RETURNING FOREIGN TERRORIST FIGHTERS IN EUROPE

A COMPARATIVE ANALYSIS

The following report does not necessarily reflect the positions of the CODEXTER, the Council of Europe or its Member States
Summary

The following report presents a comparative analysis of the implemented policies towards the returning Foreign Terrorist Fighters in eight Member States of the Council of Europe. The aim is to highlight the differences and similarities in the understanding of this phenomenon in the most affected countries. First, the report exposes an inventory of the criminal law and administrative measures taken by the States in order to tackle this issue and analyses the positive and negative effects of these measures. Second, the report presents the non-repressive measures taken by the States and analyses the results of such measures. Then, the report lists all attempts of international cooperation in this field. Finally, the report suggests some recommendation to the Council of Europe and its Member States in order to improve the management of the returning Foreign Terrorist Fighters’ issue in Europe.

Foreword

This report was produced by the working group Returning foreign terrorist fighters composed of twelve European students from the IEP (Institut d'Etudes Politiques) of Strasbourg under the supervision of Pr. Alexis VAHLAS, and in collaboration with members of the Council of Europe, especially Kristian BARTHOLIN, Giulia LUCHESE and Albert FLORES-HERRERA. The twelve authors are:

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<th>Full Form</th>
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<tr>
<td>ACF</td>
<td>Active Change Foundation</td>
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<td>CAT</td>
<td>Centre for the Analysis of Terrorism</td>
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<td>CoE</td>
<td>Council of Europe</td>
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<td>CODEXTER</td>
<td>Council of Europe’s Committee of Experts on Terrorism</td>
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<td>CPT</td>
<td>Council of Europe’s Committee for the Prevention of Torture</td>
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<td>CSS</td>
<td>Center for Security Studies</td>
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<td>DGSE</td>
<td>Direction Générale de la Sécurité Extérieure (France)</td>
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<td>DNE</td>
<td>Diagnostisch-Therapeutisches Netzwerk (<em>diagnostic-therapeutic Network</em>)</td>
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<td>EU</td>
<td>European Union</td>
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<td>FTF</td>
<td>Foreign terrorist fighters</td>
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<td>FSB</td>
<td>Federal Security Service of the Russian Federation (ФСБ)</td>
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<td>ICCT</td>
<td>International Centre for Counter-Terrorism</td>
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<td>ISIL/IS</td>
<td>Islamic State in Iraq and the Levant</td>
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<td>MS</td>
<td>Member States</td>
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<td>PTSD</td>
<td>Post traumatic stress disorder</td>
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<td>PLAT</td>
<td>Plan de Lutte Anti-Terrorisme</td>
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<td>UPRA</td>
<td>Unité de prévention de la radicalisation</td>
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<td>UK</td>
<td>United Kingdom of Great Britain and Northern Ireland</td>
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<td>UN</td>
<td>United Nations</td>
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Introduction

The foreign (terrorist) fighters: old phenomenon, new scale

The foreign fighters phenomenon is now a top priority in the agenda of the international community and, as assessed by the adviser to Belgium’s Ministry of Justice Daniel Flore, “challenges both international and national law, by its novelty and specificity”\(^1\). However, it did not emerge with the Syrian conflict. During the last two centuries, more than 70 insurrections have had a transnational dimension: the Spanish Civil War in 1936, the Afghanistan war following the 1989 Soviet invasion, the Bosnian conflicts in the 1990s or the Chechen wars to name a few. That being said, the influx of foreign fighters into the Syrian and Iraqi conflict is unprecedented. Even though the scale of the trend leaves no doubt, an accurate and comprehensive account is difficult. Indeed, the estimates of foreign individuals involved in the conflict in Syria and Iraq vary from one source to another and the States are often reluctant to share information concerning this sensitive issue. It is however possible to give some numbers, as long as the reader does not take them as granted and take into consideration the definition given to the “terrorist fighter” in the counting.

Defining FTF

There is no unanimous definition of the “foreign terrorist fighters”. In fact, the concept is similarly used with the term “foreign fighters” in the public debate and within the institutional sphere.

The United Nations’ “Working Group on the use of Mercenaries as a means of violating human rights\(^2\)” has defined the concept of foreign fighters as “individuals who leave their country of origin or habitual residence and become involved in violence as part of an insurgency or non-State armed group in an armed conflict”\(^3\).

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\(^2\) Working group attached to the Office of the High Commissioner for Human Rights (OHCHR).

According to the academic David Malet, foreign fighters can be defined as "non citizens of conflict States who join insurgencies during civil conflicts". Nevertheless, he notes that there is no established term in the political science literature. Thomas Hegghammer, academic specialist on violent Islamism, considers that it is due to the fact that “foreign fighters constitute an intermediate actor category lost between local rebels, on the one hand, and international terrorists, on the other”. It can be observed that the researcher integrates the notion of terrorism in his definition of foreign fighter: "an agent who (1) has joined, and operates, within the confines of an insurgency, (2) lacks citizenship of the conflict state of kinship links to its warring factions, (3) lacks affiliation to an official military organisation, and (4) is unpaid".

Adopted in September 2014, the UN Security Council Resolution 2178 defines foreign terrorist fighters 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”. But as there is no single authoritative State definition of terrorism, there is no single definition of a foreign terrorist fighter. One can only observe that both of these concepts are left to the discretion of States’ authorities and such situation can sometimes lead to excesses.

After this differentiation between foreign fighters and FTF, it must be kept in mind that such a distinction is fairly blurred as both terms are often used as synonyms either in the political discourse or in the press.

On the difficulty to give accurate data on the phenomenon

Exact numbers are impossible to provide, but researchers and States have drawn up some figures. In an article published in 2010-2011, Thomas Hegghammer assesses the number of FTF, all modern wars taken together since the Afghan-Soviet one, between 10 000 and 30 000 (not necessarily European citizens). This first information is sufficient to understand how difficult it is to untangle the reality, as there is a wide range between the lowest and highest estimate. Now, what can we say about the Syrian and Iraqi wars? It is once again obvious that it is extremely difficult, if not impossible, to give precise figures on how many European citizens

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6 Ibid., p.57.
8 T. HEGGHAMMER, op. cit., p. 53.
joined these theatres of war since the beginning of the conflict, and how many are still in these regions. Several reasons may explain the difficulties to calculate and establish clear figures.

Firstly, is considered as a foreign fighter any person from a different nationality of the country where the fight takes place. This means that some could die on the ground, some may never come back in their home country, and some could or have already returned. In fact, when discussing the issue of foreign fighters, three different categories have to be distinguished.

Secondly, it is not always possible to detect people leaving their country for Syria and Iraq, particularly because some of them have voluntarily chosen indirect itineraries, which cannot be easily identified. Thus, a member of the French intelligence service explained to the newspaper *Le Monde* that “some pass through Italy, the Maghreb or Cyprus. This is what we call "broken flights": for example, a family stayed for several months in Egypt before joining Turkey. It is undetectable”\(^9\). One can reasonably argue that there is time span between the departure of an European citizen to join a war, and the moment where intelligence agencies learn that he/she left. This fact makes it even more difficult to have updated data on the topic.

Thirdly, researchers are trying to assess an unsettled issue. Indeed, they observe daily new individuals going or attempting to go to Syria, while on the same day, several foreign fighters are killed on the Syrian and Iraqi soil, or even in another country.

Taking into account these methodological and practical biases, the best estimate is now between 3,000 and 4,000 European FTF, as assessed in recent analyses. Indeed, in September 2014, BBC News reported that the EU’s anti-terrorism coordinator, Gilles de Kerchove, gave the number of 3,000 European jihadists in Syrian and Iraqi wars\(^10\). In an article published in December 2014 by Lorenzo Vidino from the Center of Security Studies of Munich, it is written “larger countries such as France, Great Britain and Germany have provided the lion’s share (respectively, roughly 700, 500 and 300)”\(^11\). However, smaller countries have also been affected by the phenomenon, as for example Belgium (300), Netherlands (120), Denmark (100)\(^12\). The number of FTF coming from Russia was estimated at around 2,700 at the end of 2015\(^13\).

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Regarding the estimated number of Turkish FTF, the discrepancy between figures of different sources is very significant, in a range of estimates from 1300\(^\text{14}\) to 2200\(^\text{15}\) for the same period. Last but not least, a relatively recent report published by the International Centre for Counter-Terrorism (ICCT) in April 2016 considers that the number of EU citizens who have left their country to fight in Iraq and Syria “lies between 3.922 and 4.294 (...) a majority of 2.838 foreign fighters come from just four countries: Belgium, France, Germany and the United Kingdom”\(^\text{16}\).

**FTF as a threat for national securities**

The FTF issue addresses an immense security challenge to national security authorities. Member States of the CoE, especially the most affected by the phenomenon, are mainly concerned about the potential threat that the foreign terrorist fighters could represent for their country of origin. Indeed, the FTF are perceived as a constant threat for national population and institutions, as they can use their “newly acquired combat experience, network of contacts and ideological outlook”, which can drive or them or be utilized “to carry out attacks”\(^\text{17}\). In other words, they can return to their home country hardened by the experience and possibly perpetrate terrorist attacks. Hence, there are many risks and consequences behind the notion of “blowback”, or what the academic Thomas Hegghammer calls the “veteran effect”\(^\text{18}\). In his study from 2013, Hegghammer has showed that among 945 Western jihadists (America, Western Europe and Australia) between 1990 and 2010, 107 of them has been involved in terrorist attacks or attempts of terrorist attacks, which represents little more than 11%\(^\text{19}\).

In Brussels, this risk of blowback was sadly illustrated with the attack on the Jewish museum in May 2014 by Mehdi Nemmouche, a returning FTF who was still related to the Islamic State organisation. After this first successful attack of ISIL on the European soil, the attacks of Paris and Brussels finally convinced the European authorities of the scale of the threat. Thus, the security challenge is immense. Indeed, the diversity and the number of individuals leaving for Syria and Iraq increase this risk, even if not all returning foreign fighters embrace violence.

\(^{14}\text{Ibid.}, \text{p. 10.}\)
\(^{15}\text{The Soufan Group, Foreign Fighters, An Updated Assessment of the Flow of Foreign Fighters into Syria and Iraq, December 2015. p.10.}\)
\(^{16}\text{ICCT, The foreign fighters phenomenon in the European Union, Profiles, Threats and Policies, April 2016.}\)
\(^{17}\text{L. VIDINO, op. cit., p. 219.}\)
\(^{18}\text{T. HEGGHAMMER, “Should I Stay or Should I Go? Explaining Variation in Western Jihadists’ Choice between Domestic and Foreign Fighting” in American Political Science of Review, February 2013, p. 10.}\)
\(^{19}\text{Ibid.}\)


Returning FTF: an intensification of arrivals in Europe

With the increase of bombings from the international coalition and the progression of the Iraqi army and Kurdish troops, the Islamic state has constantly lost both territory and attractiveness during the past six months. The deterioration of the military situation of ISIL encourages an increasing number of jihadists to leave the war theatre. Consequently, the Member States of the CoE have to be prepared to the return of a growing number of FTF\textsuperscript{20}.

\textsuperscript{20} Over the last months, it seems that European States have started to become aware of the issue, as the number of publications (for example, two majors books on the subject have recently been published, respectively A. DE GUTTRY, F. CAPONE & C. PAULUSSEN, \textit{Foreign fighters under international law and beyond}, February 2016; D. THOMSON, \textit{Les revenants}, December 2016) and TV reports on the subject has multiplied.
Methodology and difficulties of the study

Methodological issues and difficulties

Before examining in detail the foreign terrorist fighters phenomenon and political actions implemented by several European countries, it seems necessary to clarify some methodological points.

This report focuses on some European countries, all members of the CoE. Because the situation regarding the FTF is quite different from one country to another, we decided to compare countries significantly affected by this phenomenon. Thus, are only considered the ones with a large number of their citizens gone to Syria or Iraq to join ISIL ranks, namely:

* France
* Belgium
* Germany
* Russia
* The United Kingdom
* Denmark
* Turkey
* The Netherlands

- Foreign terrorist fighters: a contemporary issue...

Second, because it is a recent concern, CoE Member States are currently deliberating about the type of measures which would be the most appropriate to answer properly this phenomenon. As a consequence, political, criminal and non-repressive measures are still in a development phase in most examined States, which inevitably leads to little academic analysis. We also noticed that most governments focus on deradicalisation programmes for citizens who did not left to join ISIS in Iraq or Syria.

For some European States, such as France, FTF are not differentiated by national authorities from radicalised citizens who did not left the country. This lack of differentiation reveals that returnees are not considered as a special category but are rather incorporated in the whole “radicalisation category”. Moreover, as it is only the beginning of CoE Member States’ responses,
some measures are constantly evolving, making it difficult to build up definitive and stable comparisons on a European level. As an illustration, France has turned back in October 2016 from the "Unité de prévention de la radicalisation" programme (UPRA programme), initiated in French prisons in January 2015. Considered as inefficient, it is now supposed to be replaced by another one.

- ... leading to few available information

This new phenomenon leads to another difficulty, directly linked to the lack of hindsight, which is the shortage of information. Reliable elements on FTF fighters are not easy to find because of the sensitivity of the issue, from both a security and a political point of view. Thus, national authorities are very cautious when communicating about this subject, which does not facilitate comparisons between European States. In the case of Turkey, currently experiencing a period of political turmoil, the situation is even worse and Turkish information is under considerable restriction. Thus, very few studies are produced, with the notable exception of the ICCT research paper, published in April 2016.

Last but not least, one cannot compare apples with pears. Once information is found, comparisons are needed to understand what are the main differences and similarities among the countries. In order to establish relevant comparisons, it is necessary to find common reference points, which appears to be also quite difficult. There is a great variation in the situation among countries in which political, historical or cultural characteristics lead to different visions and ways to deal with the issue of foreign terrorist fighters. For instance, the Danish vision of favouring terrorists’ deradicalisation and their reintegration into the society seems very far away from the Russian or the British ones. The focus from Moscow or London is clearly on repressive measures in order to take away returnees from the society and make them harmless.

Furthermore, countries are not facing the same intensity of returns of their citizens and if their punitive measures may be, at first sight, similar, it does not necessarily mean that they are identical and thus comparable. Therefore, when some countries have to be distinguished from each other in order to build different group of countries, it appears that none of them have

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exactly the same legislative arsenal or the same approach to respond to the phenomenon. For this reason, our comparisons and our choices are necessarily subjective.

Because of these limits, directly linked to the recent awareness in most of the European countries considered, it has been important for the working group to contact experts, scientists, journalists or politicians. They are working on FTF (sometimes they even work with them) and we thereby assume that they are better placed to explain with great precision the current situation.

**General sources used in the report**

- **Textual sources**

As already said, very few scientific literature was published on this subject. Our researches are mostly based on official criminal legislations documents. As the study covers the international cooperation between European countries and their legislative convergence, we also analysed directives, protocols and conventions drafted by international organisations such as the United Nations, the European Union or the Council of Europe. Furthermore, we beneficciated from the ICCT report of April 2016, which initiated comparisons of countries’ situation in the European Union. As a consequence, we had to update any legislative changes that occurring in the countries after this publication.

- **Meetings, conferences and interviews**

This study also benefited from representatives’ and associations’ reports as well as direct assessments from politicians and experts working on the subject. The authors of this report officially thank all the persons who shared their views and experiences, especially Dounia Bouzar, considered as one of the French specialists of radicalisation, Ahmet Insel for the Turkish policy toward FTFs, as well as advisors of the European Union Counter-Terrorism Coordinator, Gilles de Kerchove, who were helpful on the coordination between European countries. We also benefited from the 11th Rendez-vous Européens de Strasbourg to meet specialists of terrorism, such as Farouk Atig, international reporter who has written and reported about jihadists in Syria, Claude Moniquet, former DGSE agent, or Jean-Charles Brisard, President of the Centre for the Analysis of Terrorism (CAT).

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23 For instance the report of the "Contrôleur général des lieux de privation de liberté", published on 7 June 2016 about the UPRA Programme for the French case.
Meeting a lot of specialists was important for us in order to have different points of view and to guarantee the greatest accuracy and objectivity in our report. Their opinion also provided added value to understand which measures are effective and which ones are not. Their different views and perceptions guided us to formulate our recommendations that may improve the care of FTFs by their home country.
PART 1: PRESENTATION AND ANALYSIS OF REPRESSIVE MEASURES

When coping with the problem of returning FTF, CoE Member States do not lack legal means of action. Admittedly, in most countries it is not in itself an offence to go abroad in order to take part in an armed conflict. Generally, a distinction should be made between two periods regarding the phenomenon of foreign fighters in Syria and Iraq: the first “wave” of FTF (2012-2014) did not generally face legal action. It was only at the end of 2014 that the first convictions were pronounced against returnees in their country of origin. Nevertheless, CoE Member States have today in their judicial systems a wide range of legislative measures that can be applied to the returnees. These tools are not always elaborated with the specific purpose of responding to the phenomenon of FTF, but are often mainly related to the fight against terrorism as a whole. Indeed, states often prosecute FTF under terrorism charges, adapting the existing legislation to the returnees cases. One can distinguish two types of legislations to apprehend the phenomenon: respectively criminal law and administrative measures.

Criminal law measures can be defined as a "body of rules and statutes that defines conduct prohibited by the government because it threatens and harms public safety and welfare and that establishes punishment to be imposed for the commission of such acts". In other words, several criminal law provisions can be used to launch criminal prosecutions against the returnees. The main ones are the perpetration of a terrorist act, receiving or providing terrorist training, participation to a terrorist undertaking or even travelling for the purposes of terrorism. That being said, the challenge of returnees led to several evolutions in certain countries’ legislations: many CoE member states have adopted new law provisions in order to especially address the danger posed by FTF in democracies. The decision to prosecute takes many factors into account, such as the availability of sufficient evidence and public interest. Thus, returnees should be divided into several categories of risk. The general trend is to strengthen criminal legislation and can be mainly explained by the terrorist attacks faced by CoE members over the last years.

Defining administrative measures is not an easy task, as they differ from one country to another. They also take several forms, but they all follow the same goal: eradicating the threat

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FTF pose to national security. One can at minimum say they are all taken by national governments to prevent radicalised individual to leave or enter the national territory, but also to put them under surveillance and be sure they will not commit any attacks. Contrarily to criminal law measures, administrative measures are repressive but not in a sense of punishment. In fact, European States mainly use administrative measures when they cannot apply criminal measure; they complete criminal prosecution.

To sum up, this type of measures is a safeguard for the security of the country, a sort of spider web that spans on the entire national territory and in which it is hoped that one of the FTF will get caught. The reader will quickly understand that these measures are limited to revoking of the citizenship, confiscation of travel documents, no-entry list on national territory, risk analysis unit, and strong border control of people leaving their home country.

As the objective of this report is a comparative analysis of how the most affected CoE member states address the issue of FTFs, it is necessary to set the scene by explaining the legal framework related to terrorism in the different countries (A). In a second section, the reader will be provided with an attempt to evaluate the efficiency and criticism of the measures (B).

A. Overview of criminal law and administrative measures

The aim of this section is first to provide a comprehensive overview of the criminal law and administrative measures that can be used.

As already stated, most of the legislation aimed at fighting terrorism have not been created for the FTF case. In general, judges use existing laws and adapt them to the FTF phenomenon. As it is often difficult, if not impossible, to isolate specific law provisions related to the FTF issue from the rest of antiterrorism legislation, it is therefore also necessary to briefly present national contexts with regard to terrorism.

1) Kingdom of Belgium

Belgium is the EU Member that has the highest number of foreign fighters per capita25. The most recent estimate shows that more than 500 Belgian citizens have left for Syria since 201126.

25 C. KROET, “Belgium has most foreign fighters per head”, Politico, 4 January 2016.
26 B. VAN GINKEL and E. ENTENMANN, op. cit.,p. 25.
a) Belgian criminal law measures

The relevant terrorism provisions in Belgium are the articles 137 to 141 of the Belgian Criminal Code. The article 137 defines terrorist offences. Article 140 defines prison sentences from 5 to 10 years and fines up to five thousand euros for anyone who participates in the activities of a terrorist group, “including by providing information or material means to the terrorist group, or by any form of financing an activity of the terrorist group”28. Article 140 and its paragraphs b, c, d and e respectively criminalise public incitement, recruitment, providing and receiving training to commit terrorist crimes. Introduced by the law of July 20th 201529, article 140 f appears to specifically respond to the phenomenon of FTF since it creates a new offence: from now on, those who travel abroad from Belgium or to Belgium from abroad, with a view to committing a terrorist offense, may be convicted.

More recently, Belgian legislators amended the Criminal Code with the Law of 3 August 201630 to ensure that appropriate sanctions can be imposed against any terrorist behaviour, since the previous legislation lacked clarity on many procedures. This legal development particularly addresses the issue of returnees: indeed, the scope of application of “the incitement to commit a terrorist offence” (article 140 bis) is extended to incriminate “the incitement to travel abroad for terrorist purposes”. Furthermore, the incrimination of recruitment for a terrorist act (article 140 ter) now includes ”travelling abroad” so that prosecution is also advocated against those who recruit another person in order to go abroad and return to Belgium for terrorism purposes. In both cases, the perpetrators of these offences risk an imprisonment from five to ten years and a fine of 100 to 5000 euros. Finally, the competences of the jurisdictional power are extended in such a way that anyone who is guilty of a terrorist offence outside the Belgian territory can be prosecuted in Belgium.

b) Belgian administrative measures

Public authorities developed a set of measures against FTF, including administrative decisions. As explained by the Center for Security Studies, “the intensity of the monitoring of each returnee is based on the level of threat he/she is assessed to pose”31.

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27 Article 137 of the Belgian Criminal Code.
28 Article 140 of the Belgian Criminal Code.
29 Law of 20 July 2015 to strengthen the fight against terrorism, n°2015009385.
30 Law containing various provisions related to the fight against terrorism, n° 2016009405, published on 11 August 2016.
• As in the Netherlands, United Kingdom and France, deprivation of Belgian nationality on
ground of terrorism if possible as long as the individual does not become stateless. Thus,
the deprivation can only be applied to a binational person 32;

• Creation of a database dedicated to FTFs supplied by the OCAM (Organe de Coordination
pour l’Analyse la Menace) to inform local authorities and implement a personal
monitoring. This implies a better cooperation between administration, police, and
judiciary structures;

• Identified FTFs receive a standardized and individual targeted monitoring from Belgian
administrative services33. A personal analysis for each individual is realised in order to
determine his/her level of danger;

2) Kingdom of Denmark

According to a statement from the Danish intelligence services dated December 2015, 125
individuals have left the country to fight in Syria or Iraq and among them 62 have returned
since 201134. Denmark is probably one of the most advanced and imaginative country with
Netherlands in solving the issue of FTF. The system is "based on a very extensive infrastructure
created at the national and local level"35 and mixes as well criminal law and administrative
measures.

a) Danish criminal law measures

In Denmark, the terror acts considered as crimes are the participation or leadership in a
terrorist group, receiving a terrorist training, financing terrorism, instructing others to commit
terrorist acts and recruitment for terrorism, covered by Sections 114a to 114e of the Danish
Criminal Code36. More specifically, the article 114 d, which can be relevant in the case of FTF,
specifies that “any person who (…) participates in an unlawful military organisation or group
shall be liable to a fine or to imprisonment for any term not exceeding two years”37.

32 16 July 2016 Law DOC 54 1198/01.
33 Belgian Ministries of Justice and Interior, “Circular relative to the FTF approach”, 21st August 2015.
34 B. VAN GINDEL and E. ENTENMANN, op.cit., p. 29.
35 L. VIDINO, op.cit, p. 9.
36 General Secretariat of the Council, Criminal justice response to the phenomenon of foreign fighters,
37 Article 114 d of the Danish Criminal Code.
That being said, due to significant evidence requirements, prosecutions are complex, but not impossible: indeed, as of March 2013, two Danish-Somali brothers coming back from Somalia were convicted of terrorism training\(^{38}\). It was the first conviction of terrorist training for two individuals coming back from a foreign training camp. The authorities were able to gather evidence thanks to explicit telephone conversations intercepted between the two brothers, one of them affirming its willingness to "assemble a whole group [to] go to Europe and murder everything"\(^{39}\). Such evidence is not always available. Consequently, for a long time, there had not been any conviction for FTF coming back from Syria\(^{40}\). It was only in June 2016 that the first FTF was convicted\(^{41}\). This Danish citizen was charged for ""letting oneself be recruited to commit acts of (terrorism)"\(^{42}\).

b) Danish administrative measures

- As in Belgium, Danish authorities have implemented an individual monitoring for FTFs in order to determine their level of danger. Local actors play a crucial role in the welcoming and treatment of returnees;

- The Danish government proposed a bill to ban citizens entering in a conflict zone and increase prison time for people being recruited by terrorist organisations\(^{43}\); however, it seems that the proposal has not yet received any legal substance

For Danish nationals, amendments to the Act on Passports and to the Act on Aliens have been adopted with the March 2015 law:

- The police can refuse to issue a passport for a Danish national, or they can revoke it, if the individual poses a risk for the country. In addition, the police can supplement such a decision with a travel ban for a specified period of time\(^{44}\)

- Persons convicted of committing an act of terrorism under Chapter 13 of the Danish Criminal Code may lose their Danish citizenship, unless this loss would make them stateless\(^{45}\)

\(^{38}\) L. VIDINO, *op.cit.*, p.9.

\(^{39}\) *Ibid.*

\(^{40}\) *Ibid.*

\(^{41}\) "Denmark convicts first Isis foreign fighter", *The Local*, 22 June 2016.

\(^{42}\) *Ibid.*

\(^{43}\) N. SKYDSGAARD, "Denmark moves to toughen anti-terrorism laws", *Reuters*, 8 April 2016.

3) **French Republic**

According to the French intelligence services, almost 700 French FTF are still in Syria and Iraq. Furthermore, at the end of November 2016, the number of French citizens killed since the beginning of the conflict reached 221. On 7 November 2016, French Prime Minister Manuel Valls declared that the issue of returnees represented “the first point of concerns for the next five or ten years” in terms of security. At the moment, the French government mainly provides a criminal response to the issue.

a) **French criminal law measures**

France does not condemn its citizens for the sole reason of going to Syria. Indeed, it must be shown that they were willing to join an organisation linked to terrorism, leading to an indictment for criminal association in relation to a terrorist undertaking. That being said, the article 421-2-6, added in the Criminal Code on 13 November 2014, creates the new offence of “individual terrorist undertaking”. It establishes that an act of terrorism is defined as “the fact of preparing a terrorist offence, provided that this preparation is intentionally connected with an individual undertaking which purpose is to seriously disturb public order through intimidation or terror”. The project must be characterized on the one hand by “the possession, search, procurement or manufacture of articles or substances likely to create a danger to others” and on the other hand by a substantive element. The new article gives a list of these substantive elements and one of them is the fact of having stayed abroad into a theatre of operations for terrorist groups, which clearly concerns the FTF. It is punishable with ten years imprisonment and a fine of 150,000 euros.

Therefore, the FTF who currently return to France are indicted and either held in precautionary detention or placed under judicial supervision. The first sentence against a returnee from Syria

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45 Danish Criminal Code, Order n°909 of the 27th September 2005.  
46 S. SELOW, *op. cit.*  
47 Ibid.  
48 Article 421-1 of French Criminal Code.  
49 Law n° 2014-1353 of 13 November 2014 strengthening the provisions relating to the fight against terrorism.  
50 Ibid.  
51 Ibid.  
52 Article 421-2-6 of French Criminal Code.
was passed in November 2014 with a term of imprisonment of seven years for "criminal association in relation to a terrorist undertaking"\textsuperscript{53}.

According to the public prosecutor’s department of Paris, 268 individuals are currently indicted because they left for Syria or tried to\textsuperscript{54}. 169 of them have been in pre-trial detention and 99 are placed under judicial supervision. This proportion is unusual since provisional detention concerns only 20% of people in ordinary criminal cases.

Besides, the Court of Cassation delivered an important judgment on 30 August 2016 following the public prosecutor’s request\textsuperscript{55}. The latter asked for a new legal qualification criminalising the travel to Syria to join ISIS for two French citizens. Until this judgment, the most commonly used legal qualification was, as previously said, the offense of criminal association in relation to a terrorist undertaking. It leads to essential consequences: indeed, if there is a legal qualification of terrorist crime, the period of pre-trial detention is of one renewable year, while it is six months, renewable as well, for terrorist offenses. More importantly, the penalty is now a term of up to 20 or 30 years' imprisonment, instead of 10 years\textsuperscript{56}.

Regarding the issue of women joining terrorist organisations, it should be underlined that for a long time, women benefited from a "gender bias": that is to say they were mainly seen as victims undergoing pressures of male recruiters. However, this is not the case in France anymore: they are now almost always indicted and increasingly held in detention. The Minister of Justice announced on 22 October 2016 that 13 women sections will be created in the prison facilities before the end of 2017 in order to anticipate the return of women from Syria and Iraq\textsuperscript{57}.

\textsuperscript{53} E. FEFERBERG, "Le parcours chaotique du premier français accusé de jihad en Syrie", \textit{France24}, 18 November 2014.
\textsuperscript{54} L. BOY, "Saint-Etienne-du-Rouvray : comment la France gère les jihadistes revenus de Syrie, ou qui ont tenté d'y partir", \textit{France Info}, 29 July 2016.
\textsuperscript{55} P. ALONSO, "Terrorisme : les raisons derrière le durcissement de la politique pénale", \textit{Libération}, 2 September 2016.
\textsuperscript{56} "François Molins annonce un « durcissement considérable » de la politique pénale en matière de terrorisme", \textit{Le Monde}, 2 September 2016.
\textsuperscript{57} S. SEELOW, \textit{op. cit.}
b) French administrative measures

As we already said above, France is probably one of the more affected countries by the FTF phenomenon. It was thus a necessity for the country to develop an efficient system to prevent any threat, mixing criminal law and administrative measures. The latter will be presented underneath.

- French government and Parliament has already extended four times the state of emergency, running now until January 2017. The French Senate also voted to amend France’s 1955 “state of emergency” law in order to:

  “Extend house arrest regime to any person suspected of constituting a threat to security and public order;
  Use electronic bracelets in cases of house arrest wherein the person arrested has been previously convicted for acts of terrorism;
  Dismantle groups that have been involved in, facilitated or incited acts that constitute a serious breach of public order;
  Enable France’s interior ministry to employ all measures to block websites that glorify or incite terrorism”\(^\text{58}\)

- The individual is prohibited of leaving the national territory through the confiscation of travel documents and ID card\(^\text{59}\);

- He/she can receive an obligation to remain in a determined geographical zone and/or, sometimes completed with house arrest. In such situation, the individual has the obligation to go to the police services several times a day\(^\text{60}\);

- He/she can have an obligation to report his/her place of residence and any change of residence\(^\text{61}\);

- He/she can be prohibited to meet people who are namely designated\(^\text{62}\);

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\(^{59}\) Article L. 224-1 from the French Internal Security Code
\(^{60}\) Law n°2016-731 of 3 June 2016 strengthening the fight against organized crime, terrorism and their financing and improving the efficiency and guarantees of criminal proceedings, Article 52.
\(^{61}\) Ibid.
\(^{62}\) Ibid.
• He/she can be deprived of his/her nationality, only if he/she:
  Has committed a terrorist act;
  If the criminal act has been committed in the 10 years before the procurement of the French nationality or in the 15 years after the procurement;
  He is binational (no stateless people)\(^63\)

• Finally, French returnees can see their social allowances suspended, as Counter extremism report: "on March 17, 2015, France’s interior minister announced that the government cut welfare benefits for 290 French citizens who had left the country to fight with jihadist groups in Iraq and Syria."\(^64\)

4) Federal Republic of Germany

The issue of FTF has become a primary security challenge for Germany over the last years. In October 2015, the Federal Prosecutor General stated than more than 750 individuals had left for Syria or Iraq\(^65\).

  a) German criminal law measures

The sections 91(1) and 111; sections 30(1), 129(a) and 129(b); and section 89(a) of the German Criminal Code respectively criminalise incitement; offences related to recruitment, support and membership in a terrorist organisation; preparing, encouraging or carrying out of a "serious violent offence endangering the State"\(^66\).

The German authorities have also changed their legislation with regard to the phenomenon of FTF and in order to implement the UN Security Council Resolution 2178. Precisely, a new anti-terrorism legislation was adopted in June 2015: it expanded preparatory offences by making traveling outside the country with the intent to receive terrorist training a criminal offense, punishable according to section 89(a)\(^67\).

\(^63\) Articles 25 and 25-1 from the French Civil Code.
\(^64\) Counter extremism project, France: extremism and counter-terrorism, p. 8.
\(^65\) B. VAN GINKEL and E. ENTENMANN, op.cit., p.30.
\(^66\) Ibid.
The first case of a returnee being sentenced occurred at the end of 2014. The individual was convicted to three years and nine months of imprisonment for joining a terrorist organisation abroad.\(^{68}\)

However, different verdicts have been carried out in the following years, ranging from 11 years of prison to acquittal. Thus, in July 2015, the Oberlandesgericht München (Munich Higher Regional Court) sentenced a returnee to 11 years of prison due to his membership in a terrorist organisation, attempt to murder and accessory to attempted murder.\(^{69}\)

In contrast, the Bundesgerichtshof (Federal Court of Justice) has decided in October 2015 that civil persons who sympathize with a terrorist organisation and are trained to the use of firearms in order to defend themselves abroad are generally not preparing a serious state-threatening act of violence (StGB § 89a Paragraph 1 Sentence 2)\(^{70}\). This principle especially applies to foreign women travelling to Syria or Iraq in order to stay there with their husbands but who are not actively involved in combat operations.

b) German administrative measures

The number of German citizens involved in the Syrian and Iraqi wars is unprecedented. Various administrative measures have been set up to confront the FTF phenomenon:

- Border police is extremely careful and sensitized to the detection of returnees;
- The names of individuals suspected of terrorism who leave Germany are inscribed in the Schengen information system (SIS) in order to be detected when they come home;
- Visa revocation for non-German citizens;
- In addition to a sentence of imprisonment of no less than six months, the court may order the loss of the ability to hold public office, to vote and to be elected in public elections (§§ 45, 92a, 101, 102, 108c, 108e, 109i StGB)\(^{71}\);

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\(^{68}\) S. BEHR, "IS-Kämpferzumehrmjähriger Haft verurteilt", Frankfurter Rundschau, 4 December 2014.  
\(^{69}\) W. KLUWER, "Oberlandesgericht München, Urt. v. 15.07.2015, Az.: 7 St 7/14", Jurion.  
\(^{70}\) W. KLUWER, "Bundesgerichtshof, Urt. v. 27.10.2015, Az.: 3 StR218/15", Jurion.  
\(^{71}\) M. FEHNDRICH, Entzug des Wahrlrechts, September 2002.
• Authorities may deprive individuals of passports and national identification documents and they may issue exit bans, impose reporting obligations, consider measures to end residence and prevent a person from entering the country (§§ 7 Paragraph 1, 8, 10 PassG);

• Regulations regarding the banning of travel were expanded in 2015 to prevent FTFs to travel (§ 10 Paragraph 1 PassG).

5) Kingdom of the Netherlands

The Netherlands is probably not the most affected country by the FTF phenomenon, but it is probably one of the most active in the fight. The number of Dutch departures for Syria is indeed unprecedented, and these individuals are clearly identified as threats to national security.

a) Dutch criminal law measures

Articles 83a, 46, 140a, 134a, 421, 205 and 131 of the Dutch Criminal Code address criminal acts conducted with a terrorist purpose, the preparation to commit a serious offence, participation to a terrorist organisation, providing or receiving terrorist training, terrorist financing, recruitment for a terrorist purpose, and incitement to terrorism. Article 83 defines what a terrorist offense is.

In 2014, the Dutch authorities launched the “Netherlands Comprehensive Action Programme to Combat Jihadism”. It notably details that “verified departees who join terrorist militias are subject to criminal investigation”72, since “participation in terrorist armed struggle in terrorist training is a punishable offence under sections 134a and 140a of the Dutch Penal Code”73.

The action programme also describes the different existing legal options to supervise returnees: a suspended sentence imposed by the court with the convicted person having to meet specific conditions during the probation period, conditions imposed in the context of a conditional release after more than one year in prison: “suspected jihadists and known foreign fighters who have returned to the Netherlands are required to check in daily with the police”74.

72 Dutch Ministry of Security and Justice, “The Netherlands comprehensive action programme to combat jihadism-Overview of measures and actions”, 28 August 2014.
73 Ibid.
b) Dutch administrative measures

When prosecution is not possible (for instance when evidence is not sufficient), target individuals are subjected to several measures.

When an individual researched or identified for terrorism activities in a zone of conflict is discovered on the Dutch territory:

- He/she can be under surveillance from national intelligence agencies;

- If he/she does not possess the Dutch nationality, the Ministry of justice may cancel his/her residency permit. Such administrative act can be followed by an expulsion order and the individual’s identity may be deposed on a national terrorism list (individual is at this moment labelled as “undesirable foreign national”);

- On the same level, if there is sufficient evidence that the individual has been in touch with terrorist organisations or activities, his/her travel documents will be confiscated or declared invalid and he will be placed on the no-entry list;

- Dutch authorities may block bank accounts of individuals suspected of terrorism;

- Verified departees are immediately removed from the Persons Database (PDB): they will not be eligible to tuitions or financial allowances. Local administrations are informed by the Dutch police of verified departees, which lose automatically their allowances eligibility in order to struggle against terrorism financing;

- A proposal for a Temporary Act for administrative powers is being prepared to reduce the risks and prevent serious crimes from being committed by terrorist fighters who return to the Netherlands. This could include temporary measures such as, inter alia, a periodic duty to report, contact bans, cooperation with relocation, in order to prevent recruitment, further radicalisation of the returnees and the spread of radical ideas.
While the text is still in discussion in the Dutch Parliament, it has already been criticized by the Council of Europe, who has considered this type of measure as going “too far”\textsuperscript{75}.

Revoking nationality is probably one of the recurrent debates regarding the fight against terrorism. Dutch authorities have decided to adopt this measure.

- Individuals perceived as a threat and with dual nationality can have their Dutch nationality stripped, regarding article 23 of the country's passport law. Three conditions are enounced in the law:
  - It concerns people being at least 16 years old;
  - It concerns people who are outside the kingdom;
  - It concerns people for whom terrorist acts or relations have been duly established.

Once the Dutch nationality is stripped, the individual will be considered as an “undesirable foreign national” (section 67 of the Dutch Aliens Act) and may be expelled.

6) Russian Federation

The history of Russia regarding the case of foreign fighters is very specific because many of its citizens went to fight abroad before the Syrian war, notably in several republics of Northern Caucasus, such as Chechnya, Ingushetia or Dagestan. The North Caucasus has a long history of Islamist extremism. Moreover, the first anti-terror legislation entered into force in 1998 following the violent confrontations in Chechnya and onward terrorist attacks\textsuperscript{76}. Consequently, Russia is more used than other European countries to deal with such a phenomenon. FTF with Russian passports are currently estimated to be 2500\textsuperscript{77}.

\textsuperscript{75} J. PIETERS, "Dutch approach to jihadism violates Human Rights: Council of Europe", \textit{NL Time}, 29 November 2016..


\textsuperscript{77} P. PAWLAK, J. GÖPFFÄRTH, "Countering extremism and terrorism in Russia", European Parliamentary Research Service, May 2016.
a) Russian criminal law measures

The Russian Law on Counteraction to Terrorism of 2006 defines terrorism and terrorist activity in its article 378.

Overall, the Russian authorities have adopted a punitive response toward the returnees. The 359 Law on Mercenaries is a relevant piece of legislation regarding FTF as it prohibits Russian citizens from participating in foreign armed forces. Furthermore, the 2013 amendment to the Anti-terrorism Law of 2006 incriminates the participation in an armed group outside the Russian territory “whose aims are contrary to the Russian interests”79. Moreover, the law sets a punishment of ten years in jail for “training with the aim of carrying out terrorist activities80”.

For those who have participated in terrorist activities, the imprisonment goes in general from 5 years to perpetual imprisonment81. The same punishment concerns the complicity of other individuals who have been implicated in the organisation of the terrorist act82. Public incentives for terrorism, as well as justifying terrorism, can lead to imprisonment for 5 years83. At the end of 2014, Russia's Supreme Court issued a ruling recognizing ISIL as a terrorist organisation84. As a consequence, participation in ISIL activities is now a criminal offense.

b) Russian administrative measures

Russian authorities clearly favour criminal law measures and punishment, but there are few administrative measures that can be developed:

- After several discussions in Duma, revoking of Russian nationality proposal has finally been removed as it would block Russian authorities to judge and put in jail FTF85. Moreover, it can create issues for special services as the Federal Security Service of the Russian Federation (FSB), because in case of nationality revoking the possibilities to find terrorists by secret services are decreasing.

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78 Federal Law n° 35-FZ of March 6, 2006 on Counteraction of Terrorism.
80 Ibid.
81 Penal code of the Russian Federation, part IX/24., article 205.
82 Ibid., 205.1.
83 Ibid., 205.2.
84 Country Reports on Terrorism 2015-Russia, United States Department of States, 2 June 2016.
85 N. SELIVERSTOVA, “Russian Douma will not deprive the terrorists and FTF of Russian nationality”, RIA-novosti, 23 June 2016.
• People implicated in terrorist activities or having a link with any organisation cannot leave Russia for at least 5 years\textsuperscript{86}.

7) Republic of Turkey

Several authors stress the fact that Turkey has a real experience in counter-terrorism, because it has been fighting for 30 years against the Kurdish terrorists of the PKK. Due to its particular geographical location, the Republic of Turkey is directly concerned by the FTF issue, as it shares a border with Syria and it is a transit point for all fighters coming back to their home country.

a) Turkish criminal law measures

Regarding the fight against terrorism, Turkey has adopted the Counter-Terrorism Law No. 3713 of 12 April 1991\textsuperscript{87}. It gives a definition of terrorism in its article 1 and 2 and has been the subject of numerous amendments (in 1995, 1999, 2003, 2006 and 2010) to make it more effective and to adapt it to new threats. The detention conditions and penalties are defined in the articles 59, 63, 68:

• Article 59-4 enounces that the terrorist lawyer’s documents and files are subjected to examination in order to check if he is not acting as an intermediary for a terrorist organisation\textsuperscript{88};

• Article 63 expresses that people accused of terrorism cannot get together in jail or have any contact with each other\textsuperscript{89};

• Article 68 states that messages such as “letters and fax serving for communication between members of terrorist organisations shall not be delivered to the sentenced, or shall not be sent if they are written by the sentenced”\textsuperscript{90}.

\textsuperscript{86} F. RUSTAMOVA and V. KOZLOV, “Russian authorities about new measures of counter-terrorism”, RBK, 7 April 2016.
\textsuperscript{87} Committee of experts on terrorism (CODEXTER), Profiles on Counter-Terrorism Capacity-Turkey, Council of Europe, May 2013.
\textsuperscript{88} Ibid.
\textsuperscript{89} Ibid.
\textsuperscript{90} Ibid.
The amendment of the 2nd of July 2012 to the 1991 counter-terrorism law states that terrorists are judged in “heavy penal courts” operating under article 10 of the law, this latter disposition explaining the investigation and trial process. We can observe that individuals accused of terrorism activities are held longer in custody than for other crime (48 hours);

Other main legal provisions concerning terrorism are developed in the Turkish Criminal Code no. 5237 of 2005.

b) Turkish administrative measures

Turkish authorities have developed several administrative measures to address the phenomenon:

- The establishment of a no entry-name-list on the Turkish territory (from 9,000 to 19,000 between 2011 and 2015 but other newspapers give a higher number)⁹²;

- Risk analysis units (RAU) are used as a complement to the no entry-list during passport controls at strategic crossing-border points (especially in airports and train stations). RAU work in close cooperation with intelligence services and enter into action during passport control. Since spring 2014, those RAU have prevented the entry of 3,200 dangerous people on the Turkish territory⁹³;

- Foreigners accused of terrorism are expelled to their home country. According to a local newspaper, Daily Sabah, Turkey has deported more than 3,700 FTFs since 2011⁹⁴;

- Turkish authorities have begun the building of a wall at the border with Syria (191 km)⁹⁵;

- In a speech given on 5 April 2016, President Erdoğan announced that his government would consider stripping Turkish terrorists of their citizenship⁹⁶. However, nothing has

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⁹¹Ibid.
⁹³“Turkey has deported 3,700 FTFs since 2011”, Daily Sabah, 30 October 2016.
⁹⁴Ibid.
⁹⁵O. COSKUN and D. BUTLER, “Turkey to complete Syria border wall within 5 months officials said”, Reuters, 28 September 2016.
been done yet.

8) United Kingdom

As for the Netherlands, the number of British citizens involved in the Syrian conflict is unprecedented. In terms of counter-terrorism, many tools have been developed to prevent radicalisation in order to "make them resilient against extremist messages"97.

a) British criminal law measures

Antiterrorism legislation in the United Kingdom provides for a large number of criminal offenses connected with terrorism. The three main pieces of legislation regarding terrorism that can be used vis-à-vis FTF are the Terrorism Act of 2000, the Terrorism Act of 2006 and the Counter-Terrorism and Security Act of 2015. According to the Terrorism Act of 2000, a person guilty of an offense under any sections 15 to 18 shall be liable on conviction to imprisonment for a maximum of 14 years98. The preparation of terrorist acts is criminalised by the section 5 of the Terrorism Act of 2006, while providing or receiving a terrorist training is made a criminal offence by its section 6. Moreover, the section 8 incriminates the "attendance at a place used for terrorist training".

In March 2015, the Serious Crime Act was adopted and its section 81 increases the skills of the UK territorial jurisdiction related to section 5 and 6 of the act referred to above. Henceforth, UK-linked individuals and those who seek to harm the UK and have trained or prepared for terrorist acts overseas can be prosecuted.

Besides, the police have the authority to stop and question individuals suspected of being terrorists at ports and borders.

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97 L. VIDINO, op. cit., p. 15.
98 Terrorism Act 2000, C11, Part III, Offences, Section 22.
Travelling to Syria is not a crime in itself. In fact, the British police try to determine why the individual went to Syria, what he did there and whether his/her action violates the Counter Terrorism Act, with regard that even “passive participation” is criminalised99.

b) British administrative measures

British authorities have taken several administrative measures:

- Seizure or temporary retention of travel documents100;

- Temporary Exclusion Order (TEO) can be pronounced for British citizens that have left the Kingdom, allowing authorities to “manage” the return of British citizens suspected of involvement in terrorism-related activities abroad. During the time of availability of the TEO, “British passport held by the excluded individual is invalidated”101;

“A temporary exclusion order is an order which requires an individual not to return to the United Kingdom (...) Condition A is that the Secretary of State reasonably suspects that the individual is, or has been, involved in terrorism-related activity outside the United Kingdom”102;

- To have a right to return to the UK, any British citizen who was subject to the TEO must receive a Permit to return specifying when he/she can enter the UK, the manner and the place where he/she is permitted to arrive103;

- After returning to the UK, citizens that were subject to TEO might be obliged to, under provision of the Schedule & to the Terrorism Prevention and Investigation Measures Act 2011,

  Report to the police station (paragraph 10)
  Attend at appointments (paragraph 10 A)

Police may also require information about:

The individual's place (or places) of residence

99 L. VIDINO, op.cit, p. 16.
100 Counter-Terrorism and Security Act 2015, Chapter 1, Section 1, “Seizure of passports etc from persons suspected of involvement in terrorism”.
101 Counter-Terrorism and Security Act 2015, Chapter 2, Section 3, “Temporary exclusion orders: supplementary provision”.
102 Counter-Terrorism and Security Act 2015, Chapter 2, Section 9, “Temporary exclusion orders”.
103 Counter-Terrorism and Security Act 2015, Chapter 2, Section 5, “Permit to return”. 
Any change in the individual’s place (or places) of residence

- Like in the Netherlands, individuals with dual citizenship can see their British one stripped if they are identified as a threat for the state. “The decision does not require judicial approval and has immediate effect”. Similarly to the Dutch legislation, individuals with dual citizenship can see their British nationality stripped. However, the UK has been further by passing a law in May 2014 “enabling the Home Secretary to strip citizens of their nationality even when they do not have dual citizenship”.

- Individuals who have acquired the British nationality through the naturalisation process can be deprived of it, if there are enough elements to prove that they have done “anything seriously prejudicial to the vital interests of the United Kingdom, or a British overseas territory” and for believing that the person is able to become a national of another country or territory.

To conclude soberly this first section, the reader will find in the appendices two tables that resume the main points developed above.

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On the comparison between repressive measures: why is it difficult to produce a relevant comparison?

On a criminal and administrative level, the issue of returning FTF has become central for the CoE Member States. The reader must be aware that one can only compare what is comparable. Even though the overall trend is the criminalisation of the FTF issue and if not possible, the use of administrative measures, there are also too many differences to produce a pertinent comparison. Therefore, it has not been possible to create relevant comparison schemes or groups.

In fact, the prosecution of returning FTF is a common aim among the studied countries. Prosecutions are engaged for the commitment of a terrorist act, receiving or providing

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104 Counter-Terrorism and Security Act 2015, Chapter 2, Section 2, “Obligations after return to the United Kingdom”.
105 L. VIDNO, op. cit., p. 16.
107 Nationality, Immigration and Asylum Act 2002, Section 40(2).
terrorist training, participation to a terrorist undertaking or even travelling for terrorism purposes. Furthermore, these countries are also using administrative measures, the most common being the deprivation of nationality and travel restrictions (including house arrest, confiscation of travel documents, travel ban, no-entry list, electronic tracking bracelet). Few of them are also using the suspension of social allowances, deprivation of civil rights (right to vote and be elected and hold public office for instance) in this regard.

However, there are also too many differences to produce a pertinent comparison. Indeed, it is hard to compare judicial and administrative systems due to the varying legal cultures between each country. It is therefore difficult to appreciate how criminal law and administrative measures are concretely applied. Two additional features add complexity to the comparison process: first, when a law proposal is announced and not inserted into the legislative process. Second, when voted-laws are not implemented, executed and applied by the national judges. Thus, due to the court’s discretion principle, judges are free and independent in the way they interpret and apply the law in relation to personal factors (social situation, family background) proper to the accused. For instance, and as it will be explained above, individuals committed with terrorist offence have been sentenced differently in Germany.

Another relevant example to illustrate difficulties of comparison is the deprivation of citizenship. This administrative measure has been implemented in most of the countries studied in the report except in Germany, Turkey and Russia, even if it has been discussed. Starting from this distinction, countries implementing citizenship deprivation are therefore not comparable as they do not apply this measure with the same scope. For example, France, Belgium, the Netherlands and Denmark only deprive citizens with dual nationality from their citizenship. The United Kingdom has however decided to go further, by revoking the British nationality of naturalised individuals having any link with terrorist activities or organizations and if there is “reasonable grounds for believing that the person is able, under the law of a country or territory outside the United Kingdom, to become national of such country or territory”108. Thus, the UK takes the risk to create stateless persons, although this disposition does not seem to have been used until now109.

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108 British Nationality Act 1981, Part V "Miscellaneous and Supplementarity", Section 40 "Deprivation of citizenship, 4A.
B. Theoretical analysis

This section focuses on the criminal law and administrative measures outlined in the section above and analyses their challenges and consequences.

1) Prosecution of returning foreign fighters

During the last years, an increasing number of court cases have been opened in the EU in which returning FTF are convicted. They were prosecuted for offenses such as travelling to a conflict zone, being involved in a terrorist group and receiving training for the purpose of committing or preparing a terrorist attack\(^{110}\). Taking into consideration that until 2013, the act of joining a terrorist organisation was not in itself considered as a crime in the criminal codes of the MS\(^{111}\), the recent situation shows an increasing development in the prosecution of returning foreign fighters. However, the practical implementation of the criminal law measures has revealed challenges and negative consequences that might explain why the number of court cases against returning foreign fighters is still very low compared to the relative high number of returnees\(^{112}\).

a) Challenges faced by the prosecutors

A possible premise for prosecuting a potential foreign terrorist fighter is the committing of a criminal offense. Therefore, it is necessary for the prosecutors to provide evidence of this commitment. Due to the fragile situation in Syria and Iraq, establishing a legal cooperation with local law enforcement authorities and undertaking criminal investigations abroad in order to collect evidence or arrest suspects can be complicated. Indeed, it poses a serious challenge for the foreign prosecutors\(^{113}\). Although the emerging role of social media and Internet publications of pertinent materials such as photos or video of suspected individuals enables new opportunities, the gathering of Internet based evidence is likewise challenging when the providers are located abroad\(^{114}\).

However, if proving the commitment of a criminal act is impossible or very difficult, prosecutors often choose a prosecutorial approach. In this case, it is sufficient to prove “the criminal acts of

\(^{110}\) A. REED, J. DE ROY VAN ZUIJDEWIJN, E. BAKKER, op. cit, p. 9.
\(^{111}\)Ibid.
\(^{113}\)Ibid.
\(^{114}\)Ibid.
recruitment, incitement or glorification of terrorist acts, financing of terrorism, membership of a terrorist organisation, and preparatory or supportive activities for terrorist acts”115. Hence, this strategy largely avoids the need for collecting evidence abroad and thus offers a higher chance of success for the prosecution of returnees. Yet, it is important to consider the choice of the criminal qualification as it directly influences the court judgement.

b) **Consequences of the prosecution**

The prosecution of a FTF is mainly used as a measure to discourage potential FTF from leaving their home countries for Syria or Iraq. In contrast, the deterrent effect of this measure might have unintended impacts:

- Family members and friends might be discouraged to inform the local authorities about the departure or return of a potential foreign fighter from Syria. This will significantly reduce the security authorities’ capabilities to gather information and consequently limit the chances to detect returnees to their home countries. In the worst case scenario, they might continue their engagement in terrorist activities116;

- Foreign fighters might be deterred from returning to their home countries due to the prosecution and consequently stay in Syria or Iraq or move to another country. While this result may be considered as positive from a European perspective in the short term, it will provoke an ongoing destabilisation in Syria and Iraq and might even lead to a spill over effect on a wider region in the long term117.

2) **Prison and probation**

The purpose of prisons is to “confine offenders in secure and humane conditions”118 and thereby also includes the “retribution, rehabilitation and protection of society”119. However, after it was known that some of the major perpetrators of terrorist attacks in Europe had passed through the criminal justice system, suspicions were strengthened that prisons may be used as a

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117Ibid.
119Ibid.
“breeding ground for radicalised violent extremists”\textsuperscript{120}. In order to counter the risk of radicalisation in prisons and during probation, it is crucial to identify and address the challenges and unintended consequences of the current prison and probation system.

a) Challenges

Understanding the process of radicalisation and identifying radicalised individuals are one of the key factors and at the same time one of the main challenges to counter radicalisation of offenders in prison and on probation. This is due to the fact that there is no consistent profile for violent extremists regarding their personal, political and ideological motivation. However, distinctive characteristics of violent extremist offenders compared to other offenders do exist and need to be taken into account as they will influence the process of radicalisation in prison and reintegration into society during probation. In order to prevent radicalisation, it is therefore necessary to undertake individualised risk assessments and to specialise intervention programmes. Consequently, it is also important to provide adequate resources and qualified prison and probation staff members to ensure the successful implementation of the individual procedures.

b) Impacts

Even though a correlation between overcrowded prisons and increased radicalisation in prisons has not yet been proved, it seems obvious that a “hostile and overcrowded environment”\textsuperscript{121} will facilitate the recruitment and radicalisation process of frustrated individuals that suffer from inhumane treatment in prisons. Given this possible risk of radicalisation, prisons thus should give positive incentives to avoid overcrowding, by providing for example more time for prison visits or out-of-cell activities\textsuperscript{122}. On the other hand, an expansion of these prescriptions might increase the risk that extremist activities are continued or even intensified through contacts outside prison\textsuperscript{123}. Furthermore, concern has also been expressed over the negative effects of regular transfers of prisoners. According to the CPT, “successive transfers could under certain circumstances amount to inhuman and degrading treatment”\textsuperscript{124} that “can have very harmful effects on [the prisoner’s] psychological and physical well-being.”\textsuperscript{125}

\textsuperscript{120}Ibid., p. 4.
\textsuperscript{121}Ibid., p. 6.
\textsuperscript{122}Ibid., p. 5.
\textsuperscript{123}Ibid., p. 35.
\textsuperscript{124} Ibid.
\textsuperscript{125} Ibid.
3) Other administrative measures

Criminal law measures are widely used in most of the countries as they have the advantage of separating the FTF from the rest of the society. However, this is not the only solution. Indeed, as observed, many countries are using administrative measures as alternatives or supplements to criminal prosecutions. A distinction could thus be made between two periods: the first wave of returning FTF (before 2014) did not generally face legal measures, but only administrative measures. Since the end of 2014, Member States rather choose criminal prosecutions when they can.

Among administrative measures we can distinguish: revoking nationality, travel restriction (including house arrest, confiscation of travel documents, electronic tracking bracelet), the suspension of social allowance, the loss of the ability to hold public office, to vote and be elected in public elections. This section focuses on the most common procedures dealing with the problem of the FTFs: revoking nationality and travel restriction.

a) Revoking nationality

As the first part of the report shows it, some countries revoke nationality for dual-nationals if “serious prejudicial” activities have been proven (for example in France or in the Netherlands). In the United Kingdom, revoking nationality is also legally possible for naturalised people with only one nationality, even if this would leave the individual stateless.

Revoking nationality could be a solution for the FTF phenomenon. Indeed, the withdrawal of nationality prevents them from re-entering the country. Thus, two positive aspects on the challenge regarding FTF can be demonstrated. Firstly, this lack of passport might limit chances of seeing a returning FTF involved in terrorist plotting in its home country because he would not be allowed to come back. Secondly, revoking nationality would have a dissuasive effect on prospective FTF as they would not be able to travel freely. In addition, revoking nationality for FTF already back to the national territory would, in some cases, allow the State to expel them to their country of second nationality. Even if such procedures seem to give a short-term

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126 L. VIDNO, op. cit, p.6
128 British Nationality Act 1981, Part V “Miscellaneous and Supplementarity”, Section 40 "Deprivation of citizenship, 4A
129 A. REED, J. DE ROY VAN ZUIJDEWIJN, E. BAKKER, op. cit, p.9
130 Ibid.
solution to the FTF phenomenon, it has no positive effects on the long term and can in fact in some cases cause human rights infringements.

However, the deprivation of nationality causes real human rights' infringements when it is applied to individuals with only one nationality. Indeed, the most basic political and civil rights are related to the citizenship. Being stateless means "to lose all rights others that those generally recognized as basic human rights"\textsuperscript{131}. Various international texts express the right to nationality and call States to refrain depriving individuals from it. The most well-known example is the Universal Declaration of Human Rights, adopted on 10 December 1948. Article 15 specifies on the one hand that "Everyone has the right to a nationality", and on the other hand that "No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality"\textsuperscript{132}. Indeed this UN General Assembly Resolution is not a convention and has no legal authority \textit{per se}. But the Convention on the Reduction of Statelessness, signed in 1961, is a binding international treaty and, today, a major source of international law on citizenship and rights of stateless people. It states that one cannot lose nationality until one has not acquired nationality of another State (article 7)\textsuperscript{133}. It also specifies exceptions according which an individual can lose its nationality: fraud, disloyalty or prejudicial conduct toward the State where he holds his nationality (article 8)\textsuperscript{134}. Thus, revoking nationality when it results in creating stateless people is against international law and breaks basic human rights. Furthermore, even when it is applied to dual-nationals, revoking citizenship also have negative effects on the problem of returning FTF.

Moreover, revoking citizenship also leads to negative effects when apply to dual-nationals FTF\textsuperscript{135}. \textbf{Firstly}, if the nationality is revoked when they return, it makes it more difficult for the returnees to reintegrate peacefully into society\textsuperscript{136}. Some returning FTF are not violent and wish to deradicalise or disengage. But if their nationality is revoked, the State can legally expel them to their second nationality country, even if they may have no real link with this nation\textsuperscript{137}. This

\begin{footnotesize}

\textsuperscript{132} Universal Declaration of Human Rights, 1948

\textsuperscript{133} Convention on the Reduction of Statelessness, United Nations, 1961. Until now, 55 states have ratified the Convention among which Denmark, France, Germany, the Netherlands and the UK.

\textsuperscript{134} Ibid.

\textsuperscript{135} A. REED, J. DE ROY VAN ZUIJDEWIJN, E. BAKKER, \textit{op. cit.}, p.13.

\textsuperscript{136} Ibid, p.12.

\textsuperscript{137} B. BOUTIN, “Administrative Measures against Foreign Fighters: In Search of Limits and Safeguards”, ICCT - The Hague 7, no 12, 2016, p. 21.
\end{footnotesize}
could be used only if they do not risk “torture or to inhuman or degrading treatment or punishment” (European Convention of Human Rights, Article 2) in their country.

**Secondly**, if the nationality is revoked during fighting, it is a signal that there is no way back. Individuals might prefer or be obliged to stay in the conflict zone or leave for another non-western country that they can enter or that they will enter illegally. They will move into illegality and it will make it harder to monitor and detect them. Nevertheless, they can stay in touch with potential returnees in their home country, support terrorist activity or become involved in terrorist plots in other states.

**Thirdly**, it creates an unequal treatment between citizens of a country. Deprivation of nationality contributes to increase the perceived discrimination in the home society, which is a factor of radicalisation and can be an obstacle for FTF's deradicalisation. Indeed, deprivation of nationality for dual-nationals only is perceived as the creation of “second-class citizens” resulting in an increase of animosity against the State.

**Finally**, revoking nationality will not prevent from radicalisation. This procedure simply “shifts the problem and possible threat to another location”. It is a way to export the risk to another State, without solving the real deep-seated problem. Alternatives to revocation of citizenship could be travel restrictions.

b) **Travel restrictions and house arrest**

Another widely used administrative measure is the restriction of travelling. When nationals and EU citizens are suspected of interest in jihadist activity, instead of being imprisoned, they could be placed under house arrest and have their travel documents (identity card, passport, and visa) withheld. House arrest is, by definition, the obligation to stay home a number of hours per day combined with the obligation to frequently make a report to a police station. These measures could be controlled by the use of an electronic tracking bracelet. Foreigners can be

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140 Ibid., p. 13.
144 Team ITALY, *op.cit.*
subject to expulsion, residence permit withdrawal, entry ban or prohibition to leave the country for security reasons\textsuperscript{146}.

These different forms of travel restrictions could have positive effects on the FTF phenomenon in the short term. Indeed, those individuals do not have the right to leave their homes, cities or countries, depending on the judge’s choice. Their travel documents can be confiscated and their movements can be controlled by electronic tracking bracelet. Thus, their chance to go back to Syria and Iraq are very limited, as are their attempts to organise attacks in their home countries.

However, it cannot completely avoid them to commit attacks on the national territory or to recruit people, especially through the Internet and social Medias. If an individual want to commit an attack, he can simply ignore his house arrest or travel restriction. Furthermore, such practices increase the risk of marginalisation of returnees who want to disengage or deradicalise. Confiscation of travel documents and house arrest are in fact very stigmatizing measures because without an identity card or a passport, it is very difficult to find a job. For instance, in France when travel documents of an individual are withdrawn, he/she receives in exchange a paper explaining the reason of the confiscation, highlighting at the same time the terrorist past of the person. As a consequence, the potential employer will likely be very reluctant to hire this person\textsuperscript{147}. Moreover, measures like house arrest can have a significant impact on the right to “private and family life”, which is yet guaranteed by article 8 of the European Convention on Human Rights\textsuperscript{148}. It is clearly hard to have a job, to pursue studies or to care for children when the individual have to stay home or to report regularly to a police station\textsuperscript{149}.

To conclude, administrative measures like revoking nationality, travel ban or house arrest seems to have limited effects on the FTF phenomenon, especially in the long term. Those who are in a disengagement or a deradicalisation process will still come back to their country and those who want to commit an attack on the national territory will not be deterred by these measures. Thus, it seems to be more an announcement effect used by the politicians to show to the public opinion that they are acting against the FTF phenomenon. For instance, revocation of citizenship is rarely apply, which shows that this measure is firstly symbolic.\textsuperscript{150} However, those

\textsuperscript{146} Team ITALY, op.cit.
\textsuperscript{147} D. THOMSON, Les revenants, Seuil, 2016.
\textsuperscript{149} B. BOUTIN, op. cit.,p. 13.
\textsuperscript{150} B. BOUTIN, op. cit.,p. 15.
measures create “significant restrictions to basic liberties”\textsuperscript{151}, especially regarding freedom of movement and right to private and family life. As a conclusion, national judges should use them with sense of proportion to protect basic human rights.

**CONCLUSION OF PART I**

A general observation is that all studied CoE members have adopted and implemented measures punishing terrorism activities. Evaluating their effects is always a complex task, as repression and punishment do not always favour awareness and repentance. As reality shows, these measures might achieve the opposite effect, \textit{i.e.} further radicalisation of the individual extremist and thus risk to be counterproductive. Furthermore, the repressive approach ignores the issue of the returnees’ reintegration into society. Imprisoning or monitoring the movements of a FTF is not enough to tackle the roots of his/her engagement alongside a terrorist organisation. Thus, one can qualify such measures as a short-term answer to the FTF issue; it will require more time for States to elaborate a complete strategy. This is why a non-repressive approach has been progressively contemplated.

\textsuperscript{151} B. BOUTIN, \textit{op. cit.}, p. 20.
PART 2: PRESENTATION AND ANALYSIS OF NON-REPRESSIVE MEASURES

Considering that the repressive approach contains a wide range of restrictions and thus does not tackle the roots of a FTF’s involvement alongside a terrorist organisation, non-repressive measures have been progressively developed by several States. These measures focus on counter-radicalisation, deradicalisation and rehabilitation of returnees, in order to facilitate their reintegration into society. Furthermore, they mainly consist of propositions which aim at reducing the risk of violence from returnees and radicalised individuals against their home society. In this part, comparative overview of the different initiatives and policies and a theoretical analysis of these measures will be presented.

A. Overview of the situation in European countries concerning non-repressive measures

This part of the report aims to provide an overview of the situation in the selected CoE Member States concerning non-repressive measures implemented by governments and civil society organisations to counter-radicalisation attempts. Such measures aim to go further than repression and punishment in proposing to the returnee an exit door to its radicalised behaviour and dangerousness for civil society. In this disengagement process, the reader has to be aware of the importance of national and local programmes as it requires an individualised monitoring. In each country, different kinds of preventive measures and deradicalisation programmes are implemented. In this way, four different groups of States have been chosen in order to identify common points and differences:

- Countries where full rehabilitation programmes are already implemented, notably vis-à-vis returnees: Germany and Denmark.
- Countries where deradicalisation measures are already implemented, but FTF full rehabilitation programmes are still being developed: The Netherlands, Belgium, Russia.
- Countries where few attempts towards deradicalisation are in active process of elaboration: The United Kingdom and France.
- The particular case of the Turkish rehabilitation initiative step backwards.
Figure 1: Classification of countries regarding non-repressive measures

This division of CoE members allows us to distinguish between the levels of involvement and readiness and to better analyse the measures undertaken for the treatment of returnees.

**The forerunners of rehabilitation: the Danish and German models**

Denmark and Germany are deemed to be leading countries in Europe regarding the adoption of non-repressive measures in order to face the problem of returning FTF. Several initiatives have been taken by public authorities in close cooperation with local actors, religious authorities and families of FTFs. In addition, the tradition of open prisons that exists in Denmark and in Germany is definitely in line with both countries’ strategies.

**The German model**

Germany is actively working on developing deradicalisation measures which could provide a possibility for former combatants to reintegrate into society. The first German initiative is related to prisons. It is called the “Violence Prevention Network” (VNP) and is monitored by the
Counter Extremism Centre of Information (HKE) of the Region of Hessen\textsuperscript{152}. The centre is under the authority of the Ministry of Internal Affairs and is specifically in charge of deradicalisation programmes in prisons\textsuperscript{153}. Thus, more than 20 prisoners are divided in two groups:

- Those who are in the process of radicalisation,
- Those who are already radicalised.

Among those prisoners, there are individuals imprisoned for their participation in activities of terrorist groups such as ISIL or Al-Qaida and also individuals who are imprisoned for their involvement in the terrorist attacks attempts in Germany.

The second approach of the deradicalisation is the use of special governmental projects. For instance, the Hayat programme was one of the first projects implemented by the Centre for Democratic Culture (ZDK) in Berlin, a NGO specialized in fight against extremism. Since January 2012, the Ministry of Internal Affairs has been participating in this initiative\textsuperscript{154}. Hayat’s activities target specifically the emotional, ideological and pragmatic aspects of radicalisation. The Hayat programme divides individuals into different groups:

- Those who are in the process of radicalisation;
- Those who are already radicalised;
- And those who are still in Syria and wish to come back, as returning FTF

Professionals in charge of implementing this programme work both on pragmatic aspects, like administrative procedures and professional reintegration, and on the ideological side in order to deconstruct speeches, notions, terms and interpretations of the Islamist extremist literature\textsuperscript{155}. According to the report of the Federal Criminal Police (BVK), approximately 274 former combatants have already come back to Germany. Among them, only one quarter have accepted to cooperate with the German authorities, and most of the others are still devoted to the Islamic State\textsuperscript{156}.

\textsuperscript{152} M. ULHMANN and A. EL DIFRAOUI, “Prevention of radicalization and deradicalization: British, German and Danish models”, Politique étrangère 2015/4 (Winter), pp. 171-182.

\textsuperscript{153} Ibid.

\textsuperscript{154} M. ULHMANN and A. EL DIFRAOUI, op. cit.

\textsuperscript{155} Ibid.

\textsuperscript{156} “Allemagne: la moitié des djihadistes de retour au pays toujours loyaux envers leur cause”, Le Parisien, 28 November 2016.
The Danish model

Since 9/11, Denmark has been one of the most highly pro-active countries in implementing the counter-terrorism measures of the United Nations and the EU. According to the statistics, nearly 125 Danish citizens left Denmark for Syria. After the terrorist attacks in Madrid in 2004 and in London in 2005, the Danish government conducted the first study concerning radicalisation process. Since the two terrorist attacks attempts that followed the 2005 Danish cartoons controversy, the government has initiated a plan against radicalisation and extremism with a wide range of participants including institutes, civil society groups and Danish security services. However, since 2012, the Danish government has been trying to focus on radicalisation through an alarm system named "early warnings" which consists of preventive interviews for individuals enrolled in the process of radicalisation. Since early 2014, Aarhus police and welfare services have run a rehabilitation programme named the "Exit Program" for returning FTF. It was initially a programme launched in 2007 to rehabilitate right-wing extremists. The supervision of this programme belongs to a team of social workers and aims to protect the youth from radicalisation. However, the police remain the main participant of the project of the reintegration of FTF, as they share the criminal record of radicalised individuals with social workers. In addition to Aarhus and Copenhagen, several other cities have now replicated this model. Furthermore, in May 2011, the Danish Prison and Probation Service launched a three-year project on deradicalisation in prisons, called "Back on Track". Finally, it is also relevant to underline that before 2016 Denmark did not have any FTF facing the trials for their crimes.

From counter-radicalisation to rehabilitation: The Netherlands, Belgium and Russia

The authorities of the Netherlands, Belgium and the Russian Federation have understood the threat that radicalised jihadists, and in particular returnees, represent for their society. Hence, they have developed counter-radicalisation initiatives, but are still elaborating the rehabilitation dimension, with no programme implemented yet.

The Dutch approach

The Netherlands is the most advanced country in the elaboration of the FTF reintegration projects. The Dutch government implemented a counter-radicalisation plan in 2004. This

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157 B. VAN GINKEL and E. ENTENMANN, op. cit., p. 29.
project is characterised on the one hand by a local dimension and on the other hand by the numerous participants involved\textsuperscript{160}. The national level provides a framework as well as a part of the funding and training to the local levels in charge of the practical implementation in full autonomy.\textsuperscript{161} Therefore, the large Dutch cities designed their own programmes, often based on Amsterdam's model called \textit{Wij Amsterdammers}. "All the aspects of the plan, from its concept up to its practical implementation, are characterized by the cooperation of an intricate cooperation between ministries, governmental agencies, local authorities, social services, educational facilities, think-tanks, religious institutions and freelance consultants\textsuperscript{162}". This flexible and multi-stakeholders' organisation allows the counter-radicalisation operators to adopt an approach tailored to the situation. In the same way, in 2012, a pilot project was initiated by the National Coordinator for Security and Counterterrorism and the Dutch Probation Service aimed to disengage and deradicalise voluntary jihadist extremists and terrorists. This project intervened in the phase of probation period to ensure better reintegration into society and to reduce the risk of a repeat offense. This initiative can be seen as a first attempt to develop a programme of deradicalisation which could suit the specific situation of dangerous returnees\textsuperscript{163}. As a response to the increasing number of Dutch citizens and residents leaving to go to Syria, the government designed in 2014 a comprehensive strategy to fight against jihadist radicalisation. It intends to develop and implement an exit facility to assist Dutch citizens involved in jihadist movements and who are ready to leave them. The Dutch authorities wanted to design it based on the German model of Hayat programme\textsuperscript{164}. Furthermore, the Netherlands provided a consular assistance from Dutch embassies in bordering countries. This assistance's objective is the re-establishment of contact with family and regular consular assistance for fighters who want to leave the jihadist movement\textsuperscript{165}, which is an applicable approach for the returnees issue.

Consequently, the Netherlands have indeed taken certain measures in the domain of deradicalisation, but the full complete programme of the treatment of the FTF is still currently in a phase of elaboration.

\textsuperscript{161} Ibid.
\textsuperscript{162} Ibid.
\textsuperscript{164} Dutch Ministry of Security and Justice, The Netherlands comprehensive action programme to combat jihadism. Overview measures and actions, 2014.
\textsuperscript{165} Ibid.
**The Belgian approach**

The Kingdom of Belgium is the most affected country by the FTF phenomenon proportionally to its population. Moreover, it has already suffered from it through several terrorist attacks. After the New York attacks in 2001, Belgian authorities have developed a national strategy to struggle against radicalism (Plan R 2005) with a multilevel approach based on the division of competences between the different political levels\(^{166}\).

Regarding the prevention of radicalisation, action plans have been elaborated at national and local levels:

- The adoption of the Programme for Prevention of violent radicalisation (2013) focusing notably on the eradication of factors of frustration for discriminated population and on prevention and deradicalisation in prison\(^{167}\).

- The review of Plan R in 2015 organised around the cooperation between the national monitoring task force and the Local Task Forces in charge of the adaptation and implementation of the Action Plan\(^{168}\).These Task Forces gather different police and security services, as well as political authorities.

- The adoption of Action Plans and measures by regional and communities’ authorities in the field of education, youth assistance, vocational training in particular\(^{169}\).

Regarding the specific case of FTF, the Belgian government has developed a specific working group inside the National Task Force dedicated to find means to tackle this issue. On the local level, the Local Task Forces are in charge of the FTF monitoring. However, it does not provide deradicalisation solutions.

An initiative in the field of deradicalisation is currently developed by the Wallonia-Brussels Federation, with the creation in January 2017 of a support centre for deradicalisation, named

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\(^{166}\) Radicalism Action Plan, federal public service Home affairs, 2016.

\(^{167}\) Belgian federal strategy against violent radicalisation, 2014.

\(^{168}\) Radicalism Action Plan, federal public service Home affairs, 2016.

\(^{169}\) Action Plan for the prevention of radicalisation processes that can lead to extremism and terrorism, Vlaamse Regering, 9 April 2015, / Circular on the improvement of living together and the radicalism prevention in the framework of the social cohesion plan 2014-2019, Wallonia region, 29 October 2015.
This centre shall provide a tailored assistance to voluntary radicalised individuals and their family for deradicalisation. It can however not be considered as a deradicalisation structure, because it is not a closed reception centre demanding to remove supported individuals from their social and familial environment. Although there is no precise information whether this centre would deal with FTF, this initiative could represent a first step for a more advanced programme for deradicalisation and rehabilitation dealing with FTF.

The Russian approach

It is also relevant to include the Russian Federation in this group of countries. According to the Joint Centre of counter-terrorism of Commonwealth of Independent States (CIS) organisation, there are nearly 5,000 Russian citizens of in Syria. From these 5,000 citizens, nearly 2,000 do not use their passports\(^{171}\). In Russia, the treatment of returnees is very specific.

**First of all**, the article 208 of the Russian Criminal code supposes that the release of persons who have agreed voluntarily to cease their participation in the illegal armed groups and who have turned in their arms, depends on condition that the concerned individual has not committed any crimes or terrorist acts\(^ {172}\). In practice, this article works a little differently and is only rarely used. Thus, a recent case from 2016 shows that a citizen of the Republic of Daghestan received a custodial sentence of only 2 months as he had participated in the illegal armed group\(^ {173}\). According to experts, this article should be activated more often by the Russian government. In exchange for a normal life, sentenced terrorists must cooperate in counter-terrorist activities and propaganda\(^ {174}\).

**Secondly**, according to the information of the Federal Security Service, special secure channels have been created for the returning FTF in order to differentiate the returnees who had not committed any crimes during their residence in Syria from those who were involved in terrorist acts\(^ {175}\). The single official measure that has been implemented in the process of deradicalisation in Russia is the creation of Commissions for reintegration of the former jihadist combatants. These Commissions were created in 2010 in order to secure the region for the Olympic Games in 2014\(^ {176}\). Nowadays, they are fully implemented in the deradicalisation process and have

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\(^ {173}\) The judicial review, art. 208, Criminal Code of Russian Federation, 2016.
\(^ {175}\) *Ibid.*
\(^ {176}\) *Ibid.*
started their operations in Dagestan and Ingushetia\textsuperscript{177}. They are all located in the Northern Caucasus region – in Kabardino-Balkaria\textsuperscript{178}, in Ingushetia\textsuperscript{179}, in Dagestan and in Karachay-Cherkessia Republics\textsuperscript{180}. The returnees can address these Commissions if they wish to come back to a normal life, but the procedure is realised under one condition. Before the approbation, special services such as Federal Security Service and the Ministry of Internal Affairs of Russia must check that the individual has not committed a crime. If the person’s criminal character is proved by the investigation, the former combatant will be directly sent to prison\textsuperscript{181}. However, if there is no proof, the individual has the right to participate in the deradicalisation programmes for reintegration and readaptation. These bodies are consultative intergovernmental organs of the federal level. They ensure cooperation of the federal organs with those of executive power, police, local authorities, special services, as well as with different religious organisations and associations that are involved in the issue of returning FTF\textsuperscript{182}. Moreover, these Commissions are participating actively in the creation and practical realization of measures which aim to ensure ex-combatants return to a normal life. Such procedures include: juridical support for former terrorist fighters, aid in the issue of professional reintegration, medical, psychological and financial assistance for the returnees and other types of help that former fighters and their families may need\textsuperscript{183}. Commissions have a right to invite experts, psychologists, sociologists, members of religious organisations, forces of special services and other necessary specialists. Once the process of deradicalisation has been established, the Commissions monitor the former FTFs for a certain period of time in order to ensure that the deradicalisation has been achieved\textsuperscript{184}.

**Timid Steps towards non-repressive measures: British and French policies**

This group is focusing on UK and France that did not implement specific public policies targeting the FTF phenomenon but saw several initiatives taken by civil society foundations and organisations of first line workers, with the support of the governments.

\textsuperscript{177} E. SOZAEV-GURIYEV, “In Dagestan the Commission for the reintegration of FTF continue to work”, Izvestia, 26 September 2016.

\textsuperscript{178} “Commission for the reintegration of foreign terrorist fighters in Kabardino-Balkaria”, Memorial, February 19, 2016.

\textsuperscript{179} “Commission for reintegration of FTF in Ingushetia continue its work”, Memorial, 14 March 2014.

\textsuperscript{180} Egor SOZAEV-GURIYEV, op. cit.

\textsuperscript{181} Ibid.

\textsuperscript{182} Ibid.

\textsuperscript{183} Ibid.

\textsuperscript{184} Ibid.
The British case

In the case of the United Kingdom, the government implemented an official programme of counter-terrorism, which is called the “Four P: Prepare, Pursue, Protect, Prevent”\textsuperscript{185}. Concerning the numbers of British FTFs, nearly 750 British citizens left UK for Syria\textsuperscript{186}. According to Professor Anthony Glees, head of the University of Buckingham’s Centre for Security and Intelligence Studies, the “hundreds of British citizens who have gone to Syria are highly dangerous. The fact so few are being prosecuted when they return is clearly very unsatisfactory and will be very alarming to many people.”\textsuperscript{187} The main objective of this governmental action is therefore to target individuals facing a radicalisation process, to evaluate the risk of radicalisation and to bring administrative support to those persons. An attempt to resolve the problem of FTFs is for instance the deradicalisation programme called Channel that has been introduced by the British government. The programme is currently running in England and Wales and shall be extended. It focuses on deradicalisation of UK citizens and attempts to dissuade them from travelling to Syria and Iraq. While this programme mostly focuses on prevention and reintegration, FTF could also benefit from this programme. Furthermore, this programme also leads to the active participation of the Muslim community in deradicalisation and reintegration of FTFs.

A lot of work has been done and continues to be done on the question of how people are triggered into radicalisation and terrorist activity by the members of this programme. The number of individuals targeted by Channel has significantly raised since 2007, from 3,964 individuals who identified in 2007 to 1,281 in 2013-2014\textsuperscript{188}. There is another programme called Prevent, specifically designed for Scotland. It focuses on training teachers to detect “radicalisation” of students. This programme is a part of the UK Government’s Contest Counter-Terrorism strategy since 2007. The different Muslim communities were solicited to put this programme in place. The last existing programme in the UK is Ibaana Program, which was planned for the deradicalisation of British prisoners\textsuperscript{189}. According to the UK government Counter-Extremism Strategy, published on the 19 October 2015, the Ibaana Program “will

\textsuperscript{186}B. VAN GINKEL and E. ENTENMANN, op. cit., p. 40.
\textsuperscript{187}R. MENDICK and R. VERKAIK, “Only one in eight jihadists returning to UK is caught and convicted”, \textit{The Telegraph}, 21 May 2016.
\textsuperscript{188}M. ULHMANN and A. el DIFRAOUI, op. cit., p. 177.
\textsuperscript{189}C. LISTER, “Returning FTF: Criminalization or Reintegration?”, \textit{Brookings Foreign Policy}, August 2015, p.14.
actively support mainstream voices, especially in our faith communities and in civil society. That means supporting all those who want to fight extremism, but are too often disempowered or drowned out in the debate.”¹⁹⁰ This program aims to force the administrative institutions such as schools and universities to take all measures possible to stop the radicalisation process. However, the measures taken does not include, as is the case in France or Germany, a “toll-free number”, and the Muslim community have the task of identifying the dangerous individuals. Another programme, the “Healthy Identity Interventions” aims to provide speeches and languages elements which completes “Prevent”. All the volunteers to this programme can have an interview with two consultants in order to discuss the identity of the FTF.¹⁹¹ Finally, the programme “Pathfinder” aims to coordinate all the initiatives of various actors concerning radicalisation in prison at the national level. In order to achieve this objective, a national database allowing the profiling of each terrorist or potential terrorist in prison has been created¹⁹².

There are also significant measures taken by the associations and civil society groups without the official support of the British administration, but in line with the Big Society strategy of David Cameron’s government. Indeed, the Government’s majority presented in a “Freedom Bill” and promoted the creation of a “Big Society” of active citizens and non-governmental organisations who protect civil liberties¹⁹³. According to some experts, fighting radical views through openness and a comprehensive dialogue rather than with repressive measures could be an efficient way to address the root causes of extremism¹⁹⁴. For instance, Maajid Nawaz and Ed Hussain, two former members of Hizbut-Tahrir, a Jordanian pan-Islamic organisation, created the Quilam foundation in 2008. Its members are struggling to put in place outreach discussions promoting religious freedom, human rights and liberal democracy, and denounce extremism in Muslims communities¹⁹⁵. They also organised conferences about terrorism in order to distinguish Islamic concepts from terrorist actions, and are considered as quite efficient because of the involvement of former jihadists in the foundation’s programme. The Unity Initiatives is also one of these groups, created by the professor of martial arts Usman Raka in 2009 in order to organise fights and martial arts lessons for young people. In doing this, the professor intends to teach them how to control their internal violence, and to see Islam as a peaceful religion.

Finally, the Active Change Foundation (ACF) was created by formers Islamists in London and established a youth centre. This programme was launched in 2003 by Hanif Quadir after his return from Afghanistan, where he had travelled to in 2002 with the aim of providing humanitarian help but found himself working with Al-Qaeda. ACF actively dissuades young people from joining extremist groups including from travelling to such concerned states. They are still organising working sessions for young people in a radicalised process. However, even if the British society is pretty inventive, the government’s programme remains large and sometimes inefficient for an exceptionally high cost.

The French case

In France, there are approximately 700 French jihadists currently fighting in Syria, among which 275 are women, who could potentially come back with the progressive recoil of the Islamic State’s armies in Syria. We identified a particular approach in this country. On the one hand, there is a so called repression policy, based on opening new prisons with particular units for radicalised individuals, and on the other hand there is an implementation of different centres of deradicalisation for people who did not left for Syria. The draft “Plan to fight terrorism” (PLAT) was implemented on the 21st of January 2015. In order to handle the issues linked to radicalisation in prison, a wide range of dedicated units has been implemented between January and March 2016. The majority of individuals placed in those dedicated units were radicalised persons already condemned for terrorists’ acts, or radicalised people who did not go as far as committing a terrorist act. The government funded this project, for an amount of 60.7 million Euros, while a wide range of questions remains concerning the individuals of those dedicated units.

First of all, it considers men as hopeless cases even if they did not commit any terrorist attempts. Furthermore, many theological Muslim counsellors have warned the authorities about the possibility that the individuals incarcerated could be seen as heroes by others. As a result, Jean-Jacques Urvoas, the newly appointed minister of Justice, wants to separate radicalised fighters and people who did not properly join ISIL, and to end the French “Guantanamo” policy in prisons. As a result, the administration is trying to find a new way of creating a separation between the “normal” prisoners and the terrorists, without putting all the terrorists in the same department. The Minister of Justice has also announced that he wants to replace the five

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196 Ibid.
197 Plan d’action contre la radicalisation et le terrorisme, Press File from French Prime Minister’s services, 9 May 2016, p. 21.
dedicated units, with six special “districts of radicalisation’s evaluation”, with a strict detention regime. He has also stressed that he wants to recruit 90 more experts of insertions and 40 supporting partners in order to frame the programme. On the other side, the first centre of deradicalisation opened in Indre-et-Loire, near the town of Beaymont-en-Vérone, the 13 of September 2016. The government is also planning to open 12 others centres, with individuals from 18 to 30 with no criminal record.

**Furthermore**, the French Government is leading an active campaign of deradicalisation on the Internet. For instance, the government had recently created short films which aim to describe the process of radicalisation and the best ways to refuse the recruiters’ offers to leave in Syria. Concerning civil society, Dounia Bouzar, a French anthropologist, created a centre of prevention (CPDSI) that was publicly funded. Its aim was to follow up young people attracted by ISIS and radical Islam. She organised a follow up of more than 1,000 people who were considered as potential terrorists. In this, she has been assisted by the former leader of the Buttes-Chaumont’s group Farid Benyettou, who now presents himself as reformed. However, she ended her contract with the French Government in February 2016 because of the deprivation of nationality project and the political context. Even if she did not work directly with returning FTFs, she has developed a wide range of deradicalisation programmes with controversial results. Indeed, several actors, journalists and legislators have underlined the lack of transparency around the use of public subsidies. The Centre of action and of the radicalisation of individuals (CAPRI) in Bordeaux is another initiative aiming to prevent radicalisation. It is interesting because of its multi-stakeholder approach combining both lawyers, imams and administrations such as the municipality of Bordeaux and the local Préfecture. Comparing the French method with the Danish approach, one can clearly see a difference: while prison is a mandatory step before deradicalisation in France, the focus in Denmark is rather on cooperation between the police, the family and the social services in order to assess the danger posed by a returnee.

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202Ibid.
The evolution of Turkish counter-terrorism strategy: a paradoxical case

The Turkish situation represents a specific case in our study for two reasons. First of all, Turkey shares a common border with Syria and Iraq which is crossed in both ways by FTFs. The country is therefore on the front line of the fight against FTF. Furthermore, it is the only observed country whose population is in majority Muslim. This element is primordial considering the fight against jihadist extremism and terrorism because the number of potential recruits for jihadist movements is higher due to the allegedly religious project of those groups. This is also confirmed by the estimation of Turkish recruited FTFs mentioned above.204

In 2009, the Republic of Turkey experimented a pilot programme in the framework of its counter-terrorism strategy, aiming at dealing with the issue of radicalised individuals and terrorists. This programme was designed by the Adana Police Department with the objective to disengage, deradicalise and reintegrate in society radicalised individuals involved in political, religious or separatist extremist groups’ activities. It was a singular initiative in Turkish counter-terrorism tradition which is primarily focusing on repressive measures, notably concerning Kurdish separatist terrorism.205 This pilot programme was implemented by Adana police intelligence and counter-terrorism units with local authorities and community leaders’ support. The specificity of this programme was the counter-terrorism units intervention on three different levels:

- To prevent further indoctrination by extremist group at the early stage of radicalisation;
- Upon arrest of a radicalised individual involved in terrorist or criminal activities;
- During the radicalised individual’s incarceration period, notably before its release.

At any time, counter-terrorism officers offered radicalised individuals the opportunity to take part in the rehabilitation programme. They were free in their decision, even if some judicial and financial incentives were planned in order to convince them.206 The family members of the individual were early involved to encourage the individual’s participation and increase the chances of success. In case of recurrent refusals and the continuation of terrorist activities, the repressive approach was adopted.

206 Ibid., pp. 36-38.
The second and third levels of intervention could represent a good template for the issue of Turkish returnees, with the possibility to tailor the approach adopted for the proceeded individual. The disengagement-deradicalisation process is conducted for a period of six months, during which participants “acquire vocational training, employment, housing, healthcare, social and financial aids, counselling, and psychological support and treatment”. In case of jail conviction, the participation in rehabilitation begins after having served the sentence.

Because of its positive results, the initiative was duplicated in other regions. However, this programme was ended in 2015 by the Turkish government in the aftermath of the Syrian conflict and the interrupted Kurdish peace-process. At that moment, the Turkish counter-terrorism strategy passed from a comprehensive approach combining repressive response with rehabilitation response to a mainly repressive one. Therefore, Turkey represents the opposite case of a country that decided to develop before the Syrian civil war a quite efficient rehabilitation programme, and decided to abandon it, despite the fairly large number of Turkish citizens involved in jihadist groups in Syria.

Thus, one can observe that regarding non-repressive measures, it is possible to distinguish several approaches. Even if the first group (composed of Denmark and Germany) seems to be more advanced, the reader has to be aware that determining efficiency and solidity of such measures requires time to put things into perspective. The ongoing high level of threat in European countries, added to the continuous terrorist attacks, easily proves that repressive and non-repressive measures are still needed.

**B. Analysis of non-repressive measures**

In this section, the theoretical foundations of the comprehensive measures set up to respond to the FTF issue will be analysed. Those measures, which are mainly designed by NGOs and public sub-state actors, often originate from counter-radicalisation and de-radicalisation programmes, before possibly being implemented to FTF. Those theoretical foundations are then translated into practical measures formulated to address the social, psychological and ideological components of radicalisation. Even though most of the foreign fighters had the explicit aim to join terrorist organisations like Al-Qaeda or ISIS, some also have been motivated by the idea to

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207Ibid., p.38.
provide humanitarian help or to protect the civil population from foreign military interventions\textsuperscript{208}. This example gives an idea of the diversity of the FTFs’ profiles.

According to these different aims of getting involved in terrorist actions, their psychological perception of their involvement is not the same. This means that an optimal rehabilitation procedure also may differ from case to case and that an individual approach should be preferred. Specialists share the concept of tailoring the de-radicalisation programmes on the needs of the different extremist group profiles\textsuperscript{209} in order to go back to their radicalisation roots. For example, Islamic extremists could need a religious oriented treatment dealing with their religious conviction. In this case, they would need interactions with scholars teaching them a peaceful way of Islam. Therefore, one can observe different approaches by State’s dealing with the de-radicalisation of returnees.

This part of the report shall give deeper explanations about the analysis of radicalisation and de-radicalisation, which constitute the core of some of the most developed comprehensive programmes in Europe. Therefore, will be considered the functioning and the structure of special programmes linked to the fields and presented different perspectives from which the phenomenon can be approached.

1) **Deradicalisation/disengagement: Theories for a successful process**

According to several scientists such as Peter Neumann or John Horgan, one can distinguish between *cognitive deradicalisation* and *social disengagement* processes.

*Cognitive deradicalisation*\textsuperscript{210} consists in combating the radicalism with targeted conviction without using too direct or aggressive measures. According to Neumann, the challenge consists in being as careful as possible in order not to provoke a deeper stuck of the returnees’ ideology.

\textsuperscript{208} C. LISTER, “Returning Foreign Fighters. Criminalization or reintegration ?” Brookings Doha Center, Foreign Policy at Brookings, 2015, p. 8.
Being too harsh could provoke a harder resistance, with even a deeper conviction on the ideology than before\textsuperscript{211}.

\textit{Disengagement} consists in working in priority on the nonfeasance of extremist attitudes such as violence. The extremist, if he wishes, can still stay in his radical environment but as a "dropout" who chooses to not participate in illegal or violent activities anymore\textsuperscript{212}. This concept can be applied to the individual but also to a group by spreading the idea of a lying down of one’s arms but without demanding to give up the fundamental ideology. Horgan points out that psychological factors such as disillusion or physical factors such as imprisonment can often lead to disengagement\textsuperscript{213}. Besides these psychological or physical reasons of disengagement, one must also consider the strategic perspective for such a change. For example, the efficiency of punitive measures as hard prison sentences could be a pressure whereas the material components offered by de-radicalisation or disengagement such as jobs or trainings in some states can become positive incentives\textsuperscript{214}.

The differentiation of these concepts brings along doubts about the necessity and even the reality of deradicalisation. Why going so far in deradicalisation if disengagement is sufficient to guaranty the State’s protection? Furthermore, the success of deradicalisation is difficult to prove without knowing the real motivations behind the individual’s choice for the treatment.

For Bjorgo and Horgan, disengagement should be a first step before deradicalisation for a successful approach\textsuperscript{215}. They argue that a change of behaviours at the end is more important first than the change of mentality. This position stands in total opposition with Rabasa\textsuperscript{216} who defends the idea that a person who changes one’s personal beliefs (deradicalisation) in priority to one’s behaviour (disengagement) has fewer chances to fall back to radicalism than vice-versa. However, it appears that both deradicalisation and rehabilitation should strongly be linked together in order to allow the returnee a successful come-back in society.

\textsuperscript{211} Ibid.
\textsuperscript{212} Ibid.
\textsuperscript{214} Ibid.
\textsuperscript{215} Ibid.
A similar concept would be the Kruglanski approach that defines two types of deradicalisation\footnote{A.W. KRUGLANSKI, M. J. GELFAND, J. J. BELANGER, A. SHEVELAND, D. HETTARIACHCHI, R. GUARATNA, “The psychology of radicalization and deradicalization: How significance quest impacts violent extremism, Political Psychology, vol.35, 2014, pp.69-93 quoted in: M.BASTUG, U. EVLEK, op. cit., p.30.}; the \textit{explicit method}, which means a targeted treatment of the cause of the radicalisation, and the \textit{implicit one}, which could be applied for all kind of extremists.

By taking the example of Islamists, the explicit method would address precisely the religious convictions and focus on a correct interpretation of the Quran. On the other side, the implicit method would aim the radicalisation in a larger approach and focus more on the reintegration into society. These two types of methods are applicable to a broad spectrum of extremist individual profiles. Their personal needs are taken into account and they are provided continued counselling afterwards. Indeed, helping and encouraging the participants all along during the process is crucial for an effective deradicalisation and rehabilitation. The efforts and the psychological struggling they face during their treatment have to be taken into consideration with regard to the risk of a relapse. Therefore, a constant support is crucial for the cognitive awakening as well as for the rehabilitation.

2) \textbf{A psychosocial approach to the returnee phenomenon}

In the following, further attention will be paid to the analysis of practical conceptions of deradicalisation. The Danish and the German models should be used as an example according to the place both state’s occupy in the searching for deradicalisation strategies. In order to avoid an overall analysis of both models lacking a deeper insight, the Danish model will be first presented by focussing on its theoretical concept. Then a specific factor in deradicalisation, the role of the family will be analysed by taking the German model as an example.

a) \textbf{The Aarhus model: between deradicalisation and rehabilitation?}

The Aarhus model, launched in 2007 in Denmark in order to counter right-extremism, stands for the most comprehensive approach towards returning jihadists in Europe. It targets “criminal conduct and activism outside the law” and relies on inclusion\footnote{P. BERTELSSEN, “Danish Preventive Measures and De-radicalization Strategies: The Aarhus Model”, Panorama, January 2015, p. 24.}, which is the real aim of the
programme. This notion can be understood as transforming personal motivations into legal modes of participation and citizenship\textsuperscript{219}.

Besides the deradicalisation work, this programme focuses on the rehabilitation into society. It is not the radicalisation itself which is criticized by the counsellors, but rather the violent output which can result from radicalisation\textsuperscript{220}. Professor Preben Bertelsen, who played a leading role in the creation of this programme for Islamic extremists, underlines the necessity of the inclusion of the returnees as an answer of their endured exclusion: their experience of “daily, low-level racism” and their torn identity between two cultures\textsuperscript{221}: On the one hand fully integrated, on the other one not feeling welcomed because of their religion or culture. Indeed, this programme uses a very liberal philosophy in proposing help to the returnees in different domains such as education, providing a job, accommodation, practical assignments like homework, job application, etc. and in providing for each returnee a mentor in charge of help. "Jihadists have chosen a path that’s not OK, but the key in the Aarhus model is recognizing that these people are not that different from the rest of us," says Bertelsen\textsuperscript{222} in line with the Aarhus counsellors who share the acceptance of radicalisation in politics or religion but who do not accept any kind of violence\textsuperscript{223}.

This liberal consideration of deradicalisation focussing on the behaviour and the rehabilitation of returnees strongly matches the disengagement concept. According to Jorgen Ilum, the chief of police in the region, the programme works. Actually, up to now, none of the FTF has relapsed back in militant activities\textsuperscript{224}.

It is about “criminal conduct and activism outside the law” and about inclusion\textsuperscript{225}. The notion of inclusion stands for the real aim of the programme. This can be understood as transforming personal motivations into legal modes of participation and citizenship\textsuperscript{226}.

The Aarhus model is not specialised in a particular form of extremism and provides therefore a large cooperation of actors, called the SSP organisation (the interdisciplinary cooperation

\begin{thebibliography}{99}
\bibitem{219} I\textit{bid}.
\bibitem{220} E. BRAW, “Inside Denmark’s radical jihadist rehabilitation programme”, \textit{Newsweek}, 17 October 2014.
\bibitem{221} J. HENLEY, “How do you deradicalise returning ISIS fighters?”, \textit{The Guardian}.
\bibitem{222} E. BRAW, op. cit.
\bibitem{223} J. HENLEY, op. cit.
\bibitem{226} I\textit{bid}.
\end{thebibliography}
between Schools, Social services and Police). Thus, many other state or private institutions are connected closely to the project, such as the Department of Psychology and Behavioral Sciences.

This department developed the discipline of Life Psychology, which is an approach of integrating personality psychology, social psychology and societal psychology with social sciences and humanities in the understanding of radicalisation processes, risk factors and resilience. Life Psychology relies on three presumptions. The first one is that "everybody aspires to a good-enough life". The second one demands the necessity to develop skills to front with the tasks of the good-enough life. The third one sets the fact that everybody, without exceptions, is confronted to the same tasks. This implies that in life, the development of capacities in handling one’s own life, one needs skills which only can be adopted if willingness and abilities are adopted in addition with “external possibilities and conditions” such as “being met by others”. The ultimate researched action of “doing” can just happen when on the one hand motivational and cognitive capacities are adopted and on the other hand reality conditions and social condition match together.

Life Psychology resilience programme towards violent radicalisation targets “triggering threats”, risks that would conduct to “non-flow” (no good grip on its life) in the realisation of one’s fundamental human life skills such as participation, realistic attunement, and perspective taking. Furthermore the “moderate risk factors" (the variation of social cognition and social relationship) should also be taken in consideration. For the identification of those risk factors, individual mentors are trained in order to give the best response for one’s problems. The recruitment of those mentors by the municipality of Aarhus relies on criterion such as age, gender, ethnic background, formal education and experience, first hand-knowledge of different cultural and social environments as well as on their political and religious knowledge. Besides the identification of these risk factors, the current ten mentors point out the illegal past to the mentees they may have been caught in or still are endangered to meet, as well as the personal and societal dangers they represented or the failure of their experienced activism. The

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227 Ibid.
228 Ibid.
229 Ibid., p. 243.
230 Ibid., p. 246.
231 Ibid., p. 247.
232 Ibid.
233 Ibid., p. 248.
234 Ibid., p. 249.
235 Ibid., p. 243.
236 Ibid., p. 244.
mentor is also responsible for the inclusion of the returnee. This means a supervision or a help for social activities of daily-life such as family-relations, seeking and applying for a job, education or for structuring their free time and hobbies. Finally, the mentor has to be up to his task in staying well informed, showing a trustful and sympathetic attitude towards his mentee. It is important to be a partner in dialogue, especially for the mentees daily-life challenges as well as for his concerns about existential, political or religious matters.

b) DNE and the importance of the family

The DNE - Diagnostisch-Therapeutisches Netzwerk (diagnostic-therapeutic Network) is an initiative led by ZDK Gesellschaft Demokratische Kultur in Germany. As being also the initiator of HAYAT programme or EXIT programme, ZDK is one of the most important player in the deradicalisation field in Germany. DNE has as principal function the responsibility to give assistance in a psychological way to the constellations of relations between family members and extremists.

The idea is to build a profile established not only on the current status of the radicalised person but to consider also, according to a scientific approach, its personal past in order to withdraw the individual/person from its radicalised environment. The main points on which DNE tries to work are the individual’s changes of identification, the reflection on its past and the reorientation for new perspectives, which can be difficult if the client is already experiencing an identity transformation. It seems like withdrawal decisions are strongly connected to critical life experiences and therefore get in touch with existential thematic which brings psychological conflicts with them237.

DNE underlines the importance of the family in the deradicalisation process. A cognitive and emotional “opening” should be the first condition before going forward to an “ideological deradicalisation”238. The input has to come from outside to establish a sort of “distancing stimulus”239. According to Wagner, Wichmann and Borstel, family members still have a “high emotional and social value”240. The implementation of self-doubts regarding the extremist attitude should come “through a human proximity with simultaneous ideological distance.

239 Ibid.
240 Ibid.
Family members, in a social meaning, are really suitable for that task." A problem is set when the client does not accept the “distancing stimulus” because of prior conflicting relations with their family members. These conflicts can happen during the radicalisation process with hurting or estrangement towards family members. Therefore, most of consultancies specialised in radicalisation, like for example HAYAT, work with family members on argumentation skills, conflict management or discussion ability. Family members are often the last connection between the radicalised person and the society, which is why the fact of staying in contact with them is crucial in order to look forward for a possible deradicalisation. This approach should even be pursued when the person has already left the state as a foreign fighter.

3) Cognitive and ideological approaches

a) The Cognitive approach

The notion of the cognitive approach towards deradicalisation for returnees refers to a reflexive mechanism. These mental mechanisms are considered by many scholars as responsible to both radicalisation and deradicalisation. For the latter, they could be seen as a "rewinding process" of radicalisation. Islamic religious radicalisation is not always well apprehended by the relatives of the individual going through this process, as well as by the society in general, especially in western non-Muslim or secular states. But this does not imply that the radicalised individual, who may go as far as joining a terrorist group, has lost all rationality.

It would be a misconception to consider that every individual who engages into radical Islamist activities and eventually takes part into the activities of extremist groups abroad suffers from psychiatric condition. A significant number of them, however, present characteristics of behavioural disorders. That is the result of a 2014 study from Anton Weenink on Dutch foreign fighters in Syria, who found out that on a sample of 140 individuals, 60% presented signs of psychosocial problems, 46% displayed evidences of problem behaviours (child abuse, tantrums or compulsive disorder) and 20% showed signs of serious problem behaviour or serious mental illness (such as psychosis, schizophrenia, autism, or PTSD). It is interesting to note that 47% of the individuals from that sample were found to have criminal records from the Dutch police services. Indeed, it is possible to regard this analyse as a part of a tendency that is comparable

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241 Ibid.
243 Ibid.
with the psychological and behavioural profiles of the returnees of other European countries. Similarly, Horgan found out that people who are most likely to be recruited into terrorist activities commonly show signs of anger, disenchantment, identification with the victims of the perceived injustices they want to fight and impression that those injustices can not be addressed outside radical and violent militant engagement. This engagement is seen as providing rewards in the form of a belonging feeling or as a fulfilment of one individual’s personality. Rallying a terrorist group can thus be explained, for a lot of radicalised individuals, by a quest for personal meaning and comfort that they think they will find in a terrorist group.

Matt Venhaus, who analysed the profiles of more than 2.000 FTF in Afghanistan, described four different typical profiles of jihadist recruits: the “revenge seeker”, diffusely frustrated and looking to discharge his frustration towards a person or a group he considers responsible of a fault, the “status seeker”; which seeks recognition from the others, the “identity seeker”, which aims to define his personality through the affiliation to a group, and the thrill seeker whose quest for glory, adventure and excitement drives the radical affiliation. Similarly, Dounia Bouzar in association with Christophe Caupenne and and Sulayman Valsan identified different role models that potential jihadi recruits identify with according to their personality, in order to lure them into joining groups such as ISIS:

- “Mère Theresa” (Mother Theresa): a humanitarian role, designed to fit the aspirations of minor girls who represent themselves as future doctors, nurses or social workers.
- “Lancelot”: the chivalrous fighter, ready to sacrifice himself for a greater cause than the defence of its own interests, such as the defence of the Islamic community.
- “Le porteur d’eau” (the water carrier): refers to the quest of personal identity to belong to a group in order to exist, even if the individual is side-lined and affected to non-combatant or inferior logistic tasks.
- “The Call of Duty model”: a model often presented to young males seeking comradeship and brotherhood of arms, who previously wanted without success to apply to their country’s military or police force.

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246 Ibid.
• “Zeus”: a model designed to address the will of power and domination of individuals who often present risky behaviour (drug addiction, dangerous driving, unprotected sex…) prior to their radicalisation.

Those categories are not exclusive and can be merged into an individual’s cognitive matrix, driving him to travel abroad to fight for the jihad. Furthermore, among the FTFs who have returned, three different groups can be distinguished.

• “The disillusioned” whose ideological or adventurous aspirations have clashed with the reality of brutality and cynicism of the fighting theatres or from the zone occupied by radical groups;

• The “traumatised”, who may return with recently developed mental health damages or a worsened psychiatric pre-existing condition due to the exposure to combat experience as well as from exactions committed upon civilians. These traumas often take the form of post-traumatic stress disorder and may even lead to a dangerous general disenchantment leaving to the questioning of the capacity of human beings to behave morally;

• The “individuals who are further radicalised”, which seem to constitute a small minority of all returnees, but a minority that nonetheless represents the biggest threat to society.

The care offered to upon their return in a comprehensive framework must be adapted to the profile of the returnee, as well as to the reasons motivating his departure and his psychological condition at the moment of his return. As mentioned, comprehensive deradicalisation and rehabilitation programmes, such as EXIT in Aarhus, Hayat in Germany or even the abandoned pilot programme from the municipality of Adana in Turkey, attempt to address common issues linked to the returnees. These latter are in particular disenchantment, self-depreciation or the lack of perspective, encompassing practical social measures. They also rely on the expertise of professionals in the fields of psychology, psychiatry and social counselling to help the individual acquire the cognitive mechanism allowing its renouncement to violent engagement and its reintegration into the society.

The social and psychological care givers of the Aarhus EXIT initiative distinct two key components of radical engagement: the “motivational process” that encompasses the wishes and desires of the individual and the “cognitive process that consists in knowing, thinking and

reflecting. The psychological assistance offered by EXIT experts aims to allow the individual to project himself in a life path that fosters the conduct of his life choices in accordance with the external conditions for social recognition. Hayat also provides special medical cares adapted to the experience of traumatised returnees to prevent any harm they could inflict to themselves or their surroundings.

b) The ideological approach

The importance of the ideology lying under radical engagement should not be forgotten when it comes to designing and adapting comprehensive methods of deradicalisation for returnees as well as for radical Islamists in general. If the influence of radical Islam, such as Salafism, is commonly found at the core of terrorist group rhetoric, experts do not always agree on the importance of the religious factor in the construction of radical ideology. Radical Islamists often consider their cultural and religious values, those of Sunni Islam, to be threatened. Extreme forms of belonging and identification with those values is then conceived as a way to defend them, as they fear cultural globalisation could lead to an ethno-cultural stand-off that would harm their system of religious beliefs. Yet, some psychologists suggest that the cultural and religious conceptions of an individual constitute a mental shield that preserves one's mind from the universal and mostly unconscious fear of death that human beings experience even in non-threatening situations.

This ideological commitment to a radical group is not the only motivation for joining a terrorist group, as two other forms of commitment can be found: the affective commitment responding to the need of personal belonging and life meaning, and the pragmatic commitment. Considering the variety of national approaches in addressing the religious aspect of radicalisation is an interesting exercise, as it underlines the differences in traditional interactions between the state and the religious sphere as well as with its cultural minorities. In this context, religious deradicalisation is not the core of the EXIT strategy. Religious beliefs, even violent, are not addressed as long as they do not contravene the Danish law. As rehabilitator Steffen Nielsen, who works for the EXIT programme, states: "We don’t spend a lot of energy fighting ideology.

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250 J. BERCZYK, Returning from the 'IS' – Experiences from the counseling service HAYAT-Germany, Sicherheitspolitik-blog, 2015.
We don’t try to take away your jihadist beliefs. You are welcome to dream of the Caliphate”. This approach may not be very surprising considering the Danish conception of non-intervention in the religious sphere, but it has drawn some scepticism. Meanwhile in Germany, the counsellors of Hayat, trained to possess a profound knowledge of Islamic and Islamist concepts and rhetoric, can engage into a process of “delegitimisation and invalidation” of jihadist narratives. The importance of the ideology in the radicalisation process, sometimes contested, is acknowledged in the EXIT-Germany programme. The latter assumes cause of an individual falling into violence results more often from an ideological process than from a personal background.

In opposition, Dutch deradicalisation programmes do not make a clear difference between the extremist groups from the perspective of the religion. The historical and cultural heritage of the Netherlands makes it really difficult for the deep secularized society to identify with the religious background of the Muslim community and the religious fundamental identity of the radicals. The phenomenon of radicalisation is not seen as a religious issue but more as a negative side effect of the inability to manage a multicultural society. However, religious actors are involved in programmes, but not with the importance they would meet in other states. In any state built upon the rule of law principles, criminal and administrative measures can be seen as a time-limited solution to deal with the issue of returning foreign terrorist fighters. As discussed above, a significant proportion of the returnees from previous conflicts have not been representing a security threat for their country. However, current Syrian and Iraqi conflicts can hardly be compared with the precedent crisis, in terms of quantity of foreign fighters involved. As the number of returnees in European countries will continue to increase, the need to propose coherent responses outside of plain and simple incarceration will have to be addressed on the long term.

253 Counter Extremism Project, Denmark, extremism and counter-extremism, 2016, p. 6.
254 A. EL DIFRAOUUI and M. UHLMANN, op. cit., p. 173.
255 EXIT Germany, “We provide the Way out: de-radicalization and disengagement”, 2012, p. 4.
PART 3: INTERNATIONAL COOPERATION
FRAMEWORKS AND RECOMMENDATIONS
REGARDING THE FTF ISSUE

After a review of the selected States’ repressive and non-repressive responses to the returning FTFs, several attempts to highlight similarities and differences between them, and an analysis of the different approaches, the third part will develop international cooperation frameworks and present a non-exhaustive list of recommendations that have arisen all along the preparation of the report. These latter are the product of a collective reflection and are inspired by readings and discussions with professionals.

A. Cooperation frameworks

Despite noticeable differences among CoE Member States regarding responses to the phenomenon of FTF, many similarities exist and can be partly explained by the role of international and European organisations. Indeed, the United Nations, the CoE and the European Union have addressed the issue in a different manner.

Resolution 2178 was adopted in September 2014 by the Security Council. It calls UN members to prevent the travel of FTF from their territories. Above all, it requires them to consider as a criminal offence the travel or attempted travel of individuals to another State than the one 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”.

Therefore, Resolution 2178 has a legal dimension because of its binding character. Indeed, it raises travel for joining a terrorist group at the same level as financing terrorism, as a global threat needing specific laws and strong international cooperation. Therefore, this resolution constitutes an essential encouragement for governments to adapt their legislation in order to comply with international obligations. The third UN report on the implementation by its members of Security Council resolution 2178 emphasised that, as observed above, several

258 Ibid.
European countries have supplemented existing laws with new amendments to criminalize preparatory acts to join Iraq or Syria.

The Security Council resolution not only has had an impact on states’ legislations, but also on two other concerned regional organisations: the CoE and the EU. Indeed, the Additional protocol to the Convention on the prevention of terrorism written by the CoE was signed in October 2015 in order to address the security threat caused by the FTF, while the European Commission initiated in December 2015 a revision of the Framework decision on combating terrorism.

To respond to the growing threat of terrorism, the CoE decided to create in 2005 a legal framework for its Member States. It aimed to enhance their efforts in the fight against terrorism. It underlines the importance of information exchange, improving civil protection, “enhancing training and coordination plans for civil emergencies” and lastly international cooperation in combating this threat. Moreover, it criminalizes public provocation to commit a terrorist offence (article 5), recruitment for terrorism (article 6) and training for terrorism (article 7) referring to those that provide such a training. In other words, the 2005 Convention “reinforces cooperation on prevention both internally (national prevention policies), and internationally” and criminalizes acts related to terrorist activities. The escalation of conflict in Syria and the emerging problem of FTF has forced the international community to expand existing regulation to this phenomenon. Thus, the resolution 2178 was the first measure/step taken by the UNSC, and it has been followed by another document formulated by the CoE. In May 2015 CoE’s Committee of Experts on Terrorism (CODEXTER) completed the Additional Protocol to the CoE Convention on the Prevention of Terrorism. This document was designed as a response to the need of a more coherent and detailed definition of terrorism and terrorist activities compared to the one proposed in 2005 by the CoE Convention on the Prevention of Terrorism.

As mentioned above, the Protocol was created specifically to respond to the increasing threat of FTF. In its articles 2 to 6 it gives several definitions of offences such as participating in an association or group for the purpose of terrorism (article 2-1), receiving training for terrorism (article 3-1), travelling abroad for the purpose of terrorism (article 4-1), funding travelling.

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261 Ibid, art.4.
262 Ibid.
264 Ibid.
abroad for the purpose of terrorism (article 5-1), organising or otherwise facilitating travelling abroad for the purpose of terrorism (article 6-1). Countries which ratify this Protocol are obliged to implement measures recognizing such acts as criminal offences.\textsuperscript{265} Furthermore, this legal act creates a "point of contact available on a 24-hour, seven-days-a-week basis"\textsuperscript{266} in order to provide efficient exchange of information related to potential FTFs. Moreover, in its article 8, the Protocol requires that all changes in legal acts and procedures designed to match these obligations must be made with respect to human rights.

Without any doubt, this protocol will contribute to the convergence of the legal frameworks to combat the FTF threat in Europe. However, the main aim of the creation of such an act was the criminalisation of the most common activities that are perpetrated by individuals wanting to join ISIL in Syria or to organise attacks in European countries.

At the EU level, the \textbf{Framework Decision 2002/475/JHA of the European Union} calls on Member States to harmonize their legislation and to introduce minimum sentence requirements regarding terrorist acts\textsuperscript{267}. It therefore lays the foundations for the approximation of the criminal law provisions relating to terrorist offences. Given the evolutions in the operating mode of terrorist activists and sympathizers, this legal instrument was amended in 2008, creating three new offences in line with the CoE Convention on the Prevention of Terrorism\textsuperscript{268}.

The new threat of the FTFs also constitutes an evolution to which the EU legislation must adapt. For this reason, on 2 December 2015, the European Commission submitted a proposal for a directive on combating terrorism to strengthen and update the EU's legal framework\textsuperscript{269}. FTFs would be defined according to UN legislation. The EU Counter-Terrorism coordinator, Gilles de Kerchove, considers that a European definition of FTF would have a symbolic dimension, which could inspire other countries, as well as a practical dimension, regarding cooperation between Europol and national counter-terrorism bodies\textsuperscript{270}. On 30 November 2016, an agreement was

\footnotesize{\textsuperscript{265} Council of Europe, Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism, Riga, 22 October 2015.  
\textsuperscript{266} Ibid., art.7.  
\textsuperscript{270} N. GROS-VERHEYDE, "La Commission propose une définition européenne pour les combattants étrangers", Brussels2Pro, 1 December 2015.
found between the Council and the European Parliament, meaning that the adoption of this legislation should be possible in the following months. This adoption will lead to additional convergence regarding the FTF related legislation of the EU Member States. It criminalises travelling for terrorist purposes, funding, organisation and facilitation of such travels and receiving training for terrorist purposes. Lucia Žitňanská, minister for Justice of Slovakia considered that this directive constitutes a “right balance between the need to effectively combat new forms of terrorism - in particular foreign fighters - while at the same time safeguarding individual rights”.

Furthermore, the legislation is not the only reason that can explain the convergences among the States. Indeed, at the EU level, the Radicalisation Awareness Network (RAN) was officially launched on 9 September 2011. It is a “network of networks”, gathering practitioners in countering radicalisation leading to violent extremism. The RAN is organised in eight thematic groups: one of them, RAN-INT/EXT, focuses on the internal and external dimensions of radicalisation and includes the issue of FTF. The purpose here is to gather governmental and non-governmental experts to better understand the issue of FTF.

All international initiatives mentioned in this part focus on punitive measures despite the fact that they also provide for non-repressive measures. It largely explains the prevalence of punitive measures in CoE Member States’ responses to the FTF issue.

That being said, some initiatives are conducted to circulate best practices for non-repressive approach. The EU financially supports pilot projects thanks to the European Internal Security Fund, with the objective to diffuse positive results. Furthermore, it takes part alongside 29 States in the Global Counter-Terrorism Forum, which aims to improve exchange of experiences and technical expertise, notably for the specific case of the FTF. A “Memorandum on good practices for a more effective response to the FTF phenomenon” has been drafted on the initiative of the Netherlands and Morocco in 2013-2014 in order to present recommendations to guide governments in the policy-making.

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272 Ibid.
273 Ibid.
274 ICTC, “Radicalisation Awareness Network”.
275 European Commission, Call for proposals “Preventing radicalisation to terrorism and violent extremism”, (HOME/2014/ISF/AG/RADX).
Concerning the European cooperation, the exchange of information and best practices is a crucial step to embrace the degree of international cooperation. Indeed, the signature of the Prüm Convention in 2005\(^{277}\), sometimes known as Schengen III or Schengen Plus, was an essential step to enable data exchange. This agreement was adopted by the Kingdom of Belgium, the Federal Republic of Germany, the Kingdom of Spain, the French Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands and the Republic of Austria, in order to extend cross border cooperation in combating terrorism.

In addition to the existent measures of which were implemented into the European Union Law by the EU Council Decision 2008/615/JHA\(^{278}\), among which the exchange of Fingerprints, DNA and vehicle owner registrations, it could be relevant to add a specific programme to this add a dedicated programme for the FTF, in order to enhance the existing police and judicial cooperation. To achieve this objective, the member states of the Council should pass an agreement on the creation of a specific data exchange programme providing an accurate range of information concerning each foreign fighter, including their age, presumed hierarchical position within ISIL, and their psychological mindset for the returnees. Such a cooperation could have significant outcomes in reducing the risk of terrorist attacks.

**B. Recommendations**

As demonstrated in the previous part, international organisations take part in promoting and spreading best practices to tackle a common issue. This section presents several recommendations made by this working group in order to improve the response given by Member States of the CoE concerning the issue and challenge of the FTF. The recommendations should be considered as proposals without any normative character. Based on the working group’s observations, understandings and reflections on the FTF question, as well as on recommendations made by specialised international fora, they are therefore subjective and only engage the working group.

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\(^{277}\) Euro-Lex, Prum Decision 2008/615/JAI of the 23th of June 2008 related to stepping up cross border cooperation, 2008

\(^{278}\) Ibid.
**Recommendation 1: Develop a specific FTF policy in the comprehensive counter-terrorism framework:**

The Member States of the CoE should design a specific policy dedicated to the FTF, separate from existing programmes for radicalisation prevention. This distinction may contribute to better deal with the returned FTF’s case specificities, thanks to a tailored approach drawing several available paths for the different returnee's cases. It would be relevant that this FTF policy includes actions for disengagement and social rehabilitation. Furthermore, returnees’ social reintegration should be the clear main objective of this policy, in order to avoid to treat returnees as everlasting criminals, which would limit disengagement endeavours. Finally, the integration of this FTF policy into a comprehensive balanced counter-terrorism strategy - on the Dutch model - seems necessary to reduce incompatibilities between its different components. For instance, as mentioned above, the deprivation of nationality adversely affects the prevention of radicalisation and the disengagement as well as the cooperation with third countries receiving expelled nationality deprived individuals. For this reason, this working group recommends the removal of nationality deprivation. The Member States of the CoE with a mainly punitive counter-terrorism policy should develop and strengthen policies in the field of the radicalisation prevention, disengagement and rehabilitation notably for the FTF, as already mentioned above.

**Recommendation 2: Design a risk assessment of returned FTF and support research in the field of deradicalisation:**

A dangerousness assessment of FTF should be conducted upon their return in order to measure the risk they represent for their home society, as suggested by the Global Counter-Terrorism Forum (GCTF). Given the impossibility to provide individually tailored measures to each suspected FTF, the authorities should at least make a difference between larger groups of FTF according to assessment criteria. The aim of such a differentiation is a better appropriateness of sentences, a better management of the detention facilities, better perspectives of disengagement and effective medical treatments if required.

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The realisation of these analyses should be subject to the development of common European standards. To do so, a European center, within the structures of the CoE, could be established as an institution for cooperation and best practice-sharing in the particular field of psychological evaluation of the FTF.

As such, it could gather experts and academics from all over Europe, whose publications and methodological advices in assessing the dangerousness of each returnee could be used by national judges to determine if judicial or administrative measures should be adopted or not.

The following could be seen as examples of such criteria:

- **Psychological criteria:**

  The psychological status of returnees regarding their experience as FTF should be analysed in order to categorise them into three different groups: the traumatised, the disengaged and the radicalised. This would help to create more homogeneous groups in prevention detention facilities.

  Later in the post-judicial process, each group specialists should provide the best targeted rehabilitation approach. For example, an individual classified as a violent religiously radicalised FTF group should meet regularly specialists or scholars of the religion field.

- **Medical criteria:**

  Medical condition must be a point of attention in the determination of the FTF's dangerousness, especially for FTF suffering from PTSD (posttraumatic stress disorder) and other forms of traumatisms.

- **“Willingness to cooperate” criteria:**

  The cooperation criteria would consider the FTFs' willingness to cooperate with authorities but also to cope with a future disengagement process. It could even start before their prosecution: if, for example, a wanted FTF surrenders to the police, he should not be considered in the same way as someone who is hiding.

  Individuals considered as low-risks profiles because of their limited radicalisation and their absence of participation in criminal actions could be host in FTF deradicalisation center,
although authorized to receive supervised visits from their family members. The stay in this center should be considered as a transition between war zone and home society, during which deradicalisation process and rehabilitation support could be conducted.

Considered dangerous individuals must be held in a closed detention facility before trial. In that case, they should be separated from other detainees, particularly those who already show signs of radicalisation, as long as a real isolation between these two categories can be guaranteed. Thus, the importance of common standards as precise as possible to evaluate the level of threat is apparent. There is a need to ensure that no potentially dangerous returnee stays below the radars of anti-terrorist because of a shallow evaluation of its hazard profile by its European state of origin.

**Recommendation 3: Adapt the detention response to the FTF challenge and promote necessary alternatives to prison:**

Outcomes of the risk assessment for a returnee are either preventive detention or restricted freedom of movement via prohibition to leave the country or house arrest. Then some returnees may be prosecuted and face prison terms. Thus, numerous returned FTF might be incarcerated, despite the fact that jail is a fertile soil for radicalisation. It is therefore important to adapt prison to FTF specific case to prevent radicalisation and to foster disengagement. For this purpose, it is necessary to separate FTF detainees from other detainees in order to avoid radicalisation spreading and formation of criminal networks. The more dangerous profiles - as well as unstable traumatised detainees - should be placed in solitary confinement when possible to break the group strength. At the same time, a special attention will be paid to the risk of FTF “heroisation” by other detainees because of their special status in prison. Returnees should be able to receive special medical and social aftercare brought by trained specialists, such as psychologists in preparation of their disengagement and release. Round of meetings with radicalisation experts and/or imams for still radicalised FTF in order to proceed to disengagement have to be organised inside prison.

Solutions outside penitentiaries have as well to be designed to offer alternatives which could foster disengagement and social reintegration. Those solutions concern only returnees with a low risk assessment as well as traumatised individuals who should be held in psychiatric hospital when necessary and possible. For the disengaged returnees, the solution of probation and the use of electronic bracelet may facilitate their social reintegration.
Recommendation 4: Provide an appropriate medical assistance to traumatised returnees:

The psychomedical aspect of the returning FTF issue should be more than ever taken into account. As the fights on the ground intensified in both Syria (since mid-2015 and the heavy involvement of the Russian army) and Iraq (with the capture of vast territories under jihadist group control and the besieging of Mosul), it is likely than a large number of recent returnees and of those who will return in the next months have been caught into violent combats. Those who have been involved in fighting as well as those who have witnessed shelling or been exposed and/or involved into gruesome criminal acts towards civilians or fighters, went through traumatic experiences. They are thus likely to suffer from PTSD, a condition that can emerge when one experiences a disillusion about its preexisting perception of himself and the world. This disillusion is the result of a trauma harming "the perception of the world as meaningful", the "positive view of self" and highlights one’s "personal vulnerability". The manifestations of these syndromes, which can take the form of a numbing of interest and affect, a hypervigilance or irritability, can make the individual a potential danger for himself and its surrounding. It would be necessary to evaluate, in each returnee's case, beyond the likeliness of a relapse into violent activism, its propensity to develop and maintain such syndrome, which can also affect its potential social reintegration.

Recommendation 5: Give close attention to the issue of returned children:

The case of traumatised children should also be a main point of attention and be addressed with adequate methods. Numerous children accompanying relatives who took part into the activities of radical Islamic groups abroad or went to live on the territories under their control may have witnessed brutal violations of human rights. They may also have been indoctrinated with radical social and religious concepts and trained for the purpose of committing terror attacks or to become child soldiers. Special deradicalisation and reintegration programmes, relying on education and behavioral therapies must be designed and applied to them.

282 Ibid.
283 Such methods can be inspired from the international organisations programmes of rehabilitating child soldiers or from rehabilitation program of criminal adolescents, such as the "Just Community Approach", designed by Lawrence Kohlberg. This method aims to foster the reintegration of young offenders by building a moral capacity through principles of democracy and justice. J. DIONNE, « L’intervention cognitive-développementale auprès des adolescents délinquants », Criminologie, vol. 29, n°1, 1996, p. 14.
**Recommendation 6: Develop actions in the field of disengagement and social reintegration:**

In each situation, the opportunity of deradicalisation and/or rehabilitation support should be offered to individuals, as well as psychological care and religious counselling. Social workers, psychologist and religious counsellors, as well as trained personnel of specialised NGOs could be involved. The participation of associations of terrorism victims, as in the French prevention of radicalisation initiative, could be an example of such NGOs. Returnees’ families should be part of reintegration programmes as well. Along with the NGOs, they should represent a bridge between the individual and the home society he/she tries to reintegrate. The NGOs involved must help the returnees build a professional project in line with their initial ambition and could offer to disengaged returnees possibilities of social engagement.

Reintegration programmes relying on a comprehensive approach, such as those proposed by the municipality of Aarhus or in Germany by the Hayat initiative, are particularly interesting models. Rehabilitating those individuals into society through professional and social reintegration should be at the core of any programme seeking to address the FTF issue, outside or in an association with a framework of administrative measures or reduced criminal measures. It can be useful, for political and administrative executives of the countries implementing or seeking to implement such comprehensives methods, to stress out to their citizens that social reinsertion does not necessarily imply a greater vulnerability to terrorist attacks, neither an absolution for the criminal activities of foreign terrorist fighters.

Preparing the society for the reintegration of returnees may be an important factor of efficiency, as a better consideration from the society is likely to enhance the moral capacity of former criminal and radicalised individuals. On the other hand, racial, cultural social or religious reject, which in a lot of cases have been a factor of radicalisation, should be prevented as much as possible to avoid the jeopardizing of the whole reinsertion process.

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General Conclusion

Finally, this report presented several relevant findings of the working group on the implementation of policies in the studied countries concerning FTF. This was made despite the difficulties in obtaining information on this emerging issue and comparing implemented policies in different cultural environments.

First of all, the response to the phenomenon of returnees has been above all repressive in every studied country, mainly relying on criminal laws and administrative measures. Indeed, the use of these measures allows authorities to provide a short term solution to the assumed threat represented by a returning terrorist fighter for his/her home society. Thus, the widespread use of repressive measures is the main common point of the studied states’ policies.

However, the limits associated to the implementation of these short-term measures and the various cases gathered behind the returnees’ notion require the design of non-repressive measures. It is in this field that a differentiation can be made between the policies implemented by the studied states. Indeed, only two countries (Denmark and Germany) have developed programmes dealing with returning terrorist fighters. Some countries intend to design such programmes from their experiences in the prevention of violent radicalisation. Nevertheless, others favour a mainly repressive response, excluding the use of deradicalisation and rehabilitation measures for returnees. This diversity of cases is above all the result of historical and cultural differences between countries, notably in the judicial field. The lack of knowledge on the efficiency of disengagement, deradicalisation and rehabilitation measures is another reason of these differences.

In the light of these observations, it is difficult to present the best and worst cases and therefore to draw up recommendations applicable to each Member State of the Council of Europe. Indeed, cultural differences are very important among its 47 Member States. However, by taking inspiration of the existing international cooperation engaged in this field, this working group drafted some general recommendations that may guide CoE member states in their attempts to address the FTF challenge.
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### APPENDICES

Table 1: Legal framework and relevant criminal law provisions for each studied country

<table>
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<tr>
<th>Country</th>
<th>Provisions</th>
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| Belgium | - Articles 137,138,139,140,141 of the **Belgian Criminal Code**  
- **Law of the 03/06/2016** |
| Denmark | - Chapter 13 of the **Danish Criminal Code**  
- **Article 114 d** of the Danish Criminal Code |
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- Sections 134a, 140a of the Dutch Penal Code |
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- Amendment to the Anti-Terrorism Law of 2006  
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| Turkey  | - Articles 1,2,59,63,68 of the **Counter-Terrorism Law n°3713**  
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- **Turkish Criminal Code n°9237** |
| United Kingdom | - **Terrorism Act of 2000**  
- Sections 5,6,8 of the Terrorism Act of 2006  
- **Section 81 of the Serious Crime Act** |
Table 2: Main charges for terrorist activities in studied countries

<table>
<thead>
<tr>
<th>Possession, Search, Procurement or Manufacture of articles likely to create a danger to others</th>
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<tr>
<td>Participation to the activities of a terrorist group</td>
<td>🇧🇪 🇳🇴 🇩🇪 🇬🇧 🇳🇱 🇷🇺</td>
</tr>
<tr>
<td>Providing a training to commit terrorist crimes</td>
<td>🇧🇪 🇳🇴 🇩🇪 🇬🇧 🇳🇱 🇷🇺</td>
</tr>
<tr>
<td>Receiving a training to commit terrorist crimes</td>
<td>🇧🇪 🇳🇴 🇩🇪 🇬🇧 🇳🇱 🇷🇺</td>
</tr>
<tr>
<td>Public incitement and Recruitment</td>
<td>🇧🇪 🇳🇴 🇩🇪 🇬🇧 🇳🇱 🇷🇺</td>
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<tr>
<td>Travel with a view to commit terrorist offence</td>
<td>🇧🇪 🇳🇴 🇩🇪 🇬🇧 🇳🇱 🇷🇺</td>
</tr>
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