





# M.A. in Political Science With a Concentration in European Union Policy Studies James Madison University

# Foreign Fighters: Examining how Foreign Fighters will become a greater threat to Europe if Fighters are left in former ISIL territories

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# **Abstract**

This paper will explore the challenges presented by the Islamic State of Iraq and the Levant, (ISIL) and, in particular, the return of foreign fighters to their home countries within Europe. The main question is whether these returning fighters still present a threat to Europe and how member states can cope with this situation. The transition between their presence to the battle ground and an ordinary life is a parameter that needs to be studied, as well as the role of their families and their direct environment. At the end, I will propose some policy recommendations that the European Union could adopt to prevent Further radicalization and to achieve integration.

# **Definition**

The United Nations Security Council resolution 2178 of 24 September 2014, operative paragraph 6, recalls its decision in resolution 1373 (2001), and defines foreign fighters as "any individual or individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training, including in connection with armed conflict". This definition is completed by the compilation of three reports that the UN Executive Directorate of the Counter-Terrorism Committee has presented. Reference is made to the willful provision or collection, by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds should be used, or in the knowledge that they are to be used, in order to finance the travel of individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training; and, the willful organization, or other facilitation, including acts of recruitment, by their nationals or in their territories, of the travel of individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training.

With the rise of radical extremist groups, along with the outbreak of the Syrian Civil war, the world, especially Europe, is seeing a rise in "foreign fighters". When the majority of the population hears the word foreign fighter, most think of someone who is engaging in acts of terror, partly due to news agencies which portray foreign fighters merely as combatants. In reality, the world has been seeing a new form of foreign fighter compared to the experiences we had in the past, which was mainly inspired by the djihadist movement. When the Syrian civil war broke out, we witnessed many people feeling the need to move to Syria in order to aid the Syrian opposition to Bashar al-Assad's forces. Kurdish people living in Europe and in other areas of the world felt it was their duty to fight along aside the local Kurdish population in the fight against ISIS and the fight against Bashar al-Assad's forces.

# Introduction

More than 42,000 people from 120 countries have traveled to Iraq and Syria to join the so-called Islamic State. An estimated 5000 to 6000 European citizens have left their home countries to pledge their allegiance to and fight for the Islamic State. However, after a few years, with the caliphate quickly crumbling, Europe has seen a rise in fighters returning to their home countries. According to the European Union's top counterterrorism official, Gilles de Kerchove, more than 5,000 Europeans have returned home.<sup>ii</sup> Throughout its history, Europe has had to deal with the returning of foreign fighters from the Spanish civil war, World War II, the war in Iraq and Afghanistan, and now the war in Syria. The threat of foreign fighters returning to the European Union, and the possibility that they engage in radicalizing others, or being responsible for terrorist attacks is a real and valid threat.<sup>iii</sup> Unfortunately, one of the recent terrorist attacks, which was among the deadliest ones on European soil was the realization of this scenario. This paper examines how member states are handling the threat of foreign fighters returning, what

measures the European Union has adopted, the efficiency (or lack of it) of these provisions, and how the European Union could increase its effectiveness in this field. .

Co-operation against terrorism in the European Union has significantly increased in the recent years. European arrest warrants and improved information systems have made it easier to detect and arrest returning jihadists as they are crossing European borders. However, the attacks in Paris and Brussels in 2015 and 2016 respectively have highlighted deficiencies that need to be resolved. iv For instance, many analysts have criticized frequently the European Union's member states for the lack of intelligence sharing between one another's secret services. The lack of intelligence sharing between agencies can prove a dire misstep in Europe's security policies. While each individual Member State has the sovereign right to share or not to share information or work with member states they choose to work with, the purpose of a secure European Union would be undeniably better served through a more complete integration in this sector. With the old symmetrical warfare dying and a new type of threat emerging the European Union and its member states need to raise themselves to the necessity of circumstances The threat of terrorism and radical extremism has to be seriously taken into consideration and integrated in relevant EU policies This section highlights and shows the need for member states to share information with each other's intelligence agencies and how the measures the European Union has taken so far failed to deliver the desired outcome.

### The Future Outlook

At its height, ISIS controlled an area the size of Great Britain and ruled over 10 million people. It was estimated that the area included more than 40,000 international citizens from 80 countries, according to the data from the International Center for the Study of Radicalization (ICSR). Today, the territory that is under ISIL control is just less than a few hundred square meters due to concerted action by US-backed Syrian Democratic Forces and their mission to take control of the last bit of ISIL controlled territory. As a result of successful allied operations, ISIS has been eradicated at a large extent and as a result thousands of women, children and fighters are now the custody of the US-backed Syrian Democratic Forces. Out of the thousands of people in custody, it is believed that hundreds of European citizens are among them, thus making even more pressing the question on how to address the issue of their return and reintegration to their homelands

As many press reports suggest, the fate of ISIL fighters has been a major issue on the minds of western decision makers and this has been emphasized especially by the fact that the Syrian Democratic Forces have been able to quickly mark significant victories and take the last remaining amount of territory under control by ISIL forces. In March of 2019, the Syrian Democratic Forces (SDF) reported that they have cornered the remaining ISIL militants in a neighborhood of the Baghuz village near the Iraqi border. The consequences of armed hostilities when a war is coming to an end are always difficult to address, and the war in Syria is no exception to this widely accepted rule. It is estimated that currently, US-backed forces ranging from Kurdish troops to the Syrian Democratic Forces, have over 800 ISIL fighters in their custody, as well as thousands of women and children of ISIL fighters in camps waiting to return to their home countries. Vi The de facto Kurdish government currently has control over the northeastern part of Syria and has explained to its international partners that the Kurdish

administration and forces cannot hold or detain massive amounts of ISIL fighters because they do not have the capacity or the means to put them on trial.

In the same vein, the United States have lately increased their pressure to European nations in order to receive former ISIL fighters. In mid-February, US President Trump sent out numerous tweets demanding the United Kingdom, France, and Germany to take back their captured citizens. In one statement he said, "The United States is asking Britain, France, Germany and other European allies to take back over 800 ISIS fighters that we captured in Syria and put them on trial. The Caliphate is ready to fall. The alternative is not a good one in that we will be forced to release them...", adding with another tweet that "The U.S. does not want to watch as these ISIS fighters permeate Europe, which is where they are expected to go. We do so much and spend so much - Time for others to step up and do the job that they are so capable of doing. We are pulling back after 100% Caliphate victory!"

So far, European leaders' response has been lackluster to say the least. The French Justice Minister, Nicole Belloubet, told the press in February of 2019 that "France would take back militants on a "case by case" basis but would not comply with US president Donald Trump's tweet". While France has stated they will take it "case by case", other EU member states have not been this open to the idea of allowing foreign fighters to return. The United Kingdom has refused to allow any to return and is looking at new laws that would give the United Kingdom the right to strip these foreign fighters of their citizenship. Of course, any similar approach poses the problem of stateless people and how they will be received or integrated in third societies. The Hungarian Foreign Minister Peter Szijjarto said the issue is "one of the greatest challenges ahead of us for the upcoming months. Our major endeavor now should be not to allow them to come back to Europe," said Szijjarto, whose staunchly anti-migrant government has linked extremist attacks to migration. Viii Not all EU Member states have had such a hardline stance on foreign fighters, like that of the United Kingdom and Hungary. Slovakia's Foreign Minister Miroslav Lajcak, who is part of an anti-migrant coalition government, has stated that "I would certainly be in favor" of Europe taking foreign fighters back. There is clearly a need to define the European position on this issue," Lajcak told reporters. "Whether we like or dislike the U.S. position, they make no secret of it. It's very clear," he said. "This is the key partnership for the European Union. But the rules of this partnership have changed, and we need to be able to react to it." With EU Member States reluctant to allow any fighters to return to their home countries, The Republic of North Macedonia became the first European country to conduct a significant repatriation, taking back and prosecuting seven fighters in August 2018.

As European governments continue to be sceptic on the return of foreign fighters, the situation of wives and children of European ISIL fighters raises concern as well. According to the International Centre for the Study of Radicalization, the total number of women and children that have returned to the European Union from Iraq and Syria, is close to 6,000 since the defeat of ISIL. The majority of these women and children are reentering Europe illegally and some fear that they can equally pose a threat to the security of the European Union and its member states. It is to be reminded that during their rise, ISIL heavily recruited women and minors As IS expanded across the region, it seized large swathes of land and in June 2014 it announced that it had established a 'caliphate', or an 'Islamic state'. Following what, they stated that it required all

Muslims' hijra (migration) to the state and it was obligatory if one was able to do so. They specifically were reported saying that: 'The State is a state for all Muslims. The land is for the Muslims, all the Muslims'. ISIL needed more those with specialized skills in Islamic jurisprudence, judges, those with military, administrative and service expertise, doctors and engineers and they were encouraged to come and assist in the building of this 'state'. In this respect, women and minors became important for two reasons: on the one hand symbolically because their presence and support helped legitimize this vision, and on the other hand practically because of the roles they played in this state-building process. xi

The legal framework within which the transfer and the reception of former foreign fighters to their countries of origin will be operated is another critical point. The release of foreign fighters and their families from Syrian Democratic or Kurdish Forces cannot take place according to preexisting rules given that there are only a few nations which have bilateral extradition treaties with Syria and, of course, no nation has an extradition treaty with the de facto Kurdish administration of Northern Syria, since it isn't a recognized international entity, so far at least The complexity of this exercise increases when e nations willing to receive their citizens from Syria try to build a legal case against these former fighters. Due to the lack of diplomatic relations and the closing of all diplomatic representations at the onset of the conflict in Syria, it is extremely difficult to collect impartial and credible data to be used in front of national courts.

A former bench-member of the House of Lords and independent reviewer of terrorism legislation, British barrister Alex Carlie, stated "the British government is under no legal obligation to collect people from SDF prisons." He also stated that "if former fighters wanted to return to the United Kingdom, then these individuals would have to find assistance from places with consular representation, places such as Turkey."xii Many European nations are urging countries such as Iraq who has many foreign fighters in custody and in their jails, to sign onto the Rome Statute of the International Criminal Court. By signing the Rome Statute of the International Criminal Court, countries like Iraq wouldn't have to build cases against them or prosecute them because that action would fall under the authority of the International Criminal Court. Articl4 of the Rome Statute states: "The Court shall have international legal personality. It shall also have such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes. The Court may exercise its functions and powers, as provided in this Statute, on the territory of any State Party and, by special agreement, on the territory of any other State". With regard to the jurisdiction of the Court, this is "limited to the most serious crimes of concern to the international community as a whole". According to its statute, the Court has jurisdiction "with respect to the following crimes: The crime of genocide, crimes against humanity, war crimes, and the crime of aggression". xiii

If Iraq or Syria were to sign onto the Rome Statute of the International Criminal Court, then the individuals who have been charged or arrested for terrorism, would be tried by the International Criminal Court. By signing onto Rome Statute of the International Criminal Court, nations that do not have the legal capacity, funding, or means to try individuals who have committed crimes such as terrorism, genocide, war crimes or crimes against humanity, would now not have to worry about trying these individuals because the responsibility would fall onto the International Criminal Court. While Syria is highly unlikely to sign onto the Rome Statute of the International Criminal Court because Syrian President Bashar Hafez al-Assad, would most

likely be charged with crimes against humanity. Unlike Syria, Iraq is trying to rebuild its government and its country after years of war and by signing onto the Rome Statute of the International Criminal Court would alleviate their issues with trying to return or try these foreign fighters for acts of terrorism.

European Union's member states' hesitation towards allowing foreign fighters and their families to return to their home countries finds a reasonable basis both in the public debate and the policy makers. Europe's recent experience with terrorist attacks conducted by former foreign fighters such as the Toulouse and Montauban shootings, the 2015 terrorist attacks in Paris, and the 2016 terrorist attacks in Brussels, constitutes a negative factor in considerations of reintegration.

Member States are currently looking at new ways to strip these former ISIL followers of their citizenship, but international law stipulates that nations "cannot render individuals stateless". xiv United Kingdom has been under public scrutiny recently because of the case regarding Shamima Begum, a British national who traveled to ISIL controlled Syria, at the age of 15 to marry a Dutch ISIL fighter she met online. Shamima Begum is now demanding that the United Kingdom allow her to return. She is being denied on grounds of participating in ISIS. As mentioned above international law states that "no country is allowed to render an individual or individuals stateless", but nations are allowed to strip citizens of their citizenship if they are nationalized citizens. xv In the United Kingdom, under the 1981 British Nationality Act xvi, individuals/persons can be deprived of their citizenship if the Home Secretary is convinced it would be "conducive to the public good" and they would not become stateless as a result. In the case under consideration, Ms. Begum is a citizen of the United Kingdom but since her parents are both Bangladeshi citizens, under Bangladeshi law Ms. Begum is considered as a Bangladeshi citizen. After the 2015 Paris terrorist attacks, French President François Hollande proposed a revision of the French Constitution to allow the government to withdraw citizenship from French citizens by birth if they engaged in terrorist activities. The legality and constitutionality of the measure were disputed and led to the resignation of the Justice Minister in 2016 and the proposed revisions were later abandoned later on in the year. xvii After the Charlie Hebdo attacks in January 2015, the Belgian government proposed a similar policy: in a 12-point anti-terrorism package, it included a provision to remove the Belgian citizenship from naturalized dual nationals sentenced to more than five years in prison for a terrorism offence. xviii

While stripping citizenship away from dual or nationalized citizens can be perceived as an effective measure for the deterrence of future perpetrators, it lets though unsolved the cases when the former fighter has only one nationality. One of the major legal objections against citizenship deprivation is the duty of states to prevent statelessness. XiX Many politicians and critics also believe that by stripping foreign fighters' citizenship would only cause an even greater threat to the western societies. At the Munich Security Conference in February of 2019, many Foreign Ministers across the globe have expressed their deepest concerns about the release of captured fighters. Many officials believe that even though ISIL has lost its territory and that the United States has recently declared victory over ISIL, it doesn't mean the threat is gone. The Foreign Minister of Qatar, Sheikh Mohammed bin Abdulrahman Al-Thani stated, "that while there are territories that are being liberated, it doesn't mean that ISIL has been defeated yet because the ideology is still there, the people are still there, and the tools of recruitment are still

valid."xx So, by stripping these foreign fighters of their citizenship and stranding them in the region could worsen the situation, as well as could allow for ISIS to regain its strength and numbers.

# **Policy Proposal**

If the European Union is to allow foreign fighters or their families to return, then the European Union and its member states need to make some drastic changes.

Member states have failed to prevent terrorist attacks due, among other significant factors, to intelligence agencies' unwillingness to share information on subjects/individuals who have recently returned from war zones and would be considered foreign fighters. Currently, the European Union's stance on foreign fighters is that member states have the primary responsibility on how to deal with these persons if they are their own citizens. It goes the same for the possible threats that these individuals pose to member states. Each member state is consequently competent to choose their strategy regarding return and reintegration of these citizens. In the effort to counter terrorism threats, the European Union has set up strategies and networks which also support member states and their national policies. Special focus is put on tracking funding of terrorist groups and draw educational programs on preventing radicalization, as well as improving existing databases. Still, member states lack the will to proceed to a further integration of the European intelligence community. Intelligence agencies in the United States of America experience the same set of problems where pertinent information isn't appropriately shared.

As previously mentioned earlier in this paper, the 2015 terrorist attacks in Paris, and the 2016 terrorist attacks in Brussel are key examples of the fact that if intelligence agencies worked with one another to share information then maybe these attacks could have been prevented. In the section below this article examines the three attacks and highlights the need for member states intelligence agencies to work together even more now because of the fall of ISIL and the return of foreign fighters to the European Union.

# **2015 Paris Terrorist Attacks**

The November 2015 Paris attacks were conducted by French and Belgian nationals who had fought in the Syrian civil war and were known to have ties with extremist groups. Six different distinct attacks were launched by three groups of men and theyconsisted of suicide bombing and mass shootings at four different locations in four separate attacks. The the final act of these tragic events was in the Bataclan theatre, while a concert was underway. The lives of 130 innocent people have been brutally ended and a total of 413 individuals were injured. \*xii\*Out of the nine attackers, seven were European born nationals, four of them were Belgian and three were French nationals. The masterminds of these attacks and the leaders of this ISIL terror cell in Brussels, were Abdelhamid Abaaoud and Salah Abdeslam. Abdelhamid Abaaoud was a Belgian-Moroccan, who had spent time in Syria and had an international arrest warrant issued for his activities in recruiting individuals to Islamic terrorism in Syria. Salah Abdeslam is a Belgian-born French born national who was close childhood friends with Abdelhamid Abaaoud. It is highly believed that Abdeslam became radicalized from because of the influence of Abaaoud,

specifically after Abaaoud had returned from Syria. Abdeslam was on the radar of German intelligence agencies due to his activity traveling from the European Union to Turkey. \*xxii\* After Abdeslam was arrested he admitted that during that time he was transporting members of the ISIL Brussels terrorist cell from Turkey back to Brussels to prepare for the attack. The German intelligence agencies suspected Abdeslam of terrorist ties, but the German agencies never contacted French or Belgian agencies to ask about him or inform them of their suspicions. This case presents a perfect example of why European Union member states national intelligence agencies should enhance their levels of cooperation and how returning foreign fighters can radicalize European citizens.

### 2016 Brussels Terrorist Attacks

On the 16<sup>th</sup> of March 2016, three men entered into the Brussels airport carrying large suitcases filled with explosives. Across town, another man entered the Maalbeek metro station carrying a large suitcase also filled with explosives. At 7:58 am, the first two attackers detonated their explosives in the check-in area of the airport, while the third explosive in the Maalbeek Metro stationed went off on 9:04 am. These attacks took the lives of 32 individuals and injured 340. They were conducted by French and Belgian nationals who were known to have ties to radical groups. xxiii The perpetrators of these attacks were all European citizens of Moroccan descent. Four out of the five attackers were Belgian nationals, while the fifth attacker was from Sweden. Various European intelligence agencies knew these individuals and qualified them as potentially dangerous for public security due to either being arrested for being "terror suspects" or had ties to radical Islamic groups. In the case of Ibbrahim El Bakraoui, Turkish authorities arrested him for being a "suspected terrorist" where he was later deported back to the European Union and resettled in the Netherlands. In the Netherlands he was arrested being a "suspected terrorist" but was later released after Dutch authorities failed to establish a link to any terrorist activities. xxiv All of the known attackers had ties to radical Islamic groups or had been suspected of being terrorist but there was still no investigation of them by European intelligence agencies.

If Member States intelligence agencies throughout the European Union would have provided information on these suspects or informed other agencies of the threat these individuals posed, then maybe these attacks could have been averted, which in turn would have saved the lives of hundreds of innocent people.

Europol has created the European Counter Terrorism Center (ECTC), which is an operations center and hub of experts that reflects on the growing need for the European Union to strengthen its response to terror. This center is designed as to provide operational support to member states upon request. His mission is closely related to foreign fighters and intelligence sharing on suspects. as well as tracking and dealing with online terrorist propaganda. In parallel it cooperates works with international agencies to counter terrorism authorities. While the European Counter Terrorism Center is headed in the right step of creating a hub that shares intelligence on terrorist suspects, it still doesn't fill the gap and existing deficiencies. Information is only shared though by the European Counter Terrorism Center upon request by a member state.

### **Deradicalization and Radicalization Prevention**

If European Union Member States decide to allow foreign fighters or their families to return, then there should be a reintegration planning that help these families transition from their lives in Syria to ones in Europe. In Syria, there are children with parents who are both European citizens and hold European citizenship but so far they have only grown up in ISIL camps and therefore their education and integration in the European schooling system may present a challenge of considerable complexity

Moreover, the European Union has set up the Radicalization Awareness Network to help address the issue of radicalization. The Radicalization Awareness Network (RAN) is a European organization that researches and proposes re-inclusion and deradicalization strategies for member states willing to allowing foreign fighters to return. \*xxvii\*The Radicalization Awareness Network is composed of experts from different backgrounds from all over Europe who work or have been in contact with these former fighters.

According to the Istituto Per Gli Studi Di Poltica Internazionale, in Italy the deradicalization process is "highly favored by European legislators." There have been a few European Union Member States that have set up deradicalizing and integration programs. In the Danish city of Aarhus, they have a program which uses methods to rehabilitation, radicalization, as well as, teaches discrimination prevention. Germany has set up a program called Hayat, that is through their Federal Immigration and Refugee Office (BAMF). This program is a network of consultants and experts on deradicalization. \*\*xxviii\* In Holland, the Dutch authorities have set up a program that aim at combating violent extremism in general.

These deradicalization and integration programs should be tailored to the countries themselves because each country has singular features and made up of various ethnic, social and religious components. Cross-cultural initiatives on regional and national level are crucial for the returned citizens in order to increase the feeling of belonging, the lack of which has many times been considered as a fertile ground for radicalization propaganda to flourish. Centers of confinement, such as refugee camps and prisons, should be at the forefront of radicalization prevention throughout all member states Terrorist groups have been known to recruit individuals in places where there is limited freedom of movement of persons and ideas.

# **Conclusion**

ISIS once controlled over 88,000 sq. km (34,000 sq. miles) of territory that stretched all the way from Western Syria to the Eastern tip of Iraq. Now their territory is gone, with fighters and their families running for their lives. The situation of foreign fighters returning to the European Union, is one that should be of the utmost importance for the European Union and its member states. With thousands of people fleeing from death or persecution at the hands of the Syrian Democratic Forces or the Kurds, the people are wanting to return home and will by any means necessary. As this article notes, Member States of the European Union aren't allowing foreign fighters to returning which could cause a greater threat to Europe and the Western world. By stranding them in Syria or Iraq, these individuals could become an even greater risk not just to the European Union but the world. The lands ISIL controlled might be gone but ISIL is still a threat to the world, allowing these individuals to stay in Syria or Iraq could lead to the return of

ISIL or to the rise of a new form of terrorist group. The intelligence agencies of the Member States of the European Union need to work together to combat these threats and threats that might arise in the future. As the certain cases of terrorism shown in this article have demonstrated, there has been a failure of massive portions by intelligence agencies to work together and share information with one another. Until these intelligence agencies beginning to work together, the European Union and its Member States are at an increased risk of having other attacks committed by returning foreign fighters because these agencies will miss key evidence that would prevent future attacks. Terrorism is an old threat that will endanger the lives of innocent people but if you can deradicalize returning fighters and help stop radicalization from occurring then maybe we can save the lives of thousands.

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