Movements of people and the threat of ISIL and Al-Qaida terrorism in Europe: assessing the potential interplay

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Movements of people and the threat of ISIL and Al-Qaida terrorism in Europe: assessing the potential interplay

Foreword

This report is the result of an in-depth research conducted by UNICRI in response to concerns expressed by the European Union Member States on the relationship between the movements of people and threat posed by ISIL and Al-Qaida inspired terrorism in Europe.

In 2020, much of the attention of the public and policy-makers was captivated by the COVID-19 pandemic and the response to the unprecedented crisis. However, even during this global public health emergency, several tragic attacks in Europe reminded us that the threat posed by terrorism remains high and is becoming increasingly complex.

The involvement of individuals with a migration background in some of the terrorist attacks in the last few years has fuelled the European debate on the relationship between migration and terrorism. We know that half of the perpetrators of successful terrorist attacks in Europe in 2020 were asylum seekers or irregular migrants. While the pandemic temporarily impacted migration flows to Europe, figures from the first half of 2021 show that the number of illegal border crossings has dramatically increased.

The recent Taliban takeover of Afghanistan has also prompted fears of security threats and the risk of terrorist infiltration of the EU external borders. Returning and relocating fighters pose yet another significant risk, particularly due to the current lack of a common, harmonized approach to address the challenge.

The debate on the relationship between migration and terrorism is not new and continues to drive security interventions and policy measures from sharing information and data to protecting borders. Much has already been done in enhancing and streamlining collaboration between EU Member States. However, key challenges remain.

The report shows a need for increased harmonisation of data and timely exchange of information between national databases. Consolidating terrorism-related and migration-related data at the EU level is challenging, and the lack of a systematic process for information collection hinders prevention efforts.

Moreover, the radicalisation of vulnerable individuals arriving in Europe is linked to mismanaged reception in the country of arrival. Reception authorities often do not have the capacity and resources to detect early radicalisation signs or facilitate integration. The EU should capitalise on the existing networks and foster more robust and efficient cooperation between migration agencies and national law enforcement authorities.

The multiple and evolving challenges outlined in this report call for common action as no Member State is immune from the global terrorist threat. UNICRI will continue to leverage its expertise in order to advance understanding of crime-related problems and tailor appropriate interventions. I look forward to working together with our international and regional partners to contribute to building a more just, safe and secure future.

By **Antonia De Meo, UNICRI Director**

Abbreviations

AQIM	Al-Qaida in the Islamic Maghreb
ECA	European Court of Auditors
ECHR	European Convention on Human Rights
ECJ	European Court of Justice
ECHR	European Court of Human Rights
EU	European Union
EUROPOL	European Union's law enforcement agency
FTFs	Foreign Terrorist Fighters
INTERPOL	International Criminal Police Organization
IOM	International Organization for Migration
ISIL	The Islamic State of Iraq and the Levant
ISIL-K	The Islamic State of Iraq and the Levant – Khorasan
NGO	Non-governmental organisation
REMT	Racially and Ethnically Motivated Terrorism/t
SOCTA	European Union Serious Organised Crime Threat Assessment
TCN	Third-country national
TESAT	European Union Terrorism Situation and Trend report
TFEU	Treaty on the functioning of the European Union
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UNICRI	United Nations Interregional Crime and Justice Research Institute

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Section 1

Introductory remarks and scope of the report

Introduction

In April 2021, following **concerns raised** by some European countries, UNICRI launched a research initiative to explore, assess, and understand the potential interplay between regular and irregular movements of people and the threat stemming from ISIL and Al-Qaida inspired terrorism in Europe. The research also looked at the risks posed by returning and relocating FTFs. The recent Taliban takeover of Afghanistan and the potential massive exodus of Afghans[1] have led to heightened security concerns in European countries[2] and Turkey.[3] Indeed, there is a **high risk of possible** infiltration of individuals linked to ISIL-K and Al-Qaida among those trying to leave the country.

The analysis of the potential impact of movements of individuals on the evolution of the terrorist threat posed by ISIL and Al-Qaida in Europe is **not new**. The 2016 TESAT report observed that there was not a systematic abuse of migrant routes to Europe by individuals returning from the territory of the so-called caliphate. However, the report emphasised that there were still potential threats. The infiltration of the Turkey-Greece migrant route from some of the perpetrators of the 2015 Paris attacks highlighted the potential danger. Most European governments decided to approach the challenge of criminals and radicalised individuals **infiltrating migration** routes with caution. This approach was mainly followed to not incentivise the anti-migrant sentiments that had spread across Europe following the 2015 migration crisis. This tension is reflected in how the EU and national administrations have dealt with the potential interplay between movements of people and the terrorist threat. Indeed, this research showed how some migration and reception agencies are still reluctant to be involved in security operations and information exchange with security authorities.

Since 2015, the number of people trying to reach Europe through regular and irregular routes **has evolved at different paces.** In 2020, for instance, the COVID-19 outbreak and the consequent restrictions on movement worldwide significantly impacted migration figures. Eurostat data for 2020 suggests that asylum applications in the EU-27 dropped by nearly 50%, while 22 EU Member States issued one-fourth of the visas compared to the previous year. Consistently, in the EU and Norway, there was a drastic decrease of residence permits issued to third-country nationals – at least a 50% decrease per country.[4]

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1   UNHCR estimates over half a million people fleeing Afghanistan by the end of the year. See: https://www.acnur.org/portugues/wp-content/uploads/2021/08/RRP-Afghanistan-4-pager-Summary-of-Plan-27082021.pdf .

2   Few days before the Taliban reached Kabul and occupied the Presidential Palace declaring the Islamic Emirate of Afghanistan, thus definitely marking the fall of the Afghan government, Ministries of six EU countries i.e. Germany, Austria, Greece, Denmark, Netherlands and Belgium sent a joint letter to the European Commission asking for the return process of irregular Afghans to be kept in place – despite an opposite assessment by the EU Ambassador in Kabul and by other European embassies.

3   To prevent massive influxes of Afghans, Turkey built a wall at its border with Afghanistan. See: https://www.euronews.com/2021/08/20/turkey-builds-a-border-wall-to-stop-refugees-from-afghanistan. Greece also started the construction of fences, see: https://www.bbc.com/news/world-europe-58289893.

4   EMN, Annual Report on Migration 2020, p.14.

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While **the pandemic** temporarily impacted migration flows to Europe, it **has not decreased the level of the terrorist threat in Europe**. Experts believe it has exacerbated dynamics in conflict and non-conflict areas and worsened grievances among European audiences.[5] For example, as people spend more time at home and online, attempts to maximise vulnerable audiences' online exposure for radicalisation were observed. There are also concerns over the redirection of funds from counterterrorism resources towards the fight against the pandemic, which might hurt Europe's capacity to prevent new attacks.

In addition, **the number of successful terrorist attacks in the EU did not change from 2019 to 2020.**[6] EUROPOL reported that half of the perpetrators of successful terrorist attacks in Europe in 2020 were asylum seekers or irregular migrants - in most cases they had been in the EU long before they committed the attacks. EUROPOL also stated that more than two-thirds of people reported as suspects of jihadist terrorism-related crimes by EU national authorities in 2020 were either citizens of a non-EU country or were born outside the EU.[7] For example, the Central Mediterranean route between North Africa and Italy was used by two individuals that committed attacks in Europe in 2020. One of those was a Tunisian citizen who irregularly arrived in Nice through Italy and stabbed three individuals in July 2020 before being shot by the French police. This data suggests that the trend analysis from 2014 onwards on terrorist attacks in Europe, whereby most terrorist attackers were homegrown in Europe, is changing.

Even though the pandemic has impacted migration flows, as travel resumes and restrictive measures are lifted, more people are expected to reach external European borders regularly and irregularly. A recent EU-wide analysis on organised crime anticipated that the 'economic and political consequences of the global COVID-19 crisis will fuel migration towards Europe and will likely sustain the demand for facilitation services for mixed migration flows'.[8] Figures from the first half of 2021 confirm this trend: **compared to 2020, there was a 70% increase in the number of illegal border crossings at the EU's external borders** – a 160% increase when analyzing only crossings through the Central Mediterranean Sea. Migrant smugglers indeed exploited most crossings from Libya and Tunisia through the Central Mediterranean route.[9] Whilst a new wave of asylum seekers is expected to arrive in Europe from Afghanistan via the Eastern Mediterranean route, in the last months, new routes to access the European Union, for example, through Belarus, have been opened. These new developments show that the impact of the pandemic on migration to Europe was only short-term and that **pull factors (either economic or regulatory) attracting individuals to the continent remain** – making migration an ordinary, yet highly complex, phenomenon that EU Member States have to manage.

Despite the difficulty of establishing evidence-based EU-wide trends,[10] anecdotal data suggests that the number of individuals with an asylum background who have been involved in terrorist or extremist activities in Europe cannot be ignored. For example, re-

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5   UNICRI, Summary Report of the virtual expert-level meeting on "Emerging trends and recent evolution of the threat posed by ISIL/Al-Qaida inspired terrorism in Europe: a spotlight on the terrorist profile(s), incitement techniques, vulnerable targets and potential impact of COVID-19" 21-22 April 2021. See: http://unicri.it/sites/default/files/2021-06/Meeting%20Report%20ISIL%20Al-Qaida%20Europe.pdf .

6   TESAT 2021.

7   TESAT 2021. Note that EUROPOL refers to jihadist terrorism which is broader than ISIL/Al-Qaida.

8   EUROPOL, SOCTA 2021.

9   Frontex, Situation at EU borders in June – detections rise in Central Med, News 13 July 2021.

10 See more on this in Methodology.

cent information published by the German Federal Parliament indicated that as of the end of June 2021, out of the 445 non-German individuals considered by the German government as terrorist or violent extremist threat ('Gefährder'), 258 have an asylum background. The perpetrator of the attack in Conflans Sainte-Honorine in October 2020 arrived in France as an asylum seeker when he was young and was granted refugee status before obtaining French nationality. These elements suggest two preliminary considerations. **First, it might be helpful to acknowledge that specific vulnerabilities related to the asylum process and the conditions under which asylum seekers are received** in European countries might be exploited for radicalisation purposes. Secondly, while constituting a fundamental component of the EU Member States' international obligations, **asylum procedures are not exempt from abuses.** As the application for international protection provides TCNs with an authorisation to stay, some irregular migrants, with the aim of regularising their stay, submit an application already anticipating that they will receive a negative decision. Others – for instance, those who have already received an expulsion order and have reattempted an entry – might have the opposite interest, i.e., not applying for international protection to prevent the databases from recognising their file and thus staying irregularly. This instrumental use of international protection procedures has inherent risks of undermining the credibility of those mechanisms vis-à-vis the public eye. Government communication needs to be strategic, filling information gaps and a**ddressing preconceptions before extremist narratives use them to fuel insecurities and hatred.**

For all the reasons described above, it appears that a comprehensive analysis trying to assess, identify, and explore the potential (**direct and indirect) impact** of movements of people on the terrorist threat is needed more than ever. Given the current complex international security context – recently exacerbated by the situation in Afghanistan – and the various factors involved, the scope of this analysis has been kept intentionally broad. On the one hand, it considers the impact of migration policies and border management regulations on the terrorist and extremist challenge stemming from ISIL and Al-Qaida. Specifically, it looks at the **extent to which these prevent and/or monitor malicious actors to move throughout European territories (or to return to them).** On the other, it focuses on the indirect **effect that the socio-political environment of destination** – be it the quality of reception conditions and/or the presence of anti-migrant sentiment and extreme right-wing activities – **can have on the vulnerabilities of migrant communities, and hence ultimately, on creating a fertile ground for radicalisation by ISIL and Al-Qaida supporters.**

Where relevant, the report will highlight differences in treatment and policies vis-à-vis citizens and aliens. When it comes to people's movements across external borders, states are mainly concerned by extra-European citizens' movements. However, movements of nationals or residents are considered within the scope of this report, as intra-EU movements are also relevant for this analysis. The latter category of movement will also be considered in the context of the return (and/or relocation) of FTFs.

Methodology

Given the many factors analysed, this report tries to cover a **broad scope of the notion of movement** intentionally. Doing so allows to address all the different nuanced legal issues and present the main elements of the terrorist threat stemming from ISIL and Al-Qaida in Europe. At the same time, its nature is not that of a legal academic paper. Instead, it is anchored, where possible, to concrete cases to show how the system works and highlight what challenges need to be addressing.

This report is mainly based on open-source intelligence, including statistics and figures, gathered through desk research. This data has been further analysed through qualitative assessments. It is important to note **two fundamental limitations** that have affected the analysis.

First, when available, information on the profiles and background of attackers mainly comes from **media reports** which are **not** always **accurate**. Even though cross-checking of sources was attempted in these cases, UNICRI found that open-source intelligence was often not sufficient to assess the complexity of the phenomenon subject of this report. For example, in some cases, newspapers did report the country of origin of terrorists. However, they omitted to mention how they originally arrived in the country where they committed the attack, their nationalities, and their residence status. The EUROPOL's TESATs remain an essential reference for information about attacks (and attackers) in Europe and has progressively included more details on attackers' profile. Nonetheless, detailed information on the residence status of perpetrators was challenging to find throughout all yearly reports.

Moreover, most of the data helpful for a comprehensive analysis (especially up-to-date figures), such as the percentage of foreign individuals deported as considered a threat to national security, is **confidential or not available**. This can be explained by the highly sensitive nature of the information involved, which is often related to ongoing or future investigations. The broader disclosure of such data could jeopardise high-risk operations – and is therefore shared only with law enforcement or security staff who are part of the investigations. For example, comprehensive pan-European figures concerning the percentage of terrorists and extremists with an asylum background[11] do not exist – nor it is common to find this type of data at the national level. It is therefore challenging to establish reliable and evidence-based trends.

One way to overcome the lack of widespread data could be through **proxy data** such as case-law of convicted individuals and investigation reports. However, UNICRI found it impossible to obtain sufficient data to infer or deduct European trends or specific patterns in this case. For example, Eurojust used to publish the Terrorism Convictions Monitors, which provided an overview of terrorism-related convictions and acquittals throughout the EU based on national authorities and open-source information. However, the last edition published dates to 2018,[12] thus making it impossible to establish relevant trends for the analysis of the current threat.

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11 These would be individuals who have applied for international protection sometime in the past.

12 In 2019, Eurojust redesigned the TCM to include only information shared with Eurojust on the basis of Council Decision 2005/671/JHA and to reinforce the legal analysis of specific issues addressed by courts in the EU Member States. See: https://www.eurojust.europa.eu/sites/default/files/2020-12/2020-12-Eurojust_Counterterrorism_report_2019.pdf p.11. It is to be presumed that reports are not openly shared anymore. In the same year, the Counter-Terrorism Register (CTR) was created with the aim to centralise key judicial information to establish links in proceedings against suspects of terrorist offences. The register is meant to facilitate the identification of the suspects or networks being investigated in specific cases with potential cross-border implications.

To partially cope with the difficulty of gathering open-source data, several **interviews** were conducted with national authorities (Ministries/law enforcement agencies) of European countries in a relevant position for the subject matter. These included conversations with experts in different fields, (e.g. border management) and international organisations, providing a comprehensive overview of the phenomenon. A validation meeting was held in September 2021, where experts provided their feedback on a first draft of the report identifying gaps and ideas on how to improve its scope and content. This final version includes and addresses their feedback.

Disclaimer: how not to use this report

Condensing in a public report the assessment of the terrorist threat in Europe in light of its potential connections with people's movements (including regular and irregular migration) is challenging and very sensitive. Since the migration crisis in 2015-2016, debates on migration management have dominated European politics and directly challenged European governance and the cooperation between states. Such topics have been at the forefront of often unsuccessful political talks that have impacted the very foundations of the Union, particularly the principle of subsidiarity. The implementation of the EU Pact for Asylum and Migration,[13] which aims to 'move away from ad-hoc solutions and put in place a predictable and reliable migration management system',[14] demonstrates how **politically difficult** it is to adopt new EU-wide measures. Although one year is often not enough time to reach an agreement on complex legal texts, most legislative acts announced in the Pact are forthcoming or still under negotiation.

The tensions between states around migration management and the increased number of migrants from outside the EU have contributed to the rise of the extreme right in Europe. In this environment, **contents and figures are often decontextualised and misused to feed social conflicts**, including spreading anti-migrant sentiments.

This has led to increased polarization, stigmatisation of communities, the spread of a **culture of fear** towards newcomers, and **simplistic narratives on migration** (from extremist circles to mainstream media). Generalisation vis-à-vis migration can result in a standardisation of language which does not distinguish, for example, between economic migrants, asylum seekers, and refugees. This creates confusion in the public discourse, which ultimately affects vulnerable individuals dand perceptions of them. Consequently, it is difficult to have a constructive conversation on this topic, either online or offline.

On the other hand, the tendency to **weaponise the debate** on migration management and its security implications by **groups linked to racially and ethnically motivated extremism** has led many to avoid such a debate for a long time. The growth of an anti-migrant discourse and the near absence of positive stories about immigration in the public domain have contributed to a situation whereby speaking openly about migration's societal, cultural, demographic, economic, and security implications is considered taboo.

This report, which tries to cast some light on the potential interplay between migratory movements into Europe and ISIL/Al-Qaida inspired terrorism, might therefore repre-

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13   Communication from the Commission on a New Pact on Migration and Asylum COM(2020) 609 final .

14   European Commission, Press Release 23 September 2020, see: https://ec.europa.eu/commission/presscorner/detail/en/ip_20_1706 .

sent possible additional fuel to an already highly polarised topic. The report could be used to spread misinformation and build the credibility of extremist movements that view migrants, particularly refugees, as the ultimate threat to European society.

Nonetheless, there is merit in publicly addressing this topic, given the rising concerns among Member States for migrants that share or are inspired by Al-Qaida or ISIL's violent ideologies. Keeping this conversa-

tion private, hidden from the public eye, might contribute to the spread of racially and ethnically motivated extremists' narratives, indirectly supporting their goal of polarising information in the public debate. In this sense, this report also wants to encourage moderate policymakers to engage more in this conversation by **promoting a balanced and informed view** based on open-source data and providing citizens with an **alternative narrative over immigration**.

Regular and irregular movements of people: definitions and scoping

This report aims at assessing and exploring the potential relationship between regular and irregular movements of people and the terrorist threat stemming from ISIL and Al-Qaida inspired terrorism in Europe, including the risks posed by individuals returning to (or relocating through) Europe known as FTFs. As the set of phenomena that fall within the categories of 'regular' and 'irregular' movements is vast, a first step is defining what we mean by those terms and, subsequently, breaking them down into sub-categories relevant for the analysis.

According to the IOM, **regular migration** is defined as:

Migration that occurs in compliance with the laws of the country of origin, transit and destination.

Meanwhile, **irregular migration** is defined as the following:

Movement of persons that takes place outside the laws, regulations, or international agreements governing the entry into or exit from the State of origin, transit or destination.

The IOM emphasises that there is no universally accepted definition of irregular migration.[15] However, in the EU-27, the IOM definition holds.[16] Further details can be deducted by the EU definition of 'irregular migrant' who is 'a third-country national present on the territory of a Schengen State[17] who does not fulfil, or no longer fulfils, the conditions of entry as set out in the Schengen Borders Code[18] or other conditions for entry, stay or residence in that EU Member State'.

15   IOM, Glossary on Migration, International Migration Law no 34 (2019)

16   EMN Glossary 'irregular migration' https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/glossary_search/irregular-migration_en

17   "Most EU countries, except for Cyprus, Ireland, Bulgaria, Croatia and Romania. However, Bulgaria, Croatia and Romania are in the process of joining and already apply the Schengen acquis to a large extent. Furthermore, the non-EU states of Iceland, Norway, Switzerland and Liechtenstein have also joined the Schengen area." https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/662622/EPRS_BRI(2021)662622_EN.pdf

18   Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) OJ L 77, 23.3.2016, p. 1–52.

With specific regard to the case of asylum seekers, the Geneva Convention prevents signatory countries from penalising refugees protected under international law for unauthorised entry or stay when travelling from a place they were at risk.[19] This principle, called **principle of *non-refoulement***, is also enshrined in EU law and the European Convention on Human Rights (ECHR).

It is also worth noting that an irregular entry does not necessarily lead to a regular stay and vice versa. Indeed, according to the IOM, 'irregular stay' is defined as:

*The presence on the territory of a State, of a non-national who does not fulfil, or **no longer** fulfils the conditions of entry, stay or residence in the State.*

Schengen countries consider irregular the entry of a third-country national into a Schengen Member State who does not satisfy **Article 5 of the Schengen Borders Code,** i.e. entering the EU at border crossing points and fixed opening hours. However, there are exceptions to the norm, e.g. in an unforeseen emergency. Both the IOM's definition of 'irregular stay' and that of the Schengen Borders Code acknowledge the possibility that a person may enter the territory of a state regularly but then fall into a situation of irregular stay, e.g. the residence permit has been revoked or not renewed. Likewise, someone that enters the territory irregularly, for instance, on a vessel crossing the Mediterranean, might end up in a regular stay, for example, when applying for international protection.

'Illegal' vs 'irregular'

In the public debate, one can alternatively hear the term **'illegal'** and **'irregular'** to describe cases of irregular migration in Europe. Institutional texts also use these terms **interchangeably**. For example, the August 2021 Justice and Home Affairs (JHA) Council Conclusions on the Afghan crisis explicitly mentioned the prevention of large-scale illegal migration, acknowledging the need for the EU to **cooperate with transit countries,** and enhancing border management.[20] Similarly, the 2008 EU Return Directive establishes 'common standards and procedures in Member States for returning illegally staying TCNs'.[21] However, the European Commission itself stated that, while it 'favoured [it] for a long time', the **use of the term 'illegal' is associated with criminality and therefore 'should be avoided, as most irregular migrants are not criminals'.**[22] NGOs working to protect migrants also hold a similar position, arguing that defining irregular migrants as illegal is discriminatory and negatively impacts people's perception of migrants.[23] This position reflects that undocumented immigration does not constitute a crime but only an administrative infringement in most EU Member States. In 2006 the Council of Europe Parliamentary Assembly also expressed its preference for irregular migrants, following international organisations working in the field. It also differentiated between the possibility to define 'illegal' as a process or a status, while 'irregular' would be used for the individuals who do not have a legal residence permit.[24] In conclusion, whether migrants who irregularly cross the borders or end up in an irregular situation are labelled as 'irregular' or 'illegal'

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19 Convention relating to the Status of Refugees (adopted 28 July 1951, entered into force 22 April 1954)189 UNTS 137, Art. 31(1).

20 Council of the EU (JHA), Statement on the situation in Afghanistan, 11385/21, paras 4 and 6

21 Directive 2008/115/EC

22 https://ec.europa.eu/home-affairs/orphan-pages/glossary/irregular-migration_en

23 https://picum.org/words-matter/

24 Resolution 1509 (2006) of the Council of Europe Parliamentary Assembly, paras 7 and 16

depends on the political remit and decision of the issuing institution.

At the UN level, UNHCR endorses the NGOs' call against labelling irregular migrants as 'illegal', arguing that the use of the former represents a violation of European values as it is discriminatory, oppressive, and outdated. They also find the term being not only inaccurate but also harmful.[25] A similar stance was held by the then UN High Commissioner for Human Rights, Ms Navi Pillay, who stated: "'illegal immigrants' should be avoided and replaced by the internationally accepted definitions of 'irregular' or 'undocumented' migrants, which more accurately describe the situation."[26] Despite the ongoing debate around the term 'illegal' in the migration context at the institutional level, this report will refer to these individuals as 'irregular' migrants. The word irregular is **politically neutral**, and better reflects the objective of this analytical report.

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25   https://www.unhcr.org/cy/wp-content/uploads/sites/41/2018/09/TerminologyLeaflet_EN_PICUM.pdf

26   12th session of the Human Rights Council, 22 September 2009, https://www.ohchr.org/EN/NEWSEVENTS/Pages/Migra-tionPanel.aspx

Section 2

The EU special framework

Within Europe: the EU's unique legal context in the field of migration and border management

The European Union is a single area of freedom, security and justice, as stated by article 67 TFEU.[27] While issues of migration, and especially immigration, touch upon the very core of national sovereignty, the EU has in the last decades greatly expanded its competence over this area – mainly to cope with the ban of internal border checks deriving by the Schengen *acquis*. The EU has progressively developed an integrated border management system at the national and Union level, **protecting external borders while respecting fundamental rights**. This complex regulatory net includes several instruments that cover a wide range of policy areas, such as:

> border control, including measures to facilitate legitimate border crossings;

> measures related to the prevention and detection of cross-border crime at the external borders, including terrorism;

> mechanisms and procedures for the identification of persons who need international protection or wish to apply for such protection;

> search and rescue operations for persons in distress at sea;

> inter-agency cooperation among the national authorities in each Member State;

> cooperation with third countries with a special focus on those identified as being countries of origin or transit for illegal immigration; and

> the return of third-country nationals who are the subject of return decisions.[28]

Thus, the integrated border management system includes a **fully-fledged infrastructure of visas and border control and common provisions on legal and irregular migration and on asylum**. Differences remain in the applicable law regarding movements of EU citizens and/or residents[29] or TCNs. When an EU citizen moves throughout the EU, the person exercises one of the four fundamental freedoms provided to its citizens: the freedom of movement. Rights, benefits, and remedies in case of irregularity differ between EU citizens and TCNs. Many migration-related provisions are to be adopted by Directives. EU Directives are binding legal instruments that lay down common provisions yet leave a certain margin of manoeuvre to the Member States. Thus, the way Member States apply the EU provisions and implement Directives through their national laws and practices is substantial to the actual effectiveness of the legislation. For example, a recent study conducted by the European Commission revealed huge disparities among the EU Member States in the application of the Return

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27   Please note that Ireland and Denmark have different opt-outs regimes to the legal provisions contained in Title V of the TFEU as enshrined in respectively Protocol no. 21 and 22.

28   Article 3 Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624.

29   The extension of citizenship benefits to residents is up to the Member States.

Directive.[30] In addition to the lack of EU-wide definition of a non-removable third-country national, national legislators were left with broad discretion in regulating the legal status of third-country nationals who are issued a return decision or a removal order that cannot be enforced due to legal or practical reasons.[31] The European Commission adopted a new proposal for a Recast of the Return Directive[32] to overcome these challenges. The legislative act is, however, yet to be agreed upon by the two EU co-legislators.

The European integrated border management system is mainly **implemented by national authorities**. However, relevant EU agencies, such as Frontex, contribute substantially to the system's functioning. Frontex carries out the important function of aggregating the different information coming from the national authorities to create an EU-wide situational analysis and risk assessment. Even though Frontex's role is to harmonise national practices, EU Member States still rely on their databases and collaborate with the Agency at a different pace. Harmonising national databases to cross analyse data at the EU level has proved challenging.

Although EU Member States widely praise Frontex's work, a recent ECA report[33] observed that a general common integrated border management framework for information exchange and cooperation does not yet exist. The critical assessment by the Eu-ropean auditors highlighted how the **weak information flow from national authorities to Frontex** hinders the comprehensiveness of Frontex's vulnerability assessment. For example, Frontex's reports on the capacity and readiness of each Member State to face challenges at its external borders, including migratory pressure, could be strengthened with additional information.[34] This is compounded by the regulatory ban on Frontex to share intra-country information, which should happen either bilaterally or through European databases.

A fundamental element of the European border management system is the **cooperation with neighbouring countries**, particularly with the Western Balkans and North Africa countries (some of which, for example, Albania, are visa-free). Frontex has recently deployed a second liaison officer in the Western Balkans, mandated to operate in Albania, Kosovo, and North Macedonia. This new position comes on top of the over 70 Frontex officers in Albania who support national authorities and the Albanian participation in the European Border Surveillance system (EUROSUR).[35] In addition, Albania, like the other Western Balkan countries who have signed the Joint Action Plan on Counter-Terrorism,[36] cooperates with EUROPOL through the use of SIENA (Secure Information Exchange Network Application), which facilitates the exchange of confidential information between law enforcement authorities. The recent EU counterterrorism action

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30 Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, OJ L 348, 24.12.2008, p. 98–107.

31 ICF for DG HOME, Legal Migration Fitness Check, Analysis of gaps and horizontal issues, Annex 4B, June 2018, p.58.

32 Proposal for a Directive of the European Parliament and of the Council on common standards and procedures in Member States for returning illegally staying third-country nationals (recast) A contribution from the European Commission to the Leaders' meeting in Salzburg on 19-20 September 2018, COM/2018/634 final.

33 ECA Special Report, Frontex's support to external border management: not sufficiently effective to date, 2021, 08

34 ECA Special Report, Frontex's support to external border management: not sufficiently effective to date, 2021, 08

35 EUROSUR is a framework for information exchange and cooperation **between Member States and Frontex to improve situational awareness and increase reaction capability at the external borders. For more info:** https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/border-crossing/eurosur_en.

36 Joint Action Plan for the Western Balkans (October 2018), which 'provides an overarching framework for action on counter-terrorism and the prevention and countering of violent extremism in the Western Balkans region'. Available at: https://ec.europa.eu/home-affairs/sites/default/files/news/docs/20181005_joint-action-plan-counter-terrorism-western-balkans.pdf.

plan following the Afghan crisis highlighted several challenges with Afghan citizens evacuated by the US to the Western Balkans, for which the EU is currently seeking clarity from the US government. Among them are, for instance, 'individuals who have been placed in transit in the Western Balkans and have been refused a visa for entry into the US and 'Afghan citizens who are in US bases in the EU but have requested asylum in EU Member States'.[37] Smooth cooperation not just with the US government but also with the Western Balkans is therefore vital to prevent potential security challenges.

A different arrangement is currently in place between **the EU and the UK**, following the latter's withdrawal from the Union and its consequent downgrading from Member State to a third country. This change happened when the EU was increasingly strengthening the protection of its external borders, so the fact that the specific concern of the Irish border dominated the exit negotiations is no surprise. Indeed, with the Common Travel Area (CTA)[38] between the islands of the UK, Ireland, and the Crown Dependencies (Isle of Man, Bailiwick of Guernsey and Bailiwick of Jersey) remaining operational,[39] the

event of non-Irish EU citizens crossing the UK border and UK citizens crossing the EU border remains an area of concern. According to the CTA, 'the UK will not operate routine immigration controls on journeys from within the CTA, with no immigration controls whatsoever on the land border between Ireland and the UK'.[40] The UK is now excluded from using EU databases, including SISII, so exchanging information across the Channel has become increasingly dependent on informal channels. The current scenario will not change until the UK and EU Agencies, such as EUROPOL and Frontex, sign an international agreement regulating their cooperation.

In conclusion, the EU largely contributes to regulating how people move within and to the EU. The fight against terrorism, especially after the events in 2015, has shed light on **flaws that the legislation adopted over the last years attempts to overcome.** In the absence of internal border checks, the EU needs to boost its external borders' protection and promote effective border management. Setting up an interoperable architecture of databases is part of this objective.

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37   EU Counter-Terrorism Coordinator, Afghanistan: Counter-Terrorism Action Plan 12315/21.

38   https://www.gov.uk/government/publications/common-travel-area-guidance

39   In 2019 the Irish and UK governments signed a Memorandum of Understanding to reiterate their commitment to it. Available here: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/800280/CTA-MoU-UK.pdf/ .

40   2025 UK Border Strategy, p.17

EU databases and their interoperability

To ensure an effective integrated border management across the EU continent, the timely exchange of information and data among states is vital. The EU is currently setting up an ecosystem of six databases to be interoperable. This ecosystem will be accessible from a single European portal, searchable via biometric data, and include a common identity repository and a multiple identity detector. These six databases are:

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	Operational	Accessible to	Information about	Countries	Biometrics
Schengen Information System (SIS) II[41]	**YES** **The new SISII**[42] **will be operational as of December 2021.**	**National law enforcement, migration and visa-issuing authorities, judiciary; vehicle registration services.** **EUROPOL;**[43] **Eurojust; European Border and Coast Guard Agency.**	**Wanted or missing persons or objects (EU and not-EU).** **Return decisions and entry bans will also be included as the new regime becomes operational.**	**26 EU Member States (all except Cyprus) and four Schengen Associated Countries (Switzerland, Norway, Liechtenstein and Iceland).**	**The new SIS will include palm prints, fingerprints, facial images and DNA.**
Visa information system (VIS)[44]	**YES** **A new Regulation was adopted**[45] **and will not be fully operational until at least 2023.**	**Visa, border, asylum and migration authorities.** **National law enforcement and EUROPOL**	**TCNs applying for a short-stay visa to enter the Schengen area.** **The new Regulation extends the scope to long-stay visas and residence permits.**	**All Schengen States.**	**Digital facial images and fingerprints.** **With the new Regulation, all people aged 6-75 will be fingerprinted, and the facial images will be replaced by live facial images with sufficient image resolution and quality to be used in automated biometric matching.**

41 Regulation (EC) No 1987/2006 of the European Parliament and of the Council of 20 December 2006 on the establishment, operation and use of the second generation Schengen Information System (SIS II) OJ L 381/4.

42 Regulation (EU) 2018/1860 of the European Parliament and of the Council of 28 November 2018 on the use of the Schengen Information System for the return of illegally staying third-country nationals, OJ L 312/1; Regulation (EU) 2018/1862 of the European Parliament and of the Council of 28 November 2018 on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation and judicial cooperation in criminal matters, amending and repealing Council Decision 2007/533/JHA, and repealing Regulation (EC) No 1986/2006 of the European Parliament and of the Council and Commission Decision 2010/261/EU OJ L 312/56.

43 The Commission's proposal for a new EUROPOL Regulation includes the possibility for the Agency to issue alerts in the SIS on the basis of information gathered from third countries. This is meant to be a precious tool to detect foreign terrorist fighters who might cross the EU external borders. However, negotiations showed that some Member States are reluctant to give such a power to EUROPOL. At the time of writing, an agreement was found within the EU Council thereby EUROPOL can 'support the Member States in processing third-country data and data from international organisations by proposing the possible entry by Member States of a new category of information alerts in the interest of the Union into the SIS. Based on this edited proposal, negotiations with the European Parliament will start.

44 Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) OJ L 218/ 60.

45 Regulation (EU) 2021/1134 of the European Parliament and of the Council of 7 July 2021 amending Regulations (EC) No 767/2008, (EC) No 810/2009, (EU) 2016/399, (EU) 2017/2226, (EU) 2018/1240, (EU) 2018/1860, (EU) 2018/1861, (EU) 2019/817 and (EU) 2019/1896 of the European Parliament and of the Council and repealing Council Decisions 2004/512/EC and 2008/633/JHA, for the purpose of reforming the Visa Information System OJ L 248/11.

	Operational	Accessible to	Information about	Countries	Biometrics
Eurodac[46]	YES A new Regulation has been proposed,[47] but negotiations have not advanced much yet.	National asylum authorities, law enforcement and EUROPOL.	Applicants for international protection who have been registered in EU member states and associated countries.	EU Member States and Schengen Associated Countries.	Fingerprints.
European travel information and authorisation system (ETIAS).[48]	By 2022	Automated control, only if there is a hit the application will undergo a manual control by ETIAS National Units. Carriers. National law enforcement and EUROPOL.	Pre-travel screening of visa-exempt travellers.	24 EU Member States and Schengen Associated Countries.	-
Entry/exit system (EES)[49]	By 2022	National visa authorities (consular posts) and immigration authorities; border guards. Carriers. EUROPOL.	Non-EU nationals (visa-required and visa-exempt) crossing the external borders of the Schengen area.	EU Member States (except IE) and Schengen Associated Countries.	Facial image and fingerprints.

46 Regulation (EU) No 603/2013 of the European Parliament and of the Council of 26 June 2013 on the establishment of Eurodac for the comparison of fingerprints for the effective application of Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and EUROPOL for law enforcement purposes, and amending Regulation (EU) No 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (recast) OJ L 180/1.

47 Proposal for a Regulation of the European Parliament and of the Council on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of [Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person] , for identifying an illegally staying third-country national or stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and EUROPOL for law enforcement purposes (recast) COM/2016/0272 final.

48 Regulation (EU) 2018/1240 of the European Parliament and of the Council of 12 September 2018 establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 1077/2011, (EU) No 515/2014, (EU) 2016/399, (EU) 2016/1624 and (EU) 2017/2226 OJ L 236/1.

49 Regulation (EU) 2017/2226 of the European Parliament and of the Council of 30 November 2017 establishing an Entry/Exit System (EES) to register entry and exit data and refusal of entry data of third-country nationals crossing the external borders of the Member States and determining the conditions for access to the EES for law enforcement purposes, and amending the Convention implementing the Schengen Agreement and Regulations (EC) No 767/2008 and (EU) No 1077/2011 OJ L 327/20.

	Operational	Accessible to	Information about	Countries	Biometrics
European criminal records information system (ECRIS).[50]	**YES.** **The new Regulation (ECRIS-TCN)[51] will be operational by 2022.**	**Judges, prosecutors and other relevant authorities.** **EUROPOL**	**EU citizens with criminal records, so to identify the competent Member State.** **The new Regulation extends the scope to TCNs and stateless persons.**	**EU Member States.**	**ECRIS-TCN will include facial image and fingerprints.**

By the time these databases become fully interoperable, there is no doubt that law enforcement agencies in the EU will have **another effective tool to fight, prevent, and detect irregular immigration and serious crime.** However, a fully functioning architecture is not enough. Data feeding will be more effective and timelier than now, with Member States contributing to different extents to information systems. However, without mutual trust and available and trained resources capable of sending useful information to databases, there is the risk of establishing a costly mechanism that will suffer from the same challenges as the current patchy system.

To overcome **asymmetry issues** in the feeding mechanism of databases implemented by the EU Member States, the German Presidency of the EU Council (July-December 2020) promoted an initiative to improve the exchange of individual threat assessments. This system focuses especially on persons regarded as a **terrorist or violent extremist threat** that travel or connect with individuals or networks in the other Member States. Through the answers of a questionnaire shared with all EU Member States, conversations held within the Working Party on Terrorism of the EU Council and a virtual expert workshop organised by the European Commission, the Presidency tried to fill the operational gaps that emerged in recent terrorist cases. In fact, among the outcomes of the initiatives, a compendium of Member States' current practices on entering information in European databases and information systems (including internal processes and responsible authorities) was adopted. The initiative also led to a regular exchange of experiences, including risk assessment tools, and a shared understanding and common indicative criteria.

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50 Council Decision 2009/316/JHA of 6 April 2009 on the establishment of the European Criminal Records Information System (ECRIS) in application of Article 11 of Framework Decision 2009/315/JHA OJ L 93/33.

51 Regulation (EU) 2019/816 of the European Parliament and of the Council of 17 April 2019 establishing a centralised system for the identification of Member States holding conviction information on third-country nationals and stateless persons (ECRIS-TCN) to supplement the European Criminal Records Information System and amending Regulation (EU) 2018/1726 OJ L 135/1.

Effective border management prevents the entry of individuals already known by authorities as potentially posing a threat to national security and individuals who do not have the right to entry. However, another fundamental challenge in preventing ISIL and Al-Qaida-inspired terrorism remains the **detection of individuals who regularly enter** a Member State and are later radicalised or take up terrorist violence. Indeed, out of the terrorist attacks perpetrated over the previous years by aliens (who entered the EU either regularly or irregular-ly), only a tiny percentage was committed by individuals who had reached Europe for terrorist purposes. Data suggests that **most perpetrators were radicalised while already in Europe and developed their plans later**– sometimes even many years after their arrival. This poses a severe monitoring and detection challenge for law enforcement and security services. Moreover, it raises fundamental questions for society when considering the environmental and personal conditions that triggered the terrorist action.

Section 3

Movements and security implications

Inbound movement scenarios that might impact the terrorist threat

As this report aims to assess what and how regular and irregular movements might affect the threat on national security caused by ISIL and Al-Qaida inspired terrorism, movements of people are broken down into **subcategories** where regular and irregular entry and stay are interconnected. This chapter will also consider **intra-EU movements,** investigating how the absence of internal borders might affect preventing and detecting terrorist activity related to ISIL and Al-Qaida. For each of these scenarios, the analysis will be conducted, where possible, by mentioning concrete cases where there has been a threat to national security or where criticalities emerged that need further addressing.

SCENARIO A
REGULAR ENTRY

When tackling the issue of the relationship between movements of individuals and ISIL and Al-Qaida inspired terrorism, the focus is usually on those cases where irregular migrants are caught for terrorism-related crimes or have turned out to be extremists.

However, there have been instances where non-European citizens legally residing in Europe and/or regularly migrating to Europe committed terrorist crimes. It is worth reminding that **homegrown terrorist have carried out the majority of terrorist attacks in Europe since 2014**.

This is the case of the Iraqi citizen – already known by the German authorities – who stabbed a police officer in Berlin in 2015[52] after serving several years of prison for the attempted murder of the then Iraqi Prime Minister visiting the German capital. While he was supposed to wear an electronic leg tag as an alternative to his life-long conviction, the latter had been removed slightly before the attack. The individual was one of the around 20 affiliates sent to Europe by Ansar al-Islam, [53] a group linked to Al-Qaida, to commit terrorist attacks.

Another famous yet controversial case relates to a Pakistani citizen who arrived in the UK with a student visa and was then charged by a US court (after being extradited) for plotting attacks in several cities, including Manchester and Copenhagen, on behalf of

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52   TESAT 2016.

53   'Ansar al-Islam was listed on 24 February 2003 pursuant to paragraphs 1 and 2 of resolution 1390 (2002) being associated with Al-Qaida, Usama bin Laden or the Taliban for "participating in the financing, planning, facilitating, preparing or perpetrating of acts or activities by, in conjunction with, under the name of, on behalf or in support of", "supplying, selling or transferring arms and related materiel to" or "otherwise supporting acts or activities of" Al-Qaida (QDe.004) and Usama bin Laden'. 'Ansar al-Islam [...] is a terrorist group operating in northeastern Iraq with close links to and support from Al-Qaida (QDe.004). Al-Qaida and Usama bin Laden (deceased) participated in the formation and funding of Ansar al-Islam, and Ansar al-Islam has provided safe haven to Al-Qaida in northeastern Iraq. [...] Ansar al-Islam came into being with the blessing of Bin Laden after its leaders visited Al-Qaida in Afghanistan in 2000 and 2001. [...] Ansar al-Islam has conducted attacks in northeastern Iraq. This organization has been located and primarily active in northern Iraq, but also maintained a presence in western and central Iraq. From: https://www.un.org/securitycouncil/sanctions/1267/aq_sanctions_list/summaries/entity/ansar-al-islam.

Al-Qaida. He was eventually convicted and given a 40-year prison sentence.[54]

The Tunisian man who killed 86 people with a truck on the Promenades des Anglais in Nice during the fireworks celebrating the French Republic Day was also holding a regular residence permit.[55] He had been living in France since 2005 and radicalised very quickly in the months before the attack. It was not possible to retrieve how he obtained his residence permit, under what grounds and how he firstly reached Europe.

More recently, in November 2021, an Algerian national with an Italian residence permit stabbed a policeman in South France. The man had also applied for a French residence permit, unsuccessfully,[56] and he arrived in Europe in 2009-10 – we do not know if regularly or irregularly. As his motive was unclear, and no terrorist affiliation could be proven until the time of writing, the case was not assigned to the anti-terrorism prosecutor.[57]

In 2020 there was a global drop in permanent and temporary migration to Europe due to the COVID-19 pandemic and the relative travel restrictions. 2021 has already seen an inversion of this trend. Pre-pandemic security challenges related to regular migration, like fraudulent documents, will likely become relevant again in preventing terrorism in Europe.

Regular entry with fraudulent documents[58]

To avoid irregular routes and their life-threatening dangers, some migrants use fraudulent documents – often provided by the same criminals who helped them arrive in the destination country, by sea, land, or air. According to experts, 'a false document accepted as genuine […] invalidates the whole border check process',[59] making **detection at the external border a key component** to prevent terrorism in Europe.

The recently published EUROPOL's report on serious organised crime, which collected Member States' information on 2020 trends, refers to evidence showing how **migrant smuggling networks** also provide paperwork for the legalisation of the residence status. This includes the supply of fraudulent documents and/or Schengen visas, arrangement of marriages of convenience, false registered partnerships, or false adoptions. In an earlier report, EUROPOL reported on an investigation that discovered 'a state-of-the-art counterfeiting print shop in Albania'. The main suspect received production orders from several smuggling networks from Bulgaria and Turkey and delivered the high-quality false documents via small parcels and couriers. According to the report, the documents facilitated secondary movements of irregular migrants from Greece to other countries in the EU.[60]

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54   https://www.bbc.com/news/world-us-canada-34912242.

55   https://www.europe1.fr/faits-divers/attentat-a-nice-ce-que-lon-sait-du-supect-2800117.

56   https://www.politico.eu/article/france-police-arrest-three-suspects-cannes-stabbing/.

57   https://edition.cnn.com/2021/11/08/europe/cannes-police-officers-attack-france-intl/index.html

58   According to EUROPOL SOCTA 2021, fraudulent documents might be: **Genuine** documents which are: used by someone other than the legitimate owner, based on physical resemblance; used by its legitimate owner after its expiry date; fraudulently obtained through false supporting documents or corruption. **False** documents i.e.: forged - a genuine document with some alterations; counterfeited - an entirely fabricated document; stolen blanks from an administration and filled with the client's biographical data.

59   Monica Gariup and Jakub Piskorski, 'The challenge of detecting false documents at the border: Exploring the performance of humans, machines and their interaction' International Journal of Critical Infrastructure Protection 24 (2019) 100–110, 100

60   EUROPOL, Migrant smuggling in the EU (February 2016)

Despite these facts and trends, EURO-POL does **not** highlight **systematic links between criminals and terrorists**, yet it acknowledged that they might exploit the same sources for forged documents. As there is consistent attention on terrorists by security and law enforcement, criminals tend not to associate with them to avoid stringent controls.

According to an older report by EUROPOL, 'false documents used by irregular migrants originate mainly from Athens, Istanbul and Syria as well as Asian hubs such as Thailand. Migrants are provided with false documents at the start of their journeys, or they receive them during their journey in small parcels sent by facilitators to transit or destination countries'.[61]

It is generally **difficult to estimate the exact extent** of the challenge stemming from fraudulent documents, as government or INTERPOL datasets are restricted. An indirect estimate might be established by analysing the number of Frontex's detections of fraudulent document users (which amounted to 3,719 in 2020 and 5,228 in 2019). Other relevant data is provided by TrustID, a UK company supplying public and private sector clients with identity document verification services. TrustID estimated that regarding the most wanted nationalities for fake ID documents, 2020 trends have not changed compared to 2019. France remains first, followed by Portugal while the UK comes fifth.[62]

The possibility that fraudulent documents are used to access European countries via official routes is also problematic when analysing the **movement of foreign terrorist fighters**. If they find a way to escape from the Syrian Arab Republic or Iraq and arrive in Europe, the chances are that they will try to do so without being noticed and avoid being arrested. They might, for instance, arrive at the border with false or forged documents, so their information is not picked up in databases accessible to border guards. This was the case of an individual who returned to the Netherlands in 2018 by using his brother's passport. Ultimately, the District Court of Rotterdam convicted him to seven years of prison for travelling to the Syrian Arab Republic through Turkey in 2015 to join Jabhat al-Nusrah and for other terrorism-related crimes.[63] Similarly, one of the attackers linked to the 2015 Paris attacks and 2016 Brussels bombings, a Swedish of Syrian origin, returned to Europe through Turkey and then Greece pretending to be a migrant using falsified documents. It is, however, unclear how he arrived in Belgium from South Europe.

In 2018, the Italian authorities arrested four Tunisian citizens, allegedly members of the Anis Amri's network (the 2016 Berlin truck attacker), for smuggling roughly 100 co-nationals to Italy and providing them with false identity cards and licences to continue their journey to France and Germany.[64] More recently, seven people have been arrested in Milan for having supplied thousands of fraudulent documents to terrorists, including foreign terrorist fighters and the perpetrator of the 2020 Vienna attack. Reports indicated that these criminals, part of a vast transnational criminal network, were from East Europe, but further information on their country of origin or their residence status in Italy could not be retrieved.[65]

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61 EUROPOL, Migrant smuggling in the EU (February 2016)

62 https://www.trustid.co.uk/fake-identity-document-statistics-how-the-landscape-changed-in-2020/

63 https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBROT:2018:6386&showbutton=true&keyword=terro-ristische

64 https://www.repubblica.it/cronaca/2018/03/29/news/terrorismo_nuovo_colpo_alla_rete_dei_contatti_italiani_di_anis_amri_5_mandati_d_arresto-192486994/

65 https://www.ansa.it/sito/notizie/topnews/2021/06/11/terrorismo-documenti-falsi-a-foreign-fighters-7-arresti_c711503a-2d47-48a9-a68c-a49afebc6897.html

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The **INTERPOL Stolen and Lost Travel Documents Database (SLTD)** represents a crucial international instrument to prevent the use of fraudulent documents as it collects records of travel documents reported as lost, stolen, stolen blank, and revoked by national authorities. INTERPOL also provides countries with training in security document examination devices and techniques, the automatic verification of travel documents with passport readers, the facial identification process, and the forensic examination of security documents. Following pressure put on national authorities to timely inform the database, the situation has reportedly improved since 2016, when fallacies regarding the uploading mechanism emerged.[66] Interoperability challenges remain to allow European databases, such as the SIS II, to communicate with the INTERPOL database.

Similarly, since 2018, Frontex has hosted the Centre of Excellence for Combatting Document Fraud. This Centre supports Member States to detect fraudulent documents at the external borders, including in the hotspot border crossing. The Centre developed a guiding reference manual for border guards to help them distinguish whether documents presented at the borders are genuine through images of passports, identity cards, and visas. In addition, the Centre can count on a group of experts which can be deployed at the request of the national authorities of third countries for specific training or other forms of support.

SCENARIO B
IRREGULAR ENTRY

According to data released by Frontex, illegal border crossing[67] detected at the EU external border **increased of more than 40% in the first nine months of 2021**, compared to the same period in 2020. The Central Mediterranean and the Western Balkans routes are reportedly the most significant increase (respectively of 87% and 117%). Statistics released by the Italian Ministry of Interior confirm this trend: from August 2020 to July 2021, Italy recorded the highest number of irregular arrivals by sea since the first half of 2017. The top three nationalities of individuals reaching the EU external borders through the Western Balkans were Syrian, Moroccan and Afghani.

In contrast, those who arrived in Italy through the Central Mediterranean Sea were mainly from Tunisia, Egypt or Bangladesh.[68] Concerning the Western Mediterranean route, in 2020, departures from Algeria represented a key starting location to travel to Europe, while the Canary Islands have been increasingly used on the West African route. According to a recent UNICRI publication, West Africa represents a **growing security concern for Europe** as extremist forces are increasingly targeting state institutions, promoting segregation and thereby affecting individuals at risk of radicalisation.[69] The Analytical Support and Sanctions Monitoring Team has recently confirmed that parts of West (and East) Africa remain

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66 EU Counter-Terrorism Coordinator, Systematic feeding and consistent use of European and international Databases - information sharing in the counter-terrorism context, 7726/16.

67 Please note that 'the same person may attempt to cross the border several times in different locations at the external border', so the number of crossings (referred to the movement) is likely not matching the number of entries (referred to a person).

68 Frontex, Migratory situation at EU's borders in September: Increase on the Central Mediterranean and Western Balkan routes (News Release, 15 October 2021). See: https://frontex.europa.eu/media-centre/news/news-release/migratory-situation-at-eu-s-borders-in-september-increase-on-the-central-mediterranean-and-western-balkan-routes-RZRnEH

69 UNICRI, Summary Report of the virtual expert-level meeting on "Emerging trends and recent evolution of the threat posed by ISIL/Al-Qaida inspired terrorism in Europe: a spotlight on the terrorist profile(s), incitement techniques, vulnerable targets and potential impact of COVID-19" 21-22 April 2021. See: http://unicri.it/sites/default/files/2021-06/Meeting%20Report%20ISIL%20Al-Qaida%20Europe.pdf.

of concern.[70] Lastly, the worsening Afghan situation is likely to impact migration flows to Europe, given that many Afghans did not manage to flee the territory by 31 August 2021. Considering the current precarious security situation with ISIL-K wishing to prove their power over the Taliban, who might not be fully capable of controlling their external borders, the risk of ISIL-K fighters infiltrating migrant routes undetected is actual.

This data reinforces the concerns shared by the Italian authorities and EUROPOL that terrorists or extremists inspired by ISIL or Al-Qaida might use irregular migration routes to come to Europe.[71] In particular, the main concern is that **individuals might infiltrate the route from** Tunisia with the help of migrant smugglers. In 2019, the Italians updated the SIS II databases with 489 individuals denied entry to the EU, according to article 24 of the Schengen agreement.[72] In 2018, the individuals subject to the same decision were 760.

In 2020, two terrorist attacks perpetrated in Europe were carried out by ISIL supporters who had arrived in Italy (Lampedusa) irregularly. In the same year, four people who came to Europe through the same route as irregulars were arrested and charged for terrorist-related crimes. The Italian authorities also flagged up the possibility that operatives of al-Qaida and its affiliates, such as AQIM, might pursue the same journey with malicious intentions. As the irregular route to Europe was already exploited in the past, there is a risk of this occurring again.

Even though the **COVID-19 travel restrictions** hindered the movement of people in 2020, border authorities are now worried about increased irregular migration. The **Central Mediterranean route remains the most used** and saw an increase of over 85%. Italy has observed not only the increased use of 'ghost ships'[73] as opposed to rescue operations, but also direct arrivals from Turkey. A conspicuous increment of arrivals **was also registered in the Canary Islands,** where arrivals doubled compared to 2020. Illegal crossings through the Channel (Dover Strait) increased in 2021, from 8,500 for 2020 to 13,500 as of September 2021.[74] A new route also opened from Belarus to Lithuania and Poland. This report will address this latter issue further on.

According to the authorities interviewed, it is impossible to link irregular migration and terrorism directly. National authorities seem to agree that, when numbers are large, their capacity to detect and monitor diminishes proportionally. A thorough application of border checks regulation in large migration flows is challenging due to **increased pressure on resources and capabilities.**

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70 Twenty-eighth report of the Analytical Support and Sanctions Monitoring Team submitted pursuant to resolution 2368 (2017) concerning ISIL (Da'esh), Al-Qaida and associated individuals and entities, S/2021/655.

71 TESAT 2021.

72 Ministero dell'Interno, Relazione al Parlamento sull'attività delle forze di polizia, sullo stato dell'ordine e della sicurezza pubblica e sulla criminalità organizzata (2019).

73 These are small boats that arrive directly to the Italian coasts without being intercepted by the coast guard or by NGO's vessels. The boat is then left on the short, and individuals are not detected. See: https://palermo.repubblica.it/cronaca/2021/06/15/news/lampedusa_ripresi_a_pieno_ritmo_gli_sbarchi_fantasma_otto_nelle_ultime_24_ore-306202512/ (in Italian)

74 Report on Migration and Asylum, COM(2021) 590 final, p. 4.

International protection[75]

A third-country national crossing the external border of a country without prior formal authorisation to enter the territory is in most cases considered a unlawful action. Under specific circumstances, exceptions to the rules may be applied; for example, seeking asylum, and therefore entering a territory to apply for international protection, is among one of those exceptions.

Since 2008 the number of **first-time asylum applications** in the EU has **gradually increased,** reaching a peak in 2015 when the EU experienced an unprecedented influx of incoming applicants for international protection. In 2020 this number dropped to the pre-2014 level for the first time due to the COVID-19 outbreak. Germany, Spain, and France were the three main countries of destination, while Syrian, Afghanistan, Venezuelan and Colombian were the top nationalities applying for international protection. This data has remained unchanged since 2019. According to Eurostat, in 2020, less than half of first-time applications qualified for international protection (refugee status, subsidiary protection or humanitarian protection) while positive final decisions accounted for one-third of the total.

Between 2017 and 2020, **most first-time asylum applications** were **rejected.**[76] With regards to appeal decisions, according to statistics, only a small percentage of them have a positive outcome, while those whose appeal was dismissed are issued a return decision. In this latter case, individuals should return (voluntarily) within a specific timeframe set by the authorities. If individuals do not comply with the timeframe, the stay in the territory is considered illegal and in most cases, authorities proceed to forced return.[77] People who fail to return (forced return) within the timeframe are detained[78] or limited in their freedom of movement.[79]

In the period from the submission of the application to the final decision on the application for international protection, individuals benefit from a special authorisation that legalises their status on the territory of the state where the application is submitted. According to the Dublin III Regulation,[80] the application must be submitted in the country of first arrival. If the application is submitted in another state, the latter might return the individual to the first country of arrival.

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75 Disclaimer: though it is virtually possible for some European countries to lodge an application for international protection from abroad e.g. going at the consulate, in practice this circumstance is very rare. Consequently, in most cases asylum seekers need to reach the border of the country where they want to lodge the application before being able to actually do it. Normally this means arriving in the country irregularly and then regularising the stay through the application. This is why for the purpose of this report we will consider the case of international protection as a case of irregular entry. It is nonetheless interesting to flag up the following Member States policies: France allows for the issue of asylum visa by TCNs abroad. The procedure is within the discretion of the Ministry of Interior. It was mainly used for Syrian refugees since 2012, and for Iraqis belonging to religious minorities persecuted in Iraq since 2014. Upon arrival in France, they have to follow the same steps as other asylum applicants. Hungary allows TCNs, who do not reside in Hungary, to apply for asylum at the embassies through the submission of a declaration of intent. Lithuania recently modified its legislation to allow TCNs to apply for asylum at diplomatic missions and consular institutions in foreign states, as designed by the Minister of Foreign Affairs. Exceptional circumstances shall occur to trigger the possibility to apply from abroad like extreme events caused by a mass influx of TCNs. Spain, like France, can issue visa or a "laissez-passer" allowing TCNs who wish to apply for asylum in Spain to travel to the country. However, the TCNs shall be in a country other than the one of citizenship or residence. The assessment is carried out by the Ambassador.

76 EMN Annual Report on Migration 2020, p. 23.

77 Exceptions regarding forced return and detention are in place, for example in the case of unaccompanied minors.

78 Being in state of detention in an immigrant detention center constitutes a title to remain in a given country.

79 Eurostat statistics, Asylum statistics, Data extracted on 16 March 2021 (part on asylum applications) and 19 April 2021 (parts on applications by unaccompanied minors and asylum decisions). See: https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Asylum_statistics

80 Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person OJ L 180/ 31.

In this case, the return decision is discretionary as the state might decide to accept the application for international protection and not apply Dublin rules. The possibility to return someone in the first country of arrival depends on the fact that the individual's arrival was registered there.

In a recent report,[81] Europol stated that, in consideration of the more favourable situation for asylum seekers, **migrant smugglers** suggest to migrants that they apply for international protection if they are detected on their way to Europe. This allows for a temporary regularisation of their situation, giving smugglers some additional time to arrange their secondary movement. However, it is worth reminding that affiliates to terrorist organisations or 'returning foreign fighters with EU nationality generally rely on genuine and fraudulent documents to travel to the EU and typically do not rely on the facilitation services offered by migrant smuggling networks'.[82]

The **2016 Berlin market attack** was committed by a young Tunisian national, who irregularly crossed the external border in 2011, reaching the shores of Lampedusa (Italy) after having already committed criminal acts in his home country. Once in Sicily, he committed additional crimes, which led him to be convicted for four years – the investigations revealed that the prison setting was indeed where he radicalised. As the expulsion order issued by the Italian authorities was not implemented, he moved to Germany in 2015, where he applied for international protection. After the negative decision on his application for international protection, a second return order was issued, but it could not be executed due to a lack of identification documents necessary for repatriation. It should be highlighted that the negative outcome of his asylum application seems to have been among the triggers conducive to the attack.

Similarly, in the case of the Moroccan national who stabbed ten people in **Turku**, the negative decision over the asylum application might have triggered the attack, according to the report produced by the Investigation team appointed by the Finnish government.[83] The following is what the report shares about his profile and prior movements:

'The perpetrator left Morocco with a friend on his birthday in October 2015. He first flew to Turkey and continued to travel in a little over a week through Greece, Macedonia, Serbia, Croatia and finally to Germany, possibly through Italy, Switzerland or Austria. The perpetrator and his friend reported as asylum seekers in Germany in November 2015. The perpetrator used his real identity. In accordance with the German system, they were directed to a reception centre to wait for a call to court, where the actual asylum application would be submitted. Their fingerprints would not be taken until that stage. The court visit did not take place before his arrival to Finland.

The friends stayed in different parts of Germany for approximately six months, although the perpetrator spent 2–3 months in Italy alone at one point. Upon his return from Italy, he was stopped at the Swiss border in April 2016. He requested asylum in Switzerland. However, he withdrew the request the following day, saying that he wanted to continue to Germany and onward to Finland. His fingerprints had already been taken but, apparently due to the withdrawal, they were not kept in Eurodac, the EU asylum fingerprint database. In Germany, the perpetrator got into trouble with the authori-

81   SOCTA 2021.

82   Europol, Migrant smuggling in the EU (February 2016).

83   Safety Investigation Authority, Turku stabbings on 18 August 2017, Investigation identifier: P2017-01, Investigation report 7/2018, pp. 26-7.

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ties, so his fingerprints were taken and his real passport stayed in the possession of the authorities. However, the fingerprints were not stored in the Eurodac database but rather elsewhere. The issues were not serious enough to take the perpetrator into custody. However, he and his friend decided to leave, fearing refusal of entry and being returned to Morocco. They chose Finland as their country of destination. [...]

The perpetrator probably came to Finland through Poland, Lithuania and Estonia, landing in Helsinki. In May 2016, the two friends arrived at a reception centre [and] the following day, the perpetrator registered with the immigration police as an asylum seeker under a false identity. The perpetrator has stated that he gave a false name and an age four years younger than his actual age because he wanted to enter Finnish basic education and to make it easier to get asylum. He did not want to go back to Morocco. Possibly to avoid being returned to other countries, he did not want to use the same name he had used in Germany or other countries.

The perpetrator's interest towards ISIL had increased after his negative asylum decision. According to the perpetrator, however, the interest was not due to the negative decision but rather curiosity and having extra time for such contemplations. The contemplations grew stronger in the spring, which manifested in, for example, the perpetrator's enthusiasm in sharing his thoughts with others and interest in watching and listening to ISIL-themed recordings online.'

More recently, an Iraqi citizen[84] travelled in a taxi with explosive materials and detona-ted them in front of the Liverpool Women's Hospital. Years before the attack, his asylum application was rejected, and he remained irregularly in the UK,[85] where he converted to Christianity. The case is relevant for this report because of the asylum background of the perpetrator.[86] It also sheds light on the link between **mental health** and violent radicalisation, as the attacker was reported to have suffered from mental illness. Cases like these seem to have increased in frequency in the last few years – and authorities are increasingly concerned. In 2019, a Yemeni citizen previously known to the German authorities as an extremist stabbed a soldier in Milan while screaming 'Allah akbar'. As the investigation revealed, the person did not have an affiliation with terrorist groups. According to the judges, the man was food-deprived and sleeping in the city's central station, and the state of exasperation and alienation led him to commit violence. He was convicted for terrorism to over 14 years of prison.[87]

SCENARIO C
OVERSTAY

TCNs holding a residence permit, and therefore legally residing in a certain country, might end up in an irregular stay if they remain there beyond the approved duration of their stay. They are the so-called 'overstayers'. This might happen when their **permit is not renewed** because they submit their documentation too late or there are delays within the administration in processing their request. Overstaying might also be the consequence of the **withdrawal of the permit** or the refusal of its renewal for reasons of public policy, public security, or

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84   Not clear whether Iraqi or Jordanian born in Iraq. See: https://www.bbc.com/news/uk-59287001.

85   It is unclear whether he had been subject to a return order. See: https://www.bbc.com/news/uk-59287001.

86   No formal affiliation to terrorist organisations was however established so far. The UK Counterterrorism Police is however investigating the case.

87   https://milano.corriere.it/notizie/cronaca/20_novembre_26/terrorismo-feri-le-forbici-militare-stazione-centrale-con-dannato-14-anni-6-mesi-4357578e-2fef-11eb-a612-c98d07fbf341.shtml.

public health, within which posing a threat to national security falls.

While **exact figures** on overstayers **are lacking**, we can estimate the scale of the problem by looking at proxies and official statements. For example, the European Commission and a British think tank stated that in the EU and the UK, respectively, 'most illegal immigrants are probably visa-overstayers'.[88] Nonetheless, it has been noted that 'the visa-overstayer has systematically been left out of the securitising discussion regarding irregular migrants in the Schengen Area and the EU, thus resulting in an asymmetrical focus on the "irregular migrants by means of irregular entry" over other groups of irregular migrants'.[89]

The consequences of foreigners falling into an irregular situation vary from Member State to Member State and might include denied access to advanced healthcare (emergency healthcare is always provided)[90] as well as education or housing. In addition, overstayers face return orders and consequently expulsion. While EU measures do not directly address the issue of overstayers and instead emphasise the need for more efficient returns, national regulators have adopted several measures to cope with the phenomenon in the last years. The first policy is **temporarily tolerating** the overstay when the return is temporarily not a viable option. Another option is **regularising** the individual – though these measures are largely criticised as they offer a sort of reward to irregularity. Finally, some Member States use **voluntary departure packages,** encouraging the irregular person to voluntarily leave the Member State territory. The most common consequence of overstaying is a fine, the amount of which varies from state to state, and for Schengen countries an entry ban of three or more years. The latter sanction is very common in the case of engagement in criminal activities.

In 2019 in Lyon, French authorities arrested a young Algerian suspected to have planted the bomb in the city centre whose explosion left 13 people injured, including a child. The individual was not known to the authorities before.[91] He had entered the French territory two years prior with a touristic visa lasting 90 days. When the visa expired, he did not obtain a new valid residence permit and stayed in France irregularly – a condition which also prevented him from enrolling to the Lyon IT engineering school.[92] This case shows the challenges faced by law enforcement to track down individuals whose residence permit is expired and abscond, **potentially travelling within Europe undetected**. The full implementation of the EES database should ensure a wider exchange and tracking of information as well as an automated flagging system of all those permits which are expired without the person having left the country.

At any rate, overstayers rarely go unnoticed. What is more challenging is not detection but rather keeping more track of the overstayer's whereabouts, especially if the interested subjects are issued a return order.

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88 Frida Hansen, Discrepancies in European Union policies towards illegal immigration: The securitisation of the visa-overstayer and the irregular migrant, Discrepancies in European Union policies towards illegal immigration The securitisation of the visa-overstayer and the irregular migrants, Autumn 2020.

89 Ibid.

90 Nonetheless, some irregular migrants do not use this service afraid that authorities will find them.

91 https://www.theguardian.com/world/2019/may/27/french-police-arrest-three-over-lyon-bomb-blast

92 https://www.lemonde.fr/societe/article/2019/05/31/attentat-a-lyon-le-suspect-va-etre-presente-a-un-juge-antiterroriste-en-vue-d-une-mise-en-examen_5469878_3224.html

SCENARIO D
INTRA-EU MOVEMENTS and SECONDARY MOVEMENTS

As border controls inside the EU were removed with the Schengen agreement, EU citizens and, in some cases, foreigners who hold residence permits gained their freedom to move within the EU without being subject to border checks. Alongside those who legally exercise such freedom, another group of individuals also move relatively freely. This category includes criminals and, in some cases, irregular migrants and applicants for international protection who would not be entitled to move from the country where they lodged their application. The **2015 and 2016 attacks in Paris and Brussels** were, for the most part, committed by French nationals that repeatedly travelled to and from Belgium in the months before the attacks. Some also occasionally travelled to the UK.

According to the Schengen rules, countries might **reintroduce internal borders in exceptional situations**, as an *extrema ratio,* and they should be 'lifted once the problem underpinning the decision on the reintroduction of border checks has been addressed, or if it is found possible that the problem can be addressed by other measures'.[93] For example, this situation occurred after the 2015 attacks in France, where there was a need to re-establish internal border checks to support investigators in search of the perpetrators. The European Parliament Research Service counted that in the last five years (2015-2020) and the nine years before (2006-2014), internal border checks were resumed respectively 205 and 35 times. These figures, for some, indicate a potential 'crisis' of the Schengen area resulting in Schengen countries recurring more often than ever before to break its core norm, i.e. the absence of internal checks and maintaining such regime for longer than the actual emergency they were facing. On the other hand, it might be argued that these measures are 'corrective to [Schengen's] poor functioning'.[94] At any rate, the EU Commission proposed the revision of the Schengen Border Code to provide an 'overview of the circumstances giving rise to the need for reintroduced border controls', ensuring that 'reintroducing border checks at internal borders remains a measure of last resort'.[95]

In the EU, the SIS II gathers entry bans issued by national authorities. This database helps prevent individuals who want to exploit the lack of internal borders, thus bypassing the country that refused entry by accessing the state from another EU Member State. An alert in the system might be placed under two circumstances. First, when the individual was subject to a return decision. Second, if the 'Member State, after an individual assessment, has adopted a judicial or administrative decision concluding that that individual's presence on the Member State's territory poses a threat to public policy, to public security or to national security'.[96] However, the system is imperfect, especially because of a non-consistent introduction of information by law enforcement and because EU databases are not systematically checked.

The person concerned might appeal the entry ban. Furthermore, the French Conseil d'état considered the negative decision over an asylum application and the consequent entry ban registered in the SIS II issued in Germany not sufficient to refuse a long-term visa in France.

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93 EPRS, Schengen Borders Code: Revision of Regulation (EU) 2016/399, Implementation Appraisal (March 2021)
94 Markéta Votoupalová, The Wrong Critiques: Why Internal Border Controls Don't Mean the End of Schengen, New Perspectives Vol. 27, No. 1/2019 pp. 73-99.
95 European Commission, A strategy towards a fully functioning and resilient Schengen area, COM(2021) 277 final, p.19.
96 FRA, Handbook on European law relating to asylum, borders and immigration (Edition 2020), p. 36.

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While the TFEU guarantees EU citizens the right to move freely across the EU-27, the situation is different for third-country nationals. **Even though third-country nationals enjoy intra-state freedom of movement, not all residence permits guarantee freedom of movement across the Union.**[97] Insofar as beneficiaries of international protection are concerned, the EU Qualification Directive demands no discrimination of their freedom of movement against other TCNs' situation. Nonetheless, in some Member States, persons granted international protection cannot move freely across the Union. Over the past years, EU legislation has progressively included TCNs among the individuals that can enjoy inter-EU freedom of movement – specific provisions and conditions in this regard are found in EU Directives, e.g. Blue Card[98] or Students.[99,100] For example, holders of EU Blue Card issued in all but four Member States can travel throughout the Schengen area – unless the Blue Card is issued by Romania, Bulgaria, Cyprus and Croatia, who are still not part of the Schengen area.[101]

According to IOM, **secondary movements** are those 'of a migrant from their first country of destination to another country, other than the country in which he or she originally resided and other than the person's country of nationality'.[102] Secondary movements and the facilitation thereof are a high-security concern for European countries and remain highly undetected because of the dangerous modus operandi used by smugglers.[103] Facilitation of secondary movements, often by providing fraudulent documents, remains at the **core of the migrant smuggling activity in Europe**. As there are no internal borders within the EU and associated Schengen countries, 'pre-border checks and border checks remain one of the main safeguards of the Schengen area and significantly contribute to guaranteeing the long-term security of the Union'.[104]

Many non-European terrorists have, in fact, widely benefited from the lack of EU internal border controls and could move relatively freely within the EU. The **perpetrator of the 2016 Nice attack** managed to run away and eventually, after three days, was shot dead in Milan. Furthermore, he is believed to have travelled through the Dutch, Belgian and French borders to Italy. Similarly, before reaching Finland, the 2017 Turku attacker lived as irregular in Germany.

In 2019 the intensification of controls at land and air borders led some migrants to opt for secondary movements by sea. These individuals cross the external borders, already intending to move on to other European countries such as the UK or the Baltics. **Routes used for secondary movements by sea are the English Channel, the Medi-**

97 ICF for DG HOME, Legal Migration Fitness Check, Contextual analysis : Intervention logic Directive specific analysis, Annex 1Ciii (June 2018). Available at: https://ec.europa.eu/home-affairs/system/files/2019-03/201903_legal-migration-check-annex-1ciii-icf_201806.pdf.

98 Directive (EU) 2021/1883 of the European Parliament and of the Council of 20 October 2021 on the conditions of entry and residence of third-country nationals for the purpose of highly qualified employment, and repealing Council Directive 2009/50/EC OJ L 382/1.

99 Directive (EU) 2016/801 of the European Parliament and of the Council of 11 May 2016 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing OJ L 132/21.

100 For the analysis see ICF for DG HOME, Legal Migration Fitness Check, Contextual analysis : Intervention logic Directive specific analysis, Annex 1Ciii (June 2018), Available at: https://ec.europa.eu/home-affairs/system/files/2019-03/201903_legal-migration-check-annex-1ciii-icf_201806.pdf.

101 https://www.apply.eu/Questions/#:~:text=Can%20I%20travel%20throughout%20Europe,The%20United%20Kingdom%20and%20Ireland. https://www.apply.eu/Questions/#:~:text=Can%20I%20travel%20throughout%20Europe,The%20United%20Kingdom%20and%20Ireland

102 IOM, Glossary on Migration, International Migration Law no 34 (2019).

103 SOCTA 2021

104 Frontex, Annual Risk Analysis 2020 p.44.

terranean Sea from Greece to Western European countries (due to the closure of the Balkan route) and the Baltic Sea.

The risk of secondary movements within the EU is facilitated by the lack of internal borders and by national laws that provide the legal status of irregular migrants. While the Return Directive imposes on Member States to either regularise the status of irregulars or issue a return decision, thus preventing legal voids, the reality is that each Member State has different rules which do not facilitate cooperation in detecting intra-EU movements.

HYBRID SCENARIO RETURNING OR RELOCATING FTFs

When analysing the movement of potentially radicalised individuals, a particular case is the return or relocation of FTFs, i.e. individuals who left their countries of origin to join terrorist groups abroad. European governments are currently concerned mainly by those who previously fought for ISIL in the Syrian Arab Republic and Iraq and those travelling from Afghanistan.[105] This phenomenon has long preoccupied European countries, at least since the start of the conflict in the Syrian Arab Republic and Iraq, which saw an unprecedented flow of fighters to the region. The adoption of **Security Council resolutions** 2178 (2014) and 2396 (2017) testifies the long-lasting nature of Member States' concern over the phenomenon. The UN Security Council has addressed the issue of returning and relocating FTFs from numerous perspectives, including border

management;[106] internal cooperation and exchange of information; availability of intelligence; and criminalisation of travel for terrorist purposes. However, since the military defeat of ISIL by the coalition and the current struggle of Da'esh to rebuild the caliphate, the real threat is now posed by the possibility of these fighters either returning to or relocating through Europe.

As they might regularly move (through the support of their country of origin and/or with their original documents) or irregularly (for instance, using fraudulent documents), for the sake of this report, their movements are to be considered as a **hybrid case**. For example, in 2020, among those FTFs who were trying to return to their country, two individuals were detected in Spain using the irregular migrant route through West Africa. Both were Egyptian, but one of them held British nationality as well.[107] On the other hand, those who are repatriated with the active support of the state of origin generally come back with regular flights.

The phenomenon of returning and relocating terrorist fighters has not stopped since the Iraq and the Syrian Arab Republic conflicts. However, the issue has become even more relevant since the military defeat of Da'esh. More people were displaced; some detained in prisons; others hosted in camps in the Syrian Arab Republic – and many are still there. **Out of the 5,000 Europeans who left Europe to join ISIL, over 1,000 have remained in Iraq and Syria,**[108] including children[109] and women. Apart from the humanitarian dimension and the legal dispute over their active repatriation by their countries of origin, 'this population repre-

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105 EU Counter-Terrorism Coordinator, Afghanistan: Counter-Terrorism Action Plan 12315/21.

106 Paragraph 8 of Resolution 2178 (2014) 'decides that Member States shall prevent the entry into or transit through their territories of **any individual about whom that State has credible information that provides reasonable grounds to believe that he or she is seeking entry into or transit through their territory for the purpose of participating in [terrorist activities]** provided that nothing in this paragraph shall oblige any State to deny entry or require the departure from its territories of its own nationals or permanent residents.

107 TESAT 2021.

108 TESAT 2021.

109 Over 600.

sents a latent threat that will manifest itself over the medium-to-long term'.[110]

The pandemic has also affected in and outbound travel patterns: in 2020, few individuals are reported to have travelled to conflict zones and only a small number managed to return.[111] At the same time, the challenge posed by FTFs on European countries highlighted the **need for strong protection of external borders**, as countries at the borders both in and outside the EU have been used as transit destinations to reach continental Europe. For instance, while not experiencing any increase in its terrorist threat level in 2019, Romania has been occasionally used as a transit country for secondary destinations by FTFs/returnees to/from Iraq and the Syrian Arab Republic. Similarly, Moldova reported that in 2019 five FTFs were detected at its borders and sent back to their countries of origin, i.e. Israel, Tajikistan, France and Germany.[112] In 2020, authorities of North Macedonia disrupted a terrorist cell planning an attack one member of the cell previously combatted for ISIL in the Syrian Arab Republic.[113] Last June, two ISIL supporters were arrested in Morocco; one of them was a returnee from the Syrian Arab Republic.[114]

When it comes to EU citizens, **most EU governments have been reluctant to provide them with consular assistance to make them return proactively** and support local prosecution. The stance of EU governments has been somehow backed up by the previous Security Council resolution 2178 (2014), which empowers governments to prevent the entry of those on whom there are reasonable grounds to believe hey will engage in terrorist activities, leaving the possibility (but not obliging) Member States to make an exception for their citizens or residents. This position has attracted many critics, especially from experts who foresee more **risks for national security** if leaving suspected FTFs in camps or prisons in the region of Iraq or of the Syrian Arab Republic as there is a higher potential for undetected return or escape. A French woman, detained in a Syrian camp under a false identity, managed to escape, and it is unknown whether authorities are aware of her current whereabouts. She was charged in absentia for several crimes, including for having contributed to the 2015 Paris attacks.[115]

Western Balkans countries have adopted another strategy and are **actively repatriating** their citizens, including children and women. While EU Member States seem to have been slightly moderated their stance and are gradually (and silently) repatriating some FTFs on a case-by-case basis, Balkan States have openly manifested their willingness to repatriate and prosecute them. Interestingly, most Balkan States are now in a visa-free regime whereby, once released, these individuals will be able to move relatively freely also within Europe.

While experts and national authorities might not be on the same page when it comes to how to deal with FTFs, it is widely agreed that these individuals – often militarily trained – pose a potential **threat to national security,** which may be mitigated through programmes of deradicalisation, rehabilitation and gradual reintegration into society. 'Camps for internally displaced persons and detention facilities in the north-east region of the Syrian Arab Republic [remain] of most concern [as] from a counter-terrorism per-

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110 28th Report of the Analytical Support and Sanctions Monitoring Team submitted pursuant to resolution 2368 (2017) concerning ISIL (Da'esh), Al-Qaida and associated individuals and entities.

111 TESAT 2021.

112 TESAT 2020.

113 TESAT 2021.

114 28th Report of the of the Analytical Support and Sanctions Monitoring Team submitted pursuant to resolution 2368 (2017) concerning ISIL (Da'esh), Al-Qaida and associated individuals and entities.

115 https://www.reuters.com/article/france-charliehebdo-trial-int-idUSKBN28Q26U.

spective, delaying the processing and reha-bilitation and reintegration of residents who are not candidates for prosecution risks radicalising them and adding to the number of hardened extremists with the potential to multiply the future threat from ISIL, Al-Qaida and any successor groups'.[116]

Public opinion is also **divided**. On the one hand, some argue that FTFs should be deprived of their nationality. On the other hand, some believe they should attend trial and be convicted in a European court.

Stripping of nationality (for citizens)

Many Western governments have introduced the measure of stripping someone of their citizenship in recent years.[117] In some of them, this possibility pre-existed the 2015 terrorist threat, and conditions have been strengthened to cope with the new security challenges. The objective of citizenship deprivation is twofold: to **prevent** mainly **the return of foreign terrorist fighters and** to **mitigate the risk of acts of terrorism** by individuals posing a threat to national security by proving a legal case for their expulsion from the national territory.

The measure necessarily applies only to citizens and aims to revoke the duty to readmit its citizens in the national territory upon the state. In most cases, it can only apply to naturalised individuals, which some considered against the Convention on the Reduction of Statelessness[118] and the European Convention on Nationality[119] as it might directly or indirectly discriminate against this category of citizens. Deprived of citizenship, the individual thus loses the right to return, should

they be abroad, or the right to stay in a certain state, should they be physically there (e.g. after the detention period has expired). In the latter case, the individual would no longer hold any legal right to remain in the country and would be indefinitely irregular (and possibly detained as a result) or subject to a deportation order if they have a second nationality. Indeed, in most EU countries, the strip of nationality can only be applied to individuals who hold **dual nationality to prevent** their **statelessness**.

Nonetheless, some countries appear to have interpreted their international obligations to prevent someone's statelessness status differently. The **UK**, for example, considers that this 'obligation […] is not [at stake] where there are "reasonable grounds for believing" […] that the person can acquire the citizenship of another country'.[120] However, it does not require that the person has good chances to obtain other citizenship. On these grounds, the UK has deprived Shamina Begum of her citizenship, who, aged 15 left her country to join ISIL in the Syrian Arab Republic, where she was promised a husband and a glorious life in the caliphate. The British government argued that she also holds Bangladeshi citizenship through her mother, yet Bangladeshi authorities have repeatedly denied this was the case. The proceeding, entirely held in absentia as Ms. Begum is still detained in a camp in North-East Syria, was appealed in front of the Court of Appeal, who ruled that 'fairness and justice must, on the facts of this case, outweigh the national security concerns so that the leave to enter appeals should be allowed', and she could make her case. It represents a considerable step towards extending the

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116 28th Report of the of the Analytical Support and Sanctions Monitoring Team submitted pursuant to resolution 2368 (2017) concerning ISIL (Da'esh), Al-Qaida and associated individuals and entities.

117 For instance, Italy and the Netherlands.

118 UN General Assembly, Convention on the Reduction of Statelessness, 30 August 1961, United Nations, Treaty Series, vol. 989, p. 175, available at: https://www.refworld.org/docid/3ae6b39620.html [accessed 21 November 2021], art. 9.

119 Council of Europe Convention on Nationality (1997), STE n°166, art. 5 para.2.

120 Paulussen C and Van Was L, UK Measures Rendering Terror Suspects Stateless: A Punishment More Primitive Than Torture, ICCT publication June 2014.

possibilities of depriving someone of British citizenship – especially considering that until 2006 it could only be revoked if obtained fraudulently. Nonetheless, upon appeal by the Home Secretary, the Supreme Court has recently found that the UK government was entitled to make its decision and that Ms. Begum's rights were not breached. The judges also added that her case should be put on hold until she can take part in it from a distance.

In most cases, nationality deprivation **follows a criminal conviction** for a terrorism-related crime, including preparatory acts in some countries. It is, as some researchers have defined it, *reactive*. However, in some countries, the decision upon the deprivation can be *proactive*, namely independently from a criminal conviction.[121] In those cases, the measure is purely preventive, and it can be adopted if the individual joins a terrorist organisation[122] or when the competent Minister believes it is in the public interest.[123] Austrian legislation, which also lays down a proactive form of nationality withdrawal, does not leave discretion to the Minister and proscribes that if the individual voluntarily served in an organised armed group and participated in armed hostilities abroad for that group, the Minister has to revoke the Austrian citizenship. Differently from the UK, though, the Austrian Minister needs to show evidence of actual participation in combat.

Moreover, national legislations differ as to whether the measure of stripping someone of the nationality has an **administrative or** a **criminal nature** and can be applied via

the same criminal proceeding of the trial for the terrorist offence or via a separate administrative proceeding. In Belgium, for example, the first case of citizenship-stripping, through the same proceeding as the criminal conviction, was in 2018. Before a new law was adopted allowing for the strip of nationality within the context of a criminal proceeding, this measure already existed, but a separate administrative proceeding was required.[124] Similar to other countries,[125] such decisions might be applied retroactively. In the above-mentioned Belgian case, a naturalised citizen was found guilty of planning several attacks in Belgium and France.[126] According to his lawyer, the 20-year-old was to be sent back to his country of origin, Serbia, that he left when he was four years old and where he did not feel like he belonged and had no family members. On the other hand, the judges who deprived him of Belgian citizenship argued that his actions 'constitute a violent attack against a fundamental pillar of the state and such a rejection of State values that he cannot keep his Belgian citizenship'.[127]

The Parliamentary Assembly of the Council of Europe has expressed concerns[128] over national legislation allowing the adoption of such measures via an administrative proceeding that does not uphold the same **procedural safeguards** as criminal proceedings. While they can be appealed, this is 'mostly without the knowledge and/or presence of the person concerned' and therefore 'such procedures violate basic elements of the rule of law' – adds the Assembly. In addition,

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121 Boekestein, Tom. "Deprivation of Nationality as a Counter-Terrorism Tool: a Comparative Analysis of Canadian and Dutch Legislation." The Transnational Human Rights Review 5. (2018): 23-.

122 Netherlands.

123 United Kingdom.

124 https://www.hln.be/binnenland/primeur-rechter-neemt-terrorist-die-aanslagen-plande-in-ons-land-belgische-nationaliteit-af~acef2668/?referer=.

125 For instance, Malta and the United Kingdom.

126 https://www.hln.be/binnenland/primeur-rechter-neemt-terrorist-die-aanslagen-plande-in-ons-land-belgische-nationaliteit-af~acef2668/?referer=.

127 https://www.rtbf.be/info/societe/detail_condamne-pour-terrorisme-il-est-dechu-de-sa-nationalite-belge-on-va-le-renvoyer-dans-un-pays-qui-n-est-pas-le-sien?id=9944738.

128 Resolution 2263 (2019).

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the combination of a criminal and administrative proceeding based on the same facts might trigger a violation of the right not to be tried or punished twice for the same offence, i.e. *ne bis in idem*, protected by article 4 of Protocol No. 7 to the ECHR, if based on an additional sentence.

Critics against the revocation of nationality as a counter-terrorism tool are also concerned by its actual **effectiveness and legitimacy**. Whether the measure is applied to a dual citizen, with the consequent return of the individual to the other country of nationality, or to a dual or non-dual citizen, which is prevented from returning to Europe and thus remains in conflict areas, the withdrawal of nationality results in, respectively, exporting the problem to another country or exporting risks to 'local populations of violations of international human rights and humanitarian law'. Such scenarios are deemed to be contrary to principles of international counter-terrorism cooperation, as enshrined in Security Council resolution 2178 (2014), whereby all countries are obliged to prosecute terrorist crimes.[129]

Moreover, whereas national legislation regulating the strip of nationality only addresses naturalised individuals, it might be **discriminatory** and create dual-class citizens. For instance, the list of terrorist organisations whose members may be withdrawn of their Dutch nationality is 'specifically directed at Islamist terrorist groups such as Al-Qaida and ISIL.'[130] Hence, 'it is clear that individuals of ethnic Arab background are more likely to be targeted than other dual-nationals.[131] Therefore, these measures might cause a

greater level of radicalisation of these individuals, which could decide to attack, e.g. foreign-based facilities of the country that revoked their citizenship. Additionally, they trigger wider stigmatisation of those individuals' communities of origin, impacting their grievances vis-à-vis European countries and further polarising complex dynamics within society. For example, this measure will rarely be applied to a racially and ethnically motivated extremist as these individuals often do not have a migration background, and thus, very rarely, dual citizenship.

Moreover, should the individual be stripped of the nationality and return irregularly, countries would **lose any possibility to prosecute them for the crimes they committed abroad.** Paradoxically, although states reinforced their criminal law apparatus - including extending the possibilities for its extraterritorial application, they would conversely decrease their capability to monitor dangerous individuals (because made irregular) and bring them to justice.

Finally, the strip of nationality as an instrument to contain the terrorist threat has not shown **any deterrent effect so far**. Due to its punitive nature, it instead appears as retribution for acts that are committed against the state. Moreover, it seems that such punitive measure is used to serve a broader need, i.e. that of a government to show its citizens (including terrorism victims) that it can prosecute an individual for holding violent and antisocial behaviour. As such, it might have a political value, especially in those countries in Europe that have been widely affected by terrorism in the last years.

129 CoE Parliamentary Assembly Resolution 2263 (2019).

130 Boekestein, Tom. "Deprivation of Nationality as a Counter-Terrorism Tool: a Comparative Analysis of Canadian and Dutch Legislation." The Transnational Human Rights Review 5. (2018): 23-.

131 Ibid.

Other issues affecting movements of people that might impact the terrorist threat

Returns

An individual, whether an EU citizen or TCN, can be expelled from a country for **public security reasons**. However, specific provisions and safeguards apply depending on the nature of the residence permit, if valid, or on the legal condition of the person at the moment when the return decision is issued.

EU citizens

Public security is one reason why an EU Member State can restrict the freedom of movement of its citizen and, ultimately, expel the person from its territory. Decisions must be taken according to the principle of proportionality and 'shall be based exclusively on the personal conduct of the individual concerned. **Previous criminal convictions** shall not in themselves constitute grounds for taking such measures'.[132] In 2004 the European Court of Justice ruled that criminal convictions are not enough to expel an EU citizen, but that EU Member States shall motivate their decision based on 'evidence of personal conduct constituting a *present* threat'.[133] However, in a later case, the Court clarified further by saying that 'it is also possible that past conduct alone may

constitute such a threat,' i.e. the propensity to repeat the conduct.[134]

The **Free Movement Directive**[135] establishes different thresholds against which the conduct of an EU citizen should be considered for their expulsion. Those thresholds depend on the amount of time they have spent in the country. This means that *serious* grounds of public security are required to expel someone who has permanent residence in the country, whereas, if they have lived there for the previous ten years, *imperative* grounds are needed. Returning TCNs who are family members of EU nationals enjoying EU freedom of movement also fall within the scope of the Free Movement Directive.

Unfortunately, EU **relevant data** on returned EU citizens is **scarce** and, therefore, it is impossible to assess the scale of the phenomenon for this report.

Third-country nationals (TCNs)

Effective return mechanisms of TCNs who irregularly reside in Europe have been at the centre of numerous critiques in the last years. It is not by chance that the New Pact on Migration of Asylum contains specific actions to improve the EU system to implement deportation orders. Although a recast

132 Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (Text with EEA relevance) OJ L 158/ 77, art. 27 para 28.

133 Joined cases C-482/01 and C-493/01 Georgios Orfanopoulos and Others (C-482/01) and Raffaele Oliveri (C-493/01) v Land Baden-Württemberg ECLI:EU:C:2004:262, para 67.

134 C-331/16 K and H.F. ECLI:EU:C:2018:296, para 56.

135 Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (Text with EEA relevance) OJ L 158/ 77.

was proposed in 2018,[136] the main legislative piece at the EU level is still the **Return Directive**, which was adopted in 2008.[137] Since its enactment, the Directive has had a twofold objective: on the one hand, laying down procedural safeguards for the person subject to deportation and, on the other, giving priority to voluntary departures over forced removals. However, it is worth observing that in the meantime, not only the geopolitical scene around Europe has changed, but so too has the scale of the problem.

Recent figures show that in 2020 – if compared to 2019 – the number of return decisions issued by EU national authorities was not particularly affected by the COVID-19 pandemic. On the other hand, implementing those decisions seemed **difficult** as the EU-27 executed only half.[138] This resulted from logistic difficulties experienced by EU Member States and the suspension of return operations by third countries such as Turkey – suspension that was still in place as of September 2021.

COVID-19-related challenges aside, effective returns depend, to a high degree, on the **level of cooperation with migrants' countries of origin**, and particularly, on their ability to establish the identity of the persons subject to return decisions; to issue the necessary travel documents; and on the willingness to accept their return. This is why returns are often only possible with those countries with whom the Member State has already had a bilateral agreement in place.

Following the 2015 migration crisis and the creation of the European Border and Coast Guard, Frontex established a **European Center for Returns**, which aims to support

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EU Member States in implementing return decisions on a voluntary basis. Frontex organises or coordinates national and joint operations between different Member States and assist them with forced return operations and voluntary departures. In addition, the agency announced the appointment of a 'Deputy Executive Director responsible for return [who] will reinforce the Agency's capacity to provide support to Member States in all areas related to return, readmission and reintegration.'[139]

Italy is among those European countries[140] that are more active in implementing returns of TCNs in their country of origin. In this regard, it is worth noting that, in 2019 alone, Italy expelled 98 individuals from its territory, 17 with a decree by the Ministry of Interior for reasons of State security; 54 with decree by the prefect; 23 by the judiciary (at the end of a period in prison); and two based on readmission decisions ex Dublin. In addition, two individuals were refused to enter the territory based on Article 24 of the SIS II Regulation. In 2020, 59 foreign nationals were deported for state security reasons linked to extremist religious beliefs – among those, some individuals who committed terrorism-related offences and some who became extremists during their sentence (for other crimes).

Specific rules apply to the beneficiary of international protection. Indeed, in the EU, no one can be repatriated without a return decision and while the asylum process is ongoing. Furthermore, expulsions cannot be implemented if the person might be subject to **inhumane treatment or torture upon return** to the country of origin. This princi-

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136 Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on common standards and procedures in Member States for returning illegally staying third-country nationals (recast) A contribution from the European Commission to the Leaders' meeting in Salzburg on 19-20 September 2018, COM/2018/634 final.

137 Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals OJ L 348/98.

138 EMN, ARM 2020.

139 European Commission, Report on Migration and Asylum, COM(2021) 590 final, p.8.

140 While this is an area where EU-wide information is missing, 2020 data from Estonia suggests that it expelled four foreign citizens on suspicion of their involvement in ISIL and Al-Qaida inspired terrorism.

ple, also known as non-refoulement, also applies to extradition law.

The socio-economic environment of countries of destination

Socio-economic factors such as family situation, access to the job market and self-realisation represent the so-called **pull factors or protective factors in the path to radicalisation**. Poor life conditions such as a difficult integration in the job market or access to housing constitute vulnerabilities that might leave the individual open to potential exploitation by malicious actors. This is even truer for people seeking protection in Europe, moving from their countries of origin to escape armed conflicts and war.

Therefore, the living conditions that TCNs find in the country of destination are crucial in **balancing** those **vulnerabilities with new opportunities for a decent life**. However, this was not always the case, especially after the 2015 migration crisis, when the unprecedented number of asylum seekers and refugees coming to Europe exposed the unpreparedness of its Member States.

As a result, on the one hand, TCNs found themselves stuck in lengthy procedures, in some cases living in inhuman conditions, dealing with a lack of decent reception conditions while waiting for their applications to be assessed. On the other hand, the migration crisis has also led to the **rise of anti-migrant narratives**, which, propelled by conservative or ultra-conservative parties, soon become **mainstream**. Coupled with the wave of ISIL and Al-Qaida inspired terrorist attacks, starting in 2014 with the attack on the Jewish Museum in Brussels, anti-migrant narratives evolved into a generalised anti-Muslim sentiment – thus increasing the

confusion between radical and moderate Islam and holding all Muslims accountable for the action of few. As a result, hate crimes against Muslims increased, especially in the aftermath of an ISIL inspired terrorist attack,[141] together with attacks carried out by right-wing extremists against migrants-related targets.[142]

Almost paradoxically, ISIL and Al-Qaida benefitted from the increased pressure on the Muslim communities in Europe by racially and ethnically motivated extremists, as they could justify their **West versus Muslims narrative**. While Da'esh depicts Western values at odds with Islam and incites its followers to actively fight against the West and the infidels, **REMT ideology** does not see Muslims as fitting in Western society and considers Islam a threat to **Western culture**. REMT narrative against Muslims would be weakened in the absence of ISIL, and Al Qaida inspired attacks, and ISIL and Al-Qaida messaging would not be as effective should there not be constant pressure on and media exposure of the migrant community. '**Reciprocal radicalisation'** consists of this dichotomy between REMT and ISIL/Al-Qaida inspired terrorism whereby they need each other's action to justify their existence and propaganda.

One of the possible impacts of the increased influx of Afghan migrants in Europe might be the worsening of the anti-Muslim and anti-migrant narratives among REMT and violent extremist audiences, which would be further fuelled in the event of another attack of ISIL (and/or its affiliates) on West soil or against Western targets. In this regard, positive narratives vis-à-vis immigration and a **more inclusive and moderate language** used to describe the phenomena in the media would substantially help the prevention of polarisation.

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141 https://www.bbc.com/news/uk-england-manchester-40064424.

142 TESAT 2020, p. 66. See also: https://www.opendemocracy.net/en/countering-radical-right/germanys-terrorist-attack-migrant-communities-have-lost-trust/ .

Cooperation between law enforcement, security services and migration authorities

The research conducted for this report shows that **formal cooperation** between migration authorities and law enforcement or security services is **not established in all European countries**. While this is the case in some Member States, such as Sweden or Germany, in others, there is still even reluctance among migration and reception authorities to openly speak about their cooperation with law enforcement, and security services.

The risk of breaking the trust relationship between public reception authorities and the migrants themselves is among one of the reasons for keeping the authorities' relationship with police officers **as informal as possible**. In particular, when it comes to asylum seekers, reception authorities, who are already under pressure, especially by conservative fringes of society, are afraid that publicising their cooperation with law enforcement could attract criticism also by the more progressive poles. On the other hand, there is more acceptance for cooperation between migration and security officers in countries that have suffered from terrorist attacks inspired by ISIL or Al-Qaida.[143] For. these reasons, reaching out to migration and reception authorities of certain Member States was challenging for this research.

At any rate, if we consider that only a small percentage of foreign individuals posing a terrorist threat in Europe comes to the continent already with a radical mindset, the detection burden shifts from border guards to entities that have more exposure to the migrant population. These include organisations responsible for integrating TCNs in society (e.g. social workers), and reception authorities could play a **fundamental role in flagging suspected behaviour**.

Nonetheless, it appears that **cooperation** between law enforcement (or intelligence services) and entities responsible for migration management (including reception), whether formalised into protocols or just informal, **does exist**. For example, in most EU countries, there is an obligation for migration authorities to report to competent authorities (mainly intelligence) when an individual, legally resident in the country, is suspected of going through a radicalisation process. This duty is either provided by the law or enshrined in administrative practices or regulations, and, when not in place, migration authorities are only encouraged to report. Migration authorities may become aware of radicalised individuals through external reports or during the interviews for the renewal of residence permits. However, detection challenges remain. If the person already holds a residence permit, controls remain sporadic.

Furthermore, migration authorities might not be **trained to detect signs of radicalisation**. For this reason, some countries have produced guidelines or supporting material - alongside training modules – for migration authorities' personnel to increase their capacity to spot red flags of suspicious behaviours. The extent to which they are implemented is unknown.

In **Sweden**, there is a well-established vetting protocol for those who are not Swedish and wish to settle or stay in the country. The protocol involves several authorities, and the security services act as a referral body for the migration agency. The migration agency – which ultimately has the final say on an individual's application - must– refer the case to the security services whenever they spot a potential threat. The security services issue a written statement recommending the agency take a certain deci-

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143 Remark from an interviewee.

sion, either clearing the person or advising to reject the application. If the applicant is deemed a threat to national security, the security services also ask the migration agency to expel the individual and may detain the alien while a decision is taken. Due process rights of the applicant are provided by law at all stages of the procedure.[144]

In the **Netherlands**, since 2016, the Service of Immigration and Naturalisation has provided a screening of asylum seekers and their relatives who qualify for family reunification. The screening also focuses on elements relevant for assessing them being a potential threat to national security. In addition, in 2017, they launched a pilot project which led to the establishment of the Intervention Team on the Immigration Team (*Landelijk Interventieteam Vreemdelingenketen, LIV*). With the LIV, Dutch authorities aim to detect the psychological vulnerabilities of asylum seekers as a potential factor/red flag to radicalisation and provide support where needed. In this context, cooperation and information exchange between social services and se-

curity officers was strengthened. The team also assists the reception authorities of municipalities.[145]

From the information collected for this report, the level of cooperation existing at the national level among different authorities greatly varies across the continent. While a certain form of cooperation does exist, either formally or informally, the **lack of a systematic and clear process** is problematic from several points of view. First, it leaves wide room for law enforcement to extract information informally, based on personal contacts. Secondly, not acknowledging that a process is needed to ensure a stable channel of communications reveals the scarce understanding of the required interactions between migration and reception authorities with law enforcement/intelligence services. Only through establishing a process it is possible to spot flaws in the architecture and potentially support authorities with more training where needed. This should, of course, happen in full respect of mutual mandates and competencies.

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144 Swedish Security Service Annual Report 2020, p.43
145 https://www.landelijksteunpuntextremisme.nl/mediadepot/2880e8b4ce38/FlyerLIV2021.pdf .

Section 4

Forward look

Afghanistan

In August 2021, the Taliban completed their progressive retake of Afghanistan, taking advantage of the US and US-backed troops' announced withdrawal from the country. This event followed the bilateral deal signed by the former US president Donald Trump and the Taliban – the so-called **Doha agreement.**[146] The infrastructures and resources of the Islamic Republic of Afghanistan, gradually weakened by the coalition's pull-out, were not enough to stop the Taliban wave. With the occupation of Kabul, the Taliban took power.

The situation in the country will need to be closely monitored for several reasons. There are of course many human rights concerns, especially regarding women rights and the anticipated regression of Afghanistan into a non-democratic regime. From a security point of view, how the Taliban will relate to and confront terrorist groups present in Afghanistan, mainly **Al-Qaida and ISIL-K,** is likely to influence the next phase of international terrorism and response to it

Even though with the Doha agreement, the Taliban expressly engaged not to support, nor host, 'any of its members, other individuals or groups, including Al-Qaida that 'use the soil of Afghanistan to threaten the security of the United States and its allies',[147] many believe that this part of the deal will

not be (fully) kept, especially the last point. The relationship that the Taliban will have with terrorist entities[148] will impact the region's security, with the potential re-emergence of Al-Qaida as a militarily active group that attracts more foreign fighters from neighbouring countries. A **Western reaction to a resurgent Al-Qaida** would have significant consequences on the the dynamics among international terrorist groups, including the **potential for a new wave of foreign terrorist fighters** from Europe or elsewhere joining their forces.

On the other hand, ISIL-K is already very active and keen to show off its capabilities to destabilise the Taliban government and publicly undermine its credibility, domestically and internationally. The attack at the Kabul airport during the dramatic evacuation operations of August 2021 clearly showed that **ISIL-K is far from being an isolated cell** in Afghanistan. Not only are they attacking the Nangarhar province, which is historically their stronghold. In the last months, they have also proved their capability to extend their influence elsewhere, such as in Kandahar and Kunduz. Internally, ISIL-K is trying to fuel a sectarian civil war by attacking, for example, the Hazara Shiitic minority with whom the Taliban are trying to establish a peaceful relationship.[149] On a global level, the group's actions will impact the ISIL core's

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146 Agreement for Bringing Peace to Afghanistan between the Islamic Emirate of Afghanistan which is not recognized by the United States as a state and is known as the Taliban and the United States of America. Available at: https://www.state.gov/wp-content/uploads/2020/02/Agreement-For-Bringing-Peace-to-Afghanistan-02.29.20.pdf.

147 Part Two, para 1.

148 The Haqqani network still has close ties with Al-Qaida, as reported by the Twelfth report of the Analytical Support and Sanctions Monitoring Team submitted pursuant to resolution 2557 (2020) concerning the Taliban and other associated individuals and entities constituting a threat to the peace stability and security of Afghanistan, S/2021/486.

149 https://www.washingtonpost.com/world/asia_pacific/taliban-afghanistan-hazaras/2021/11/01/096c9690-3775-11ec-9662-399cfa75efee_story.html

rhetoric – giving hope for a resurgence of the 'Caliphate' beyond Afghanistan. It should be expected that ISIL-K actions in Afghanistan will reverberate across other parts of the world where ISIL is active, for example, in the Syrian Arab Republic or West Africa. In addition, the scarce control that the Taliban currently have on ISIL-K militants shows weak security management and leaves room for speculation over the lack of control of the **released** thousands of **prisoners** that according to the Doha agreement shall 'not pose a threat to the security of the United States and its allies'.[150]

At any rate, the success of the Taliban in Afghanistan was depicted by extremist propaganda as a victory of Islamic power over Western powers. It is reasonable to expect that the battle over control in Afghanistan will have medium-term consequences on **global anti-Western narratives**.

European governments, already struggling to evacuate their last citizens, and the local Afghan staff who supported their work on the ground in the previous years, started worrying about a **potential new wave of migrants** from the beginning of the crisis. In this regard, the August 2021 joint declaration following the Justice and Home Affairs Council Meeting set the tone of the European governments' stance towards the crisis. As Afghans are one of the most significant diaspora communities in Europe, chances that new Afghans will try to reach Europe through family reunification or by qualifying for international protection are high. Likely, Afghanistan will not be considered a 'safe country' anymore according to humanitarian law by European countries.[151] In 2020, Afghans counted as the second largest group of applications for international protection

in the EU, with roughly 50,000 applications lodged, with Germany being their top destination. However, statistically over half of the applications is rejected,[152] which will raise the problem of implementing return decisions to a country with whom there is (so far) no stable diplomatic relation. Data from UNHCR registering the situation before the crisis are not encouraging, as over 500,000 people fled their homes due to internal conflicts and 3.5 million people are believed to be internally displaced.[153] Consistently, data from August 2021 shows that Afghans 'became the largest application group for the first time ahead of Syrians, who had been the largest group every month for seven years.[154]

Generally speaking, Europe can expect a different range of individuals coming from Afghanistan as a result of the crisis:

> Afghan nationals evacuated **before 31 August**. These are mainly local staff who used to work for the embassies plus their family members. Most of them arrived before the crisis through specific programmes organised by EU governments as part of their military disengagement plan. However, some were evacuated during the most acute phase of the crisis.

> Afghan nationals that arrive regularly when and **as soon as diplomatic relations are established** with the Taliban. This circumstance will allow Afghans who qualify for it to apply for a visa at the embassies through regular procedures.

> **Irregular** migrants that reach EU soil through air, land or sea routes. These are, of course, those whose travel and arrival will constitute the biggest challenge for border authorities. Apart from a

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150 Part One, para C.

151 While EASO provides guidance in this regard (see: EASO, Country Guidance Afghanistan 2021, available at: https://easo.europa.eu/country-guidance-afghanistan-2021), the actual denomination of a third country as 'safe' is up to the national authorities.

152 https://www.euronews.com/2021/09/16/eu-is-failing-afghan-refugees-trying-to-flee-taliban-say-rights-groups.

153 https://www.bbc.com/news/world-asia-58283177.

154 EASO, Latest asylum trends – August 2021. Available at: https://www.easo.europa.eu/latest-asylum-trends.

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certain quota of irregular migrants, which are asylum seekers that some EU governments will accept even if not holding passports,[155] most will not fall within this scheme and will try to arrive from other traditional and new routes of irregular migration. However, it is worth noting that according to the European Commission, 'irregular arrivals from Afghanistan in the EU have not shown a marked change since the recent upheaval'.[156] If this trend changes, it will remain to be seen whether irregular migrants will apply for international protection or family reunification and whether they will qualify for it. In the meantime, their future will be likely similar to other migrants– a prolonged limbo situation waiting for the decision over their application and what follows in case of negative response, e.g. facing return.

It is too early to comprehensively estimate the country's future, how many people will flee, and with what intentions. It is, for instance, **premature to draw any conclusions** regarding further development in the relationships between the Taliban and terrorist entities operating in Afghanistan or on the actual impact of movements of people from Afghanistan on the European security context (including fluctuations of the level of the terrorist threat).

Closely monitoring the situation and projecting how external events might impact internal security is therefore vital. While casting scenarios about what might happen next are fundamental, drawing stretched parallels, for instance, with the situation of instability in the Syrian Arab Republic, would be inaccurate as it would not consider the region's specificities and of the actors involved.

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155 https://english.alarabiya.net/News/world/2021/08/17/Afghan-asylum-seekers-to-be-allowed-to-enter-UK-without-passport-Defense-Secretary.

156 Report on Migration and Asylum, COM(2021) 590 final p. 3.

Beyond Afghanistan: West Africa / Sahel and North Africa

During the **validation meeting** held in September 2021, experts raised the need to focus not only on Afghanistan when it comes to looking at potential external conflicts that can have ripple effects internally in Europe. In this context, particular concern was expressed over recent developments in Western (notably the Sahel) and Northern Africa regions.

These areas of the African continent are affected by long-lasting internal conflicts, civil wars, and/or terrorist activities by groups such as Boko Haram or the Islamic State West Africa Province (ISWAP).[157] Consistently, the presence of European countries with their military power and funding in the region is significant. The situation is rapidly evolving as France and Germany have announced their **troops' withdrawal** from some areas, including in Mali, Chad, and Niger. If anything, the recent developments in Afghanistan have demonstrated how delicate this transitional phase can be and how quickly the situation on the ground can change, nullifying or at least significantly reducing the impact of years of military and humanitarian investments and resulting in more instability and conflicts. Consequently, many experts are closely monitoring how the situation will evolve and its impact on local populations and armed groups' activities.

Among the consequences of these conflicts, wars and generalised violence situations increase **migration flows** within and outside the country of interest. For instance, West Africa and North Africa[158] represent the regions from where large numbers of individuals leave to reach Europe. Further instability in these areas will likely result in more people fleeing and trying to get to Europe.

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157 'Islamic State West Africa Province (ISWAP) was listed on 23 February 2020 pursuant to paragraphs 2 and 4 of resolution 2368 (2017) as being associated with ISIL or Al-Qaida for "participating in the financing, planning, facilitating, preparing, or perpetrating of acts or activities by, in conjunction with, under the name of, on behalf of, or in support of", "supplying, selling or transferring arms and related materiel to", "recruiting for", "otherwise supporting acts or activities of", "either owned or controlled, directly or indirectly, by, or otherwise supporting", and "other acts or activities indicating association with" Islamic State in Iraq and the Levant (ISIL), listed as Al-Qaida in Iraq (QDe.115).' 'In March 2015, Abubakar Shekau's (QDi.322) group, Jama'atu Ahlis Sunna Lidda'Awati Wal-Jihad (Boko Haram) (QDe.138), pledged allegiance to the Islamic State in Iraq and the Levant, listed as Al-Qaida in Iraq (QDe.115), and changed the group's name to Islamic State West Africa Province (ISWAP). ISIL accepted the pledge the same month, as ISIL spokesman Abou Mohamed al Adnani (QDi.325) released an audio message directing individuals who could not enter Iraq or the Syrian Arab Republic to travel to West Africa.In August 2016, ISIL Leadership recognized and appointed Abu Musab al-Barnawi as the de facto leader of ISWAP, which Shekau refused to accept. Due to infighting, ISIL-West Africa split into two factions, al-Barnawi's faction (ISWAP) and Shekau's faction (Boko Haram). It is estimated that ISWAP has approximately 3,500-5,000 fighters'. From: https://www.un.org/securitycouncil/content/islamic-state-west-africa-province-iswap-0.

158 https://www.unodc.org/res/som/docs/Observatory_Storymap_1_Final_2021.05.19.pdf

Irregular migration as a form of hybrid warfare

A series of events over the past months, induced or threatened by third countries, highlighted that migration issues and their management are currently an open scar in European politics. Migration management constitutes **a real vulnerability** in the system, undermining the EU's overall effectiveness of international protection measures.

Firstly, the arrival of numerous irregular migrants from **Belarus** to Lithuania and Poland showed how all Member States are affected by irregular migration and that it is not just an issue for front line countries. According to German authorities, roughly 4,500 migrants from the Syrian Arab Republic and Iraq arrived in Germany through Belarus and Poland between August and October 2021. Frontex stated that 4,170 illegal border crossings were detected between Lithuania and Belarus, with an unprecedented peak of 2,900 arrivals in July only. The top three countries of origin of migrants crossing this border are Iraq, Afghanistan, and the Syrian Arab Republic.

As the EU Commissioner for Home Affairs, Ms. Ylva Johansson declared, the EU is facing a new form of irregular migration that is state-sponsored.[159] Belarus is trying to put pressure on the EU by facilitating irregular migration to push for the removal of economic sanctions against the country and unilaterally suspending the EU-Belarus readmission agreement, which *de facto* **prevents** EU Member States to return individuals who are irregularly present in the EU. The EU-Belarus relations escalated to the point that the European Commission suggested the partial suspension of the bilateral agreement facilitating visas for the Belarus government officials.[160]

Secondly, the **Taliban** have started putting pressure on the US and the EU to unfreeze their assets, arguing that the presence of **economic sanctions** against the Taliban has led banks to run out of cash and civil servants to be unpaid. According to the Taliban, the event of a possible collapse of the Afghan economy could result in significant movements of Afghan nationals searching for work opportunities outside their country, presumably in neighbouring countries and EU Member States.[161] It is possible that the Taliban will continue putting pressure on Europe using the argument of a wave of economic migrants arriving irregularly.

A third relevant event occurred in May 2021, when **Morocco** suspended its border patrolling for three days, allowing 8,000 third-country nationals to enter the Spanish enclave of Ceuta. The gesture occurred amid diplomatic tensions related to the EU Member State's acceptance of the Polisario leader Brahim Ghali who was temporarily hospitalised in Spain for humanitarian reasons (COVID-19 treatment). While most migrants were quickly sent back to Morocco, it is unclear whether the 1,500 unaccompanied minors with them were also pushed back.[162]
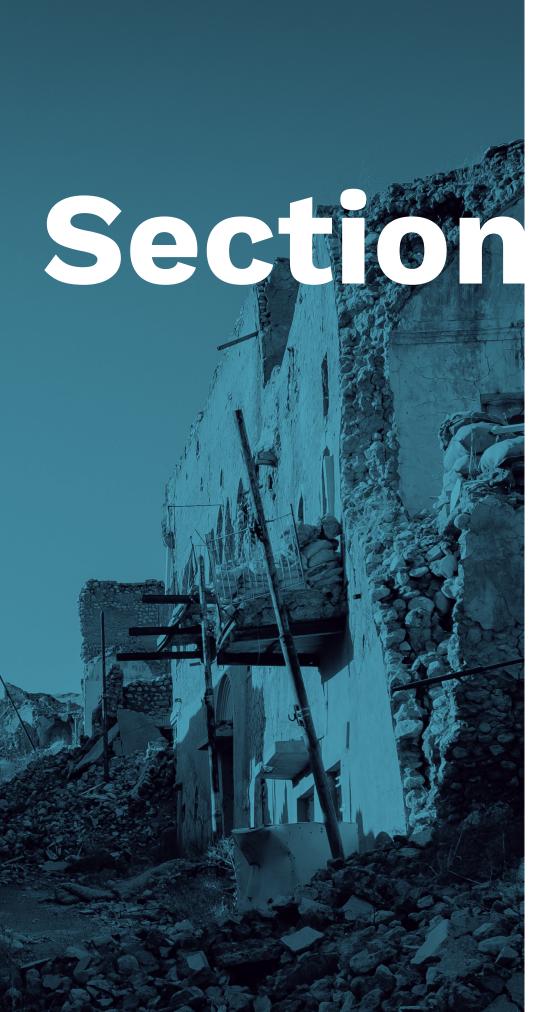
These recent stories stress the potential for **migration and migrants** to be **used for political purposes by third countries**. These issues have already affected existing intra-EU conflicts among Member States related to the management of migration flows and protection of external borders. Potential new uncontrolled influxes of migrants will further exacerbate these internal and external conflicts by causing further tension at the EU external borders.

159 https://www.brusselstimes.com/news/eu-affairs/187211/european-commission-no-dilemma-to-protect-eus-external-borders-against-irregular-migration/

160 https://ec.europa.eu/commission/presscorner/detail/en/IP_21_4906

161 https://www.france24.com/en/live-news/20211013-taliban-warn-us-eu-of-refugees-if-afghan-sanctions-continue

162 https://www.economist.com/middle-east-and-africa/2021/05/22/king-muhammad-of-morocco-weaponises-migration

Section 5

Summary, recommendations and UNICRI's programmatic interventions

1. The relationship between movements of people and the terrorist threat stemming from ISIL and Al-Qaida in Europe is not systematic

> As data is not consistent and data sources provide different information, sometimes inaccurate, this report could not conclude if there is a systematic correlation between the ISIL and Al-Qaida terrorist threat and the movement of people towards Europe. While anecdotal data suggests that such correlation represents a growing concern, as approximately one-fifth[163] of terrorist perpetrators in 2021 was a first-generation migrant,[164] evidence is scarce or not accessible.

> As far as irregular migration is concerned, the risk of infiltration increases with sea and land movement, but it does not only regard terrorist infiltration. Instead, this assessment holds for any criminal behaviour and organised crime. However, while more significant influxes might result in lower detection capabilities and therefore constitute a higher threat, this is not enough to establish a correlation between terrorism and migration, regular and irregular.

> Cases of FTFs returning to and/or relocating through Europe using migrant routes were reported (for example, through Spain or Eastern Europe), yet they constitute an exception. Unless governments establish proactive repatriation mechanisms, it is expected that FTFs will be able to return to Europe undetected and pose a higher threat to national security.

Suggested measures for the EU

> The EU to continue its support to Member States in managing the return/relocation of FTFs and enforcing controls at the external borders.

Suggested measures for European countries

> European countries are advised to step up their efforts in repatriating FTFs and their families. Regarding FTFs specifically, it is crucial to set up fair trials and enhance rehabilitation and reintegration capabilities through a whole-of-society approach.

> Governments are advised to improve their migration communications, reflecting that migration has become a regular phenomenon in EU society far from being an emergency. This entails a consolidated approach in managing

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163 Estimation provided by one of the experts during the validation meeting.
164 A migrant of first generation is a foreign-born individual.

unexpected flows of migrants, including adopting appropriate security measures.

Potential intervention by UNICRI (in cooperation with its EU partners)

> Building on its continuous support to Member States in translating the good practices of the Global Counterterrorism Forum (GCTF) Rome Memorandum into national policies, the Institute can support European countries (or the EU in the implementation of its relevant projects) in developing and implementing tailored rehabilitation and reintegration programmes for violent extremists and high-risk inmates in prison settings. In particular, UNICRI can assist in:

▸ Assessing gaps and loopholes in rehabilitation and reintegration strategies that are currently implemented in the recipient countries;

▸ Identifying existing good practices and success stories from Member States: effective mechanisms to ensure the continuity of treatment/support of terrorism offenders after release; inter-agency coordination and information sharing among all national and local key stakeholders to facilitate the timely exchange of data on potential "red flags" of recidivism and persistent radicalisation;

▸ Providing capacity-building to support social reintegration, continue monitoring and supporting former terrorism offenders through a holistic approach involving civil society actors.

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2. Huge data gap and flaws in information collection and exchange between states

> Consolidating terrorism-related and migration-related data at the EU level is challenging despite the numerous efforts from recent years to harmonize practices. Data quality still differs, and it is hard to aggregate/uniformise at the EU level to conduct a proper risk analysis. This is particularly true when relying on national databases.

> Insofar as EU databases are concerned, they are not always updated in a timely and comprehensive manner by Member States. Enhancing their interoperability while ensuring that databases are updated with relevant information will increase the effectiveness of the new European search portal.

> For research purposes, such as this report, open-source information regarding

terrorists' profiles is often reported inaccurately by traditional media. Most reliable sources related to ongoing investigations or concerning politically sensitive topics are usually kept confidential.

> In particular, identifying the number of individuals who are refused entry or ordered to leave European countries for reasons related to terrorism would have helped to assess the actual scale of the problem and government preventive efforts. This data was inaccessible.

> The absence of a solid evidence base to analyze the potential link between movements of people and terrorism in Europe can lead to the political weaponization of migration.

Suggested measures for the EU

> Alongside its preparatory work towards an EU Media Freedom Act (expected in 2022), the European Commission can promote and support the media sector with specific actions, e.g. training to ensure a more accurate (and moderate) reporting style. This would reduce the amplification of propaganda of terrorist/extremist actions and better inform the general public, ultimately preventing polarisation.

> The EU to continue its efforts to encourage Member States to better use EU databases, including providing accurate and comprehensive information and timely updating it.

> Using its convening power and its already established networks/agencies, the EU could develop a monitoring and reporting mechanism for terrorist convictions and investigations that collects terrorists/suspects' demographic data using common metrics. Without the possibility to scrutinise the evidence used in sensitive political decisions, potential EU or national policies that securitise migration will be highly controversial. If this system is developed, the EU must make this data available for research.[165]

Suggested measures for European countries

> European countries are strongly encouraged to improve the quality and speed of updating EU databases.

> They are also advised to publish yearly reports on residence permits that are withdrawn and/or not renewed for causes related to security, including by providing demographic data. If too sensitive, the governments must allow selected researchers to access this data.

Potential intervention by UNICRI (in cooperation with other entities)

> In cooperation with other EU or UN agencies, such as UNESCO,[166] UNICRI can develop training modules for the media sector to raise awareness on the potential pitfalls of inaccurate reporting on terrorism/extremism. Based on UNICRI's strong research expertise, the Institute can support its EU partners in implementing the above-mentioned research recommendations, for instance, developing metrics applicable across the Union to gather data on terrorist convictions and investigations.

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165 To note that France has undergone a similar project by selecting few researchers to study fiches-S in an anonymised fashion. See: https://www.20minutes.fr/societe/2504235-20190425-radicalisation-gouvernement-entrouvre-11000-fichiers-chercheurs.

166 UNESCO has expertise in training to media, see: Jean-Paul Marthoz for UNESCO, Terrorism and the Media: a Handbook for Journalists (2017).

3. Criticalities related to migration management might have an impact on the terrorist threat in Europe

- Individuals arriving in Europe through irregular or regular routes but needing international protection are often traumatised and suffer from cultural shock. Mismanaged reception and lack of integration might represent a push-factor contributing to individual radicalisation.

- Criticalities in the migration and reception process might involve:

  - Reception conditions in first countries of arrival might exacerbate individual vulnerabilities and lead them to join an extremist cause. There is a lack of resources and infrastructures in the frontline countries to guarantee a fully-fledged reception service that differentiates against age, needs, and vulnerability.

  - Anti-migrant narratives, often gone mainstream, create stigmatisation among the migrant communities, and therefore marginalisation. Isolation is one of the key factors that can lead to radicalisation.

  - Flawed implementation of return/deportation orders leaves individuals with no legal permit to stay in the country, thus no or limited access to essential services.

  - Poor communications following negative decisions on international protection.

  - Lack of cooperation/integrated system of information exchange between security and migration authorities. This might stem from the following aspects:

    - Reception authorities are often not trained to detect early signs of radicalisation;

    - The progressive front of the political spectrum criticises social workers collaborating with law enforcement.

Suggested measures for the EU

- Continue to support Member States (also through funding) for a more integrated and efficient management of external borders and migrant reception.

- The EU should capitalise on existing networks and develop guidelines for migration authorities to detect early signs of radicalisation in neighbouring countries.

Suggested measures for European countries

- Set up national strategies and/or action plans to bridge the gap between migration management and security. This can be achieved by creating an interagency cooperation platform that establishes a stable communications flow and enhances the quality of information exchange among relevant stakeholders.

- Promote a deeper understanding of radicalisation by migration and reception authorities. This would, in turn, prevent the use of a more security-heavy approach and foster collaboration with law enforcement. Create relevant toolkits/guidelines through participatory methods or develop practical implementation training.

Potential intervention by UNICRI (in cooperation with its EU partners)

- UNICRI, leveraging its expertise in capacity building and possibly partnering with

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EU/UN entities, could support European countries in developing guidelines/toolkits, practical implementation training modules and take care of their delivery to selected stakeholders.

4. The situation in Afghanistan will have an impact on migration and the terrorist threat in Europe

> The capability of ISIL-K to mount an attack close to the Kabul airport with over 100 casualties and the consequent activities of the group in the country has strengthened their image worldwide. These activities represent a propaganda catalyst and might inspire some to carry out lone actors' attacks in Europe.

> The possibility that the Taliban will maintain their links with Al-Qaida will impact the terrorist group's re-organisation capabilities. Although Western countries will be highly vigilant as this was *conditio sine qua* non of the US-Taliban deal, the physical withdrawal of troops hampers the West's capability to monitor the situation on the ground.

> The massive exodus expected from Afghanistan will affect neighbouring countries' capacity to receive millions of displaced individuals. Many may try to reach Europe, where there are already large diaspora communities and family members, an established system of international protection, and better quality of life.

> Without diplomatic relations with the Taliban government, EU Member States' ability to return irregular Afghan citizens to their home country is jeopardised.

Suggested measures for the EU

> The EU Counter-Terrorism Coordinator's Office should periodically monitor the implementation of the 'Afghanistan: Counter-Terrorism Action Plan',[167] lastly updated in September 2021. The action plan set out different scenarios allowing EU Member States not to be unprepared against potential collateral threats stemming from Afghanistan's crisis.

Suggested measures for European countries

> European governments to fully endorse and implement the above-mentioned action plan.

> They are also encouraged to develop a strategic communications plan, ensuring that government communications on migration and policies related to the Afghan crisis are well received and reported.

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Potential intervention by UNICRI (in cooperation with its EU partners)

> UNICRI intends to launch a research initiative to shed light on recent developments in Afghanistan and their implications on

the threat posed by ISIL-K and Al-Qaida at both national and regional levels. The research will result in the publication of a threat assessment report followed by the design of ad hoc capacity-building activities for neighbouring countries.

5. Political divisions within the EU over migration expose the Union to hybrid warfare

> The last year saw an increased number of events whereby some third countries used European governments' challenges in managing migration and either facilitated or threatened to facilitate it to advance demands or retaliate against sanctions. These countries know and exploit the EU internal divisions on migration management and the difficult political compromise to relocate migrants who arrive at border countries or return them. Intentionally and strategically, they exploit the polarisation occurring in the public debate on migration-related phenomena, which contributed to the rise of the extreme-right in Europe.

> Such vulnerability is exacerbated by an incomplete and complex return mechanism for individuals who have lost their right to reside in the EU. This is also complicated by the lack of EU-wide regulation on how to legally acknowledge the presence of irregular migrants that are issued a return decision, leaving each Member State to decide on its own. Such legal asymmetry increases the risk of secondary movements.

Suggested measures for the EU

> The European Parliament to accelerate the work on the Recast Return Directive, which would allow a better return mechanism for TCNs who do not have the right to stay in the EU. This can reduce significantly the number of TCNs which are currently in a legal limbo.

> The EU Institutions to speed up the adoption of the measures laid down in the EU Pact on Asylum and Migration to facilitate an EU wide approach towards migration. This would undermine third countries' proposition to destabilise the Union's fundamental values.

Suggested measures for European countries

> EU governments to support the implementation of the EU Pact on Asylum and Migration.

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Potential intervention by UNICRI (in cooperation with its EU partners)

> Complementing the research findings of this report, UNICRI will soon launch a new research initiative to explore the rise in Europe of forms of violent extremism other than jihadism, including racially and ethnically motivated terrorism (REMT). In particular, the study will analyse: the terrorist profile(s); incitement/propaganda strategies; misuse of social media; ways to raise and move funds; analogies and differences (especially in terms of strategic achievements) between these malicious actors and ISIL and Al-Qaida supporters/sympathisers; the impact of ISIL and Al-Qaida terrorism on the rise of REMT, community's stigmatisation and polarisation. In terms of short-term outcomes, the research will result in the publication of a report and the organisation of an expert-level meeting. All these preliminary activities will then inform and guide the appropriate programmatic interventions to be undertaken by UNICRI in cooperation with other entities.

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Annex 1

Qualitative Risk Assessment table

SCENARIO	TERRORIST-RELATED RISKS
A. REGULAR ENTRY	After regular checks upon entry, there are no security-related controls over TCN that are regular migrants. If they radicalise, detection capacity is low.
❯ **Use of fraudelent documents**	There is a risk that individuals using fraudulent documents are FTFs or already radicalised individuals, so that they arrive already with terrorist/extremist intentions; Provision by migrant smugglers of fraudulent documents.
B. IRREGULAR ENTRY	Infiltration of irregular migrant routes by terrorists or extremists; Undetected migrants will not register at their final destination and remain unknown to public authorities; Impossibility to count the exact scale of pressure at the external borders, and therefore to implement appropriate mitigation meusures.
❯ **International protection**	Poor/impossible implementation of return decisions leaving TCNs in legal limbos that can trigger vulnerabilities to radicalisation; TCNs abuse of the procedure to legalise their stay and conduct terrorist and extremist activity; The reception conditions (access to education; employment; housing; etc) might degrade and expose the TCN (beneficiary of international protection or asylum seeker) to radicalisation; The communication of the negative outcome of an application for international protection might trigger violent action; Poor or no cooperation between reception and asylum entities and law enforcement; Untrained reception and asylum entities to detect early signs of radicalisation.
C. OVERSTAY	The scale of the problem is unknown; Poor/impossible implementation of return decisions leaving TCNs in legal limbos that can trigger vulnerabilities to radicalisation. It is challenging to define the legal status of overstayers by country of destination because it varies according to each European country.
D. INTRA-EU/ SECONDARY MOVEMENTS	Terrorists and extremists exploit intra-state freedom of movement, both as EU citizens or TCN holding a visa which allow for inter-state movement; Terrorist/extremist TCN irregularly moving through the EU and benefit from absence of internal border control in the Schengen area; Migrant smugglers facilitating secondary movements.
❯ **FTFs**	Returning through irregular migration routes and/or broken travels undetected, if not proactively repatriated; If repatriated, they might pose a direct threat to national security e.g. by radicalising other individuals; If returning to WB or other visa-free country, they might come to Europe undergoing no or light checks.

168 That turned out in actual attack.

RISK MITIGATION MESURES	CONCRETE EXAMPLE[168]
Enforcement of general prevention measures; Timely and accurate feeding and use of EU databases.	Berlin, December 2015
Enhance control at the external borders, upon arrival; Timely and accurate feeding of INTERPOL SLTD and other EU relevant databases; Conduct cross analysis and investigations between accessory crimes committed by smugglers and terrorists infiltrations at the borders.	Paris, November 2015
A strong protection of external borders that minimises undetected illegal border-crossings.	Nice, October 2020
Find legal remedies to legal limbos for TCNs who cannot be returned, e.g. by speeding up the adoption of the Recast Return Directive; Improve the efficiency of asylum procedures, especially when applications are received at the borders and are manifestly unfounded; Ensure long-term investment in reception architecture and training of agents, including on radicalisation and how to detect it as well as on how to communicate with TCNs receiving negative decisions; Promote transparent cooperation protocols between reception and asylum entities and law enforcement.	Turku, 2017
Find legal remedies to legal limbos for TCNs who cannot be returned, e.g. by speeding up the adoption of the Recast Return Directive; Full implementation of the EES database.	Lyon, 2019
Timely and accurate feeding and use of the SIS II, including with entry bans, so that the transit/destination country can easily detect the irregular crossing; Tackling migrant smuggling do have an ultimate effect also on counterterrorism as it would counter secondary movements; Enhance pre-border and border checks at the external borders.	Brussels, 2016; Nice, July 2016
Supporting neighbouring countries and transit counties in the protection of borders, rehabilitation of FTFs and law enforcement capacity building; Ordinarily repatriating FTFs; bringing them to justice and promoting rehabilitation or reintegration programmes; Implement Frontex's handbook to detect signs of radicalisation at the borders by offering in-depth training to border guards; and update tools according to the evolving threat.	Paris 2015 and Brussels 2016

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