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## Jihadist Foreign Terrorist Fighters: Contemporary Threats and Challenges in East Central Europe

### Džihádističtí zahraniční terorističtí bojovníci: soudobé hrozby a výzvy ve středovýchodní Evropě

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**Abstract:** This paper deals with the phenomenon of Jihadist foreign terrorist fighters from the perspective of East Central European countries. Over the past decade, the term ‘foreign terrorist fighter’ has become established in scholarly literature, international law and the popular consciousness. Today, Jihadist foreign terrorist fighters are closely watched globally for the security threat they pose. Although the greatest danger in Europe is seen to be to nations in the west, several cases in East Central Europe – involving terrorists travelling through the region and attempting to radicalise local jihadists – have led Poland, Hungary, Slovakia and the Czech Republic to adopt important legislation to eliminate this threat.

**Abstrakt:** Článek se zabývá fenoménem džihádistických zahraničních teroristických bojovníků z perspektivy zemí středovýchodní Evropy. V odborné literatuře i v mezinárodním právu se pojem „zahraniční teroristický bojovník etabloval“ v posledním desetiletí. V současnosti jsou v globálním rámci sledovanou entitou džihádističtí zahraniční terorističtí bojovníci. Představují bezpečnostní hrozbu i pro země Visegrádské skupiny, a to jak z hlediska cestování přes jejich území, tak i z hlediska radikalizace domácích džihádistů. Několik dosavadních případů v zemích středovýchodní Evropy však zatím nepředstavuje tak závažnou hrozbu, jakou je tento fenomén v západní Evropě. Nicméně Polsko, Maďarsko, Slovensko i Česká republika přijaly důležitá legislativní opatření k eliminaci této hrozby.

**Key words:** Foreign Terrorist Fighters; Jihadism; Counter-terrorism; East Central Europe; Inter-Agency Cooperation.

**Klíčová slova:** Zahraniční terorističtí bojovníci; boj proti terorismu; středovýchodní Evropa; meziresortní spolupráce.

## INTRODUCTION

In recent political discourse in East Central Europe, Jihadist terrorist foreign fighters have been discussed as a serious security threat. The aim of this paper is to analyse the various dimensions of this threat and to explain how it has challenged recent legislation and security structures in the region. In this paper, East Central Europe is understood to cover the so-called Visegrád Group countries (Poland, the Czech Republic, Slovakia, Hungary). The impact of global and European influences on the situation in the centre of the „old continent“ is taken into account.

The paper starts with methodological and conceptual issues. The development of the phenomenon of Jihadist foreign fighters in relation to East Central Europe is described with the aim of explaining the recent new dimension of the threat. The following part deals with the reaction of the legal sphere within the global and European context of law changes. Specific challenges posed by Jihadist foreign fighters to the security systems in V4 countries are discussed with the aim of formulating basic recommendations for policy makers.

The complex character of the researched subject and the specific points discussed in individual sections below require a broad spectrum of methodological approaches. The historical method and description is used for an overview of the development of the issue of foreign terrorist fighters from an East Central European point of view. A risk and threat analysis serves as an assessment of the recent situation. Simple legal logic is applied in the section about legal changes. Basic strategic and policy analyses are used in relation to strategic culture and infrastructure.

## 1 CONCEPTUALISING FOREIGN FIGHTERS

The first very important challenge is that of conceptualising and defining Jihadist foreign terrorist fighters. Analytically, we can divide this composite term into three parts. Firstly, the „traditional“ concept of „foreign fighters“ will be described. Secondly, the specific dimension of foreign „terrorist“ fighters (in contrast to „non-terrorist“ foreign fighters) will be explained and, thirdly, „Jihadist“ foreign fighters will be distinguished from other variants.

The concept of foreign fighters has been widely and broadly discussed in recent literature, however, a generally accepted definition, or a list of criteria, has not been created (which is typical of many crucial terms in the social sciences). In this article, we start with a basic working definition taken from the book by David Malet. He defines foreign fighters as „non-citizens of conflict states who join insurgencies during civil conflicts“.<sup>1</sup>

<sup>1</sup> MALET, David. 2013. *Foreign Fighters. Transnational Identity in Civil Conflicts*, Oxford University Press, Oxford.

Malet excludes from his definition members of foreign governmental forces involved in a civil conflict<sup>2</sup> as well as mercenaries and contractors. However, the line between voluntary participation and providing a service for remuneration is in many cases unclear. To improve the definition, the consideration of the strong role played by voluntary participation due to identifying with the goal of the warring party should be added (and a significant pecuniary motivation is not excluded).

Malet's criterion of „insurgencies“ is questionable.<sup>3</sup> Firstly, due to the difficult identification of insurgency in recent conflicts (where for example many non-state armed groups fight in symmetrical conflicts); and secondly, due to the fact that foreign volunteers can also join the governmental forces in the conflict.<sup>4</sup> The issue of non-citizenship can also be questioned, in cases when the fighters are granted citizenship of the state or quasi-state for which they fight.<sup>5</sup>

In the light of these facts, in this article foreign fighters are defined as persons who predominantly take part voluntarily in a warring faction in an armed conflict outside the country of their residence and who do not serve in the conflict area as members of their own country's military or other security forces. Voluntary participation distinguishes them from mercenaries and contractors (with respect to the flexible definitions of these categories). Service in the armed units of warring factions and not in the armed or other security forces of their home state distinguishes them from participants in foreign interventions or peace-enforcement or peace-keeping missions of the international community.

In Malet's above-mentioned definition, the issue of a diaspora is missing. In fact, we can distinguish between foreign fighters from a diaspora with a direct link to a warring party (for example, people from the second generation of emigrants who belonged to the ethnic group whose representatives are fighting in a civil war) and foreign fighters without previous close ties to the geopolitical area of the conflict. In the case of Islamist foreign fighters the construction of the „global Ummah“ plays an important role and Islamist fighters may feel a connection to all territories claimed by Islamists. Hegghammer distinguishes between foreign fighters from the same region as the conflict (for example,

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2 He considers the real situation, not the possible officially presented but false information about alleged volunteers, who are in fact members of regular forces (as, for example, the combatants from the German and Italian armed forces who were involved in the Spanish Civil War). Ibid.

3 In a similar way, Thomas Hegghammer uses the criterion of insurgency. He works with four criteria, defining a foreign fighter “as an agent who (1) has joined, and operates within the confines of, an insurgency, (2) lacks citizenship of the conflict state and kinship links to its warring factions, (3) lacks affiliation to an official military organisation, and (4) is unpaid.” HEGGHAMMER, Thomas. 2010. The Rise of Muslim Foreign Fighters: Islam and the Globalization of Jihad. *International Security*, Vol. 35, No. 3 (Winter 2010/11), pp. 53-93.

4 As foreign volunteers in governmental forces in Ukraine, for example. See MAREŠ, Miroslav. Czech Foreign Fighters in the Ukrainian Conflict: Legal Aspects and Propagandist Use. *Vojenské rozhledy*. Vol. 26, special issue: 71-82, doi:10.3849/2336-2995.26.2017.05.071-082.

5 RAČIUS, Egdūnas. 2017. Caliphate Citizens. In REKAWEK, Kacper: Not Only Syria? The Phenomenon of Foreign Fighters in a Comparative Perspective. Amsterdam: IOS Press, 52-59.

Pakistanis fighting in Afghanistan) and global foreign fighters (they travel to conflict zones from different regions, for example Algerian fighters in Afghanistan).<sup>6</sup>

## 2 CONCEPTUALISING FOREIGN TERRORIST FIGHTERS

While the phenomenon of „foreign fighters“ and the term itself are relatively old, the newly coined term „foreign terrorist fighters“ (FTFs) was created in international politics and law. This term is used in international as well as national legal documents; however, it is not precisely defined in international law.<sup>7</sup> The definition of foreign terrorist fighters is included in „The Hague-Marrakech Memorandum on Good Practices for a More Effective Response to the FTF Phenomenon“, which was adopted by the Foreign Terrorist Fighters Initiative of the Global Counterterrorism Forum. FTFs are defined as „individuals who travel abroad to a state other than their states of residence or nationality to engage in, undertake, plan, prepare, carry out or otherwise support terrorist activity or to provide or receive training to do so (often labelled as ‘terrorist training’)“.<sup>8</sup>

The word „terrorist“ in this definition is mostly linked with the preparation of terrorist acts. However, it is also important to take into account the character and labelling of an armed group. Individually, foreign fighters might take part in military combat only (insurgency, symmetrical battles with various types of weapons, including heavy weapons), while their organisations are nevertheless also responsible for terrorist activities. These fighters can also be directly engaged in terrorist or repressive activities in the area of the combat (atrocities aimed against religious or ethnic groups, perpetrated against prisoners of war etc.). They make use of these various experiences to commit crimes after their return (the so-called „returnees“, including their family members, are a serious concern in Western countries today).

Foreign terrorist fighters are considered a security threat due to their direct participation in armed conflicts and linked atrocities (executions of prisoners, rape of women representing specific groups etc.), their potential to radicalise other people (from the conflict area or after their return) and their potential to be involved in terrorist or other violent activities after their return. However, not all returnees are *a priori* terrorists. Dutch expert Jeanine de Roy van Zuijdewijn divides foreign fighters from the Western point of view into several categories included in the following schema – table 1.

<sup>6</sup> HEGGHAMMER 2010.

<sup>7</sup> BÍLKOVÁ, Veronika. 2018. Foreign Terrorist Fighters and International Law. Groningen Journal of International Law. Vol 6, No 1: 1-23. DOI: 10.21827/5b51d51a22ac3.

<sup>8</sup> FOREIGN TERRORIST INITIATIVE, GLOBAL COUNTERTERRORISM FORUM. 2014. The Hague-Marrakech Memorandum on Good Practices for a More Effective Response to the FTF Phenomenon. Available at: [https://www.thegctf.org/documents/10162/140201/14Sept19\\_The+Hague-Marrakech+FTF+Memorandum.pdf](https://www.thegctf.org/documents/10162/140201/14Sept19_The+Hague-Marrakech+FTF+Memorandum.pdf).

**Table 1:** Typology of foreign fighters according to Jeanine de Roy van Zuijdwijm

Martyr	A foreign fighter who joins a conflict and is killed on the battlefield. He or she will pose no further risk to the country of origin unless the martyrdom itself is used as a recruiting tool.
Veteran	An experienced fighter who continues fighting in other theatres of conflict. He sees jihad as a way of life. While he is a risk to people in conflict zones, he is no risk to the country of origin in the West.
Recruiter	The recruiter is usually a former foreign fighter who returned home to recruit others to fight, often quite successfully because of his or her 'street credibility'... Generally speaking, they are not directly involved in terrorist activity but are frequently seen as spiritual guides to future terrorists. They are an indirect risk by constantly 'feeding' the local Jihadist community.
Reintegrated fighter	He/she is the one-time foreign fighter. After the conflict or his role in it has ended, the reintegrated fighter will return and resume his pre-departure life or will at least not be involved in terrorist activity...They are usually no risk to the country of origin.
Terrorist	When he/she comes into contact with terrorist networks in conflict zones, he/she becomes convinced that it is not only a priority to fight for the oppressed abroad, but also to target the country of origin. This type of foreign fighter not infrequently converts to Islam, undergoes the most fundamental shift in identity and norms and poses a direct threat to the country of origin.

Source: ZUIJDEWIJN, Jeanine de Roy van. The Foreign Fighters' Threat: What History Can (not) Tell Us. *Perspectives on Terrorism*, vol. 8, No. 5: 59-73, <http://www.terrorismanalysts.com/pt/index.php/pot/article/view/378/html>

Family members (women, children) are also sometimes affiliated with foreign fighters. Women may travel to conflict areas individually with non-combatant goals (mostly to marry Jihadists) and may take part in combat. Some of these women's activities are on the boundary between combatant and non-combatant categories (for example, in religious militias enforcing Sharia law). Child soldiers under the command of Jihadist terrorists constitute another category.<sup>9</sup>

Foreign fighters have been engaged in several recent armed conflicts. The term „terrorism“ is used, misused and relativised in relation to various categories of foreign fighter (on both sides of the conflict in the Donbass, on the Kurdish side in the Syrian war<sup>10</sup> etc.). This article deals only with Jihadist foreign fighters. Jihadism is understood as a fanatic religious-ideological motive for militant violent struggle in the name of Islam against enemies (who can also be Muslims who are designated as „takfir“, as apostates).<sup>11</sup>

In his research into developments until 2015, Raphaël Leduc found that „the presence of foreign fighters does not raise the likelihood that a terrorist plot will be executed and if it is, then they have no impact on the number of casualties as a consequence of that plot. Overall, this means that foreign fighters do not increase the operational

<sup>9</sup> SUŠOVSKÁ, Patricie. 2107. Děťští vojáci v propagandě Islámského státu – proměny v čase. In BUREŠ, Oldřich (ed.): *Sborník vybraných příspěvků z 9. výroční studentské konference bezpečnostního výzkumu*. Praha: Metropolitan University Prague Press, 48-57. Available at: <https://www.c4ss.cz/wp-content/uploads/2017/11/Sbornik-studentska-konference-2017.pdf>.

<sup>10</sup> ORTON, Kyle. 2017. *The Forgotten Foreign Fighters: The PKK in Syria*. London: The Henry Jackson Society. Available at: <http://henryjacksonsociety.org/wp-content/uploads/2017/08/3053-PYD-Foreign-Fighter-Project-1.pdf>.

<sup>11</sup> SCHMIDINGER, Thomas. 2015. *Jihadismus. Ideologie, Prävention und Deradikalisierung*. Wien: Mandelbaum Verlag.

effectiveness of a terrorist cell in a way that is different from any other member of the population that joins the cell."<sup>12</sup> However, several cases of terrorist attacks committed by returned foreign fighters under the umbrella of the so-called Islamic State (in Paris and Brussels) make this kind of terrorist returnee with Islamic State links a matter of specific concern.<sup>13</sup>

### 3 DEVELOPMENT OF THE PHENOMENON OF JIHADIST FOREIGN FIGHTERS FROM THE EAST CENTRAL EUROPEAN POINT OF VIEW

Muslim (not only Jihadist) foreign fighters have fought in many historical conflicts. The modern phenomenon of Jihadist FTFs can be divided into four main historical waves. The first wave was initiated by the Soviet invasion of Afghanistan. Jihadists from various countries resisted the Soviet occupation forces and the Afghan government in the 1980 s and some of them turned to terrorist activities against the West in the early 1990 s (the term „mujahideen“ was popularised at that time). The second wave is connected mostly with Jihadist volunteers in the Balkan and Caucasian wars of the 1990 s. The third wave started after US campaign in Afghanistan in 2001 and especially of Iraq in 2003. The fourth wave was caused by the outbreak of civil war in Syria in 2011; the proclamation of a „Caliphate“ by the Islamic State had a specific impact on its intensification (however, foreign fighters were – or still are – also engaged in other Islamist groups in the area). This categorisation is very simplified; there are conflicts with limited numbers of Jihadist foreign fighters in Yemen, Somalia, West Africa etc.<sup>14</sup>

The threat of foreign terrorist fighters has global scope. In 2014, the Security Council of the United Nations was concerned that „foreign terrorist fighters increase the intensity, duration and intractability of conflicts, and also may pose a serious threat to their states of origin, the states they transit and the states to which they travel, as well as states neighbouring the zones of armed conflict in which foreign terrorist fighters are active and that are affected by serious security burdens, and noting that the threat of foreign terrorist fighters may affect all regions and Member States, even those far from

<sup>12</sup> LEDUC, Raphaël. 2016. Are returning foreign fighters dangerous? Re-investigating Hegghammer's assessment of the impact of veteran foreign fighters on the operational effectiveness of domestic terrorism. *Journal of Military and Strategic Studies*. Vol. 17, Issue 1, 83-103.

<sup>13</sup> BRZUSZKIEWICZ, Sara. 2018. Radicalisation in Europe after the fall of Islamic State: Trends and risks. *European View*, Vol. 17, No. 2: 145-154.

<sup>14</sup> This categorisation is based mostly on the following publications: FAINBERG, Alisa. 2017. Here We Come: The Evolution of Foreign Fighters' Flow to Syria and Iraq in 2013-2016. Herzlyia: International Institute for Counterterrorism. Available at: <https://www.ict.org.il/Article/1954/the-evolution-of-foreign-fighters#gsc.tab=0>; NESSER, Petter. 2018. *Islamist Terrorism in Europe*. London: Hurst & Company; SCHMID, Alex P. 2015. *Foreign (Terrorist) Fighters with IS: A European Perspective*. Hague: International Centre for Counter-Terrorism. Available at: <https://icct.nl/wp-content/uploads/2015/12/ICCT-Schmid-Foreign-Terrorist-Fighters-with-IS-A-European-Perspective-December2015.pdf>.

conflict zones, and expressing grave concern that foreign terrorist fighters are using their extremist ideology to promote terrorism."<sup>15</sup>

However, some regions have not been significantly affected by the phenomenon of foreign terrorist fighters and particularly Jihadist FTFs. East Central Europe is one of them. Paradoxically, several individuals from Poland could be considered modern foreign fighters with links to Jihadism; however, they are not terrorists. At least three Poles with anti-communist ideological aims joined the Afghan mujahedeen in the 1980 s and fought against the Soviets. Only one of them – Lech Zondek – emigrated from Poland during the Afghan war. He was killed in 1985. The other two were earlier emigrants to the West.<sup>16</sup> Similar cases from other East Central European countries are not known.

FTFs from the Caucasian and Balkan wars in the 1990 s were not a significant security threat to East Central European countries. Their routes to the conflict area and back led through other territories. A small change can be observed in the 2000 s. Two different cases of men with alleged battle experience or at least training in the Afghan conflict area (related to Al-Qaeda or the Taliban) were connected with East Central Europe; however, this was only from the point of view of transit or short-term residence. In the Czech Republic Oussama Kassir was detained in 2005 and was extradited to the United States two years later. There he was sentenced to life for several acts linked to preparing terrorist activities.<sup>17</sup> More complicated was the case of the Algerian citizen, Mustafa Labisi, who was detained in Slovakia in 2007 under an Algerian warrant and, after his trial, was extradited to Algeria. The European Court of Human Rights found this extradition unlawful in 2012.<sup>18</sup>

#### 4 THE CONTEMPORARY SITUATION IN EAST CENTRAL EUROPE

After the beginning of the Syrian civil war, the phenomenon of Jihadist foreign terrorist fighters started to be a more serious problem in East Central Europe. Of course, Western Europe was hit much more heavily; however, the interdependency of contemporary global and European security meant that the Visegrád countries were also challenged.

<sup>15</sup> UNITED NATIONS SECURITY COUNCIL. 2014. Resolution 2178 (2014) adopted by the Security Council at its 7272nd meeting on 24 September 2014 "Threats to international peace and security caused by terrorist acts". Available at: <http://unscr.com/en/resolutions/2178>.

<sup>16</sup> STANIUL, Michal. 2016. Polscy mudžahedini na wojnie w Afganistanie 1979-1989. WP Online. Available at: <https://opinie.wp.pl/polscy-mudzahedini-na-wojnie-w-afganistanie-1979-1989-6126041611622529a>.

<sup>17</sup> US ATTORNEY'S OFFICE. 2009. Swedish Citizen Oussama Kassir Found Guilty of Providing Material Support to al Qaeda. FBI: New York Field Office. Available at: <https://archives.fbi.gov/archives/newyork/press-releases/2009/nyfo051209.htm>.

<sup>18</sup> EUROPEAN COURT OF HUMAN RIGHTS. 2012. Case of Labisi vs. Slovakia. Application no. 33809/08. Judgement. Available at: <https://www.asylumlawdatabase.eu/sites/default/files/alddfiles/CASE%20OF%20LABISI%20v.%20SLOVAKIA.pdf>.

From the point of view of these countries, the security threat of the Jihadist FTFs can be divided into three main interconnected issues:

1. Travel of Western European Jihadist foreign fighters and their family members to Syria and Iraq via East Central Europe;
2. Return of Jihadist FTFs and their family members to Western Europe and Eastern Europe<sup>19</sup> via East Central Europe (of special importance are the terrorist fighters with a clear intention to commit terrorist attacks);
3. Radicalisation, recruitment and travel of home-grown East Central European Jihadists to conflict areas (these people can be divided into converts and members of immigrant Muslim communities) and their return (of special importance are the threats and possible intention to commit terrorist attacks in this area).

Travel by Western Jihadists to the Syrian conflict started in 2011 and law enforcement forces and intelligence services in East Central Europe monitored dozens of travellers.<sup>20</sup> The issue of returning Jihadist FTFs has become a matter of alarming importance since the start of the migration crisis and the wave of terrorist attacks in Western Europe in 2015-2018. The defeat of the Islamic State and imprisonment of many Jihadist fighters by Kurdish, Syrian and Iraqi forces constitute a new challenge to European security (with, however, only a limited impact on East Central Europe, in contrast to significant Western European concerns).<sup>21</sup>

Returnees to Western Europe with terrorist goals used East Central Europe for travelling, for a short recuperation and possibly also for logistics. Salah Abdeslam, who was an important member of the IS commando, which committed terror attacks in Paris in November 2015, visited Hungary and Slovakia (where he allegedly stayed for three weeks) in summer 2015.<sup>22</sup> Another case is linked with Hungary. A 27-year-old Syrian national was detained at Budapest Airport on 30 December 2018. According to the Eurojust, he was „suspected of active involvement in the killing of 20 persons. He was imprisoned

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<sup>19</sup> Eastern Europe is mentioned due to alleged cases of some Caucasian and Middle Asian Jihadist foreign fighters travelling. According to Europol: “an FTF of Chechen origin with refugee status in Poland was detained in 2017, charged with participation in a foreign military organisation and illegal possession of weapons and ammunition” Europol. 2018. European Union Terrorism Situation & Trend Report (Te-Sat). The Hague: Europol. Available at: <https://www.europol.europa.eu/activities-services/main-reports/european-union-terrorism-situation-and-trend-report-2018-tesat-2018>.

<sup>20</sup> Exact data are still classified. The number of these persons can be assessed at around 60 in all V4 countries (around 20 in the Czech Republic). This assessment is based on information from informal interviews conducted by the author of this article with members of security institutions, journalists and academics during international counter-terrorist events. See also sources below.

<sup>21</sup> RENARD, Thomas. 2019. Quelle justice pour les djihadistes belges ? Le Vif. Available at: [https://www.levif.be/actualite/international/quelle-justice-pour-les-djihadistes-belges/article-opinion-1100939.html?cookie\\_check=1557831251](https://www.levif.be/actualite/international/quelle-justice-pour-les-djihadistes-belges/article-opinion-1100939.html?cookie_check=1557831251).

<sup>22</sup> CRIME TERROR NEXUS. 2018. The Crime-Terror Nexus in the Czech Republic and Slovakia. Available at: [https://crimeterrornexus.com/wp-content/uploads/2018/06/Crime-Terror-Nexus-in-the-Czech-Republic-Slovakia\\_English-Version.pdf](https://crimeterrornexus.com/wp-content/uploads/2018/06/Crime-Terror-Nexus-in-the-Czech-Republic-Slovakia_English-Version.pdf).



for using forged travel documents for both himself and his female partner."<sup>23</sup> This FTF should be extradited to Belgium. In Poland, Moroccan citizen Mourad T. was sentenced by the court of first instance in March 2019 to three years in prison due to the help he gave to the Islamic state. He probably did not serve in Syria or Iraq; however, he cooperated with the Belgian foreign terrorist fighter Abdelhamid Abaaoud, who organised terrorist attacks in Paris in 2015. Mourad T. recruited and helped Jihadist migrants on the Balkan route.<sup>24</sup> He married in Poland and travelled to various places, including Hungary and the Czech Republic.

Home-grown radicalised Jihadists who travelled from East Central European countries to the conflict areas can be divided into two main categories. Firstly they are converts from majority traditional nations in East Central Europe<sup>25</sup> (several cases of individuals from the Polish diaspora in Western European countries can also be found).<sup>26</sup> Secondly, they are members of Middle Eastern or Caucasian diasporas living in East Central European countries.<sup>27</sup> Polish experts Ryszard Machnikowski and Artur Legiec estimate the number of Jihadist FTFs at between 20 and 40.<sup>28</sup> The Security Information Service of the

<sup>23</sup> EUROJUST. 2018. IS terrorist suspect arrested in Hungary, available at: <http://www.eurojust.europa.eu/press/PressReleases/Pages/2019/2019-03-22b.aspx>.

<sup>24</sup> DRABEK, Patryk. 2019. Marokańczyk który mieszkał na Śląsku oskarżony o współpracę z ISIS - koniec procesu [WYROK]. Naszemiasto.pl, Available at: <http://katowice.naszemiasto.pl/arttykul/marokanczyk-ktory-mieszkal-na-slasku-oskarzony-o-wspolprace,5047715,artgal,t,id,tm.html>.

<sup>25</sup> The Czech convert Jan Silovský travelled to join IS in Syria in 2016; however, he was detained in Turkey and later sentenced to six years in prison in the Czech Republic. NEJVYŠŠÍ SOUD ČR. 2018. Rozhodnutí 3 Tdo 1073/2017. ECLI:CZ:NS:2017:3.TDO.1073.2017.1 The Polish convert Jakub Jakus joined IS and was probably killed in 2017 (he used the name Abu Khattab-al Polandi). CEYROWSKI, Artur. 2017. Abu Khattab al-Polandii nie żyje? O śmierć dżihadysty pytamy Marcina Mamonia, autora książki „Wojna braci”. Pressmania.pl. Available at: <http://pressmania.pl/abu-khattab-al-polandii-nie-zyje-o-smierc-dzihadysty-pytamy-marcina-mamonia-autora-ksiazki-wojna-braci/>.

<sup>26</sup> Polish expert Jan Wójcik identified Jacek S., who migrated to Germany in 2005, converted in 2014, soon thereafter joined IS and died in 2015 (in a suicide attack in Iraq) and Dawid Ł. (Abu Hanifa) from the Polish diaspora in Norway, who in 2014 allegedly joined Harakat Fajr al-Sham al-Islamiyya (the Islamic Movement Dawn of Syria) and in 2019 was arrested for allegedly preparing a terrorist attack in Poland (judicial proceedings are ongoing). WÓJCIK, Jan. 2019. Returning Foreign Fighters in Central and Eastern Europe. European Eye on Radicalisation. Available at: <https://eeradicalization.com/returning-foreign-fighters-in-central-and-eastern-europe/>. Three other Jihadist foreign fighters had their origin in families of the Polish diaspora in Germany. See MACHNIKOWSKI, Ryszard. – LEGIEĆ, Artur. 2017. The Favored Conflicts of Foreign Fighters From Central Europe. Terrorism Monitor, Vol. 15, No. 10, available at: <https://jamestown.org/program/favored-conflicts-foreign-fighters-central-europe/>.

<sup>27</sup> A specific “mixed case” is connected with the former Prague imam, of half-Czech half-Palestinian origin, Samer Shehadeh, who arranged the travel of his brother Omar and one Czech female convert to Syria. They married in Syria and joined the Jabhat Fatah al-Sham in 2016. Samer Shehadeh is in custody in the Czech Republic, suspected of having supported terrorism (however, he himself was not an FTF). MINISTERSTVO VNITRA ČR. 2019. Zpráva o projevech extremismu a předsudečné nenávisti na území České republiky v roce 2018. Praha: Ministerstvo vnitra ČR. Available at: <https://www.mvcr.cz/clanek/extremismus-vyrocní-zpráva-o-extremismu-a-strategie-boje-proti-extremismu.aspx>.

<sup>28</sup> MACHNIKOWSKI, Ryszard. – LEGIEĆ, Artur. 2017.

Czech Republic reported about 16 people from the Czech Republic (including two with Czech citizenship) in terrorist organisations in the Middle East.<sup>29</sup> Between 10 and 15 FTFs from Hungary fought in various Islamist groups in Syria (mostly in al-Qaeda affiliates in Syria; information about the participation of Hungarian fighters in the Islamic state is unavailable).<sup>30</sup> The Slovak Information Service reported Jihadist foreign terrorist fighters with links to the Slovak Republic, but without specifying an exact number.<sup>31</sup> Earlier, six Slovak foreign fighters were reported in the documents.<sup>32</sup>

## 5 THE CHALLENGES TO LEGAL AND SECURITY SYSTEMS

Foreign terrorist fighters pose a challenge to international as well as national legal systems. The internationalisation and Europeanisation of criminal law characterise the legal approach taken vis-à-vis this phenomenon in East Central European countries. Political and legal actions were adopted by the United Nations, which placed requirements on member countries. The most important international documents with global impact are Security Council Resolution 2178 (2014), followed by Security Council Resolution 2396 (2017).<sup>33</sup>

The European Union responded to the phenomenon of FTFs with many broadly-focused counter-terrorist measures.<sup>34</sup> The most important piece of European law is the Directive of the European Parliament and the Council on combating terrorism which replaced Council Framework Decision 2002/475/JHA and amended Council Decision 2005/671/JHA from 23 February 2017. According to the directive, each member state

<sup>29</sup> BEZPEČNOSTNÍ INFORMAČNÍ SLUŽBA. 2018. Výroční zpráva Bezpečnostní informační služby za rok 2017. Available at: <https://www.bis.cz/public/site/bis.cz/content/vyrocní-zpravy/2017-vz-cz.pdf>.

<sup>30</sup> According to unconfirmed information, some Hungarians also fought in pro-Assad units. PÓCZIK, Szilveszter. 2017. Muslim radicals from the Balkans and Hungary in the Syrian war – A comparative study with focus on social history and security policy. In: PLYWACZEWSKI, Emil W. – GUZIK-MAKARUK, Ewa M. (eds.): Current problems of the penal law and criminology / Aktuelle Probleme des Strafrechts und der Kriminologie. Warsaw: Wydawnictwo C.H. Beck, 708–722.

<sup>31</sup> SLOVENSKÁ INFORMAČNÁ SLUŽBA. 2018. Správa o činnosti SIS za rok 2017, <http://www.sis.gov.sk/pre-vas/sprava-o-cinnosti-2017.html>.

<sup>32</sup> GINKEL, Bibi van et al. 2016. The Foreign Fighters Phenomenon in the European Union. Profiles, Threats & Policies. Hague: International Center for Counter-Terrorism, [https://icct.nl/wp-content/uploads/2016/03/ICCT-Report\\_Foreign-Fighters-Phenomenon-in-the-EU\\_1-April-2016\\_including-AnnexesLinks.pdf](https://icct.nl/wp-content/uploads/2016/03/ICCT-Report_Foreign-Fighters-Phenomenon-in-the-EU_1-April-2016_including-AnnexesLinks.pdf).

<sup>33</sup> Improvement of the UN measures is included in the following resolution: UNITED NATIONS SECURITY COUNCIL. 2017. Resolution 2396 (2017) Adopted by the Security Council at its 8148th meeting, on 21 December 2017 “Threats to international peace and security caused by terrorist acts – foreign terrorist fighters”, [https://undocs.org/en/S/RES/2396\(2017\)](https://undocs.org/en/S/RES/2396(2017)).

<sup>34</sup> EUROPEAN UNION. 2019. Response to the terrorist threat and recent terrorist attacks in Europe. Available at: <https://www.consilium.europa.eu/en/policies/fight-against-terrorism/foreign-fighters/>.

shall take necessary measures to ensure that travelling to another country for the purpose of committing, or contributing to the commission of, a terrorist offence, for the purpose of the participation in the activities of a terrorist group with knowledge of the fact that such participation will contribute to the criminal activities of such a group or for the purpose of providing or receiving training for terrorism, is punishable as a criminal offence when committed intentionally.<sup>35</sup> All EU member states (including V4 countries) must transfer the content of the directive into their national criminal law. With the exception of Poland, the rest of the Visegrád countries also ratified the important Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism.<sup>36</sup>

The improvement and Europeanisation of law in the field of foreign fighters has been typical of East Central European countries in recent years.<sup>37</sup> Changes in national law reflect the EU requirements (criminalisation of activity in a terrorist group, crossing borders with terrorist aims, terrorist training etc.) but the new challenges discussed in Western Europe have not seriously affected the legal norms in V4 countries (for the legal measures for preventing the return of individuals suspected of involvement in terrorism abroad,<sup>38</sup> stripping of citizenship,<sup>39</sup> de-radicalisation programmes for returnees,<sup>40</sup> etc.). This is due to the very limited scope of some problems in comparison with Western European countries (few FTFs, very few FTF family members etc.).

The phenomenon of foreign terrorist fighters demands international police and intelligence cooperation. All Visegrád countries are members of the special Europol network of anti-terrorism contact points “specifically dedicated to the sharing of information

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35 EUROPEAN UNION. 2017. Directive of the European Parliament and of the Council on combating terrorism, replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA.

36 COUNCIL OF EUROPE. 2019. Chart of signatures and ratifications of Treaty 217. Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism Status as of 17/05/2019. Available at: [https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/217/signatures?p\\_auth=wdVkb0OR](https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/217/signatures?p_auth=wdVkb0OR).

37 The Czech Act No. 287/2018 Coll. amended the Criminal Code No. 90/2009 Coll. in the sense of the above-mentioned directive. A similar Slovak law is Act No. 161/2018 Coll., which amended the Slovak Criminal Code No. 300/2005 Coll. New criminal offences were also added to the Hungarian and Polish criminal codes. MICHALSKA-WARIAS, Aneta. 2018. New Terrorist Offences in Polish Criminal Law. *Annales UMCS*, Vol. 65, No. 1, 103-114.

38 This issue is connected also with the problem of (non-)intervention in cases of prosecution and sentencing (including the death penalty) in Iraq or Syria of the Islamic state fighters with EU citizenships. SCHERRE, Amandine – ISAKSSON, Cecilia – RAGAZZI, Francesco – WALMSLEY, Josh. 2018. The return of foreign fighters to EU soil. Ex-post Evaluation. Brussels. European Parliamentary Research Service. Available at: [http://www.europarl.europa.eu/RegData/etudes/STUD/2018/621811/EPRS\\_STU\(2018\)621811\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2018/621811/EPRS_STU(2018)621811_EN.pdf).

39 ROITHMAIER, Kilian. 2019. Germany and its Returning Foreign Terrorist Fighters: New Loss of Citizenship Law and the Broader German Repatriation Landscape. ICCT. Available at: <https://icct.nl/publication/germany-and-its-returning-foreign-terrorist-fighters-new-loss-of-citizenship-law-and-the-broader-german-repatriation-landscape/>.

40 HASSAN, Ahmad Saiful Rijal. 2018. Deradicalising Returning Foreign Fighters: Lessons from Denmark. RSIS. Available at: <https://www.rsis.edu.sg/rsis-publication/icpvtr/deradicalising-returning-foreign-fighters-lessons-from-denmark/#.XN76UPZuldU>.

concerning the FF" (it was established in 2014).<sup>41</sup> The phenomenon of foreign fighters (including Jihadist foreign fighters) was one of the main topics of the meeting of the "V4+2<sup>42</sup> counter extremist group" in 2015.<sup>43</sup> Unfortunately, this form of cooperation has not developed further in recent years. International counter-Jihadist cooperation is able to overcome the tensions in other fields of international relations, as the case of Polish-Russian collaboration against the Chechen foreign fighter Azamat Bajdujew shows. He fought in IS, was arrested in Poland and extradited to Russia in 2018.<sup>44</sup>

Furthermore, FTFs pose a specific challenge to national security systems and inter-agency cooperation in the V4 countries. FTFs are an issue that affects both the internal and external security of the state, and both military and non-military security. It means that both civil (police, security and intelligence agencies etc.) and military (intelligence, special forces etc.) institutions are forced to cooperate in this field. In countries with a strict division of powers between law enforcement agencies and intelligence services (in V4 mostly the Czech Republic and Slovakia) the use of intelligence agencies' knowledge during trials of FTFs remains an unsolved challenge for the criminal procedural law.<sup>45</sup>

## CONCLUSION

Jihadist foreign terrorist fighters are considered a significant threat by the global security community as well as by regional European security structures. East Central European countries are not as seriously and directly affected by this problem as Western European or Balkan countries are. However, due to the interconnection and transnationalisation of contemporary security policies, they do take these problems seriously. Several tens of fighters from East Central European countries have joined Jihadist groups in the Middle East during the past decade.

Returnees from these countries have not been directly involved in the preparation of terrorist attacks (as far as is known) and there is no evidence of these people serving in the roles of recruiters or veterans (one killed Polish Jihadist can be labelled as a martyr).

<sup>41</sup> GINKEL et al.

<sup>42</sup> Visegrád countries + Germany and Austria.

<sup>43</sup> VLÁDA ČR. 2015. Program českého předsednictví ve Visegrádské skupině v letech 2015–2016. Ministerstvo zahraničních věcí ČR. Available at: <https://www.vlada.cz/assets/evropske-zalezitosti/visegradska-skupina/Program-a-priority-CZ-V4-PRES.pdf>.

<sup>44</sup> MIEŚNIK, Magda. 2018. "Deportowany Czechen walczył w szeregach Państwa Islamskiego". Polska ujawnia powody deportacji. WP. Available at: <https://wiadomosci.wp.pl/deportowany-czechen-walczył-w-szeregach-panstwa-islamskiego-polska-ujawnia-powody-deportacji-6301980027611265a>.

<sup>45</sup> Of course, this issue is connected not just with the FTFs, but with a broader spectrum of security threats. POKORNÝ, Ladislav. 2018. Jest zvažovati důkazní použití odposlechu pořízeného zpravodajskou službou? In KALVODOVÁ, Věra, Marek FRYŠTÁK a Jan PROVAZNÍK (eds.). Trestní právo /stále/ v pohybu: pocta Vladimíru Kratochvíli. Brno: Masarykova univerzita, 281-294.

However, FTFs from Western Europe responsible for terrorist attacks travelled through the Visegrád countries and some of them used that territory for longer visits. The security forces of the Czech Republic, Slovakia, Hungary and Poland have successfully detained and/or monitored many FTFs; however, only a few cases have been decided by the courts and some suspects were not detected in time.

A set of new EU norms have been adopted. It is important to evaluate the efficiency of these norms and their use by national police and judicial bodies. Findings should be discussed at sub-regional as well as European level. Inter-agency cooperation and the capability to share and together to assess threats are requested at the national level. A re-start of V4+2 cooperation with a broader spectrum of participants (including in the military sphere) should help to counter Jihadist FTFs. Strong Euro-Atlantic cooperation and the involvement of credible partners in various parts of the world (mostly in sharing information, efficient law enforcement and efficient military combat against the terrorist structures in conflict areas) will remain the most important tasks for the future.

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