

FOREIGN (TERRORIST) FIGHTERS AND THEIR FAMILIES: CHALLENGES FOR STATE INSTITUTIONS AND THE BORDER MANAGEMENT OF ESTONIA AND THE EU

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Abstract. *Foreign terrorist fighters (FTFs) returning with their families to the countries of origin in the EU after the fall of ISIS caliphate in Iraq and Syria, as well as foreign fighters (FFs) returning to the EU after combating in the conflict zones in (Eastern) Ukraine present a significant challenge for public institutions and border management of the EU member states. While there is differing legislation across member states regarding the treatment of foreign fighters in Ukraine, there are largely common views on and framework for prosecution of FTFs, deradicalisation and reintegration of them and their families, which requires a remarkable multi-agency effort as exemplified by member states like Finland and Sweden. Having served their sentences, FTFs and, possibly, also FFs have a clean profile, but there remains a risk that some of them may resume terrorism-related activities. In this article, questionnaire as well as semi-structured interviews were used to establish how Finland, Sweden, and the Baltic States are handling the issue of FTFs and FFs; also, the impact of the FTFs and FFs on Estonia's as well as the EU's border management is analysed. Major conclusions of the study include the suggestion to use smart gates for the biometric verification of all passengers within the Schengen area as well as the suggestion for the Baltic States to create and develop multi-agency framework for treatment of returnees and refugees from conflict zones.*

Keywords: *(de)radicalisation, border management, foreign (terrorist) fighters, smart borders terrorism.*

Introduction

The research summarized in this article was conducted well before the beginning of the Russian aggression against Ukraine. However, the research on foreign (terrorist) fighters is still topical, since, as Mina al-Lami who leads BBC Monitoring's jihadist media team wrote on Twitter on 18 April 2022, a recent issue of a pro-al-Qaeda magazine urged jihadists to go to Ukraine as foreign volunteers to fight Russia in order to receive military training and weapons that could later be used in jihadist attacks.¹ Moreover, in his recent

¹ <https://twitter.com/Minalami/status/1515820795884453888>
<https://doi.org/10.17770/bsm.v4i9.7046>



address on 18 April 2022, ISIS spokesman Abu Omar al-Muhajir urged supporters of the terrorist group to launch jihadist attacks against Europe and Israel while the West is distracted with the war in Ukraine (Vohra, 2022).

There are thousands of individuals in Europe and in third countries who have been active in combat in Syria and Iraq or in support of terrorist targets. When they return home, they either escape criminal prosecution or serve their sentence. These persons may no longer pose an immediate threat to national security and public order, but some of them may still be active proponents and disseminators of terrorist or extremist ideology or vulnerable to being manipulated into these activities (Klemm, 2022, p. 31). Hence, EU nationals with terrorist intentions, previously having FTF and/or FF profiles, can travel freely across the Schengen Area. Other FTFs and FFs choose to come to the EU covertly, using illegal migration routes and counterfeited documents. Moreover, upon joining ISIS, FTFs gave away their documents, so these documents could be used to send ISIS agents to the EU (Europol, 2020, p. 44)

COVID-19 restrictions on travel had their impact on the return of FTFs to Europe in 2020. Among those who nevertheless returned, there were two ISIS members entering Spain through an irregular migration route from North Africa. (Europol, 2021, p. 8) In 2021, Estonian Internal Security Service detected two Iraqi citizens who were apparently involved in the ISIS massacre of hundreds of Iraqis. In addition, a Russian citizen was detected who, having been prosecuted in Russia for a terrorist offense, was using an illegal migration channel created by the Belarusian hybrid attack to covertly get to Finland with the help of Finnish Chechen community. (Klemm, 2022, p. 31) There are still attempts made to travel to conflict zones. Notably, not only those enthusiastic about Islamist extremism and radicalized islamists are ready to travel to the hotbed of conflict, but more than a thousand women have left Europe (including Estonia) for the Syrian-Iraqi conflict zone to live with their husbands or marry (Klemm, 2021, p.35).

All of the above creates certain pressure on the EU border management. Moreover, the issue of returning foreign (terrorist) fighters lies at the intersection of the fields of expertise of many state institutions, such as security, judicial, and social authorities, with the purpose to ensure fair punishment for FTFs and FFs, but also deradicalisation and reintegration for them and their families and, if necessary, the ability to track their activities and travelling in case of relapse into terrorism-related pursuits. Hence, the solution to the issue of FTFs and FFs lies in the high level of inter-institutional as well as inter-state cooperation. Additional challenge here is in responding

to the potential security threat on the one hand and maintaining the respect for fundamental rights as well as the freedom of movement within the Schengen area on the other hand. OSCE stresses that “effective counter-terrorism measures and human rights are not competing but mutually reinforcing objectives” (OSCE ODIHR, 2021, p. 8).

This research, conducted in spring 2021, aimed at establishing how Estonia² and its neighbouring countries Finland, Sweden, Latvia, Lithuania were approaching the issue of FTFs and FFs. To reach this objective, experts from these countries were asked to fill out the questionnaire. The questions concerned the (expected) number of returnee FTFs and their family members as well as FFs in the expert’s country; the country’s policies with regard to these returnees, its disengagement and reintegration programmes; the country’s further activities with regard to FTFs and their wives who are released from prisons; difference in the treatment of FTFs from Syria and Iraq on the one hand and FFs from Ukraine on the other hand. In addition, semi-structured interviews were conducted with Estonian border management experts regarding the challenges (recidivist) FTFs and FFs pose to the border management of Estonia and the EU. The questions addressed the existing capabilities of the EU organisations and systems (Europol, Frontex, SIS, and also EES and ETIAS, which are intended to be implemented in the foreseeable future), as well as Interpol in intercepting (recidivist) FTFs and FFs in the EU and ways of improving these capabilities. Responses were received from eleven experts in total. Major conclusions are that the current difficult situation in detecting FTFs and FFs could be improved by enhancing the interoperability between available (and future) databases and systems. Another solution could be biometrics checks of all passengers, including EU nationals, within the Schengen Area.

Foreign (terrorist) fighters: definitions and the background

In this article, “foreign terrorist fighter” (an *FTF*) is a person who, beginning from 2011, went to Syria and Iraq to combat on the side of ISIS terrorist group. Notably, it has been established that there have been very few cases in which FTFs returned to their country of origin in the EU to actually commit a violent attack. Hence, an FTF threat can be characterised as “low probability, high impact” (Scherrer, ed., 2018, p. 26). It is important to bear in mind that, “despite diverse backgrounds, experiences, roles, and

² The country where the author of this work is based.

motivations, all adult and child returnees are considered to have some level of trauma and emotional/psychological issues” (Scherrer, ed., 2018, p. 37). As mentioned above, FTFs are not a homogenous group regarding their backgrounds, motivations, and experiences; hence, some FTFs show utter readiness to disengage from violence and contribute to deradicalisation programmes, while others slide into terrorism-related activities (Scherrer, ed., 2018, pp. 26–27). Nevertheless, due to posing a possible security threat in their country of origin, FTFs are “are viewed almost universally by both public opinion and security officials as terrorists” (Hoffman & Furlan, 2020, p. 10).

Ambivalences described above are also inherent in the wives of FTFs, many of whom were placed in Syrian refugee camps Al Hol and Roj: some of these women are begging to return to their home countries and stand trial, while others are waiting for ISIS as saviours (Prevention Media, 2020). Regarding the children of FTFs, they may be severely traumatised due to exposure to radical beliefs and brutal acts of violence, but they are nevertheless considered a possible security threat due to receiving military training by some of them (Europol, 2020, p. 45). However, according to the UN officials, leaving these children in refugee camps enhances the risk of their radicalisation: “Al Hol will be the womb that will give birth to new generations of extremists” (The National, 2021).

Conditions in refugee camps are harsh and harrowing. In 2019, more than 500 persons died in Al Hol, and 371 of whom were children (Viirand, 2020). Moreover, ISIS perpetrate slayings on Al Hol camp because it is controlled by their perceived enemies, Syrian Kurdish officials. The latter call for countries to repatriate their citizens from refugee camps. In contrast, Syrian Kurdish Autonomous Administration’s police force opened fire at women and children from third countries in Al Hol, resulting in the death of a child (Amnesty International, 2022). The UN urges the countries around the world to repatriate the children of FTFs. These people remain their nationals, whose protection and support are required by the national laws and international agreements, let alone children’s rights (Viirand, 2020). Moreover, repatriating also FTFs and their wives allows for an overview of terrorist threat. Otherwise, if these people are dispersed around the world after the fall of the caliphate, there are less opportunities to control their activities.

Furthermore, “foreign fighters” in this article refer to persons who, during the period between 2014 and 2022, went to combat in Eastern Ukraine on either side of the conflict. During this period, Russia did not

acknowledge its involvement with the conflict. According to Ukrainian sources, Russia let its fighters across the border to Ukraine but on their way back home, these fighters were demolished (Kharkiv Izvestia, 2014). To Western fighters, Russia provided the corridor through Moscow and Rostov Oblast to the Ukrainian border to fight on the side of the Russia-backed separatists (Rekawek, 2020, p. 4). According to Murauskaite (2020, p. 4), between 2014 and 2019, around 2 000 FFs from 54 countries other than Russia joined the conflict in Ukraine on either the Ukrainian or separatist pro-Russian side. In 2014–2016, two persons from Estonia, 12 persons from Latvia, 21 persons from Lithuania, 7 persons from Finland, and 17 persons from Sweden went to combat in Eastern Ukraine. Major issues regarding returnee FFs is social marginalisation leading to violent outcome and vulnerability to external (first and foremost, Russian) influence which may result in incitement to violence (Murauskaite, 2020, p. 21).

According to Rewak (2020, p. 3), among Western FFs in Ukraine, there were several hundred individuals with extreme right-wing (henceforth *XRW*) or nationalist beliefs. These individuals with anti-Western sentiments went to Ukraine to combat against the Western establishment on both sides of the conflict. Notably, members of groups like the Russian National Unity of A. P. Barkashov fought on the side of pro-Russian separatists; this group has a track record of terrorist activity in the Baltic States (Rewak, 2020, pp. 3-4).

Situation with FTFs and FFs in Finland and Sweden

Finland has a clear perspective on the repatriation or return of FTFs and their family members of Finnish nationality. According to Expert T, under Finnish law, Finnish citizens and holders of a residence permit in Finland always have the right to and cannot be prevented from returning to Finland. Finnish Ministry of the Interior is responsible for the coordination of security measures to be applied to returnee FTFs and their families. Various authorities across sectors are working in close cooperation with the ministry. Authorities largely proceed from the returnee policy adopted by the ministerial working group on internal security and justice in 2017. According to this policy, central government municipal authorities and CSOs³ should work together to efficiently support the reintegration of returnees into Finnish society. Expert T maintains that, regardless of gender, all adults

³ Civil society organisations

returning from a region in Syria once governed by ISIS will stand trial for any offences committed there. He maintains that close cooperation ties with other EU members states will allow to detect any recidivist FTFs. As for Finland's treatment of FFs in Ukraine, there is currently not sufficient information. From the media sources, it is currently known that about twenty Finnish nationals fought in Eastern Ukraine on the side of Russian-backed separatists, but the Finnish authorities did not initiate criminal proceedings against them (Aro & Kuronen, 2021).

The treatment of returnee FTFs and their families in Sweden is comparable to Finland. According to Expert W, effective interinstitutional collaboration is achieved in the issue, a joint communication strategy is agreed on, which allows for swift decision-making and identification of the need for changes in the joint approach. In this cooperation, the role of the Centre for Preventing Violent Extremism is essential. Notably, all Swedish FTFs (female and male) are registered in the SIS; this information is also shared in other international channels to facilitate early detection. As for Swedish FFs in Ukraine, there is, as in the case of Finland, not sufficient information. According to (Murauskaite 2020, p. 20), in 2017, "two Swedish members of the neoNazi Nordic Resistance Movement (which is fiercely anti-immigrant) have reportedly gone into Ukraine to train with a Russian battalion fighting there, and upon their return bombed a centre for asylum seekers in Sweden". In addition, there is an organisation called Donbassföreningen in Sweden whose goal is "to support the anti-fascist forces in Ukraine and to expose the one-sided reporting from the Swedish media" (Donbassföreningen, 2015).

Situation in Latvia, Lithuania, and Estonia

There is not much information regarding FTFs and FFs in Latvia and Lithuania. According to Expert M, at least one Latvian FTF was sentenced in Latvia, while several FFs are wanted. A non-citizen of Latvia, Artem Skrypnik, was sentenced to five years of imprisonment for combating in South-Eastern Ukraine (TVNET, 2019). According to Expert J, six foreign fighters who participated in military conflicts either in Syria, Libya, Iraq or Crimea were sentenced in Latvia. To track FTFs and FFs, Latvia uses SIS. In Expert J's words, the Latvian border guard designed a system of risk indicators which was integrated into the framework of common risk indicators elaborated by Frontex to detect FTFs and other subjects of interest. The Latvian State Security Service is the central authority responsible for the issue of FTFs. In

addition to national information systems, international information systems are used, including Interpol resources such as API, PNR, and SLTD.

Furthermore, according to expert E, there are no FTFs in Lithuania. In Murauskaite's (2020, p. 10) terms, of all the Baltic states, Lithuania had the highest number FFs (up to 20), most of whom were fighting on the Ukrainian side: "historically, Lithuania has been actively advocating the EU to pay more attention to Ukraine and to offer assistance to Ukraine once the conflict started". In Lithuania, there is no public information regarding the prosecution of FFs on either side, despite the investigation of some pro-Russian fighters. One pro-Ukrainian FF said he felt a boost in confidence after returning to Lithuania and started his own business; nevertheless, he was criticised for going to Ukraine despite Lithuania's official support for Ukraine (Murauskaite, 2020, p. 20).

Regarding Estonia, beginning from 2013, around twenty persons, including children, were detected who stay or have stayed in the conflict zones in Syria and Iraq and have connections with extremist groups (Puusepp, 2020, p. 41). One FTF of Estonian nationality left for Syria with his family and died in combat, while there is no information about his wife and children. According to Expert V, Estonia is not repatriating its nationals from the conflict zones; rather, they need to ask for assistance in Estonian embassies and consulates. Estonia then has to establish if a returnee needs to be prosecuted for crimes committed in the conflict zone. Returning ISIS wives will also be prosecuted in Estonia and, if imprisoned, the state needs to have a strategy/plan as to what to undertake with her child(ren), how to accommodate, assist, and monitor them as well as to reintegrate them into society. In case women returnees have served their sentence and their children attend schools in EU member states, the task of monitoring them should only be performed by relevant authorities. It is essential to prevent any possible stigmatization of these people due to their past on behalf of schoolmates, colleagues, etc., which requires a lot of social effort and awareness, given the rise of right-wing extremist movements and other conservative trends across Europe.

According to Murauskaite (2020, p. 10), "it seems somewhat surprising that the 2014– 2016 statistics captured no Estonians backing Ukraine, and only a few fighting on the Russian side". In Estonia, the charges for participation in the conflict in Ukraine (on the separatist side) is terrorism, and the punishment is extradition from the country. In 2016, there has been one instance of extradition of a pro-Russian foreign fighter from Estonia. From media sources it is also known that eight more FFs from Estonia went

to fight on the pro-Russian side in Ukraine (Roonemaa & Laine, 2022). Estonian Internal Security Service intends to prevent travel to conflict zones or otherwise initiate criminal proceedings for travelling for terrorist purposes. (Klemm, 2021, p. 35) In addition, each year, about 40–50 people are known to Estonian security authorities as involved in terrorism move through Estonia and to Estonia (ibid.).

FTFs and FFs as challenges to the Estonian border management

When FTFs and their wives and also FFs have served their prison sentences, they can move freely in the Schengen area, including Estonia. Monitoring these persons after release from prison has no legal basis. Expert T believes that Europol and Interpol databases, the SIS as well as cooperation between intelligence services of the EU member states will allow to track persons with terrorist intentions. However, there are several challenges. Expert L says that it is possible to profile a returnee FF on the basis of passport data, age, gender, appearance, face, facial expression, hands, luggage, attitude, body posture, and the manner of speaking. Upon any suspicion that the person may be a foreign fighter, s/he is referred to a second line check for a thorough interview, examination of things, clothes, travel itineraries, stamps of border crossings, etc. However, as Expert L admits that he does not know whether these FFs are monitored, identified and whether anyone is suspected, “although we realise that there are adventure seekers who want to go and try a firearm somewhere and blow things up, no matter on which side and for what ideas.”

Expert R stresses that the Baltic States and Finland have a liaison officer in Ukraine who will start working on the ground to collect information about any possible FF from these countries. Liaison officer acts within the first level of integrated border management four-tier access control model in third countries, providing first inspections into potential returnee FFs from the local sources. For instance, the liaison officer is expected to help gather information about Estonian citizens who are at risk; with regard to a third-country national applying for an Estonian visa in Ukraine, the liaison officer is expected to check their background on the spot and decide upon issuing a visa. According to Expert R, if a person (an FTF or FF, for instance) wants to enter the EU from Russia on a visa basis and Russia failed to provide information about this person, liaison officers working in a member state’s consular department in Russia cooperate with local organisations involved in border surveillance to find the information about this person and whether

s/he can be issued a visa. This information is then duly entered into the Entry/Exit system: “Again, it depends on how well or poorly our people work there on the ground. Still, it is a little easier for all of us with this system, as background checks are already starting in third countries”.

Another prominent concern is that, according to Expert A, as long as there are conflict zones, there is always the possibility that Estonian citizens will travel there. Despite all of the available knowledge about FTFs and FFs, it is rather difficult to detect them if these persons do not disclose themselves in any way. It is easier to detect and identify those who boast, post pictures or somehow leave a mark. According to Expert V from the Estonian Internal Security Service, FTFs and FFs can indeed travel to conflict zones and return in disguise. Hence, there can be FTFs and FFs in Estonia of whom nothing is known.

Some EU member states restricted the movement of European departees, which is a questionable measure in terms of fundamental rights compliance (Scherrer, ed., 2018, p. 52). According to Expert L, more grounds for detention of a person for participation in foreign fighting arise upon the person’s return. There may signs of participation in foreign fighting rather than facts. For instance, if a person presents a passport with the information on all countries the person has visited along with the duration of stay. Or, on the contrary, a person coming from a conflict zone presents a completely clean passport claiming that s/he has lost their previous passport. Other important aspects are luggage and its nature, a person’s psychology (signs of post-traumatic syndromes) or appearance (battle-hardened face features), and so on. However, Expert L maintains that detection of these indicators depends on the proficiency, knowledge, and interviewing skills of the profiler.

Another challenge regarding the infiltration of FFs and FTFs into the EU are the shortcomings of issuing visas. According to Expert A, if one EU member state has refused to issue a visa at its embassy, for instance, in Moscow, a person can go to the embassy of another EU member state in Moscow and get a visa there. Unified European Visa Information System is being improved to reduce such risks and provide member states’ consular services with the information on refusals. It is difficult to improve the current system as it concerns pan-European data exchanges and risks may occur of conflicts with national legislations, especially those related to personal data. According to Expert R, one component of the integrated border management model is a uniform visa policy. In fact, according to the regulations, there cannot be a situation like the one described above. Entry/Exit and ETIAS

systems are already contributing to solving the issue: an entry ban entered by one member state will be extended to all other member states. However, this may not work if a member state enters an entry ban for security reasons, e.g., based on anti-immigration sentiments.

Another FF and FTF related challenge for the EU border management is that, according to Expert A, one can buy an authentic and valid document in a member state for a bribe. Expert L maintains, too, that the most difficult thing to detect in case of counterfeits is when the document was indeed bought from the public authority for a bribe. In such a situation, the agents issuing these documents, the number and holders of these documents need to be detected. Expert L adds that it is difficult (but still not impossible) to issue an authentic document for a bribe in countries with a central document issuance system, like Finland and Sweden, where all documents are fingerprinted.

Expert A admits that “the bottleneck” of the EU border management is that there are no internal border checks and, in case an FTF or FF crosses one member state’s external border, it is essentially safe and risk-free to travel to other member states, as no checks are made unless a person attracts the attention of law enforcement by committing an offense. This is especially true if a person is moving on foot or travelling in a rental car without having to register themselves anywhere. This makes it hard to identify such people unless they make a purchase using a bank card or otherwise leave a trace which would give a hit in the SIS.

In Expert L’s opinion, a very serious challenge with FFs and FTFs in the EU is fraud, i.e., presenting documents belonging to other people. According to Expert A, today, it is possible to take someone’s mobile phone, open an electronic ticket, enter the restricted area of the Tallinn airport, and pass through the travel gate without presenting a document: “What we actually see in the system is whose travel document is registered, but we do not see who actually uses that document.” Also, mobile positioning is limited to showing the location of the mobile phone, not the person. In Expert A’s opinion, the solution to this issue is to check the biometrics of all passengers within the EU. However, there are limitations as to what an extent this can be implemented. The freedom of movement of people, goods, and services within the EU is a valuable freedom and a right, so when it starts being limited by additional control measures, this will lead to the restriction of this freedom. Notably, the aim of all technological solutions that are being introduced is to make border crossings smoother and faster. Hence, there are currently exceptions also for Entry/Exit and ETIAS systems as EU nationals

are not entered there. EU nationals, including FTFs and FFs, are in other systems, e.g., the Interpol databases. Interpol is the only international (non-EU) organisation having access to ETIAS.

There will be, thus, a network of systems that supports not only Europol but also EU member states and provides access to Interpol, border control organisations, and, upon necessity, security authorities. Expert R says that the dream of the future, as well as the steps taken at present, are predicated on the idea that if a person has (had) a background related to terrorism, it should be indicated in at least some database. Notably, recommendations of OSCE on how to respect and protect human rights when using new technologies in border management should be taken into account. Among other things, covert and excessive data collection, discriminatory data processing, re-purposing of datasets, deployment of untested or inaccurate technological tools, and arbitrary inclusion on watchlists should be avoided (OSCE ODIHR, 2021).

Conclusion

The FTFs and their families returning to their countries of origin after the fall of the ISIS caliphate has created considerable pressure on the institutions of the EU member states. Revoking citizenship and leaving wives and children of FTFs in refugee camps leads to further radicalisation of these people, while they are perishing in harsh conditions. Repatriation, however, puts returnees in a hazy position between national security threat and subjects of reintegration. Hence, interinstitutional and cross-sectoral cooperation is vital to deradicalise and reintegrate FTFs and their families, prosecute adults for committed offenses, and help children heal from the traumas they experienced during their life in ISIS. Finland and Sweden have created such multi-agency networks based on experiences of previous migration crises while the Baltic States can learn from the experiences of Finland and Sweden in creating their response measures if not to FTFs and their families, then to other instances of immigration from conflict or war zones.

EU nationals can also participate in foreign fighting in other conflict zones, one of which was Eastern Ukraine. It is too early to comment on FFs in Ukraine during Russian aggression against Ukraine that started on 24/02/2022, but before the war, FFs from Ukraine presented a challenge to the EU, especially the far-right extremists that sought to receive military training in the conflict zone to commit violent acts at home.

FTFs and FFs present several challenges to the EU border management. FTFs are effectively trained by Islamist organisations to avoid detection during border checks. One way to do this is to use the documents of EU nationals who joined ISIS or use illegal migration routes. In addition, if an FTF resumes their terrorism-related activities after having served their prison sentence in the country of origin or their family members become radicalised despite all deradicalisation and reintegration efforts, it is relatively difficult to track the movement of these people within the Schengen Area. Another way for people with terrorist intentions to travel across the Schengen Area is by using documents of other EU nationals on ferries and buses or travelling by a rental car, leisure boat or by foot, so as to never leave a trace which can be checked across relevant databases. Other challenges to the EU border management are shortcomings of issuing visas in embassies of different member states in third countries, the possibility that corrupted EU officials issue an authentic document for a bribe, various human errors, including a huge role of profiler skills in handling FTFs and FFs at the border. In case of FF, the efforts of individual liaison officers also play an important role. However, if a person is absolutely silent about their foreign fighting, s/he may never become detected either by border guards or by security authorities of the EU member states.

To conclude, although there is a strong counter-terrorism cooperation between Interpol, Europol, Frontex, and interconnections between their databases with the databases of SIS (and shortly ETIAS, and EES), there are still options for people with terrorist intentions to avoid hits within these databases. Consequently, taking in account the principles of free movement within the Schengen Area and the recommendations of OSCE regarding the necessity and proportionality of checking biometric data to achieve a legitimate aim, the proposal is to use smart gates for the biometric verification of all passengers, including EU nationals.

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