In 2016, Instruction 2/2016 was published: 'Framework programme for intervention in violent radicalization with Islamist inmates' (Spanish Ministry of Interior, 2016). This normative framework configures a plan of action based on the dispersion of jihadist prisoners, along the line that for decades has been successfully applied to ETA terrorists.

The intervention programme with the Islamist inmates classifies them into three groups, which are as follows.

- Group A. Convicted for belonging to or collaborating with terrorist groups. These are inmates with strong roots in extremist ideology, and who are protected by active terrorist organizations.
- Group B. Interns with leadership attitudes of recruitment and proselytizing, and therefore capable of indoctrinating and disseminating radical ideas to other inmates.
- Group C. Inmates who are radicalized or in the process of radicalization, as well as those who show risk or vulnerability of being recruited.

Currently there are 271 internal follow-ups within this programme (149 in Group A, 35 in Group B and 87 in Group C). All the inmates included in the Programme for the Prevention of Radicalization are subject to the FIES (Specially Trained Interns File) system, which includes some regimental limitations with respect to the ordinary prison system, including the possible intervention of correspondence and communications. In the case of Group A inmates, the closed regime is applied, a modality that involves a high level of isolation.

Catalonia

The Catalan penitentiary system, with its own powers in terms of penitentiary organization and execution, has developed its own prison policy, since the normative regulations of the State Penitentiary Administration are not applicable to it.

This capacity for self-organization has also been applied to prison action in the processes of violent radicalization. Following the 2004 attacks in Madrid, the Secretariat of Penitentiary Services, Rehabilitation and Juvenile Justice of the Government of Catalonia created the Information and Security Area, establishing as one of its objectives the management and analysis of the information obtained in prisons, especially regarding the processes of jihadist radicalization. This area of prison intelligence works in coordination with the General Information Commissioner of the Police (Mossos d'Esquadra); the result of this coordination has been the project PRODERAI (Procedures for the Detection of Islamist Radicalization) of criminal execution. Within the project, the *Protocol for the detection and control of Islamist radicalism in prisons* was drafted (2015).

A risk analysis is carried out on the inmates included in the protocol and a level of supervision is assigned. The inclusion of inmates in the protocol does not entail any type of restriction in their prison life. The limited presence of inmates convicted of terrorist crimes in the prisons of Catalonia (in 2016, only four inmates) did not require the system to apply dispersion or isolation systems. Currently, 126 internal protocols are included, of which thirty-four are in high-risk level 3.

Tools and programmes for prevention and intervention in radicalization processes in prison

General prevention

In this section, mention will be made of actions that, although affecting all inmates in a positive way, are directed specifically to the prevention of radicalization.

Staff training

Personnel training programmes are aimed at improving personnel knowledge of radicalization processes and their skills in order to establish collaboration and support relationships with the inmates.

One example is the training programme that is being carried out with social work professionals from prisons in Catalonia within the framework of the European programme LIAISE 2. It provides basic and applied concepts about radicalization and skills to work with the families of people at risk.

Also noteworthy is a manual published by UNESCO (2016): *A teacher's guide on the prevention of violent extremism*. This manual provides a practical guide to carrying out constructive discussions in the classroom on topics and situations related to violent extremism, which can also be applied in the prison context.

Reception and guardianship programmes in prison

Special attention must be paid to the admission procedures of all inmates since a good application of such procedures facilitates the feelings of confidence

> and security that should be created in the inmates, making possible an adequate evaluation of their state of health on admission, and contributing to a good assessment of risk and needs, a good plan of intervention, classification, location and accommodation.
>
> (Council of Europe, 2016)

Reception. Entry into prison is a time of special risk due to the person's situation of vulnerability. Therefore, the existence of a structured reception procedure that should execute the following is fundamental:

- address the immediate needs that arise at the time of entry
- facilitate contact with significant people in their environment
- provide clear information about their prison and penal situation, the rules and the operation of the centre's services, as well as the opportunities and resources available to occupy time in a constructive manner
- start the first activities that put the prisoner in contact with other inmates and professionals
- collect information about the inmate's personal variables, his environment and his legal situation, all of which is necessary for the risk and needs assessment and for the subsequent guidance of the individual intervention plan

Tutoring. During the entire period of stay in the centre, the tutor assists the inmate in the resolution of problems and in reaching the agreed goals for their process of adaptation, rehabilitation and future reintegration. The tutor centralizes the collection of information and, in this way, supports the technical teams in evaluation, planning and decision-making. In addition, the relationship between the prisoner and the professional is a key factor for the effectiveness of the intervention (Blasko, Friedmann, Rhodes & Taxm, 2015; Burnett & McNeill, 2005).

Intercultural coexistence and religious dialogue

The wide diversity of cultural and religious backgrounds of the incarcerated population as a result of the increasing proportion of foreigners in most prison systems makes prison management more complex, but at the same time represents an opportunity for the prevention of radicalization and rehabilitation. Next, we will describe three types of actions that follow this orientation.

a) Programmes of coexistence in diversity. This is a highly developed practice in educational environments that, although with few references in the prison context, have an important relevance for prevention. An example is the 'Programa d'Educació Intercultural als Centres Penitenciaris', prepared by the Community of Practices of Social Educators of Penitentiary Centres of Catalonia (Generalitat de Catalunya, 2009), in which the methodology and different dynamics are described to carry it out.

b) Interreligious dialogue groups. A reductionist interpretation of religion causes some practitioners to adopt exclusionary attitudes that feed and justify radicalization processes. For this reason, it is important to promote a climate of dialogue and critical reflection among inmates that develops an open attitude towards different religious practices and that fosters awareness of the positive values common to all of them. We will highlight the groups of intercultural and interreligious dialogue carried out by the AUDIR (UNESCO Association for Interreligious Dialogue) in the prisons of Catalonia. In them, a group of inmates of different religions, led by a member of the association, participates in dialogue sessions, workshops and exhibitions on differentiating aspects common to different beliefs.
c) Professionals specialized in intercultural mediation. Intercultural mediators act as a bridge between inmates and the organization through tasks ranging from translation to intermediation for access to resources or the organization of activity. It also assesses professional teams.

Religious practice

The exercise of religious freedom is above all a right and, as such, must also be guaranteed in prisons. In addition, an adequate management of the practice of this right prevents extremist groups from monopolizing the religious narrative in prison and can thus capture people vulnerable to radicalization (Hamm, 2013).

Therefore, in accordance with the recommendations of the specialized manual of the United Nations Office on Drugs and Crime (UNODC, 2016), religious practice in prisons should adhere to the following principles.

- Inmates should be allowed to pray, have books and access other relevant religious practices related to diet, hygiene or periodic celebrations.
- The centres must have adequate facilities for these practices.
- Inmates should be allowed visits from qualified representatives of their own religion.
- The authorities must establish agreements with religious organizations, and their representatives must receive training on how to perform their function in the prison context.

Cross-sectional contents

In this section we refer to those programmes that are aimed at a wide variety of inmates but that have contents with an important impact in the prevention of radicalization. Skills in moral reasoning, critical thinking and taking a social perspective or role-taking occupy a prominent place.

The 'Pro-social thinking' programme adapted to Spanish populations from the work of Ross and his collaborators (Ross, Fabiano, Garrido & Gómez, 1994) has been carried out with populations of young and adult delinquents, with proven results in the improvement of social perspective and cognitive

abilities, as well as in the prevention of recidivism (Forcadell & Pérez, 2015; Garrido & Piñana, 1996).

Detection and intervention with risk groups

This second axis of intervention is aimed at the sector of inmates of the general population who have not been radicalized but who present a special vulnerability to being captured by extremist groups in facilitating circumstances (Ionescu, Nadolu, Moza, & Lobont, 2017). The project Radicalization Prevention in Prisons (R2pris) in its research report of 2017 (Ionescu et al., 2017) collects the work of Borum (2014) that defines the personal factors that make up a psychological state of vulnerability to violent extremism.

1) A worldview based on authoritarian, dogmatic and Manichean attitudes and beliefs and a hypersensitivity to humiliation or other threats to self-esteem.
2) Need for identity, belonging and the perception of injustice or humiliation.
3) Motivations focused on achieving status, intense emotions, revenge or material benefits.
4) Biased attributions regarding the important circumstances in their lives, in the sense of blaming others for negative events or filtering the information that confirms their prejudices.
5) Affective tendencies centred on the extreme need to maintain self-control and a certain self-concept.
6) Pro-violence attitudes, focused on the perceived grievance or external threat and the search for action.

The R2pris report also cites the model proposed by Sinai (2014) in which personal and situational factors that condition vulnerability in the prison context are pointed out. Among the proposed personal factors, he includes the following:

– a history of violent behaviour
– personal crisis and low self-esteem
– feelings of identity crisis and alienation
– a desire to 'clean up' a criminal past
– the need to find an external entity to blame for personal problems
– mental health problems (in some cases)
– a need for physical protection

The assessment of the inmate's situation of vulnerability must give way to an intensification of tutoring, with more frequent and more focused contacts. In addition, the technical teams have to decide which interventions are best suited to individual needs (Andrews & Bonta, 2003) and to refer them to programmes and activities in which internal participants with other profiles participate in order to avoid their stigmatization and self-exclusion. Figure 13.1 shows an outline of this process.

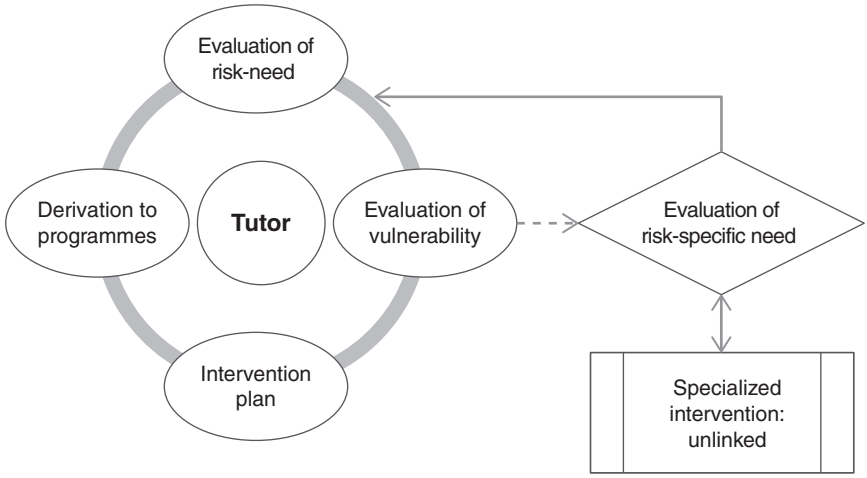

Figure 13.1 Secondary prevention process

In addition, it is essential in these cases to strengthen the links with social support networks, through the attention to families or significant people in their environment, promoting frequent contact with the inmate, both in prison and during leave or the open regime.

Intervention aimed at de-radicalization

Radicalization is a dynamic process that, in many cases, ends due to the decision of the person, but is also conditioned by external influences and events of the life cycle. In this sense, the passage through prison can be a trigger for the abandonment of extremist ideology and the disengagement from radical groups (Bubolz & Simi, 2015; Horgan, 2009).

The unlinking process

It is useful to take into account the most important changes that occur in former violent extremists who have successfully reintegrated (UNODC, 2016).

1) Social relationships. A wide variety of meaningful and supportive relationships are developed.
2) Personal skills. The ability to handle personal and health problems, both mentally and physically.
3) Identity. A common aspect of radicalization is that identification with the group and ideology becomes the fundamental pillar of personal identity. Thus, during the process of separation, the person loses traits that give him value as an

individual and define him as a valid member of a social group. Therefore, he needs to develop multiple aspects of a new identity and belonging.

4) Ideology. There is a change in the ideology in the sense that the individual stops believing that violent methods are justified.
5) Orientation of action. A non-violent orientation of action, so that the person finds peaceful ways to actively participate in family, work or other social activities at the moment of freedom.
6) Disappointment. Some individuals are increasingly disillusioned by the effectiveness of the tactical use of violence to achieve their goals. In other cases, the trigger is the disappointment with respect to the functioning of the group and its leadership or the contrast between its pretended values of loyalty, justice and mutual support and the real dynamics of the relationships among its members.

Risk-need assessment

The risk assessment of radicalized inmates is necessary for the orientation of the treatment, the assessment of its results and decision-making on measures to approach the social environment, such as permissions or the open regime. But it is also a decisive element in the management of security in the prison context.

There is ample evidence that the usual instruments for assessing the risk of violent behaviour are not sensitive to the risk factors of radicalized delinquents (Ionescu et al., 2017; Pressman, 2009). According to Pressman, violent extremist criminals are different from violent criminals in general in at least three aspects.

- Unlike violent offenders in general, in the case of those convicted of terrorism, violent incidents in youth are not a predictor of subsequent violent criminal activity.
- Terrorists do not consistently show a history of problems related to education, employment, unstable childhood, mental health, addictions or other criminogenic needs common to general violent crime.
- In this type of delinquent, impulsive and aggressive behaviour prior to acts of extremist violence have not been observed.

Therefore, the use of specific risk assessment instruments is necessary. The VERA 2 instrument (Pressman & Flockton, 2014) is one of the most relevant at present. Nor can the group of violent extremist delinquents be considered as a homogeneous group; rather, it seems that there are different profiles among them (Skillicorn, Leuprecht, Stys & Gobeil, 2015). These findings support the individualized approaches in intervention and confirm the need to complement the risk assessment specific to radicalization with other instruments sensitive to the general risk of violent crime.

Objectives of intervention

Intervention is aimed at facilitating the subject's rethinking of their connection to the extremist group and ideology as well as offering the maximum support

during the process that follows the decision to disassociate. In this line, the main objectives of the interventions are the following.

- To establish a relationship of trust and support between the inmate and people outside the radical group, whether professionals or volunteers or relevant people in the community or social network.
- To influence the change of beliefs and attitudes that make up a dogmatic and rigid vision of social reality, that justify violence as a means to achieve ideological or religious objective, and that exclude and dehumanize other social groups.
- In those cases in which radicalization is based on religious beliefs, part of the intervention is aimed at putting the subject in contact with interpretations of religion that separate the spiritual values and respect for human rights that form a part of other content that supports violence or intolerance.
- To help the person to separate from the radical group and to build alternative social networks, both in the prison and in the social environment.
- To promote the development of learning and skills that make the person more competent to face the process of de-radicalization and social integration.
- To give support in the difficulties that appear during the process of disengagement. In this process, the person faces the need to build new social networks, get involved in activities that make them an active member of the community and solve practical needs such as employment or housing. However, they also encounter threats to their identity and personal integrity that, if not resolved, can lead to a regression to the previous links.

Motivational intervention

A person's decision to carry out a profound change in their life has been described as a sinuous process with advances and setbacks in which the person is often ambivalent about the reasons for or against the decision taken (Prochaska, DiClemente & Norcross, 1992). Miller and Rollnick (1991) have developed a method of motivational intervention that is based on five principles: expressing empathy, developing the discrepancy between the goals of the person and their current situation, avoiding arguments, addressing resistance and supporting their expectations of self-efficacy.

Thus, motivational intervention is a fundamental element to trigger and maintain de-radicalization processes. The method proposed by the German organization Violence Prevention Network follows this motivational approach. With a non-confrontational approach, they make contact with people who have not yet questioned their own thought patterns and address the objective of initiating the person's distancing from the ideology or extremist thought patterns through collaboration between the professional and the person he works with. This is pursued so that the participant decides to leave these groups by their own decision, enhancing their intrinsic motivation. The professional shows an attitude

of practical assistance to the concerns of the individual, meaning ideological aspects and attitudes can be addressed in a collaborative way.

The Radicalisation Awareness Network, in a recent and complete review of current models and experiences for the prevention of radicalization (RAN, 2017), also highlights the importance of initiating the intervention through the development of a mutual relationship of trust and commitment between the professional and the individual. It is also recommends paying attention to the reasons that bind him to the group and extremist ideology and then exploring possible reasons for his disengagement. Table 13.3 shows a scheme of how this can be done.

Programmes with mentors

This type of programme is based on the importance of the inmate having a person of reference with whom they can establish a relationship of trust and who can make a bridge with other programmes and other professionals, as well as

Table 13.3 Reasons for Radicalization and Sources of Disappointment

Reasons for Radicalization	*Sources of Disappointment that May Lead to Disengagement/ De-Radicalization*
Political and ideological motivations	– The cause is lost and the objectives are unattainable. – Contradictions between means and ends. – Ideological and ethical doubts. – Loss of trust status and position within the group.
Friendships and group membership	– Deception of leaders. ○ Manipulation to involve the individual in suicidal missions or other forms of unacceptable behaviour. ○ Failure to meet expected moral standards. – Deception with relationships within the group. ○ Paranoia. ○ Treason. ○ Lack of loyalty. – Participation in the group does not offer protection against violence.
Frustration and anger	– Although the group provides an outlet for anger, it does not solve the basic problems.
Search for adventure, excitement and action	– Life as an extremist is boring, with an endless wait for action. – Impact of the reality of violence, the death or injury of people. – Impact of death or injured friends.

Source: Radicalisation Awareness Network (2017).

with their social support network. Normally, the mentors come from community organizations and are not part of the professional structure of the prison. In this way, during the transition from prison to life in freedom, the mentor continues to be a key figure in de-radicalization when the person has already disengaged from the penal system.

One of the best-known mentoring programmes is *Back on Track*, which takes place in Denmark's prisons (Danish Department of Prisons and Probation & Danish Ministry of Children, Gender Equality, Integration and Social Affairs, 2014). The mentors have diverse professional experience (social workers, lawyers, security agents etc.) and do not belong to the prison staff. Their profile is adapted to the needs and characteristics of the intern with whom they work. They provide support in all the necessities of the change to a lifestyle away from crime, they assist in the challenges of the transition from prison to the social environment and the external network of the inmate is involved in this work (family, friends or support organizations).

Religious orientation

Beyond the unequivocal condemnation of violence committed in the name of religion, religious counsellors can promote empathy, tolerance and appreciation of diversity. They can challenge the authenticity of the beliefs of religious extremists by highlighting the ignorance implicit in these interpretations of the authentic message of peace and compassion contained in religious traditions.

It is essential that counsellors are seen by inmates as respected representatives of religious organizations independent of government structures and, at the same time, have the necessary accreditation from the authorities. To this end, several countries have established agreements with religious organizations to establish accreditation procedures for counsellors who attend prisons (Neumann, 2010).

Psychosocial interventions

These programmes are directed to three types of objectives.

1. To develop reasoning, social interaction and emotion management skills that improve inmates' ability to overcome their dependence on extremist groups and ideologies.
2. To help inmates overcome the states of vulnerability that are triggered at the moment of separation.
3. To address other specific and different needs for individuals common, in many cases, to other types of offenders: addictions, anger control or suicide prevention, among others.

The Inclusion programme (RAN, 2017), which takes place in the Netherlands, includes many of these interventions. In it, cognitive-behavioural training, in

which thought patterns and attitudes are worked through, as well as impulsivity, anger and resistance to frustration and social skills, among others, complements two other modules in which practical needs are addressed, such as employment or housing, and the social support network is developed.

Development of the social support network

During the process of disengagement, it is essential to rebuild a social support network that replaces the radical group, which is able to meet the psychological and social needs of the person and, at the same time, becomes a source of informal social control.

The Inclusion programme, mentioned above, includes a module focused on this objective applied in the context of probation. In this part of the programme, the professional and the participant draw a map of the pro-social network. Together they review the significant people of their environment (teacher, imam, friend, relative etc.) with whom the participant would like to get in touch to collaborate in the activities carried out in the community. In cases where the person does not have a support network, the programme team provides volunteers who perform this function.

In Austria, the Social Net Conferencing programme (RAN, 2017) works with a similar philosophy. It is carried out by the non-governmental organization NEUSTART, and it offers people in prison the opportunity to develop a reintegration plan for when they are released. The inmates work together with their social network in drawing up this plan. It is sent to the judge, who issues orders according to his objectives. The probation officer supervises compliance with the orders and the plan.

Reintegration

The transition from prison to the social environment is a moment of special difficulty in which the risk of committing a new crime or of being captured by extremist groups intensifies. In the absence of adequate subsistence or emotional and social support, radicalized groups can be an alternative source of support. For this reason it is essential that the intervention includes measures to prepare the reintegration process, to strengthen robust social support networks and also to provide the connection with social resources that meet the needs of the person once released.

Thus, the development of social support networks and the collaboration of community or voluntary organizations constitute one of the axes of the intervention. On the other hand, the programmes should also be aimed at preparing the person to face the difficulties and challenges involved in the transition to life in freedom. In this way, the individual plan must include training, employment and the development of social and other necessary skills to manage life in freedom with sufficient autonomy.

Finally, the reintegration process must be progressive and begin well before the time of release. The different measures available to the penitentiary system in

our country are: programmed departures, permissions, open regime or conditional freedom and provision of the means to carry out this gradual process of approaching the community with the supervision and support of professional teams of the prison.

As can be seen, this paper proposes an integral model for the prevention of radicalization in the prison context, which ranges from the general organization of the prison environment to the specific intervention with high-risk inmates, giving continuity to the intervention during the return to life in freedom. In this way, the four main lines proposed complement each other by configuring a prison model that, rather than structuring the treatment of a specific group of inmates, develops a context that not only does not encourage radicalization, but can also favourably influence the prevention of this type of process.

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