

Meeting Report | Addressing the Foreign Terrorist Fighters Phenomenon from an EU Perspective

UN Security Council Resolution 2178, Legal Issues, and Challenges and Opportunities for EU Foreign Security and Development Policy

On Thursday 23 October 2014, the Global Center on Cooperative Security (Global Center), Human Security Collective (HSC), and International Centre for Counter-Terrorism – The Hague (ICCT), convened an expert meeting to discuss appropriate and effective responses to the threat of foreign terrorist fighters (FTFs). The expert meeting was held in Brussels with participants from the European Commission’s Directorate-General (DG) Home Affairs and DG Development and Cooperation – Europeaid (DEVCO), the European External Action Service (EEAS), and the office of the EU Counter-terrorism Coordinator (CTC). Introductory remarks were offered by Mr. Adriaan van der Meer (Head of Unit DEVCO B5), Mr. Stephan Auer (Director for Multilateral Relations and Global Issues, EEAS), and Mr. Gilles de Kerchove (EU CTC).



Mr. Gilles de Kerchove (EU CTC).
Photo: Maria Sanchez-Gil-Cepeda, DEVCO

On 24 September, the Security Council unanimously adopted Resolution 2178 with support from over 120 states representing a broad cross-section of the General Assembly’s membership. The resolution directs all member states to “prevent and suppress the recruiting, organizing, transporting or equipping of individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training, and the financing of their travel and of their activities.”¹ Additionally, it includes explicit language on the need for member states to counter violent extremism by taking preventive measures such as engaging with communities at the local level as an integral part of a whole of government approach to stem the FTF threat.

The FTF phenomenon is a growing threat to many countries, inside and outside the EU. It is estimated that around 15,000 people,² among them 3000 EU citizens,³ have travelled to take part in the sectarian wars in Syria and Iraq (and beyond). It is feared that they will radicalize and return battle-hardened to Europe, willing to solicit support and recruits, or perpetrate attacks. With the scale of the threat likely to increase, the debate surrounding the adoption of Resolution 2178 has demonstrated a clear willingness among states to respond collectively. Yet, the matter of transforming the resolve reflected in the resolution into concrete policy and practice is now before them.

The Brussels expert meeting provided a forum for a discussion about the challenges and opportunities facing the EU and other states as they take on the task of implementing Resolution 2178, within the EU as well as part of its foreign security and development policy and programming. Participants emphasized that there are already various promising practices and experiences within and outside European member states in relation to detecting, preventing, engaging, prosecuting, and reintegrating FTFs that predate the adoption of the resolution. In addition to policies and strategies in individual states, the European Radicalisation Awareness

Network (RAN) released in November 2013 its declaration of good practices for engagement with foreign fighters for prevention, outreach, rehabilitation and reintegration. On an international level, the Global Counterterrorism Forum (GCTF) adopted the Hague-Marrakech memorandum that offers states a number of good practices and lessons learned relating to FTF rehabilitation and reintegration, countering violent extremism (CVE), and criminal justice, and rule of law responses.

These documents provide helpful guidance to states and other actors when implementing FTF policies, but each region, country, and individual requires a tailored approach to address (structural) drivers, motivations, contextual factors, and personal needs. Hence, the need to better understand the phenomenon was emphasized throughout the meeting, as this is the basis of effective CVE programming.



Expert meeting panelists from left: Eelco Kessels, Global Center; Christiane Höhn, EU CTC; Bibi van Ginkel, ICCT; Naureen Chowdhury Fink, Global Center; and Fulco van Deventer, HSC. Photo: Maria Sanchez-Gil-Cepeda, DEVCO.

The resolution is notable for its inclusion of the concepts of countering violent extremism and community engagement in a Chapter VII resolution on terrorism, and the effort to balance a robust response with more localized prevention efforts to address specific threats as well as the broader conditions conducive to the spread of terrorism. To this end, the resolution “[e]ncourages Member States to engage relevant local communities and non-governmental actors in developing strategies to counter the violent extremist narrative that can incite terrorist acts, address the conditions conducive to the spread

of violent extremism, which can be conducive to terrorism, including by empowering youth, families, women, religious, cultural and education leaders, and all other concerned groups of civil society and adopt tailored approaches to countering recruitment to this kind of violent extremism and promoting social inclusion and cohesion.”⁴

Noting that engagement between government and civil society actors does not simply happen overnight, especially not in areas where violent extremism thrives, participants emphasized that effective engagement on countering violent extremism involves a leveled playing field for all those involved, that communities and government are genuine partners, and that all sides realize this is a long-term effort that needs to be sustained even when the going gets tough. Furthermore, through inclusive dialogue and multi-stakeholder interaction, a shared notion of the threat should be the starting point and a common agenda to address it needs to be realized. This will also ensure a more nuanced and targeted approach where CVE interventions are adapted to more directly address the threat in the context in which it is emerging, including by addressing the enabling environment for violent extremism.

Although the inclusion of countering violent extremism and community engagement is commendable, it remains the more underdeveloped section of the resolution, with no clear obligations or accountability required of states and no UN entity tasked with monitoring or supporting implementation efforts on these issues. Various participants stressed their concern that the lack of clarity may leave too much room for different interpretations, some of which could provide a pretext for certain governments to introduce highly restrictive, disproportionate, and sometimes even counterproductive measures and regulations. Hence, it is vital that the United Nations, EU, and individual member states ensure that such concerns are reflected in implementation (assistance) efforts, which should be shaped so that they encapsulate international human rights and humanitarian law obligations.

These concerns also extend to the more technical legal obligations specified in the resolution, including the criminalization and prosecution of nationals who “travel or attempt to travel from their territories to a State other than their States of residence or nationality, for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts, or the providing or receiving of terrorist training,” acceleration of the exchange of operational information through bilateral and multilateral mechanisms, sharing of advance passenger information between airlines and appropriate national authorities, and enhancing of border control measures.⁵ Various participants were concerned that the lack of definitions (principal among them the concept of terrorism), the broad scope of the text, and the lack of proper safeguards or enforcement mechanisms, could easily lead to the implementation of disproportionate measures. Moreover, some participants questioned the effectiveness of the presumption of deterrence that underlies several of these measures. For instance, predominantly emphasizing prosecution and incarceration in relation to returning FTFs fails to take into account the different types of returnees and their deeds and needs (anywhere from battle-hardened terrorists to disillusioned youth and individuals suffering from post-traumatic stress disorder) and the ability of governments to gather sufficient evidence to prosecute those who have undertaken illegal activities. Moreover, it may in many instances also be counterproductive as it dissuades individuals that have traveled abroad but not (yet) been involved in any unlawful acts from returning home.

Considering the various concerns, participants emphasized the importance of appropriately and proportionally implementing Resolution 2178 and related FTF policy measures, in full accordance with international human rights and humanitarian law obligations and with adequate checks and balances. The EU is well positioned to assist with this, given the strong basis of its policies and programs in human rights and the rule of law and its comprehensive approach to counterterrorism. Through individual member states and the work of European actors such as Europol, Eurojust, and RAN, the EU has longstanding experience and expertise in this domain. Attention to the FTF issue and Resolution 2178 can easily be incorporated into existing capacity-building and technical assistance instruments such as the EU’s Instrument contributing to Stability and Peace (formerly the Instrument for Stability), the EU Strategic Framework for the Horn of Africa (2012), the Strategy for Security and Development in the Sahel, and the Counter-Terrorism/Security Strategy on Pakistan. These programs already place a strong emphasis on merging development and security agendas, incorporating both governmental and nongovernmental actors, and strengthening regional approaches and institutions. Furthermore, given the evident need for a better understanding of the phenomenon, the EU should continue to invest in country-specific analyses of the FTF phenomenon, including the gathering of qualitative data (numbers, characteristics, communication lines, travel routes, etc.), and the analysis of motivating factors, timelines, and other aspects. Lastly, the EU could consider supporting regional practitioner networks for horizontal information sharing and early warning, following a setup similar to the RAN, in regions such as the Sahel, the Horn of Africa, Central Asia, and South East Asia. Given the cross-border nature of the problem, regional strategies and cooperation are necessary. The EU knows how to do this from a legal, border, and policing perspective, as well as in the radicalization identification and prevention sphere.

In the end, participants agreed that the issue of FTFs necessitates a long-term, sustainable, principled approach that is tailored to specific contexts and applied appropriately and proportionally. A greater collaboration between governments and civil society actors is essential in identifying, preventing, and countering the threat of FTFs, but this requires an enabling environment and mutual trust between the different parties.

In November 2014, the Global Center, HSC, and ICCT will release a joint policy brief on the challenges and opportunities for addressing the FTF threat and implementing Resolution 2178 as part of the EU’s foreign security and development policy.

About the Organizations

The Global Center on Cooperative Security works with governments, international organizations, and civil society to develop and implement comprehensive and sustainable responses to complex international security challenges through collaborative policy research, context-sensitive programming, and capacity development. In cooperation with a global network of expert practitioners and partner organizations, the Global Center fosters stronger multilateral partnerships and convenes key stakeholders to support integrated and inclusive security policies across national, regional, and global levels. For further information, please see www.globalcenter.org.

Human Security Collective (HSC) is a foundation with a strong background in development, conflict transformation and security. HSC connects local human security with global security, engages civil society with important security agendas on conflict prevention, counterterrorism and de-radicalization. It enables governments to build meaningful and trustful engagement and partnership with civil society on security matters. For further information, please see www.hscollective.org.

The International Centre for Counter-Terrorism – The Hague (ICCT) is an independent think tank and knowledge hub that focuses on information creation, collation, and dissemination pertaining to the preventative and international legal aspects of counterterrorism. The ICCT's work focuses on themes at the intersection of preventing and countering violent extremism and human rights- and rule of law-related aspects of counterterrorism. For further information, please see www.icct.nl.

Endnotes

¹ UN Security Council, S/RES/2178, 24 September 2014, para. 6.

² Spencer Ackerman, "Foreign Jihadists Flocking to Iraq and Syria on 'Unprecedented Scale'—UN," *The Guardian*, 30 October 2014, <http://www.theguardian.com/world/2014/oct/30/foreign-jihadist-iraq-syria-unprecedented-un-isis>.

³ Agence France-Presse, "'3,000 European Jihadis' Now in Syria, Iraq," 23 September 2014, <http://www.afp.com/en/node/2868569/>.

⁴ UN Security Council, S/RES/2178, 24 September 2014, para. 16.

⁵ UN Security Council, S/RES/2178, 24 September 2014, paras. 6(a), 2, 9.