

Treatment of Foreign Fighters in Selected Jurisdictions

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SUMMARY This report contains information on provisions in place or being considered by the United Nations, the European Union, and seventy-three countries on the treatment of individuals who join and fight for terrorist organizations in foreign countries. A number of countries are considering action now following the September 2014 adoption of a United Nations Security Council resolution expressing concern about the threat of foreign terrorist fighters. Many nations, as illustrated below, already have punishments applicable to such fighters, including imprisonment and/or loss of citizenship. In a number of jurisdictions, penalties for joining terrorist organizations increase when the individual recruits others or undergoes military training with those organizations. A unique approach is being taken in one city in Denmark, where instead of facing punishment, returning fighters are being given study or employment opportunities. In addition to the report on these jurisdictions, two maps have been included to illustrate the findings.

Although research was done, no information could be located regarding existing or planned laws specifically dealing with foreign fighters in Angola, Argentina, Bolivia, Brazil, Cambodia, Cape Verde, Chile, China, Colombia, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Equatorial Guinea, Guatemala, Guinea Bissau, Honduras, Hong Kong, Lebanon, Luxembourg, Macau, Mexico, Mozambique, Myanmar, Nicaragua, North Korea, Panama, Paraguay, Peru, Portugal, São Tomé e Príncipe, Thailand, Timor Leste, Uruguay, or Venezuela.

I. United Nations

On September 24, 2014, the United Nations Security Council, expressing grave concern about the increasing threat posed by foreign terrorist fighters and by individuals who are recruited by the so-called Islamic State (IS, also known as ISIL or ISIS); the Al-Nusrah Front; and other cells, unanimously adopted Resolution No. 2178 of 2014 condemning such groups and individuals.¹ The Resolution was adopted under chapter VII of the UN Charter and is binding on the Member States. However, the Resolution is not self-executing and requires UN Members to take measures domestically or internationally through bilateral or multilateral agreements to deal with the issues raised by foreign fighters.²

Resolution 2178/2014 requires that the UN Member States take action to prevent and suppress “the recruiting, organizing, transporting or equipping of individuals who travel to a State other than their States of residence or nationality” with the intent to commit, plan, or participate in

¹ S.C. Res. 2178, U.N. Doc. S/RES/2178 (Sept. 24, 2014), http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2178%20%282014%29.

² Sean Davis, *Policy Brief: Responding to Foreign Terrorist Fighters: A Risk-Based Playbook for States and the International Community*, GLOBAL CENTER ON COOPERATIVE SECURITY (Nov. 2014), http://www.globalcenter.org/wp-content/uploads/2014/11/Nov2014_Responding-to-FTFs_SD.pdf.

terrorist acts or to be trained as terrorists, as well as the financing of their travel and other activities.³

A. Prosecution and Punishment of Offenses

In compliance with Resolution No. 1373/2001, which was adopted in the aftermath of the September 11, 2001, terrorist attacks on the US, the Security Council required all Member States to enact legislation to prosecute and punish the following offenses:

- Traveling or attempting to travel, on the part of their nationals and other individuals, to another state with the intent to commit, plan, prepare, or participate in terrorist acts or with the intent to be trained.
- The willful collection of funds, through any means, by their nationals or in the territories of the Member States with the intent to finance the travel of individuals in third states in order to commit terrorist acts or to receive training in cells.
- The willful organization or facilitation, including recruitment, of the travel of individuals to other countries with the intent to commit, plan, prepare, or participate in terrorist acts, or for the provision or reception of terrorist training.⁴

B. Prevention of Entry or Transit

Member States are required to take measures to prevent the entry or transit through their territories of any person for whom the state “has credible information that provides reasonable grounds to believe that he or she is seeking entry into or transit through their territory” in order to commit the acts described above, including any acts or activities demonstrating that an individual or entity is associated with Al-Qaeda, as provided for in Resolution No. 2161/2014.⁵ As in Resolution No. 2178/2014, Member States are not obliged to deny entry to or order the departure from their territories of their own nationals or permanent residents.⁶

C. Airline Passenger Information

Resolution No. 2178/2014 called on Member States to require airlines flying above their territories to submit advance notification of passenger data to the national authorities in order to enable them to prevent entry into or transit through their territories of persons who are listed on the Al-Qaeda Sanctions List kept by the Committee, which was established by Resolution No. 1267/1999 and Resolution No. 1989/2011.⁷

³ *Id.* cl. 5.

⁴ *Id.* cl. 6(a)–(c) (citing S.C. Res. 1373, U.N. Doc. S/RES/1373 (Sept. 28, 2001), <http://www.un.org/en/sc/documents/resolutions/2001.shtml> (scroll to number)).

⁵ S.C. Res. 2161, U.N. Doc. S/RES/2161 (June 17, 2014), http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2161%282014%29.

⁶ S.C. Res. 2178, *supra* note 1, cl. 8.

⁷ *Id.* cl. 9.

D. International Cooperation

Resolution No. 2178/2014 also called on Member States to improve international and regional cooperation with the aim of preventing the travel of foreign terrorist fighters from or through their territories, through the sharing of intelligence, best practices, and a deeper understanding of the patterns of travel.⁸

II. European Union

A. Introduction

In implementation of United Nations (UN) Security Council Resolution No. 2178/2014, the European Union (EU) institutions have been mobilized to assess whether existing legislation on combating terrorism covers the criminal activities associated with the phenomenon of foreign fighters. The Council of the European Union has urged the Parliament to endorse the 2011 Passenger Name Record Directive, which requires airlines to transfer passenger data to national authorities. The Directive is expected to assist in the apprehension of foreign fighters who travel to other countries or return to the EU. In addition, the EU Counter-Terrorism Coordinator has proposed a number of measures to address the problem of foreign fighters, as discussed below.

Since 2013, at the EU level, the threat posed by foreign fighters has been at the forefront of the agenda of EU institutions and bodies. Central to the ongoing discussions and debates is the question of whether existing EU legislation is sufficient to deal with new legal issues posed by returning foreign fighters in areas such as the gathering and admissibility of evidence in compliance with the rule of law, financial investigations, and the question of judicial cooperation with third (non-EU) states. Eurojust has announced that it intends to present a report on foreign fighters to the Council of the EU.⁹

Estimates of fighters returning from zones of terrorist operations to the EU Member States vary. During parliamentary discussions, Gilles de Kerchove, the EU's counterterrorism coordinator, presented an estimate of more than three thousand. Eurojust President Michèle Coninsx claimed that there were close to two thousand, and Rob Wainwright, director of the EU's police agency Europol, gave an estimate in the low thousands.¹⁰

⁸ *Id.* cl. 11.

⁹ Press Release, EUROJUST, Anti-terrorism: Eurojust in the European Parliament – Foreign Fighters in Focus (Nov. 6, 2014), http://www.eurojust.europa.eu/press/News/News/Pages/2014/2014-11-06_LIBE-Committee-debate.aspx.

¹⁰ *MEPs Clash with EU Officials Over Foreign Fighters*, EU OBSERVER (Nov. 5, 2014), <http://euobserver.com/justice/126396>.

B. EU Institutions

1. Council of the European Union

In August 2014, the European Council decided to accelerate the implementation of the June 2013 package of twenty-two measures adopted by the European Terrorism Coordinator (ETC).¹¹ On October 10, 2014, the Justice and Home and Affairs Council agreed to adopt the EU Passenger Name Record (PNR) Directive (see below) and called on the European Parliament to endorse it immediately. The Council also agreed to improve checks at the external borders of the Schengen area, under the existing legal framework.¹²

In light of Resolution No. 2178/2014 of the Security Council of the United Nations adopted on September 24, 2014, which is binding on the EU and its Member States, the European Council also made public a document issued by the Counter-Terrorism Coordinator with the intention of initiating a debate as to whether or not the existing EU legal framework on terrorism deals adequately with the phenomenon of foreign fighters and whether additional measures are needed.¹³ The document is addressed to the delegations of the EU Members and requests that they also review their national legislation to ascertain whether it is compliant with UN Resolution No. 2178/2014 and whether they intend to amend the legislation.¹⁴

The paper noted that while Framework Decision 2008/919/JHA,¹⁵ which amended Decision 2002/475/JHA on Combating Terrorism¹⁶ to introduce three new offenses related to public provocation, recruitment, and training for terrorism, may be sufficient to dismantle recruitment/facilitation of networks, such as Sharia4Belgium, it may not be sufficient to prosecute individual foreign fighters who travel on their own. In addition, the difficulty of collecting evidence on activities in foreign jurisdictions was also recognized.¹⁷ The paper also highlighted that some EU Members have already criminalized or intend to criminalize the following offenses:

¹¹ Note from EU Counter-Terrorism Coordinator to Delegations, Effective Criminal Justice Response to the Phenomenon of Foreign Fighters (Oct. 14, 2014), <http://www.statewatch.org/news/2014/oct/eu-council-is-strategy-14188-14.pdf>.

¹² Press Release, Council of the European Union, Council Discusses Further Action Regarding Foreign Fighters (Oct. 10, 2014), <http://www.consilium.europa.eu/homepage/showfocus?lang=en&focusID=114086>.

¹³ Note from EU Counter-Terrorism Coordinator, *supra* note 11.

¹⁴ *Id.* at 6.

¹⁵ Council Framework Decision 2008/913/JHA of 28 November 2008 on Combating Certain Forms and Expressions of Racism and Xenophobia by Means of Criminal Law, 2008 O.J. (L 328) 55, http://eur-lex.europa.eu/legal-content/EN/ALL/;ELX_SESSIONID=PJyGJmFf9wpZgyDJlsRVmwBtDF6Htpg1pn0Mnqz5g48HvtSG0Wd0!404527651?uri=CELEX:32008F0913.

¹⁶ Council Framework Decision 2002/475/JHA of 13 June 2002 on Combating Terrorism, 2002 O.J. (L 164) 3, http://eur-lex.europa.eu/legal-content/EN/ALL/;ELX_SESSIONID=NhnwJmxFwNDPTLSPIbTPvrLngnz3Zhkd1dqTpRQXMkkYpLf3Xphv11738154466?uri=CELEX:32002F0475.

¹⁷ Note from EU Counter-Terrorism Coordinator, *supra* note 11, at 3.

- Preparation to receive terrorist training, for example in the case of preparing to travel to conflict zones.
- Buying material for explosives and engaging in suspect financial movements in order to commit terrorist acts.
- Traveling in spite of passport removal and against orders not to travel.
- Active participation in an armed conflict in a third country.
- Offenses committed by family members by not disclosing information, which is significant in preventing a terrorist attack.¹⁸

2. *European Commission*

a. Passenger Name Record Directive

Currently pending before the EU Parliament is the Commission's 2011 proposal for a Directive on the transfer of Passenger Name Record data by commercial airlines to Member States authorities for extra-EU flights or intra-EU flights, if Member States so wish, for the prevention, detection, investigation, and prosecution of terrorist offenses and serious crime.¹⁹ In 2013, the Civil Liberties Committee voted down the proposal for not complying with the standards of necessity and proportionality.²⁰ Once approved, it is expected, as argued by Europol, to assist the EU Members in apprehending foreign fighters.²¹

b. Radicalization Awareness Network

The European Commission's Radicalization Awareness Network (RAN), which brings together more than seven hundred experts and practitioners throughout the EU, assists the EU Members in their efforts to fight radicalization at the national and local levels. The working group RAN Internal and External Dimensions (RAN INT/EXT), focuses on the role of the diaspora in fighting radicalization and "foreign fighters."²²

¹⁸ *Id.* at 4.

¹⁹ Directive of the European Parliament and of the Council on the Use of Passenger Name Record Data for the Prevention, Detection, Investigation and Prosecution of Terrorist Offences and Serious Crime, COM (2011) 32 final (Feb. 2, 2011), <http://www.statewatch.org/news/2011/feb/eu-com-eu-pnr-com-32-11.pdf>.

²⁰ Press Release, European Parliament, Civil Liberties Committee Rejects EU Passenger Name Record Proposal (Apr. 24, 2013), <http://www.europarl.europa.eu/news/en/news-room/content/20130422IPR07523/html/Civil-Liberties-Committee-rejects-EU-Passenger-Name-Record-proposal>.

²¹ Jeniffer Baker, *EU Battles Over 'Anti-terrorist' Passenger Records Slurper Law*, THE REGISTER (Nov. 11, 2014), http://www.theregister.co.uk/2014/11/11/this_time_they_want_all_your_passenger_data_to_fight_terrorists/.

²² RAN Internal and External Dimensions (RAN INT/EXT), European Commission, Justice and Home Affairs, http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/radicalisation_awareness_network/about-ran/ran-int-ext/index_en.htm (last updated July 4, 2014).

c. Communication on Preventing Radicalization

In January 15, 2014, the Commission presented a Communication on Preventing Radicalization to Terrorism and Violent Extremism: Strengthening the EU's Response.²³ The Communication suggests various measures to be taken by the EU with the Member States to prevent and curb radicalization, such as developing national strategies to fight radicalization; training practitioners, social workers, police, and prison staff to recognize those at risk;²⁴ and developing exit strategies.²⁵ The Commission also proposes to improve the role of the RAN Secretariat to assist the EU Members in combating violent extremists.²⁶

3. Counter Terrorism Office Proposals

In May 2013, the EU Counter-Terrorism Coordinator (CTC), in a paper on Foreign Fighters and Returnees from a Counter-Terrorism Perspective, in Particular with Regard to Syria,²⁷ suggested twenty-two measures to fight the “serious problem” posed by foreign jihadists. The CTC suggested that Member States and EU institutions and agencies should take action on the following key measures by the end of 2013:

- The Commission should continue to share the expertise gained from the Radicalization Awareness Network (RAN) with Member States.;
- Member States are to reinforce their contributions to the Check the Web security portal instituted by Europol and assess the possibility for Europol to extend its mandate to monitoring and analyzing social media concerning foreign fighters.
- The High Representative is to appoint an Arabic-speaking EU spokesperson to reach out to the Arab media.
- Invite the Netherlands to present the results of a study designed to analyze the existing systems of monitoring or alerting suspicious travel movements.
- Invite Eurojust to draft a report on the results of its work on foreign fighters and in particular to assess the legislation in the EU Member States, the use of administrative sanctions, and the improvement of information exchange concerning investigation and prosecution, and make specific proposals.

²³ Communication from the European Commission to the Parliament, the Council, the European Economic and Social Committee, and the Committee of the Regions, on Preventing Radicalisation to Terrorism and Violent Extremism: Strengthening the EU's Response, COM (2013) 941 final (Jan. 15, 2014), http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/crisis-and-terrorism/radicalisation/docs/communication_on_preventing_radicalisation_and_violence_promoting_extremism_201301_en.pdf.

²⁴ *Id.* at 6.

²⁵ *Id.* at 7.

²⁶ *Id.* at 5.

²⁷ CTA, FOREIGN FIGHTERS AND RETURNEES FROM A COUNTER-TERRORISM PERSPECTIVE, IN PARTICULAR WITH REGARD TO SYRIA (May 28, 2013), <http://www.statewatch.org/news/2013/jul/eu-council-terr-coordinator-syria-9946-13.pdf>.

- Invite FRONTEX to provide an analysis of the various routes used by foreign fighters and contribute to a proposed handbook dealing with “risk indicators” used to detect foreign fighters.
- Invite the High Representative to assign the European External Action Service (EEAS) to send high-level diplomats to third countries, including Turkey, Jordan, Morocco, Tunisia, Libya, the countries of the Western Balkans, and others to emphasize the significance of dealing with the issue of foreign fighters and to establish concrete measures to improve the cooperation and exchange of information with those countries.
- Invite the High Representative to prepare Heads of Mission reports concerning the situation in a third country and measures to improve collaboration and information exchange.

III. Country Surveys

Afghanistan

Though there are no official estimates, the International Centre for the Study of Radicalisation and Political Violence (ICSR) has reported that there may be up to twenty-three Afghan foreign fighters in Syria. Afghanistan’s main antiterrorism law is the Law on Combat Against Terrorist Offences, 2008, but this appears to be jurisdictionally limited to crimes committed with some sort of nexus with Afghanistan.²⁸ Certain crimes against the state are set forth under the Penal Law for Crimes Committed Against Internal and External Security of the Democratic Republic of Afghanistan, 1987.²⁹ The Law prohibits treason, which includes “[j]oining efforts of or collaboration with foreign countries, organizations, or anti state groups in carrying out their hostile activities against the Democratic Republic of Afghanistan.”³⁰

Afghanistan’s Penal Code lists a number of offenses as “Crimes against external security of the State.” A person commits such an offense when he or she, “without the permission of [the] State, summons soldiers or performs other acts of aggression against a foreign state, as an effect of which the State of Afghanistan confronts [sic] the danger of war,”³¹ or “performs an act outside the country which, one way or another, damages national interests.”³²

In Afghanistan citizenship can be forfeited if a person is “indicted in treachery to the country and to the nation” or is “[s]erving the army of a government busy in war with Afghanistan.”³³

²⁸ Law on Combat Against Terrorist Offences, 2008, available at https://www.unodc.org/tldb/pdf/Afghanistan_anti-terrorism_law_2008.pdf.

²⁹ Penal Law for Crimes Committed Against Internal and External Security of the Democratic Republic of Afghanistan, available at <https://www.unodc.org/tldb/showDocument.do?documentUid=1917>.

³⁰ *Id.*, ch. 1, art. 1.

³¹ AFGHAN PENAL CODE art. 196(1) (Oct. 7, 1976), available at <http://www.refworld.org/docid/4c58395a2.html>.

³² *Id.* art. 197(1)(b).

³³ Law on Citizenship of the Islamic Emirate of Afghanistan (June 24, 2000), art. 31, available at <http://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=404c988d4&page=search>.

Albania

The Albanian legislature is reportedly considering amendments to its national Penal Code aimed at criminalizing fighting in Syria or in other similar conflicts. According to the proposal, those Albanian citizens who participate in a military conflict abroad while not being a citizen or resident of the country where the conflict is taking place, and not being a member of a regular military force of this country, will be sentenced to more than ten years of imprisonment.³⁴

Algeria

Article 87 bis (6) of the Algerian Penal Code specifically criminalizes the involvement of Algerian citizens with any terrorist groups outside the country, even when the relevant acts are not directed against Algeria.³⁵

Armenia

Despite attacks by Islamists on ethnic Armenians in Syria, Armenia officially does not take sides in the conflict, although some legislators have suggested recruiting irregular forces to go and fight on the government side in Syria.³⁶ Reportedly, border control authorities prevent Armenian volunteers from traveling to Syria.³⁷ Criminal law punishes with imprisonment for up to seven years those who join terrorist groups and participate in foreign military forces.³⁸

Australia

The Australian Parliament passed the Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014 on October 30, 2014, about five weeks after it was introduced in the Senate.³⁹

³⁴ *Prison for Albanian Jihadists*, GAZETA SHEKULLI BLOG (Feb. 25, 2014), <http://www.gazetashkulli.org/2014/02/25/prison-for-albanian-jihadists/>.

³⁵ PENAL CODE OF ALGERIA, promulgated by Order No. 66-156 of 1966, as amended, available on the website of the Algerian General Secretariat of Government, at <http://www.joradp.dz/TRV/APenal.pdf> (in Arabic).

³⁶ Arpi Harutyunyan, *Armenia Stays Neutral on Syrian War*, INSTITUTE FOR WAR AND PEACE REPORTING (CRS Issue 735, May 14, 2014), <http://iwpr.net/report-news/armenia-stays-neutral-syrian-war>.

³⁷ *Id.*

³⁸ CRIMINAL CODE OF THE REPUBLIC OF ARMENIA of Apr. 18, 2003, ch.33, art. 395, <http://www.parliament.am/legislation.php?sel=show&ID=1349&lang=rus#3a> (in Russian).

³⁹ *Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014*, PARLIAMENT OF AUSTRALIA, http://www.aph.gov.au/Parliamentary_Business/Bills_LEGislation/Bills_Search_Results/Result?bId=s976 (last visited Nov. 12, 2014); Counter-Terrorism Legislation Amendment (Foreign Fighters) Act 2014 (Cth), <http://www.comlaw.gov.au/Details/C2014A00116>. See also Kelly Buchanan, *Australia: Foreign Fighters Bill Introduced in Parliament*, GLOBAL LEGAL MONITOR (Sept. 30, 2014), http://www.loc.gov/lawweb/servlet/lloc_news?disp3_l205404139_text. The Parliamentary Joint Committee on Intelligence and Security made thirty-seven recommendations that included a range of amendments to the bill: Parliamentary Joint Committee on Intelligence and Security, Advisory Report on the Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014 (Oct. 2014), http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Intelligence_and_Security/Counter-Terrorism_Legislation_Amendment_Foreign_Fighters_Bill_2014/Report1. These changes were accepted by the government and passed by the Parliament. Press Release, Hon. George Brandis QC, Government Response to Committee Report on the Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014

The legislation amended a number of existing statutes in order to implement the government's response "to the increased threat of terrorism posed by Australians engaging in, and returning from, conflicts in foreign States."⁴⁰ Key provisions in the legislation include the following:

- Amendments to the Criminal Code Act 1995 (Cth)⁴¹ to create new offenses of "advocating terrorism"⁴² and of entering or remaining in a "declared area" of a foreign country in which a terrorist organization is engaging in hostile activity.⁴³
- Extensions to the applicability of both the control order regime⁴⁴ and the preventative detention order regime⁴⁵ under the Criminal Code Act 1995 (Cth) until September 2018, when the relevant provisions (as amended by the 2014 bill) will expire if they are not extended again through legislation passed by the Parliament.
- Amendments to the Australian Passports Act 2005 (Cth) to introduce a power to suspend a person's Australian travel documents for fourteen days if requested by the Director-General of Security. Further amendments will allow for a person to not be notified of a decision to refuse or cancel a passport if essential to national security or if such notification would adversely affect an investigation into a terrorism offense.⁴⁶ The law already allows for a person's Australian passport to be canceled if it is suspected that he or she is likely to engage in conduct that might prejudice the security of Australia.⁴⁷
- Amendments to the Crimes Act 1914 (Cth) to introduce a delayed notification search warrant system⁴⁸ and to lower the legal threshold for arrest of a person without a warrant for terrorism offenses.⁴⁹

(Oct. 22, 2014), <http://www.attorneygeneral.gov.au/MediaReleases/Pages/2014/FourthQuarter/22October2014-Governmentresponsecommitteereportonthecounterterrorismlegislationamendmentforeignfightersbill.aspx>.

⁴⁰ Cat Barket et al., *Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014*, PARLIAMENTARY LIBRARY BILLS DIGEST NO. 34, 2014–15, at 6 (Oct. 17, 2014), http://parlinfo.aph.gov.au/parlInfo/download/legislation/billsdgs/3452969/upload_binary/3452969.pdf;fileType=application%2Fpdf#search=%22legislation/billsdgs/3452969%22.

⁴¹ Criminal Code Act 1995 (Cth), <http://www.comlaw.gov.au/Details/C2014C00748>.

⁴² Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014: Revised Explanatory Memorandum 5, 29 (Oct. 2014), http://parlinfo.aph.gov.au/parlInfo/download/legislation/ems/s976_ems_c21ea737-5e59-4cdb-bceb-7af5e22aa6a9/upload_pdf/398980.pdf;fileType=application%2Fpdf.

⁴³ *Id.* at 7, 47.

⁴⁴ *Id.* at 6–7, 32–33. See also Lisa White, *Australia: Terrorism Laws: Control Orders* (Law Library of Congress, Oct. 2008), <http://www.loc.gov/law/help/australia-terrorism-laws/control-orders.php>.

⁴⁵ Revised Explanatory Memorandum, *supra* note 42, at 6, 39–40. See also Lisa White, *Australia: Terrorism Laws: Preventative Detention & Prohibited Contact Orders* (Law Library of Congress, Oct. 2008), <http://www.loc.gov/law/help/australia-terrorism-laws/preventative-detention.php>.

⁴⁶ Revised Explanatory Memorandum, *supra* note 42, at 4, 12–13.

⁴⁷ Australian Passports Act 2005 (Cth) s 14, <http://www.comlaw.gov.au/Details/C2014C00558>.

⁴⁸ Revised Explanatory Memorandum, *supra* note 42, at 5, 23–24.

⁴⁹ *Id.* at 5, 22.

In introducing the bill in the Parliament, the Australian Attorney-General, Hon. George Brandis QC, stated that around 160 Australians had

become involved with extremist groups in Syria and Iraq by travelling to the region, attempting to travel or supporting groups operating there from Australia. While this is not the first time Australians have been involved in overseas conflicts, the scale and scope of the conflicts in Syria and Iraq, and the number of Australians presently involved, is unparalleled and demands specific and targeted measures to mitigate this threat.⁵⁰

A further bill, the Counter-Terrorism Legislation Amendment Bill (No. 1) 2014, was introduced in the Parliament on October 29, 2014.⁵¹ One of the aims of the bill is to facilitate improved cooperation between the Australian Secret Intelligence Service and the Australian Defence Force (ADF) in the context of the Australian government's decision to authorize the ADF to undertake operations against IS in Iraq.⁵²

Austria

In parliamentary correspondence dated October 7, 2014, Austrian Interior Minister Johanna Mikl-Leitner took note of a package of measures to fight jihadism that had already been made public. The package includes a ban on terrorist symbols, an amendment to the Border Inspection Act, and the withdrawal of Austrian citizenship from dual nationals who choose to fight for foreign groups.⁵³ More specifically, some of the measures⁵⁴ presented on September 15, 2014, by the Austrian Peoples Party (Österreichische Volkspartei, ÖVP) to combat the IS terrorist organization include

- revocation of Austrian citizenship of dual nationals who have fought abroad in a paramilitary unit (at present, this can occur only if the person serves in a regular foreign army);

⁵⁰ Commonwealth, *Parliamentary Debates*, Senate, 24 September 2014, 6999 (George Brandis, Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General), http://parlinfo.aph.gov.au/parlInfo/download/chamber/hansards/381f44a1-fb0b-4400-8e8c-97e98d79f489/toc_pdf/Senate_2014_09_24_2854_Official.pdf;fileType=application%2Fpdf#search=%22chamber/hansards/381f44a1-fb0b-4400-8e8c-97e98d79f489/0174%22.

⁵¹ *Counter-Terrorism Legislation Amendment Bill (No. 1) 2014*, PARLIAMENT OF AUSTRALIA, http://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bId=s982 (last visited Nov. 13, 2014).

⁵² Counter-Terrorism Legislation Amendment Bill (No. 1) 2014: Explanatory Memorandum ¶¶ 5–11 (Oct. 2014), http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22legislation%2Fems%2Fs982_ems_a8ef0a8b-6845-4e3c-942e-12c2d3c0417d%22.

⁵³ Innenausschuss befasst sich mit Dschihadismus und Flüchtlingsansturm: Mikl-Leitner sucht für Eintragung von Fehlgeburten juristische Lösung [Interior Committee Deals with Jihadism and Refugee Onslaught: Mikl-Leitner Searches for Legal Solution for Registration of Abortions], Parliamentary Correspondence No. 874 (Oct. 7, 2014), http://www.parlament.gv.at/PAKT/PR/JAHR_2014/PK0874/index.shtml.

⁵⁴ *Kampf gegen IS: ÖVP stellt Maßnahmenbündel vor* [Fight Against IS: ÖVP Introduces Package of Measures], GMX (Sept. 16, 2014), <http://www.gmx.at/magazine/politik/kampf-is-oevp-stellt-massnahmenbuedel-30067776>; Donna Rachel Edmunds, *Austria Announces Tough New Anti-Jihad Laws as Europe Cracks Down on Defectors*, BREITBART (Sept. 17, 2014), <http://www.breitbart.com/Breitbart-London/2014/09/17/Austria-Announced-Tough-New-Anti-Jihad-Laws>; *Austria Bans Isis Terror Symbols*, THE LOCAL (Sept. 12, 2014), <http://www.thelocal.at/20140912/austria-bans-isis-terror-symbols>.

- amendment of the Border Control Act⁵⁵ to permit foreign travel of minors outside the EU only with the consent of their parents or guardians;
- expansion of police powers to permit, in cases of terrorism and serious crime, extension of the period of data retention (at present, data on terrorist suspects must be deleted after a maximum of nine months); and
- imposition of a ban on IS symbols and icons, through tightening the Badges Act (Abzeichengesetz), which prohibits Nazi insignia, as well as symbols, flags, and uniforms from banned organizations.⁵⁶

The Austrian Federal Office for the Protection of the Constitution and Counterterrorism (Bundesamt für Verfassungsschutz und Terrorismusbekämpfung, or BVT), in its *Verfassungsschutzbericht 2013* [*Constitutional Protection Report 2013*], had discussed the potential danger of Austrian foreign fighters returning home in general but had not elaborated much on possible solutions.⁵⁷ In June 2013, the BVT Director reportedly stated that Austrian fighters in Syria present a “very difficult problem” for the country’s security agencies because of the “potential danger” they will pose upon their return to Austria.⁵⁸ About 140 Austrians have reportedly fought beside jihadist groups in Iraq and Syria.⁵⁹

Azerbaijan

In October 2014, twenty-six alleged fighters for Islamist groups, IS among them, were arrested on their return to Azerbaijan.⁶⁰ Current legislation imposes a criminal punishment of imprisonment for up to eight years for joining terrorist groups and participating in foreign military forces.⁶¹

⁵⁵ Bundesgesetz über die Durchführung von Personenkontrollen aus Anlaß des Grenzüberttritts (Grenzkontrollgesetz – GrekoG) [Federal Act on the Implementation of Checks on Persons on the Occasion of Crossing the Border (Border Inspection Act – GrekoG)], BUNDESGESETZBLATT [BGBL.] Nr. 435/1996 (Aug. 20, 1996), *as last amended by* BGBL. I Nr. 68/2013, <https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10005985&ShowPrintPreview=True>.

⁵⁶ THE LOCAL, *supra* note 54; Abzeichen verboten werden (Abzeichengesetz 1960) [Prohibition of Badges (Badges Act 1960) (Apr. 5, 1960), BGBL. Nr. 84/1960, *as last amended by* BGBL. I Nr. 113/2012, <http://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10005262>.

⁵⁷ Edwin Bakker et al., *Dealing with European Foreign Fighters in Syria: Governance Challenges and Legal Implications* (ICCT Research Paper, Dec. 16, 2013), <http://www.icct.nl/publications/icct-papers/dealing-with-european-foreign-fighters-in-syria-governance-challenges-and-legal-implications>.

⁵⁸ *Id.* (citing *Verfassungsschutz: Heimische Kämpfer in Syrien*, ÖSTERREICHISCHER RUNDFUNK (June 24, 2013), <http://orf.at/stories/2188377/>).

⁵⁹ ‘*Extremism Prevention*’: *Austria to Amend Century-Old Law on Islam*, RT (Oct. 3, 2014), <http://rt.com/news/192768-austria-islam-funding-koran/>.

⁶⁰ Audrey Altstadt, *Could This be ISIL’s Next Target?*, THE NATIONAL INTEREST (Oct. 29, 2014), <http://nationalinterest.org/blog/the-buzz/could-be-isils-next-target-11563>.

⁶¹ CRIMINAL CODE OF THE REPUBLIC OF AZERBAIJAN (Sept. 1, 2000), art. 114.3, *available at* <http://www.legislationline.org/download/action/download/id/1658/file/4b3ff87c005675cfd74058077132.htm/preview>.

Bahrain

Article 13 of Law No. 58 of 2006 specifically criminalizes the acts of any citizen who joins or cooperates with terrorist organizations or groups based outside the country.⁶²

Bangladesh

There have been news reports of Bangladeshi nationals going to fight in Syria but there do not appear to be any official numbers or estimates.⁶³ On September 29, 2014, news reports stated that a twenty-four-year-old British citizen had been arrested in Bangladesh “on suspicion of recruiting people to fight alongside” IS or Nusra Front militants in Syria.⁶⁴

Bangladesh’s main antiterrorism law is the Anti-terrorism Act 2009 and it applies extraterritorially, but only when a person commits a terrorist offense against a Bangladeshi national or property abroad.⁶⁵ It contains provisions that criminalize terrorist activities, membership and support of prohibited organizations, and terrorist financing. The authority to revoke citizenship or cancel passports is provided in the Citizenship Act, 1951⁶⁶ and the Bangladesh Passport Order, 1973.⁶⁷ Under the Citizenship Act 1951 a naturalized citizen can only be deprived of his or her citizenship if it is in the public interest and in certain circumstances, such as (1) disloyalty to the Constitution, (2) communication or assistance with an enemy of which Bangladesh is at war, or (3) where the citizen “has within five years of being naturalised been sentenced in any country to imprisonment for a term of not less than twelve months.”⁶⁸ A passport can be revoked or impounded “if the passport authority deems in [sic] necessary to do so in the interest of sovereignty, integrity or security of Bangladesh, or in the public interest.”⁶⁹

⁶² Law No. 58 of 2006 on the Protection of Society from Terrorist Acts, available on website of the Legislation and Legal Opinion Commission, at <http://www.legalaffairs.gov.bh/LegislationSearchDetails.aspx?id=2125> (in Arabic).

⁶³ See RICHARD BARRETT, THE SOUFAN GROUP, FOREIGN FIGHTERS IN SYRIA 13 (June 2014), <http://soufan-group.com/wp-content/uploads/2014/06/TSG-Foreign-Fighters-in-Syria.pdf>.

⁶⁴ Serajul Quadir, *Bangladesh Arrests Briton for Suspected Islamic State Recruitment*, REUTERS (Sept. 29, 2014), <http://in.reuters.com/article/2014/09/29/mideast-crisis-bangladesh-idINKCN0HO0QY20140929>.

⁶⁵ Anti Terrorism Act, No. 16 of 2009 § 5, available at <http://www.bangladesh-bank.org/openpdf.php> (in Bengali).

⁶⁶ Citizenship Act, No. 2 of 1951, http://bdlaws.minlaw.gov.bd/print_sections_all.php?id=242.

⁶⁷ Bangladesh Passport Order, President’s Order No. 9 of 1973, http://www.dip.gov.bd/sites/default/files/PassportOrder_0.pdf.

⁶⁸ Citizenship Act § 16.

⁶⁹ Bangladesh Passport Order § 7(2)(c).

Belgium

The Belgian government believes that between three hundred and 350 Belgian citizens and residents either have been or are currently involved as fighters in the Syrian conflict.⁷⁰ A 1979 law prohibits the recruitment of Belgian citizens by foreign armed forces and authorizes the government to prohibit Belgian citizens from joining foreign armed forces.⁷¹ Anyone found guilty under this law may be punished by three months to two years of incarceration.⁷² While this law appears to automatically prohibit the act of recruiting, or facilitating the recruitment of, Belgian citizens, it does not automatically prohibit Belgians from joining a foreign armed body. Indeed, the law stipulates that a government decree is required for this.⁷³

Following elections that took place in May 2014,⁷⁴ a new coalition government was recently formed and sworn into office on October 11, 2014.⁷⁵ This new coalition expressed its intention to adopt the “urgent and necessary” measures to apply the 1979 law to Belgian citizens who participate in foreign conflicts such as in Syria.⁷⁶ It plans on increasing the possible sanctions provided by the law, including the possibility for courts to strip dual citizens of their Belgian citizenship, and to temporarily or permanently expel noncitizens from Belgian territory.⁷⁷

Bosnia and Herzegovina

In April 2014, the legislature of Bosnia and Herzegovina adopted amendments to the country’s Criminal Code that extend the prison terms for convicted terrorists to up to ten years. The amendments apply to recruiters working for radical Islamist organizations, punishing them with terms of imprisonment of no less than five years. Those who join “in any way a foreign

⁷⁰ *Belges en Syrie: La loi anti-djihad est sur la table des négociateurs* [Belgians in Syria: The Anti-Jihad Law on the Negotiators’ Table], LA LIBRE BELGIQUE (Sept. 15, 2014), <http://www.lalibre.be/actu/politique-belge/belges-en-syrie-la-loi-anti-djihad-est-sur-la-table-des-negociateurs-54173eae35708a6d4d56724a>.

⁷¹ Loi du 1 aout 1979 concernant les services dans une armée ou une troupe étrangère se trouvant sur le territoire d'un Etat étranger [Law of August 1, 1979, Regarding Service in a Foreign Army or Troop in the Territory of a Foreign State] (as amended Apr. 22, 2003), http://www.ejustice.just.fgov.be/cgi_loi/arch_a1.pl?sql=%28text+contains+%28%27%27%29%29&rech=1&language=fr&tri=dd+AS+RANK&value=&table_name=loi&F=&cn=1979080130&caller=archive&fromtab=loi&la=F&ver_arch=001.

⁷² *Id.* art. 4.

⁷³ *Id.* arts. 2 & 3.

⁷⁴ *Résultats des élections 2014, sixième réforme de l’Etat et Sénat réformé* [2014 Elections Results, Sixth Reform of the State and Reformed Senate], PORTAIL BELGIUM.BE (official Belgian government portal) (May 26, 2014), http://www.belgium.be/fr/actualites/2014/news_elections_2014_sixieme_reforme_etat_senat_reforme.jsp?referer=tcm:116-248638-64-a3.

⁷⁵ *Prestation de serment du nouveau gouvernement fédéral* [New Federal Government Sworn Into Office], PORTAIL BELGIUM.BE (Oct. 11, 2014), http://www.belgium.be/fr/actualites/2014/news_prestation_nouveau_gouvernement_federal.jsp?referer=tcm:116-256893-64-a4.

⁷⁶ *La lutte contre la radicalisation va s’intensifier* [The Fight Against Radicalization Will Intensify], LA LIBRE BELGIQUE (Oct. 9, 2014), <http://www.lalibre.be/actu/politique-belge/la-lutte-contre-la-radicalisation-va-s-intensifier-5436a09235708a6d4d5cedcd>.

⁷⁷ *Id.*

paramilitary and parapolice formation” are subject to no less than three years of imprisonment.⁷⁸ Reportedly, in September 2014, the State Court of Bosnia and Herzegovina ordered a one-month detention for five Islamists accused of recruiting people to join fighters in Syria and Iraq.⁷⁹

Bulgaria

An interdepartmental group formed by the Ministries of Foreign Affairs, Defense, and Justice has been created in Bulgaria with the purpose of drafting a bill aimed at criminalizing the participation of Bulgarian citizens in terrorist organizations, including IS. It is expected that the new law will be introduced in the National Assembly before the end of 2014. The law will provide for the arrest of any person with a Bulgarian passport who is proven to be a part of a terrorist group upon crossing any European border.⁸⁰

Canada

Canada has made a number of legislative changes in order to address the growing problem of foreign fighters in conflicts like Syria and Iraq. In September 2004,⁸¹ Canada’s passport regulations, the Canadian Passport Order, was amended to give Canada’s Citizenship and Immigration Minister the explicit authority to “refuse or revoke a passport if the Minister is of the opinion that such action is necessary for the national security of Canada or another country.”⁸² In early February 2014, the head of the Canadian Security Intelligence Service (CSIS) said that approximately thirty Canadian citizens or nationals are foreign fighters in Syria.⁸³

Canada’s Criminal Code was amended in 2013, pursuant to Bill S-7, the Combatting Terrorism Act, to make it a criminal offense for a person to leave or attempt to leave Canada for the purpose of participating in the activity of a terrorist group.⁸⁴ A person convicted of such an indictable offense is liable to imprisonment for a term of not more than ten years. Canada’s

⁷⁸ CRIMINAL CODE OF BOSNIA AND HERZEGOVINA art. 162B, OFFICIAL GAZETTE OF BOSNIA AND HERZEGOVINA, No. 47/14, *English translation available at* <http://www.coe.int/t/dlapil/codexter/Country%20Profiles/Legislation/BiH%20Criminal%20Code%20Article%20162b%20-%20draft.pdf>.

⁷⁹ Drazen Remikovic, *Balkan Countries Unite Against ISIL*, SETIMES.COM (Aug. 10, 2014), http://www.setimes.com/cocoon/setimes/xhtml/en_GB/features/setimes/features/2014/10/08/feature-01.

⁸⁰ *Bulgaria Takes Important Step to Stop “Home-Grown” Jihadists*, STANDART NEWS (Oct. 31, 2014), http://www.standartnews.com/english/read/bulgaria_takes_important_step_to_stop_homegrown_jihadists-6072-6072.html.

⁸¹ *Investigation and Decision Making Process in Passport Refusal and Revocation Files—Category Three: Refusal or Revocation of Passport Services on Grounds of National Security*, PASSPORT CANADA, <http://www.ppt.gc.ca/protection/cat3.aspx?lang=eng> (last modified Sept. 2, 2014).

⁸² Canadian Passport Order, SI/81-86, § 10.1, <http://laws-lois.justice.gc.ca/eng/regulations/SI-81-86/FullText.html>.

⁸³ Stewart Bell, *Canadians Fighting in Syria Could Pose ‘Immediate’ Threat To National Security When They Return: CSIS*, NATIONAL POST (Feb. 3, 2014), <http://news.nationalpost.com/2014/02/03/canadians-fighting-in-syria-could-pose-immediate-threat-to-national-security-when-they-return-csis/>.

⁸⁴ Bill S-7, Combating Terrorism Act, S.C. 2013, c. 9, <http://www.parl.gc.ca/HousePublications/Publication.aspx?Language=E&Mode=1&DocId=6106212&File=30#2>.

Foreign Enlistment Act also prohibits enlisting, leaving Canada, or intending to leave Canada to enlist “with a foreign state at war with a friendly state.”⁸⁵ The government has reportedly proposed further changes to Canada’s Criminal Code to “allow for more preventative action,”⁸⁶ and suggested lowering the legal threshold “to allow for preventive detention of suspected foreign fighters who are intent on travelling abroad to participate in terror activity.”⁸⁷

On June 19, 2014, Royal Assent was given to Bill C-24,⁸⁸ which made amendments to Canada’s Citizenship Act (among other laws) that allow the Government to revoke the citizenship of dual nationals “who are convicted of terrorism, high treason, and spying offences (depending on the sentence received), or who take up arms against Canada.”⁸⁹

Croatia

Following reports on a wounded Croatian woman in the war zone in Syria, the Croatian Foreign Ministry has asked the Security and Intelligence Agency and the police to investigate her connections in Croatia and the region. “Although recruitment of fighters is not an issue inside Croatia itself, the authorities already have placed some people under surveillance for possible connections to Islamic State,” according to a regional news report.⁹⁰ Croatia is considering the introduction of a new law penalizing fighting for foreign armed groups.⁹¹

Denmark

Terror acts that constitute crimes are covered by chapter 13 of the Danish Criminal Code.⁹² Such acts include committing acts of terrorism,⁹³ financing terrorism,⁹⁴ and instructing others to commit terrorism.⁹⁵ The Code also criminalizes participation in unlawful military

⁸⁵ Foreign Enlistment Act, R.S.C., 1985, c. F-28, § 4, available at <https://www.canlii.org/en/ca/laws/stat/rsc-1985-c-f-28/latest/rsc-1985-c-f-28.html>.

⁸⁶ Tonda MacCharles, *Tories Hint at Even Tougher Anti-terror Laws*, TORONTO STAR (Oct. 24, 2014), http://www.thestar.com/news/canada/2014/10/24/tories_hint_at_even_tougher_antiterror_laws.html.

⁸⁷ *Id.*

⁸⁸ Bill C-24, An Act to Amend the Citizenship Act and to Make Consequential Amendments to Other Acts, <http://www.parl.gc.ca/HousePublications/Publication.aspx?Language=E&Mode=1&DocId=6684615&File=4>.

⁸⁹ Press Release, Government of Canada, Strengthening and Modernizing the Citizenship Act (Feb. 6, 2014), <http://news.gc.ca/web/article-en.do?crtr.sj1D=&crtr.mnthndVI=12&mthd=advSrch&crtr.dpt1D=6664&nid=814119&crtr.lc1D=&crtr.tp1D=1&crtr.yrStrtVI=2008&crtr.kw=&crtr.dyStrtVI=26&crtr.aud1D=&crtr.mnthStrtVI=2&crtr.page=8&crtr.yrndVI=2014&crtr.dyndVI=31>.

⁹⁰ *Croatian “Jihadist Bride” Wounded in Syria Air Strike*, INDEPENDENT.MK (Oct. 2, 2014), <http://www.independent.mk/articles/9937/Croatian+Jihadist+Bride+Wounded+in+Syria+Air+Strike>.

⁹¹ *Id.*

⁹² STRAFFELOVEN [CRIMINAL CODE], LBK No. 871 of July 4, 2014, <https://www.retsinformation.dk/Forms/R0710.aspx?id=164192#Kap13>.

⁹³ *Id.* § 114.

⁹⁴ *Id.* § 114b.

⁹⁵ *Id.* § 114d.

organizations.⁹⁶ In addition, a person who has committed a terror act under chapter 13 may lose his/her Danish citizenship, provided that he/she does not become stateless as a result.⁹⁷

Among twenty-five countries that have given official estimates, Denmark reportedly has one of the largest numbers of inhabitants fighting in Syria measured as a percentage of the total Muslim population,⁹⁸ but the suggested treatment of and measures against returning IS fighters have Danes divided. The Danish government has promised a review of the current terror laws to determine whether they are consistent with human rights.⁹⁹ The opposition party Danske Folkepartiet has made clear that they would prefer to see that IS fighters, regardless of their citizenship status, never set foot on Danish soil.¹⁰⁰ Following problems with several jihadists, reportedly twenty-three in number, being sent to Syria from a mosque in Aarhus (Denmark's second largest city), the political right has asked that the mosque be closed.¹⁰¹ The Danish government has opposed such measures.¹⁰² Instead Aarhus has chosen to welcome home IS warriors with a soft approach tailored at finding them jobs and providing university studies, according to news reports.¹⁰³

Egypt

On April 5, 2014, Egypt's Council of Ministers approved a draft antiterrorism law. Under article 11 of the draft law, individuals joining terrorist organizations would be punished with imprisonment.¹⁰⁴ If the individual received any military training by those organizations, the punishment would be a term of imprisonment of not less than ten years.¹⁰⁵

⁹⁶ *Id.* § 114g.

⁹⁷ 8 § BEKENDTGØRELSE AF LOV OM DANSK INDFØDSRET [ACT ON DANISH CITIZENSHIP], LBK No. 422 of June 7, 2004, <https://www.retsinformation.dk/Forms/R0710.aspx?id=28974>.

⁹⁸ *See, e.g.,* Bharati Naik, Atika Shubert & Nick Thompson, *Denmark Offers Some Foreign Fighters Rehab Without Jail Time – But Will It Work?*, CNN.COM (Oct. 28, 2014), <http://www.cnn.com/2014/10/28/world/europe/denmark-syria-deradicalization-program/>.

⁹⁹ *Denmark to Reconsider Its Terror Laws*, THE LOCAL (Aug. 12, 2014), <http://www.thelocal.dk/20140812/denmark-to-reconsider-its-terror-laws>.

¹⁰⁰ Martin Henriksen, Op-ed., *Sharia politi? Aldrig i Danmark*, BERLINGSKE (Sept. 11, 2014), <http://www.b.dk/kommentarer/sharia-politi-aldrig-i-danmark>.

¹⁰¹ Michael Ørtz Christiansen, *Borgerlige partier kræver Aarhus-moské lukket*, BERLINGSKE (Sept. 3, 2014), <http://www.politiko.dk/nyheder/borgerlige-partier-kræver-aarhus-moske-lukket>.

¹⁰² *Id.*

¹⁰³ *Denmark Tries a Soft Handed Approach to Returned Islamist Fighters*, WASHINGTON POST (Oct. 19, 2014), http://www.washingtonpost.com/world/europe/denmark-tries-a-soft-handed-approach-to-returned-islamist-fighters/2014/10/19/3516e8f3-515e-4adc-a2cb-c0261dd7dd4a_story.html; CNN.COM, *supra* note 98.

¹⁰⁴ *Anti-Terrorism Draft Law*, AL MASRY AL YOUM (Nov. 3, 2013), <http://www.almasryalyoum.com/news/details/335366> (in Arabic).

¹⁰⁵ Rana Muhammad Taha, *Cabinet Amends Laws Creating Harsher Punishments for Terrorism*, DAILY NEWS EGYPT (Apr. 5, 2014), <http://www.dailynewsegypt.com/2014/04/05/cabinet-amends-laws-creating-harsher-punishments-terrorism/>.

Finland

Chapter 34a of Finland's Criminal Code¹⁰⁶ criminalizes "terrorist acts," which include crimes carried out with a terroristic intent;¹⁰⁷ preparing crimes with a terroristic intent;¹⁰⁸ leading a terrorist group that has the intent of carrying out terroristic crimes;¹⁰⁹ and promoting a terrorist group's activities,¹¹⁰ which includes sending money and weapons, housing terrorists, sharing information with a terrorist group, advising terrorist groups, or taking care of legal or financial issues for such groups. Legal representation during court hearings is, however, exempt.¹¹¹ The law also criminalizes providing education for the facilitation of terrorist acts,¹¹² recruiting for a terrorist crime,¹¹³ and the financing of terrorism.¹¹⁴

Finland recently arrested and took three men into custody for murders related to terrorism.¹¹⁵ As of September 2014, an estimated forty individuals had left Finland to fight for IS.¹¹⁶

France

The issue of citizens and residents traveling abroad to fight with Islamist groups has been a real problem for France. It appears that, as of August 2014, as many as nine hundred French citizens had gone to fight in Syria alone, according to the French Minister of the Interior, Bernard Cazeneuve.¹¹⁷ Those who return to France are systematically questioned by French intelligence and law enforcement authorities, following which they are almost always detained and charged with conspiracy with a terrorist enterprise.¹¹⁸ Once charged, they are subject to further

¹⁰⁶ Ch. 34a STRAFFLAG [CRIMINAL CODE] (Dec. 19, 1889:39), *as amended*, <http://www.finlex.fi/sv/laki/ajantasa/1889/18890039001#L34a>.

¹⁰⁷ *Id.* 1 §.

¹⁰⁸ *Id.* 2 §.

¹⁰⁹ *Id.* 3 §.

¹¹⁰ *Id.* 4 §.

¹¹¹ *Id.*

¹¹² *Id.* 4a §.

¹¹³ *Id.* 4b §.

¹¹⁴ *Id.* 5 §.

¹¹⁵ Juhana Rossi, *Finland Detains Three on Foreign Terror Suspicions*, WALL STREET JOURNAL (Oct. 9, 2014), <http://online.wsj.com/articles/finland-detains-three-on-foreign-terror-suspicious-1412863140>.

¹¹⁶ *Finländska IS-krigare sprider proganda*, YLE (Sept. 16, 2014), <http://svenska.yle.fi/artikel/2014/09/16/finlandska-krigare-sprider-propaganda>.

¹¹⁷ Edouard de Mareschal, *En Syrie, un djihadiste occidental sur trois serait français [In Syria, One Out of Three Jihadists May be French]*, LE FIGARO (Sept. 5, 2014), <http://www.lefigaro.fr/international/2014/09/05/01003-20140905ARTFIG00012-en-syrie-un-djihadiste-occidental-sur-trois-serait-francais.php>.

¹¹⁸ Marie-Amélie Lombard, *L'épineuse gestion du retour des djihadistes en France [The Thorny Management of the Return of Jihadist Fighters in France]*, LE FIGARO (Oct. 7, 2014), <http://www.lefigaro.fr/actualite-france/2014/10/06/01016-20141006ARTFIG00355-l-epineuse-gestion-du-retour-des-djihadistes-en-france.php>.

investigation by specialized investigative magistrates in preparation for trial.¹¹⁹ Approximately fifty suspects were thus detained as of October 7, 2014, though it is unclear how likely they are to be found guilty at trial.¹²⁰

The French Code Pénal (Criminal Code) describes conspiracy with a terrorist enterprise as “participating in a group formed, or an agreement made, for the purpose of preparing” an act of terrorism.¹²¹ This crime is punishable by up to ten years of incarceration and a fine of €225,000 (approximately US\$281,600), or by up to twenty years of incarceration and a fine of €500,000 (approximately US\$625,800) for those found to be in a leadership role.¹²² The French government’s ability to charge citizens for joining Islamist fighting groups abroad stems from a 2012 law, which provides, in part, that French criminal law relating to terrorism activities should apply to citizens and residents of France even for acts committed abroad.¹²³

The French government is currently considering a draft law that would widen the scope of the crime of conspiracy with a terrorist enterprise to include terrorist plots prepared by lone individuals.¹²⁴ It would also allow government authorities to prohibit, through an administrative procedure, individuals from leaving France if they might join or train with Islamist groups abroad.¹²⁵ This proposed law is expected to be adopted by both chambers of Parliament by a wide margin.¹²⁶

The Gambia

A person who joins a terrorist organization abroad may be penalized in The Gambia. The Minister of Defense may declare a person a “suspected international terrorist” (SIP), including if the Minister “reasonably suspects” that the person is “a member of, or belongs to, an international terrorist organization.”¹²⁷ If a person declared a SIP possesses dual citizenship, the Minister may petition the High Court to have the person’s Gambian citizenship revoked.¹²⁸

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ CODE PÉNAL [CRIMINAL CODE] (as amended through Nov. 2, 2014), art. 421-2-1, <http://www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000006070719&dateTexte=20141106>.

¹²² *Id.* art. 421-5.

¹²³ Loi No. 2012-1431 du 21 décembre 2012 relative à la sécurité et à la lutte contre le terrorisme [Law No. 2012-1431 of December 21, 2012, Regarding Security and the Fight Against Terrorism] (Dec. 21, 2012), art. 2, http://www.legifrance.gouv.fr/affichTexte.do;jsessionid=77572629B0A192B20BB565604668AD14.tpdjo03v_3?cidTexte=JORFTEXT000026809719&categorieLien=id.

¹²⁴ Projet de Loi renforçant les dispositions relatives à la lutte contre le terrorisme [Proposed Law Reinforcing the Provisions Regarding the Fight Against Terrorism], No. 2110 (July 9, 2014), <http://www.assemblee-nationale.fr/14/projets/pl2110.asp>.

¹²⁵ *Id.*

¹²⁶ Soren Seelow, *Gauche et droite à l’unisson contre les djihadistes* [Left and Right United Against Jihadists], LE MONDE (Sept. 15, 2014), http://www.lemonde.fr/societe/article/2014/09/13/gauche-et-droite-a-l-unisson-contre-les-djihadistes_4487031_3224.html.

¹²⁷ Anti-Terrorism Act No. 6 of 2003, § 10, 3 LAWS OF THE GAMBIA, Cap. 13:01 (rev. ed. 2009). An “international terrorist organization” is defined as an organization “subject to the control or influence of any person or organization

In addition, a citizen or resident who engages in what is known as a “foreign incursion” commits a crime in The Gambia. A person commits this crime if he “enters a foreign state with intent to engage in a ‘hostile activity’ in that foreign State . . . or . . . engages in a hostile activity in a foreign State.”¹²⁹ A person convicted for this crime is subject to a prison term ranging from ten to twenty-five years.¹³⁰

Georgia

Georgia does not have special legislation in force that would prosecute returning Islamist fighters. However, in 2013, the section on terrorism-related crimes of the Criminal Code was substantially amended to extend the list of activities subject to criminal prosecution.¹³¹ The Georgian Criminal Code provides for lengthy terms of imprisonment for joining or providing assistance to a foreign terrorist organization, and for providing assistance to a “foreign organization involved in hostile activities.”¹³²

Germany

According to German security officials, “about 400 German citizens have joined IS in Iraq and Syria and about 40 have died, at least five in suicide attacks. More than 130 are believed to have returned, 25 of whom had direct combat experience.”¹³³ A number of returnees from Syria have

outside The Gambia, and the Minister reasonably suspects that it is concerned in the commission, preparation or instigation of acts of international terrorism.” *Id.* An “act of international terrorism” is defined as “an act of terrorism involving a person or organization that . . . is ordinarily resident in The Gambia, or . . . is ordinarily resident in The Gambia but has connection with a person or an organization resident outside The Gambia.” *Id.*

¹²⁸ *Id.*

¹²⁹ *Id.* § 34. The term “engag[ing] in a hostile activity” means:

doing an act for the purpose of achieving any one of the following objectives, whether or not that objective is achieved—

- (a) the overthrow by force or violence of the government of [a] foreign State or part of the foreign State;
- (b) engaging in armed hostilities in the foreign State;
- (c) causing by force or violence members of the public in the foreign State to be in fear of suffering death or personal injury;
- (d) causing the death of, or bodily injury to, a person who—
 - i. is the head of state of the foreign State, or
 - ii. holds, or performs any of the duties of, a public office of the foreign State or of the foreign State; or
- (e) unlawfully destroying or damaging any real or personal property belonging to the government of the foreign State or of a part of the foreign State. *Id.*

¹³⁰ *Id.*

¹³¹ Ch. 2, “Europe Overview,” in US DEPARTMENT OF STATE BUREAU OF COUNTERTERRORISM, COUNTRY REPORTS ON TERRORISM 2013, <http://www.state.gov/j/ct/rls/crt/2013/224822.htm>.

¹³² CRIMINAL CODE OF GEORGIA arts. 319, 328, Law No. 2287-rs of July 22, 1999, available at <http://legislationline.org/documents/section/criminal-codes/country/29> (unofficial translation).

¹³³ *Germany Plans Tougher Controls on Would-Be Jihadists, Returning Islamic State Fighters*, REUTERS (Sept. 27, 2014), <http://uk.reuters.com/article/2014/09/26/uk-mideast-crisis-germany-jihadists-idUKKCN0HL1ZV20140926>.

recently been arrested, at least thirty are facing trial, and the German intelligence services are monitoring others.¹³⁴ The German domestic intelligence service, together with the police, reportedly keeps suspected jihadists “under close watch” and “[u]pon suspicion of possible travel plans to participate in the Syrian civil war, security services approach suspects directly to issue warnings and inform them that authorities are aware of their plans.”¹³⁵ Government officials are said to work closely with the border officials of Turkey to exchange information on alleged travelers, and “[f]ederal police and other relevant authorities are notified when a fighter returns and the individual is placed under increased surveillance.”¹³⁶

On October 20, 2014, Justice Minister Heiko Maas was reported to have presented a package of measures to combat IS terror. According to the Minister, the UN resolution against the group is being implemented quickly in Germany, and the country’s criminal law will be changed in two respects to that end. First, whoever wants to leave Germany to take part in serious acts of violence abroad or to be trained to participate in serious acts of violence will be held criminally responsible. Second, a separate offense of terrorist financing will be created, in order to dry up the sources of funding of terrorist organizations such as IS.¹³⁷ The Minister indicated that the country already has a strict and differentiated antiterrorism law under which anyone who supports IS terrorism in Syria and Iraq can already be punished, that IS has been banned in Germany, and that propaganda campaigns in support of the organization are already punishable and related investigations have been initiated.¹³⁸

As of late-September 2014, Germany was considering implementation of stricter controls on would-be jihadists by placement of a special mark on personal identity cards, to alert border guards in Germany or other Schengen countries about suspicious travelers and to prevent such individuals from leaving the country or the Schengen area. The government was also considering adopting a measure prescribing the withdrawal of German citizenship from suspected Islamist militants who hold dual nationality.¹³⁹ It is unclear whether these options are still being pursued.

Ghana

A Ghanaian citizen or resident who joins a terrorist organization abroad may be indicted for the crime of supporting a terrorist act. The law provides that any citizen or resident who knowingly gives support to a terrorist organization, including “entering and remaining in a country for the

¹³⁴ *Id.*

¹³⁵ Edwin Bakker et al., *supra* note 57, at 16.

¹³⁶ *Id.* However, the authors note, a then-recent ruling by the German Federal Constitutional Court deeming certain elements of the country’s Anti-Terrorism Database (Antiterrordatei ATD) unconstitutional “may hinder some of these efforts.” Some thirty-eight different German government agencies can access the database to store and share information on suspected terrorists and potential violent extremists. *Id.*

¹³⁷ *Mit Entschlossenheit und Augenmaß gegen den IS-Terror*, BUNDESMINISTERIUM DER JUSTIZ UND FÜR VERBRAUCHERSCHUTZ [FEDERAL MINISTRY OF JUSTICE AND CONSUMER PROTECTION] (Oct. 20, 2014), <http://www.bmju.de/SharedDocs/Kurzmeldungen/DE/2014/20141020-IS-Strafrecht.html?nn=3433226>.

¹³⁸ *Id.*

¹³⁹ REUTERS, *supra* note 133.

benefit of or at the direction of or in association with any person or terrorist group,” commits an offense.¹⁴⁰ A terrorist group is “an entity that has as one of its activities and purposes, the commission of, or the facilitation of a terrorist act . . . or a specified entity.”¹⁴¹ An entity may be declared a “specified entity” if the Minister of Justice and Attorney General successfully petition the High Court for such declaration on the basis of corroborated information provided by a person with knowledge that the entity participated in an act of terrorism in any capacity.¹⁴² The Minister may also make a similar petition on his own motion if he has reasonable grounds to believe that “an entity is consciously acting . . . on behalf of . . . at the direction of, or . . . in association with another specified entity.”¹⁴³

A person brought on charges of supporting a terrorist act may, on conviction, be liable to a penalty ranging from seven to twenty-five years in prison.¹⁴⁴ A naturalized citizen convicted for this crime may lose his Ghanaian citizenship.¹⁴⁵ In addition, declaration of a resident as a member of specified entity by the High Court, or his designation by the UN or any country as a member of a terrorist organization or as a person engaged in terrorist activities, may result in denial of entry into Ghana.¹⁴⁶

Iceland

Iceland has adopted the European Convention of January 17, 1977, on the Suppression of Terrorism.¹⁴⁷ The Convention is incorporated in the country’s Penal Code, which punishes the conduct specified in the Convention, and provides “[l]egal action under this clause shall . . . only be taken if ordered by the Minister of Justice.”¹⁴⁸ Under Icelandic law, financing and supporting terrorist groups are prohibited.¹⁴⁹ Acquisition and loss of citizenship is regulated by law;

¹⁴⁰ Anti-Terrorism Act No. 762 of 2008, §§ 5 & 11, available at <http://jtighana.org/new/actdetails.php?id=134>; Anti-Terrorism (Amendment) Act No. 842 of 2012, <http://www.fic.gov.gh/sites/all/themes/biz/documents/Anti%20Terrorism%20Amendment,%202012%20-%20Act%20842.pdf>.

¹⁴¹ *Id.* §§ 23 & 40.

¹⁴² *Id.* § 19.

¹⁴³ *Id.*

¹⁴⁴ *Id.* § 11.

¹⁴⁵ CONSTITUTION OF THE REPUBLIC OF GHANA 1992, § 9, 1 LAWS OF GHANA (rev. ed. 2004), http://www.judicial.gov.gh/constitution/chapter/chap_3.htm; Citizenship Act No. 591 of 2000, § 18, 2 LAWS OF GHANA (rev. ed. 2004), available at <http://www.refworld.org/docid/3eda135a2.html>.

¹⁴⁶ Anti-Terrorism Regulations, 2012 (LI 2181), § 3 (July 18, 2012).

¹⁴⁷ GENERAL PENAL CODE No. 19/1940 (Feb. 12, 1940, as amended to Mar. 1, 2004), art. 6, <http://eng.innanri.kisraduneyti.is/laws-and-regulations/english/penal-code-and-punishment/nr/1145> (government translation).

¹⁴⁸ *Id.*

¹⁴⁹ *Id.* arts. 100b–100c.

fighting for a terrorist organization does not result in a loss of citizenship.¹⁵⁰ Reportedly, no Icelandic citizens have joined IS.¹⁵¹

India

India does not appear to have passed any recent laws or regulations, in the context of the current conflict in Iraq or Syria, to prevent or restrict the ability of domestic nationals to travel overseas to join foreign terrorist, jihadi, or other militant organizations. Currently, the Unlawful Activities (Prevention) Act, 1967,¹⁵² is the predominant legislative framework to deal with terrorist activities. The Act punishes terrorist activities in India or any foreign country and also criminalizes funding, membership, and support of designated terrorist organizations. The list of designated terrorist organizations can be found in the Schedule of the Act and on the Ministry of Home Affairs website.¹⁵³ A separate list can be found under the Schedule of the UN Prevention and Suppression of Terrorism (Implementation of Security Council Resolutions) Order, 2007.¹⁵⁴ Any person charged under the Act can have his/her passport impounded.¹⁵⁵

Under India's Penal Code there are certain stipulated offenses against the state, which include "Waging war against any Asiatic Power" in alliance or at peace with the government of India and "Committing depredation on territories of Power at peace with the Government of India."¹⁵⁶

Under section 10 of India's Citizenship Act, the government of India can, by order, terminate the citizenship of a person where citizenship was obtained by registration or naturalization in the following situations: (1) disloyalty to the Constitution; (2) communication or assistance with an enemy of which India is at war; or (3) where the citizen has, "within five years after registration or naturalisation, been sentenced in any country to imprisonment for a term of not less than two years." The Passports Act, 1967 also allows the government to refuse to issue or revoke a passport or travel documents on the basis that the passport authority "deems it necessary so to do in the interests of the sovereignty and integrity of India, the security of India, friendly relations of India with any foreign country, or in the interests of the general public."¹⁵⁷

¹⁵⁰ Icelandic Nationality Act, No. 100/1952 (Dec. 23, 1952), <http://eng.innanrikisraduneyti.is/laws-and-regulations/english/citizenship/nr/6297>.

¹⁵¹ *Ekki kunnugt um Íslendinga í röðum IS*, VISIR (Sept. 29, 2014), <http://www.visir.is/ekki-kunnugt-um-islendinga-i-rodum-is/article/2014140928917>.

¹⁵² Unlawful Activities (Prevention) Act, No. 37 of 1967, <http://nia.gov.in/acts/the%20unlawful%20activities%20%28prevention%29%20act.%201967%20%2837%20of%201967%29.pdf>.

¹⁵³ *Banned Organisations*, GOVERNMENT OF INDIA, MINISTRY OF HOME AFFAIRS (as of Jan. 27, 2014), <http://www.mha.nic.in/BO>.

¹⁵⁴ U.N. Prevention and Suppression of Terrorism (Implementation of Security Council Resolutions) Order, 2007.

¹⁵⁵ Unlawful Activities (Prevention) Act § 51.

¹⁵⁶ INDIAN PENAL CODE, 1860, §§ 125, 126, <http://punjabrevenue.nic.in/crime5.htm>.

¹⁵⁷ Passports Act, No 15 of 1967, §10, http://passportindia.gov.in/AppOnlineProject/pdf/passports_act.pdf.

Indonesia

On August 4, 2014, Indonesia's Coordinating Minister for Political, Legal, and Security Affairs, Djoko Suyanto, announced that the government has banned IS, forbidding the propagation of its teachings in the country. At that time, the government stated that Indonesians who travel to troubled areas of the Middle East and South Asia will be monitored by the Ministry of Foreign Affairs, with the police and counterterrorism officials sharing information.¹⁵⁸

One reason Indonesian officials have spoken out against IS and announced the ban is that IS has created and posted online a recruitment video in the Indonesian language calling for Muslims in the country to join their fight. Hundreds of Indonesians have declared that they support IS.¹⁵⁹ As of November 19, 2014, Indonesia estimated that three hundred Indonesians had gone to fight with IS. According to Rohan Gunaratna, an expert in the subject from Singapore, although Indonesia does have antiterror laws, it does not have legislation explicitly criminalizing travel overseas to join terrorist groups.¹⁶⁰ The antiterror legislation applies when related crimes are committed at home or abroad.¹⁶¹

Those who go and fight for terrorist organizations do face consequences under Indonesia's Law on Citizenship. Indonesian citizenship can be lost in several circumstances, including when a person "has entered into foreign military service without prior approval from the President,"¹⁶² and when a person "has voluntarily entered into the services of foreign entities in a position where, by law, such a position in Indonesia is only reserved for citizens of the Republic of Indonesia."¹⁶³ These two provisions cover service to a foreign body in a military and some nonmilitary roles. The Law makes an exception for those studying in foreign countries when those countries make military service an educational requirement.¹⁶⁴ In addition, citizenship can be lost for voluntarily declaring allegiance to a foreign country or a part of a foreign country and

¹⁵⁸ Ezra Sihite, *Indonesian Government Officially Bans ISIS*, JAKARTA GLOBE (Aug. 4, 2014), <http://thejakartaglobe.beritasatu.com/news/indonesian-government-officially-bans-isis/>.

¹⁵⁹ Indra Wijaya, *Military Chief Bans ISIS in Indonesia*, TEMPO.CO (Aug. 4, 2014), <http://en.tempo.co/read/news/2014/08/04/055597103/Military-Chief-Bans-ISIS-in-Indonesia>.

¹⁶⁰ *Indonesia Fears Terror Return as Fighters Head to Syria, Iraq*, DAWN.COM (June 20, 2014), <http://www.dawn.com/news/1114035/indonesia-fears-terror-return-as-fighters-head-to-syria-iraq>; Dyah Ayu Pitalok, *300 Indonesians Now with ISIS, Counterterrorism Official Says*, JAKARTA GLOBE (Nov. 19, 2014), <http://thejakartaglobe.beritasatu.com/news/300-indonesians-now-isis-counterterrorism-official-says/>.

¹⁶¹ Law on Terrorism, No. 1, 2002, http://search.mahkamahkonstitusi.go.id/mk-gsa/listResult?q=nomor%201%202002&client=default_frontend&output=xml_no_dtd&proxystylesheet=default_frontend&sort=date%3AD%3AL%3Ad1&entqr=0&oe=UTF-8&ie=UTF-8&ud=1&site=default_collection¶m=all&access=p (in Indonesian; click on link to select text). The text of the Law on Terrorism was originally a government regulation, then later adopted by the legislature as Law No. 15, 2003.

¹⁶² Law of the Republic of Indonesia No. 12 on Citizenship of the Republic of Indonesia (Aug. 1, 2006) art. 23(d), available at <http://www.refworld.org/docid/4538aae64.html>.

¹⁶³ *Id.* art. 23(e).

¹⁶⁴ *Id.* art. 24.

for living outside of Indonesia for five years without declaring an intention to remain a citizen, when that stay abroad is “for non official purposes, without legal reason.”¹⁶⁵

Ireland

While there are few Irish nationals fighting in militant groups overseas, correlating the figures to the number of Ireland’s Muslim population reveals that it has one of the highest percentages of foreign fighters based on the size of that population, according to the *Irish Times*,¹⁶⁶ although the Irish government has stated that these reports are “not entirely accurate.”¹⁶⁷ Ireland’s Passports Act 2008 provides that the government may refuse to issue passports or cancel them in certain circumstances. For foreign fighters, the most relevant circumstance is where a person would be likely to engage in conduct that could prejudice the national security of Ireland or another state.¹⁶⁸ The Criminal Justice (Terrorist Offences) Act 2005 provides that terrorist offenses have extraterritorial effect if they are committed by a person who is a resident or citizen of Ireland, or for the benefit of a legal person established in the state, or are acts directed against the state or Irish citizens.¹⁶⁹

A proposed Criminal Justice (Terrorist Offences) (Amendment) Act 2014, which is progressing through the Irish Parliament, would create three new offenses in relation to terrorist acts: public provocation to commit a terrorist offense, recruiting for terrorism, and training for terrorism.¹⁷⁰ The government is also considering whether any new legislation is necessary to implement UN Resolution No. 2178 into its national law.¹⁷¹

Israel

Israel’s Minister of Defense has declared IS to be an unlawful association.¹⁷² The declaration enables the implementation of several legal provisions, including prevention of both money laundering and the transfer of funds to local associations that identify with IS.¹⁷³

¹⁶⁵ *Id.* art. 23(f), (i).

¹⁶⁶ Conor Lally & Fiach Kelly, *Jihadist Suspects Passing Through Ireland Monitored*, IRISH TIMES (Sept. 5, 2014), <http://www.irishtimes.com/news/crime-and-law/jihadist-suspects-passing-through-ireland-monitored-1.1918234>.

¹⁶⁷ Criminal Justice (Terrorist Offences) (Amendment) Act 2014 – Second Stage Speech by the Minister for Justice and Equality, Frances Fitzgerald, TD, MERRION STREET (Oct. 8, 2014), <http://www.merrionstreet.ie/index.php/2014/10/criminal-justice-terrorist-offences-amendment-act-2014-second-stage-speech-by-the-minister-for-justice-and-equality-frances-fitzgerald-td/?cat=66>.

¹⁶⁸ Passports Act 2008, No. 4 of 2008, <http://www.irishstatutebook.ie/2008/en/act/pub/0004/index.html>.

¹⁶⁹ Criminal Justice (Terrorist Offences) Act 2005, No. 2 of 2005, § 6, <http://www.irishstatutebook.ie/2005/en/act/pub/0002/print.html#part1>.

¹⁷⁰ Criminal Justice (Terrorist Offences) (Amendment) Act 2014 – Second Stage Speech by the Minister for Justice and Equality, Frances Fitzgerald, TD, *supra* note 167.

¹⁷¹ *Questions to the Minister for Foreign Affairs*, CLARE DALY (Oct. 8, 2014), <http://claredaly.ie/questions-to-the-minister-for-foreign-affairs/>; *see also* United Nations discussion, Part I, *supra*.

¹⁷² Gili Cohen, *Yaalon Declared the “Islamic State” Organization to Be an Unlawful Association*, HAARETZ.COM (Sept. 3, 2014), <http://www.haaretz.co.il/news/politics/1.2424208> (in Hebrew).

¹⁷³ *Id.*

Under the Prevention of Infiltration (Offences and Jurisdiction) Law, 5714-1954, as amended,

[a]nyone who knowingly and unlawfully leaves Israel to [go to] Lebanon, Syria, Egypt, Jordan, Saudi Arabia, Iraq, Yemen, or any other part of the Land of Israel [referring to the Biblical territory] that is outside of [the territory of] Israel, is subject to imprisonment of four years or a fine¹⁷⁴

In addition, the citizenship of any Israeli who has been found to have committed an act of disloyalty to the State of Israel may be voided based on a decision of an administrative court pursuant to a request by the Minister of Interior. Such a decision may be made due to a determination that the person perpetrated, assisted, or solicited an act of terrorism. Israeli citizenship under these circumstances may be voided as long as the person will not become stateless. The Law presumes that a person who lives permanently outside of Israel will not become stateless. If it is proven that the person would be stateless if found to have met the criteria for removal of citizenship, the person will be permitted to reside in Israel subject to conditions as determined by the court.¹⁷⁵

Italy

No cases of returning Islamist fighters currently being prosecuted in Italy were found. However, it appears that two provisions of Italy's Criminal Code could be used to prosecute such fighters: articles 270-bis and 270-quinquies.

Article 270-bis of the Criminal Code provides as follows:

Anyone who promotes, establishes, organizes, directs or finances associations whose purpose is to carry out acts of violence with the purpose of terrorism or subversion of the democratic order is punished by imprisonment from seven to fifteen years. Anyone participating in such associations shall be punished with imprisonment from five to ten years. For the purposes of criminal prosecution, the purpose of terrorism occurs including when acts of violence are directed against a foreign state, or an international organization or institution.¹⁷⁶

Article 270-quinquies, in turn, punishes training for the purposes of terrorism, including international terrorism. Article 270-quinquies provides that undergoing or providing training in the use of explosives, firearms, or other weapons and in terrorist techniques, even if that training is for action against a foreign state, institution, or international body, may be punished with imprisonment for five to fifteen years.¹⁷⁷ This provision focuses on domestic terrorism but also encompasses the situation of persons who have gone abroad to fight with terrorist organizations.

¹⁷⁴ Prevention of Infiltration (Offences and Jurisdiction) Law, 5714-1954, § 2A, 8 LAWS OF THE STATE OF ISRAEL [LSI] 133 (5714-1953/54).

¹⁷⁵ Nationality Law, 5712-1952, §§ 11 & 11A, 6 LSI 50 (5712-1951/52).

¹⁷⁶ CODICE PENALE [C.P.] [CRIMINAL CODE] art. 270-bis, *available at* <http://www.altalex.com/index.php?idnot=36762> (translation by author). Article 270-bis was added to the Code through an amendment in December 2001.

¹⁷⁷ C.P. art. 270-bis, para. 1.

Italian legal commentators highlight the broad discretion that criminal courts enjoy when interpreting articles 270-bis and 270-quinquies of the Criminal Code to prosecute and punish terrorists.¹⁷⁸ There is an ongoing discussion in Italy concerning whether legislative measures should be adopted to tackle the phenomenon of returning Islamist fighters.¹⁷⁹

Japan

In October 2014, Tokyo's Metropolitan Police Department reportedly questioned and searched the residence of a twenty-six year-old Japanese man who tried to go to Syria to join IS.¹⁸⁰ The police based their action on a rarely used article of the Penal Code: preparing or plotting to wage war privately against a foreign nation. The article carries a prison term of three months to five years.¹⁸¹

Jordan

Article 3(c) of Law 55 of 2006, amended by Law 18 of 2014, prohibits Jordanian citizens from joining military groups and terrorist organizations inside the country or abroad. It also bans individuals from receiving any military training by those organizations. Article 7 of the law punishes individuals for committing the aforementioned offenses with a term of imprisonment.¹⁸²

Kazakhstan

On April 23, 2014, Law No. 200-V amended Kazakhstan's Criminal Code and added a new article entitled "Participation in foreign military conflicts," which states that the intentional and illegal participation of a Kazakhstani citizen in a military conflict or combat activities abroad must be punished by imprisonment for a term of three to seven years.¹⁸³ In the Spring of 2014, a Kazakh court reportedly sentenced two returning fighters to seven years in prison.¹⁸⁴

¹⁷⁸ LORENZO VIDINO, EUROPEAN FOUNDATION FOR DEMOCRACY, *IL JIHADISMO AUTOCTONO IN ITALIA: NASCITA, SVILUPPO E DINAMICHE DI RADICALIZZAZIONE* 105 (2014), http://www.ispionline.it/it/EBook/II_jihadismo_autoctono_in_Italia.pdf.

¹⁷⁹ See generally Giuliano Foschini Fabio Tonacci, *Archivio*, LA REPUBBLICA.IT (Sept. 9, 2014), <http://ricerca.repubblica.it/repubblica/archivio/repubblica/2014/09/09/jihadistidi-ritorno26.html>; Edwin Bakker et al., *supra* note 57.

¹⁸⁰ *Police Question Student Over Plans to Join Islamic State*, ASAHI NEWSPAPER (Oct. 7, 2014), http://ajw.asahi.com/article/behind_news/social_affairs/AJ201410070040.

¹⁸¹ PENAL CODE, Act No. 45 of 1907, amended by Act No. 156 of 2004, art. 93, *English translation available at* <http://www.japaneselawtranslation.go.jp/law/detail/?printID=&re=02&yo=%E5%88%91%E6%B3%95&ft=2&ky=&page=1&vm=02>.

¹⁸² Law 18 of 2014, 5289 AL-JARĪDAH AL-RASMĪYAH (June 1, 2014) (in Arabic).

¹⁸³ CRIMINAL CODE OF KAZAKHSTAN (Law No. 168-1 of July 16, 1997), art. 162-1, *available at* http://online.zakon.kz/Document/?doc_id=1008032#pos=2005;1 (in Russian).

¹⁸⁴ Edward Lemon, *Assessing the Threat of Returning Foreign Fighters from Central Asia*, GEOPOLITICAL MONITOR (Sept. 18, 2014), <http://www.geopoliticalmonitor.com/assessing-threat-returning-foreign-fighters-central-asia/>.

Kenya

Kenya criminalizes the participation of its citizens in any terrorist activities abroad.¹⁸⁵ A citizen who, among other things, promotes or facilitates the commission of a terrorist act or receives military training for the “purpose of carrying out or facilitating the commission of a terrorist act in a foreign State, commits an offence,” which, on conviction, is punishable by a maximum of thirty years in prison.¹⁸⁶ A citizen who conspires to commit a terrorist act abroad also commits an offense and is, on conviction, subject to a maximum of twenty years of imprisonment.¹⁸⁷

In addition to the above-noted penalties, a naturalized Kenyan citizen who joins a terrorist group abroad may also lose his Kenyan citizenship. Kenyan law authorizes the Cabinet Secretary in charge of matters relating to citizenship and immigration to revoke the citizenship of a naturalized citizen convicted of any offense punishable by at least seven years in prison.¹⁸⁸

Kosovo

In March 2014, the Parliament of Kosovo approved on the first reading a bill that, if adopted, would prohibit citizens from participating in foreign wars as part of foreign armies, police, or paramilitary formations, according to news sources. Persons found guilty of these crimes would be imprisoned for up to fifteen years and lose their citizenship.¹⁸⁹

In August 2014, about forty alleged Islamic radicals suspected of fighting in Iraq and Syria were reportedly arrested in Kosovo.¹⁹⁰

Kuwait

News sources indicate that a draft law in Kuwait would add a provision to the Penal Code to sanction Kuwaiti citizens for joining military organizations or participating in military operations abroad with a term of imprisonment that could reach twenty-five years. The penalty would increase if the individual recruited others to join such terrorist organizations.¹⁹¹

¹⁸⁵ Prevention of Terrorism Act No. 30 of 2014, § 21, <http://www.kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=No.%2030%20of%202012>.

¹⁸⁶ *Id.* §§ 2 & 21.

¹⁸⁷ *Id.* § 23.

¹⁸⁸ CONSTITUTION OF KENYA § 17 (2010), http://www.kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=Const2010#KE/CON/Const2010/chap_8; Kenya Citizenship and Immigration Act No. 12 of 2011, § 21, <http://www.kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=CAP.%20172>.

¹⁸⁹ Miki Trajkovski, *Macedonia and Kosovo Support New Law Sanctioning Foreign Fighters*, SETIMES.COM (Aug. 29, 2014), http://www.setimes.com/cocoon/setimes/xhtml/en_GB/features/setimes/blogreview/2014/08/29/feature-06.

¹⁹⁰ *Kosovo Police Arrest 40 Suspected ISIS Fighters*, CBN NEWS (Aug. 11, 2014), <http://www.cbn.com/cbnnews/world/2014/August/Kosovo-Police-Arrest-40-Suspected-ISIS-Fighters/>.

¹⁹¹ *Draft Law Enhancing Sanctions Against Kuwaiti Fighters Abroad*, ALBAYAN (Feb. 10, 2014), <http://www.albayan.ac/one-world/arabs/2014-02-10-1.2058817> (in Arabic).

A second draft law reportedly seeks to amend the Nationality Law by adding a provision covering the suspension of Kuwaiti nationality for those Kuwaitis who join terrorist military organizations abroad or are considered to be wanted terrorists domestically or internationally.¹⁹²

Kyrgyzstan

The recruitment, training, or participation of a recruited mercenary in a military conflict or combat activities abroad is considered a mercenary activity in Kyrgyzstan and is prosecuted by imprisonment for a term of up to eight years. In August 2013, an increased punishment was introduced for attacks on persons and organizations under international protection.¹⁹³

Laos

The Penal Law of Laos has several articles that may be applicable to returning terrorist fighters.¹⁹⁴ Article 64 states that any person who commits an offense under articles 51 through 63 of the Penal Law against a friendly country is punishable as if the offense were committed against the Lao People's Democratic Republic. No definition of "friendly country" was found. The relevant provisions are articles 51 (Treason to the Nation); 52 (Rebellion); 54 (Territorial Violation Affecting National Security); 56 (Destruction); 57 (Disruption of State or Social Undertakings); 60 (Division of Solidarity); 61 (Civil Commotion); 62 (Destruction or Attack of Detention and Reformatory Centres); and 63 (Joining the Enemy, Sheltering Persons Acting Against the Revolution).

Latvia

In September 2014, Latvia's Ministry of Foreign Affairs reportedly issued a statement saying that Latvia will take all necessary measures in order to prevent recruitment of foreign militants in Latvia, involvement of its citizens in military conflicts abroad, and other support measures to terrorists.¹⁹⁵

Libya

Article 3(A) of a draft antiterrorism law prepared by the Libyan Interim Government defines a terrorist organization as a group of three or more persons established to commit terrorist crimes

¹⁹² *Stripping the Kuwaiti Citizenship from Individuals Joining Military Organizations*, ALQABAS (Oct. 15, 2014), <http://www.alqabas.com.kw/node/903327> (in Arabic).

¹⁹³ CRIMINAL CODE OF KYRGYZSTAN arts. 375, 376, Law No. 69 of Oct. 1, 1997, available at http://online.adviser.kg/Document/?doc_id=30222833 (in Russian).

¹⁹⁴ Penal Law (Nov. 23, 1989), *English translation available at* <http://www.mfa.gov.sg/content/dam/mfa/images/om/vientiane/Lao%20Law/Penal%20Law.pdf>.

¹⁹⁵ *Baltic States Join Fight Against Islamic State in Iraq, Syria*, THE BALTIC TIMES (Sept. 22, 2014), <http://www.baltictimes.com/news/articles/35571/#.VFWr8fCEfE4>.

within or outside Libya. If enacted, article 9 of the law would criminalize the acts of joining such an organization within or outside Libya.¹⁹⁶

Macedonia

In September 2014, new amendments to the Macedonian Criminal Code entered into force. Newly added article 322-a established that militants who fought in combat operations abroad within a framework of a foreign military, police, paramilitary, or parapolice groups are subject to no less than five years of imprisonment. The same punishment applies to those found guilty of indirect support of such actions. Solicitation on behalf of and recruitment for a foreign paramilitary group is punishable by a minimum four-year term of imprisonment.¹⁹⁷

Malaysia

According to news reports, on October 15, 2014, Malaysia's Home Minister, Datuk Seri Dr Ahmad Zahid Hamidi, stated in a written response to a question from another member of Parliament that existing laws would be used to prosecute Malaysians who join IS if they return to Malaysia:

[I]f there is substantial evidence in respect of their participation in the activities of that militant movement, the government will take action based on existing laws, such as the Security Offences (Special Measures) Act 2012. If there is sufficient evidence to show them being involved in militant activities, the government will take action based on existing laws like the Security Offences (Special Measures) Act 2012, Anti-Money Laundering and Anti-Terrorism Financing Act 2001, Societies Act 1966, and the Penal Code.¹⁹⁸

The Minister also reported that the government is aware of thirty-nine Malaysians currently involved with IS. Previously, the Minister of Foreign Affairs, in a statement to the UN Security Council on September 24, 2014, said that the Malaysian government has “designated IS as a terrorist organisation and will spare no effort to act against its members. We have also taken

¹⁹⁶ Libyan Draft Anti-Terrorism Bill (May 23, 2014), available on the website of the Libyan Ministry of Justice, at http://www.aladel.gov.ly/main/uploads/sections/500_%E3%D4%D1%E6%DA_%DE%C7%E4%E6%E4_%C7%E1%C7%D1%E5%C7%C8.pdf (in Arabic).

¹⁹⁷ Law of Sept. 3, 2014, on Amendments to the Criminal Code of the Republic of Macedonia, SLUZBEN VESNIK NA REPUBLIKA MAKEDONIJA (official gazette) No. 164/14; *see also*, Sinisa Jakov Marusic, *US Praises Macedonian Law to Jail Militants*, BALKANINSIGHT (Oct. 20, 2014), <http://www.balkaninsight.com/en/article/us-praises-macedonian-bill-to-jail-militants>.

¹⁹⁸ *Existing Laws Can Be Used Against Malaysian IS Members*, THE RAKYAT POST (Oct. 15, 2014), <http://www.therakyatpost.com/news/2014/10/15/existing-laws-can-used-malaysian-members/>. *See also* 39 M'sians Identified with Links to Militant Groups – Zahid, THE MALAYSIAN TIMES (Oct. 15, 2014), <http://www.themalaysiantimes.com.my/39-msians-identified-with-links-to-militant-groups-zahid/>; Loshana K. Shagar, *No Malaysian 'Comfort Women' with Islamic State, Says Zahid*, THE STAR ONLINE (Oct. 15, 2014), <http://www.thestar.com.my/News/Nation/2014/10/15/Parliament-Comfort-women-IS/>.

steps to review certain aspects of the legal and policy frameworks with a view to further strengthen national-level counter-terrorism capabilities.”¹⁹⁹

Mauritius

A citizen or resident who joins a terrorist organization abroad violates the law of Mauritius. A person who is listed as a “suspected international terrorist” (SIT),²⁰⁰ is a member of a “proscribed organization,”²⁰¹ or is a member of an “international terrorist group”²⁰² is punishable.²⁰³ A person may be listed as an SIT if the minister in charge of national security “reasonably suspects” that he has participated in the commission of an international terrorist act (an act of terrorism by a noncitizen or a person possessing dual citizenship), is a member of an international terrorist organization, or has links to an international terrorist organization.²⁰⁴ The person may also be listed as such if he is identified as a person involved in terrorist acts in any UN Security Council resolution, any instrument of the Council of the European Union, or by any country or organization that the Minister may approve.²⁰⁵

Membership in a proscribed group or international terrorist group is a crime punishable by a prison term of three to twenty years.²⁰⁶ A member of a proscribed group or an international terrorist group may also be subject to a forfeiture order concerning all items used for or accrued from terrorism-related activities.²⁰⁷ In addition, the law authorizes the Minister to make regulations denying a SIT or a member of an international terrorist group entry into or transit through Mauritius.²⁰⁸ Similarly, a naturalized citizen who has been declared a SIT may be deprived of his Mauritian citizenship unless doing so would render the person stateless.²⁰⁹ Further, any SIT who holds dual citizenship may be deprived of Mauritian citizenship

¹⁹⁹ Statement by the Honourable Mr. Anifah Aman, Minister of Foreign Affairs of Malaysia, at the United Nations Security Council Meeting on Threats to International Peace and Security Cause by Terrorist Acts: Foreign Terrorist Fighters (New York, Sept. 24, 2014), http://www.kln.gov.my/web/guest/speeches/-/asset_publisher/t3pS/content/statement-by-the-hon-dato-sri-anifah-aman-minister-of-foreign-affairs-of-malaysia-at-the-united-nations-security-council-meeting-on-threats-to-international-peace-and-security-caused-by-terrorist-acts:-foreign-terrorist-fighters-24-sept-2014-new-york?redirect=%2Fweb%2Fguest%2Fspeeches.

²⁰⁰ Prevention of Terrorism Act No. 2 of 2002, § 10(1)–(3), 6 REVISED LAWS OF MAURITIUS (updated through 2012), *original version available at* http://www.opbw.org/nat_imp/leg_reg/mauritius/Terror.pdf.

²⁰¹ *Id.* § 4.

²⁰² An international terrorist organization is a group declared as such by the Minister for various reasons including a ‘reasonable suspicion’ that it is involved in acts of international terrorism, or by the United Nations Security Council, the Council of the European Union or any country or organization that the Minister approves. *Id.* § 10(4).

²⁰³ *Id.* §§ 3, 4, 10 & 30.

²⁰⁴ *Id.* § 10(1)(a).

²⁰⁵ *Id.* § 10(1)(b), (c).

²⁰⁶ *Id.* §§ 4, 10 & 32(1)(b).

²⁰⁷ *Id.* § 32.

²⁰⁸ *Id.* § 10.

²⁰⁹ Mauritius Citizenship Act No. 45 of 1968, § 11, 5 REVISED LAWS OF MAURITIUS (updated through 2012).

“irrespective of the manner in which he acquired both citizenship of Mauritius and that of another State,” unless doing so would render him stateless.²¹⁰

Montenegro

An amendment to the Criminal Code was reportedly introduced in the Montenegrin legislature in October 2014 that, if adopted, would establish that “anyone who provides training, attends training, finances, and recruits citizens of Montenegro for trips to foreign battlefields as part of paramilitary and terrorist organizations is to be punished with imprisonment of up to five years, and those who are recruiting fighters will be sentenced from five to ten years in prison.”²¹¹

On September 29, 2014, the Parliamentary Security and Defence Committee ordered the domestic security service to permanently monitor up to three hundred local Islamists.²¹²

Morocco

Fighting with terrorist groups in other countries would likely constitute one or more of the crimes designated as terrorist crimes under section 1 of article 218–1 of the Moroccan Penal Code.²¹³ According to a September 2014 media report, Morocco is also in the process of passing a law that would specifically criminalize the acts of Moroccan citizens fighting with extremist groups in places like Iraq and Syria.²¹⁴

Namibia

Namibian law expressly prohibits the participation of citizens or residents in any military activity abroad. The law states that anyone “within Namibia or elsewhere who offers to render any foreign military assistance . . . or any mercenary activities or related services to a foreign state, organ of a state, group of persons or other organization or person,” except when sanctioned or authorized by the government, commits an offense.²¹⁵ Similarly, anyone who joins the ranks of

²¹⁰ *Id.*

²¹¹ *Montenegro to Jail Fighters Joining Foreign Wars*, TURKISH WEEKLY (Oct. 5, 2014), <http://www.turkishweekly.net/news/173098/montenegro-to-jail-fighters-joining-foreign-wars.html>.

²¹² *27th Meeting of the Parliament’s Security and Defence Committee, Sept. 29, 2014*, THE PARLIAMENT OF MONTENEGRO, <http://www.skupstina.me/index.php/en/odbor-za-bezbjednost-i-odbranu/sjednice> (in Serbian).

²¹³ PENAL CODE OF MOROCCO (2014 consolidated ed.), <http://adala.justice.gov.ma/production/legislation/ar/Nouveautes/القانون%20الجنائي.pdf> (in Arabic) and <http://adala.justice.gov.ma/production/legislation/fr/Nouveautes/codepenal.pdf> (in French).

²¹⁴ *Morocco Expands Laws Against Militant Seekers*, AL ARABIYA (Sept. 19, 2014), <http://english.alarabiya.net/en/News/middle-east/2014/09/19/Morocco-expands-laws-against-militant-seekers.html>.

²¹⁵ Prevention and Combatting of Terrorism Activities Act No. 12 of 2012, §§ 20 & 47, GOVERNMENT GAZETTE OF THE REPUBLIC OF NAMIBIA, No. 5095 (Dec. 14, 2012), available at <http://www.lac.org.na/laws/2012/5095.pdf>.

“any organization involved in any terrorist activity” commits an offense.²¹⁶ In addition, Namibian law bans the act of engaging in mercenary work, including outside of the country.²¹⁷

The offense of offering to render military assistance is, on conviction, punishable by a fine of up to NAD 1 million (about US\$89,192) and/or a maximum of thirty years in prison.²¹⁸ Membership in a terrorist organization is subject to a maximum of twenty years in prison.²¹⁹ Engaging in mercenary work is punishable by a fine of up to NAD 8,000 (about US\$714) and/or up to two years of imprisonment.²²⁰ A naturalized citizen convicted of any of these offenses may also be deprived of his/her Namibian citizenship unless such deprivation would render him/her stateless.²²¹

Nepal

Certain crimes against the state, including subversion, treason and revolt against friendly states are described under Nepal’s Crime Against State and Punishment Act.²²² Revocation of citizenship and passports in certain circumstances are addressed in the Nepal Citizenship Act²²³ and the Passport Act.²²⁴ A person can be deprived of citizenship if he/she

- raises or attempts to raise arms against Nepal or commits any other crime against the state;
- does not render or seek to render any service to state in the manner specified by law during a war in which Nepal is also a participant, or during an emergency in Nepal; or
- provides any kind of help to an enemy state against Nepal.²²⁵

The government can, “at any time,” withdraw or cancel a passport “with or without showing any reasons therefor.”²²⁶

²¹⁶ *Id.* § 12.

²¹⁷ Defence Act No. 1 of 2002, § 58, GOVERNMENT GAZETTE OF THE REPUBLIC OF NAMIBIA, No. 2749 (June 7, 2012), available at http://www.vertic.org/media/National%20Legislation/Namibia/NA_Defence_Act_2002.pdf.

²¹⁸ Prevention and Combatting of Terrorism Activities Act § 20.

²¹⁹ *Id.* § 12.

²²⁰ Defence Act § 58.

²²¹ Act to Further Regulate the Acquisition or Loss of Namibian Citizenship (Namibian Citizenship Act) No. 14 of 1990, § 9, GOVERNMENT GAZETTE OF THE REPUBLIC OF NAMIBIA, No. 65 (Aug. 30, 1990), available at <http://www.refworld.org/docid/3ae6b4f84.html>.

²²² Crime Against State and Punishment Act, 2046 (1989), <http://www.lawcommission.gov.np/site/sites/default/files/Documents/crime-against-state-and-punishment-act-2046-1989-e.pdf>.

²²³ Nepal Citizenship Act, 1964, available at <http://www.refworld.org/docid/3ae6b51914.html> (unofficial translation).

²²⁴ Passports Act, 2024 (1967), <http://www.lawcommission.gov.np/site/sites/default/files/Documents/passports-act.pdf>.

²²⁵ Nepal Citizenship Act art. 10(2).

²²⁶ Passports Act § 4(2).

Netherlands

The Dutch Ministers of Social Affairs and Employment and of Security and Justice have formulated an *Action Plan: Integrated Approach to Jihadism (Actieprogramma: Integrale aanpak Jihadisme)*, the aim of which is “to protect democracy and the rule of law, counter and weaken the jihadist movement in the Netherlands and eliminate the causes of radicalisation.”²²⁷

The Ministers presented the program to the Dutch House of Representatives (Tweede Kamer) for consideration on August 29, 2014;²²⁸ a debate on the document was held on September 4, 2014.²²⁹

The action plan’s thirty-eight proposed measures and actions are broadly divided into five groups. Among them are several measures to address would-be and returned foreign fighters, including

- amending the Nationality Act to allow revocation of the nationality of jihadists without prior criminal convictions who have joined a terrorist group (unless the person would become stateless thereby) and of any person who has been trained at a terrorist training camp or who as an instructor contributes to “the transmission of skills and knowledge to jihadist fighters”;²³⁰
- application of criminal law and revocation of a person’s passport when there are reasonable grounds to suspect that he/she will leave the country for jihadist purposes;²³¹
- passing a temporary administrative powers act to require, e.g., periodic reporting to the authorities of the activities of terrorist fighters who have returned to the Netherlands,

²²⁷ Press Release, Ministry of Justice and Security, Cabinet Strengthens Integrated Approach to Jihadism and Radicalisation (Aug. 29, 2014), <http://www.government.nl/ministries/venj/news/2014/09/03/cabinet-strengthens-integrated-approach-to-jihadism-and-radicalisation.html>.

²²⁸ For the text of the plan as presented to the House of Representatives of the Dutch Parliament, see I.W. Ostelten, Minister of Security and Justice, & L.F. Asscher, Minister of Social Affairs and Employment, *Integrale Aanpak Jihadisme [An Integrated Approach to Jihadism]*, Tweede Kamer der Staten-Generaal, No. 29754-253 (Aug. 29, 2014), <http://www.tweedekamer.nl/kamerstukken/detail.jsp?id=2014D29343&did=2014D29343>. The webpage has hyperlinks to the letter from the two Ministers (under “Download het kamerstuk”) and to the plan (under “Bijlage bij dit kamerstuk”). The plan is also mentioned in an explanatory memorandum on the adoption of a budget for the year 2015 for the Ministry of Security and Justice. Tweede Kamer der Staten-Generaal, Vaststelling van de begrotingsstaten van het Ministerie van Veiligheid en Justitie (VI) voor het jaar 2015 [Second Chamber of the States-General, Adoption of the Budget of the Ministry of Security and Justice (VI) for the year 2015] 34 000 No. VI. 2 (2014), http://www.eerstekamer.nl/behandeling/20140916/memorie_van_toelichting_2/document3/f=/vjn7kpy2zmef.pdf.

²²⁹ *Debat over de aanpak van Nederlandse jihadstrijders*, TWEDE KAMER, http://www.tweedekamer.nl/nieuws/kamernieuws/newspage2932_debat_over_jihad (last visited Nov. 5, 2014).

²³⁰ Press Release, Ministry of Justice and Security, *supra* note 227; see also Peter Cluskey, *Jihadists Face Losing Dutch Nationality*, IRISH TIMES (July 15, 2014), <http://www.Irishtimes.Com/News/World/Europe/Jihadists-Face-Losing-Dutch-Nationality-1.1866335>.

²³¹ Press Release, Ministry of Justice and Security, *supra* note 227.

relocation of “problem individuals,” and the use of restraining orders to avoid returnees’ further radicalization, further recruitment, etc.,²³² and

- in order to strengthen the detection of jihadist travel movements, preparing legislation to permit “the systematic collection and processing of travel data for the purpose of counterterrorism.”²³³

As of December 2013, the International Centre for the Study of Radicalisation and Political Violence (ICSR) estimated that 29 to 152 individuals from the Netherlands had traveled to Syria as foreign fighters.²³⁴

New Zealand

On October 13, 2014, the New Zealand Prime Minister, John Key, announced that the Cabinet had approved terms of reference for a targeted review of security settings “to ensure that the capability, capacity and legislation to counter the evolving domestic threat posed by foreign terrorist fighters and other violent extremists are adequate to meet that threat.”²³⁵ Following the review, on November 5, 2014, the Prime Minister stated that Cabinet had agreed to propose a small number of legislative changes. These would allow

- The Minister of Internal Affairs to cancel passports for up to three years
- The Minister of Internal Affairs to temporarily suspend passports for up to 10 working days in urgent cases
- The NZ Security Intelligence Service (NZSIS) to carry out video surveillance on private properties for the purpose of observing activities of security concern, modelled on the Police’s powers in the Search and Surveillance Act
- The NZSIS to conduct emergency surveillance for up to 48 hours prior to the issue of a warrant, with the approval of its Director and subject to the oversight of the Inspector General of Intelligence and Security.²³⁶

While the review assessed whether a new offense related to foreign fighters should be created, officials concluded that this issue should be dealt with over a longer time frame than the review allowed.²³⁷ The Prime Minister stated that New Zealand government agencies have a watch list

²³² *Id.*

²³³ *Id.*

²³⁴ Aaron Y. Zelin & Sami David, *Up to 11,000 Foreign Fighters in Syria; Steep Rise Among Western Europeans*, ICSR INSIGHT (Dec. 17, 2013), <http://icsr.info/2013/12/icsr-insight-11000-foreign-fighters-syria-steep-rise-among-western-europeans/>.

²³⁵ New Zealand Government, Annex 1: Foreign Terrorist Fighters: Targeted Review Capability, Capacity and Legislation, Terms of Reference (Oct. 2014), http://www.beehive.govt.nz/sites/all/files/Terms_of_Reference_Foreign_fighters_Targeted_Review_Capability_Capacity_and_Legislation.pdf; Press Release, Rt. Hon. John Key, Review of Foreign Fighters Security Settings to Begin (Oct. 13, 2014), <http://www.beehive.govt.nz/release/review-foreign-fighters-security-settings-begin>.

²³⁶ Press Release, Rt. Hon. John Key, Protecting National Security and Responding to ISIL (Nov. 5, 2014), <http://www.beehive.govt.nz/release/protecting-national-security-and-responding-isil>.

²³⁷ *Id.*

of between thirty and forty “people of concern in the foreign fighter context,” some of whom have traveled to Syria to engage in fighting with IS. NZSIS will be provided with an additional NZ\$7 million to increase the number of staff working on investigations.²³⁸ A more comprehensive review of intelligence agencies and related legislation is to be conducted in 2015.²³⁹

Nigeria

Nigerian law authorizes the country’s president to declare a person a “suspected international terrorist” (SIT) in certain circumstances.²⁴⁰ He may declare a person an SIT if he “reasonably suspects” that the person in question is currently or was in the past involved in acts of international terrorism,²⁴¹ is currently affiliated with an international terrorist group,²⁴² or has links to an international terrorist group and therefore is a risk to Nigeria’s national security.²⁴³ He may also declare a person an SIT if the person’s name is added to a list of terrorists in a UN Security Council resolution or in any African Union and Economic Community of West African States (ECOWAS) document.²⁴⁴ In addition, he may declare a person an SIT if the person is considered a terrorist by any country or organization of which the president approves.²⁴⁵

If a person declared an SIT possesses Nigerian citizenship other than by birth, his/her citizenship may be revoked.²⁴⁶ If the person in question is affiliated with an international terrorist group, he/she may be charged and, on conviction, sentenced to a maximum twenty-year jail term.²⁴⁷

²³⁸ *Id.*

²³⁹ Speech, Rt. Hon. John Key, Speech to NZ Institute of International Affairs (Nov. 5, 2014), <http://www.beehive.govt.nz/speech/speech-nz-institute-international-affairs-0>.

²⁴⁰ Terrorism (Prevention) Act No. 10 of 2011, § 9(1), 98 FEDERAL REPUBLIC OF NIGERIA OFFICIAL GAZETTE, No. 59 (June 10, 2011), available at https://www.unodc.org/tldb/pdf/Nigeria/NIR_Terror_Prevent_2011.pdf.

²⁴¹ An “act of international terrorism” is “an act of terrorism involving: (a) a non-citizen; (b) a person possessing dual citizenship [one of which is Nigerian citizenship acquired other than by birth]; or (c) groups or individuals whose terrorist activities are foreign based or directed by the countries or groups outside Nigeria or whose activities transcend national boundaries.” *Id.* § 9(8).

²⁴² The president may declare a group to be an international terrorist group of it is

- (a) subject to the control or influence of persons outside Nigeria and the President reasonably suspects that it is involved in the commission, preparation or instigation of acts of international terrorism;
- (b) listed as a group or entity involved in terrorist acts in any resolution of the United Nations Security Council or in any instrument of the African Union and Economic Community of West African States; or
- (c) considered as a group or entity involved in terrorist acts by the competent authority of a foreign State.

Id. § 9(4).

²⁴³ *Id.* § 9(1)(a)(iii).

²⁴⁴ *Id.* § 9(1)(b).

²⁴⁵ *Id.* § 9(1)(c).

²⁴⁶ *Id.* § 9(3).

²⁴⁷ *Id.* §§ 2(3)(i), 3(c), 4(1)(b) & (2), 13(b).

Norway

The Norwegian Criminal Code (Straffeloven) criminalizes the planning of terrorism as well the recruitment of terrorists.²⁴⁸ Three individuals have recently been tried under this legislation for fighting in Syria.²⁴⁹ In addition, Norway is currently reviewing new legislation that would criminalize *Fremmedekrigere*, i.e., Norwegians traveling abroad to participate as foreign fighters. The proposed legislation has been sent to the Norwegian Parliament and is currently pending.²⁵⁰ So far the proposed legislation has reportedly met with some criticism, chiefly that it would be ineffective²⁵¹ and that it is so broad that it may even criminalize aid work.²⁵² According to news reports, representatives from the Norwegian government have said they would not shy away from investigating the possibility of revoking citizenship for returning jihadists.²⁵³

Travel to some conflict zones is currently restricted in Norway, as the state automatically prevents asylum seekers from going back to their home countries and may under special circumstances also extend that prohibition to other countries.²⁵⁴ However, current Norwegian legislation does not strip a person of his or her permanent residence or citizenship if he or she travels to fight for other nations. Such transgressions would, however, prevent a person seeking asylum from being given asylum.²⁵⁵

Norway previously criminalized fighting in foreign wars during the Spanish Civil War period.²⁵⁶ Violations were punished with up to three months of imprisonment or monetary fines for fighting in any foreign territory.²⁵⁷

²⁴⁸ STRAFFELOVEN [CRIMINAL CODE] (LOV 1902:10) §§ 147a–147c; see also *Lover og regler, Forebygging av terrorisme* [Laws and Regulations, Preventions of Terrorism], REGJERINGEN.NO, <http://www.regjeringen.no/nb/sub/radikalisering/radikaliseringskonferanse.html?id=663873> (last visited Oct. 31, 2014).

²⁴⁹ Edith Palmer & Elin Hofverberg, *Norway: Potential Terrorists Prosecuted for Planning to Support Terrorism in Syria*, GLOBAL LEGAL MONITOR (May 30, 2014), http://www.loc.gov/lawweb/servlet/lloc_news?disp3_l205404003_text.

²⁵⁰ Press Release, Regeringen, Sender lovforslag mot fremmedkrigere på høring [Legislation Bill on Foreign Fighters Sent for Hearing] (July 4, 2014), <http://www.regjeringen.no/nb/dep/jd/pressesenter/pressemeldinger/2014/Sender-lovforslag-mot-fremmedkrigere-pa-horing.html?id=765052>; *Høringsnotat*, Snr: 14/3893, JUSTIS- OG BEREDSKAPSDEPARTEMENTET (July 2014), <http://www.regjeringen.no/pages/38748986/HoringsnotatFremmedkrigere.pdf>.

²⁵¹ *Ny terrorlov lunkent mottatt* [New Terror Law Badly Received], NRK (Oct. 7, 2014), <http://www.nrk.no/norge/ny-terrorlov-lunkent-mottatt-1.11973415>.

²⁵² *Hastverksarbeid mot IS-krigere* [Stressed, Sloppy Work on IS Warriors], AFTENPOSTEN (Oct. 12, 2014), <http://www.aftenposten.no/meninger/leder/Hastverksarbeid-Amot-IS-krigere-7739520.html>.

²⁵³ *Terrorists May Lose Norwegian Citizenship*, THE LOCAL.NO (Aug. 25, 2014), <http://www.thelocal.no/20140825/norway-to-revoke-citizenship-of-terror-warriors-fighting-abroad>.

²⁵⁴ Forskrift om utlendingers adgang til riket og deres opphold her (Utlendingsforskriften) [Regulation on Foreigners Access to the Nation and Their Stay Here] (FOR 2009:1286) ch. 12:2, para. 5.

²⁵⁵ REGJERINGEN.NO, *supra* note 248.

²⁵⁶ Lov angående forholdsregler for å hindre deltagelse i krig i fremmed land [Act on Measures to Prevent Participation in Wars in Foreign Countries] (Lov 1937:1), <http://lovdata.no/dokument/NL/lov/1937-03-19-1>.

Oman

Article 3(d) of Oman’s Royal Decree 8 of 2007 punishes individuals collaborating with terrorist organizations abroad with a term of imprisonment of not less than ten years. If a terrorist act occurred in Oman as a result of such collaboration, the punishment is death.²⁵⁸

Pakistan

Though there are no official estimates, the ICSR has reported that there may be up to 330 Pakistani foreign fighters in Syria.²⁵⁹ Pakistan also faces a considerable domestic terrorism and militancy problem. The Anti-Terrorism Act, 1997²⁶⁰ is the primary legislative framework for combating terrorism in the country. On March 5, 2013, the Senate of Pakistan passed the Anti-Terrorism Bill 2013, which amended the definition of “terrorism” under section 6 of the Act to include threats and acts of terrorism against a “foreign government or population or an international organization.”²⁶¹ That Act has criminal provisions prohibiting membership, support, and funding of certain prescribed terrorist organizations.

Pakistan’s Penal Code contains certain “offenses against the state,” which include waging war against any power in alliance or at peace with Pakistan and “committing depredation on territories of Power at peace with Pakistan.”²⁶²

The authority to revoke citizenship or cancel passports is provided in the Pakistan Citizenship Act, 1951. A naturalized citizen can only be deprived of his or her citizenship if it is in the public interest and in certain circumstances, such as (1) disloyalty to the Constitution; (2) communication or assistance with an enemy of which Pakistan is at war; or (3) where the citizen “[h]as within five years of being naturalized been sentenced in any country to imprisonment for a term of not less than twelve months.”²⁶³ Under the Passports Act, 1974, the government of Pakistan has the power to cancel or impound a passport and does not have to provide notice if the person “has been engaged in subversive activities or in activities which are prejudicial to the interest of Pakistan or Pakistan’s relations with any foreign power.”²⁶⁴

²⁵⁷ *Id.*

²⁵⁸ Royal Decree 8 of 2007, 832 AL-JARĪDAH AL-RASMĪYAH (Jan 22, 2007) (in Arabic).

²⁵⁹ *ICSR Insight: Up to 11,000 Foreign Fighters in Syria; Steep Rise Among Western Europeans*, ICSR (Dec. 17, 2013), <http://icsr.info/2013/12/icsr-insight-11000-foreign-fighters-syria-steep-rise-among-western-europeans/>.

²⁶⁰ Anti-Terrorism Act (ATA), No. XXVII of 1997, <http://www.fia.gov.pk/ata.htm>.

²⁶¹ Anti-Terrorism (Amendment) Act, No. 13 of 2013, § 3(a), THE GAZETTE OF PAKISTAN EXTRAORDINARY (Mar. 19, 2013), http://www.senate.gov.pk/uploads/documents/1364482779_599.pdf.

²⁶² PAK. PENAL CODE, 1860, §§ 125, 126, http://www.fia.gov.pk/default_files/ppc.pdf.

²⁶³ Pakistan Citizenship Act, No. 2 of 1951, § 16, available at <http://www.refworld.org/pdfid/3ae6b4ffa.pdf>.

²⁶⁴ Passports Act, No. 20 of 1974, § 8, <http://molaw.bizz.pk/bodyin.php?cod=550081>.

Philippines

In September 2014, a press release issued by the Philippine Senate stated that Senator Aquilino Pimentel had exhorted the Philippine government to immediately address reports indicating that IS was recruiting Filipino citizens to join in its fight in the Middle East.²⁶⁵ However, the press release did not provide details as to the type of action that the Philippine government could take to address this issue.²⁶⁶

No information could be located on legal provisions or a formal legislative debate specifically addressing the treatment of citizens or residents of the Philippines who return as Islamist fighters from Iraq, Syria, Afghanistan, etc.

Poland

Poland has reportedly agreed to follow other Western European countries in restricting the right of free movement and tightening border controls in order to “stop jihadis returning to Europe after fighting in Syria or Iraq. These countries have also agreed to make it a criminal offence to travel abroad for terrorist purposes meaning that returning foreign fighters can be arrested.”²⁶⁷

Qatar

Article 7 of Law 3 of 2004 on combating terrorism punishes Qatari citizens joining terrorist organizations abroad with a term of imprisonment ranging from five to fifteen years. The provision further states that the punishment will be imprisonment for ten to fifteen years if the individual received military training by such an organization. Individuals who receive such training in order to commit a terrorist act in Qatar are subject to the death penalty.²⁶⁸

Russia

In Russia, the prosecution of returning fighters is conducted under current criminal law, which provides for a five- to ten-year term of imprisonment followed by a two-year restriction on civil liberties for participation in an armed formation on the territory of a foreign state, if this formation is not legally recognized by that state and involvement in such activities contradicts the interests of the Russian Federation.²⁶⁹ Reportedly, this article was applied when a Russian national who returned home after being wounded while fighting for the Free Syrian Army was

²⁶⁵ Press Release, Philippine Senate, Stop Recruitment of Filipino Youth by ISIS – Pimentel (Sept. 21, 2014), https://www.senate.gov.ph/press_release/2014/0921_pimentel1.asp.

²⁶⁶ *Id.*

²⁶⁷ Bruno Waterfield, *Britain Part of Group of EU Countries Pushing for Firmer Border Control Over Isil Threat*, THE TELEGRAPH (Oct. 4, 2014), <http://www.telegraph.co.uk/news/worldnews/europe/eu/11140803/Britain-part-of-group-of-EU-countries-pushing-for-firmer-border-controls-over-Isil-threat.html>.

²⁶⁸ Law 3 of 2004, 3 AL-JARĪDAH AL-RASMIYAH 21 (Mar. 15, 2004), available at <http://www.almeezan.qa/Law/Page.aspx?id=294&language=ar> (in Arabic).

²⁶⁹ CRIMINAL CODE OF THE RUSSIAN FEDERATION art. 208.2, Law No. 63-FZ of June 13, 1996, available at <http://www.uk-rf.com/glava24.html> (in Russian).

apprehended and sentenced by a court in Southern Russia in October 2014.²⁷⁰ It was reported that three criminal cases were launched in absentia against people who are thought to be fighting in Syria while another provincial court ordered the name of a local resident to be placed on the international wanted list.²⁷¹

In 2013, the Russian Anti-Terrorism Law was amended with a provision that recognizes as a “terrorist activity” participation in an armed group abroad whose aims are contrary to Russian interests. Relevant amendments were made to the Criminal Code.²⁷²

Saudi Arabia

Royal Decree No. 44(a) of 2014 penalizes Saudi citizens with a term of imprisonment ranging from three to twenty years for committing the following offenses: (1) joining extremist organizations; (2) participating in military operations abroad with such organizations; and (3) supporting those organizations materially or through recruiting others to join them. Saudis affiliated with the Saudi Armed Forces face an enhanced term of imprisonment ranging from five to thirty years if they commit these offenses.²⁷³

Serbia

According to news reports, amendments to Serbia’s existing criminal law aimed at making participation in a war or affiliation with armed groups in another country punishable by up to ten years of imprisonment will take effect in the Fall of 2014.²⁷⁴

Singapore

On October 7, 2014, Teo Chee Hean, Singapore’s Deputy Prime Minister, Coordinating Minister for National Security, and Minister for Home Affairs, said, in response to an oral parliamentary question on IS,

. . . we are taking measures to prevent Singaporeans from getting involved in the violence there or from carrying out activities in support of ISIL. We have co-sponsored the United

²⁷⁰ Joanna Paraszczuk, *Chechen Man Gets 3 Years for Fighting in Syria*, CHECHENS IN SYRIA.COM (Oct. 3, 2014), <http://www.chechensinsyria.com/?p=22631>.

²⁷¹ Mairbek Vatchagaev, *Number of Disillusioned North Caucasian Militants Returning from Syria Increases*, 15(2) NORTH CAUCUS WEEKLY (Jamestown Foundation, Oct. 24, 2014), http://www.jamestown.org/single/?tx_ttnews%5Bsword%5D=8fd5893941d69d0be3f378576261ae3e&tx_ttnews%5Bany_of_the_words%5D=cases%20in%20a_bsentia&tx_ttnews%5Bpointer%5D=2&tx_ttnews%5Btt_news%5D=43001&tx_ttnews%5BbackPid%5D=7&cHash=a19ed08c1f94243ed1069af946a3298a.

²⁷² Federal Law No. 302-FZ of Nov. 2, 2013, http://base.garant.ru/70493356/#block_7 (in Russian).

²⁷³ Press Release, Saudi Press Agency, Royal Decree Punishing Individuals Joining Military Operations Abroad or Joining Extremist Organizations (Feb. 03, 2014), <http://www.spa.gov.sa/report-viewer.php?id=1194732¬report=1> (in Arabic).

²⁷⁴ Miki Trajkovski, *Macedonia and Kosovo Support New Law Sanctioning Foreign Fighters*, SETIMES.COM (Aug. 29, 2014), http://www.setimes.com/cocoon/setimes/xhtml/en_GB/features/setimes/blogreview/2014/08/29/feature-06.

Nations Security Council resolution on foreign terrorist fighters that requires all nations to adopt laws that would make it a serious crime for their nationals to, among others, join extremist groups such as ISIL and AQ [Al-Qaeda] affiliate Al-Nusra Front. Any Singaporean, who assists, supports, promotes or joins violent organisations like ISIL would have demonstrated a dangerous tendency to support the use of violence. Such a person poses a real threat to Singapore's national security, and will be dealt with in accordance with our laws.

Our approach will be carefully calibrated to the specifics of each case. Where necessary, the Internal Security Act (ISA) will be used in order to pre-empt and neutralise these terrorism threats to the security of our citizens and our country.²⁷⁵

The Deputy Prime Minister added that “a handful of Singaporeans” already participate in the fight, and emphasized that “[w]e will continue to investigate anyone who expresses support for terrorism or an interest to pursue violence.”²⁷⁶

The Internal Security Act (ISA) was first promulgated by Malaysia in 1960 and extended to Singapore when it became a state in 1963.²⁷⁷ After Singapore's independence in 1965, ISA remained in force.²⁷⁸ The law “empowers the government to address threats to national security not just through preventive detention, but also other measures like the imposition of curfews to deal with civil disorder.”²⁷⁹

South Africa

A citizen or resident who engages in terrorist activities or is affiliated with a terrorist organization abroad may be prosecuted in South Africa for the crime of terrorist activities or for committing offenses associated with terrorist activities.²⁸⁰ These include the act of entering or remaining in a country or making one's self available “for the benefit of, at the direction of, or in association with” a group engaging in terrorist activities.²⁸¹

²⁷⁵ Oral Reply to Parliamentary Question on Islamic State in Iraq and the Levant (ISIL) by Mr. Teo Chee Hean, Deputy Prime Minister, Coordinating Minister for National Security and Minister for Home Affairs (Oct. 7, 2014), http://www.mha.gov.sg/news_details.aspx?nid=MzI1NA%3D%3D-SyicFf3pGBw%3D.

²⁷⁶ *Id.*

²⁷⁷ Internal Security Act, Cap. 143 (1985 rev. ed.), <http://statutes.agc.gov.sg/aol/search/display/view.w3p;ident=145e6ff1-50c0-4962-8e34-f7f75903961e;page=0;query=DocId%3A5ba26ddb-fd4c-4e2e-8071-478c08941758%20Depth%3A0%20Status%3Ainforce;rec=0>.

²⁷⁸ Jack Tsen-Ta Lee, *The Past, Present and Future of the Internal Security Act*, SINGAPORE PUBLIC LAW (June 5, 2012), <http://singaporepubliclaw.com/2012/06/05/internal-security-act/>.

²⁷⁹ Speech, Teo Chee Hean, Parliamentary Speech on the Internal Security Act (Oct. 19, 2011), http://www.mha.gov.sg/news_details.aspx?nid=MjEzMg%3D%3D-as%2B9gJeLXQ0%3D.

²⁸⁰ Protection of Constitutional Democracy Against Terrorist and Related Activities Act 33 of 2004, §§ 1, 2, 3 & 15, 8 BUTTERWORTHS STATUTES OF SOUTH AFRICA (updated through 2013), available at http://www.saflii.org/za/legis/consol_act/pocdataaa2004799/.

²⁸¹ *Id.*

A person who engages in terrorist activity could, on conviction, be subject to a penalty of up to life imprisonment, whereas a person who commits a crime connected with terrorist activity may be subject to a maximum of fifteen years in prison.²⁸²

A naturalized South African citizen may also lose his South African citizenship for engaging in terrorist activities abroad. Such person may lose his citizenship if he “engages, under the flag of another country, in a war that the Republic [of South Africa] does not support.”²⁸³ The country’s Minister of Home Affairs is also authorized to cancel citizenship of a South African who is also a citizen of another country if the person was convicted and sentenced for a prison term of at least a year for an act that constitutes a crime in South Africa or the Minister believes that “it is in the public interest that such citizen shall cease to be a South African citizen.”²⁸⁴

South Korea

South Korea’s Criminal Act has a provision very similar to one in the Japanese Penal Code that was applied by the Japanese police in the case of a man who prepared to go to join IS. The Korean provision may be applicable to similar cases. It states as follows:

Article 111 (Private War Against a Foreign Country)

- (1) A person who wages a private war against a foreign country shall be punished by limited imprisonment without prison labor for at least one year.
- (2) Attempts to commit crimes specified in the preceding paragraph shall be punished.
- (3) A person who makes preparations or conspires with intent to commit the crime of paragraph (1) shall be punished by imprisonment without prison labor for not more than three years or by a fine not exceeding five million won: Provided, That when he denounces himself before the commission of such intended crimes, the punishment shall be mitigated or remitted.²⁸⁵

Spain

The Spanish government is considering an amendment to the Penal Code²⁸⁶ that would make it a crime of terrorism to fight in armed conflicts abroad on behalf of groups considered to be illegal militias.²⁸⁷ The aim of the proposed legislation is to give domestic courts jurisdiction to prosecute persons joining jihadist groups, slow the flow of foreign fighters into the ranks of IS,

²⁸² *Id.* § 18.

²⁸³ South Africa Citizenship Act 88 of 1995, § 6, available at <http://www.lawsofsouthafrica.up.ac.za/index.php/browse/citizens-and-foreigners/south-african-citizenship-act-88-of-1995/act/88-of-1995-south-african-citizenship-act-1-jan-2013-to-date-pdf/download>.

²⁸⁴ *Id.* § 8.

²⁸⁵ Criminal Act, Act No. 293 (Sept. 18, 1953), amended by Act No. 5057 (Dec. 29, 1995), art. 111, *English translation available at* http://elaw.klri.re.kr/eng_service/lawView.do?hseq=28627&lang=ENG.

²⁸⁶ Ley Orgánica 10/1995, de 23 de noviembre, del Código Penal [Penal Code], BOLETÍN OFICIAL DEL ESTADO [B.O.E.], Nov. 24, 1995, <https://www.boe.es/buscar/act.php?id=BOE-A-1995-25444>.

²⁸⁷ Miguel González, *El Gobierno Estudia Castigar como Delito el Combatir en el Extranjero*, EL PAÍS (Sept. 16, 2014), http://politica.elpais.com/politica/2014/09/16/actualidad/1410865949_035401.html.

and, most importantly, help control the threat they pose on their return to the country by forbidding their exit from Spain to join a terrorist organization abroad or their subsequent reentry.²⁸⁸

According to news reports, the proposed amendment to the Penal Code focuses on a specific definition of so-called “passive training,” which is defined as the behavior of someone who is being indoctrinated for combat abroad and which may take place in prisons, worship centers, or via social media.²⁸⁹ The government is also considering criminalizing the “self-radicalization” of the so-called “lone wolf,” or the abetting of the perpetration of terrorist acts or their encouragement through the Internet.²⁹⁰ In addition, the Law on Foreigners is being considered for amendment in order to speed up deportations and implement entry prohibition procedures for those who have committed serious crimes. The Civil Code would be amended to make the loss of Spanish nationality an accessory penalty to the crime of terrorism. Convicted foreign fighters would also be deprived of social benefits under the Law on Subsidies.²⁹¹

Spain’s Interior Ministry has identified approximately fifty Spanish citizens who have joined jihadist groups in Syria and Iraq, including the IS group. Most of these foreign fighters are from the Spanish-speaking enclaves of Ceuta and Melilla in Morocco.²⁹² It has also been reported that two jihadists, using a video in Spanish posted on the Internet, called for Andalusia (*Al-Andalus*) to join the so-called Caliphate under the rule of IS.²⁹³

Sudan

Section 3 of article 3 of the anti-terrorism law of Sudan provides that the law may apply to any terrorist crime committed abroad if it is considered a crime under the local law and if the country where the crime was committed agrees to the application of the Sudanese law.²⁹⁴ Under this article, Sudanese citizens as well as noncitizens in the country can be prosecuted for terrorist crimes committed abroad.

²⁸⁸ *Id.*

²⁸⁹ Jorge A. Rodríguez & Jesús Duva, *Reformaremos Cuatro Grandes Leyes para Combatir Mejor el Yihadismo*, EL PAÍS (Sept. 20, 2014), http://politica.elpais.com/politica/2014/09/20/actualidad/1411240324_213061.html.

²⁹⁰ *Id.*

²⁹¹ *Id.* (citing Ley Orgánica 4/2000, de 11 de enero, sobre Derechos y Libertades es de los Extranjeros en España y su integración social [Organic Law on the Rights and Freedoms of Foreigners in Spain and Their Social Integration], B.O.E., Jan. 12, 2000, <http://www.boe.es/buscar/act.php?id=BOE-A-2000-544>; Ley de Subvenciones [Law on Subsidies] (Nov. 17, 2003), B.O.E., Nov. 18, 2003, <https://www.boe.es/buscar/act.php?id=BOE-A-2003-20977>; CÓDIGO CIVIL, 1889, B.O.E., July 25, 1889, <http://www.boe.es/buscar/act.php?id=BOE-A-1889-4763>).

²⁹² *Id.*

²⁹³ *La Yihad Recluta Cada Vez a Mas Combatientes en Espana* [The Jihad Recruits More Combatants in Spain], EL COMERCIO (July 16, 2014), <http://www.elcomercio.es/politica/201407/16/yihad-recluta-cada-combatientes-20140716012104-rc.html>. For an in-depth discussion of the issue see Fernando Reinares & Carola García-Calvo, *The Spanish Foreign Fighter Contingent in Syria*, REAL INSTITUTO EL CANO (Jan. 31, 2014), http://www.realinstitutoelcano.org/wps/portal/web/rielcano_en/contenido?WCM_GLOBAL_CONTEXT=/elcano/elcano_es/zonas_es/terrorismo+internacional/spanish-foreign-fighter-contingent-syria.

²⁹⁴ Anti-Terrorism Act of 2001, <http://www.moj.gov.sd/content/laws4/10/24.htm> (in Arabic).

Sweden

The financing of terrorism is illegal in Sweden.²⁹⁵ In addition, Sweden has adopted into law the European Convention of January 17, 1977, on the Suppression of Terrorism.²⁹⁶ However, Sweden has no legislation that criminalizes fighting for terrorist groups abroad. Two initiatives have previously been voted down in Parliament. The outgoing government had plans to reintroduce legislation that criminalized fighting for IS and similar groups.²⁹⁷ That legislation was criticized by left-leaning Muslims, who called it a political attack on Muslims.²⁹⁸ Others were more hopeful that legislation would pass later this year.²⁹⁹

New legislation prohibiting terror trips abroad is undergoing an expedited review, according to the newly appointed Justice Minister, Morgan Johansson.³⁰⁰ The goal is to have the legislation in place by 2015.³⁰¹ The expedited legislation will only cover fighting with groups that are on the United Nations terror list, but the Justice Minister has declared that he will also initiate a broader review aimed at legislation prohibiting Swedes from participating in warfare abroad generally.³⁰²

Sweden previously had legislation in place prohibiting fighting abroad during the Spanish Civil War.³⁰³ It prohibited fighting, recruitment, and travel to or through Spain.³⁰⁴

Switzerland

The Ordinance on the Prohibition of the Islamic State Group (IS) and Related Organisations, adopted on October 8, 2014, not only bans the IS and any related groups in Switzerland,³⁰⁵ but

²⁹⁵ Lag om åtgärder mot penningtvätt och finansiering av terrorism [Act on Measures Against Money Laundering and Financing of Terrorism] (Svensk Författningssamling [SFS] 2009:62), <http://www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Lag-200962-om-atgarder-mot-sfs-2009-62/>.

²⁹⁶ Lag om straff för terroristbrott [Act on Punishment for Terrorist Crimes] (SFS 2003:148).

²⁹⁷ Op-ed, Jan Björklund & Birgitta Ohlsson, *Nu krävs ny lag mot terrorträning*, SVENSKA DAGBLADET (Aug. 14, 2014), http://www.svd.se/opinion/brannpunkt/nu-kravs-ny-lag-mot-terrortraning_3821742.svd.

²⁹⁸ Op-ed, Zakarias Zouhir, *En politisk attack mot oss muslimer*, SVENSKA DAGBLADET (Aug. 18, 2014), http://www.svd.se/opinion/brannpunkt/en-politisk-attack-mot-oss-muslimer_3831086.svd.

²⁹⁹ Op-ed, Edward Norden & Staffan Danielsson, *Kamp mot extremism har försummats*, SVENSKA DAGBLADET (Aug. 18, 2014), http://www.svd.se/opinion/brannpunkt/kamp-mot-extremism-har-forsummats_3829614.svd.

³⁰⁰ *Lag mot krigsresor ska snabbtredas – “vi måste agera nu,”* DAGENS JURIDIK (Oct. 29, 2014), <http://www.dagensjuridik.se/2014/10/lag-mot-krigsresor-ska-snabbtredas-vi-maste-agera-nu>; *Lag mot terrorresor ska snabbtredas*, DAGENS NYHETER (Oct. 29, 2014), <http://www.dn.se/nyheter/sverige/lag-mot-terrorresor-ska-snabbtredas>.

³⁰¹ DAGENS JURIDIK, *supra* note 300; DAGENS NYHETER, *supra* note 300.

³⁰² DAGENS JURIDIK, *supra* note 300; DAGENS NYHETER, *supra* note 300.

³⁰³ Lag angående åtgärder för att förhindra frivilligas deltagande i inbördeskriget i Spanien m.m. [Act on Measures to Prevent Volunteers from Participating in the Spanish Civil War etc.] 1(SFS 1937:61).

³⁰⁴ *Id.* §§ 1–3.

³⁰⁵ Ordonnance interdisant le groupe «Etat islamique» et les organisations apparentées (Ordonnance) art. 1 (Oct. 8, 2014), <http://www.admin.ch/bundesrecht/aop/00724/index.html?lang=fr> (click on hyperlink under date

also subjects to punishment anyone (which could include a returned foreign fighter) who associates with such groups on Swiss territory or engages in any activities that provide material or human resources to support the group, organizes propaganda campaigns on its behalf or in furtherance of its objectives, or recruits new members or encourages its activities in any other manner. Punishment for violation of the Ordinance is a sentence of imprisonment of up to three years or a fine, except where more severe criminal provisions apply.³⁰⁶ Where applicable, under Criminal Code articles 70(5) and 72, assets of an organization that contravenes the Ordinance might also be forfeited.³⁰⁷

Returned Swiss fighters for IS could also face prosecution for their actions abroad, as the Ordinance provides that anyone who commits the above-named offenses outside the country is punishable if arrested in Switzerland and not extradited. However, the Criminal Code's provisions excluding a person from criminal liability in Switzerland if he or she has been acquitted of the offense abroad and prescribing the taking into account of partial sentences served abroad would apply.³⁰⁸ The Swiss Federal Intelligence Service reportedly estimates that in 2014 twenty-five Swiss citizens have traveled to Iraq and Syria, with at least ten of them having served as foreign fighters for groups including the IS.³⁰⁹

Tajikistan

Amendments to the Criminal Code introducing criminal responsibility for participation in armed conflicts in foreign countries were adopted by the Parliament of Tajikistan on May 21, 2014. Tajikistani citizens and residents fighting abroad are now punishable by imprisonment for a twelve- to twenty-year term if captured. The same punishment applies to recruiters of militants.³¹⁰ At the same time, the Office of Prosecutor General offered all Tajikistani citizens fighting in the ranks of rebel forces in Syria amnesty if they return to Tajikistan, as long as they did not commit any crimes and did not join extremist organizations abroad.³¹¹ Before adoption of these amendments, the authorities convicted those who took part in fighting in Syria of

“08.10.2014” to access PDF version); *see also* Press Release, Federal Administration, The Federal Council Adopts Ordinance Banning the Islamic State Group and Related Organisations (Oct. 8, 2014), <https://www.news.admin.ch/message/index.html?lang=en&msg-id=54773>. The Ordinance entered into force on October 9 and will initially be applicable only for six months, with the possibility of an extension. *Id.*

³⁰⁶ Ordinance art. 2(1).

³⁰⁷ *Id.* art. 3.

³⁰⁸ *Id.* art. 2(2); SWISS CRIMINAL CODE, Book One: General Provisions, art. 7(4), (5) (Dec. 21, 1937, status as of July 1, 2014), http://www.admin.ch/ch/e/rs/311_0/indexni1.html.

³⁰⁹ J.C. Finley, *Switzerland Bans Membership in Islamic State*, UPI (Oct. 8, 2014), http://www.upi.com/Top_News/World-News/2014/10/08/Switzerland-bans-membership-in-Islamic-State/9461412791054/.

³¹⁰ *Legislative News*, PARLIAMENT OF TAJIKISTAN, http://www.parlament.tj/ru/index.php?option=com_content&view=article&id=1139 (in Russian); *see also* Nadin Bahrom, *Tajikistan Ready to Prosecute Citizens Who Fight Abroad*, CENTRAL ASIA ONLINE (Aug. 12, 2014), http://centralasiaonline.com/en_GB/articles/caii/features/main/2014/08/12/feature-01.

³¹¹ *Prosecutor Offers Amnesty To Tajik Fighters Who Return From Syria*, RADIO FREE/EUROPE RADIO LIBERTY (July 7, 2014), <http://www.rferl.org/content/tajikistan-syria-militants-amnesty-offer-tajik-islamists/25448622.html>.

“participation in a criminal group” and sentenced them to various prison terms, none longer than two years.³¹²

On September 26, 2014, religious leaders of Tajikistan issued a proclamation banning Tajikistani Muslims from participation in hostilities against other followers of Islam.³¹³

Tanzania

A citizen or resident of Tanzania who takes part in the activities of a terrorist organization or participates in terrorist acts abroad may be charged for acts of terrorism in Tanzania.³¹⁴ This includes an intentional act or omission that “may seriously damage a country or an international organization” or seriously intimidate a population.³¹⁵ It also includes membership in a “proscribed organization,” which includes international terrorist groups.³¹⁶ A person may also be declared to be a “suspected international terrorist” if the person is reasonably suspected of being a member of an international terrorist group or is listed as such in a UN Security Council resolution, “any instrument of the international community,” or by any country or international organization.³¹⁷

Membership in a terrorist group is an offense punishable, on conviction, by at least eighteen years of imprisonment.³¹⁸ The Minister of Home Affairs may also, among other things, issue regulations denying entry into Tanzania and freezing the assets of persons listed as suspected international terrorists or members of international terrorist groups.³¹⁹ In addition, a naturalized Tanzanian citizen who joins an international terrorist group may be deprived of his Tanzanian citizenship.³²⁰

Tunisia

Article 3 of a draft law pending before the Tunisian National Constituent Assembly defines a terrorist organization as any group of three or more persons organized for the purpose of

³¹² Zamira Eshanova, *Karimov Prepares For Terrorists*, RADIO FREE EUROPE/RADIO LIBERTY (Jan. 24, 2014), <http://www.rferl.org/content/uzbekistan-imu-terrorism/25241539.html>.

³¹³ Mehrangez Tursunzoda, *Tajik Fatwa Misfires*, INSTITUTE FOR WAR AND PEACE REPORTING (Oct. 24, 2014), <http://iwpr.net/report-news/tajik-fatwa-misfires>.

³¹⁴ Prevention of Terrorism Act No. 21 of 2002, § 4, <http://polis.parliament.go.tz/PAMS/docs/21-2002.pdf>.

³¹⁵ *Id.*

³¹⁶ *Id.* §§ 4, 6 & 12. Tanzania has so far designated Al-Shabaab Al Islamiya and Al-Qaeda as suspected international terrorist groups. Prevention of Terrorism Regulations, 2012, sched., SUBSIDIARY LEGISLATION TO THE GAZETTE OF UNITED REPUBLIC OF TANZANIA Vol. 93, No. 35 (Aug. 31, 2012).

³¹⁷ Prevention of Terrorism Act § 12.

³¹⁸ *Id.* § 25.

³¹⁹ *Id.* § 12.

³²⁰ Tanzania Citizenship Act No. 6 of 1995, §§ 15 & 16, IX LAWS OF TANZANIA, Cap. 358 (rev. ed. 2010), <http://www.immigration.go.tz/downloads/Citizenship%20Act%201995.pdf>.

committing terrorist crimes in or outside the country. If passed, article 9 would criminalize joining such organizations.³²¹

Uganda

A Ugandan citizen or resident who joins a terrorist group abroad may be penalized under the country's law. An act of terrorism, either as an individual act or as part of a terrorist group, by a citizen or resident abroad is a serious offense under Ugandan law. Membership in a listed terrorist organization is also a crime.³²² Uganda has listed as terrorist organizations the Lords Resistance Army, the Lords Resistance Movement, Allied Democratic Forces, and Al-Qaeda.³²³

An act of terrorism is a capital offense, while membership in a terrorist organization is, on conviction, punishable by a maximum of ten years' imprisonment and/or a fine of up to UGX 20 million (around US\$7,273).³²⁴ In addition, a naturalized Ugandan citizen convicted of a crime of terrorism or membership in a terrorist organization abroad may lose his/her citizenship.³²⁵

United Arab Emirates (UAE)

Under article 10 of UAE Law 1 of 2004, whose purpose is to combat terrorism, as amended by Law 7 of 2014, individuals cooperating with or joining organizations located outside the UAE that adopt terrorism to achieve their goals are punishable with a set term of imprisonment or life imprisonment. The provision also states that the term of imprisonment should not be less than ten years if the individual received military training by such an organization. In the event that the individual participated in any terrorist activities, he/she will be punished with life imprisonment.³²⁶

United Kingdom

Antiterrorism legislation in the United Kingdom provides for a large number of criminal offenses connected with terrorism. It is a criminal offense for any British national to travel abroad to commit or prepare a terrorist offense, or to obtain training in terrorism, and suspects may be prosecuted in the UK for other acts of terrorism, even if the acts are committed overseas.³²⁷ Any

³²¹ Draft Basic Law No. 009/2014 concerning Anti-Terrorism and Anti-Money Laundering, http://www.anc.tn/site/servlet/Fichier?code_obj=81532&code_exp=1&langue=1 (in Arabic).

³²² Anti-Terrorism Act No. 14 of 2002, §§ 3, 6 & 10, LAWS OF THE REPUBLIC OF UGANDA, ACTS ENACTED IN 2002 (2002), available at <https://www.unodc.org/tldb/showDocument.do?documentUId=6589>.

³²³ *Id.* § 9 & Second Sched.

³²⁴ *Id.* §§ 6 & 10.

³²⁵ Uganda Citizenship and Immigration Control Act § 18, 3 LAWS OF UGANDA, Cap. 66 (rev. ed. 2000), available at <http://www.ulii.org/ug/legislation/consolidated-act/66>; Uganda Citizenship and Immigration Control (Amendment) Act No. 5 of 2009, § 8, CII (41) ACTS SUPPLEMENT TO THE UGANDA GAZETTE (Aug. 21, 2009), available at http://www.ugandahighcommission.com/files/The_Citizenship_&_Immigration_Control_Amendment_Act,_2009.pdf.

³²⁶ Law 1 of 2014, 417 AL-JARĪDAH AL-RASMĪYAH 43 (July 28, 2004) (in Arabic).

³²⁷ Terrorism Act 2000, c. 11, § 63A-B, <http://www.legislation.gov.uk/ukpga/2000/11/contents>.

acts to prepare, or assist others to prepare, for acts of terrorism are also criminal offenses, punishable by up to life imprisonment.³²⁸ In addition, the Terrorism Acts provide the police with many powers, including the power to take terrorism prevention and investigation measures (TPIMs), which are restrictive measures imposed on a person, such as the requirement to reside at a specific property and limitations on travel.³²⁹

The police have the authority to stop and question individuals they suspect of being terrorists at ports and borders.³³⁰ The Home Secretary can reportedly use the Royal Prerogative to strip a person of his/her British passport and therefore disrupt any overseas travel activity.³³¹ According to news sources, the Home Secretary currently holds twenty-three passports under this power.³³²

The British Nationality Act permits the Secretary of State to deprive a person of his/her British citizenship, unless it would render him/her stateless, if the Secretary of State is satisfied that the person has “done anything seriously prejudicial to the interests of the UK or a British Overseas Territory.”³³³ The Secretary of State can also take British citizenship away if obtained through naturalization by fraud, false representation, or concealment of a material fact, such as past involvement with terrorist activities.³³⁴ To address the issue of British citizens fighting for terrorist organizations overseas, the Home Secretary has also noted that the government may utilize the Treason Act in cases where terrorists have pledged allegiance to another organization.³³⁵

Despite these expansive laws, an estimated five hundred British nationals have traveled to Iraq and Syria to fight on behalf of militant groups, including IS, revealing a gap in the ability of legislation to manage such individuals. The Prime Minister is calling for new laws to close this gap by providing authorities with greater powers to prevent individuals suspected of being terrorists from traveling overseas.³³⁶ The aim of these laws is to disrupt terrorism activities by preventing individuals from traveling abroad to fight in the first instance. Proposed measures

³²⁸ Terrorism Act 2006, c. 11, s. 5, <http://www.legislation.gov.uk/ukpga/2006/11/contents>.

³²⁹ Terrorism Prevention and Investigation Measures Act 2011, c. 23, <http://www.legislation.gov.uk/ukpga/2011/23/contents>; HOUSE OF COMMONS HOME AFFAIRS COMMITTEE, COUNTER-TERRORISM SEVENTEENTH REPORT OF SESSION 2013–14, HC 231, 2013-14, ¶ 119, www.publications.parliament.uk/pa/cm201314/cmselect/cmhaff/231/231.pdf.

³³⁰ Terrorism Act 2000, c. 11, sched. 7, <http://www.legislation.gov.uk/ukpga/2000/11/contents>.

³³¹ Melanie Gower, *Deprivation of British Citizenship and Withdrawal of Passport Facilities* (Sept. 4, 2014), SN/HA/6920, <http://www.parliament.uk/business/publications/research/briefing-papers/SN06820/deprivation-of-british-citizenship-and-withdrawal-of-passport-facilities>.

³³² Dominic Casciani, *Why New Anti-Terror Powers Aim to Disrupt Not Prosecute*, BBC NEWS (Sept. 1, 2014), <http://www.bbc.com/news/uk-29012812>.

³³³ British Nationality Act 1981, c. 61, § 40(2), <http://www.legislation.gov.uk/ukpga/1981/61/contents>.

³³⁴ *Id.*

³³⁵ Steven Swinford, *British Jihadis Fighting for Islamic State Could Be Tried for Treason, Philip Hammond Says*, THE TELEGRAPH (London) (Oct. 10, 2014), <http://www.telegraph.co.uk/news/uknews/terrorism-in-the-uk/11167255/British-Jihadis-fighting-for-Islamic-State-could-be-tried-for-treason-Philip-Hammond-says.html>.

³³⁶ BBC NEWS, *supra* note 332.

include providing police with the power to confiscate the passports of suspected terrorists at UK borders and extending the TPIMs to include the power to relocate suspects. Other measures include requiring terrorists to take part in a “de-radicalisation” program and, controversially, blocking the return of British citizens to UK soil, regardless of whether they have dual nationality, if they are suspected of terrorism overseas.³³⁷

Uzbekistan

The President of Uzbekistan, Islam Karimov, has reportedly warned citizens who have left the country to join Islamic extremist groups and train at terrorist camps that, if they return home, they will go to prison for a term of five to seven years. Inside Uzbekistan, individuals who know about potential terrorist activities and do not inform the authorities are also being sent to prison.³³⁸ Relevant amendments to the Criminal Code were passed in January 2014.³³⁹

Vietnam

Vietnam’s Penal Code has a provision that punishes the act of working as a mercenary:

Article 344. Recruiting mercenaries or working as mercenaries

1. Those who recruit, train or use mercenaries to oppose a friendly country of Vietnam or a national liberation movement shall be sentenced to between ten years and twenty years of imprisonment or life imprisonment.

2. Those who work as mercenaries shall be sentenced to between five years and fifteen years of imprisonment.³⁴⁰

No definition of “friendly country” was found.

Zambia

A person connected to Zambia who joins a terrorist organization abroad violates the country’s terrorism law. Zambian law expressly outlaws membership in a terrorist organization abroad, stating that “[a] person [including a citizen or resident] who forms, owns, belongs or professes to belong to an organization that is a declared terrorist organization commits an offence.”³⁴¹ A group may be listed as a terrorist organization in a number of ways, including if declared as such by the Zambian government based on a reasonable suspicion that it engages in terrorism or listed

³³⁷ David Cameron Outlines New Anti-Terror Measures to MPs, BBC NEWS (Sept. 1, 2014), <http://www.bbc.com/news/uk-29008316>.

³³⁸ Eshanova, *supra* note 312.

³³⁹ Law of the Republic of Uzbekistan No. 365, NARODNOE SLOVO (official publication), Jan. 21, 2014, <http://parliament.gov.uz/ru/law.php> (in Russian).

³⁴⁰ PENAL CODE, No. 15/1999/QH10, Dec. 21, 1999, *English translation available at* http://moj.gov.vn/vbqp/en/Lists/Vn%20bn%20php%20lut/View_Detail.aspx?ItemID=610.

³⁴¹ Anti-Terrorism Act No. 21 of 2007, §§ 3 & 17, *available at* <http://www.zambialii.org/files/zm/legislation/act/2007/22/fa2007190.pdf>.

as such by the UN Security Council or the African Union.³⁴² The definition of the term “terrorism” includes acts outside of Zambia.³⁴³

The penalty for membership of a citizen or resident in a terrorist organization is, on conviction, imprisonment for life.³⁴⁴ In addition, a naturalized Zambian citizen who joins the ranks of a terrorist organization abroad may lose his citizenship.³⁴⁵

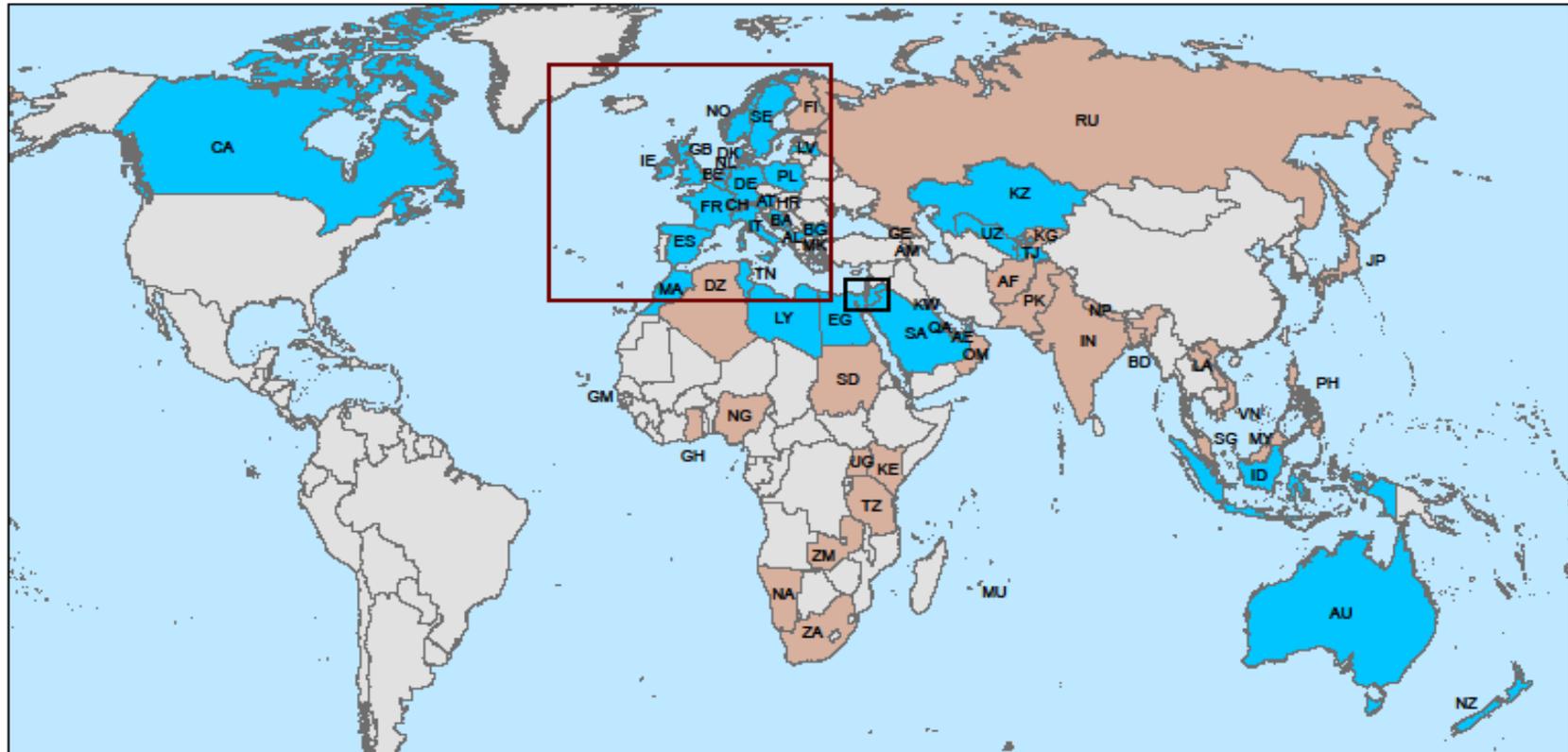
³⁴² *Id.* § 16.

³⁴³ *Id.* § 2.

³⁴⁴ *Id.* § 17.

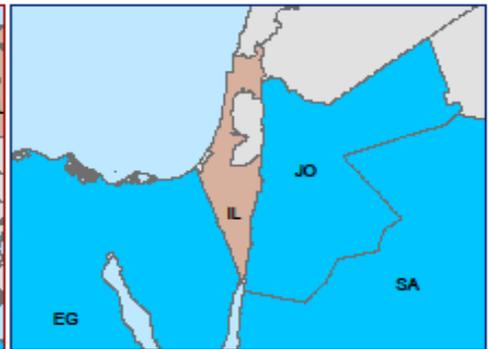
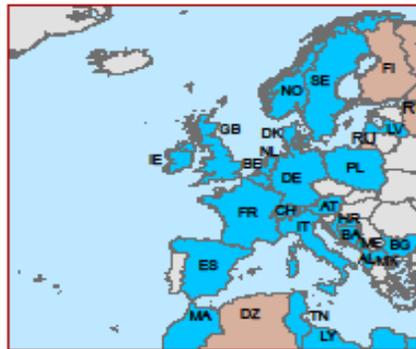
³⁴⁵ Citizenship of Zambia Act § 22, 9 LAWS OF ZAMBIA, Cap. 124 (rev. ed. 1995), available at <http://www.refworld.org/docid/3ae6b4d4c.html>.

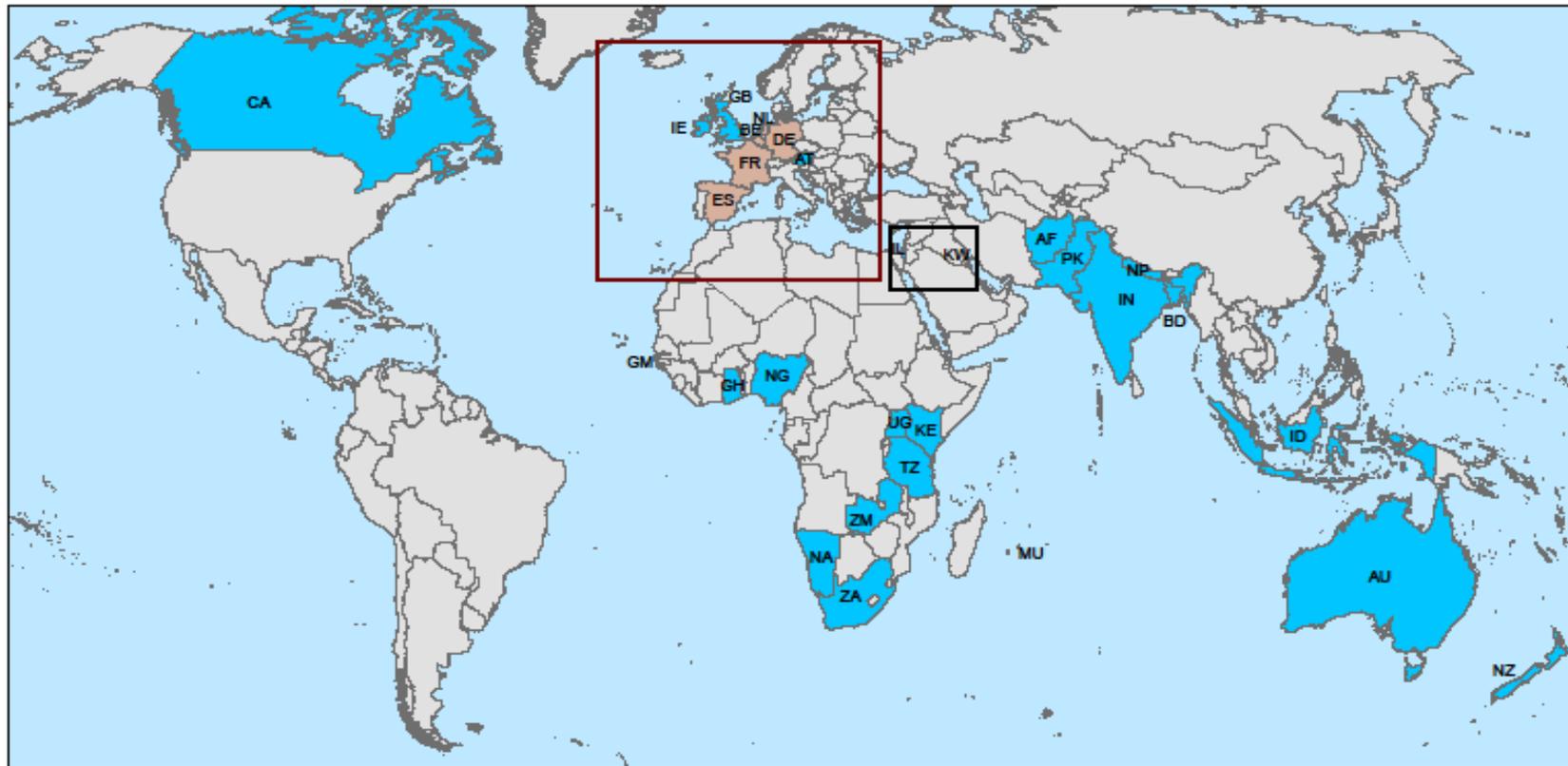
Treatment of Foreign Fighters in Selected Jurisdictions



Surveyed Countries Taking/Considering Measures on Foreign Fighters

- Measures taken or considered in 2014
- No measures taken or considered in 2014





Surveyed Countries that May Limit Rights to Passports or Citizenship for Foreign Fighters

- Passport or citizenship change in place
- Passport or citizenship change considered

