



Centar za sigurnosne studije - BiH

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***THE RETURN OF THE FOREIGN FIGHTERS AND THEIR FAMILIES
TO THEIR HOMELAND: EXISTING PRACTICES AND
CONSIDERATIONS REGARDING SECURITY AND HUMAN RIGHTS***



2023



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August, 2023

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List of abbreviations

Bosnia and Herzegovina	BiH
Federation of Bosnia and Herzegovina	FBiH
Financial Action Task Force	FATF
Foreign Fighters	FFs
Foreign Terrorist Fighters	FTFs
Global Counter-Terrorism Forum	GCTF
International Criminal Court	ICC
Islamic State of Iraq and Syria	ISIS
Islamic State of Iraq and the Levant	ISIL
Radicalisation Awareness Network	RAN
Republika Srpska	RS
Syrian Democratic Forces	SDF
United Kingdom	UK
United Nations	UN
United Nations Security Council	UNSC



Introduction

The creation of Islamic State of Iraq and Syria (ISIS) has attracted an unprecedented flow of thousands of people from more than 100 countries all over the world to join their cause. After the fall of the so-called caliphate, the countries involved have to deal with the aftermath of the conflict and the future threat of the resurgence of ISIS or other terrorist groups. The people who volunteered and joined ISIS might pose a security threat in the future. This paper aims to examine the different approaches that countries have taken regarding the return of foreign fighters (FFs) and their families who joined ISIS to their homeland. This is a multidimensional and complex matter since it has legal, moral, and political implications, and therefore the decisions in this regard are never unanimous, nor do they come without criticism and opposition.

On the one hand, it would be easier to just leave the FFs and their families there, prosecute them there and incarcerate them there. It would also be easier to collect evidence and to have testimonies of the witnesses and the survivors, and also it would keep the potential security threat away from their homeland. However, this would only be beneficial for the countries of origin and in the short term as it wouldn't solve the problem of radicalization. In fact, it might fuel it even more, and the proximity of the ISIS member in prisons or in camps could benefit them to rebuild their network and plan future attacks. Moreover, leaving them there would be against all human rights norms regarding the death penalty, fair trial, torture, rights of the child, and more.

On the other hand, the return of the fighters and their families could indeed pose a danger to the security of the homeland. Not all of the returnees have committed punishable crimes and for those who have, very often there is not enough admissible evidence to the national courts. In fact, in the case of women and children, the countries are more reluctant to their return because they might have not taken part in the atrocities but that does not mean that they are innocent and bear no responsibility. Complicated is also the case of children and teenagers, some of whom have taken part in the atrocities willingly or unwillingly, some were brought by their families, some traveled alone in order to join ISIS, and some were born under ISIS control and risk statelessness.

In the first chapter, we will present the legal action taken on the international and regional (European) level to tackle the issue of terrorism and to regulate the return of FFs and their families.

Then, we will categorize the suggestions regarding the return of the FFs and their families into four major groups: prosecuting them in Iraq and Syria, prosecuting them in international or hybrid courts, preventing them from returning to their homelands, and repatriating them, prosecuting them in national courts, and reintegrate them.

While the first chapter is more theoretical the second one will focus on the actual practices that five countries followed: France, Germany, the United Kingdom (UK), the United States of America, and Russia. These countries have been selected due to their high number of people who decided to follow ISIS but also due to their political stance. Some demographic data will also be presented in order to understand the actual dimensions of this issue.

Finally, in the third chapter, following a statement the Bosnian Minister of Security made that he would not allow the remaining people (mostly women and children) to return if they pose a security threat, we will discuss what can be done with the women and the children who are left behind and what is the best practice taking into account the complexity of their status and their involvement in criminal acts. Finally, we will present the national legislation that regulates the deprivation of citizenship and other international norms regarding the repatriation of FFs, to reach the conclusion that there is no legal basis for not repatriating the FFs and their families.



The response to terrorism and foreign fighters

In this chapter, we will analyze the measures that have been taken on the international and regional level to combat terrorism, especially related to ISIS. Later we will present the four most common suggestions to deal with FFs: prosecuting them locally in Iraq or Syria, involving the International Criminal Court (ICC), establishing hybrid courts locally, preventing them from returning, and repatriating them and prosecuting them in their home countries.

The International Response

The global community has dealt with the issue of FFs through various counter-terrorism platforms, including the United Nations (UN). In September 2014, the UN Security Council (UNSC) specifically addressed this problem by adopting a binding resolution, Resolution 2178 (2014). This resolution urges UN member states to criminalize traveling or attempting to travel abroad for terrorist purposes, as well as providing or receiving terrorist training.¹ The UN works closely with the Global Counter-Terrorism Forum (GCTF),² and the GCTF has developed international good practices on FFs, which served as inspiration for UNSC Resolution 2178. The implementation of these good practices is followed up by a GCTF Working Group, co-chaired by Morocco and The Netherlands, which also coordinates initiatives to address the issue of FFs.³

In response to the Paris attacks in November 2015, the UN Security Council adopted Resolution 2249 (2015), which calls on member states to intensify their efforts to prevent the flow of foreign terrorist fighters (FTFs) to Iraq and Syria and to combat terrorism financing.⁴ It also called for updates to the 1267 Committee sanctions list to counter the threat posed by

¹ UN Security Council, Security Council resolution 2178 (2014) [on threats to international peace and security caused by foreign terrorist fighters], 24 September 2014, S/RES/2178 (2014), available at: <https://www.refworld.org/docid/542a8ed74.html>

² See <https://www.thegctf.org/>

³ “Foreign fighters – Member State responses and EU action”. *European Parliament* (2016). Available at: <https://www.europarl.europa.eu/EPRS/EPRS-Briefing-579080-Foreign-fighters-rev-FINAL.pdf>

⁴ UN Security Council, Security Council resolution 2249 (2015) [on terrorist attacks perpetrated by ISIL also known as Da'esh], 20 November 2015, S/RES/2249 (2015), available at: <https://www.refworld.org/docid/5656a4654.html>

ISIL (Islamic State of Iraq and the Levant)/Da'esh.⁵ The 1267 Committee sanctions list was originally created in 1999, initially targeting the Taliban in Afghanistan and later expanding to include individuals and entities associated with Al-Qaida. UN Security Council Resolution 2253 (2015) renamed the list as the 'ISIL (Da'esh) and Al-Qaida Sanctions List' to include individuals and entities supporting ISIL/Da'esh.⁶

Article 6 (3) of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict states that parties shall take all feasible measures to ensure that persons within their jurisdiction recruited or used in hostilities contrary to the present Protocol are demobilized or otherwise released from service. States Parties shall, when necessary, accord to such persons all appropriate assistance for their physical and psychological recovery and their social reintegration⁷

Article 39 of the UN Convention on the Rights of the Child (UNCRC) enjoins states to take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.⁸

Although there is no universal age threshold for criminal responsibility, the UN Committee on the Rights of the Child has recommended that this age not be less than 12 years old.⁹

⁵ See

https://www.un.org/securitycouncil/sanctions/1267/iaq_sanctions_list?_gl=1*_1craioc*_ga*_Mjc3NTQyMTYuMTY3MDI3NjI4Mw..*_ga_TK9BQL5X7Z*_MTY4ODk4MjM0NS4xOC4xLjE2ODg5ODI3NDEuMC4wLjA.

⁶ UN Security Council, Security Council resolution 2253 (2015) [on renaming of Al-Qaida Sanctions Committee as "1267/1989/2253 ISIL (Da'esh) and Al-Qaida Sanctions Committee" and the Al-Qaida Sanctions List as "ISIL (Da'esh) and Al-Qaida Sanctions List" and on extension of the mandate of the Office of the Ombudsperson for a period of 24 months from the date of expiration of its current mandate in Dec. 2017], 17 December 2015, S/RES/2253 (2015), available at: <https://www.refworld.org/docid/56ec00684.html>

⁷ UN General Assembly, Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, 25 May 2000, available at: <https://www.refworld.org/docid/47fdfb180.html>

⁸ UN Commission on Human Rights, Convention on the Rights of the Child., 7 March 1990, E/CN.4/RES/1990/74, available at: <https://www.refworld.org/docid/3b00f03d30.html>

⁹ General Comment No 10 (2007), "Children's Rights in Juvenile Justice" CRC/C/GC/10, 25 April 2007, Committee on the Rights of the Child, Forty-fourth session, Geneva, para 32. Available at: <https://www.refworld.org/docid/4670fca12.html>



Regional and EU response

On the regional level, the Council of Europe and the Financial Action Task Force (FATF) have addressed the issue of FFs.¹⁰ In May 2015, the Additional Protocol on FTFs was adopted as part of the 2005 Council of Europe Convention on the Prevention of Terrorism.¹¹ This protocol criminalizes various acts related to terrorism, such as receiving training, traveling abroad for terrorist purposes, and funding such travel.¹² The FATF also revised its Interpretive Note to Recommendation 5 on terrorist financing to incorporate the relevant parts of the UNSC Resolution.¹³

The European Union has a supportive and coordinating role in addressing terrorism-related issues, with the primary responsibility lying with the Member States. FFs have been a top priority for the EU in countering terrorism since mid-2013. In 2013, the EU proposed 22 measures in six priority areas to tackle the problem of FFs, which were endorsed by the Justice and Home Affairs Council. The recognition of ISIL/Da'esh as a significant threat to European security led to the adoption of a specific EU strategy, focusing on counter-terrorism in Syria and Iraq, particularly addressing the issue of FFs.¹⁴ The EU also developed strategic guidelines for legislative and operational planning in the area of freedom, security, and justice, emphasizing the need for cooperation and coordination among relevant agencies like Europol and Eurojust.¹⁵

Moreover, the EU developed a renewed Internal Security Strategy for 2015-2020,¹⁶ prioritizing terrorism, organized crime, and cybercrime as interlinked areas of concern. After the terrorist attacks in Paris in November 2015, EU ministers adopted conclusions focusing on finalizing the EU Passenger Name Record (PNR) Directive, combating firearms trafficking, strengthening border controls, targeting terrorist financing, and improving information-sharing and judicial cooperation and to identify suspicious travel.

¹⁰ "FATF's global efforts on combating terrorist financing". *Financial Action Task Force*. Available at: <https://www.fatf-gafi.org/en/topics/Terrorist-Financing.html> (last accessed 10/7/2023)

¹¹ Council of Europe, Council of Europe Convention on the Prevention of Terrorism, 16 May 2005, ETS No. 196 Available at: <https://www.refworld.org/docid/47fdfaf0d.html>

¹² Council of Europe, Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism, 22 October 2015, ETS No. 217. Available at: <https://rm.coe.int/168047c5ea>

¹³ "Foreign fighters – Member State responses and EU action". *European Parliament* (2016). Available at: <https://www.europarl.europa.eu/EPRS/EPRS-Briefing-579080-Foreign-fighters-rev-FINAL.pdf>

¹⁴ See <https://data.consilium.europa.eu/doc/document/ST-5369-2015-INIT/en/pdf>

¹⁵ Ibid.

¹⁶ See <https://eur-lex.europa.eu/EN/legal-content/glossary/internal-security-strategy-iss.html>

It involves collecting and utilizing passenger data from both intra-EU and extra-EU flights.¹⁷ Conclusions were also adopted on enhancing the criminal justice response to radicalization.¹⁸ In the meantime, member states have developed their own systems. The Schengen Handbook has been updated, and common risk indicators have been formulated to identify returning FFs. However, the use of the Schengen Information System (SIS II)¹⁹ for alerts remains inconsistent among member states. Europol's Focal Point Travellers gathers and shares information on the recruitment and facilitation of travel by suspected individuals.²⁰

Another initiative involves the European Commission Radicalisation Awareness Network (RAN), which collects information on initiatives aimed at addressing FFs. RAN has issued a Declaration of Good Practices to guide engagement with FFs.²¹ It has also been transformed into a Center of Excellence and received €25 million in funding. Efforts to address radicalization on the Internet include the development of counter-narratives, promotion of internet safety education, and dialogue with internet companies. To oversee online content and create counter-narratives, the EU Internet Forum, a public-private partnership, was established.²²

Regarding the criminal justice response, the EU has harmonized its criminal legislation on terrorist offenses through Framework Decision 2002/475/JHA and its amendment.²³ The Commission has proposed a directive to implement relevant UN Security Council Resolutions, the Additional Protocol on FTFs, and the FATF Recommendation.

¹⁷ "EU directive on passenger name record (PNR) data". *Council of the European Union*. Available at: <https://www.consilium.europa.eu/en/policies/fight-against-terrorism/passenger-name-record/> (last accessed 10/7/2023)

¹⁸ "Foreign fighters – Member State responses and EU action". *European Parliament* (2016). Available at: <https://www.europarl.europa.eu/EPRS/EPRS-Briefing-579080-Foreign-fighters-rev-FINAL.pdf>

¹⁹ See <https://www.schengenvisainfo.com/security-system/sis/>

²⁰ "Foreign fighters – Member State responses and EU action". *European Parliament* (2016). Available at: <https://www.europarl.europa.eu/EPRS/EPRS-Briefing-579080-Foreign-fighters-rev-FINAL.pdf>

²¹ "Preventing Radicalization to Terrorism and Violent Extremism: Approaches and Practices". *Radicalization Awareness Network*, 2019 edition. Available at: https://home-affairs.ec.europa.eu/system/files/2021-05/ran_collection_approaches_and_practices_en.pdf

²² See https://ec.europa.eu/commission/presscorner/detail/en/IP_15_6243

²³ European Union: Council of the European Union, Council Framework Decision 2002/475 on Combating Terrorism, 13 June 2002, 2002/475/JHA, available at: <https://www.refworld.org/docid/3f5342994.html>



The EU also engages in cooperation with third countries on the issue of FFs through political dialogues on counter-terrorism. Dialogues have been held with countries such as Tunisia, Turkey, the USA, Saudi Arabia, Russia, Canada, and the UN. Discussions also take place within organizations like Frontex, Eurojust, Europol, and international forums such as the GCTF.²⁴

Different Approaches for the Return of Foreign Fighters

Even though the war in Syria might have come to an end and the Islamic State has been defeated, the problem with the FFs remains as countries still have their nationals in refugee camps or prisons in Syria and Iraq. While the exact number is not clear, it is estimated that there are around 2.000 FFs detained and about 10.000 displaced persons from 60 countries out of Iraq and Syria.²⁵ Countries have been following different approaches to tackle this issue and in this chapter we will present the four, most common, policy trends: locally prosecuting FFs in Syria and Iraq; establishing either an international or a hybrid tribunal to conduct criminal proceedings against them; preventing FFs from coming back to Europe; and repatriating FFs and prosecuting them within the Union's borders. Later on, we will present the approaches of five different countries with a high number of FFs: France, Germany, the UK, the United States of America, and Russia.

1. Locally prosecution of foreign fighters

Given that it is probable that FFs commit their alleged crimes in the conflict areas they travel to, it seems most logical to investigate and prosecute them in the national courts of those countries, as long as the legal proceedings adhere to the principles of the rule of law and human rights. EU member states, such as France,²⁶ have called upon the authorities of these countries to bring FFs before their own courts and hold them accountable for the crimes they have committed during the hostilities.

²⁴ "Foreign fighters – Member State responses and EU action". *European Parliament* (2016). Available at: <https://www.europarl.europa.eu/EPRS/EPRS-Briefing-579080-Foreign-fighters-rev-FINAL.pdf>

²⁵ Ian Moss. "The importance of Detained Fighters and Displaced Persons in Northeast Syria to the future of ISIS - Remarks". *U.S Department of State – Bureau of Counterterrorism. Budapest* (2022). Available at: <https://www.state.gov/the-importance-of-detained-fighters-and-displaced-persons-in-northeast-syria-to-the-future-of-isis/>

²⁶ Matteo Pugliese. "France and Foreign Fighters: The Controversial Outsourcing of Prosecution" *Italian Institute for International Political Studies* (2019). Available at: www.ispionline.it/it/pubblicazione/franceand-foreign-fighters-controversial-outsourcing-prosecution-24666

However, research indicates several issues with these judicial proceedings, including a lack of transparency, the use of the death penalty, widespread torture practices, limited or no access to defense counsel, convictions based on insufficient evidence, and the breakdown of the judiciary systems in Syria and Iraq.²⁷ As a result, it is highly unlikely that FFs and their families would receive a fair trial that upholds the fundamental right of due process in these circumstances.

Conducting trials in proximity to victims, witnesses, and evidence may have practical advantages, but it should not be used as a justification for utilizing local justice systems that fail to uphold due process and violate defendants' rights. EU countries have explored the option of prosecuting detainees in the Kurdish area of Syria, but significant obstacles make this unfeasible. Setting up an international tribunal in Syria would require the consent of the Syrian regime, and relying on the Kurdish authorities would necessitate substantial investment in building up the local justice system and prison infrastructure, which would be politically controversial and face strong opposition from Turkey.²⁸ It is also worth noting that the Kurdish-controlled area in Northern Syria is not a safe place for ISIS members and their families in the sense that because of the conflict between Turkey and the Syrian Democratic Forces (SDF) which causes additional instability in that zone, at least 750 people with links to ISIS managed to escape from the camps where they were being held, sparking fear of re-emergence of ISIS.²⁹

Attention has turned to trying FFs in Iraq, considering two options: prosecuting them within the Iraqi justice system or establishing a tribunal with international involvement. However, Iraq's previous prosecution of foreign individuals, including Europeans, has faced widespread criticism due to issues such as poor prison conditions, limited access to defense lawyers, rushed trials, reliance on confessions without evidence, and torture practices.³⁰

²⁷ Tanya Mehra. "Bringing (Foreign) Terrorist Fighters to Justice in a Post-ISIS Landscape Part I: Prosecution by Iraqi and Syrian Courts". *International Centre for Counter-Terrorism* (2017). <https://www.icct.nl/publication/bringing-foreign-terrorist-fighters-justice-post-isis-landscape-part-i-prosecution>

²⁸ Anthony Dworkin. *Beyond Good and Evil: Why Europe Should Bring ISIS Foreign Fighters Home*. European Council on Foreign Relations Policy Brief (2019). Available at: www.ecfr.eu/publications/summary/beyond_good_and_evil_why_europe_should_bring_isis_foreign_fighters_home

²⁹ Bethan McKernan. "At least 750 Isis affiliates escape Syria camp after Turkish shelling". *The Guardian* (2019). <https://www.theguardian.com/world/2019/oct/13/kurds-say-785-isis-affiliates-have-escaped-camp-after-turkish-shelling>

³⁰ Anthony Dworkin. *Beyond Good and Evil: Why Europe Should Bring ISIS Foreign Fighters Home*. European Council on Foreign Relations Policy Brief (2019). Available at:



The transfer of European nationals to Iraq has been controversial, as it violates the prohibition on transferring individuals to countries with the death penalty.³¹ In addition, Iraq has not criminalized international crimes in its national laws, therefore, Iraqi courts do not possess the authority to handle cases related to genocide, war crimes, or crimes against humanity that occur within its borders. Iraq is not a signatory to the Rome Statute, which establishes the ICC.³²

To avoid this, European countries are considering the creation of special chambers within the Iraqi justice system that exclude capital punishment and adhere to minimum standards of due process. However, challenges remain, including constitutional amendments (Iraq's 2005 constitution states that "special or exceptional courts may not be established"),³³ addressing broader deficiencies in Iraq's justice system and also territorial jurisdiction issues, as only the defendants who have been active in Iraqi territory could be tried.³⁴ If an agreement is reached, European countries would need to provide significant financial contributions, and the issue of prosecuting only fighters raises concerns about the responsibility for women and children affiliated with ISIS.³⁵

2. International or a hybrid tribunal to conduct criminal proceedings

Another possible solution would be to try ISIS members at the ICC for war crimes, crimes against humanity, and genocide. However, as mentioned above, neither Iraq nor Syria are Parties to the Rome Statute, therefore the ICC has no territorial jurisdiction over none of the countries.

www.ecfr.eu/publications/summary/beyond_good_and_evil_why_europe_should_bring_isis_foreign_fighters_home

³¹ "Guide on Article 2 of the Convention – Right to Life". *European Court of Human Rights* (2022). Available at: https://www.echr.coe.int/documents/d/echr/Guide_Art_2_ENG par.79, p.21.

³² "Human Rights in the Administration of Justice in Iraq: Trials under the anti-terrorism laws and implications for justice, accountability and social cohesion in the aftermath of ISIL". *United Nations Assistance Mission for Iraq - Office of the United Nations High Commissioner for Human Rights*, Bagdad (2020). Available at:

https://www.ohchr.org/sites/default/files/Documents/Countries/IQ/UNAMI_Report_HRAAdministrationJustice_Iraq_28January2020.pdf

³³ Anthony Dworkin. "A Tribunal for ISIS Fighters?". *European Council on Foreign Relations* (2019). available at: www.ecfr.eu/article/commentary_a_tribunal_for_isis_fighters

³⁴ Ibid.

³⁵ Anthony Dworkin. *Beyond Good and Evil: Why Europe Should Bring ISIS Foreign Fighters Home*. European Council on Foreign Relations Policy Brief (2019). Available at: www.ecfr.eu/publications/summary/beyond_good_and_evil_why_europe_should_bring_isis_foreign_fighters_home

Under the Rome Statute, the ICC could exercise personal jurisdiction over FFs who are nationals of State Parties to the Statute. However, the information show that ISIS was led mostly by Syrian and Iraqi nationals, thus, the most responsible for heinous crimes, could not be tried.³⁶ Another possibility for the ICC to act would be if the Security Council would make a referral to open an investigation for the Syrian war but China and the Russian Federation vetoed the draft resolution that 65 other countries have supported.³⁷

3. Prevention of return

Several states, including Austria, the Netherlands, Belgium, and the UK, have implemented counterterrorism measures to impede the return of FFs from conflict zones. These measures involve the deprivation of citizenship and the refusal to provide travel documents to their citizens, serving as a punitive action against individuals who have worked against the state's interests and potentially committed acts of terrorism and atrocities. The deprivation of citizenship is also seen as a preventive measure to address security concerns.³⁸ However, the deprivation of citizenship poses many legal and human rights issues and it also raises the question of whether it is efficient, in the sense that the security issues will remain and the ISIS members might take advantage of the post-conflict instability to rebuild their network.³⁹

While various nationality laws outline rules for loss and deprivation of nationality, these measures may have implications under international law. The right to nationality can be found in various international and regional human rights treaties,⁴⁰ such as the 1961 UN

³⁶ “Statement of the Prosecutor of the International Criminal Court, Fatou Bensouda, on the alleged crimes committed by ISIS”. *International Criminal Court – News* (2015). Available at: <https://www.icc-cpi.int/news/statement-prosecutor-international-criminal-court-fatou-bensouda-alleged-crimes-committed-isis>

³⁷ Ian Black. “Russia and China Veto UN Move to Refer Syria to International Criminal Court”. *The Guardian* (2014). available at: <https://www.theguardian.com/world/2014/may/22/russia-china-veto-un-draft-resolution-refer-syria-international-criminal-court>

³⁸ Carlota Rigotti and Julia Zomignani Barboza. *Unfolding the case of returnees: How the European Union and its member States are addressing the return of foreign fighters and their families*. *International Review of the Red Cross* (2021), 103 (916-917), 681–703. Counterterrorism, sanctions and war. doi:10.1017/S1816383121000217

³⁹ Carlota Rigotti and Julia Zomignani Barboza. *Unfolding the case of returnees: How the European Union and its member States are addressing the return of foreign fighters and their families*. *International Review of the Red Cross* (2021), 103 (916-917), 681–703. Counterterrorism, sanctions and war. doi:10.1017/S1816383121000217

⁴⁰ See Universal Declaration of Human Rights, Art. 15, para. 1; International Convention on the Elimination of All Forms of Racial Discrimination, Art. 5, para. d(iii); Convention on the Elimination of All Forms of Discrimination against Women, Art. 9; Convention on the Rights of the Child, Arts 7 and 8; American Convention on Human Rights, Art. 20; European Convention on Nationality, Art. 4 (a); Arab Charter on Human Rights, Art. 24; Covenant on the Rights of the Child in Islam, Art. 7; ASEAN Human Rights Declaration, Art.



Convention on the Reduction of Statelessness which prohibits depriving individuals of their nationality if it renders them stateless,⁴¹ and the Universal Declaration of Human Rights which prohibits arbitrary deprivation of nationality.⁴² The UN Secretary-General's report on Human Rights and Arbitrary Deprivation of Nationality states that deprivation of nationality is not arbitrary if it is lawful, respects due process, serves a legitimate aim, and is necessary and proportionate.⁴³

The regulation of deprivation of nationality currently falls under each country's domestic law. However, concerns arise when countries, such as the UK and the Netherlands,⁴⁴ enact or amend laws that provide broad justifications for stripping someone of their nationality or citizenship. According to the Principles on Deprivation of Nationality as a National Security Measure the States “shall not deprive persons of nationality for the purpose of safeguarding national security”⁴⁵ and if they exceptionally strip a person of their nationality “the exercise of this exception should be interpreted and applied narrowly, only in situations in which it has been determined by a lawful conviction that meets international fair trial standards, that the person has conducted themselves in a manner seriously prejudicial to the vital interests of the state”.⁴⁶ While protecting internal security against the threat posed by returnees may be seen as a legitimate aim, it shifts the responsibility to other governments and raises questions about whether the deprivation of nationality is the least intrusive and necessary means to achieve the desired goal.⁴⁷

18; CIS Convention on Human Rights and Fundamental Freedoms, Art. 24. See Institute on Statelessness and Inclusion. “Draft Commentary to the Principles on Deprivation of Nationality as a National Security Measure” (2020). Available at: https://files.institutesi.org/PRINCIPLES_Draft_Commentary.pdf, pp. 27–28.

⁴¹ Convention on the Reduction of Statelessness (30 August 1961), United Nations, Treaty Series, vol. 989, entered into force on 13 December 1975. Available at: https://www.unhcr.org/ibelong/wp-content/uploads/1961-Convention-on-the-reduction-of-Statelessness_ENG.pdf art.8

⁴² UN General Assembly, Universal Declaration of Human Rights, 10 December 1948, 217 A (III), available at: https://www.ohchr.org/sites/default/files/UDHR/Documents/UDHR_Translations/eng.pdf art. 15

⁴³ Human Rights Council. “Human Rights and Arbitrary Deprivation of Nationality: Report of the Secretary-General” Un Doc. A/HRC/25/28, (2013).

⁴⁴ Christophe Paulussen. “Stripping foreign fighters of their citizenship: International human rights and humanitarian law considerations”. *International Review of the Red Cross* (2021), 103 (916-917), 605–618. Counterterrorism, sanctions and war. doi:10.1017/S1816383121000278 p.617

⁴⁵ “Principles on Deprivation of Nationality as a National Security Measure” Institute on Statelessness and Inclusion (2020) available at: <https://www.institutesi.org/year-of-action-resources/principles-ondeprivation-of-nationality>, p. 9.

⁴⁶ Ibid.

⁴⁷ Carlota Rigotti and Julia Zomignani Barboza. *Unfolding the case of returnees: How the European Union and its member States are addressing the return of foreign fighters and their families*. *International Review of the Red Cross* (2021), 103 (916-917), 681–703. Counterterrorism, sanctions and war. doi:10.1017/S1816383121000217

Depriving FFs of their nationality raises also human rights implications as they risk losing fundamental civil and socio-economic rights and being condemned to civic death. This measure carries the risk of discrimination, as naturalized nationals may have less protection from deprivation of nationality and statelessness compared to those who are nationals by birth.⁴⁸ Moreover, mono-citizens who might have committed similar crimes as those with dual citizenship will face less intrusive punishment, such as a temporary area ban.⁴⁹ Additionally, preventing FFs from returning contradicts the spirit of UN Security Council Resolution 2178 (2014), which focuses on obligations to impede their departure, develop rehabilitation and reintegration strategies, and emphasizes international cooperation to combat the foreign terrorist fighter phenomenon, including cooperation with neighboring states in conflict zones.⁵⁰ Finally, deprivation of Citizenship makes the investigation and prosecution of war crimes more problematic because universal jurisdiction must be applied which is often scarce and complicated.⁵¹

4. Repatriation and Prosecution at the country of origin

What seems to be the best solution is to actively repatriate FFs and their families, ensuring that they face appropriate prosecution, rehabilitation, and reintegration processes. This approach takes into account both long-term security perspectives and human rights concerns for individuals trapped in overcrowded and unsanitary camps or detention facilities in Syria and Iraq.⁵² Syria's camps for refugees and internally-displaced host mostly women and children in extremely poor conditions that could even be life-threatening, especially for the children.⁵³

The EU governments are expected to evaluate each returnee on a case-by-case basis, considering their individual involvement in hostilities and potential responsibility for crimes.

⁴⁸ Ibid.

⁴⁹ Christophe Paulussen. "Stripping foreign fighters of their citizenship: International human rights and humanitarian law considerations". *International Review of the Red Cross* (2021), 103 (916-917), 605–618. Counterterrorism, sanctions and war. doi:10.1017/S1816383121000278 p.611

⁵⁰ UN Security Council, Security Council resolution 2178 (2014) [on threats to international peace and security caused by foreign terrorist fighters], 24 September 2014, S/RES/2178 (2014), Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N14/547/98/PDF/N1454798.pdf?OpenElement>

⁵¹ Christophe Paulussen. "Stripping foreign fighters of their citizenship: International human rights and humanitarian law considerations". *International Review of the Red Cross* (2021), 103 (916-917), 605–618. Counterterrorism, sanctions and war. doi:10.1017/S1816383121000278 p.616

⁵² "Repatriation of 'Foreign Terrorist Fighters' and Their Families Urgently Needed to Safeguard Human Rights and Security, OSCE Human Rights Head Says". OSCE (2020) available at: www.osce.org/odihr/445909

⁵³ "UNICEF Urges Repatriation of All Children in Syria's Al-Hol Camp Following Deadly Fire", *UN News* (2021) available at: <https://news.un.org/en/story/2021/02/1085982>



Many EU governments, including France, Belgium, and Germany, have accepted the responsibility of repatriating children who were taken to the region by their parents or born there.⁵⁴ However, practical challenges arise in verifying the nationality of these children, as their births were often unregistered, leaving them at risk of statelessness. To address the issue of the citizenship of non-registered kids, some countries, such as the UK, Germany, and Belgium, have used DNA tests, usually paid by family members of the child.⁵⁵

Despite the challenges, there is a recognized need to repatriate children from areas controlled by groups like ISIS, as leaving them there could pose future security risks.⁵⁶ However, the position on repatriating mothers varies among countries. Some countries conduct case-by-case assessments, considering factors such as previous convictions or international arrest warrants. While separating children from their mothers by repatriating only the children would violate human rights conventions., when the mother is considered extremely radicalized, separation could be in the best interests of the child.⁵⁷

⁵⁴ Carlota Rigotti and Julia Zomignani Barboza. *Unfolding the case of returnees: How the European Union and its member States are addressing the return of foreign fighters and their families*. International Review of the Red Cross (2021), 103 (916-917), 681–703. Counterterrorism, sanctions and war. doi:10.1017/S1816383121000217

⁵⁵ Tanya Mehra and Christophe Paulussen. *The Repatriation of Foreign Fighters and Their Families: Options, Obligations, Morality and Long-Term Thinking*. International Centre for Counter-Terrorism (2019). <https://www.icct.nl/publication/repatriation-foreign-fighters-and-their-families-options-obligations-morality-and-long>

⁵⁶ Tom Kington. “45,000 Children of Isis ‘Are Ticking Time Bomb’”, *The Times* (2019) available at: www.thetimes.co.uk/article/45-000-children-of-isis-are-ticking-time-bomb-lp0nq9q2m

⁵⁷ Carlota Rigotti and Julia Zomignani Barboza. *Unfolding the case of returnees: How the European Union and its member States are addressing the return of foreign fighters and their families*. International Review of the Red Cross (2021), 103 (916-917), 681–703. Counterterrorism, sanctions and war. doi:10.1017/S1816383121000217

The States' response

In this chapter, we will first present some information regarding the demographic data and later we will move to analyze the approach five countries have followed regarding their FFs: France, Germany, the UK, the United States of America, and Russia. These countries have been chosen because of their large numbers of FFs.

Demographic Data

The majority of Western FFs are believed to come from immigrant families, either born and raised there or born elsewhere but spent most of their lives in the country they have emigrated, and they hold citizenship in the countries they leave.⁵⁸ A study reported that most German nationals who left for Syria or Iraq were considered German either because they were born in Germany or spent a significant amount of time growing up there.⁵⁹ In a Swedish study, 75% of the FFs in their sample were Swedish citizens, but only 34% were born in Sweden.⁶⁰ However, one study found that only 62% of their sample of German FFs had German citizenship, which is relatively high compared to the general immigrant population in Germany.⁶¹ In Italy, only 19.2% of FFs were citizens (11.2% had an Italian passport and 8% had dual citizenship).⁶²

The levels of residency and citizenship, which are relatively consistent and high, are sometimes considered as indicators of integration. Therefore, the findings suggest that the "degree of integration" may not be a significant factor in determining who joins foreign conflicts.

⁵⁸ Lorne L. Dawson. "A Comparative Analysis of the Data on Western Foreign Fighters in Syria and Iraq: Who Went and Why". *International Center for Counter-Terrorism*. (2021). Available at: <https://www.icct.nl/sites/default/files/2022-12/Dawson-Comparative-Analysis-FINAL-1.pdf>

⁵⁹ Hellmuth Dorle. "Of Alienation, Association, and Adventure: Why German Fighters Join ISIL." *Journal of Deradicalization* (2016), pp. 24-50.

⁶⁰ Gustafsson, Linus and Magnus Ranstorp. "Swedish Foreign Fighters in Syria and Iraq: An Analysis of Open-Source Intelligence and Statistical Data." *Center for Asymmetric Threat Studies, Swedish Defence University*. (2017). Available at: <http://www.diva-portal.org/smash/record.jsf?pid=diva2%3A1110355&dswid=-450>.

⁶¹ Reynolds, Sean C. and Mohammed M. Hafez. "Social Network Analysis of German Foreign Fighters in Syria and Iraq," *Terrorism and Political Violence* 31, No. 4 (2019), pp. 661-686

⁶² Marone, Francesco and Lorenzo Vidino. "Destination Jihad: Italy's Foreign Fighters." *International Centre for Counter-Terrorism*, (2019). Available at: <https://icct.nl/publication/destination-jihad-italys-foreign-fighters/>.



This is also obvious from the case of Bosnia and Herzegovina (BiH), where not all FFs were Bosnian citizens by birth (there were some from Slovenia, Croatia, Serbia, and Northern Macedonia)⁶³ and the total number of people who left (including women and children) is believed to be more than 300.⁶⁴ Of them 80 have returned, 90 are believed to be still in Iraq and Syria, and approximately 130 are believed to be dead.⁶⁵

The citizenship status of the returned fighters and their families seems to be an important factor in the approach the countries will follow. More specifically, we will see in the following chapters that individuals with dual citizenship or even heritage from more than one country, are usually the ones that are not allowed to return or are even stripped of their citizenship. When the decision is about children then the matter is more complicated since the balance between the best interest of the child and homeland security is conflicting. In addition, not only it is very challenging to gather evidence about the participants in battles and hostilities, but when children are involved, there is the legal and moral dilemma of whether they are victims or perpetrators or both.

France

France has faced significant challenges in dealing with the return of FFs, including men, women, and children, who left the country to join terrorist organizations abroad. Over the past decade, a considerable number of French individuals, approximately 1.900, traveled to conflict zones such as Syria and Iraq to join groups like ISIS. France is the EU country with the highest number of FFs.⁶⁶ However, the issue of repatriating and reintegrating these individuals has been complex and multifaceted.

According to the research conducted by the European Parliament Research Service, it was found that out of the approximately 1,910 individuals who left France, 225 had come

⁶³ Vlado Azinović and Muhamed Jusić. “The new lure of the Syrian war – the foreign fighters’ Bosnian Contingent”. *Atlantic Initiative*, Sarajevo (2016). Available at: <https://atlanticinitiative.org/new-atlantic-initiative-research-the-lure-of-the-syrian-war-the-foreign-fighters-bosnian-contingent-2/> p.22

⁶⁴ “Disengagement, Rehabilitation and Reintegration of Foreign Terrorist Fighters.” Country Report/ Bosnia and Herzegovina. *Center for Security Studies* (2022). Available at: <https://drive-ontherightpath.eu/wp-content/uploads/2022/05/drive-report-bosnia-23-05-2022.pdf>

⁶⁵ Ibid.

⁶⁶ “How many IS foreign fighters are left in Iraq and Syria?” *BBC* (2019). Available at: <https://www.bbc.com/news/world-middle-east-47286935>

back by late February 2018, resulting in a return rate of 12%.⁶⁷ The proportion of women among those who returned was significantly higher compared to those who had left. Among the departees, only around 17% were women (320 out of 1,910), whereas the data from February 2018 indicated that approximately 72 out of the 256 returnees were women (28%).⁶⁸ Similar findings were reported by other sources, indicating that a total of 302 fighters had returned to France in 2018.⁶⁹

The French government has discretion in determining whether to repatriate individuals, and this decision can depend on factors such as the level of involvement in terrorist activities, potential security risks, and the availability of evidence for prosecution. The government has also considered the situation of vulnerable individuals, particularly children, who may have been taken to conflict zones against their will or exposed to radicalization.⁷⁰

The general strategy employed by French authorities to address the issue has largely involved using repressive tactics. The extensive powers granted by French legislation to law enforcement, intelligence agencies, and investigative magistrates enable authorities to aggressively pursue individuals who aspire to join or have returned from fighting in foreign conflicts, as well as those who recruit or facilitate their activities. However, the difficulty in obtaining solid evidence from the battlefield poses a significant challenge to the prosecution of these individuals.⁷¹

Preventive measures before individuals leave the country involve employing criminal measures. The French authorities have traditionally taken a strong and prosecution-oriented approach to combat terrorism-related activities. Individuals engaged in terrorism-related activities, including those intending to travel abroad to become FFs, are charged under general criminal laws with enhanced penalties or under specific statutes such as conspiracy

⁶⁷ Matteo Pugliese. "France and Foreign Fighters: The Controversial Outsourcing of Prosecution" *Italian Institute for International Political Studies* (2019). Available at: www.ispionline.it/it/pubblicazione/franceand-foreign-fighters-controversial-outsourcing-prosecution-24666

⁶⁸ Ibid.

⁶⁹ Ibid.

⁷⁰ "Foreign fighters – Member State responses and EU action". *European Parliament* (2016). Available at: <https://www.europarl.europa.eu/EPRS/EPRS-Briefing-579080-Foreign-fighters-rev-FINAL.pdf>

⁷¹ "Foreign Fighters: An Overview of Responses in Eleven Countries". *Center for Security Studies (CSS)*, ETH Zurich (2014). Available at: https://css.ethz.ch/content/dam/ethz/special-interest/gess/cis/center-for-security-studies/pdfs/Foreign_Fighters_2014.pdf



for terrorism purposes.⁷² These cases are handled by specialized judges using a special legal procedure.⁷³

Additionally, a law passed by the French parliament in December 2012 expanded the authority of investigative judges to prosecute individuals specifically for their participation in training camps abroad.⁷⁴

In France, the revocation of nationality has previously been restricted to French citizens who have acquired their citizenship and hold dual nationality. However, after the November 2015 attacks, there has been a discussion about extending this possibility to individuals born in France who also have dual nationality. In February 2016, the lower house of the French Parliament backed a proposed change to the Constitution regarding this matter.⁷⁵ Today revocation of nationality is possible if a person is convicted for a crime or an offense that are considered acts of terrorism, under the condition that the person is not of French origin and has dual nationality and will not be stateless.⁷⁶

It is worth mentioning that the French government's approach to repatriation and the treatment of FFs has been a subject of debate and public opinion in France. Balancing national security concerns with legal and humanitarian considerations has posed significant challenges, and the government's decisions have been met with both support and criticism from various quarters. From one hand the fear of well-trained veteran jihadists is justified, keeping in mind that the attacks in Charlie Hebdo were committed by individuals who received terrorist training in Yemen while some of the other Paris attacks in 2015 have been committed by returnees.⁷⁷

⁷² “Foreign fighters – Member State responses and EU action”. *European Parliament* (2016). Available at: <https://www.europarl.europa.eu/EPRS/EPRS-Briefing-579080-Foreign-fighters-rev-FINAL.pdf>

⁷³ “Foreign Fighters: An Overview of Responses in Eleven Countries”. *Center for Security Studies (CSS)*, ETH Zurich (2014). Available at: https://css.ethz.ch/content/dam/ethz/special-interest/gess/cis/center-for-security-studies/pdfs/Foreign_Fighters_2014.pdf

⁷⁴ Ibid.

⁷⁵ “Foreign fighters – Member State responses and EU action”. *European Parliament* (2016). Available at: <https://www.europarl.europa.eu/EPRS/EPRS-Briefing-579080-Foreign-fighters-rev-FINAL.pdf>

⁷⁶ “Cancelation, withdrawal or revocation of French nationality.” *Service-Public.fr* (2023). Available at: <https://www.service-public.fr/particuliers/vosdroits/F32827?lang=en> (last accessed 6/7/2023)

⁷⁷ “Foreign fighters – Member State responses and EU action”. *European Parliament* (2016). Available at: <https://www.europarl.europa.eu/EPRS/EPRS-Briefing-579080-Foreign-fighters-rev-FINAL.pdf>

On the other hand, asking from Iraq to prosecute French nationals, some of which later got sentenced to death without any intervention from the French diplomatic mission, is against International and European norms regarding the human rights.⁷⁸

Overall, France has employed a mixed approach in allowing the return of some FFs and their families, considering factors such as national security, legal considerations, and the best interests of individuals involved.

The government has pursued legal proceedings for those involved in terrorism, while also making efforts to repatriate and reintegrate individuals, especially vulnerable children, on a case-by-case basis.

Germany

German citizens and residents have previously participated in foreign conflicts, but the involvement of individuals in the Syrian civil war is unprecedented. As of July 2016, German authorities estimate that there are more than 850 German militants in Syria or Iraq, 79% men and 21% women, of which 267 are known to have children but it is unclear how many of the children traveled with their parents to Iraq or Syria.⁷⁹ From the departees about 140 are believed to have been killed during the conflict.⁸⁰ More recent studies suggest that the number of the German citizens who joined jihadist organizations like ISIS are more than 1.150.⁸¹ This phenomenon has raised concerns among authorities, with former Minister of Interior Hans-Peter Friedrich stating that returnees from Syria, who have received training in dangerous activities, are like "ticking time bombs."⁸²

Germany's approach to addressing this issue combines repression and prevention. Prosecutions are pursued when sufficient evidence is available, and various administrative

⁷⁸ Matteo Pugliese. "France and Foreign Fighters: The Controversial Outsourcing of Prosecution" *Italian Institute for International Political Studies* (2019). Available at: www.ispionline.it/it/pubblicazione/franceand-foreign-fighters-controversial-outsourcing-prosecution-24666

⁷⁹ Daniel H. Heinke. "Foreign Terrorist Fighters: German Islamists in Syria and Iraq and What Can be Done about Them". George C. Marshall – European Center for Security Studies (2016). Available at: <https://www.marshallcenter.org/en/publications/security-insights/foreign-terrorist-fighters-german-islamists-syria-and-iraq-and-what-can-be-done-about-them-0#toc-about-the-author->

⁸⁰ Ibid.

⁸¹ Alexander Schiele and Sofia Koller. "Holding Women Accountable: Prosecuting Female Returnees in Germany". *Combating Terrorism Center CTC Sentinel*, vol.14 issue 10 (2021). Available at: <https://ctc.westpoint.edu/holding-women-accountable-prosecuting-female-returnees-in-germany/> p.38-50

⁸² "Foreign Fighters: An Overview of Responses in Eleven Countries". *Center for Security Studies* (CSS), ETH Zurich (2014). Available at: https://css.ethz.ch/content/dam/ethz/special-interest/gess/cis/center-for-security-studies/pdfs/Foreign_Fighters_2014.pdf



measures have been implemented to prevent individuals from traveling. Additionally, several initiatives focused on counter-radicalization aim to engage young people and their families both before and after their travel to conflict areas.

Regarding measures before departure, German law was amended in 2015 in order to explicitly criminalize traveling to a conflict zone.⁸³ Engaging in terrorist activities during the conflict was considered a punishable offense even before the amendment.

Similar to individuals who attempted to join al-Qaeda-affiliated groups in the past, German citizens and residents can be charged under Section 129a of the German Criminal Code, which punishes acts related to forming, participating in, and supporting terrorist organizations.⁸⁴

Non-criminal measures include the establishment of a "travel disruption plan" aimed at preventing aspiring FFs from leaving the country. German security services frequently approach individuals suspected of planning to travel through "hazard talks," informing them that their plans are known and reminding them of the consequences.⁸⁵ Authorities also notify the police, city councils, and offices for foreigners about specific cases, providing them with the means to prevent individuals from traveling. German citizens can have their passports confiscated if they pose a security threat, while non-German citizens receive an order not to leave Germany since their passports cannot be confiscated.⁸⁶

Counter-radicalization initiatives, often implemented at the state level, are also part of Germany's strategy. For example, authorities visit schools to educate students about the negative consequences of traveling to Syria, implement early warning systems to prevent

⁸³ Jan Raudszus. "The Strategy of Germany for Handling Foreign Fighters". *Italian Institute for International Political Studies* (2020). Available at: <https://www.ispionline.it/en/publication/strategy-germany-handling-foreign-fighters-24761>

⁸⁴ German Criminal Code in the version published on 13 November 1998 (Federal Law Gazette I, p. 3322), as last amended by Article 2 of the Act of 22 November 2021 (Federal Law Gazette I, p. 4906). "Section 129a – Forming terrorist organization". Available at: https://www.gesetze-im-internet.de/englisch_stgb/englisch_stgb.html (last accessed 6/7/2023)

⁸⁵ "Foreign fighters – Member State responses and EU action". *European Parliament* (2016). Available at: <https://www.europarl.europa.eu/EPRS/EPRS-Briefing-579080-Foreign-fighters-rev-FINAL.pdf>

⁸⁶ Daniel H. Heinke. "Foreign Terrorist Fighters: German Islamists in Syria and Iraq and What Can be Done about Them". George C. Marshall – European Center for Security Studies (2016). Available at: <https://www.marshallcenter.org/en/publications/security-insights/foreign-terrorist-fighters-german-islamists-syria-and-iraq-and-what-can-be-done-about-them-0#toc-about-the-author->

travel, and establish hotlines and counseling centers for parents.⁸⁷ Programs like HAYAT, run by the Centre for Democratic Culture in Berlin, act as a bridge between families and authorities, offering counseling to those affected by individuals planning to go to or returning from Syria.⁸⁸ The Federal Office for Migration and Refugees (BAMF) supports initiatives like the "Initiative Sicherheitspartnerschaft" and the "Beratungsstelle Radikalisierung" in partnership with security agencies and representatives from the Muslim community.⁸⁹ Furthermore, cities such as Bonn, Bochum, and Düsseldorf plan to implement the "Wegweiser" (guideposts) program, which involves local Muslim community experts and social workers serving as liaisons to detect and prevent radicalization at an early stage, supporting young adults, parents, teachers, and other affected individuals.⁹⁰

In recent debates, the focus has shifted to how to handle women involved in terrorist activities, as courts overwhelmingly sentence men. Initially, women who were engaged in activities like household chores within the IS caliphate were not prosecuted as supporters of a terrorist organization. However, this has changed, and there is an increasing trend of prosecuting women and viewing them as a threat to society in Germany. In June 2018, Germany's highest court decided that certain acts by women can be considered actual support of a foreign terrorist organization and are punishable by law.⁹¹ Active roles such as being part of the religious police or serving as propagandists for IS are considered active support. In cases where such direct involvement is absent, authorities may refer to humanitarian law, such as living in houses seized from forcibly removed ethnic groups.⁹²

⁸⁷ Benjamin Weinthal, "The German jihadists' colony in Syria", *The Long War Journal*, (2013). Available at: https://www.longwarjournal.org/archives/2013/12/the_german_jihadists.php (last accessed 6/7/2023)

⁸⁸ Daniel Köhler. "Family Counseling as Prevention and Intervention Tool Against 'Foreign Fighters': The German 'Hayat' Program", *Journal EXIT-Deutschland*, Issue 3, 2013. Available at: https://www.researchgate.net/publication/344395571_Family_Counselling_as_Prevention_and_Intervention_Tool_Against_'Foreign_Fighters'_The_German_'Hayat'_Program

⁸⁹ "The Advice Center for Radicalization". *Federal Office for Migration and Refugees (BAMF)*. Available at: <https://www.bamf.de/EN/Behoerde/Beratungsstelle/beratungsstelle-node.html;jsessionid=5A4E9F616341296A853E2CFACDF5EA9A.internet272> (last accessed 6/7/2023)

⁹⁰ "Foreign Fighters: An Overview of Responses in Eleven Countries". *Center for Security Studies (CSS)*, ETH Zurich (2014). Available at: https://css.ethz.ch/content/dam/ethz/special-interest/gess/cis/center-for-security-studies/pdfs/Foreign_Fighters_2014.pdf. For the program see: <https://www.wegweiser.nrw.de/>

⁹¹ Alexander Schiele and Sofia Koller. "Holding Women Accountable: Prosecuting Female Returnees in Germany". *Combating Terrorism Center CTC Sentinel*, vol.14 issue 10 (2021). Available at: <https://ctc.westpoint.edu/holding-women-accountable-prosecuting-female-returnees-in-germany/> p.38-50

⁹² Erin Marie Saltman and Melanie Smith. "Till Martyrdom Do Us Part': Gender and the ISIS Phenomenon," *Institute for Strategic Dialogue*, (2015). Available at: https://www.isdglobal.org/wp-content/uploads/2016/02/Till_Martyrdom_Do_Us_Part_Gender_and_the_ISIS_Phenomenon.pdf



This legal shift reflects the recognition that female IS members are not merely followers of men but can be highly indoctrinated self-propelled extremists who actively fulfill their assigned roles within the organization's worldview, sometimes involving acts of violence.⁹³

One specific case occurred in late 2018 when Jennifer W., a 27-year-old woman, was indicted by Germany's federal attorney for supporting a terrorist organization and violating international law. According to the prosecution, she was a member of the IS-religious police in Falluja and Mosul.

Additionally, it is alleged that she and her husband purchased a 5-year-old girl from the slave market and allowed her to die from thirst and exposure after she wet the bed.⁹⁴

Despite acknowledging the right of every citizen to return to Germany, the country is hesitant to actively repatriate its FTFs. The Federal Ministry of the Interior stated that active repatriation would require consular access, which is not possible in Syria and territories controlled by the Kurdish authorities. This lack of consular assistance effectively withholds this "basic right" for FTFs. Currently, German authorities are focusing on prosecuting FTFs within the country rather than actively repatriating them. The German Federal Foreign Intelligence Service is conducting interrogations of FTFs in Kurdish detention centers. Most investigations revolve around FTFs' affiliation with terrorist organizations, which is punishable under Art. 129a and 129b of the German Criminal Code. There are also considerations of prosecuting FTFs under the German Code of Crimes against International Law for potential war crimes.⁹⁵

Regarding the deprivation of citizenship, in April 2019 the National Act was reformed and the new provision aims to introduce citizenship forfeiture if an individual possesses a second nationality, is of legal age, and participates in combat operations abroad for a terrorist

⁹³ Alexander Schiele and Sofia Koller. "Holding Women Accountable: Prosecuting Female Returnees in Germany". *Combating Terrorism Center CTC Sentinel*, vol.14 issue 10 (2021). Available at: <https://ctc.westpoint.edu/holding-women-accountable-prosecuting-female-returnees-in-germany/> p.38-50

⁹⁴ Joana Cook and Gina Vale. "From Daesh to diaspora. Tracing the women and minors of Islamic State". *International Centre for the Study of Radicalisation*, London (2018). Available at: https://icsr.info/wp-content/uploads/2018/07/Women-in-ISIS-report_20180719_web.pdf

⁹⁵ Kilian Roithmaier. "Germany and its Returning Foreign Terrorist Fighters: New Loss of Citizenship Law and the Broader German Repatriation Landscape". *International Center for Counter Terrorism* (2019). Available at: <https://www.icct.nl/publication/germany-and-its-returning-foreign-terrorist-fighters-new-loss-citizenship-law-and>

“militia.”⁹⁶ The definition of a “militia” in this context refers to a paramilitary, organized armed group attempting to overthrow a state in violation of international law to establish an alternative state or state-like structures. The law will only apply to future FTFs and won't have retrospective effect. A potential challenge with the new provision is that FTFs may not have strong ties to a second nationality's state, making it uncertain if that state will take responsibility for them after losing German citizenship. This provision might apply to German FTFs who remain at large if they engage in future combat operations. From 2017 sources the estimated number of returned fighters is around 300.⁹⁷ There is no information regarding the number of people who lost their citizenship under this provision.

The United Kingdom

British citizens and residents have been participating in various conflicts in recent years, but the number of individuals involved in the Syrian conflict is unprecedented. It is estimated that approximately 900 individuals with links to the UK have traveled to Iraq and Syria.⁹⁸ About half of them did not return home but only a few of them are confirmed to be in camps or prisons.⁹⁹ According to Save the Children, in 2020 there were 60 British children in camps, many under the age of five.¹⁰⁰ Women are believed to be around 20, and the number of men is unknown.¹⁰¹

To address this issue, the general approach taken by Britain has been to use a combination of preventive and repressive measures to prevent individuals from traveling to Syria and other conflict zones.

⁹⁶ The Federal Government “German passport can be revoked” (2019). Available at: <https://www.bundesregierung.de/breg-en/service/archive/german-passport-can-be-revoked-1597456#:~:text=Reform%20of%20Nationality%20Act%20German%20passport%20can%20be%20revoked&ext=Under%20the%20new%20provision%2C%20German,will%20lose%20their%20German%20citizenship.> . (last accessed 17/7/2023).

⁹⁷ Meghan Benton and Natalia Banulescu-Bogdan. “Foreign Fighters: Will Revoking Citizenship Mitigate the Threat?”. *The online Journal of the Migration Policy Institute* (2019). Available at: <https://www.migrationpolicy.org/article/foreign-fighters-will-revoking-citizenship-mitigate-threat>

⁹⁸ Jonathan Hall KC. “Returning from Islamic State: Risk and Response” (speech at King’s College London, 2023). Available at: <https://terrorismlegislationreviewer.independent.gov.uk/wp-content/uploads/2023/02/KCL-Speech-final1.pdf>.

⁹⁹ Ibid.

¹⁰⁰ “Islamic State: British child rescued from Syria, foreign secretary says”. *BBC* (2020). Available at: <https://www.bbc.com/news/uk-54174367>. Last accessed (7/7/2023)

¹⁰¹ Jonathan Hall KC. “Returning from Islamic State: Risk and Response” (speech at King’s College London, 2023). Available at: <https://terrorismlegislationreviewer.independent.gov.uk/wp-content/uploads/2023/02/KCL-Speech-final1.pdf>.



The British legal system provides several legal tools to address this problem, but like other countries, gathering evidence from the battlefield poses challenges to prosecution efforts. The extensive counter-radicalization structure established nearly a decade ago has largely been redirected to confront the threat posed by FFs.¹⁰²

Before individuals depart for Syria, both criminal and non-criminal measures are employed. Those who commit crimes, whether ordinary or related to terrorism, with the intent to travel abroad for fighting purposes, are prosecuted. The number of preventive arrests for terrorism offenses related to Syria has significantly increased in the early weeks of 2014.¹⁰³

For instance, in February of that year, two women were arrested at Heathrow Airport while en route to Turkey. They were found in possession of €20,000 and were charged with the offense of "trying to make money available for another, knowing or having reason to suspect it would be used for the purposes of terrorism."¹⁰⁴

Non-criminal measures have also been implemented since the early 2000s as part of Britain's extensive counter-radicalization structure. These measures aim to prevent individuals from radicalizing and include various strategies to empower and build resilience against extremist messages. The *Prevent* strategy, for instance, employs initiatives such as *Channel*, a localized intervention program that offers tailored interventions, often involving mentoring schemes, to steer individuals away from extremism.¹⁰⁵ In recent months, these measures have been intensified to specifically target aspiring FFs.¹⁰⁶

Regarding individuals who return from Syria, it is not inherently illegal to travel there.¹⁰⁷ Instead, authorities focus on determining the activities each individual has engaged in while in Syria and whether those actions violate the country's Terrorism Act, which

¹⁰² "Foreign Fighters: An Overview of Responses in Eleven Countries". *Center for Security Studies (CSS)*, ETH Zurich (2014). Available at: https://css.ethz.ch/content/dam/ethz/special-interest/gess/cis/center-for-security-studies/pdfs/Foreign_Fighters_2014.pdf. For the program see: <https://www.wegweiser.nrw.de/>

¹⁰³ Ibid.

¹⁰⁴ Adam Withnall. "British student Nawal Msaad charged with aiding Syrian terrorists 'was caught smuggling €20,000 in her knickers.'" *The Independent*, (2014). Available at: <https://www.independent.co.uk/news/uk/crime/british-student-nawal-msaad-charged-with-aiding-syrian-terrorists-was-caught-smuggling-eu20-000-in-her-knickers-9082663.html>. (last accessed 7/7/2023)

¹⁰⁵ Lorenzo Vidino and James Brandon. "Countering Radicalization in Europe" *International Centre for the Study of Radicalization and Political Violence, King's College London* (2012). Available at: <https://icsr.info/wp-content/uploads/2012/12/ICSR-Report-Countering-Radicalization-in-Europe.pdf>

¹⁰⁶ Ibid.

¹⁰⁷ "Foreign Travel Advice – Syria". *GOV.UK* Available at: <https://www.gov.uk/foreign-travel-advice/syria/terrorism> (last accessed 7/7/2023)

encompasses being involved in the commission, preparation, or instigation of acts of terrorism.¹⁰⁸ Certain provisions of the Terrorism Act, such as Section 6 subsection 2, specifically criminalize "passive participation" in terrorist training.¹⁰⁹ In recent months, several individuals have been arrested for engaging in preparatory conduct for terrorist acts and for traveling to Syria with the intention of participating in acts of terrorism. One notable case involved three individuals arrested in late 2012, accused of kidnapping a British freelance photographer and a Dutch journalist in Syria in July of that year.¹¹⁰ The men were charged with unlawful imprisonment, which prosecutors alleged was carried out as an act of terrorism.¹¹¹

British authorities have also employed non-criminal measures to prevent dual-nationality FFs from returning to the country. Under the British Nationality Act, the Home Secretary has the power to revoke the British passports of dual-nationality individuals if their presence in the UK is deemed "not conducive to the public good." This decision does not require judicial approval and takes immediate effect. While it can be appealed, if the individual is abroad when the decision is made, the appeal must be filed from overseas, and it can take years for a decision to be reached.¹¹² Since 2010, The Independent reported that Home Secretary Theresa May had revoked the citizenship of 37 individuals under the provisions of this Act.¹¹³ The determination of the UK government to strip the UK nationality comes with no surprise since significant attacks or planned attacks in the UK were orchestrated by individuals who were UK residents and had either fought or had received training in Pakistan or Afghanistan's valleys.¹¹⁴ According to British Nationality Act 1981 section 40 (4 and 4A):

¹⁰⁸ Frank Gardner, "What Triggers a Terrorism Arrest?" BBC (2014). Available at: <https://www.bbc.com/news/uk-25753480>. (last accessed 7/7/2023)

¹⁰⁹ Ibid.

¹¹⁰ Edwin Bakker, Christophe Paulussen and Eva Entenmann. "Dealing with European Foreign Fighters in Syria: Governance Challenges & Legal Implications" ICCT Research Paper, *International Centre for Counter-Terrorism Studies* (2013). Available at: <https://www.icct.nl/publication/dealing-european-foreign-fighters-syria-governance-challenges-and-legal-implications>

¹¹¹ Ibid.

¹¹² "Foreign Fighters: An Overview of Responses in Eleven Countries". *Center for Security Studies (CSS)*, ETH Zurich (2014). Available at: https://css.ethz.ch/content/dam/ethz/special-interest/gess/cis/center-for-security-studies/pdfs/Foreign_Fighters_2014.pdf

¹¹³ "Exclusive: No Way Back for Britons who Join the Syrian Fight, Says Theresa May". *The Independent* (2013). Available at: <https://www.independent.co.uk/news/uk/politics/exclusive-no-way-back-for-britons-who-join-the-syrian-fight-says-theresa-may-9021190.html> (last accessed 7/7/2023)

¹¹⁴ Jonathan Hall KC. "Returning from Islamic State: Risk and Response" (speech at King's College London, 2023). Available at: <https://terrorismlegislationreviewer.independent.gov.uk/wp-content/uploads/2023/02/KCL-Speech-final1.pdf>



The Secretary of State may not make an order under subsection (2) if he is satisfied that the order would make a person stateless. (4A) But that does not prevent the Secretary of State from making an order under subsection (2) to deprive a person of a citizenship status if—

(a) the citizenship status results from the person's naturalization,

(b) the Secretary of State is satisfied that the deprivation is conducive to the public good because the person, while having that citizenship status, has conducted him or herself in a manner which is seriously prejudicial to the vital interests of the United Kingdom, any of the Islands, or any British overseas territory, and

(c) the Secretary of State has reasonable grounds for believing that the person is able, under the law of a country or territory outside the United Kingdom, to become a national of such a country or territory.¹¹⁵

On April 1st 2003 people who acquired British citizenship through birth were made subjects of deprivation of citizenship for the first time.¹¹⁶ That was the case with two ex-British citizens who lost their citizenship for having joined ISIS: Jack Letts, also known as Jihadi Jack, who holds also Canadian citizenship,¹¹⁷ and Shamima Begum, also known as ISIL bride, who was believed to have Bangladeshi citizenship (though her lawyer denied it) and might request Dutch citizenship through her husband.¹¹⁸

United States of America

In recent years, US authorities have observed numerous cases of US citizens or residents leaving the country to join al Shabaab in Somalia.¹¹⁹ As of February 2019, it is estimated that 295 Americans have either traveled or attempted to travel to Syria to participate in the conflict there, from which it is believed that 13% were women, though it could be an underestimation.¹²⁰ Many of those who have returned are currently being monitored by the FBI. While US authorities acknowledge that individuals may have various

¹¹⁵ British Nationality Act 1981, Part V, Section 40. Available at: <https://www.legislation.gov.uk/ukpga/1981/61/section/40>. (last accessed 7/7/2023)

¹¹⁶ CJ McKinney, Melanie Gower and Terry McGuinness. "Deprivation of British citizenship and withdrawal of passports". Research Briefing, *House of Commons - Library* (2023). Available at: <https://researchbriefings.files.parliament.uk/documents/SN06820/SN06820.pdf>.

¹¹⁷ "Jihadi Jack: Isis Fighter Stripped of British Citizenship by Home Office" *The Telegraph* (2019). Available at: www.telegraph.co.uk/news/2019/08/17/jihadi-jack-isis-fighter-stripped-british-citizenship-home-office/.

¹¹⁸ Gareth Davies. "Shamima Begum: Being stripped of my British citizenship is hard to swallow and unjust". *The Telegraph* (2019). Available at: <https://www.telegraph.co.uk/news/2019/02/20/shamima-begum-stripped-british-citizenship-hard-swallow-unjust/>.

¹¹⁹ "Foreign Fighters: An Overview of Responses in Eleven Countries". *Center for Security Studies* (CSS), ETH Zurich (2014). Available at: https://css.ethz.ch/content/dam/ethz/special-interest/gess/cis/center-for-security-studies/pdfs/Foreign_Fighters_2014.pdf

¹²⁰ "What Happens When Americans Who Joined ISIS Want To Come Home". Interview with Bennet Clifford. *NPR* (2019). Available at: <https://www.npr.org/2019/02/21/696769808/what-happens-when-americans-who-joined-isis-want-to-come-home>.

motivations for joining conflicts, including the Syrian conflict, they view the issue of FFs with significant concern. The FBI has prioritized addressing this issue, primarily through punitive measures. While some softer measures exist, such as community engagement and providing information on how to support suffering populations without getting involved in the conflict, US authorities largely rely on comprehensive criminal tools to pursue and prevent individuals from becoming FFs.¹²¹

Before individuals depart, criminal prosecution is favored by US authorities due to the wide range of flexible and effective legal tools at their disposal. The criminal justice tools employed to disrupt and deter FFs are the same as those used to combat terrorism more broadly. These tools include conspiracy charges related to engaging in violence overseas, acts of terrorism and violence, providing material support for terrorist crimes, supporting foreign terrorist organizations, and receiving military training from such organizations. The concept of "material support" is broadly interpreted and can encompass various forms of assistance, including one's physical presence.¹²² Penalties for these crimes in the US are severe compared to similar offenses in European countries – in the US traveling to join a foreign terrorist organization is criminalized and punishable by a 15 to 20 years prison sentence.¹²³ US authorities have successfully utilized these norms in the past decade, resulting in convictions of individuals involved with Somalia or recruiting for al Shabaab.

Non-criminal measures, although less commonly used, are considered when applicable, such as deportation or the removal of immigration status. FBI agents sometimes conduct interviews with individuals suspected of intending to leave the country to join a conflict, with the aim of dissuading them. In addition, FBI agents and US prosecutors engage with relevant communities across the country to explain the legal consequences of joining foreign conflicts. The Department of Homeland Security also maintains a dialogue with vulnerable communities to raise awareness about the risks and implications of the FFs phenomenon, provide guidance on lawful involvement in conflicts, and foster communication

¹²¹ Richard A. Serrano, "Americans Radicalized by Al Qaeda Are a Big Concern", *Los Angeles Times* (2014). Available at: <https://www.latimes.com/nation/la-xpm-2014-jan-18-la-na-alqaeda-threat-20140119-story.html>.

¹²² "Foreign Fighters: An Overview of Responses in Eleven Countries". *Center for Security Studies* (CSS), ETH Zurich (2014). Available at: https://css.ethz.ch/content/dam/ethz/special-interest/gess/cis/center-for-securities-studies/pdfs/Foreign_Fighters_2014.pdf

¹²³ "What Happens When Americans Who Joined ISIS Want To Come Home". Interview with Bennet Clifford. *NPR* (2019). Available at: <https://www.npr.org/2019/02/21/696769808/what-happens-when-americans-who-joined-isis-want-to-come-home>.



between authorities and communities. Briefings are conducted by the Department of Homeland Security and the Treasury Department to educate communities on how to donate money to conflict zones without violating sanctions.¹²⁴

Upon the return of individuals who have been FFs, the same criminal justice infrastructure used before their departure is applied. The "Whole of Government" approach is employed, involving federal and local agencies, to investigate and address the individuals who have returned from Syria and Iraq.¹²⁵ However, the U.S. has also been reluctant with allowing fighters to travel back. There have been at least 30 suspected fighters sent to Iraq to face trials. Three have received the death penalty while five have been given life sentences. Four of them claim that they were tortured in Iraqi prisons.¹²⁶ Of those who are repatriated, the majority are men, probably because it is easier to establish their roles in ISIS, while for women and children the situation is more complicated. A famous case is the one of Hoda Muthana whose passport was revoked because she was not a birthright citizen and so far she is not allowed to return¹²⁷ unlike other U.S. female citizens and their children.¹²⁸ In April 2021 her sister and her husband were arrested for attempting to travel and join ISIS.¹²⁹

The government of the United States has underlined several times that leaving FFs on Syrian or Iraqi soil would constitute a bigger security problem than having them return. As Ian Moss, Deputy Coordinator for Counterterrorism said "The most direct pathway to the re-emergence of ISIS Core is the population of detained ISIS fighters in northeast Syria, which constitutes the single largest concentration of terrorist fighters in the world."¹³⁰

¹²⁴ "Foreign Fighters: An Overview of Responses in Eleven Countries". *Center for Security Studies (CSS)*, ETH Zurich (2014). Available at: https://css.ethz.ch/content/dam/ethz/special-interest/gess/cis/center-for-securities-studies/pdfs/Foreign_Fighters_2014.pdf

¹²⁵ Ibid.

¹²⁶ Raya Jalabi and Alissa de Carbonnel. "Exclusive: Islamic State suspects sent by U.S. from Syria to Iraq" *Reuters* (2019). Available at: <https://www.reuters.com/article/us-mideast-crisis-islamicstate-transfers/exclusive-islamic-state-suspects-sent-by-u-s-from-syria-to-iraq-idUSKCN1SZ0R1>

¹²⁷ Rukmini Callimachi and Catherine Porter. "2 American Wives of ISIS Militants Want to Return Home". *The New York Times* (2019). Available at: <https://www.nytimes.com/2019/02/19/us/islamic-state-american-women.html>.

¹²⁸ Conor Finnegan and Elisabeth McLaughlin "American Women, Children Who Lived under ISIS Transferred to US from Syria" *ABC News* (2019). Available at: <https://abcnews.go.com/Politics/american-women-children-lived-isis-transferred-us-syria/story?id=63505693>

¹²⁹ Peter Curi. "Hoover woman, husband arrested while allegedly trying to join ISIS". *CBS 42* (2021). Available at: <https://www.cbs42.com/news/local/hoover-woman-husband-arrested-while-allegedly-trying-to-join-isis/>

¹³⁰ Ian Moss. "The importance of Detained Fighters and Displaced Persons in Northeast Syria to the future of ISIS - Remarks". *U.S Department of State – Bureau of Counterterrorism*. Budapest (2022). Available at: <https://www.state.gov/the-importance-of-detained-fighters-and-displaced-persons-in-northeast-syria-to-the-future-of-isis/>

Russia

Russia has a long-standing history of dealing with the issue of FFs both with foreign citizens entering its territory to fight and its own citizens engaging in conflicts abroad. Regarding the civil war in Syria, it is challenging to determine the exact number of Russian fighters, but it is estimated around 2.400 fighters as of 2015, while 4.700 fighters from the former Soviet Union have left in total, the majority of whom come from Chechnya, Dagestan, Azerbaijan, and Georgia.¹³¹ Chechen fighters, in particular, tend to be experienced and combat-ready, often assuming leadership positions within insurgent groups.

In general, Russia's approach to the FFs issue has predominantly been punitive, involving measures at both the federal and local levels, especially in the North Caucasus region. Before individuals depart, Russian authorities prosecute individuals suspected of involvement in terrorist activities with the intent of becoming FFs. However, gathering sufficient evidence poses challenges to these efforts. Additionally, authorities often confiscate or deny travel documents to individuals suspected of intending to become FFs. Strict border controls are in place in Chechnya and the North Caucasus to monitor entry and exit. Regular police operations are conducted in the region to identify and dismantle potential insurgency groups involved in terrorist activities. Soft measures have also been implemented, such as meetings held by imams and local authorities in Dagestan and Chechnya to dissuade young men from joining the Syrian insurgency. School meetings and distribution of informational leaflets describe the situation in the Middle East primarily as a political conflict rather than a religious one. Anti-FFs films have also been aired on Chechen TV to discourage young men from joining the insurgency in Syria.¹³²

Upon the return of individuals from Syria, Russian authorities arrested and attempted to assess them. The 359 Law on Mercenaries, which prohibits Russian citizens from participating in a foreign army for financial gain, could potentially be applied to returnees. However, obtaining sufficient evidence to prove these cases in court has proven to be very challenging, and thus, this law has not yet been invoked specifically for FFs returning from

¹³¹ "Foreign Fighters: An updated Assessment of the Flow of Foreign Fighters into Syria and Iraq." *The Soufan Group* (2015). Available at: https://web.archive.org/web/20161025055832/http://soufangroup.com/wp-content/uploads/2015/12/TSG_ForeignFightersUpdate_FINAL3.pdf

¹³² "Foreign Fighters: An Overview of Responses in Eleven Countries". *Center for Security Studies (CSS)*, ETH Zurich (2014). Available at: https://css.ethz.ch/content/dam/ethz/special-interest/gess/cis/center-for-security-studies/pdfs/Foreign_Fighters_2014.pdf



Syria.¹³³ In November 2013, an amendment to the 2006 Anti-Terrorism Law was introduced, making it a criminal offense to participate in an armed group abroad whose aims are against Russian interests. Engagement in such activity carries a penalty of six years in prison. Training with the intent to carry out terrorist activities is also punishable by ten years in prison.¹³⁴

Until 2018 there was a repatriation program that allowed mostly women and children to return to the Russian Federation but it is not clear if it is still operating.¹³⁵ It seems like Russia had the most active program for the returnees,¹³⁶ with President Putin insisting on the need for the return of the children who “did not choose to go there.”¹³⁷ Paradoxically, it was Russia and China that vetoed the resolution that would allow the ICC to investigate the case of Syria.¹³⁸ The women that have returned are the ones that the Russian government decided not to prosecute. Of those who are still in Iraq and Syria, over 20 have received life sentences on charges of illegal entry and membership in or assistance to ISIS.¹³⁹

¹³³ Ibid.

¹³⁴ “Putin signs new law punishing terrorists’ relatives.” *Sputnik* (2013). Available at: <https://sputnikglobe.com/20131103/Putin-Signs-Law-Punishing-Terrorists-Relatives-184499077.html>

¹³⁵ Tanya Lokshina. “Will Russia Bring Home Children Who Lived under ISIS/the Islamic State?” *Human Rights Watch* (2018). Available at: <https://www.hrw.org/news/2018/08/14/will-russia-bring-home-children-who-lived-under-isis/islamic-state>

¹³⁶ Stephen Quillen. “Europe Grapples with ISIS Returnees and Their Families”. *The Arab Weekly* (2019). Available at: <https://theArabweekly.com/europe-grapples-isis-returnees-and-their-families>.

¹³⁷ Roman Kiyashko. “Putin said that Russia will not leave their children in Syria and Iraq”. *Rossiyskaya Gazeta* (2017). Available at: <https://rg.ru/2017/12/14/reg-skfo/putin-zaiavil-cto-rossiia-ne-brosit-svoih-detej.html>

¹³⁸ Ian Black. “Russia and China Veto UN Move to Refer Syria to International Criminal Court”. *The Guardian* (2014). available at: <https://www.theguardian.com/world/2014/may/22/russia-china-veto-un-draft-resolution-refer-syria-international-criminal-court>

¹³⁹ Tanya Lokshina. “Will Russia Bring Home Children Who Lived under ISIS/the Islamic State?” *Human Rights Watch* (2018). Available at: <https://www.hrw.org/news/2018/08/14/will-russia-bring-home-children-who-lived-under-isis/islamic-state>.

How to deal with women and the children?

It is estimated that the minors that joined ISIS are between 3.704 to 4.640 while the minor returnees are between 411 and 1.180, while the female affiliates are between 4.162 and 4.761 but female returnees are only 256.¹⁴⁰ In total numbers, from the approximately 40.000 people who joined ISIS 75% are men, 13% are female and 12% are minors.¹⁴¹ In the case of BiH, according to data up to 2016, the number of men that traveled to join ISIS was 188, the number of women was 61, and the number of children 81.¹⁴² The percentage of women and children from BiH is significantly higher than the average. That would be 57% men, 18,5% women, and 24,5% children. Of those who returned (around 80¹⁴³), more than 46 people have been tried and convicted on charges of fighting with ISIS.¹⁴⁴ However, BiH has received criticism for giving too small sentences: on average two years of prison.¹⁴⁵

The current Minister of Security of BiH, Nenad Nešić stated that he will not allow the return of Bosnian citizens from Syria and Iraq if they pose a threat to the security of the country.¹⁴⁶ In addition, he cannot consider children that are born in Syria as “ours” and he is not sure if they will be safe in BiH.¹⁴⁷ It is not clear if Bosnian security agents are at this moment in refugee camps in Syria and Iraq, examining the risks nor do we know the way they can evaluate the level of radicalization of the Bosnian citizens who still live there, the majority of whom are indeed women and children.

¹⁴⁰ Joana Cook and Gina Vale. “From Daesh to diaspora. Tracing the women and minors of Islamic State”. *International Centre for the Study of Radicalisation*, London (2018). Available at: https://icsr.info/wp-content/uploads/2018/07/Women-in-ISIS-report_20180719_web.pdf

¹⁴¹ Ibid.

¹⁴² Vlado Azinović and Muhamed Jusić. “The new lure of the Syrian war – the foreign fighters’ Bosnian Contingent”. *Atlantic Initiative*, Sarajevo (2016). Available at: <https://atlanticinitiative.org/new-atlantic-initiative-research-the-lure-of-the-syrian-war-the-foreign-fighters-bosnian-contingent-2/>

¹⁴³ “Disengagement, Rehabilitation and Reintegration of Foreign Terrorist Fighters.” Country Report/ Bosnia and Herzegovina. *Center for Security Studies* (2022). Available at: <https://drive.ontherightpath.eu/wp-content/uploads/2022/05/drive-report-bosnia-23-05-2022.pdf>

¹⁴⁴ “Bosnia & Herzegovina: Extremism and Terrorism”. *Counter Extremism Project*. Available at: <https://www.counterextremism.com/countries/bosnia-herzegovina-extremism-and-terrorism> (last accessed 12/7/2023)

¹⁴⁵ Ibid.

¹⁴⁶ “Nešić is cautious about the return of women and children from Syria: Children will grow.” *Klix.ba* (2023). Available at: <https://www.klix.ba/vijesti/svijet/nesic-oprezan-po-pitanju-povratka-zena-i-djece-iz-sirije-djeca-ce-porasti/230524088>

¹⁴⁷¹⁴⁷ “Nešić: I will not allow the return of children from Syria if it is established that they are a security threat.” *Klix.ba* (2023). Available at: <https://www.klix.ba/vijesti/bih/nesic-necu-dozvoliti-povratak-djece-iz-sirije-ako-se-ustanovi-da-su-sigurnosna-prijetnja/230607067>



The last Bosnian repatriation was at the end of 2019, when 25 former ISIS fighters, including women and children, were returned to BiH. After that, there has been a halt due to COVID-19 and since then there is no official information that there have been more returnees.¹⁴⁸

BiH is not the only country that has concerns regarding the return of children. It has been commented several times that those children might be a potential future threat for several reasons.¹⁴⁹ Similar to the return of adult FFs, countries do not follow a specific procedure for the return of minors, which tends to be even more complicated due to a lack of citizenship. Many infants are born with unrecognized birth certificates from ISIS or with no birth certificates at all. Iraqi authorities do not register any child whose parents are suspected to be ISIS members.¹⁵⁰ According to the Iraqi Parliamentary Committee on Human Rights, back in 2013, there were more than 520 stateless children born to either Al-Qaaeda or ISIS fighters.¹⁵¹ However local groups believe that this number was much higher and ultimately it became even higher since a British research organization, the Quilliam Foundation, estimated that in 2016 there were 31.000 women pregnant living under ISIS.¹⁵²

The situation is even worse in Syria or Lybia, where mothers cannot transmit their nationality to their children and fathers might be dead, detained, or fighting elsewhere, and therefore there is no proof of parentage.¹⁵³ Moreover, in the case the father is a foreign fighter married to a Syrian wife, there is the risk of the separation of the mother and her child to the father's country of origin.¹⁵⁴ In these cases, the infants are usually considered the victims of their parents' decisions that have to live with the consequences for actions they are not responsible for. However, there are children below 18 who traveled and joined ISIS under their own initiative, often without the family approving or even knowing their plans.

¹⁴⁸ "Bosnia & Herzegovina: Extremism and Terrorism". *Counter Extremism Project*. Available at: <https://www.counterextremism.com/countries/bosnia-herzegovina-extremism-and-terrorism> (last accessed 12/7/2023)

¹⁴⁹ Tom Kington. "45,000 Children of Isis 'Are Ticking Time Bomb'", *The Times* (2019) available at: www.thetimes.co.uk/article/45-000-children-of-isis-are-ticking-time-bomb-lp0nq9q2m

¹⁵⁰ Nadim Houry. "Children of the Caliphate: What to do about kids born under ISIS". *Human Rights Watch* (2016). Available at: <https://www.hrw.org/news/2016/11/23/children-caliphate>

¹⁵¹ Ibid.

¹⁵² Ibid.

¹⁵³ Joana Cook and Gina Vale. "From Daesh to diaspora. Tracing the women and minors of Islamic State". *International Centre for the Study of Radicalisation*, London (2018). Available at: https://icsr.info/wp-content/uploads/2018/07/Women-in-ISIS-report_20180719_web.pdf

¹⁵⁴ Ibid.

Moreover, children despite their young age, have been used for terrorist attacks that often caused a high number of deaths and injuries.¹⁵⁵

The Radicalization Awareness Network categorizes the European children in Syria and Iraq into three categories: teenagers between 10 and 17, most of them have committed violent acts (among those also some teenagers between 15 and 17 who joined ISIS without their families), children between 4 and 9 years old who have been indoctrinated but haven't committed any violent acts yet, and babies and toddlers below 4 years old.¹⁵⁶ It is unquestionable that the children and their mothers might be a security threat upon their return, it would be very naive to consider them all under one group "families" without any differentiation according to age, gender, and roles they played in ISIS. Even if some women did not commit any atrocities physically, they still bear the responsibility of joining and supporting a terrorist group and bringing their kids along with them, exposing them to life dangers and continuous violence that would leave them traumatized.

From a human rights perspective, the FFs should all return, be evaluated case-by-case, be tried, be monitored, and be reintegrated. It is of major importance to establish reintegration programs that would give a second chance, especially to the children who didn't choose to live under ISIS. And even though there are different opinions regarding the prosecution and the sentences for terrorism-related crimes, the age when a kid stops being a victim, the citizenship of stateless children, and the strip of the nationality of dual citizens, there is one thing where there is unanimity: the de-radicalization of FFs, males, females, and children, cannot be achieved in refugee or detention camps in Syria and Iraq, where there are plenty of ISIS members, exposed to inhumane conditions, violence, and human rights violations. A stateless child, whose mother is an ISIS widow and whose father is a dead ISIS fighter who lives in precarious conditions in overcrowded camps,¹⁵⁷ who cannot be enrolled in school because of lack of birth certificate and other official documents,¹⁵⁸ who lives in isolation without the possibility to get out of the camp, who lives stigmatized, it is more likely that he/

¹⁵⁵ "Turkey wedding bombing: Isis child suicide bomber was one of terror group's 'cubs of the caliphate'". *The Independent* (2016). Available at: <https://www.independent.co.uk/news/world/turkey-bombing-wedding-attack-isis-suicide-bomber-cubs-of-caliphate-islamic-state-a7203476.html>

¹⁵⁶ Ghassen Fridhi. "What should Europe do with the children of returning ISIS militants?". *Al Arabiya News* (2018). Available at: <https://english.alarabiya.net/features/2018/02/04/What-should-Europe-do-with-the-children-of-returning-ISIS-militants->

¹⁵⁷ "UNICEF Urges Repatriation of All Children in Syria's Al-Hol Camp Following Deadly Fire", *UN News* (2021) available at: <https://news.un.org/en/story/2021/02/1085982>.

¹⁵⁸ Nadim Houry. "Children of the Caliphate: What to do about kids born under ISIS". *Human Rights Watch* (2016). Available at: <https://www.hrw.org/news/2016/11/23/children-caliphate>



she will solidify his/ her identity as an ISIS family-member.¹⁵⁹ This type of segregation can only deteriorate the condition of the children and increase radicalization. Moreover, this is an additional burden for the countries that host FFs and their families who already suffer the aftermath of the war and terrorism.¹⁶⁰

International legal framework regarding repatriation

The surge of FTFs and their families seeking to return to their countries of origin has sparked debates on denationalization as a policy to prevent their return. However, revoking nationality to prevent the return of FTFs is a violation of international law, often leading to statelessness and breaching the principle of non-discrimination. Deprivation of nationality also affects the repatriation of FTFs and their families, as some governments argue that it releases them from the obligation to actively seek their nationals' return. Although there is no strict obligation under international law to repatriate the family members of FTFs, other commitments in international humanitarian law, counter-terrorism law, diplomatic and consular relations law, and human rights law support the argument that States of nationality cannot evade responsibility for the well-being of children and women in conflict zones like Syria and Iraq. Admitting individuals to a State is primarily based on nationality, which is a domestic institution with international consequences. It is the State's duty to admit its nationals and allow them to reside within its territory, which balances the State's sovereign right to regulate foreigners' presence.¹⁶¹

International human rights law reflects the State's obligation to admit its nationals and individuals' right to freely enter and reside in their own country without arbitrary expulsion.¹⁶² The Universal Declaration of Human Rights emphasizes the right to leave any country, including one's own, and to return to it.¹⁶³

¹⁵⁹ Joana Cook and Gina Vale. "From Daesh to diaspora. Tracing the women and minors of Islamic State". *International Centre for the Study of Radicalisation*, London (2018). Available at: https://icsr.info/wp-content/uploads/2018/07/Women-in-ISIS-report_20180719_web.pdf

¹⁶⁰ Ibid.

¹⁶¹ Francesca Capone. "The children (and wives) of foreign ISIS fighters: Which obligations upon the States of nationality?". *Questions of International Law* (2019). Available at: http://www.qil-qdi.org/the-children-and-wives-of-foreign-isis-fighters-which-obligations-upon-the-states-of-nationality/#_ftn44

¹⁶² Ibid.

¹⁶³ UN General Assembly, Universal Declaration of Human Rights, 10 December 1948, 217 A (III), available at: https://www.ohchr.org/sites/default/files/UDHR/Documents/UDHR_Translations/eng.pdf

According to article 12(4) of the International Covenant on Civil and Political Rights, “no one shall be arbitrarily deprived of the right to enter his own country.”¹⁶⁴ The Human Rights Committee clarifies that restrictions on entering one's own country are rarely reasonable and should not be applied arbitrarily.¹⁶⁵ States must not prevent a person from returning to their country by revoking their nationality and they cannot prevent individuals born abroad from coming to their country of nationality for the first time.¹⁶⁶

The legal framework of BiH and entities regarding deprivation of citizenship

BiH, being part of the UN and having signed and ratified most treaties regarding the protection of human rights (including ICCPR)¹⁶⁷ and the Convention on the Reduction of Statelessness¹⁶⁸ should fulfill its obligations on the matter of repatriation of its citizens. Moreover, the regulations regarding citizenship and the deprivation of it, both on the State's and on the entities' level, do not justify the comment of the Minister of Security that the FFs and their families would not be allowed to return in BiH.

According to Article 6a of the Law on the Citizenship in Bosnia and Herzegovina, a child acquires BiH citizenship if both parents were both citizens of BiH at the time of the child's birth, regardless of the place of his birth,¹⁶⁹ and Article 6c states that a child should acquire BiH citizenship if he/she was born abroad by at least one Bosnian parent if the child would otherwise remain stateless.¹⁷⁰ As mentioned previously, ISIS-issued birth certificates are not recognized by any country and Iraq does not register any child whose parents are suspected to be affiliated to ISIS.

Moreover, the northern part of Syria controlled by the SDF is not a recognized state, and therefore the issuance of birth certificates could also not be recognized, and moreover,

¹⁶⁴ UN General Assembly, International Covenant on Civil and Political Rights, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, available at: <https://www.refworld.org/docid/3ae6b3aa0.html>

¹⁶⁵ HRC 'General Comment No 27: Article 12 (Freedom of Movement)', UN Doc CCPR/C/21/Rev.1/Add.9 (2 November 1999) par. 11-18. Available at: <https://www.refworld.org/pdfid/45139c394.pdf>

¹⁶⁶ Ibid. par. 19

¹⁶⁷ See

https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=22&Lang=en

¹⁶⁸ See <https://www.unhcr.org/media/states-parties-1961-convention-reduction-statelessness>

¹⁶⁹ Law on the Citizenship of Bosnia and Herzegovina. “Official Gazette of Bosnia and Herzegovina”, No. 22/2016 - revised text. Available at: <https://www.paragraf.ba/propisi/bih/zakon-o-drzavljanstvu-bosne-i-hercegovine.html> (last accessed 17/7/2023) Art. 6a

¹⁷⁰ Ibid. Art 6c

there are no diplomatic missions in Syria¹⁷¹ and Iraq,¹⁷² and the closest Bosnian embassy is in Amman, Jordan. Therefore, these children remain stateless even if they are entitled to Bosnian citizenship.

Regarding the deprivation of citizenship, a person cannot lose his/her citizenship [of BiH, of Federation of Bosnia and Herzegovina (FBiH), and of Republika Srpska (RS)] if they remain stateless.¹⁷³ The only exception would be if the person has acquired citizenship by means of fraud, false information, or concealment of any relevant fact that may relate to the applicant.¹⁷⁴

A person should be deprived of the citizenship of BiH, FBiH or RS if he/she “performs voluntary service in foreign military forces despite the legal prohibition of such service”,¹⁷⁵ if he/she is “convicted in or outside the territory of Bosnia and Herzegovina by a final judgment, for taking actions that violate the constitutional order and security of Bosnia and Herzegovina, or when he is convicted for being a member of an organization that undertakes such actions, provided that such actions seriously harm vital interests of Bosnia and Herzegovina”¹⁷⁶ or if he/she “has been convicted in or outside the territory of Bosnia and Herzegovina by a final judgment for a criminal offense involving the smuggling of firearms, explosives, radioactive material or narcotics and psychogenic substances; or illegal transportation and trade of materials and equipment for the production of weapons or other means of mass destruction”¹⁷⁷ or if he/she “is convicted in or outside the territory of Bosnia

¹⁷¹ Bosnian embassy in Damascus. <https://embassies.net/bosnia-and-herzegovina-in-syria/damascus> (last accessed 17/7/2023)

¹⁷² Bosnian embassy in Baghdad. <https://embassies.net/bosnia-and-herzegovina-in-iraq/baghdad#:~:text=Bosnia%20and%20Herzegovina%20has%20no,and%20consulate%20locations%20to%20Baghdad> (last accessed 17/7/2023)

¹⁷³ Law on the Citizenship of Bosnia and Herzegovina. “*Official Gazette of Bosnia and Herzegovina*”, No. 22/2016 - revised text. Available at: <https://www.paragraf.ba/propisi/bih/zakon-o-drzavljanstvu-bosne-i-hercegovine.html> (last accessed 17/7/2023) Art. 17

Law on the Citizenship of the Federation of Bosnia and Herzegovina. “*Official Gazette of the Federation of Bosnia and Herzegovina*”, no. 34/2016 and 98/2016 – corrected. Available at: <https://www.paragraf.ba/propisi/fbih/zakon-o-drzavljanstvu-federacije-bosne-i-hercegovine.html> (last accessed 17/7/2023) Art. 17

Law on the citizenship of the Republika Srpska. “*Official Gazette of the Republika Srpska*,” no. 59/2014. Available at: <https://www.paragraf.ba/propisi/republika-srpska/zakon-o-drzavljanstvu-republike-srpske.html> (last accessed 17/7/2023) Art. 18

¹⁷⁴ Ibid. Art. 23a for BiH, Art. 23a for the FBiH, Art. 26a for RS

¹⁷⁵ Ibid. Art. 23b for BiH, Art. 23b for the FBiH, Art. 26b for RS

¹⁷⁶ Ibid. Art. 23d for BiH, Art. 23d for the FBiH.

¹⁷⁷ Ibid. Art. 23e for BiH, Art. 23e for the FBiH.

and Herzegovina by a final judgment for a criminal offense arising from activities which seriously harm the vital interests of Bosnia and Herzegovina.”¹⁷⁸

These provisions can be used under the condition that the person will not remain stateless, therefore only for dual citizens or for people who have ties with other countries and could seek citizenship there. The number of people who joined ISIS and have dual citizenship is very limited¹⁷⁹ and there is no information if there are any dual citizens at this moment in Syria or Iraq. Thus, Bosnian citizens by birth or origin cannot lose their citizenship under the current laws of the country, and therefore, cannot be denied to enter their country. Even though Article 12(3) of the ICCPR mentions that freedom of movement can be restricted if it is necessary to protect national security and public order, these restrictions must be provided by law.¹⁸⁰

It is obvious that not only there is no legal grounds to justify the prohibition of the return of Bosnian citizens, but in doing so the Minister of Security would violate national and international law. Even when there are dual citizens and their return can be denied, it is not guaranteed that they are eligible to travel to other countries nor to seek citizenship elsewhere. These decisions leave them in limbo for months or even years and statelessness makes them more vulnerable to human rights violations. It might seem like an efficient solution in the short run but in the long run, the risks of re-radicalization and even resurgence of terrorist groups like ISIS is way more likely to happen if the states abandon their citizens trapped in Iraq or Syria. In the end, it seems that the best way to minimize the security risk is to bring them home and reintegrate them.

¹⁷⁸ Ibid. Art. 23f for BiH, Art. 23f for the FBiH.

¹⁷⁹ Vlado Azinović and Muhamed Jusić. “The new lure of the Syrian war – the foreign fighters’ Bosnian Contingent”. *Atlantic Initiative*, Sarajevo (2016). Available at: <https://atlanticinitiative.org/new-atlantic-initiative-research-the-lure-of-the-syrian-war-the-foreign-fighters-bosnian-contingent-2/> p.22

¹⁸⁰ UN General Assembly, International Covenant on Civil and Political Rights, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, available at: <https://www.refworld.org/docid/3ae6b3aa0.html>



Conclusion

The issue of terrorism and FFs is an extremely complicated one with multiple aspects to be taken into account. In this paper, we have examined the international and regional legal response and also the approaches that five countries with very high numbers of FFs have followed. Generally, a case-by-case framework has been used and the strategies that a country follow varies also depending on other factors. What seems to be very relevant is the political will and the political cost of the decisions a government will make.

Proceeding with trials in Syria would require the consent of the Syrian regime while trials on the soil controlled by the SDF would be even more complicated since it is not a recognized state, legal institutions should be built, and there is ongoing tension with Turkiye which would oppose such a move.

Involving the ICC is not possible since neither Iraq nor Syria are signatories to the Rome Statute and also the attempt of the Security Council to make a referral for investigation in Syria was vetoed by China and Russia. Personal jurisdiction of the ICC could work but only for the FFs whose countries of origin are signatories to the Rome Statute, therefore, the highest ranks of the ISIS hierarchy who are responsible for the most heinous crimes, would not be prosecuted because they are usually Iraqis and Syrian.

Trying the FFs in Iraq might seem convenient because both justice is served and the fighters will not come back to their countries of origin. Countries such as France and the U.S. have sent some of their FFs to Iraq to be tried (though the U.S. do not corroborate this information). However, in Iraq not only the death penalty is legal, but there are numerous complaints of torture and other human rights violations which are in complete discordance with Western values. Also leaving them in overpopulated refugee camps with inhumane conditions gives an additional burden to the countries that host them, who also have to deal with the aftermath of the war and continuous tensions.

As for the sentences, the countries must always consider not only the role of each defendant in ISIS, but also their age and gender. Criminalizing the financial or material support, or criminalizing taking part in ISIS even as a wife of a fighter who did not commit any acts of violence, is positive regarding the problem of impunity, but on the other hand, it might prevent the families from reporting their loved ones that are being radicalized.

Regarding the potential return of FFs and their families, countries are very reluctant in this regard because very often there is not enough admissible evidence to be presented to the courts, and therefore the returnees might be free, posing a security threat to the country. This is more notable in the cases of women, who often did not participate in atrocities, and for children, especially those who did not choose to travel and join ISIS, whose participation in atrocities might be forced or not, who might be considered both as victims and as perpetrators.

Men and women with dual nationality or naturalized European citizens with origins of different countries are more likely to be stripped of their citizenship, especially in countries such as the U.K. Due to several conventions and treaties, countries are not allowed to leave a person stateless, however, the country that the person will apply for citizenship might reject his/ her request. The case of children born under ISIS control is even more complicated because if they have birth certificates issued by the so-called caliphate not only they cannot use them because they are not recognized, but in Iraq, even the suspicion that the parents might be involved with ISIS is enough to not register the baby. Moreover, proof of parentage might not be an option if the father is killed, jailed, or hiding, and in Syria the mother cannot pass her nationality to the child. If the father is a foreign fighter, the mother is Syrian, and their marriage certificate is issued by ISIS and therefore not valid, there is the risk to take the child to the country of the father without the mother.

BiH has similar laws regarding citizenship and therefore a person shall not be deprived of citizenship if that would make him/her stateless. In addition, children born to at least one Bosnian parent have the right to Bosnian citizenship but they cannot claim it because there are no diplomatic missions in Syria and Iraq and, for now, they are not allowed to travel to BiH. Thus, for the time being, these children remain stateless, which is illegal both in national and international level. The statement of the Minister of Security that he will not allow them to return has no legal basis whatsoever, and it violates multiple Conventions and Treaties that BiH is a signatory to and as a result, violates the human rights of its own citizens.

In conclusion, after taking into account the multiple aspects and complexities of this issue, it seems that the repatriation of FFs and their families is the most appropriate solution, balancing security concerns and respect for human rights.



The effectiveness of repatriation, however, is still subject to various challenges and requires further development in terms of national approaches, criminalization, and prevention strategies. As for the children, countries should always consider their best interest, and because of their young age, it is easier to de-radicalize them. In the end, it is more risky to leave them in refugee camps, with no other identity but their past in ISIS than to retrieve them back.

Bibliography

- “Bosnia & Herzegovina: Extremism and Terrorism”. *Counter Extremism Project*. Available at: <https://www.counterextremism.com/countries/bosnia-herzegovina-extremism-and-terrorism> (last accessed 12/7/2023)
- “Cancelation, withdrawal or revocation of French nationality.” *Service-Public.fr* (2023). Available at: <https://www.service-public.fr/particuliers/vosdroits/F32827?lang=en> (last accessed 6/7/2023)
- “Disengagement, Rehabilitation and Reintegration of Foreign Terrorist Fighters.” Country Report/ Bosnia and Herzegovina. *Center for Security Studies* (2022). Available at: <https://drive-ontherightpath.eu/wp-content/uploads/2022/05/drive-report-bosnia-23-05-2022.pdf>
- “EU directive on passenger name record (PNR) data”. *Council of the European Union*. Available at: <https://www.consilium.europa.eu/en/policies/fight-against-terrorism/passenger-name-record/> (last accessed 10/7/2023)
- “FATF’s global efforts on combating terrorist financing”. *Financial Action Task Force*. Available at: <https://www.fatf-gafi.org/en/topics/Terrorist-Financing.html> (last accessed 10/7/2023)
- “Foreign fighters – Member State responses and EU action”. *European Parliament* (2016). Available at: <https://www.europarl.europa.eu/EPRS/EPRS-Briefing-579080-Foreign-fighters-rev-FINAL.pdf>
- “Foreign Fighters: An Overview of Responses in Eleven Countries”. *Center for Security Studies (CSS), ETH Zurich* (2014). Available at: https://css.ethz.ch/content/dam/ethz/special-interest/gess/cis/center-for-securities-studies/pdfs/Foreign_Fighters_2014.pdf
- “Foreign Fighters: An updated Assessment of the Flow of Foreign Fighters into Syria and Iraq.” *The Soufan Group* (2015). Available at: https://web.archive.org/web/20161025055832/http://soufangroup.com/wp-content/uploads/2015/12/TSG_ForeignFightersUpdate_FINAL3.pdf
- “Foreign Travel Advice – Syria”. *GOV.UK* Available at: <https://www.gov.uk/foreign-travel-advice/syria/terrorism> (last accessed 7/7/2023)
- “German Court Rules on Repatriation of Syria ISIL Fighter’s Family” *Aljazeera* (2019). Available at: www.aljazeera.com/news/2019/07/german-court-rulesrepatriation-syria-isil-fighter-family-190711164005146.html
- “Guide on Article 2 of the Convention – Right to Life”. *European Court of Human Rights* (2022). Available at: https://www.echr.coe.int/documents/d/echr/Guide_Art_2_ENG (last accessed: 4/7/2023)
- “How many IS foreign fighters are left in Iraq and Syria?” *BBC* (2019). Available at: <https://www.bbc.com/news/world-middle-east-47286935>.
- “Human Rights in the Administration of Justice in Iraq: Trials under the anti-terrorism laws and implications for justice, accountability and social cohesion in the aftermath of ISIL”. *United Nations Assistance Mission for Iraq - Office of the United Nations High*



Commissioner for Human Rights, Bagdad (2020). Available at: https://www.ohchr.org/sites/default/files/Documents/Countries/IQ/UNAMI_Report_HRAAdministrationJustice_Iraq_28January2020.pdf

“Islamic State: British child rescued from Syria, foreign secretary says”. *BBC* (2020). Available at: <https://www.bbc.com/news/uk-54174367>.

“Jihadi Jack: Isis Fighter Stripped of British Citizenship by Home Office” *The Telegraph* (2019). Available at: www.telegraph.co.uk/news/2019/08/17/jihadi-jack-isis-fighter-stripped-british-citizenship-home-office/.

“Nešić is cautious about the return of women and children from Syria: Children will grow.” *Klix.ba* (2023). Available at: <https://www.klix.ba/vijesti/svijet/nesic-oprezan-po-pitanju-povratka-zena-i-djece-iz-sirije-djeca-ce-porasti/230524088>.

“Nešić: I will not allow the return of children from Syria if it is established that they are a security threat.” *Klix.ba* (2023). Available at: <https://www.klix.ba/vijesti/bih/nesic-necu-dozvoliti-povratak-djece-iz-sirije-ako-se-ustanovi-da-su-sigurnosna-prijetnja/230607067>

“Preventing Radicalization to Terrorism and Violent Extremism: Approaches and Practices”. *Radicalization Awareness Network*, 2019 edition. Available at: https://home-affairs.ec.europa.eu/system/files/2021-05/ran_collection-approaches_and_practices_en.pdf

“Principles on Deprivation of Nationality as a National Security Measure” Institute on Statelessness and Inclusion (2020). Available at: <https://www.institutesi.org/year-of-action-resources/principles-ondeprivation-of-nationality>

“Putin signs new law punishing terrorists’ relatives.” *Sputnik* (2013). Available at: <https://sputnikglobe.com/20131103/Putin-Signs-Law-Punishing-Terrorists-Relatives-184499077.html>

“Repatriation of ‘Foreign Terrorist Fighters’ and Their Families Urgently Needed to Safeguard Human Rights and Security, OSCE Human Rights Head Says”. OSCE (2020) available at: www.osce.org/odihr/445909

“Statement of the Prosecutor of the International Criminal Court, Fatou Bensouda, on the alleged crimes committed by ISIS”. *International Criminal Court – News* (2015). Available at: <https://www.icc-cpi.int/news/statement-prosecutor-international-criminal-court-fatou-bensouda-alleged-crimes-committed-isis>.

“Turkey wedding bombing: Isis child suicide bomber was one of terror group's 'cubs of the caliphate’”. *The Independent* (2016). Available at: <https://www.independent.co.uk/news/world/turkey-bombing-wedding-attack-isis-suicide-bomber-cubs-of-caliphate-islamic-state-a7203476.html>

“UNICEF Urges Repatriation of All Children in Syria’s Al-Hol Camp Following Deadly Fire”, *UN News* (2021) available at: <https://news.un.org/en/story/2021/02/1085982>.

“What Happens When Americans Who Joined ISIS Want To Come Home”. Interview with Bennet Clifford. *NPR* (2019). Available at: <https://www.npr.org/2019/02/21/696769808/what-happens-when-americans-who-joined-isis-want-to-come-home>

A. Bisset “What Rights Do the Children of Islamic State Have under International Law?” *The Conversation* (2019). Available at: <http://theconversation.com/whatrightsdo-the-children-of-islamic-state-have-under-international-law-112322>

Adam Withnall. “British student Nawal Msaad charged with aiding Syrian terrorists ‘was caught smuggling €20,000 in her knickers.’” *The Independent*, (2014). Available at: <https://www.independent.co.uk/news/uk/crime/british-student-nawal-msaad-charged-with-aiding-syrian-terrorists-was-caught-smuggling-eu20-000-in-her-knickers-9082663.html>. (last accessed 7/7/2023)

Alexander Schiele and Sofia Koller. “Holding Women Accountable: Prosecuting Female Returnees in Germany”. *Combatting Terrorism Center CTC Sentinel*, vol.14 issue 10 (2021). Available at: <https://ctc.westpoint.edu/holding-women-accountable-prosecuting-female-returnees-in-germany/> p.38-50

Anthony Dworkin. “A Tribunal for ISIS Fighters?”. *European Council on Foreign Relations* (2019). available at: www.ecfr.eu/article/commentary_a_tribunal_for_isis_fighters.

Anthony Dworkin. *Beyond Good and Evil: Why Europe Should Bring ISIS Foreign Fighters Home*. European Council on Foreign Relations Policy Brief (2019). Available at: www.ecfr.eu/publications/summary/beyond_good_and_evil_why_europe_should_bring_isis_foreign_fighters_home.

Benjamin Weinthal, “The German jihadists’ colony in Syria”, *The Long War Journal*, (2013). Available at: https://www.longwarjournal.org/archives/2013/12/the_german_jihadists.php

Bethan McKernan. “At least 750 Isis affiliates escape Syria camp after Turkish shelling”. *The Guardian* (2019). <https://www.theguardian.com/world/2019/oct/13/kurds-say-785-isis-affiliates-have-escaped-camp-after-turkish-shelling>

British Nationality Act 1981, Part V, Section 40. Available at: <https://www.legislation.gov.uk/ukpga/1981/61/section/40>. (last accessed 7/7/2023)

Carlota Rigotti and Julia Zomignani Barboza. *Unfolding the case of returnees: How the European Union and its member States are addressing the return of foreign fighters and their families*. *International Review of the Red Cross* (2021), 103 (916-917), 681–703. Counterterrorism, sanctions and war. doi:10.1017/S1816383121000217

Christophe Paulussen. “Stripping foreign fighters of their citizenship: International human rights and humanitarian law considerations”. *International Review of the Red Cross* (2021), 103 (916-917), 605–618. Counterterrorism, sanctions and war. doi:10.1017/S1816383121000278

CJ McKinney, Melanie Gower and Terry McGuinness. “Deprivation of British citizenship and withdrawal of passports”. Research Briefing, *House of Commons - Library* (2023). Available at: <https://researchbriefings.files.parliament.uk/documents/SN06820/SN06820.pdf>

Conor Finnegan and Elisabeth Mclaughlin “American Women, Children Who Lived under ISIS Transferred to US from Syria” *ABC News* (2019). Available at: <https://abcnews.go.com/Politics/american-women-children-lived-isis-transferred-us-syria/story?id=63505693>

Conrad Nyamatuta. “Young Terrorists or Child Soldiers? ISIS Children, International Law and Victimhood.” *Journal of Conflict & Security Law*, Volume 25, Issue 2, July 2020, Pages 237–261. (2020) <https://doi.org/10.1093/jcs/krz034>

Convention on the Reduction of Statelessness (30 August 1961), United Nations, Treaty Series, vol. 989, *entered into force on 13 December 1975*. Available at:



https://www.unhcr.org/ibelong/wp-content/uploads/1961-Convention-on-the-reduction-of-Statelessness_ENG.pdf

Council of Europe, Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism, 22 October 2015, ETS No. 217. Available at: <https://rm.coe.int/168047c5ea>

Cuyckens Hanne and Paulussen Christophe. “The Prosecution of Foreign Fighters in Western Europe: The Difficult Relationship between Counter-Terrorism and International Humanitarian Law.” *Forthcoming, Journal of Conflict & Security Law*, T.M.C. Asser Institute for International & European Law, Asser Research Paper Series 2019-04 (October 18, 2019) Available at SSRN: <https://ssrn.com/abstract=3471908>

Daniel H. Heinke. “Foreign Terrorist Fighters: German Islamists in Syria and Iraq and What Can be Done about Them”. George C. Marshall – European Center for Security Studies (2016). Available at: <https://www.marshallcenter.org/en/publications/security-insights/foreign-terrorist-fighters-german-islamists-syria-and-iraq-and-what-can-be-done-about-them-0#toc-about-the-author->

Daniel Köhler. “Family Counseling as Prevention and Intervention Tool Against ‘Foreign Fighters’: The German ‘Hayat’ Program”, *Journal EXIT-Deutschland*, Issue 3, 2013. Available at: https://www.researchgate.net/publication/344395571_Family_Counselling_as_Prevention_and_Intervention_Tool_Against_'Foreign_Fighters'_The_German_'Hayat'_Program

de Bont and others. “Life at ISIS: The Roles of Western Men, Women and Children.” *Security and Global Affairs*, Leiden University (2017). Available at: https://www.universiteitleiden.nl/binaries/content/assets/governance-and-global-affairs/isga/isga-journal_special_issue-4.pdf

Drumbl, Mark. “Reimagining Child Soldiers in International Law and Policy” (2011). Oxford University Press, February 2012, *Washington & Lee Legal Studies Paper No. 2011-17*, Available at SSRN: <https://ssrn.com/abstract=1921527>

Edwin Bakker, Christophe Paulussen and Eva Entenmann. “Dealing with European Foreign Fighters in Syria: Governance Challenges & Legal Implications” ICCT Research Paper, *International Centre for Counter-Terrorism Studies* (2013). Available at: <https://www.icct.nl/publication/dealing-european-foreign-fighters-syria-governance-challenges-and-legal-implications>

Erin Marie Saltman and Melanie Smith. “Till Martyrdom Do Us Part’: Gender and the ISIS Phenomenon,” *Institute for Strategic Dialogue*, (2015). Available at: https://www.isdglobal.org/wp-content/uploads/2016/02/Till_Martyrdom_Do_Us_Part_Gender_and_the_ISIS_Phenomenon.pdf

EU Charter of Fundamental Rights, art 41 Right to good administration. Available at: <http://fra.europa.eu/en/eu-charter/article/41-right-good-administration#:~:text=Every%20person%20has%20the%20right,and%20agencies%20of%20the%20Union.>

EU Counterterrorism Coordinator. *Foreign Fighters and Returnees: Discussion Paper*. EU Doc. 15715/14, Council of the European Union, Brussels (2014). Available at:

<https://www.statewatch.org/media/documents/news/2014/nov/eu-council-foreign-fighters-discussion-paper-15715-14.pdf>

European Union: Council of the European Union, Council Framework Decision 2002/475 on Combating Terrorism, 13 June 2002, 2002/475/JHA, available at: <https://www.refworld.org/docid/3f5342994.html>

Francesca Capone. “The children (and wives) of foreign ISIS fighters: Which obligations upon the States of nationality?”. *Questions of International Law* (2019). Available at: http://www.gil-qdi.org/the-children-and-wives-of-foreign-isis-fighters-which-obligations-upon-the-states-of-nationality/#_ftn44

Frank Gardner, “What Triggers a Terrorism Arrest?” BBC (2014). Available at: <https://www.bbc.com/news/uk-25753480>.

General Comment No 10 (2007), “Children’s Rights in Juvenile Justice” CRC/C/GC/10, 25 April 2007, Committee on the Rights of the Child, Forty-fourth session, Geneva, para 32. Available at: <https://www.refworld.org/docid/4670fca12.html>

German Criminal Code in the version published on 13 November 1998 (Federal Law Gazette I, p. 3322), as last amended by Article 2 of the Act of 22 November 2021 (Federal Law Gazette I, p. 4906). “Section 129a – Forming terrorist organization”. Available at: https://www.gesetze-im-internet.de/englisch_stgb/englisch_stgb.html (last accessed 6/7/2023)

Ghassen Fridhi. “What should Europe do with the children of returning ISIS militants?”. *Al Arabiya News* (2018). Available at: <https://english.alarabiya.net/features/2018/02/04/What-should-Europe-do-with-the-children-of-returning-ISIS-militants->

Gustafsson, Linus and Magnus Ranstorp. “Swedish Foreign Fighters in Syria and Iraq: An Analysis of Open-Source Intelligence and Statistical Data.” *Center for Asymmetric Threat Studies, Swedish Defence University*. (2017). Available at: <http://www.diva-portal.org/smash/record.jsf?pid=diva2%3A1110355&dswid=-450>.

Hellmuth Dorle. “Of Alienation, Association, and Adventure: Why German Fighters Join ISIL.” *Journal of Deradicalization* (2016), pp. 24-50.

Human Rights Council. “Human Rights and Arbitrary Deprivation of Nationality: Report of the Secretary-General” Un Doc. A/HRC/25/28, (2013).

Human Rights Council “General Comment No 27: Article 12 (Freedom of Movement)”, UN Doc CCPR/C/21/Rev.1/Add.9 (2 November 1999) par. 11-18. Available at: <https://www.refworld.org/pdfid/45139c394.pdf>

Ian Black. “Russia and China Veto UN Move to Refer Syria to International Criminal Court”. *The Guardian* (2014). available at: <https://www.theguardian.com/world/2014/may/22/russia-china-veto-un-draft-resolution-refer-syria-international-criminal-court>

Ian Moss. “The importance of Detained Fighters and Displaced Persons in Northeast Syria to the future of ISIS - Remarks”. *U.S Department of State – Bureau of Counterterrorism. Budapest* (2022). Available at: <https://www.state.gov/the-importance-of-detained-fighters-and-displaced-persons-in-northeast-syria-to-the-future-of-isis/>.

Institute on Statelessness and Inclusion. “Draft Commentary to the Principles on Deprivation of Nationality as a National Security Measure” (2020). Available at: https://files.institutesi.org/PRINCIPLES_Draft_Commentary.pdf



Jan Raudszus. “The Strategy of Germany for Handling Foreign Fighters”. *Italian Institute for International Political Studies* (2020). Available at:

<https://www.ispionline.it/en/publication/strategy-germany-handling-foreign-fighters-24761>

Jonathan Hall KC. “Returning from Islamic State: Risk and Response” (speech at King’s College London, 2023). Available at:

<https://terrorismlegislationreviewer.independent.gov.uk/wp-content/uploads/2023/02/KCL-Speech-final1.pdf>.

Kilian Roithmaier. “Germany and its Returning Foreign Terrorist Fighters: New Loss of Citizenship Law and the Broader German Repatriation Landscape”. *International Center for Counter Terrorism* (2019). Available at: <https://www.icct.nl/publication/germany-and-its-returning-foreign-terrorist-fighters-new-loss-citizenship-law-and>

Lorenzo Vidino and James Brandon. “Countering Radicalization in Europe” *International Centre for the Study of Radicalization and Political Violence, King’s College London* (2012). Available at: <https://icsr.info/wp-content/uploads/2012/12/ICSR-Report-Countering-Radicalization-in-Europe.pdf>

Lorne L. Dawson. “A Comparative Analysis of the Data on Western Foreign Fighters in Syria and Iraq: Who Went and Why”. *International Center for Counter-Terrorism*. (2021). Available at: <https://www.icct.nl/sites/default/files/2022-12/Dawson-Comparative-Analysis-FINAL-1.pdf>

M Bloom, J Horgan and C Winter. “Depictions of Children and Youth in the Islamic State’s Martyrdom Propaganda 2015-2016” (2016) *Combatting Terrorism Center Sentinel* vol. 9, issue 2. Available at: <https://ctc.westpoint.edu/wp-content/uploads/2016/02/CTC-SENTINEL-Vol9Iss214.pdf> p. 29-32

Marone, Francesco and Lorenzo Vidino. “Destination Jihad: Italy’s Foreign Fighters.” *International Centre for Counter-Terrorism*, (2019). Available at: <https://icct.nl/publication/destination-jihad-italys-foreign-fighters/>.

Matteo Pugliese. “France and Foreign Fighters: The Controversial Outsourcing of Prosecution” *Italian Institute for International Political Studies* (2019). Available at: www.ispionline.it/it/pubblicazione/franceand-foreign-fighters-controversial-outsourcing-prosecution-24666

Meghan Benton and Natalia Banulescu-Bogdan. “Foreign Fighters: Will Revoking Citizenship Mitigate the Threat?”. *The online Journal of the Migration Policy Institute* (2019). Available at: <https://www.migrationpolicy.org/article/foreign-fighters-will-revoking-citizenship-mitigate-threat>

Méryl Demuynck, Anna-Maria Andreeva and George Kefford. *A Practitioner’s Guide to Working with Children in VE-Affiliated Families: Protecting the Rights of the Child*. PREPARE Project Report. International Centre for Counter-Terrorism (2023).

<https://www.icct.nl/sites/default/files/2023-05/PREPARE%20Report%20-%20Rule%20of%20law%20best%20practices%20%28FINAL%29.pdf>

Meryl Demuynck, Anna-Maria Andreeva, George Kefford. “A Practitioner’s Guide to Working with Children in VE-Affiliated Families: Protecting the Rights of the Child”. *International Center for Counter-Terrorism* (2023). Available at:

<https://www.icct.nl/sites/default/files/2023-05/PREPARE%20Report%20-%20Rule%20of%20law%20best%20practices%20%28FINAL%29.pdf>

Nadim Houry. "Children of the Caliphate: What to do about kids born under ISIS". *Human Rights Watch* (2016). Available at: <https://www.hrw.org/news/2016/11/23/children-caliphate>

Peter Curi. "Hoover woman, husband arrested while allegedly trying to join ISIS". *CBS 42* (2021). Available at: <https://www.cbs42.com/news/local/hoover-woman-husband-arrested-while-allegedly-trying-to-join-isis/>

Raya Jalabi and Alissa de Carbonnel. "Exclusive: Islamic State suspects sent by U.S. from Syria to Iraq" *Reuters* (2019). Available at: <https://www.reuters.com/article/us-mideast-crisis-islamicstate-transfers/exclusive-islamic-state-suspects-sent-by-u-s-from-syria-to-iraq-idUSKCN1SZ0R1>.

Reynolds, Sean C. and Mohammed M. Hafez. "Social Network Analysis of German Foreign Fighters in Syria and Iraq," *Terrorism and Political Violence* 31, No. 4 (2019), pp. 661-686

Richard A. Serrano, "Americans Radicalized by Al Qaeda Are a Big Concern", *Los Angeles Times* (2014). Available at: <https://www.latimes.com/nation/la-xpm-2014-jan-18-la-na-alqaeda-threat-20140119-story.html>.

Roman Kiyashko. "Putin said that Russia will not leave their children in Syria and Iraq". *Rossiyskaya Gazeta* (2017). Available at: <https://rg.ru/2017/12/14/reg-skfo/putin-zaiavil-cto-rossiia-ne-brosit-svoih-detej.html>

Rukmini Callimachi and Catherine Porter. "2 American Wives of ISIS Militants Want to Return Home". *The New York Times* (2019). Available at: <https://www.nytimes.com/2019/02/19/us/islamic-state-american-women.html>.

Stephen Quillen. "Europe Grapples with ISIS Returnees and Their Families". *The Arab Weekly* (2019). Available at: <https://the arabweekly.com/europe-grapples-isis-returnees-and-their-families>.

Tanya Lokshina. "Will Russia Bring Home Children Who Lived under ISIS/the Islamic State?" *Human Rights Watch* (2018). Available at: <https://www.hrw.org/news/2018/08/14/will-russia-bring-home-children-who-lived-under-isis/islamic-state>

Tanya Mehra and Christophe Paulussen. *The Repatriation of Foreign Fighters and Their Families: Options, Obligations, Morality and Long-Term Thinking*. International Centre for Counter-Terrorism (2019). <https://www.icct.nl/publication/repatriation-foreign-fighters-and-their-families-options-obligations-morality-and-long>

Tanya Mehra. "Bringing (Foreign) Terrorist Fighters to Justice in a Post-ISIS Landscape Part I: Prosecution by Iraqi and Syrian Courts". *International Centre for Counter-Terrorism* (2017). <https://www.icct.nl/publication/bringing-foreign-terrorist-fighters-justice-post-isis-landscape-part-i-prosecution>

The Advice Center for Radicalization". *Federal Office for Migration and Refugees (BAMF)*. Available at: <https://www.bamf.de/EN/Behoerde/Beratungsstelle/beratungsstelle-node.html;jsessionid=5A4E9F616341296A853E2CFACDF5EA9A.internet272> (last accessed 6/7/2023)

Tom Kington. "45,000 Children of Isis 'Are Ticking Time Bomb'", *The Times* (2019) available at: www.thetimes.co.uk/article/45-000-children-of-isis-are-ticking-time-bomb-lp0nq9q2m.



UN Commission on Human Rights, Convention on the Rights of the Child., 7 March 1990, E/CN.4/RES/1990/74, available at: <https://www.refworld.org/docid/3b00f03d30.html>

UN General Assembly, International Covenant on Civil and Political Rights, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, available at: <https://www.refworld.org/docid/3ae6b3aa0.html>

UN General Assembly, Universal Declaration of Human Rights, 10 December 1948, 217 A (III), available at: https://www.ohchr.org/sites/default/files/UDHR/Documents/UDHR_Translations/eng.pdf

UN General Assembly, Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, 25 May 2000, available at: <https://www.refworld.org/docid/47fdfb180.html>

UN Security Council, Security Council resolution 2178 (2014) [on threats to international peace and security caused by foreign terrorist fighters], 24 September 2014, S/RES/2178 (2014), Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N14/547/98/PDF/N1454798.pdf?OpenElement>

UN Security Council, Security Council resolution 2178 (2014) [on threats to international peace and security caused by foreign terrorist fighters], 24 September 2014, S/RES/2178 (2014), available at: <https://www.refworld.org/docid/542a8ed74.html>

UN Security Council, Security Council resolution 2249 (2015) [on terrorist attacks perpetrated by ISIL also known as Da'esh], 20 November 2015, S/RES/2249 (2015), available at: <https://www.refworld.org/docid/5656a4654.html>

UN Security Council, Security Council resolution 2253 (2015) [on renaming of Al-Qaida Sanctions Committee as "1267/1989/2253 ISIL (Da'esh) and Al-Qaida Sanctions Committee" and the Al-Qaida Sanctions List as "ISIL (Da'esh) and Al-Qaida Sanctions List" and on extension of the mandate the Office of the Ombudsperson for a period of 24 months from the date of expiration of its current mandate in Dec. 2017], 17 December 2015, S/RES/2253 (2015), available at: <https://www.refworld.org/docid/56ec00684.html>

UNICEF. "Paris Principles and Commitments on Children Associated with Armed Forces or Armed Groups". UNICEF (2007). <https://www.unicef.org/mali/media/1561/file/ParisPrinciples.pdf>

Vlado Azinović and Muhamed Jusić. "The new lure of the Syrian war – the foreign fighters' Bosnian Contingent". *Atlantic Initiative*, Sarajevo (2016). Available at: <https://atlanticinitiative.org/new-atlantic-initiative-research-the-lure-of-the-syrian-war-the-foreign-fighters-bosnian-contingent-2/>

"German passport can be revoked" *The Federal Government* (2019). Available at: <https://www.bundesregierung.de/breg-en/service/archive/german-passport-can-be-revoked-1597456#:~:text=Reform%20of%20Nationality%20Act%20German%20passport%20can%20be%20revoked&text=Under%20the%20new%20provision%2C%20German,will%20lose%20their%20German%20citizenship>. (last accessed 17/7/2023).

Law on the Citizenship of Bosnia and Herzegovina. "Official Gazette of Bosnia and Herzegovina", No. 22/2016 - revised text. Available at: <https://www.paragraf.ba/propisi/bih/zakon-o-drzavljanstvu-bosne-i-hercegovine.html> (last accessed 17/7/2023)

Law on the Citizenship of the Federation of Bosnia and Herzegovina. “*Official Gazette of the Federation of Bosnia and Herzegovina*”, no. 34/2016 and 98/2016 – corrected. Available at: <https://www.paragraf.ba/propisi/fbih/zakon-o-drzavljanstvu-federacije-bosne-i-hercegovine.html> (last accessed 17/7/2023)

Law on the citizenship of the Republika Srpska. “*Official Gazette of the Republika Srpska*,” no. 59/2014. Available at: <https://www.paragraf.ba/propisi/republika-srpska/zakon-o-drzavljanstvu-republike-srpske.html> (last accessed 17/7/2023)

Bosnian embassy in Damascus. <https://embassies.net/bosnia-and-herzegovina-in-syria/damascus> (last accessed 17/7/2023)

¹Bosnian embassy in Baghdad. <https://embassies.net/bosnia-and-herzegovina-in-iraq/baghdad#:~:text=Bosnia%20and%20Herzegovina%20has%20no,and%20consulate%20locations%20to%20Baghdad> (last accessed 17/7/2023)



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