FOREIGN TERRORIST FIGHTERS AS A FACTOR OF SECURITIZATION OF THE EU MIGRATION POLICY

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The article analyzes the impact of the Foreign Terrorist Fighters' (FTF) phenomenon on the securitization of the European Union's migration policy. The author follows the construction of the FTF as a serious security threat to the European Union's strategies and action plans, and demonstrates the EU's practical actions to respond the threat: criminalization of "suspicious travel", strengthening border security, preliminary screening of asylum seekers at the border. The article pays special attention to the EU plans to achieve compatibility of the European Union information systems, while emphasizing new opportunities for the law enforcement bodies to access migration databases for combating terrorism. Exploring the new EU integration plan for migrants, the author notes that this is for the first time that the European Commission focuses its efforts not only on migrants, but also on the EU citizens with "migratory background", which is undoubtedly dictated by a fear of the extremist ideology influence on young people. The article exposes certain similarities between the Commission's methods to coordinate integration and inclusion of migrants, reintegration of the FTF and their families, which indicates that the migration policy is becoming a part of the EU security policy. That leads to a conclusion that securitization of migration policy aims not only and not so much at preventing the potential threat of the returnees' terrorist activities, but at curbing migration flows as a whole and reducing the number of asylum seekers, in particular. Nevertheless, terrorism and migration seem to be closely linked in public discourse, despite the absence of an empirical basis to conclude that these factors directly influence each other. The author considers the most difficult problem of modern migration policy to be the definition of the red line beyond which its securitization can be justified.

Keywords: foreign terrorist fighters, securitization, migration policy, information systems, integration, border security.

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In the aftermath of the terrorist attacks, the world has changed attitudes towards the issues and phenomena that are related to security in one way or another in the public opinion and political discourse, the most obvious example being migration and its regulation. The destabilising impact of the influx of migrants on the social order is central in the current agenda of the European Union: migration is viewed as a threat to cultural identity, labour market stability and finally, security [1, p. 517].

The main factor behind the securitisation of EU migration policy is the return of foreign terrorist fighters (FTF) which is perceived as a long-term danger, a "time bomb". Starting from 2011, Europeans have been moving to war zones in Iraq and Syria to join the terrorist groups of the Islamic State (ISIS) or "Al-Qaida"[1]. According to the estimates of the Radicali-sation Awareness Network (RAN), up to 5,300 EU member-states citizens fought in Syria and Iraq, 30 per cent returned to Europe after the collapse of ISIS [2]. The fear of mass return of FTF with destructive intentions among the flow of asylum seekers forced the EU to focus not only on counter-terrorist, but also migration policy, responding to the new potential threat.

However, the alarmist predictions did not materialise: after the collapse of ISIS the number of returnees decreased; most of them were killed in the conflict zone or imprisoned [3, p. 33]. The "Peace Spring" operation launched by Turkey in autumn 2019 added to the turmoil of European governments. Although no subsequent increase in violence accompanying the return was registered, it was difficult to foresee in what way and where FTFs would manifest themselves. While some of them were accused of preparing terrorist attacks, the others became disillusioned with

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[1] Organizations banned in the Russian Federation.

jihad and were ready to return to normal life with no intention to engage in future terrorist activities.

Nevertheless, the return of FTF poses a number of challenges.

• They are continually perceived as a threat to security. Preparing and implementation of terrorist attacks does not necessarily require FTFs' return en masse; a small group of them would suffice. Being in conflict zones, FTFs gain combat experience, and this gives rise to justifiable fears that it can be used to prepare new attacks, as well as to engage in radicalisation, raising funds and support of terrorist activities [4, p. 299]. Several terrorist attacks in European cities were indeed effectuated by foreign militants returning from war zones, including firing at the Jewish Museum in Brussels in May 2014, the attacks in Paris in November 2015 and the bombing in Brussels in November 2016 [5, p. 1]. EU law enforcement agencies continue to uncover terrorist networks, including in prisons.

• The problem is not limited to return of militant fighters as such: many of them had brought their families to conflict zones or settled down to married life during military action periods. The fate of "jihad wives", especially in case of their direct involvement in terrorist activities, is an increasing concern: the militants' families are likely to wish to return home, and their numbers are difficult to calculate. The return of children is an issue of particular complexity: it becomes necessary to identify them and seek possibilities of their repatriation to EU member states where their relatives may reside.

• The perception of returnees as a potential threat in the political discourse and public awareness extends to migrants, although in fact foreign militants themselves do not have this status; they have European Union citizenship, being descendants of migrants for the most part. Since 2015, militant fighters have been using the flows of asylum seekers crossing EU borders. This tactic was initially underestimated by the law enforcement agencies because several years earlier FTF had moved in the opposite direction using the networks of smugglers and traffickers in order to get to the conflict zone from their home countries. Now they are resuming these old smuggling contacts [6].

The phenomenon of foreign militants has been studied in detail by both Russian and foreign authors [7, 8]. However, this issue is still relevant against the background of the "new start" of EU migration policy, as well as the emergence of new strategic documents on countering terrorism — as a factor turning migration into a security problem, which required corresponding changes in political matters.

CONSTRUCTING FTF THREAT IN EU POLITICAL DISCOURSE

Drawing on the approaches of the (post)Copenhagen and Paris schools, the researchers point to securitisation of migration as such — as undermining the security foundations of the EU countries — and its migration policy which prioritises border protection and public order against the dangers of migration influx [9, p. 150]. Securitisation is considered as a social process which includes both the discourse and practical actions — "securitisation instruments". Declaring the return of foreign nationals as a threat in its legal deeds and policy documents, the EU thus justifies the practice of criminalising relocation of Union citizens and migrants and adopts special methods of protection against the influx of asylum seekers.

The phenomenon of "foreign fighters" was not new to Europe and was used in various EU policy documents; however, the UN Security Council Resolution 2178 (2014) marked the appearance of "foreign (terrorist) threat" and "foreign terrorist fighters" on the international security agenda — "nationals ... and other individuals 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" [10]. This definition did not imply that all of these "individuals" would necessarily commit terrorist acts, assuming that this threat was more likely than the expectation thereof from foreign militants who joined organisations that had not used terrorist violence.

Moreover, the UN Security Council Resolution 2396 adopted in December 2017 called on the Member States to distinguish between FTFs "other individuals, including their accompanying family members who may not have been engaged in foreign terrorist fighter-related offenses" [11].

Not willing to stand on the sidelines, the EU hastened to update its approach to the issue of foreign fighters in the light of the UN Security Council resolution, by proposing to criminalise their actions through amendments to the 2008 Framework Decision on Combating Terrorism; in subsequent years it actively complied with the Security Council recommendation to develop due measures to restrict travel for terrorist purposes.

The Joint statement by heads of state and government adopted following the Riga summit, after the January 2015 attack on *Charlie Hebdo* journalists, used a new term for the first time — "the phenomenon of foreign terrorist fighters all over the world". The statement also called "to reinforce external borders by making it possible to proceed to systematic checks on individuals enjoying the right of free movement against databases relevant to the fight against terrorism" [12]. The FTF-related issue was thus coupled with restrictions on citizens' freedom of movement, which subsequently led to the adoption of relevant legislation and recommendations on "suspicious" and "non-essential travel".

"Increased security threat for all Member States" were also mentioned, in connection with the return of foreign terrorist fighters, in the updated EU Directive on combating terrorism 2017: it was used by the EU to legalize linking border control to countering terrorism and to criminalize "terrorist travel". The identification of "suspicious forms of travel" as well as the EU's "securitisation of the border" became central to Brussels' response to the threat coming from the returnees [13, p. 10].

In the process of preparing a reform of the counter-terrorism legislation, the EU was criticised both by human rights organisations and its own agencies. In particular, the Economic and Social Committee pointed to the prevarication of the wording "travelling abroad for terrorism". *Amnesty International* immediately referred to the link between counter-terrorism and migration, warning that criminalising travel, deeming it as acts of preparation for terrorist attacks, could be used to violate the rights of "ethnic and religious minorities, refugees and migrants" [14]. Nevertheless, the potential terrorist threat posed by an "irregular migrant" or "untrusted traveller" who enters the EU from dangerous locations was also enshrined in the Union's subsequent policy documents.

In particular, the EU Commission, in the European Security Agenda 2015—2020 adopted after the terrorist attacks in Paris, Copenhagen and Brussels, highlighted the potential threat of foreign terrorist fighters again and pointed to the important function of the Schengen Information System (SIS) — to identify persons suspected of intending to join terrorist groups outside the European Union. The extended cooperation and the EU's "strong response to terrorism and foreign fighters" involves responding to "unexpected events" with "seizing new opportunities", as well as anticipating "future trends and security risks" [15]. In general, the terms "foreign fighters" and "foreign terrorist fighters" are most often used interchangeably in EU policy documents of the recent years.

It should be noted that the European Union managed to convince its citizens of the need to strengthen the border control: according to the data cited in a special issue of *Eurobarometer* in June 2017, 86% of Europeans deemed the EU external border as a serious security challenge, and almost 80% spoke in favour of enhanced EU's involvement in protecting the common border and extending assistance to national border services [16, p. 66].

The *COVID-19* pandemic became a real challenge for EU law enforcement agencies and the Member States. Although the number of physical crimes decreased due to the quarantine, the activity of criminal groups shifted to virtual space, focusing on engagement of new supporters among young people, social media users. In addition, the events in conflict zones outside Europe continue to influence the situation fraught with terrorism in Europe. Although very few foreign fighters were able to return to Europe in 2020, partly as a result of the pandemic, the situation in camps of northern Syria was still alarming for the EU: foreign fighters of ISIS captured in Kurdish areas could escape from the camps and prisons and sneak into Europe in the chaos of warfare. The European Commission, in its Recommendations on the temporary restrictions on non-essential travel into the EU adopted on 30 March, 2020, called on the Member States to remain vigilant and to supplement health checks of those crossing the Union's external borders with "secondary checks", using all available information systems for identification of persons posing a threat to public order and security, in particular foreign terrorist fighters.

Thus, the terrorist attacks in European cities involving foreign returnees provided the EU with a convincing rationale for legitimising pre-emptive forms of ensuring security; at the same time, the possibility of new attacks shaped the guidelines not only for counter-terrorism activities but also for the EU migration policy. The measures to control foreign fighters played a key role in continued securitisation by strengthening border control as the most reliable way to provide security [17, p. 5].

This trend of migration policy got the name of "spatial dimension of securitisation" in the academic literature, i.e. relating both to movement of Europeans and migrants within the European Union and travel abroad. "Securitisation of border" implies potential terrorist threat to the Member States on the part of "irregular migrants" or "untrusted travellers", who enter the Union from "dangerous locations". Migration control is strengthened as a necessary response

to terrorism, in order to seek out persons residing in the areas designated as "risk zones" [18, p. 215]. The returning FTF are viewed not only as a potential terrorist threat, but also as a dangerous category of migrants, this raising a need to strengthen the EU border security. The absence of border control within the Schengen area as well as the coverage of several European countries by jihadist networks requires cooperation at the EU level, since the returnees and their families may travel within the Schengen space. The case of Mehdi Nemmush who was convicted of the 2015 attack at the Jewish Museum in Brussels is illustrative: the French foreign militant from Syria had entered the EU via Germany and committed an attack in Belgium.

The New Pact on Migration and Asylum, tabled in September 2020 by Ursula von der Leyen, Head of the EU Commission, includes a controversial procedure of asylum seekers "pre-entry screening" at the border, that caused strong objections from human rights organisations and members of the European Parliament: health and safety check by querying European databases to ensure that a particular person does not pose a threat [19]. It is interesting to note that the relevant section of the Pact on the measures to strengthen EU border protection was repeatedly referred to by the participants of the EU Council discussions on the Union's new measures to combat terrorism, which once again clearly demonstrated the coincidence of the EU's key positions on migration control and security [20, p. 5].

EXCHANGE OF INFORMATION ON FOREIGN TERRORIST FIGHTERS AT THE EU LEVEL

In order to ensure security, the European Union is seeking to achieve compatibility of information systems originally intended for migration control, that were developed at different times with different purposes [21, p. 99]. By the time of the migration crisis and emergence of the possibility for foreigner fighters to enter the EU under the guise of asylum seekers, various EU border control systems were operating separately, with their own technical features and methods. This resulted in "blind spots" where people who were possibly involved in terrorist activities were registered in various, unconnected databases under different names.

In June 2016, the EU Commission drafted an Action plan aimed to improve information exchange between the Member States. Pointing to the link between security issues and migration challenges, it gave arguments for greater interoperability between the current Schengen and Visa Information Systems, the fingerprint database *Eurodac*, on the one part, and the systems run by *Europol* and the *European Criminal Records Information System*, ECRIS aimed to detect suspicious movement of persons, on the other part. The wording "terrorist travel" relative to foreign fighters was used in the text of the Action plan as a way of legitimising this action as a pre-emptive move, with the use of migration control and border protection instruments. The subsequent documents repeatedly stressed the crucial importance of efficient information exchange between Member States' law enforcement, judicial and intelligence agencies, aimed to track down foreign militants. The new strategic document "A Counter-Terrorism Agenda" presented by the European Commission in December 2020 and subsequently adopted by the European Council summit also mentions the need to improve surveillance over the EU's external border with the help of new and upgraded large-scale information systems, with the support of *Frontex* and *eu-LISA* agencies, in order to "protect Europeans from the threat of return of foreign terrorist fighters".

"Interoperability framework" between six EU information systems – for border and migration control and security (half of which are not yet functional) – was established in 2019. In accordance with two adopted Regulations, the entry-exit system (EES), the *European Travel Information and Authorisation System*, (ETIAS), the extended *European Criminal Records Information System for Third Country Nationals* (ECRIS-TCN), the *Schengen* and *Visa Information Systems* and *Eurodac* (pending update) will complement each other for the purpose of better identification of people arriving in the EU.

The linkage of the core systems will be effected by creating three new centralised databases and a search tool that will allow queries to be made simultaneously to all information systems by 2023, when a single interface for searching and matching biometric data will be established.

Interoperability creates new opportunities for the countries' national competent authorities (migration and border services coupled with law enforcement agencies); therefore, the data placed in one of the systems for regulation of migration flows can consequently be used to prevent, detect and investigate crime. The designed outcome of the forthcoming reform raises a number of questions on the part of researchers and human rights organisations, since two different objectives – migration control and combating terrorism and crime – are linked, which goes beyond the basic functions of border control, grant

of asylum and issuance of short-term visas to third country nationals not involved in crime and terrorist activities. Thus, the Regulations not only alter the original purpose of the databases – from immigration to law enforcement status – but also create risks of violating citizens' rights, when processing personal data obtained from the systems [22, p. 283].

THE ROLE OF FRONTEX AGENCY

The European Border and Coast Guard Agency (Frontex), originally set up to assist in migration and border control, gradually developed into a powerful coordinating centre for Member States' actions. The agency's mandate was revised in 2016, at the height of the migration crisis, after lengthy discussions and inter-institutional negotiations: the positions of the EU Commission, the European Parliament and the Council did not always coincide. Finally, the agency was empowered with processing personal data and sharing them with the Member States for risk analysis; was granted a permission to engage in operational activities, in particular as concerns border intervention, return of migrants and their reintegration in the home country. In particular, Frontex will be responsible for managing the core of the information systems interoperability. The agency also runs systematic checks of EU citizens at the external land, sea and air borders using SIS and the Interpol databases of stolen and lost travel documents. Having these new powers, Frontex increasingly resembles a law enforcement agency. The securitisation of border control operations resulted in their treatment primarily as a security measure; therefore, the data collected in the course of operations are also considered as a valuable resource for its maintenance.

Another reform package was adopted in 2019. The European Commission succeeded again in significantly extending the agency's powers, providing it with a "permanent corps" of up to 10,000 employees, thus allowing Frontex to be much less dependent on the Member States. The agency is assigned a special role in detection and detention of foreign terrorist fighters. The new "Operation Themis" in the Central Mediterranean, in addition to search and rescue purposes, "enhanced the law enforcement focus": "collection of intelligence and other steps aimed at detecting foreign fighters and other terrorist threats at the external borders" [23]. The information collected by Frontex officers in the course of operations is sent to Europol as well as to Italian authorities. The agency's new security mandate aimed at enhancing security thus marked a shift from the previously undertaken rescue operations to sea searching and spotting migrants posing a potential threat. "Who would have imagined three years ago that an agency like Frontex collects personal data, transmits it to Europol, and to the state police services to carry out investigations and do what they need to do to prevent attacks," agency director Leggeri said in a conversation with representatives of the European Parliament's Committee on Combating Terrorism [24]. Notably, in November 2020 the European Parliament demanded investigation of the agency's activities for infringement of asylum seekers' rights for the sake of security, but six months later it was forced to dismiss the charges brought against the agency.

INTEGRATION OF MIGRANTS AS A MEANS OF DERADICALISATION

Preventing radicalisation, as well as the deradicalisation process, both in and out of prisons, have been a subject of broad discussion in EU's political and expert circles.

Prevention of terrorist attacks "by countering radicalisation and extremist ideologies before they take root in the society" became one of the central themes of the new EU counter-terrorism strategy. The strategy was presented at the same time as the new EU Action Plan on Integration and Inclusion which essentially became a social counter-radicalisation tool. The European Commission proposed, for the first time, an extensive programme of (re)integration not only of migrants but also of EU citizens "with a migration background". The innovation was undoubtedly motivated by concerns about the impact of extremism on the young people who become potential participants of terrorist networks without even making "suspicious travels" outside the EU. The *European Council on Refugees and Exiles* (ECRE) [25] immediately objected to "constant accentuation of the link between integration of migrants and prevention of radicalisation", interpreting this policy as a trend for securitisation of migration and asylum policies. This way the theme of integration shifted from the realm of migration policy to EU security strategies and programmes, and a close link was established between the notions of "integration" and "terrorism". The "Counter-terrorism agenda", as concerns the integration of "at-risk" young people, makes direct reference to the Integration and Inclusion Action Plan [2, p. 8].

The competences in the sphere of migrant integration are the prerogative of the Member States, while the EU Commission can only play a coordinating role, supporting national rehabilitation and

reintegration programmes for the returnees, paying special attention to deradicalisation methods (*deradicalisation* to be understood as FTFs' withdrawal from extremist ideologies) and *disengagement* from further involvement in terrorist activities [26, p. 3]. The support of Member States' actions takes place in several directions, namely: identifying the best approaches to managing and evaluating the risk coming from radicalised detainees; help in training specialists in this field and issuing a Manual on Rehabilitation and Reintegration, including after release, through the Radicalisation Awareness Network; developing a methodology based on unified standards and evaluation of efficiency of the reintegration programme. The support and coordination methods are essentially much similar to those offered by the Action Plan for integration of migrants and their naturalised descendants.

In recent years, the number of programmes developed for detainees and released FTFs has increased as a response to their return. Numerous reintegration programmes are in place in EU Member States; new initiatives are regularly developed, covering an extensive range of areas: religious and psychological counselling oriented at deradicalisation, professional training, education and recreational activities aimed at breaking with extremist activity. Most of them are implemented in north-western Europe: "exit" programmes in Norway, Sweden and Germany, "Aarhus Approach" in Denmark, reintegration initiative run by Netherlands Probation Service. In Germany, a number of organisations are tasked with facilitating the rehabilitation and reintegration of FTFs; each of these organisations has its own philosophy concerning deradicalisation or withdrawal from previous activities. The EU Commission supports practical specialists, through the Radicalisation Awareness Network, in developing the best practices and due training in the skills necessary for countering violent extremism, in rehabilitation and reintegration into the society in cooperation with local authorities. Reintegration is becoming a necessary component in the comprehensive strategy of countering extremism, although too little time has passed to assess the long-term effects of the programmes: researchers often claim their failure or lack of efficiency at the present stage [7, p. 78].

At the EU summit in December 2020, the heads of state and government revisited the issue of religious education in Europe, which had created a buzz in November 2020, after the President of the European Council Ch. Michel proposed to set up a "European institute for training of imams". The summit's "Conclusions" no longer referred to "European imams";

the participants agreed on politically correct wording — "ensuring that religious education and training are in line with European fundamental rights and values" [27].

A special subject of discussions on integration of migrants — as well as a serious cause of EU members' concern — was the return of wives and children of foreign militants after the dissolution of ISIS. Many women who had joined their spouses in conflict zones were not constrained to the role of wives and mothers. The attitude to the fighters' children is even more difficult: they may have been exposed to violence and psychological pressure of the radical propaganda, thereby suffering serious psychological trauma. On the other hand, some of them were trained to participate in warfare — to cope with various types of weapons and kill.

In 2019, the European Parliament members called on the EU Commission to take measures requisite to help the Member States in rehabilitation and education of children standing in need of repatriation, and to set up a financial assistance programme, in particular for local authorities, with the view to reintegrate such children and their families. Referring to the United Nations International Children's Emergency Fund, the European Parliament cited the data on 700 Europeans out of 29,000 children under 12 kept in Syrian detention camps, and called on the Member States to repatriate them for further recovery and integration [28]. However, EU states for the most part are quite reluctant to return their ISIS -affiliated citizens, although they do not object to bringing women and children home. Some of the latter managed to return home on their own via Turkey, while many others are still recorded as missing.

A number of EU countries took a decision to denaturalise FTFs, thus evading any obligation to repatriate them and complicating the possibility for children born in Syria to claim European citizenship; the European Commission did not support such initiatives, but had no powers to interfere. According to the European Radicalisation Awareness Network, 1,000 children had left Europe with their parents and 600 were born on conflict-ridden territories after 2012 [2, p. 5]. The camps' administration is not in the position to separate convinced supporters of terrorists from those who would like to return to peaceful life, and to protect children from the influence of extremist ideology; therefore, EU young citizens are growing up in the environment of radicalisation, which may later result in another threat to EU's security [29].

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The return of FTF prompts the EU to act simultaneously in several areas of internal security and migration control: criminal prosecution of returnees; criminalisation of "terrorist travel"; improving check-up methods at external borders and detection of suspicious trips; information exchange at EU level; prevention of radicalisation, especially of young people; deradicalisation and rehabilitation in prisons. Some initiatives have been perceived critically by politicians and the public in terms of efficiency with regard to the stated objectives and respect for citizens' rights. It is evident that the goal of migration policy securitisation is not only and not so much as prevention of potential threat of returnees' terrorist activity, but containment of the migration flow in general, including reduction of the number of asylum seekers in EU countries. Nevertheless, terrorism and migration are closely linked in the public discourse despite the poor empirical basis for conclusions on direct interdependence of these factors: most of people arrested for terrorist crimes had not travelled outside the EU, nor crossed the borders with this purpose.

The foreign fighters issue is ever-present on Brussels' political agenda, coming to the fore after terrorist attacks and gradually fading away as their activities weaken. However, securitisation of migration provides law enforcement agencies with ample opportunities in the wake of regular terrorist attacks. The return of FTFs has endowed the European migration policy with additional functions, turning it into a counter-terrorism tool and, in fact, one of the EU's security policy directions.

Foreign fighters may not officially be considered as an external enemy, since they have deep roots and social contacts in the European society. Their return is rather a threat of latent character and therefore — one of the most difficult security challenges. However, it is difficult to pin down the threshold beyond which the securitisation of migration and migration policy can be justified.

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ИНОСТРАННЫЕ БОЕВИКИ-ТЕРРОРИСТЫ КАК ФАКТОР СЕКЬЮРИТИЗАЦИИ МИГРАЦИОННОЙ ПОЛИТИКИ ЕС

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В статье анализируется влияние феномена иностранных боевиков-террористов (ИБТ) на секьюритизацию миграционной политики Евросоюза. Исследуются основные документы миграционной политики и противодействия тер-

роризму на предмет конструирования ИБТ как серьезной угрозы безопасности, а также практические действия, направленные на устранение угрозы. Отмечается сходство между методами социальной интеграции мигрантов и реинтеграции ИБТ и членов их семей, что автор также считает свидетельством перехода миграционной проблемы в сферу политики безопасности ЕС.