

Advanced Summer Programme

Countering Terrorism: *Legal Challenges and Dilemmas*

29 August – 2 September 2016

PRELIMINARY PROGRAMME*

Monday 29 August (Day 1): Countering Terrorism: Introduction and Legal Frameworks

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| 08.45 – 09.00 | Registration |
| 09.00 – 09.30 | Opening Summer Programme, including Introduction Round Participants |
| 09.30 – 10.00 | Introduction of the Programme, Asser Academy (online learning platform) and (Internet) Facilities T.M.C. Asser Instituut |
| 10.00 – 11.30 | Defining Terrorism under International and Domestic Laws

Examines the various existing definitions of terrorism under international and domestic laws, exploring the reasons for the lack of a universally accepted definition, the usefulness/needlessness of such a definition and ways in which international organisations/governments/international and domestic courts deal with the lack of a universal definition. |
| 11.30 – 11.45 | Coffee & Tea Break |
| 11.45 – 13.15 | Essential Counter-Terrorism Paradigms: The War Paradigm vs the Law Enforcement Paradigm

Historically-based introduction to the two major paradigms in counter-terrorism: The war paradigm vs. the law enforcement paradigm. The presentation also includes an assessment of the effectiveness of these paradigms, including ways in which they have been deployed post-9/11. |
| 13.15 – 14.15 | Lunch |
| 14.15 – 15.30 | The Role of International Human Rights Law in Countering Terrorism and its Challenges

The lecture will identify trends and challenges in the unfolding inter-relationship between terrorism, counter-terrorism and human rights. Terrorism has a serious impact on human rights, but many of the measures adopted to counter terrorism have a corrosive effect on human rights and the rule of law. The lecture will explore how counter-terrorism strategies can be developed while respecting human rights. |
| 15.30 – 15.45 | Coffee & Tea Break |

15.45 – 17.00 **Extraordinary Rendition: Responsibility, Accountability and the Way Ahead?**

Building upon the previous lecture, this lecture will focus on a specific case study involving, among other things, human rights violations, namely extraordinary rendition. Taking as a case study the extraordinary rendition programme, issues of multi-state and individual responsibility in international law and approaches to truth, justice and accountability in practice will be explored. Among the developments to be considered are the recent judgements of the European Court of Human Rights in the case of Abu Zubaydah v Poland, and the repercussions of the ground-breaking report of the US Senate Intelligence Committee (December 2014).

17.30 – 21.00 **Welcome Dinner**

Tuesday 30 August (Day 2): A Closer Look at the Battlefield

09.00 – 10.30 **The Global War on Terror and Beyond**

Historical overview leading up to the Global War on Terror (GWOT) and its aftermath. The presentation will also look into the effects of the concept's use and what kind of role it has played in the counter-terrorism debate. It will also address the question whether countries nowadays, through an expansion of the powers of security agencies, strong language and resort to repressive measures, are not falling (again) into the 'post 9/11' trap, which has caused the excesses as exemplified by the previous lecture.

10.30 – 10.45 **Coffee & Tea Break**

10.45 – 12.15 **Targeted Killings and Detention Issues while Countering Terrorism**

This presentation will address targeted killings and detention issues in the context of counter-terrorism. The speaker will delve into not only the theoretical questions currently under discussion, including the applicable legal frameworks, in particular international humanitarian law, but will also discuss these issues from a more practical and operational standpoint.

13.15– 14.45 **The Use of Drones in Countering Terrorism**

Following up on the previous lecture, this presentation will look at a specific targeting mechanism, namely targeting via drones. The speaker will address the legality of specific drone operations, and will in addition discuss to what extent the use of drones is an effective counter-terrorism tool. Moreover, the speaker will also look into new topics on the counter-terrorism agenda: the position of EU member states on armed drones and targeting under international human rights law.

14.45 – 15.00 **Coffee & Tea Break**

15.00 – 17.00 **Movie tbc**

Wednesday 31 August (Day 3): From Investigation to Prosecution: How to Build a Terrorism Case?

09.00 – 10.30 From Intelligence Gathering to Intelligence Sharing

Among other things, this session will explore the 'Need to know' vs 'Dare to share' concepts. Have the Paris attacks led to more intelligence sharing with traditional and new allies? Is intelligence information only being used to start investigations or also used as evidence in court? And if so, how does this transformation take place? This session will also look more generally into the (expanding?) powers of the intelligence services.

10.30 – 10.45 Coffee & Tea Break

10.45 – 12.15 The Role of the Police in Countering Terrorism

In this presentation, the speakers will go into the role of the police in countering terrorism. Issues that will be addressed are the role of the police in investigating terrorism cases and the topic of community policing.

12.15 – 13.00 Lunch

13.00 – 14.00 The Protection and Use of Witnesses in Terrorism Cases

In this presentation, the protection and use of witnesses in terrorism cases will be discussed. What is the importance of using witnesses in terrorism trials? Which types of witnesses and protective measures exist? Can anonymous witnesses be used and if so, how can this be reconciled with a right to a fair trial? How should evidence of anonymous witnesses be weighed and what is the experience of international tribunals on this topic?

15.00 – 17.00 Visit to Eurojust

Thursday 1 September (Day 4): Countering and Trying Terrorists

10.00 – 12.30 Visit to the Special Tribunal for Lebanon

13.00 – 14.00 Lunch

14.00 – 15.30 Countering Terrorism at the Supranational Level: The Role of the UN and other International and Regional Players

In this presentation, the role of the UN, GCTF, CTED and other important international and regional players in countering terrorism will be addressed. How can the UN assist countries in prosecuting terrorists? What is the role of UN conventions and resolutions? What are currently the main issues at stake for the UN and other organisations? How is coordination and cooperation ensured among the different organisations?

15.30 – 15.45 Coffee & Tea Break

15.45 – 17.15

Countering Foreign Terrorist Fighters: The Prevention Side

In this session the speakers will provide a general introduction to the phenomenon of Foreign Terrorist Fighters (FTF), while focusing on the preventative dimension. Why do people go to Syria to fight? What are the push and pull factors? Is it possible to convince fighters-to-be not to go? How can local communities and civil society be engaged to counter violent extremism?

Friday 2 September (Day 5): Pressing Challenges in the Counter-Terrorism World

09.00 – 10.15

Countering Foreign Terrorist Fighters: The Repression Side

Following up on yesterday's session, this session will provide a more general introduction to possible measures in countering the FTFs threat, with a specific focus on the repressive dimension. Which are the legal frameworks at the international, regional and national level to counter FTFs? What is the role of UNSCR 2178 (2014) and the GCTF's Hague Marrakech Memorandum? Some attention will also be paid to travel restrictions and the withdrawal of passports and citizenships.

10.15 – 10.30

Coffee & Tea Break

10.30 – 12.00

Prosecuting Foreign Terrorist Fighters: a Dutch Perspective

Yet again following up on the general overview of the last session, this session will feature a Dutch counter-terrorism prosecutor, who was involved in the biggest counter-terrorism case in the Netherlands in years (the Context case). He will examine in detail how to prosecute FTFs on the national plane. Which kinds of court procedures exist to try them? What are the legal and practical challenges involved in these cases? Who can be held responsible for FTF-related activities? Can prosecution be initiated before FTFs leave for the conflict or only after they have returned? Can recruiters or those who incite others to become FTF be held criminally responsible? Which laws are being used - existing domestic laws, terrorism legislation - or are new laws being drafted to criminalise the issue of FTFs?

12.00 – 12.45

Lunch

12.45 – 14.00

Written Evaluation (*library*)

14.00 – 14.30

Closure and Certificate Ceremony

14.30 – 15.00

Coffee & Tea Break

15.00 – 17.00

High Level Panel on “The Use of Administrative Measures in the Context of Foreign Terrorist Fighters”

How to handle suspected aspiring and returning foreign (terrorist) fighters (FTFs) is currently a highly debated topic in countries of origin, destination and transit. The decision whether and how to prosecute or apply administrative other measures to these individuals is very complex and should take into account a variety of factors, such as the availability of

sufficient evidence, the seriousness of the alleged crime(s) and the public interest to prosecute.

During the past years, several governments have decided to apply administrative measures to FTFs in certain circumstances. These measures include travel bans, confiscation of travel documents, prevention of re-entry, freezing of funds and cancellation of social benefit payments. Other measures include withdrawal from residence registers and the use of “travel disruption plans” consisting of different measures to prevent departures.

Are these measures proportional and what benchmarks should we apply when designing new legislation and policy? An expert panel will present the advantages and disadvantages of recently introduced administrative measures. This will be followed by a Q&A session with the audience.

17.00 – 19.00

Drinks

**Please note that this programme is subject to change*