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FOREIGN FIGHTERS AND JIHADISTS: CHALLENGES FOR INTERNATIONAL AND EUROPEAN SECURITY

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I. INTRODUCTION - II. FOREIGN FIGHTERS AND JIHADISTS - III. IMPACT OF FOREIGN JIHADI FIGHTERS ON INTERNATIONAL SECURITY AND THE MEMBER STATES OF THE EUROPEAN UNION - IV. CONCLUSIONS.

ABSTRACT: Over the past three years the number of foreign fighters either resident in Europe or of European nationality fighting in conflicts in Syria and Iraq has increased. Most of them share radical Islamist religious motivations, and many States and international institutions classify them as terrorists or potential terrorists. In this study we aim to identify and characterize the phenomenon of foreign fighters starting from a historical perspective until reaching their impact on current international security relations. This work also analyses the causes why some groups of foreign fighters might pose a greater danger to national security than in earlier periods, and the reasons why the increase in the number of foreign fighters in armed conflict generates a series of changes in conflictual international relations. Finally it analyses the fundamentals of the measures proposed by the Security Council, the European Union and international cooperation forums to deal with the danger posed by foreign fighters of European origin, especially those proposals that impose sanctions as well as those that prefer to tackle the problem from a preventive and rehabilitative perspective of the individual.

KEYWORDS: Foreign fighter, jihadist, international security, european security.

COMBATTANT ÉTRANGER ET DJIHADISTES: DÉFIS DE LA SÉCURITÉ INTERNATIONALE ET EUROPÉENNE

RÉSUMÉ: Le nombre de combattants étrangers de nationalité ou résidence européenne qui se sont engagés dans les conflits en Syrie et en Irak a augmenté au cours des trois dernières années. La grande majorité d'entre eux partagent des motivations religieuses islamistes radicales, et ils sont à ce titre qualifiés par plusieurs États et institutions internationales de terroristes ou de potentiels terroristes. Dans cette étude, nous prétendons identifier et opérer une classification du phénomène des combattants étrangers, à partir d'une perspective historique et en prenant en compte son influence sur les relations internationales actuelles en matière de sécurité. De même, nous analyserons les causes pour lesquelles certains groupes de combattants étrangers pourraient représenter aujourd'hui un plus grand danger pour la sécurité nationale que dans les époques passées, et les raisons pour lesquelles cet accroissement du nombre de combattants étrangers dans les conflits armés génère une série de changements dans les relations conflictuelles internationales. Enfin, nous analyserons les fondements des mesures proposées par le Conseil de Sécurité, par l'Union Européenne et lors de forums internationaux de coopération pour faire face au danger

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que représentent les combattants étrangers d'origine européenne, notamment les propositions qui revêtent un caractère de sanction ainsi que celles qui préfèrent affronter le problème selon une approche préventive et de réhabilitation de l'individu.

MOT CLÉS: Combattant étranger, djihadisme, sécurité internationale, sécurité européenne.

COMBATIENTES EXTRANJEROS Y YIHADISTAS: RETOS PARA LA SEGURIDAD INTERNACIONAL Y EUROPEA

SUMARIO: En los últimos tres años se ha incrementado la cifra de combatientes extranjeros de nacionalidad o residencia europea que luchan en los conflictos de Siria e Irak. La mayor parte de ellos comparten motivaciones religiosas islamistas radicales, y muchos Estados e instituciones internacionales los califican de terroristas o potenciales terroristas. En este estudio pretendemos identificar y tipificar el fenómeno del combatiente extranjero partiendo de una perspectiva histórica hasta llegar a su incidencia en las relaciones de seguridad internacionales actuales. Igualmente se analizarán las causas por las que algunos grupos de combatientes extranjeros podrían suponer un mayor peligro para la seguridad nacional que en épocas anteriores, y las razones por las que el incremento del número de combatientes extranjeros en conflictos armados genera una serie de cambios en las relaciones conflictuales internacionales. Por último analizaremos los fundamentos de las medidas propuestas por parte del Consejo de Seguridad, la Unión Europea y foros de cooperación internacionales para afrontar el peligro que suponen los combatientes extranjeros de origen europeo, especialmente aquellas propuestas que tienen un carácter sancionador y, también, las que prefieren afrontar el problema desde una perspectiva preventiva y rehabilitadora del individuo.

PALABRAS CLAVES: Combatiente extranjero, yihadista, seguridad internacional, seguridad europea.

I. INTRODUCTION

Barely a year after the outbreak of the war in Syria, a number of research centres, think tanks and cooperation forums, many with important ties with the European Union and its Member States, focused much of their efforts in analysing the phenomenon of “foreign fighters” from very different points of view, such as: their origin, motivation, recruitment mechanisms and especially the consequences for European security of their countries of origin of a new generation of fighters of European nationality or residence once they return from conflict areas in which they have been fighting². After an extensive review of scientific articles, analyses

² Without seeking to be exhaustive, outstanding among the research centres and intergovernmental cooperation forums which have been intensively involved recently in this matter are: Foreign Policy Research Institute, The Soufan Group, Global, Counterterrorism Forum, Radicalization Awareness Network, International Center for Counter-Terrorism, King College, International Center for the Studies of Radicalization and Political Violence, Institute for Strategy Dialogue.

and technical reports that have been prepared on the issue in record time, we can draw the following preliminary conclusions: 1) most of these analyses consider that foreign fighters may be a real threat to the safety of their home countries, although there is no agreement on the nature, size and actual extent of the danger posed; 2) in recent times the figure of the foreign fighter has tended to be assimilated with the terrorist; 3) and the proposals made to deal with the danger posed by foreign fighters obviate the difficulties in tackling an investigation that offers accurate data on the type, profile, motivation and development of foreign fighters. It also sets out the difficulties in adapting to the idiosyncrasies of each of the Member States of the European Union, above all, those think that this issue has one dimension, primarily of national security.

Taking into account the review of the latest analyses on this issue, examining existing doctrine on the phenomenon of foreign fighters, before the wars in Syria and Iraq, and the study of the treatment the Security Council and the United Nations Member States of the European Union have given to this issue, in these pages we intend to address the phenomenon of foreign fighters starting from a historical perspective to reach their impact on current international security relations. In a second section, we will identify the reasons why some groups of foreign fighters from Europe today could pose a greater danger to national security than in the past, leading to a greater concern among national and international institutions. Likewise, we will examine the reasons why the increase in the number of foreign fighters in armed conflicts generate a series of changes in conflicting international relations, which affect the Member States of the European Union and virtually all States of the international community. Finally, the work addresses the fundamentals of the measures and proposals being developed by the Member States of the European Union to neutralize the danger posed by foreign fighters of European origin.

II. FOREIGN FIGHTERS AND JIHADISTS

Foreign fighters are considered to be those who join an insurgency during a civil conflict in countries of which they are not nationals³. Thomas Hegghammer adds that they have no previous ties to the state or the various warring factions, do not belong to any official military organization and are not profit-making, which

³ MALET, D., *Foreign Fighters: Transnational identity in Civil Conflicts*, Oxford University Press, New York, 2013, p. 9.

excludes them from the definition of mercenaries, although there is no evidence that foreign fighters do not receive pay as soldiers⁴. This definition excludes exiles and refugees from the country where the conflict develops and who return to join the insurgency. In principle, the foreign fighter can be differentiated from the terrorist, who often acts in an area outside the armed conflict and against civilians⁵.

However, since 2012, the flow of foreign fighters to Syria has increased substantially, which has led to the inclusion of other figures such as jihadi or terrorist in the category of foreign fighters. The confusion over the term foreign fighter with terrorist and jihadist is due in large part to the stereotype that the media offer. A study on Italian right-wing foreign fighters in Ukraine by Agenfor Media, an Italian agency for investigative journalism, shows that radicalization is an ancient, global phenomenon that is not only associated with Islam⁶. Islamist narrative is only part of a broader phenomenon, and if we do not understand that reality, we can hardly know the roots of the problem and devise effective policies of de-radicalization. Therefore, we must take into account the different circumstances of foreign fighters, which is a phenomenon linked to radicalization, but also appreciate that radicalization can have secular and nationalist roots and, at other times, the roots are religious, whether Jewish (fighters in the conflict in 1948 in Israel), Christian (as Sutoro Christian militias in Syria or the Christian group Dwekh Nawsha, fighting in Iraqi Kurdistan) or Islamist (Afghanistan, Burma / Myanmar, Bosnia, Libya, Kashmir, Syria, etc.)⁷.

David Malet, a professor of Colorado State University (USA) addressed the phenomenon of foreign fighters from a historical and comprehensive perspective (*The Foreign Fighter Project*), concluding that foreign fighters are neither a new

⁴ CANNY, N., "A Mercenary World: "A Legal Analysis of the International Problem of Mercenarism", *University College Dublin Law Review*, Vol. 3, 2003, pp. 33-56 and LIU, H. J., "Mercenaries in Libya: Ramifications of the Treatment of 'Armed Mercenary Personnel' under the Arms Embargo for Private Military Company Contractors", *Journal of Conflict and Security Law*, Vol. 16, N° 2, 2011, pp. 393-319.

⁵ HEGGHAMMER, T., "The Rise of Muslim Foreign Fighters. Islam and the Globalization of Jihad", *International Security*, Vol. 35, N° 3, 2010/2011, pp. 57-58.

⁶ "Italian Right Wing Extremists As Foreign Fighters in Ukraina", *Foreign Fighters: A Critical Analysis*, Annex 2, Agenfor Media, 2014, <<http://www.agenformedia.com>>.

⁷ In the final Report of the Europeo EURAD project(www.euradinfo.eu) there is a large number of interviews with non-Islamist foreign fighters who are now fighting for Christian militias Dwekh Nawsha on the Kurdish side. Likewise there are interviews with an interesting number of Italian soldiers fighting in the ranks of Ukrainian forces against pro-Russian independents (BIANCHI, S., *Is Islamism a Threat? A New Comprehensive Model to Counter the Obscure Heart of Radicalism*, Agenfor Italia, EURAD Project, 2015, pp. 26-35).

phenomenon nor exclusively Islamist⁸. Malet identified the first foreign fighters in the War of Independence of Greece in 1820, in which Lord Byron fought, through to the pan-Arab volunteers who fought against the Zionist movement in the 1940s to the Spanish civil war, which featured recruitment centres in Moscow and Paris, among others, from where between 35,000-50,000 volunteers departed and entered Spanish territory to fight alongside either the Republican forces or the Franco Nationalists⁹.

At present, large contingents of Western fighters are fighting without religious motivations in the Ukrainian conflict, both on the side of the Ukrainian government forces and on the pro-Russian side; others are supporting Christian minorities in Syria and Iraq. They are participating in the conflict assisting Kurdish forces in northern Iraq, including foreign fighters from Shi'ite Iran, Iraq or Lebanon in Syria fighting alongside the forces of Bashar al-Assad¹⁰. However, certain common aspects can be found between current foreign fighters and European leftists or liberals who fought in the Republican ranks in the Spanish civil war, such as the disappointment of thousands of young people unemployed after World War II, many of them descendants of second-generation migrants, who suffered from the stagnant economy, lack of integration and opportunities¹¹. And although the contingent of foreign fighters in Syria is not the most numerous throughout history¹², today it receives most of the media, academic-scientific and political

⁸ *The Foreign Fighter Project* (2007), <<http://www.foreignfighter.com>> and *Foreign Fighters: Transnational Identity in Civil Conflicts* (2009), <http://www.proquest.com/products_umi/dissertations>.

⁹ LEVENBERG, H., *Military Preparations of the Arab Community of Palestine, 1945-1948*, Frank Cass, Portland, 1993, pp. 41-43 and JOHNSTONS, V. B., *Legions of Babel: The International Brigades in the Spanish Civil War*, Penn State University Press, University Park, 1967, p. 37.

¹⁰ Barrett calculates that the contribution of combatants from Hezbollah to help the Assad regimen was between 3000-4000 individuals at the end of 2014 (BARRETT, R., *Foreign Fighters in Syria*, The Soufan Group, June 2014, p. 11).

¹¹ In MENDELSON, B., "Foreign Fighters-Recent Trends", *Orbis*, Spring 2011, pp. 190 -191.

¹² Among the analyses published on armed conflicts with a high number of foreign fighter, the following can be recommended: DAVIS, A., "Foreign Combatant in Afghanistan", *Jane's Intelligence Review*, Vol. 5, N° 7, 1993, pp. 327-331; BRUCE, J., "Arab Veterans of the Afghan War", *Jane's Intelligence Review*, Vol. 7, N° 4, 1995, pp. 178-180; BROWN, V., "Foreign Fighters in Historical Perspective: The Case of Afghanistan", in Brian Fishman (ed), *Bombers, Bank Accounts and Bleedout: Al-Qaida Road In and Out of Iraq*, West Point, New York, Combating Terrorism Center, 2008; KOHLMANN, E. F., *Al-Qaida's Jihad in Europe: The Afghan-Bosnian Network*, Berg, London, 2004; SCHINDLER, J., *Unholy Terror: Bosnia, al-Qaida, and the Rise of Global Jihad*, Sta. Paul, Minn: MBI, 2007; BATAL AL-SHISHANI, M., *Rise and Fall of Arab Fighters in Chechnya*, Jamestown Foundation, Washington, 2006; WILLIAMS, B. G., "Al-Iha's Foot Soldiers: An Assessment of the Role of Foreign Fighters and Al-Qaida in the Chechen Insurgency", in Moshe Gammer (ed.), *Ethno-Nationalism, Islam, and the State of Caucasus: Post-Soviet Disorder*, Routledge, London, 2007, pp. 156-178; HEWITT, Chr. y KELLEY-MOORE, J., "Foreign Fighters in Iraq: A Cross-

attention for several reasons¹³.

In the first place, since the 1980s, the number of foreign fighters for Islamist religious reasons has increased in conflicts such as Bosnia, Kashmir, Chechnya, Afghanistan, Libya and Syria, with figures ranging from 10,000 to 30,000 individuals. Moreover, it is the group that has participated in the largest number of far-reaching, international conflicts such as Iraq, Syria and Afghanistan. They have transnationally recruited networks, occasionally connected or led by international terrorist groups like Al-Qaeda or, now, Islamic State, which is what constitutes the major threat to current international society. However, it is a rather heterogeneous group so far as its ideology, support and aspirations are concerned, if we bear in mind the movement from the Six-Day War to the present conflict¹⁴. For Michael Noonan, we are experiencing a third great wave of Muslim foreign fighters: the first wave is that consolidated as a result of the invasion of Afghanistan and the second is the product of conflicts such as Bosnia-Herzegovina and conflicts in Chechnya or Kashmir. This third wave has a network of seasoned fighters, who are based in countries such as Algeria, Egypt, Bosnia-Herzegovina and Chechnya and who, through the mass media offered by Al-Qaeda and others have been able to improve the fabric of recruitment¹⁵.

In the second place, the most recent analyses show the war in Syria as an incubator of a new generation of foreign fighters, considering that about 12,000 men and women from 81 different nationalities have moved to this area to take part in hostilities, of whom it is estimated that between 2500-3000 are Western nationals, mostly European. Of that amount, they calculate that at least 2,500 have European nationality, but the vast majority of foreign fighters in Syria and Iraq are from neighbouring countries¹⁶. Gilles de Kerchove, coordinator of the European

National Analysis of Jihadism”, *Terrorism and Political Violence*, Vol. 21, N° 2, 2009, pp. 211-220.

¹³ HEGGHAMMER, T., “The Rise of Muslim Foreign Fighters. Islam and the Globalization of Jihad... *cit.*”, p. 53.

¹⁴ PEETERS, B., *Choosing Battles. A Cross-Case Analysis of Seven Muslim Foreign Fighters Mobilization (1980-2014)*, Masterthesis, Utrecht University, 2014.

¹⁵ NOONAN, M. P., *The Foreign Fighters Problems, Recent Trends and Case of Studies. Selected Essays*, Foreign Research Institute, Philadelphia, 2011.

¹⁶ RAND, D. and VASSALO, A., “Bringing the Fight Back Home. Western Foreign Fighters in Iraq and Syria”, Center for New American Security, *Policy Brief*, August 2014 and NOONAN, M. P., “15,000-Plus for Fighting: The Return of The Foreign Fighters”, *War on the Rocks*, <http://warontherocks.com/2014/10/15000-plus-for-fighting>. Other equally alarming numbers are those given by the *International Center for Counter-Terrorism* of The Hague, when it announced that the Westerners displaced in the Syrian conflict 2013, between 120 and 150 were Australians (ZELIN, A. Y., *ICSR Insight: Up to*

Union anti-terrorist struggle, estimated that in 2014, around 2,000 citizens of the 28 states of the European Union were fighting on the Syrian front, while a year earlier the figure was 500¹⁷. However, the differences in figures offered by the research institutes and think tanks generate much confusion about the accuracy of the data collection and the analyses developed on the basis of these. Some of these institutions are the *Foreign Policy Research Institute*, which estimated that between 6,000 and 12,000 foreign fighters are fighting in the conflict in Syria, while King's College London gave the figure of 8500, only five months before¹⁸. However these figures do not distinguish between foreign fighters who fight within moderate groups in the Free Syrian Army or individuals carrying out humanitarian work from those who have joined radical and extremist groups. In this sense James Clapper, Director of USA National Intelligence pointed out that the number of foreign fighters in Syria, in January 2014, was slightly higher than 7,000 individuals from 50 countries, well below that offered by other institutions for the same period¹⁹. These figures, in any event, are alarming when compared with the movement of Muslim fighters from Afghanistan and the Soviet invasion to the various conflicts in which they have participated until 2001, which is estimated at some 10,000²⁰.

It is evident that the differences in figures, and the extent of the range offered make us wonder what data are used to make these estimates and if they are checked in the field because to do so would be difficult and risky. In addition, in cases in which they have been checked, the falsity of some of these figures has been demonstrated. As Agenfor Media points out in its research, the English Institute, *11,000 Foreign Fighters in Syria; Steep Rise Among Western Europeans*, The International Center for the Studies of Radicalization, 17 December 2013, <<http://icsr.info/2013/12>>).

¹⁷ Counter-Terrorism Coordinator for the European Union, Briefing on 29 April 2014.

¹⁸ Foreign Policy Research Institute, "Foreign Fighters in Syria and Beyond", FPRI, Symposium and Webcast, 23/11/2013 and <<http://icsr.info/2013/12/icsr-insight-11000-foreign-fighters-syria-steep-rise-among-western-Europeans/>>. See also the numbers given by the *Institute for Strategic Dialogue* in 2014, which pointed out that between 6.000 and 1.000 foreign fighters go to Syria every year, of whom 10% were Europeans (BRIGGS, R. and FRENETT, R., "Foreign Fighters, The Challenge of Counter-Narratives, *Policy Report*, 2014, pp. 8-9).

¹⁹ "The great majority of foreign fighters appear to join extremist groups. One reason for this is the chronic failure of mainstream rebel forces to fight effectively and work together, which has led to maintain their influence rather than build a force capable of taking on the Syrian Army. By contrast, the more extreme groups, especially those with a high number of foreign fighters, are better resourced, fight harder, are more disciplined, and better motivated. This give them advantages, both against government forces and when competing for recruits or territory with other rebel groups. A further reason is that extremist group are better able to absorb foreigners who may not speak Arabic and generally have no military training" (BARRETT, R., *Foreign Fighters in Syria, op. cit.*, p. 10).

²⁰ *Ibid.*, p. 14.

International Centre for the Studies of Radicalization and Political Violence (ICSA), in April 2013 announced that eight Swiss citizens were fighting jihad in Syria²¹. In December of that same year, the same ICSR corrected the data, lowering it from 8 to 1 Swiss Islamist jihadist in Syria. Agenfor Media, in its desire to shed light on the veracity of the information, went to the field to locate the alleged Swiss Islamist, who happened to be a young Christian from Locarno, Johan Cosar, who had travelled to Syria to train Sutoro Christian forces, fighting alongside the Kurds against Al Qaeda and Islamic States. As a result of this investigation, it cannot be said that all those who go to Syria to fight are jihadists and join what are considered criminal or terrorist organizations. Many are struggling in insurgent groups who even have some international legitimacy. Hence, the question that we have to ask is: 'Where were these figures obtained?' The truth is that they were obtained from the Internet, and on the basis of the statements and propaganda of jihadi recruitment networks, such as the Islamic State. During the research conducted by Agenfor, through its EURAD project funded by the EU, it found that the interest of jihadist recruitment organizations is basically to inflate the figures to publicize the success of their cause and the enormous number of people that they are identified themselves as part of the community they represent. The use of inflated figures contributes to associate, immediately, the idea of foreign fighter with radicalization, extremism and terrorism, to generate moods and design specific policies without a basis of accurate information²². The most worrying aspect of the methodology

²¹ The ICSR, in 2013, estimated that between 135-590 European foreign fighters travelled to Syria: Albania (1), Austria (1), Belgium (14-85), United Kingdom (24-134), Bulgaria (1) Denmark (3-78), Finland (13), France (30-92), Germany (3-40), Ireland (26), Kosovo (1), Netherlands (5-107), Spain (6), Sweden (5) and, in 2014, it estimated that at least 70 to 441 were still there. This represents between 7 and 10% of foreigners who are in the area (ZELIN, AY, "ICSR Insight: European Foreign Fighters in Syria" <http://icsr.archivestud.io/category/publications/insights>, 2014). The same year the same institution gave an impressive turn in the figures without explanation of the methodology used to obtain them, but indicated that information came from government, media and social groups of extremists who communicated over the network. In April of that year, the number of Europeans in Syria was between 135-590 and a few months later had become of between 396-1937, so that Europeans accounted for a total of 18% of foreign Fighters in the area (ZELIN, AY, and DAVID, A, "ICSR Insight: Up to 11,000 Foreign Fighters in Syria; Steep Rise Among Western Europeans", loc cit.). According to CNN, National Government, Pew Research, in 2014, about 800 Russian citizens, 700 French, 500 British, 300 Germans, 250 Belgians, 120 Dutch, 100 Americans, 250 Australians, 100 Danes, 50 Norwegians, 30 Irish and 30 Swedes were fighting in Syria <http://yle.fi/uutiset/cnn_finland_tops_list_of_countries_with_muslim_fighters_in_syria/7446816>. However, German authorities said in January 2015 that there were 600 Germans fighting in Syria, and have data of 378 individuals, of whom 89% were men and the mean age was 26.5 years (ICSR Insight: German Foreign Fighters in Syria and Iraq, <<http://icsr.info/2015/01/icsr-insight-german-foreign-fighters-syria-iraq>>).

²² AGENFOR MEDIA: "Foreign Fighters: Critical Analysis for Different Models of Exit Strategies. Ideas

used in obtaining these figures is the fact that people who work for the police and judiciary in the European Union Member States cannot go to verify them and make decisions on the basis of data that magnify the situation and do not give information about all the profiles and realities of what we have defined as foreign fighters. In other cases, it is the data of the police and intelligence services which are doubtful, providing approximate figures, or these of think tanks, from people who have travelled or have returned to their countries. Anyway, potential European fighters enjoy greater ease of travel to Turkey as tourists and later go to Syrian territory, making it difficult for authorities to identify individuals who wish to join the Islamist insurgent groups.

In the third place, the fate of these fighters is difficult to control, especially because the stories that are known are very different and range from returning to their countries of origin, those who decide to settle in the country where the conflict takes place, forming a family, who are willing to go from conflict to conflict, wherever the Muslim community feels threatened and attacked, and finally, those who die in combat or as suicide bombers. Therefore, there is great uncertainty as to the vital sequence of individuals who decide to join the insurgency, since the information is rarely obtained firsthand, and in most cases comes from the content appearing on social networks, which are controlled and monitored by the very groups that recruit the fighters²³. In this regard, what mainly alarms the authorities of European countries are the cases where their nationals fighting in Islamist groups subsequently return to their countries of origin with what intention the authorities cannot know. They fear that the number of foreign fighters of western origin, who have greater opportunities to travel without a visa, keep coming to Turkey and crossing the border with Syria to join the insurgents.

In short, foreign fighters of European nationality are not a new or homogeneous phenomenon. And it is not foreign fighters for ideological reasons who alert the police and intelligence services, nor those Europeans who during the 1980s and 1990s with an Islamist religious motivations who fought in the Afghan war against Soviet invasion, nor those foreign fighters who joined Bosnian Muslims, or those who fought in Kashmir. Only those who have moved to Syria and Iraq are foreign

for the Next Italian EU Presidency”, Agenfor Italia, *Policy Paper*, 2014, núm. 3, pp. 6 and 7.

²³ These are the cases of Bekkay Harrach (alias Adu Talha al-Almani) and the American Abu Manosur al-Amriki who are known as media stars in their countries and in others (MENDELSON, B., “Foreign Fighters-Recent Trends... *cit.*”, pp. 199).

fighters and who have aroused the greatest fears for the safety of European states and national security; issues that will be addressed in the next section of this study.

III. IMPACT OF JIHADIST FOREIGN FIGHTERS ON THE INTERNATIONAL SECURITY AND ON THE MEMBER STATES OF THE EUROPEAN UNION

As shown in the previous section, Europeans with a Salafist Islamist ideology fall within the category of foreign fighters, who seek to move and who either go to or return from conflict in Syria and Iraq, who are identified as a threat to international security and specifically for European security. European fighters who are struggling in other countries and not religiously motivated, or are in Iraq and Syria fighting in defence of Christian minorities are excluded. Therefore, the analysis of the phenomenon and the proposed measures are limited to one type of foreign fighter distinguished by their nationality or place of residence (European), for their motivation to fight in a foreign country (Salafi Islamist, known as jihadist) and the geographical area to which they go to fight (Syria and Iraq), who seem to pose a danger to international and European security. These justify both the level of alarm and the nature of the steps which are being designed and taken to confront them, and they will be discussed in the final section.

1. FOREIGN FIGHTERS AND EUROPEAN SECURITY

The problems raised for European security by the group of jihadist foreign fighters is founded on the belief that the phenomenon transcends the activity of these individuals in the battlefield. That is, that the motivations which the individual had and which led to a radicalization process did not end when he was recruited, and were only the beginning of a life cycle that does not end when he reaches the battlefield, but will continue, entering a spiral of radicalization that may make him especially dangerous when he returns from Syria or Iraq. From there he may develop other activities that can further threaten European interests. First, he will become a recruiter of his compatriots and thus increase the number of foreign fighters in these conflicts by designing content or propaganda messages that reveal that the Muslim community in these countries is terribly threatened and needs help. Taking into account technological progress, a small number of foreign fighters returning to their European countries can have a major impact through social networks in

their countries of origin²⁴. Besides, his activity will be even more effective if he is able, boasting of his experience, to highlight the most positive aspects of joining other fighters who have been his family in the battlefield, thus enjoying elements of identity and integration which he had not enjoyed in Europe.

Second, foreign fighters of European nationality or residence return with a knowledge of military issues and can serve as trainers of new fighters, giving oxygen to the vicious cycle of radicalization. This training can even affect individuals who have no intention of going to fight in Syria, but wish to become “internal combatants” and carry out terrorist attacks on European soil. This hypothesis is not at all far-fetched, considering the cases of individuals of Australian, New Zealand or French nationality who underwent a process of radicalization virtually alone and who have attacked goods and people from their own countries, which the Islamic State has not hesitated to profit from and promote²⁵.

Thirdly, foreign fighters of European nationality can become part of the chain of command of jihadist terrorist organizations, in which Western citizens are of great strategic and logistical value, ready to threaten Western interests. This was the case of many combat veterans of the Afghan war against the Soviet invasion, whose recruitment activities had a major impact elsewhere, such as the civil war in Algeria, the emergence of jihadi groups in Egypt against the regime of Hosni Mubarak, the Chechen rebellion against Russia, military attacks on towns in the Philippines and Somalia or the war in Bosnia-Herzegovina. To these we should add that it was the veterans of the war in Afghanistan who created the Al-Qaeda organization and planned the 11 September 2001 attacks against the US, as well as a series of internal conflicts²⁶. According to Barrett, although foreign fighters may

²⁴ KLAUSEN, J. Y., “Tweeting the *Jihad*: Social Media Networks of Western Foreign Fighters in Syria and Iraq”, *Studies in Conflicts and Terrorism*, Vol. 38, 2015, pp. 1-22.

²⁵ One of these examples was the attack of the Masked Brigade, affiliated to Al Qaeda, on 16 January 2013, in a gas central generating station in Tigantourine (Algiers), in which the terrorists took 800 hostages, 130 of whom were foreigners (SINKKONEN, T., “The EU’s Toolbox for Responding to Terrorism Abroad”, The Finnish Institute of *International Affairs Briefing Paper*, N° 129, 2013). An even more direct blow was that perpetrated by Mohamed Merah, a young Frenchman of Algerian origin who turned to Salafism in prison and who made two journeys to Afghanistan and Pakistan where he was allegedly trained by al Qaeda. In March 2012 he killed seven people, French military and Jewish fellow citizens (BAKKER, E., PAULUSSEN, Chr. and ENTENMANN, E., “Dealing with European Foreign Fighters in Syria: Governance Challenges and Legal Implications”, International Centre for Counter-Terrorism, *Research Paper*, The Hague, December 2013, p. 5). See, too, some examples in the Spanish case in JAVIER JORDAN ENAMORADO, “The Evolution of the Structure of Jihadist Terrorism in Western Europe: The Case of Spain”, *Studies in Conflict and Terrorism*, Vol. 37, N° 8, 2014, pp. 654-673.

²⁶ MENDELSON, B., “Foreign Fighters-Recent Trends”, *loc. cit.*, pp. 191 and ff.

not return as terrorists to their respective countries, they will do so if they have been exposed to an environment marked by deep radicalization and violence, and their behaviour therefore is unpredictable, “The grinding brutality of the conflict will lead to yet more traumatized young men becoming accustomed to violence and ready to carry their binary worldview back home or a new front. Not only will they be able and willing to commit acts of terrorism, but they will also be in touch with a wide network of fellow fighters to whom they are likely to feel a greater sense of loyalty than to any other community”²⁷. This was the case of Mehdi Nemmouche, a French citizen and author of the attack at the Jewish Museum in Brussels on 24 May 2014 in which four people died. He returned from Syria after fighting there for several years, marking the first time that the war in Syria hit directly in the territory of the European Union. Until July 2015, Nemmouche has been the only case of a foreign fighter returning and deciding to continue the jihad on European soil²⁸.

2. FOREIGN FIGHTERS AND INTERNATIONAL SECURITY

The recruitment of foreign jihadi fighters also poses a serious problem for international security in general, and may modify some important aspects of international security relations, which will influence the position of many States of the international community, especially Western ones.

The first of these aspects is the *increased potential military power of non-state actors*, which now disputes the monopoly of State forces that, so far, have kept it and used it to influence the conflicts that develop in the territory of other States by more or less direct support either to the insurgency or to government institutions. Foreign jihadist fighters are presented as an alternative to professional armies, acting mainly in asymmetric conflicts, where one of the parties is not a governmental actor but rather a guerrilla or insurgent group, using surprise attacks, sometimes suicide attacks with light weapons with minimal military training and combat experience.

Foreign fighters may also reduce the influence of States that have always been the protagonists of armed conflicts. Although not a new phenomenon, currently they have a higher prevalence in armed conflicts and in their classic actors than in the past, like the Cold War, when they constituted an instrument of interference by the international powers in internal conflicts, therefore they were not only tolerated

²⁷ BARRETT, R., *Foreign Fighters in Syria*, *op. cit.*, pp. 7 and ff.

²⁸ BYMAN, D. and SHAPIRO, J., “Homeward Bound; Bosnia and Somalia”, *ICCT Background Note*, June 2014 and MAHER, S., “Foreign Fighters in Syria: A Threat at Home and Abroad?”, *Chatham House*, p. 10.

but facilitated the task, as happened during the invasion of Afghanistan, where foreign fighters became the best way to counter the progress of the USSR, short of a direct confrontation between the two superpowers²⁹. Something similar occurred during the Bosnian conflict, and thanks to the incorporation of foreign fighters it was less difficult to push back the Serbian occupation and achieve a map of Bosnia-Herzegovina in accordance with European interests³⁰.

Second, foreign fighters *serve as global objectives of international terrorist groups*. The number of foreign fighters in Syria and Iraq without military knowledge and who are only useful as suicide bombers has grown, it could also be due to the difficulties in providing training for such a large number of volunteers. In Syria, the ratio of foreign fighters of European nationality and residence with groups considered terrorist such as Ahrar al-Sham, Jabhat al-Nusra and the Islamic State, all created by individuals from the ranks of al-Qaeda, is more than proven. As these groups increase the number of foreign fighters through their networks of international contacts, they also increase their chances of attacking western interests, hobbies and people and on western territory and could promote it among foreign fighters who return to their countries of origin³¹.

In short, in conflicts with such a high number of foreign fighters as in Syria and Iraq, a process of privatization of the objectives of the conflict is developing, widely influencing the elements of power of the classic actors of the conflict. Currently, we are in a period in which foreign fighters maintain greater independence from third countries and, therefore, their ability to assert private influence. Moreover, they are able to challenge government forces to derail the state model and become indispensable to the negotiations and other peaceful means of dispute settlement. From the moment affecting the objectives of the insurgent groups and defending other transnational actors, they contribute to eroding the state monopoly in international relations, preferring the battlefield where this task is much easier. Therefore, Paul Overby shows that the ideologolization of Islam among foreign fighters, which was begun by Absullah Azzam, is not developing with the struggle for the rights of Muslims who are in their home countries, where the institutions

²⁹ EMADI, H., *State, revolution, and superpowers in Afghanistan*. Greenwood Press, New York, 1990.

³⁰ BLACKBURN, R., "The Break-up of Yugoslavia and The Fate of Bosnia", *New Left Review*, 1993, p. 100.

³¹ TOPAL, O. F., "Foreign Fighters Involvement in Syria and Its Regional Impacts", *USAK Yearbook*, Vol. 6, 2013, pp. 285-289.

are long-established and there are mechanisms guaranteeing rights. Its struggle is concentrated in Islam on the periphery, where the community does not have strong political institutions, governments are unable to exercise their sovereign functions and the state can be described as failed. There, in those devastated areas is the place where theoretically a successful and exemplary community can be built, expelling the oppressors³².

Thirdly, the increase in the number of foreign fighters in insurgent groups *modifies a certain quantitative and qualitative balance of forces of the parties who are fighting and which intensifies the situation of violence* experienced by the civilian population. Foreign fighters have a different motivation, but sometimes greater and more intense than that of local fighters, which has led them to leave their countries, travelling thousands of kilometres to unknown countries to risk their lives, and this determines their attitude within the insurgent group and the intensity of their actions. While local insurgency is normally focused on bringing about a change of regime or government, because of discrimination in participation in political life, distribution of wealth and violations of fundamental rights suffered by part of the population for political, religious or ethnic reasons, foreign fighters are usually motivated by a desire to contribute to spreading a number of political or religious ideals, identifying with the oppressed population whom the local insurgency represents. They have international objectives, and their actions usually respond to a logic with a greater reach than the local insurgency, even seeking to create an ideal Islamic state³³. Moreover, as the duration of the conflict increases, the greater the chances that young people who are crowded in refugee camps in Syria will decide to join insurgent groups and serve as combatants or simply as suicide bombers, making the conflict even tougher.

Finally, foreign fighters also contribute to *the incorporation of other private actors in the conflict*, from the moment that public actors are unable to meet or counteract the actions of these individuals. Foreign fighters have their own international support, from States or transnational communities that fund them, provide them with military equipment, proper training and suitable logistics³⁴. Increasing conflict

³² OVERBY, P., *Holy Blood. An Inside View of the Afghan War*, Westport, Conn, Praeger Books, 1993, p. 190.

³³ DE ROY VAN ZUIJDEWIJN, J. and BAKKER, E., "Returning Western Foreign Fighters: The Case of Afghanistan, Bosnia and Somalia", *ICCT Background Note*, International Centre for Counter-Terrorism, The Hague, June 2014, pp. 2 and ff.

³⁴ In this sense the Security Council requested the Group of Experts established within the

areas, accompanied by greater involvement of civilians and combatants who are not parties to regular armed forces have expanded the demand for conventional weapons, especially light weapons and small arms. Also, organized criminal networks have found a new client to provide weapons through their smuggling routes or even to act as intermediaries for private aid coming from other areas and provide transport and equipment for foreigner fighters³⁵.

The incorporation of foreign fighters in local insurgencies and the ties they have with transnational groups that recruited them stimulate a war economy where resources come mainly from abroad, as the economic and productive fabric and infrastructure of the State are affected by the destruction, and it is impossible to carry out productive activities safely³⁶. Especially in cases where governments fail to control and use their powers over the natural and economic resources of the country, the reliance on external funding is even more serious³⁷.

IV. MEASURES TO OFFSET THE SECURITY PROBLEMS GENERATED BY ISLAMIST FIGHTERS OF EUROPEAN NATIONALITY OR RESIDENCE

One of the main challenges currently faced by States and international institutions is not only to assess the extent of the danger posed by the increase of foreign fighters in conflicts such as Syria or Iraq, from the moment in which in addition to introducing important elements modifying conflicting international relations, negatively affecting international security as a whole, they also pose a direct threat to the security of States of which these fighters are nationals. This

Committee created by Resolution 1970 (2011) to evaluate the dangers that Libya represents in the current situation in the proliferation of arms and international terrorism and prepare a report about it. See MIKAIL, B., "Los múltiples restos de la reconstrucción de Libia", *Political Brief FRIDE*, N° 72, 2012, pp. 3 and ff. and also AMIRAH FERNÁNDEZ, H., "El fin de Gadafi y la difícil (pero no imposible) construcción de una Libia estable y próspera", *ARI del Real Instituto Elcano*, N° 91, 2011, pp. 9-13.

³⁵ BAPAT, N.A., "State Bargaining with Transnational Terrorist Groups", *International Studies Quarterly*, Vol. 50, N° 1, 2005, pp. 231-229 and RUSSELL, J., "Non States Actors and the 2016 Proliferation Environment", *The Nonproliferation Review*, Vol. 13, N° 3, 2006, pp. 645-657.

³⁶ Thomas K. DUNCAN and Christopher J. COYNE, "The Overlooked Costs of the Permanent War Economy: A Market Process Approach", *The Review of Austrian Economics*, Vol. 26, N° 4, 2013, pp. 413-431.

³⁷ In the case of Iraq, it is the insurgent Group that benefits from the infrastructure and natural and energy resources; it begins to exploit and market them, so carrying out the basic functions of the State, developing an alternative economic scheme to the extent of one of the factions of the conflict and its interests (WATKIN, K., "Targeting "Islamic State" Oil Facilities". *Int'l L. Stud. Ser. US Naval War Col.*, Vol. 90, 2014, pp. 499 and ff., and EMERY, Cr., *After 13 years of criticism, Washington now needs to work with Iran to prevent disaster in Iraq*, LSE American Politics and Policy, 2014).

occurs when the process of radicalization leads them to motivate and train future internal fighters and foreigners and finally, to use their knowledge to perpetrate terrorist attacks in their own states. To confront this, the basis of the strategy has been designed by the UN Security Council and consists, first, in criminalizing the phenomenon and encouraging States to develop border control measures, in addition to administrative and criminal sanctions that may stem the flow of those who decide to travel to or return from Syria and Iraq and to deter others not to do so. And secondly, to encourage States to cooperate in the exchange of information, data and best practices, to address a problem that transcends state borders and requires a process of cooperation and coordination between the intelligence services and police in many States³⁸.

In principle, fighting in a foreign conflict is not prohibited by international law. In the context of an international armed conflict, international humanitarian law recognizes the figures of combatants, civilians and others affected by the fighting (wounded, sick and prisoners of war). Civilians and combatants have special protection recognized in the Geneva Conventions of 12 August 1949. Although these agreements do not specifically define the term of fighters, it does give them the right to participate directly in hostilities, and recognized that they cannot be persecuted for acts of war committed during the fighting, in addition to obtaining the status of prisoner of war in case of being captured by the enemy³⁹. In any event, foreign fighters are subject to national law in internal armed conflict, even though their actions are fully regulated in international humanitarian law⁴⁰.

³⁸ Security Council Resolution 2178(2014) of 24 September (S/RES/2178(2014), See too the following resolution on the matter: Resolutions 1267 (1999), 1333 (2000), 1363 (2001), 1373 (2001), 1390 (2002), 1452 (2002), 1455 (2003), 1526 (2004), 1566 (2004), 1617 (2005), 1624 (2005), 1699 (2006), 1730 (2006), 1735 (2006), 1822 (2008), 1904 (2009), 1988 (2011), 1989 (2011), 2083 (2012), and 2133 (2014).

³⁹ The definition of combatant, therefore, can be inferred from that of the prisoner of war under Article 4 of the Third Geneva Convention and Article 44 of Additional Protocol I of 1977. These provisions include only the regular armed forces, members of other armed militias, members of other volunteer corps and organized resistance movements provided that they all belong to one of the parties to the conflict, regardless of nationality. Foreign fighters cannot be classified as mercenaries under international law from when they do not pursue profit when participating in hostilities (Article 47 of Additional Protocol No. 1 of 1977 to the Geneva Conventions, Article 1 of the Convention UN against the recruitment, use, financing and training of mercenaries and Article 1 of the Convention of the Organization of African Union to eliminate the mercenaries of 1972).

⁴⁰ The USA excludes foreign fighters from the IV Geneva Convention which forbids transferences of individuals protected by International Humanitarian Law between State territories to another authority (REYES PARRA, P. D., "Los Detenidos de Guantánamo en el Contexto de la "Guerra Contra el Terrorismo y El Derecho Internacional de los Derechos Humanos". *Docentia et Investigatio*, Vol. 10,

However, States and international organizations like the European Union and United Nations classify as terrorists individuals with a double condition: involvement in an internal armed conflict while at the same time being linked to terrorist groups, identified as such, in lists drawn up by USA and government organizations mentioned above. For example, the Security Council has called Islamic State and Jabhat al-Nusra terrorist groups and condemned their actions as terrorism, even though the individuals within their ranks and fight in the Syrian conflict are foreign fighters and they are subject to international humanitarian law⁴¹. Given that the legal body that governs the conduct of combatants in the field of either internal or international armed conflict is international humanitarian law, the question we might ask is to what extent in the development of combat an act can be considered as terrorist or criminal. In this regard, the International Commission of Inquiry found that in 2006 there was an armed conflict between Israel and Hezbollah, even though Israel had described Hezbollah as a terrorist organization⁴². This is because the purposes and the ideological motivation of a group are immaterial. The parties to a conflict are not required to follow a certain type of political agenda or reasons to be involved in armed violence.

But international humanitarian law prohibits terrorist acts in two cases: when referring to attacks against civilians with the aim of spreading terror, and when generally carrying out terrorist attacks against civilians not participating in the dispute or who have ceased to do so, without any offensive or defensive end. In short, although acts of terrorism might constitute a crime, its elements are not yet fixed⁴³. Armed groups, whether or not described as terrorist groups must respect

Nº 2, 2014, pp. 127-142).

⁴¹ Recalls that widespread or systematic attacks directed against any civilian populations because of their ethnic or political background, religion or belief may constitute a crime against humanity, emphasizes the need to ensure that ISIL, ANF and all other individuals, groups, undertakings and entities associated with Al-Qaida are held accountable for abuses of human rights and violations of international humanitarian law, urges all parties to prevent such violations and abuses; 4. Demands that ISIL, ANF, and all other individuals, groups, undertakings and entities associated with Al-Qaida cease all violence and terrorist acts, and disarm and disband with immediate effect; 5. Urges all States, in accordance with their obligations under resolution 1373 (2001), to cooperate in efforts to find and bring to justice individuals, groups, undertakings and entities associated with Al-Qaida including ISIL and ANF who perpetrate, organize and sponsor terrorist acts and in this regard underlines the importance of regional cooperation (Resolution 2170 (2014), 15 August 2014, S/RES/ 2170/2014, p. 3).

⁴² "Report of the Commission of Inquiry on Lebanon, pursuant to Human Rights Council Resolution S-2/1, DOC. A/HRC/3/", 23 November 2006, p. 62.

⁴³ GASSER, H-P, "Prohibición de los actos de terrorismo en el derecho internacional humanitario".

international humanitarian law, provided they are well organized and their actions, even those that may be described as clearly terrorist acts against civilians, are subject to the law governing armed conflict, as were the actions of the National Liberation Army of Macedonia, or the Revolutionary United Front of Sierra Leone, both classified as terrorist groups⁴⁴. However, individuals who are members of such groups who have committed crimes against humanity must be prosecuted, because neither combatant nor prisoner of war status grant immunity to perpetrators of such crimes; however, problems arise when states must obtain the evidence to prosecute those crimes, and in the best of cases only some audiovisual documents that can be found on the network are not always evidence⁴⁵.

Therefore, the application of the rules of international humanitarian law has become a very complex issue, from the moment that the identification of the parties to the conflict is complicated by recruiting these fighters, and it is they who control strategies and acts of many insurgent groups. Moreover, because of the dimensions this phenomenon has acquired, and the ties of recruitment networks and insurgent factions with groups that are considered international terrorists means that many States believe that the rules of armed conflict are not applicable to foreign fighters whom they simply consider as jihadist terrorists. Moreover, the situation became even more complex in 2014, when States want to qualify violent actions as terrorist acts, which develop during the fight, not only against civilians but also against other parties to the conflict. Thus, acts of foreign fighters appear to be in a legal limbo, which can hardly require international responsibility of them, although the States want to punish these practices, which in the past have been allowed and encouraged, now modifying their domestic legislation to prevent the exit and controlling the arrival of these combatants to their countries of origin⁴⁶.

The Security Council, like many States and the European Union, has automatically matched the figure of foreign fighters with terrorists, calling them

Revista Internacional de la Cruz Roja, 1986, Vol. 11, N° 76, pp. 208-221 and SÁNCHEZ LEGIDO, A., *Jurisdicción Universal Penal y Derecho Internacional*. Tirant lo Blanch, Valencia, 2004.

⁴⁴ SASSÒLI, M. and ROUILLARD, L. “La définition du terrorisme et le droit international humanitaire”, *Revue Québécoise de Droit International*, Hors-série (2007), pp. 31 and ff.

⁴⁵ BAKKER, E., PAULUSSEN, Chr. and ENTENMANN, E., “Dealing with European Foreign Fighters in Syria: Governance Challenges and Legal Implications”, *International Centre for Counter-Terrorism, Research Paper*, The Hague, December 2013, pp. 9-14.

⁴⁶ As happened in the case of the Bill for Organic Act which modified Organic Act 10/1995, 23 November, of the Spanish Penal Code on terrorism which punished “the displaced terrorist combatant” of an internal conflict in another State.

Foreign Terrorist Fighters in Resolution 2178 (2014), adopted unanimously by the members of the Council, and in which it condemns extremist violence and urges the Member States to prevent “recruitment, organizing, transporting or equipping of individuals who travel to a State other than their States of residence or nationality for the purpose of perpetration, planning of, or participation in terrorist acts”. To do so, the Security Council decided that all States shall ensure that their legal systems shall provide for the prosecution, as serious criminal offences, of travel or related training for terrorism as well as the financing or facilitation of such activities⁴⁷. The EU’s Framework Decision on Combating Terrorism proposed to define terrorism as any action that is intended to cause death or serious bodily harm to civilians or non-combatants, when the purpose of such act is to intimidate a population, or compel a Government or an international organization to do or to abstain from doing any act⁴⁸.

From the point of view of international law, according to the Academy of International Humanitarian Law and Human Rights in Geneva, it is a “simplistic and confused” association, as there is a branch of international law governing armed conflict and another different one that handles prevention and suppression of terrorism⁴⁹. Either way, a global treaty banning terrorism does not exist in international society, due to difficulties in reaching agreement on the definition of terrorism. There is no international treaty in force that condemns membership of a terrorist group or terrorist training, and certainly none of the treaties that exist in the fight against international terrorism includes acts related to issues in the context of a armed conflict, although it is true that the resolutions adopted by the Security Council strive to differentiate terrorists from the warring parties, especially when terrorists are parties to the armed conflict⁵⁰. But the Council also decided that

⁴⁷ Resolution of the Security Council 2178(2014) 24 September, p. 2, (S/RES/2178(2014)).

⁴⁸ “Islamist militancy combines a strict, literalist practice of Islam with a revolutionary political ideology, proclaiming a global community of believers (the Ummah) to be liberated and/or united under Islamic rule, and the belief that the most effective way to accomplishing this aim is through violence or armed struggle”, in *Recruitment and Mobilization for the Islamist Militant Movement in Europe*. A study carried out by King’s College London for the European Commission (Directorate General Justice, Freedom and Security), The International Centre for the Study of Radicalization and Political Violence, 2014, p. 7.

⁴⁹ “Foreign Fighters under International Law”, *Academy Briefing, loc. cit.*, p. 3.

⁵⁰ The States have reached agreements on certain aspects of terrorism as shown by: the International Convention for the repression of terrorist attacks committed with bombs of 15 December 1997; the International Convention for the repression of Financing of terrorism of 9 December 1999 and the International Convention for the repression of nuclear terrorism of 13 April 2005.

States shall prevent entry or transit through their territories of any individual about whom that State had credible information of their terrorist-related intentions, and require airlines to provide passenger lists for that purpose (...) outlining further measures for international cooperation to counter international terrorism and prevent the growth of violent extremism”⁵¹. In short, the Security Council intends to strengthen border controls, the control of travel documents, the development of sanctions and penalties for those who attempt to travel to or return from armed conflict provided that they have fought alongside groups considered terrorists or have perpetrated terrorist attacks.

The attacks that took place in Paris between 7 and 9 January 2015 further warned the European authorities of the need to tackle this problem from a integrated perspective. The Member States of the European Union have themselves accepted the figure of the Foreign Terrorist Fighter, and have adapted their legislation and adopted measures to prevent a Diaspora of European extremists who want to join the Syrian insurgency⁵². But there is no harmonization of the laws of the Member States to halt the coming and going of foreign fighters. Some researchers like Bakker, Paulussen and Entenmann, the Global Center on Cooperative Security, the Human Security Collective, or the Centre for Security Studies in Zurich have developed studies of the measures the Member States of the European Union have adopted. Some have decided to withdraw residence permits and citizenship from those individuals who had more than one nationality, even, have brought judicial proceedings against these individuals in some Member States, but with great difficulty in obtaining evidence to prove the crimes committed in the combat zones⁵³.

⁵¹ UN Security Resolution 2178(2014), 24 September 2014.

⁵² Article 27 (1) would justifiably exclude foreign fighters from the enjoyment of the primary and individual right of the European citizen to free movement within the internal market due to the threat they pose for public security (Directive 2004/38). See SINKKONEN, T., *War on Two Fronts. The EU Perspective on the Foreign Terrorist Fighters of ISIL*, The Finnish Institute of International Affairs Briefing Paper, N° 166, 2015.

⁵³ After the attacks of 11 September 2001 in USA, the struggle against terrorism in the EU “moved rapidly to the forefront of the EU’s policy agenda, with the result that the 28 members of the European Union today are now obliged to implement a vast body of legislation and policy. This includes a common legal definition of terrorism and terrorism offences, and a host of substantive criminal and legal definitions of terrorism and terrorist offences, and a host of substantive criminal and procedural laws and mechanism for cross-border police cooperation, as well as scores of supplementary “security” and preventive measures. In addition, numerous EU bodies and agencies have been given a mandate to implement or coordinate EU-counter-terrorism policies” (*Securing Europe Through Counter-Terrorism: Impact Legitimacy and Effectiveness*, Catalogue of EU Counter-Terrorism Measures, adopted since 11

But the question is to know why some foreign fighters when they return to the States of which they are nationals or residents are able to reintegrate into their normal lives and others are not. All this, taking into account the cultural and social circumstances of these individuals, varies depending on the country of the European Union where we find them (in the countries of southern Europe, immigration movements of Muslim communities are more recent, while in other States, the third generation of Muslim immigrants has already reached adolescence and, equally, the geographic origin of these communities is different), raises several questions: Do they relate only to people who have had that experience or similar, strengthening their identity as foreign fighters? Are they suffering sequelae due to their experiences in the battlefield that do not allow them to get on with their lives? Will they take on another role in the global fight which could lead them to become recruiters, design radical content for social networks, trainers, to provide the infrastructure and logistics necessary for the next generation of foreign fighters? Will they carry out terrorist acts in the territories of their own States?

The truth is that many foreign fighters do not survive the conflict, others just want to fight for a limited period of time, others prefer to stay in the place of conflict hoping to build an ideal Islamic state and have established family ties with local people. Yet others continue moving from conflict to conflict, and only a minority becomes leaders of organizations that recruit other fighters⁵⁴. There is only one foreign fighter who has returned to European territory and perpetrated a terrorist attack, mentioned previously. In addition, the attacks in Toulouse, although they were perpetrated by individuals who had not fought in Syria or Iraq, have alarmed the European population with 19 million Muslims residing in their territory. According to Byman and Shapiro, the real danger posed by foreign fighters has been exaggerated, mixing the intentions of this group, on their return, with those called internal fighters⁵⁵. Both researchers stated in 2014 that between 10 and 20%

September 2001, European Union Seventh Framework Programme (FP7/2007-2013), 2014); E., PAULUSSEN, C. and ENTENMANN, E., "Dealing with European Foreign Fighters in Syria: Governance Challenges and Legal Implications... *cit.*", pp. 12 and ff; "Addressing the Foreign Terrorist Fighters Phenomenon from a European Union Perspective", Global Center for Collective Security, *Brief Paper*, December 2014 and, *Foreign Fighters: An Overview of Responses in Eleven Countries*, Center for Security Studies, Zurich, March 2014.

⁵⁴ Omar Hammani, an American originating in Alabama, acted as a foreign fighter in Somalia and now occupies an important leadership position in al-Shabab (ELLIOT, A., "The Jihadist Next Door", *New York Times Magazine*, January 27, 2010).

⁵⁵ BYMAN, D. and SHAPIRO, J., "Homeward Bound? Don't Hype Threat of Returning Jihadists",

of foreign fighters had no plans to return to their home countries, and only one in nine of those who fought abroad, between 1990 and 2010, might return with the intention of perpetrating a terrorist attack in their home countries⁵⁶. According to the interview by Sergio Bianchi in 2013 of Yilmaz, a Dutch foreign fighter in Syria, when asked about his intentions regarding Europe, the fighter replied: “I came to Syria for Syria only. I didn’t come to Syria to learn how to make bombs and to go back. We came here basically, and I know it sounds harsh, but many of the brothers here including myself we came here to die, so us going back is not part of our perspective here” Usama Hasan, leader of the Salafist movement in the UK, with experience in the first Afghanistan war and recruiter of fighters for other conflicts responded similarly: “We were very clear in our minds that Britain was not a place of *Johad tant* is what we grow up, went to school and university, had a job, we supported the local football team”⁵⁷ Most foreign fighters never return to their countries of origin and many idealize their march to the combat zone and fight for a relatively short period of time, but may return disappointed, and after their return they are easily identified by the authorities of their countries. Their intentions were to defend the Muslim community in danger and not to attack the West. “Iraq’s previous war offers the most obvious example. Between 2003 and 2011, dozens of Muslims from Europe and the United States traveled to Iraq to fight Western forces. Some of them supported Al Qaeda after it established a local affiliate in 2004 (a group known as al Qaeda in Iraq, which became the precursor to ISIS), and many grew more radicalized during their stay”⁵⁸ Therefore, most jihadist attacks on European soil have been perpetrated by people whose radicalization process has been developed to carry out attacks against the West, with no intention of joining insurgent groups in Syria⁵⁹. As noted by The International Centre for the Study of Radicalization and Political Violence, recruitment is understood as the mechanisms and pathways through which an organization gets members or active sympathizers,

Foreign Affairs, November/December 2014, p. 37.

⁵⁶ “This is the case of Mohammad Abusalha, the first American to carry out a suicide bombing in Syria, and which illustrates this phenomenon. Originally from Florida, Abusalha joined Jabhat al-Nusra after travelling to Syria in late 2013, and his death stirred US Officials’ fears of a terrorist attack on domestic soil”, *Ibid.*, 41 and 42.

⁵⁷ BIANCHI, S., *Is Islamism a Threat? A New Comprehensive Model to Counter the Obscure Heart of Radicalism*, *op. cit.*, pp. 29 and 30.

⁵⁸ BYMAN, D. and SHAPIRO, J., “Homeward Bound? Don’t Hype Threat of Returning Jihadists... *cit.*”, p. 40.

⁵⁹ *Ibid.*, p. 38.

while radicalization describes the changes in attitude that lead towards sanctioning and, ultimately, the involvement in the use of violence for a political aim⁶⁰.

The Radicalization Awareness Network (RAN) itself, created by the European Commission under the EU Internal Security Strategy has questioned the usefulness of excessive criminalization of young men and women who are in conflict zones when they decide whether or not to return to their countries of origin, because the proposed measures are not helping to curb the phenomenon. It has begun to develop more preventive measures and social reintegration to complement the foregoing. In fact, the proposals of the RAN, where representatives of civil society participate, seek to engage foreign fighters or potential foreign fighters and their social environments in order to build resilience and resistance to potential travel to foreign conflicts⁶¹. Similarly, preventive measures and rehabilitation have governed the Revised EU Strategy for Combating Radicalization and Recruitment to Terrorism on 14 May 2014, where the coordination of police and intelligence services of the Member States joins the work and collaboration with civil society⁶². According to Bianchi, “All these stories want to raise awareness on the complexity of motivations behind the phenomenon of foreign fighters. It may seem cynical but we have to recognize that if somebody fights, dies or survives in Syria or somewhere else for a number of legitimate or illegitimate reasons, this is not something automatically connected to our domestic security, despite all spasmodic headlines in the news. The Foreign Fighters exists on many latitudes but this is not a risk analysis. It is verification. It is often enough that someone has a long beard and should mention religious problems in society or wants to fight against dictators or against government allied to Western powers for an analyst to automatically set off a terrorism alarm in Europe. Too easy to “media base”⁶³.

The Global Counterterrorism Forum has spoken out along the same lines in a meeting in which about 50 States of the international community hosted by Morocco and the Netherlands, which took place in The Hague from 19 to February

⁶⁰ *Recruitment and Mobilization for the Islamist Militant Movement in Europe*. A study carried out by King's College London for the European Commission (Directorate General Justice, Freedom and Security), The International Centre for the Study of Radicalization and Political Violence, 2014, p. 6.

⁶¹ See *The RAN Declaration of Good Practices for Engagement with Foreign Fighters for Prevention, Outreach, Rehabilitation and Reintegration*, 2014.

⁶² Revised EU Strategy for Combating Radicalization and Recruitment to Terrorism, Brussels, 19 May 2014, (5643/5/14).

⁶³ BIANCHI, S., *Is Islamism a Threat? A New Comprehensive Model to Counter the Obscure Heart of Radicalism*, *op. cit.*, p. 34.

20, 2014 where Heads of States, Interpol and the United Nations shared their information and expertise in the fight against terrorism, analysing the case of foreign fighters. They discussed the danger that this group poses to radicalize other individuals and conveyed their military knowledge. Furthermore, they highlighted the need for increased border controls, particularly in transit countries such as Turkey; to improve communications and strategies among States to be able to draw up lists of individuals that should be forbidden to enter and leave certain States⁶⁴. But they also agreed on the development of a comprehensive strategy, convinced of the need to improve relations with the religious authorities, communities, NGOs and families to which potential foreign fighters are linked in order to prevent their recruitment, obtain information about their travel plans and undertake the best psychosocial and health interventions after their return⁶⁵.

It is therefore necessary to adopt measures along the life cycle of radicalization of the foreign fighter of the future, ranging from a first phase in which he (or she) decides to join insurgent groups in the field, through the phase of military training and fighting The phase in which the return to their country of residence and finally the decision to continue serving the groups in which they fought either as a recruiter or a terrorist, or as is most common, to rejoin society and, in some cases, collaborate in programmes of prevention of radicalization and recruitment⁶⁶. Even the former head of counter-terrorism and its intelligence services in the UK, MI5 and MI6, Richard Barrett, questioned the usefulness of denying entry to foreign fighters who return to their countries of origin, since their experience and testimony may be very useful to deter other potential combatants, speaking of the real situation on the battlefield, which has nothing to do with religious beliefs. Social reintegration can be very useful to deter potential combatants who have the same profile. In his report, Barrett believes that at least one-fifth of British

⁶⁴ "Foreign Terrorist Fighters Initiative", *Opening Meeting of the Global Counter-Terrorism Forum*, 19-20 February 2014, The Hague. Other document drawn up in the *Global Counter-Terrorism Forum* that can be recommended and that serve as a reference for the treatment of Foreign Fighters are: Rabat Memorandum on Good Practices for Effective Counterterrorism Practice in the Criminal Justice Sector, The Rome Memorandum on Good Practices for Rehabilitation and Reintegration of Violent Extremist Offenders and the Ankara Memorandum on Good Practices for a Multi-Sectoral Approach to the CVE; and Good Practices on Community Engagement and Community-Oriented Policing as Tools to Counter Violent Extremism.

⁶⁵ "Foreign Terrorist Fighters (FTF) initiative", *The Hague-Marrakech Memorandum on Good Practices for a More Effective Response to the FTF Phenomenon*, Global Counterterrorism Forum, 2014.

⁶⁶ BYMAN, D. and SHAPIRO, J., "Be Afraid. Be Little Afraid: The Threat of Terrorism from Western Foreign Fighters in Syria and Iraq", *Foreign Policy at Brookings, Policy Paper*, N° 34, 2014.

foreign fighters are disappointed with what they have seen on the battlefield and only want to return to the UK. Working with these individuals is of the utmost help in designing de-radicalization programmes⁶⁷.

V. CONCLUSIONS

Foreign fighters are not a new phenomenon but have more than 200 years of history. Their motivations may be very different and have ideological, political or religious roots. Their activities in many cases have been tolerated and facilitated by States when their intervention in a conflict is beneficial to its geostrategic objectives. At present, foreign fighters of European nationality or residence who are fighting in Syria or Iraq number around 2,500 or 3,000, a figure that has alarmed the authorities in many European states.

States and international institutions have decided to equate the European radical Islamist fighter with the terrorist and have adopted legal and administrative reforms that aim to prevent a European Diaspora to these conflicts. It is very difficult to know who died during the conflict and who has the intention of returning as veteran activists when fighters of European nationality or residence can move with ease within the territory of the Union. But as Hegghammer points out, only a minority of foreign fighters wants to attack in their home countries when they return from the Syrian or Iraqi conflict. Experience shows that it is the “domestic or internal combatants” without experience as combatants outside their countries, who have so far carried out most attacks on Western countries. However, there are few data on the biography of foreign fighters and their intentions after returning from combat zones to Europe⁶⁸. Faced with this alarming uncertainty, most European states have undertaken legal and administrative reforms to criminalize and punish individuals who intend to travel to or from external conflicts.

Scientific and academic studies must overcome the politicization and automatic criminalization of foreign fighters, regardless of their life cycle, supporting

⁶⁷ Saudi Arabia, the country with the greatest number of nationals fighting for the Islamist State, calculates that of the 3000 foreign fighters who have undertaken rehabilitation programmes, only 10% have returned to violent activity (NOOR, F. A. and DORSEY, J. M., “Responding to the Islamic State’s Foreign Fighters: Redistribution or Rehabilitation?”, *S. Rajartnan School of International Studies Commentary*, N° 176, 2014, pp. 1-3).

⁶⁸ HEGGHAMMER, T., “Should I Stay or Should I Go? Explaining Variation in Western Jihadists’ Choice between Domestic and Foreign Fighting”, *American Political Science Review*, February 2013, pp. 1-15.

measures for social reintegration, avoiding the assumption that any returnee means danger, and identifying which ones could be useful to participate in rehabilitation programmes that could deter other potential combatants⁶⁹. The UN Security Council and forums such as RAN and the Global Counterterrorism Forum are increasingly aware of the need to address the problem of foreign fighters and jihadists from a multidisciplinary and holistic perspective where administrative sanctions and penalties are not the only measures, investing in policies to prevent radicalization and social reintegration, in which the participation of deradicalized former foreign fighters, moderate Muslim communities, NGOs and families is fundamental.

⁶⁹ BAKKER, E., PAULUSSEN, C. AND ENTENMANN, E., “Returning Jihadist Foreign Fighters”, *Security and Human Rights*, N° 25, 2014, pp. 11-32.

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