Capacity-Building Challenges: Identifying Progress and Remaining Gaps in Dealing with Foreign (Terrorist) Fighters

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Capacity-Building Challenges: Identifying Progress and Remaining Gaps in Dealing with Foreign (Terrorist) Fighters

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In recent years, promising steps have been made in identifying, sharing and implementing good practices in dealing with (returning) Foreign (Terrorist) Fighters (FTFs). This policy brief addresses capacity-building challenges in relation to the implementation of these good practices. It aims to do so by sharing some of the insights and progress made with regard to the capacity-building efforts developed by the International Centre for Counter-Terrorism – The Hague (ICCT) on the issue of FTFs in a selection of countries. The approach and outcomes of these capacity-building activities are linked to the recommendations in the Global Counterterrorism Forum's (GCTF) The Hague-Marrakech Memorandum on Good Practices for a More Effective Response to the FTF Phenomenon. Eight insights and recommendations are provided for policy makers and implementers alike, related to organisation, implementation, and monitoring of capacity-building efforts.

Keywords: Foreign Terrorist Fighters, Capacity-building, Western Balkans, Tunisia, Indonesia, Policy Measures, GCTF, Memoranda

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Introduction

Current estimates put the number of foreign (terrorist) fighters (FTFs)[1] that have travelled since 2011 to the conflicts in Syria and Iraq at 40,000, originating from over 110 countries.[2] When looking at the states from which these individuals travel, some states have particularly high numbers, both numerically and relative to the size of their respective populations. Most notably Tunisia, Belgium, Jordan, Saudi Arabia, France and the Western Balkans feature among the regions with high estimates of FTFs that have travelled abroad.[3]

States are increasingly concerned with the security challenges posed by the FTF phenomenon and have adopted a myriad of policy measures. The threat does not only relate to their possible involvement in terrorist activities abroad, and their influence on the intensity and duration of still on-going conflicts, but also to the anticipated battle-experience, expanded networks, and potential traumas of FTFs that may return.[4] Efforts have subsequently been made to prevent individuals from travelling to the designated areas of conflict.[5]

Policies have been developed that focus on identifying, sharing and implementing best practices in dealing with (returning) FTFs. An overview of some of the relevant policy recommendations and good practices can be found in The Hague-Marrakech Memorandum on Good Practices for a More Effective Response to the FTF Phenomenon, adopted in September 2014 and its Addendum with a focus on returning FTFs adopted

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[1] United Nations Security Council Resolution 2178 defines foreign terrorist fighters as "individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training, including in connection with armed conflict." United Nations Security Council resolution 2178, UN Doc. S/RES/2178 (24 September 2014), https://undocs.org/S/RES/2178(2014); The term "foreign terrorist fighter" is contested. See for instance: Alex. P. Schmid, "Foreign (Terrorist) Fighter Estimates: Conceptual and Data Issues", *The International Centre for Counter-Terrorism – The Hague 6, no. 4* (2015), http://icct.nl/wp-content/uploads/2015/10/ICCT-Schmid-Foreign-Terrorist-FighterEstimates-Conceptual-and-Data-Issues-October20152.pdf; Christophe Paulussen and Kate Pitcher, "Prosecuting (Potential) Foreign Fighters: Legislative and Practical Challenges", *The International Centre for Counter-Terrorism – The Hague 8, no. 13* (2018), https://icct.nl/wp-content/uploads/2018/01/ICCT-Paulussen-Pitcher-Prosecuting-Potential-Foreign-Fighters-Legislative-Practical-Challenges-Jan2018.pdf; Christophe Paulussen. "Repressing the Foreign Fighters Phenomenon and Terrorism in Western Europe: Towards an Effective Response Based on Human Rights." The International Centre for Counter-Terrorism – The Hague 7, no. 10 (2016), https://icct.nl/wp-content/uploads/2016/11/ICCT-Paulussen-Rule-of-Law-Nov2016-3.pdfGeneva Academy of International Humanitarian Law and Human Rights, "Foreign Fighters under International Law", *Academy Briefing, no. 7* (October 2014), https://www.geneva-academy.ch/joomlatools-files/docman-files/Publications/Academy%20Briefings/Foreign%20Fighters_2015_WEB.pdf;
United Nationals General Assembly, "Report of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination", UN Doc. A/70/330 (19 August 2015),https://undocs.org/A/70/330.

[2] Vladimir Voronkov, Under-Secretary-General and Head of the Office of Counter-Terrorism briefed the UN Security Council using this estimate in November 2017. United Nations Meeting Coverage and Press Releases,

"Greater Cooperation Needed to Tackle Danger Posed by Returning Foreign Fighters, Head of Counter-Terrorism Office Tells Security Council", (28 November 2017), https://www.un.org/press/en/2017/sc13097.doc.htm; Estimates on the amount of FTFs are difficult to provide, as described by Schmid (2015), but useful as an indication to appreciate the extent of the threat they pose.

[3] Richard Barrett, "Beyond the Caliphate: Foreign Fighters and the Threat of Returnees", *The Soufan Center Report*, (October, 2017), p. 13-14, http://thesoufancenter.org/wp-content/uploads/2017/11/Beyond-the-Caliphate-Foreign-Fighters-and-the-Threat-of-Returnees-TSC-Report-October-2017-v3.pdf; Bibi van Ginkel and Eva Entenmann (Eds.), "The Foreign Fighters Phenomenon in the European Union. Profiles, Threats & Policies", *The International Centre for Counter-Terrorism – The Hague 7, no. 2* (2016), https://icct.nl/wp-content/uploads/2016/03/ICCT-Report_Foreign-Fighters-Phenomenon-in-the-EU_1-April-2016_including-AnnexesLinks.pdf; Europol, "EU Terrorism Situation and Trend Report (TE-SAT) 2017)", (2017), p. 33, https://www.europol.europa.eu/activities-services/main-reports/eu-terrorism-situation-and-trend-report-te-sat-2017.

[4] For historical analysis of the potential 'fall-out' of these returning FTFs see: Jeanine de Roy van Zuijdewijn, "Terrorism and Beyond: Exploring the Fallout of the European Foreign Fighter Phenomenon in Syria and Iraq", *Perspectives on Terrorism*, Vol 10, No 6 (2016), http://www.terrorismanalysts.com/pt/index.php/pot/article/view/559/html.

[5] UNSCR 2178 (2014).

in 2015,[6] which were both developed by the Global Counterterrorism Forum (GCTF). These non-binding recommendations were complemented by binding international guidance in 2014, with the adoption of United Nations Security Council Resolution (UNSCR) 2178, followed by subsequent resolutions, obliging states to adopt legislation to prevent the travel of FTFs, as well as to prevent funding and recruitment for such travel.[7] These resolutions and GCTF framework documents have contributed to the emergence of more comprehensive and coordinated approaches and policies, but gaps remain that require continued attention.[8]

Since the start of the Syrian conflict in 2011, there have been several waves of individuals travelling to the area. More recently, this flow has declined and there is now a growing concern related to the FTFs who return home or travel to a third state.[9] This is in part because, at present, front-line developments have resulted in considerable territorial losses for terrorist organisations such as ISIS/Daesh.[10] In particular, Tunisia has experienced a high number of returnees, estimated to exceed 800. In comparison, it is estimated that the entire EU has received 1200 returnees.[11]

Shortly after the start of the Syrian conflict, efforts were primarily directed at preventing the outbound travel of FTFs. As the conflict persisted and intensified, particularly the

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[6] Global Counterterrorism Forum (GCTF), "The Hague – Marrakech Memorandum on Good Practices for a More Effective Response to the FTF Phenomenon", (2014),
https://www.thegctf.org/documents/10162/140201/14Sept19_The+Hague-Marrakech+FTF+Memorandum.pdf;
Global Counterterrorism Forum (GCTF). "Addendum to The Hague-Marrakech Memorandum on Good Practices for a More Effective Response to the FTF Phenomenon, with a focus on Returning FTFs." (2015),
https://www.thegctf.org/Portals/1/Documents/Toolkit-documents/English-Addendum-to-The-Hague-Marrakech-Memorandum.pdf.
[7] Paragraph 6(a),(b), (c). UNSCR 2178 (2014); UNSCR 2195, UN Doc. S/RES/2195 (19 December 2014),
https://undocs.org/S/RES/2195(2014); UNSCR 2249, UN Doc. S/RES/2249 (20 November 2015),
https://undocs.org/S/RES/2249(2015); UNSCR 2253, UN Doc. S/RES/2253 (17 December 2015),
https://undocs.org/S/RES/2253(2015); UNSCR 2309, UN Doc. S/RES/2309 (22 September 2016),
https://undocs.org/S/RES/2309(2016); UNSCR 2322, UN Doc. S/RES/2322 (12 December 2016),
https://undocs.org/S/RES/2322(2016); UNSCR 2354, UN Doc. S/RES/2354 (24 May 2017),
https://undocs.org/S/RES/2354(2017); UNSCR 2368, UN Doc. S/RES/2368 (20 July 2017),
https://undocs.org/S/RES/2368(2017); UNSCR 2396, UN Doc. S/RES/2396 (21 December 2017),
https://undocs.org/S/RES/2396(2017).
[8] See "Letter dated 22 December 2017 from the Chair of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council", in which an update is provided on the "implementation of resolution 2178 (2014) by States affected by foreign terrorist fighters and emerging challenges". UN Doc. S/2017/1101 (22 December 2017), https://undocs.org/S/2017/1101;
United Nations Security Council Briefing. "Major challenges remain, Executive Director of CTED tells Security Council in meeting on foreign terrorist fighters." (28 November 2017),
https://www.un.org/sc/ctc/news/2017/11/28/major-challenges-remain-executive-director-cted-tells-security-council-meeting-foreign-terrorist-fighters/; United Nations Security Council. "Letter dated 17 January 2018 from the Chair of the Security Council Committee pursuant to resolutions 1267 (1999), 1989 (2011), and 2253 (2015) concerning Islamic State in Iraq and the Levant (Da'esh), Al-Qaida and associated individuals, groups, undertakings and entities addressed to the President of the Security Council." UN Doc. S/2018/14/Rev.1 (17 January 2018), https://undocs.org/S/2018/14/Rev.1.
[9] Global Coalition to Defeat Daesh, "Foreign Fighters Flows Decline over Past Year", (February 2017),
http://theglobalcoalition.org/en/foreign-terrorist-fighter-flows-decline-over-past-year/; Global Coalition to Defeat Daesh, "Daesh Areas of Influence – November 2017 Update", (December 2017),
http://theglobalcoalition.org/en/maps_and_stats/daesh-areas-influence-november-2017-update/; Barrett (2017), p. 13-14; Van Ginkel and Entenmann (2016); Tanya Mehra, "Foreign Terrorist Fighters: Trends, Dynamics and Policy Responses", *The International Centre for Counter-Terrorism – The Hague 7, no. 7* (2016),
https://icct.nl/wp-content/uploads/2016/12/ICCT-Mehra-FTF-Dec2016-2.pdf; Abdelhak Bassou, "Returning foreign terrorist fighters: an imminent threat to manage", OCP Policy Center, Policy Brief, (February 2017),
http://www.ocppc.ma/publications/returning-foreign-terrorist-fighters-imminent-threat-manage; Colin P. Clarke and Amarnath Amarasingam, "Where do ISIS Fighters Go When the Caliphate Falls?", *The Atlantic*, (6 March 2017),
https://www.theatlantic.com/international/archive/2017/03/isis-foreign-fighter-jihad-syria-iraq/518313/;
"Member States are conscious that, following the strategic military setbacks of ISIL in Iraq and the Syrian Arab Republic, foreign terrorist fighters, in particular those from outside the immediate region, may decide to leave the conflict zones as they cannot easily blend in with the local population", United Nations Security Council, "Sixth report of the Secretary-General on the threat posed by ISIL (Da'esh) to international peace and security and the range of United Nations efforts in support of Member States in countering the threat", UN Doc. S/2018/80 (31 January 2018), https://undocs.org/S/2018/80.
[11] Barrett (2017), p. 13-14.

travellers of the first wave were starting to return or travel to third states.[12] This led to a more urgent need among states for policy development aimed at how to deal with these returnees. Policymakers and practitioners are therein confronted with many complex and acute problems in dealing with the threat posed by returning FTFs;[13] for instance, the problem of whether a state should facilitate the return of FTFs, when and if administrative detention would be called for, or how to deal with the families and children of returning FTFs.[14] These questions and policy options relate to several security, legal and rehabilitative challenges. Careful and informed consideration is required on how to approach and deal with these challenges. This is something that effective capacity-building efforts can support and enable.

This policy brief addresses capacity-building challenges and provides some practical and thematic recommendations for policy makers and implementers alike. It aims to do so by sharing some of the insights and progress made with regard to the capacity-building efforts developed by the International Centre for Counter-Terrorism – The Hague (ICCT) on the issue of FTFs in a selection of countries. The approach and outcomes of these capacity-building activities are linked to the recommendations in The Hague-Marrakech Memorandum. This policy brief is therefore two-tiered in its approach. On one level, it will outline the concrete lessons learned and experience gained in conducting and assessing four workshops organised by ICCT in 2014-2017. On another level, , it will relate these observations to broader policy and threat developments.

Firstly, a short background of the project that led to the present publication is provided that includes an overview of the working method used by ICCT. Secondly, an introduction is given on The Hague-Marrakech Memorandum as a useful collection of relevant policy measures. This is followed by a brief assessment of four workshops. The final section will provide various concluding remarks and recommendations distilled from the described and observed developments and lessons learned.

Background and Working Method

Following the adoption of UNSCR 2178 in September 2014, ICCT was awarded a grant from the Netherlands Ministry of Foreign Affairs (MFA) to design and deliver four separate tailor-made capacity-development workshops that deal with the issue of

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[12] This first wave in this sentence should be understood as a wave within the fourth wave of FTFs as described in: Rik Coolsaet, "Facing the Fourth Foreign Terrorist Fighters Wave: What Drives Europeans to Syria, and to the Islamic State? Insights From the Belgian Case", *Egmont Paper 81*,(March 2016), http://www.egmontinstitute.be/content/uploads/2016/02/egmont.papers.81_online-versie.pdf?type=pdf; The Dutch General Intelligence and Security Service (AIVD) in its report on returnees mentions that the threat posed by FTFs who returned to the Netherlands after 2017 is expected to be greater than the threat posed by those who returned before 2017. Dutch General Intelligence and Security Service (AIVD), "Focus on Returnees", (2017), https://english.aivd.nl/binaries/aivd-en/documents/publications/2017/02/15/publication-focus-on-returnees/Terugkeerders+in+beeld_ENG_WEB.pdf

[13] Thomas Renard and Rik Coolsaet (Eds.), "Returnees: Who are They, Why Are They (Not) Coming Back and How Should We Deal with Them?: Assessing Policies on Returning Foreign Terrorist Fighters in Belgium, Germany and the Netherlands", Egmont Paper 101 (February 2018), http://www.egmontinstitute.be/content/uploads/2018/02/egmont.papers.101_online_v1-3.pdf?type=pdf; United Nations Security Council, Counter Terrorism Committee, Executive Directorate (UN-CTED), "The Challenge of Returning and Relocating Foreign Terrorist Fighters: Research Perspectives", *CTED Trends Report*, (March 2018). https://www.un.org/sc/ctc/wp-content/uploads/2018/04/CTED-Trends-Report-March-2018.pdf; Dutch General Intelligence and Security Service (AIVD) (2017); UN Security Council Resolution 2396 reaffirms and reiterates the continued need for capacity-building, noting "that some member states may face technical assistance and capacity building challenges when implementing this resolution" and encouraging "the provision of assistance from donor states to help address such gaps".

[14] Paulussen 2016; Georgia Holmer and Adrian Shtuni, "Returning Foreign Fighters and the Reintegration Imperative", *United States Institute of Peace, Special Report 402*, (March 2017), https://www.usip.org/sites/default/files/2017-03/sr402-returning-foreign-fighters-and-the-reintegration-imperative.pdf.

(returning) FTFs. Through stimulating dialogue, interactive discussions and action planning, the workshops organised by ICCT were designed to shed light on a range of tools available to governments to address issues related to FTFs in the context of, for example, prevention, prosecution, reintegration and community engagement.

This policy brief builds on a recent assessment of these workshops conducted over the years 2015-2017.[15] For each workshop a tailor-made programme was designed to address context specific challenges in dealing with FTFs, based on the specific need assessments and research conducted in the preparations leading up to them. The target audiences of these workshops also varied depending on the focus and the context-specific situation. The first Balkans workshop (2015) was designed for investigators and prosecutors; the Indonesian workshop (2016) was aimed at legislators; the Tunisian workshop (2017) catered to prison officials; and the second Balkans workshop (2017) was aimed at policymakers that deal with Preventing/Countering Violent Extremism (P/CVE) and non-governmental organisations (NGOs) that work with local communities.

> ## The aims of the four workshops organised by ICCT:
> - To provide participants with deepened understanding of the challenges related to (returning) foreign terrorist fighters and the broad range of approaches available to tackle this issue;
> - To stimulate cooperation between various stakeholders within the recipient country through shedding light on the variety of actions available at different levels;
> - To lay the foundations for increased cooperation with regional and international partners through learning from concrete experiences in other countries;
> - To develop best practices and initiate the process of finding tailor-made solutions for the situation in the participants' own country.[16]

Towards a Demand Driven Approach

Most capacity-building efforts are supply driven and start only after funding and support for it has been found and granted. To ensure that an originally supply-driven project evolves into a demand-driven and well-received project in its implementation, it is necessary to establish that there is sufficient support and political will for capacity-building activities that are being offered to envisaged recipient countries. From the beginning of the capacity-building efforts of ICCT that are referred to in this policy brief, it was evident that the FTF phenomenon is a delicate issue, which meant that local ownership for this project was vital to generate interest and to ensure that these efforts would have a meaningful impact. ICCT has therefore conducted extensive threat and need assessments in and on various countries, to devise and organise its capacity-building efforts.[17]

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[15] This recent assessment consisted of a thorough study of the available documentation, past evaluations, and post-workshop questionnaires that were sent to workshop participants.

[16] See project page of ICCT for the FTF-capacity-development workshops: https://icct.nl/project/foreign-fighters-initiative-capacity-development-workshops/.

[17] For more information on curriculum design for training programmes in the justice sector see "Chapter Two. Processes of Curriculum and Training Development for Capacity Building in the Justice Sector: Methodology for Success" in: International Centre for Counter-Terrorism – The Hague, the Institute of Security Studies and the Center on Global Counterterrorism Cooperation, "Supporting Curriculum Development for the International

Desk research focused on assessing country needs and identifying specific national challenges. In-depth country profiles were produced, analysing national experiences with terrorism and terrorism trials, current practices related to prevention, countering violent extremism, and other measures deemed relevant for conducting needs assessment missions. In addition, ICCT identified relevant government, security and intelligence agencies, judicial bodies, non-governmental organisations and other potential stakeholders, as well as partners that would be consulted during the needs assessment phase. Embassies were also contacted for input.

A particular challenge that could occur relates to the possibility that a need to strengthen certain aspects of dealing with FTFs is not shared or recognised as a priority (yet) by an envisaged recipient state. Countries' approaches and priorities regarding FTFs differ. Furthermore, differing legal, administrative, and cultural approaches to and experiences with terrorism and FTFs also need to be recognised and considered when developing programmes in close consultation with recipient countries. The associated challenge thus lies with the fact that states sometimes need to be familiarised gently with approaches that at times could question existing practice and doctrine, while taking heed of the country specific context in order to be effective.

A tailor-made approach should not be interpreted to mean being directed according to the local doctrine and expressed need. Rather, it should focus on good practices that sometimes fall outside a state's expressed immediate interest, and in full respect of the rule of law and international human rights principles. International recommendations as provided by the GCTF and the UN Security Council have proven helpful in convincing and explaining certain practitioners and policymakers in such instances of the necessity and desirability of certain efforts.

The Hague-Marrakech Memorandum and Addendum Recommendations

In September 2013, Morocco and the Netherlands launched an initiative under the auspices of the GCTF to share and provide good practices contained in a non-binding Memorandum, intended to inform and guide governments as they develop policies, programmes, and approaches to address the threat posed by FTFs. This so-called The Hague-Marrakech Memorandum, and its deliberations leading up to it, predated the UN Security Council Resolution 2178 that provided guidance and obligations for states to take appropriate measures to deal with FTFs. Many of the good practices listed in the Memorandum are reflected in Resolution 2178.

Additional non-binding recommendations were provided in 2015 by an Addendum to the Memorandum. This Addendum and its recommendations deal with the potential threat that is posed by returning FTFs and was borne out of a growing concern among states of the increasing number of returning FTFs. The Addendum notes, that the distinction between "home-grown" and "foreign" terrorist fighters is becoming increasingly blurred. This aligns with the growing recognition that states "should adopt a comprehensive approach which should be a mixture of preventive, security, criminal, and rehabilitative measures."[18]

Institute for Justice and the Rule of Law", (October 2013) http://www.icct.nl/download/file/Supporting-Curriculum-Development-for-the-Rule-of-Law-CGCC-ICCT-ISS-October-2013.pdf.

[18] Addendum to The Hague-Marrakech Memorandum.

While The Hague-Marrakech Memorandum provides good practices to deal with both returning FTFs as well as to prevent the emergence of FTFs, its Addendum builds on many good practices that were mentioned in the Memorandum and elaborates more on returning FTFs. For example, Addendum recommendations 4 and 5 can be read to coincide or build on good practices 1, 2, 4 and 6 listed in the Memorandum. These good practices recommend engaging and investing in sustainable relationships with communities susceptible to recruitment, and empowering those who are best placed to affect change. Such relationships that are meant to help prevent, detect and intervene in recruitment, are often the same or similar to the ones needed to rehabilitate, detect and intervene upon returning FTFs. In a way these efforts can therefore be seen as different aspects and goals of a singular comprehensive effort.

Several other Memoranda have been developed under the auspices of the GCTF, parallel to development of The Hague-Marrakech Memorandum and its Addendum.[19] While The Hague-Marrakech Memorandum specifically focuses on the phenomenon of FTFs, some of the other Memoranda provide best practices and recommendations that centre on related and relevant themes touched upon by The Hague-Marrakech Memorandum. Notably, the Rabat Memorandum on Good Practices for Effective Counterterrorism Practice in the Criminal Justice Sector,[20] and the Rome Memorandum on Good Practices for Rehabilitation and Reintegration of Violent Extremist Offenders, and its subsequent Addendum.[21] For a comprehensive approach to Preventing/Countering Violent Extremism (P/CVE) that also targets FTF, valuable guidance is also offered by the Ankara Memorandum on Good Practices for a Multi-Sectoral Approach to Countering Violent Extremism, which builds on the Rome Memorandum and was meant to complement the work of the UN Counter-Terrorism Implementation Task Force and its relevant entities.[22]

Four Capacity-Building Workshops

The workshops referred to in this policy brief were organised in a time span of approximately three years, in which a shift in focus of the workshops can be discerned as a reflection of the evolving challenges related to the FTF phenomenon. The first workshop in the Balkans in 2015 predominantly focussed on the criminal justice sector. The workshop in Indonesia in 2016 focussed on the legislative process. The workshop in 2017, organised for penitentiary personnel from Tunisia, centred on the process of rehabilitation and reintegration. Finally, the second workshop for the Western Balkans and Bulgaria in 2017 dealt mostly with the implementation of prevention action-plans.

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[19] Overviews of these documents can be found on the GCTF website: https://www.thegctf.org/Working-Groups/Foreign-Terrorist-Fighters; https://www.thegctf.org/Working-Groups/Criminal-Justice-and-Rule-of-Law; https://www.thegctf.org/Working-Groups/Countering-Violent-Extremism.

[20] Global Counterterrorism Forum (GCTF), "Rabat Memorandum on Good Practices for Effective Counterterrorism Practice in the Criminal Justice Sector", (2012), https://www.thegctf.org/Portals/1/Documents/Framework%20Documents/A/GCTF-Rabat-Memorandum-ENG.pdf.

[21] Global Counterterrorism Forum (GCTF), "Rome Memorandum on Good Practices for Rehabilitation and Reintegration of Violent Extremist Offenders" (2012), https://www.thegctf.org/Portals/1/Documents/Framework%20Documents/A/GCTF-Rome-Memorandum-ENG.pdf; Global Counterterrorism Forum (GCTF), "Addendum to the Rome Memorandum on Good Practices for Rehabilitation and Reintegration of Violent Extremist Offenders", (2013), https://www.thegctf.org/Portals/1/Documents/Toolkit-documents/English-Addendum-to-the-Rome-Memorandum-on-Legal-Frameworks.pdf.

[22] Global Counterterrorism Forum (GCTF), "Ankara Memorandum on Good Practices for a Multi-Sectoral Approach to Countering Violent Extremism", (2013) https://www.thegctf.org/documents/10162/72352/13Sep19_Ankara+Memorandum.pdf; For more information on the Counter-Terrorism Implementation Task Force of the United Nations Office of Counter-Terrorism, see: https://www.un.org/counterterrorism/ctitf/en/about-task-force.

Good practices for addressing the FTF phenomenon that are provided by The Hague-Marrakech Memorandum are arranged under four major headings: (A) radicalisation to violent extremism; (B) recruitment and facilitation; (C) travel and fighting; and, (D) return and reintegration. This structure is reflected in the matrix in the annex , in which an overview is provided of the good practices listed in The Hague-Marrakesh Memorandum that have been addressed in the four different workshops.

1. Balkans I Workshop (July 2015)

Together with local policymakers, the core curriculum for the workshop held in Bosnia and Herzegovina was developed to provide both an overview of comprehensive measures and policies to address the FTF phenomenon and to focus on the criminal justice sector response to FTFs. Stakeholders on several occasions expressed a strong preference for a regional workshop. The workshop was therefore designed for prosecutors, investigators, legal advisors and policymakers, who deal directly with FTFs in Bosnia and Herzegovina, Macedonia, Montenegro, Croatia and Serbia. This laid the foundations for increased cooperation with regional and international partners in the future, through learning from and sharing of concrete experiences in other countries.

The core challenge for most of these participants did not necessarily pertain to the legal framework itself, as all countries had recently adopted legislation to implement UNSC 2178. Rather, interest and challenges were notably expressed in how best to use the applicable legal framework in trials against (suspected) FTFs. At the time of the workshop, participants often had limited practical experience with prosecuting FTFs and making use of often new provisions in the law. Participants were therefore keen to learn from the experience of the Dutch and Belgian prosecutors that were responsible for a part of the workshop curriculum. Evaluations indicated that their lectures were well-received. Feedback from post-workshop questionnaires suggested the need for research that distils lessons learned from the growing practice and experience in prosecuting (returning) FTFs, and the dissemination of these insights and lessons-learned in future capacity-building efforts.[23]

The Rabat Memorandum states that "the mere existence of certain legal tools is not sufficient. […] The institutional barriers that often prohibit effective counter-terrorism cooperation between governmental organs can be as significant an obstacle to an effective criminal justice system as deficient legislation".[24] This particularly rings true for countries in the Western Balkans, most notably Bosnia and Herzegovina, where both national and regional cooperation between institutions has improved but needs continued efforts to "overcome institutional barriers and work closely and collaboratively together, while respecting their particular roles".[25]   Bosnia and Herzegovina for example, has since the workshop seen the establishment of a national "Operative Group for Combating Terrorism", to stimulate that police, intelligence and security agencies in the country work together and share information amongst each other.[26] However, in a 2016 report by the European Union it was stated that this "joint counter-terrorism task force is not functioning properly and its operational capacity has

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[23] Post-workshop questionnaires of the second Balkans workshop indicated that growing jurisprudence would be available for such analyses. This insight gained from the post-workshop questionnaires of the second Balkans workshop is used in the section discussing the first Balkans workshop, because it thematically aligns with the content of the first workshop and concerns the same region.

[24] Rabat Memorandum.

[25] Rabat Memorandum.

[26] Amer Jahic and Denis Dzidic, "Bosnia Unites Security Agencies for Anti-Terror Drive", *Balkan Insight* (3 December 2015), http://www.balkaninsight.com/en/article/bosnia-unites-to-face-terror-threat-12-02-2015.

to be further strengthened".[27] Continued capacity-building efforts in the region could further improve cooperation by building trust between institutions both nationally and regionally.

In general, the workshop participants seemed more interested in the legal, repressive side of the phenomenon, rather than in understanding the underlying causes for radicalisation to violent extremism. This could partially be explained by the participants' background, as most participants worked within a legal framework aimed at repression, for example prosecutors and police officers. Nevertheless, some participants stated that one of the key lessons of the workshop was that it provided them with a broader perspective on issues related to FTFs and that it is of "vital importance [...] to combine various measures such as criminal prosecution, administrative measures, [and] community work".

During the workshop, good practices 7, 10, 11 and 17 listed in The Hague-Marrakech Memorandum were extensively discussed in the local contexts of the countries of the participants, in part during the lectures provided by Europol that focused on information-sharing and investigative methods. These good practices pertain to collecting and fusing "detailed information from government agencies, front line workers, communities, and social media to detect recruitment and facilitation while respecting the rule of law and human rights" (7); increasing "the sharing of local public, law enforcement and intelligence information and analysis, and corresponding best practices, through bilateral relationships and multilateral fora to prevent FTF travel (10); developing and implementing "appropriate legal regimes and administrative procedures to effectively prosecute and mitigate the risk posed by FTFs" (11); and strengthening "investigations and prosecutions of FTFs, when appropriate, through improved information sharing and evidence gathering" (17).

Some progress has been made in countries in the Balkans with regard to their information-sharing relationships, but more still needs to be done. Good practice 15 was partly reflected in the discussions of Europol's Dumas working group and its Focal Point Travellers (now called Analysis Project Travellers).[28] However, good practice 15 does not only recommend the use of certain international databases and information systems, but also more broadly recommends use of a wide range of information sources to anticipate and detect returnees.[29]

Most countries in the Western Balkans, with the exception of Croatia, are not members of the EU. As such, they rely on regular mutual assistance regulations in criminal matters.[30] Despite the provisions in the criminal procedure code and international as well as bilateral arrangements, procedures in dealing with FTFs were not always effective at the time of the workshop and still deserve continued strengthening. For example, at the time of the workshop, Bosnia Herzegovina was discussing cooperation with Eurojust

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[27] European Commission, "Bosnia and Herzegovina 2016 Report", *Commission Staff Working Document* (November 2016), https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_bosnia_and_herzegovina.pdf.

[28] "At the meeting on 5 December the WG DUMAS came to the conclusion that the group had achieved its goals and could, therefore, be closed. [...] [O]n-going projects will be handed over to ECTC [European Counter Terrorism Centre] for completion."
https://www.europol.europa.eu/sites/default/files/documents/europol_annual_activity_report_2016.pdf; https://www.europol.europa.eu/crime-areas-trends/europol-analysis-projects

[29] This wider range of information sources include "social media, community leaders, family, friends and acquaintances, social-service providers, and private-sector employers", some of which were touched upon in the second Balkans workshop. The Hague-Marrakech Memorandum.

[30] Such as the European Convention on Extradition and additional protocols; European Convention on Mutual Assistance in Criminal Matters and additional protocols; and the various bilateral agreements on police-cooperation in the field of organised crimes and terrorism.

to find possibilities for enhanced cooperation in criminal matters, with the aim to possibly conclude a cooperation agreement in the future. However, an important challenge that needs to be addressed before this can happen relates to the required changes to the law on the protection of classified information, bringing it into line with the relevant EU standards and providing for implementation of bilateral security agreements. These changes still remain to be fully adopted to this day.[31] Non-EU members Macedonia and Montenegro already reached cooperation agreements with Eurojust.[32]

All participating countries in the workshop had also already concluded Agreements on Operational Strategic Co-operation with Europol, [33] except Bosnia and Herzegovina. Since the workshop in 2015, Bosnia Herzegovina has also concluded such an agreement.[34] Countries in the Western Balkans could, building on these agreements, benefit from further efforts to strengthen their approach on detecting and stopping financial flows that support terrorism.[35]

2. Indonesia Workshop (November 2016)

ICCT and its constituent organisations have a longstanding relationship with Indonesia. During discussions with Indonesian representatives in relation to another project conducted by ICCT,[36] a need was expressed to address the FTF phenomenon. This resulted in a request by Indonesia to strengthen their approach to deal with this threat by way of a workshop and exchange of expertise. This strengthening specifically related to envisaged legislative changes aimed at better equipping the applicable legal framework to deal with FTFs.

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[31] International Cooperation in Criminal Justice: Prosecutors' Network of the Western Balkans, "Visit of Eurojust to Bosnia and Herzegovina", (April 2017), http://www.prosecutorsnetwork.org/visit-of-eurojust-to-bosnia-and-herzegovina.

[32] "Agreement on Cooperation between Eurojust and Montenegro", (May 2016), http://www.eurojust.europa.eu/doclibrary/Eurojust-framework/agreements/Agreement%20on%20cooperation%20between%20Eurojust%20and%20Montenegro%20(2016)/Eurojust-Montenegro-2016-03-05-EN.pdf; "Agreement on Cooperation between Eurojust and the former Yugoslav Republic of Macedonia", (November 2008) http://www.eurojust.europa.eu/doclibrary/Eurojust-framework/agreements/Agreement%20on%20cooperation%20between%20Eurojust%20and%20the%20former%20Yugoslav%20Republic%20of%20Macedonia%20(2008)/Eurojust-fYROM-2008-11-28-EN.pdf.

[33] "Agreement on Operational and Strategic Co-operation between Montenegro and the European Police Office", (September 2014), https://www.europol.europa.eu/sites/default/files/documents/agreement_on_operational_and_strategic_cooperation_between_montenegro_and_the_european_police_office.pdf; "Agreement on Operational and Strategic Co-operation between Serbia and the European Police Office", (January 2014), https://www.europol.europa.eu/sites/default/files/documents/agreement_on_operational_and_strategic_co-operation_between_the_republic_of_serbia_and_the_european_police_office.pdf; "Agreement on Operational and Strategic Co-operation between the former Yugoslav Republic of Macedonia and the European Police Office", (December 2011), https://www.europol.europa.eu/sites/default/files/documents/agreement_on_operational_and_strategic_co-operation_between_the_former_Yugoslav_republic_of_macedonia_and_the_european_police_office.pdf.

[34] Following the decision of the Council of the European Union on 15 January 2016, giving Europol the authorisation to agree to the present Agreement between Bosnia and Herzegovina and Europol. "Agreement on Operational and Strategic Cooperation between Bosnia and Herzegovina and the European Police Office", (August 2016), https://www.europol.europa.eu/sites/default/files/documents/operational_cooperation_agreement_with_bosnia_and_herzegovina.pdf.

[35] European Commission, "The former Yugoslav Republic of Macedonia 2016 Report", Commission Staff Working Document (November 2016), https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_the_former_yugoslav_republic_of_macedonia.pdf.

[36] For more information on this other ICCT project on "Protecting Intelligence Sources & Witnesses in Terrorism-Related Court Cases", see: https://icct.nl/project/rule-of-law-protecting-intelligence-sources-and-witnesses-in-terrorism-related-court-cases/.

Discussions during the workshop took place in the context of the revision of the "Draft Law of the Republic of Indonesia on Amendments of Law Number 15/2003 on Stipulating Government Regulation in lieu of Law Number 1 Year 2002 on Combating the Crime of Terrorism to Become Law". These amendments to Indonesia's anti-terrorism law are still pending in 2018, because the "government is still working to draft the legal definition of terrorism and the extent to which the Indonesian military can be used to combat it".[37] A member of the special committee for the revision of the Terrorism Bill said that the challenge lies in finding a definition of terrorism that eliminates stigmatisation of certain groups. In their work, the special committee will continue to solicit input from the National Armed Forces (TNI), the Police institution, civilians, and academics.[38]

ICCT experts provided concrete examples from legislation and principles used in other legal systems and countries in the various discussions. Topics covered by the workshop included proposed and new legislation dealing with (returning) FTFs, human rights issues, criminal justice sector responses (incitement, recruitment, training and preparatory acts) and administrative measures,[39] including deprivation of nationality. These efforts to develop and implement appropriate legal regimes and administrative procedures to effectively prosecute and mitigate risk posed by FTFs are reflected by good practices 11 of The Hague-Marrakech Memorandum and recommendation 7 of its Addendum. The importance to develop these within a rule of law framework was emphasised throughout the discussions, particularly with regard to the administrative measure to deprive individuals of their nationality. This is in accordance with the general guidance provided by The Hague-Marrakech Memorandum that states that any "programs, policies, laws, or actions implemented in furtherance of these good practices must be done so with full regard for States obligations under all relevant international law and norms".[40] Criminal justice sector responses were also described during this workshop, in line with good practice 17 that recommends strengthening investigations and prosecutions, when appropriate, through improved information sharing and evidence gathering.[41]

Since the discussions on FTFs during the Indonesia workshop took place against the background of the broader counter-terrorism laws of Indonesia and its criminal justice responses, other relevant guidance provided in the workshop reflected in part the good practices offered by the Rabat Memorandum on Good Practices for Effective Counterterrorism Practice in the Criminal Justice Sector. The Rabat Memorandum predates The Hague-Marrakech Memorandum and does not specifically deal with FTFs.

The capacity-building efforts in Indonesia were also co-funded by Indonesia, which was conducive to local ownership and the impact of the workshop through involvement of high-level and well-placed policymakers. In order to work with these relevant policymakers and the local Indonesian legislature, the agenda was carefully drafted in close partnership with Indonesian authorities.[42] ICCT has managed to establish a good

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[37] "Revisions to Indonesia's anti-terror law put on hold while government considers legal definition of terrorism", *The Strait Times*, (1 March 2018), http://www.straitstimes.com/asia/se-asia/revisions-to-indonesias-anti-terror-law-put-on-hold-while-government-considers-legal.

[38] M Julnis Firmansyah, "Terrorism Bill Committee Formulating Definition of Terrorism", Tempo.co, (30 March 2018), https://en.tempo.co/read/news/2018/03/30/055917150/Terrorism-Bill-Committee-Formulating-Definition-of-Terrorism.

[39] Administrative procedures are also referred to as restrictive measures, non-criminal measures, or risk reduction measures in the Addendum to The Hague-Marrakech Memorandum.

[40] The Hague-Marrakech Memorandum.

[41] The Rabat Memorandum also provides good practices that are specifically relevant to challenges related to the criminal justice sector.

[42] Participants of the workshop included parliamentary staff, members of the Ministry of Human Rights, Ministry of Home Affairs, Ministry of Religious Affairs, Detachment 88, the Police, BNPT, the National Commission on Human

working relationship with the Indonesian authorities and other relevant stakeholders, making it less complex to tailor the activities to the needs of the country, together with local stakeholders.

Already during the workshop, government officials indicated they would appreciate further involvement of ICCT in the context of the revision of the Anti-Terrorism Law mentioned above. ICCT's presence was also covered by several local newspapers.[43]

3. Tunisia Workshop (April 2017)

In close consultation with the Tunisian government, a capacity-building workshop was designed with a particular focus on the issues of prison management, rehabilitation and reintegration of convicted FTFs. The capacity-building efforts for a Tunisian audience took place in the Netherlands, in order to provide the participants with insights into the Dutch experience of dealing with FTFs and rehabilitation. The participants consisted of practitioners from the Tunisian prison sector or prison-related policy sector.

It is important to note that not all returning FTFs present the same degree of threat. Risk assessments are therefore important to properly allocate and effectively organise state responses. The workshop emphasised the importance of risk assessments upon admittance to prison facilities in order to effectively organise and manage the prison population. This approach corresponds with The Hague-Marrakesh Memorandum good practice 16 that is complemented by recommendations 2 and 3 from the Addendum, regarding evidence-based, individual-level risk assessment for returnees that advise appropriate case-by-case tailor-made interventions and engagement. This approach is also reflected by good practice 3 of the Rome Memorandum on Good Practices for Rehabilitation and Reintegration of Violent Extremist Offenders, which recommends developing an effective intake, assessment and classification system for new inmates.[44] Evaluations of the workshop registered an interest among the participants in practical tools to make these assessments.[45]

Participants of the workshop expressed widespread appreciation for a visit to the borough of Amsterdam New West where a local governance and community-building project was demonstrated, as well as for the discussions on how to involve families of inmates in rehabilitation programs. This aspect of the programme was in close alignment with The Hague-Marrakech Addendum recommendation 6, on integrating rehabilitative measures within and beyond the criminal justice response, as an example that goes beyond traditional criminal justice responses. More precisely it is a reflection of good practice 7, as provided by the Rome Memorandum, which states that rehabilitation programs could incorporate a broad range of cross-disciplinary experts, including even family members and communities.[46]

Rights (Komnas HAM), the Coordinating Ministry for Politics, Law and Security Affairs (Polhukam), Immigration, the Ministry of Foreign Affairs (Kemlu), the Attorney General Office (AGO) and academics.
[43] "Indonesia needs law on foreign terrorist: Agency", *ANTARA News,* (2 December 2016), https://en.antaranews.com/news/108129/indonesia-needs-law-on-foreign-terrorist-agency.
[44] Rome Memorandum.
[45] For an example of such a tool see the VERA II Risk assessment: Elaine Pressmann, Thomas Rinne, Nils Duits and John Flockton, "VERA-2R: Violent Extremism Risk Assessment-Version 2 Revised", Netherlands Ministry of Security and Justice, Netherlands Institute for Forensic Psychiatry and Psychology, (2016), https://ec.europa.eu/home-affairs/node/11702_en.
[46] Rome Memorandum; For a recent compilation of recommendations on responding to returning FTFs and their families see: Radicalisation Awareness Network (RAN), "RAN Manual, Responses to Returnees: Foreign Terrorist Fighters and their families", (July 2017), https://ec.europa.eu/home-affairs/sites/homeaffairs/files/ran_br_a4_m10_en.pdf.

The local governance and community building component of the workshop also relates to good practices 1 and 2 of The Hague-Marrakech Memorandum, which recommends states to invest in preventing radicalisation to violence rather than de-radicalisation or rehabilitation. Nonetheless, these good practices also provide similarly useful guidance for de-radicalisation and rehabilitation. Long-term cultivation of trusted relationships with communities susceptible to recruitment that considers a broader set of issues and concerns affecting the community (good practice 1), as well as offering productive alternatives to help those in need, including means to channel frustration, anger, and concerns without turning to or back to violence (good practice 2), are both relevant practices for the purpose of rehabilitation. This in turn is reflected by good practice 19 of The Hague-Marrakech Memorandum, which recommends the development of comprehensive reintegration programs for returning FTFs.[47]

Discussions during the workshop on some of the approaches used in the Netherlands were met with some doubts about the feasibility and applicability of those approaches in a Tunisian context. This concern was rooted in the noted difference in the availability of resources and the lack of policies and support structures in Tunisia. It was also observed that there is generally a public resistance to 'soft' approaches to the FTF issue in Tunisia.[48] However, such programmes are important in order to provide returned FTFs with the opportunity to abandon violent extremism. There is danger in relying exclusively on punitive measures, such as long-term imprisonment or even death, as it "may promote radicalisation among a new set of potential FTFs and discourage others from believing a non- violent future is possible within their own communities."[49]

The Tunisian prison sector and its development of rehabilitation programmes will need continued support, especially considering the current capacity and the sheer amount of returning FTFs Tunisia has to deal with.[50] During the workshop it also became evident that much more needs to be done because the policy framework and all the practical implications that would flow from such a framework are still underdeveloped. Approaches to community engagement, civil society and the larger society, are still not addressed in the context of a comprehensive strategy. Also, several fundamental and

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[47] A more recent valuable compilation of good practices is provided in the form of a UNODC Handbook: United Nations Office on Drugs and Crime (UNODA), "Handbook on the Management of Violent Extremist Prisoners and the Prevention of Radicalization to Violence in Prisons", *Criminal Justice Handbook Series* (2016), https://www.unodc.org/pdf/criminal_justice/Handbook_on_VEPs.pdf.

[48] For more on hard and soft measures, see: Alistair Reed and Johanna Pohl, "Tackling the Surge of Returning Foreign Fighters", *ICCT Publications/ NATO Review Magazine*, (July 2017), https://icct.nl/publication/tackling-the-surge-of-returning-foreign-fighters/; https://www.nato.int/docu/review/2017/Also-in-2017/daesh-tackling-surge-returning-foreign-fighters-prevention-denmark-rehabilitation-programmes/EN/index.htm.

[49] Hamed El-Said and Richard Barrett, "Enhancing the Understanding of the Foreign Terrorist Fighters Phenomenon in Syria", *United Nations Office of Counter-Terrorism*, (July 2017), p. 51, http://www.un.org/en/counterterrorism/assets/img/Report_Final_20170727.pdf;

[50] "Human rights and counter-terrorism: UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism concludes visit to Tunisia Preliminary findings of the visit to Tunisia." (3 February 2017), http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21156&LangID=E; Paragraph 6 of the Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, lists that "The Special Rapporteur thanks the Government of Tunisia for inviting him to undertake a country visit from 30 January to 3 February 2017. The report on this mission will be presented to the Human Rights Council in March 2018." However, no such report can be found among the documentation of the thirty-fifth session of the Human Rights Council: United Nations Human Rights Council, "Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism", Human Rights Council Thirty-fourth session, UN Doc. A/HRC/34/61 (21 February 2017), http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session34/Documents/A_HRC_34_61_EN.docx; United Nations Human Rights Council, "Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Martin Scheinin Addendum Mission to Tunisia", Human Rights Council Twentieth session, UN Doc. A/HRC/20/14/Add.1 (14 March 2012), https://undocs.org/A/HRC/20/14/Add.1; United Nations Human Rights Council, "Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Martin Scheinin, Addendum, Mission to Tunisia", Human Rights Council Sixteenth session, UN Doc. A/HRC/16/51/Add.2 (28 December 2010), https://undocs.org/A/HRC/16/51/Add.2.

practical questions still need to be addressed, regarding (1) objectives of de-radicalisation and reintegration programs; (2) isolation and concentration or mixing of prison populations; (3) vetting and risk assessment; (4) monitoring and evaluation system; and (5) multi-agency cooperation. Concrete policy guidance still needs to be developed nationally, or at least those who are tasked with its practical implementation or execution do not know such strategies and approaches exist.

4. Balkans II Workshop (December 2017)

After the first Balkans workshop in 2015, participants expressed an interest in a follow-up workshop with a similar or even more regional focus. Since 2015, states in the region had advanced their adoption of policies related to legal and administrative measures, and now showed an interest in focusing on a comprehensive CVE-agenda and preventative measures with regard to FTFs. It was also found that the fight against terrorism and FTFs in the Western Balkans is generally dominated by a security-based approach, which could profit from more activities that involve local communities and civil society.[51]

The second regional Balkans workshop was organised in Sofia (Bulgaria). Bulgaria had showed an interest in being involved as they were preparing to embark on the EU presidency from January-June 2018, and a closer cooperation on these issues with the Western Balkans region was one of the priorities of their presidency. Other participants were representatives and practitioners from Bosnia and Herzegovina, Serbia, Kosovo, Montenegro, Albania, and Macedonia. The participants to this workshop differed from the first Balkans workshop, as it now targeted the relevant policymakers and (non-state) practitioners to discuss comprehensive P/CVE policies,[52] whereas the participants of the first workshop predominantly consisted of prosecutors and investigators.

Since the countries involved had all (recently) adopted national strategies on countering and/or preventing violent extremism,[53] the key focus of the workshop was on how to

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[51] European Commission, "A credible enlargement perspective for and enhanced EU engagement with the Western Balkans", COM (2018) 65 final, (6 February 2018), https://ec.europa.eu/commission/sites/beta-political/files/communication-credible-enlargement-perspective-western-balkans_en.pdf.

[52] Participants in the workshop consisted of CVE coordinators, researchers, and NGOs working with local communities.

[53] All countries in the Western Balkans have developed and adopted multi-year strategies to deal with terrorism and FTFs. For some countries these strategies include the concepts of violent extremism, radicalisation, prevention and reintegration, others such as Montenegro have provided separate multi-year plans devoted to CVE. Moreover, some countries in the region have developed subsequent actions plans for these strategies, for which meaningful capacity-building efforts could be undertaken in support of its implementation. The Council of Europe's Committee on Experts on Terrorism (CODEXTER) offers a collection of not very recent country profiles, listing relevant legislation, strategies, and action plans: https://www.coe.int/en/web/counter-terrorism/country-profiles. Albania: European Commission, "Albania 2016 Report", Commission Staff Working Document, (November 2016), https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_albania.pdf; Albanian Council of Ministers, "Albanian National Strategy Countering Violent Extremism and Action Plan", *Official Gazette, Year 2015 - Number 203*, (25 November 2015), http://www.qbz.gov.al/botime/fletore_zyrtare/2015/PDF-2015/203-2015.pdf; unofficial translation: http://www.rcc.int/p-cve/download/docs/Albanian%20National%20Strategy%20on%20Countering%20Violent%20Extremism.pdf/ec a873b0e6bd733938a73f957471a75c.pdf; Bosnia and Herzegovina: European Commission, "Bosnia and Herzegovina 2016 Report", Commission Staff Working Document, (November 2016), https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_bosnia_and_herzegovina.pdf; Bosnia and Herzegovina, "Strategy of Bosnia and Herzegovina for Preventing and Combating Terrorism 2015-2020", (2015), http://msb.gov.ba/PDF/STRATEGIJA_ZA_BORBU_PROTIV_TERORIZMA_ENG.pdf; Bosnia and Herzegovina, "Action Plan for Preventing and Combating Terrorism", (2017) https://polis.osce.org/node/2036; Kosovo: European Commission. "Kosovo 2016 Report." Commission Staff Working Document (November 2016), https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_kosovo.pdf; Kosovar Office of the Prime Minister, "Strategy on Prevention of Violent Extremism and Radicalisation Leading to Terrorism 2015-

translate a strategy to an action plan for implementation.[54] Good practices on how to further community engagement and facilitate multi-disciplinary and multi-stakeholder involvement in both the design of action plans and their implementation were shared and used to reflect on the situation in the countries represented at the workshop. After the workshop, the National Centre for Countering Violent Extremism was established in Bulgaria on 1 January 2018.

Workshop participants discussed the added value of investing in long-term cultivation of trusted relationships with communities susceptible to recruitment, developing a wide range of positive counter-narratives and alternative activities, and empowering those who are best-placed to affect change for a wider Preventing/Countering Violent Extremism (P/CVE)-agenda. Such approaches are described in good practices 1, 2 and 4 of The Hague-Marrakech Memorandum. Post-workshop questionnaires also indicated recognition of the value of such CVE approaches, and a continued interest to learn more from experiences in other countries regarding how to deal with, for example, returnees who did not directly participate in terrorist activities, where the possibility of successful prosecution is small or non-existent.

Good practices 1, 2 and 4 of The Hague-Marrakech Memorandum involve engagement with specific communities, whereby special consideration needs to be given to good practice 5, to prevent "identification of the FTF phenomenon or violent extremism with any religion, culture, ethnic group, nationality, or race". This was particularly relevant during one of the presentations, which analysed the trends of radicalisation among Roma in Bulgaria. It was described that this specific demographic would be one of the most susceptible groups to engage in violent extremism in Bulgaria. Social and economic factors were given as a reason for this, as well as the issue of isolation – both internal and external.

It was emphasised that there are different trends in Roma and other minority communities across the region, wherein the process of radicalisation and the factors leading to it vary. While threat assessments and specific country characteristics may differ, through the exchange of best practices, research, and information, countries can

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2020", (September 2015), http://www.kryeministri-ks.net/repository/docs/STRATEGY_parandalim_-_ENG.pdf; Kosovar Ministry of Internal Affairs, "National Strategy against Terrorism and Action Plan 2018 – 2022", (September 2017), http://konsultimet.rks-gov.net/Storage/Consultations/09-35-08-10112017/2%20%20anglisht-National%20Strategy%20Against%20Terrorism%20and%20Action%20Plan%202018-2022_12%20October_without%20action%20plan.doc; Macedonia: European Commission, "The former Yugoslav Republic of Macedonia 2016 Report", Commission Staff Working Document, (November 2016), https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_the_former_yugoslav_republic_of_macedonia.pdf; Montenegro: https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_montenegro.pdf; Montenegrin Ministry of Justice, "Countering Violent Extremism Strategy 2016-2018", (December 2015), http://www.gov.me/ResourceManager/FileDownload.aspx?rId=223292&rType=2_; English Translation: http://www.mpa.gov.me/ResourceManager/FileDownload.aspx?rid=258024&rType=2&file=Countering%20violent%20extremism%20strategy%202016-2018.docx; Montenegrin Ministry of Justice, "Action Plan for Implementation of the Countering Violent Extremism Strategy 2016-2018." (April 2016), http://www.mna.gov.me/ResourceManager/FileDownload.aspx?rid=258031&rType=2&file=Action%20plan%20for%20implementation%20of%20the%20countering%20violent%20extremism%20strategy%202016-2018.docx; Serbia: European Commission, "Serbia 2016 Report", Commission Staff Working Document (November 2016), https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_serbia.pdf; Serbia, "National Strategy for the Prevention and Countering of Terrorism for 2017–2021", https://polis.osce.org/national-strategy-prevention-and-countering-terrorism-20172021.
[54] Many of these action plans reflect the UN Plan of Action to Violent Extremism, as presented by the Secretary-General to the United Nations General Assembly. United Nations General Assembly, "Plan of Action to Prevent Violent Extremism Report of the Secretary-General", UN Doc. A/70/674, (24 December 2015), https://undocs.org/A/70/674; and https://www.un.org/counterterrorism/ctitf/sites/www.un.org.counterterrorism.ctitf/files/plan_action.pdf.

form their own tailored approaches. International, regional and national cooperation and exchange of experiences as facilitated during the workshop were therefore strongly recommended and appreciated by the participants in workshop evaluations and the post-workshop questionnaires.

Some participants expressed scepticism with regard to the effectiveness of counter-narratives as covered by good practices 2 and 4 of The Hague-Marrakech Memorandum, in relation to the presentation in the workshop that focussed on methods of countering violent extremism through storytelling. In discussions they also strongly raised the need and necessity for tailored approaches to local conditions.

Signs of radicalisation to violent extremism need to be identified as early as possible and appropriately approached. Participants agreed that this requires the involvement of various actors and is not the sole responsibility of the state. This is in line with good practice 4, which recommends empowering "those who are best-placed to affect change, including youth, families, women, and civil society, to take ownership in the development and messaging of positive counter-narratives to the violent extremist agenda".[55] Post-workshop questionnaires also indicated that participants would welcome more capacity-building efforts that encourage further government-civil society collaboration, specifically for the purpose of CVE. The post-workshop questionnaires further suggested concrete implementation of policies and practical activities in future capacity-building efforts, especially by providing field training to first-line practitioners.

Workshop participants indicated that communities were not only seen as important factors in prevention, but also in detecting potential developments towards violent extremism. This is in line with good practice 15 of The Hague-Marrakech Memorandum, which describes more broadly that "states should lawfully use a wide range of information sources—including social media, community leaders, family, friends and acquaintances, social- service providers, and private-sector employers—to anticipate and detect returnees." The Hague-Marrakech Addendum additionally mentions that "States should devise robust community engagement and enhanced border policing approaches, to include communities, particularly in remote border areas, to contribute to efforts to detect and prevent illegal border crossings. Connecting border communities with central and regional border management could be done through establishing hotlines".[56]

However, such explicit instrumental use of communities are to be undertaken with care. It is to be recognised, as good practice 5 of the Ankara Memorandum highlights, that it can be misleading to consider violent extremism as a mere security issue. Using communities only as a source of information to map security risks would also be contradictive to good practice 10 of the Ankara Memorandum, which states that it is "crucial for states to build trust while working with communities", and that states should "ensure meaningful community participation in order to mobilize the resources of the community in CVE-relevant activities".[57] Good practice 10 also explicitly warns that communities may otherwise have doubts and suspect state actors are simply using such CVE-activities for information collection.

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[55] The Hague-Marrakech Memorandum.

[56] Addendum to The Hague-Marrakech Memorandum; For additional guidance, see: Global Counterterrorism Forum (GCTF). "Good Practices in the Area of Border Security and Management in the Context of Counterterrorism and Stemming the Flow of "Foreign Terrorist Fighters". (2016), https://www.thegctf.org/Portals/1/Documents/Framework%20Documents/A/GCTF-Good-Practices%20-BSM-ENG.pdf?ver=2016-09-13-124953-540.

[57] Ankara Memorandum.

Concluding Remarks and Recommendations

Promising steps have been made over the past years in identifying, sharing and implementing best practices in dealing with (returning) FTFs. However, gaps remain that require continued attention. Increased focus on some areas and a shift to others is warranted in the capacity-building efforts that are undertaken, considering policy developments and changes to relevant threat levels.

Policy and capacity-building initiatives have, in the course of the years 2011-2018, generally been responsive to the wider developments of the FTF phenomenon. Initial developments and associated capacity-building efforts primarily centred on repressive measures aimed to prevent the travel of FTFs. In 2015-2016, a significant number of FTFs returned to their home countries, who according to a UN survey were largely "motivated to leave Syria either by their genuine disappointment in and disenfranchisement by the terrorist organisation they joined, or were disillusioned by their host's lack of welcome, be it the Syrian people or the terrorist group itself".[58] This resulted in increased efforts on rehabilitation and penal strategies in these years. Currently, the bulk of the efforts are focussed on further improving information sharing to identify returning FTFs and their families, as well as providing more attention to a more comprehensive P/CVE-agenda and having local initiatives and communities adequately prepared to deal with returning FTFs.

Eight insights and recommendations are provided related to the organisation, implementation, and monitoring of capacity-building efforts. Four of these relate to the need to work towards a demand driven approach; the value of international guidance; difficulties in monitoring progress; and the sustainability of capacity-building efforts. Additionally, the other four provide thematic recommendations for future capacity-building efforts: increasing the focus on comprehensive P/CVE approaches; monitoring and improving the implementation and effective use of administrative and legal measures; continuing to improve and strengthen information sharing; and building trust nationally, regionally and internationally.

1. Demand-Driven Approach

Most capacity-building efforts are supply driven. A general challenge for implementers of such efforts therefore lies in realising proper allocation and adaption in order to transform their efforts into well-placed demand driven capacity-building activities. Extensive need and threat-assessment research is therefore necessary to ensure effective capacity-building efforts. This involves liaising with governments and local partners, creating a demand and willingness for capacity-building activities that take into account local concerns and challenges. Donors, organising partners and implementers of capacity-building programmes are recommended to make sure proper attention is given to the preparatory phase by treating it as an important component part of any capacity-building efforts.

2. Value of International Guidance

International decisions and recommendations as provided by the GCTF and the UN Security Council have proven to be helpful in convincing and explaining to certain practitioners and policymakers the necessity, importance, and desirability of certain

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[58] El-Said and Barrett (2017).

measures and capacity-building efforts. International guidance also plays an important role in warning for and preventing the adoption of measures that could be counter-productive to counter-terrorism objectives, human rights, or the Rule of Law. New decisions and guidance that build on existing knowledge and experience, as well as current threat developments, are therefore welcomed to further contribute to the noticeable progress that is being made.

3. Difficulties in Monitoring Progress

It is difficult to assess the extent to which certain good practices provided by the various GCTF Memoranda, and most notably The Hague-Marrakech Memorandum, have been implemented. Indeed, this assessment is particularly difficult when it relates to good practices with P/CVE related outcomes. For example, it is a challenge to monitor the implementation, effectiveness or impact of good practice 2 on developing proactive, positive counter-narratives and alternative activities. Similar to marketing campaigns, one could perhaps monitor that efforts have been made, but its subsequent impact and effectiveness is not easy to measure. This would take pre-, mid-, and post-activity perception studies among various constituencies of the population. An impact assessment of this type is costly and time-consuming. While it may provide valuable insights on impact, it would probably still not provide significant information on effectiveness of the activities aimed at reversing the process of radicalisation.

Good practices 10, 11, 15 and 17 on improving and increasing the sharing of information are also difficult to monitor. Some superficial observations can be made with regard to the amount of new information sharing arrangements that are established, or the increased volume of information that is being shared nationally and internationally, through platforms offered by for example EUROPOL, the Schengen Information system (SIS II), or ICAO's advance passenger information (API) systems. However, it is nearly impossible to monitor the extent to which concrete, timely and actionable information or intelligence is shared, or to establish if this is done at all in most cases. It is similarly difficult to monitor the extent to which such information sharing is taking due consideration of human rights and the rule of law.

Some good practices allow for more extensive monitoring, for example good practice 11 on developing and implementing appropriate legal regimes and administrative procedures to effectively prosecute and mitigate risks posed by FTFs. In cases such as this, one can monitor the adoption of new legislation, the use of certain administrative measures, and related jurisprudence.

4. Sustainability of Capacity-Building Activities

With continued progress being made with regard to the identification and implementation of good practices, a need for follow-up activities is naturally preferred. This is especially valuable with regard to supporting the implementation of new insights and monitoring progress. Capacity-building workshops can lay solid foundations, but without proper follow-up such investments may lead to frustration rather than positive outcomes. Capacity-building activities often also contain an action planning component, which can play a useful and important role as a baseline document when pre-planned follow-up activities are foreseen.

5. Increase Focus on Comprehensive P/CVE Approaches

It is necessary to focus on good practices in capacity-building efforts that also sometimes fall outside the immediate expressed or recognised interests of states. In an attempt to

build capacity beyond repressive measures that are sometimes seen to fit more easily in existing frameworks and conduct of states, capacity-building efforts also need to focus more on comprehensive community engagement and preventative measures. Many preventative measures complement and are similar to measures aimed at rehabilitation and reintegration, requiring among other things long-term cultivation of trusted relationships with communities susceptible to recruitment. Especially considering that many FTFs and their families are returning and relocating, a whole-of-government approach and engaging civil society may be able to confront the challenges of recruitment and radicalisation of violence, as well as contribute to further development of effective rehabilitation and reintegration strategies.[59]

6. Effective Use of Administrative and Criminal Measures within a Rule of Law Framework

Many states have adopted the necessary legislative steps to better equip national legal frameworks to deal with the threat of FTFs and their potential return, as stipulated by UNSCR 2178. Several states have adopted administrative measures and have expanded the boundaries of inchoate crimes, aimed at dealing with the threat posed by FTFs and the difficulties in prosecuting them. From a security perspective this might be considered a positive development, but certain states have some difficulty in making a balanced assessment before applying administrative measures or in overseeing the legal consequences of further criminalising and prosecuting inchoate crimes. Respect for human rights and the rule of law in this assessment often seems to be overlooked.[60]

UNSCR 2178 underscores that "respect for human rights, fundamental freedoms and the rule of law are complementary and mutually reinforcing with effective counter-terrorism measures",[61] and are as such not antithetical. It would therefore be recommended to continue to bring these principles and values into the discussions and integrate them in all capacity-building activities. In addition, monitoring and improving the implementation and use of these administrative measures and the (further) criminalisation and prosecution of inchoate crimes could be supported by capacity-building efforts, making use of lessons learned and the experience gained by other states.

7. Improve Information Sharing

Progress has been made with regard to improving and supporting information sharing, both nationally and internationally. Further prioritising the improvement of information sharing internationally is necessary and expected, including a specific focus on biometrics, in order to help identify potential terrorists including (returning) FTFs. The need for information sharing has been reiterated in the most recent Security Council Resolution relating to FTFs.[62] This indicates that a sustained effort is necessary to further improve information sharing where possible and appropriate, while consolidating

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[59] Paragraph 32 of Resolution 2396 decides that Member States shall develop and implement systems to collect and share biometric data, in order to responsibly and properly identify terrorists.; In March 2018, the Criminal Justice and Rule of Law (CJ-ROL) Working Group of the GCTF also organised an expert meeting in The Hague, where a session was also devoted to biometrics and forensics.

[60] "Administrative measures are not inherently undesirable, and searching for new tools to effectively address the threat posed by FFs as part of broader coherent counter- terrorism strategies is legitimate. However, [...] their use raises serious concerns for human rights and the rule of law, and highlighted the crucial need for limits and safeguards in using administrative measures in the counter- terrorism context." Berenice Boutin, "Administrative Measures against Foreign Fighters: In Search of Limits and Safeguards", *The International Centre for Counter-Terrorism – The Hague 7, no. 12* (2016), https://icct.nl/wp-content/uploads/2016/12/ICCT-Boutin-Administrative-Measures-December2016-1.pdf.

[61] Preambule UNSCR 2178.

[62] Paragraph 11, 12, 13 and 14 of UNSCR 2396.

progress where it has been made. Increased sharing and use of Interpol databases is also encouraged. In efforts to increase and better enable information sharing among states and agencies, due consideration should be given to the human rights implications. Trust is a key ingredient in improving information sharing.

8. Build (National, Regional and International) Trust Through Capacity-Building

Capacity-building activities should not only focus on imbuing participants with knowledge and skills, but should also facilitate the establishment of contacts among policy makers in a specific country or region. The evaluations of the various workshops show that participants have often appreciated the opportunity to exchange experiences, good practices, and share information. This is not something that is generally part of their daily operations. Moving towards institutionalising these forms of information sharing and even cooperation is clearly preferable, but not always something states are ready to embark on. The capacity-building workshops therefore contribute considerably to creating a more welcoming climate with regard to multi-stakeholder exchange of information and cooperation. Trust-building is thus a key ingredient that should be integrated in the programming of these activities.

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	ANNEX: The Hague-Marrakech Memorandum on Good Practices for a More Effective Response to the FTF phenomenon *Mapping Good Practices and Recommendations in Four ICCT Capacity-Building Workshops*			
	Section A: **Detecting and Intervening Against Violent Extremism**	**Section B:** **Preventing, Detecting and Intervening Against Recruitment and Facilitation**	**Section C:** **Detecting and Intervening Against Travel and Fighting**	**Section D:** **Detecting and Intervening Upon Return**
Balkans I Workshop *July 2015*		**Good Practice #7** Collect and fuse detailed information from government agencies, front line workers, communities, and social media to detect recruitment and facilitation while respecting the rule of law and human rights. **Good Practice #14** Increase the capacity of States to prevent FTF travel across land borders and, more broadly, take appropriate measures to prevent FTFs within their territory from planning or preparing for terrorist acts to be carried out at home or abroad.	**Good Practice #10** Increase the sharing of local public, law enforcement and intelligence information and analysis, and corresponding best practices, through bilateral relationships and multilateral fora to prevent FTF travel. **Good Practice #11** Develop and implement appropriate legal regimes and administrative procedures to effectively prosecute and mitigate risk posed by FTFs.	**Good Practice #15** Use as wide as possible a range of information sources to anticipate and detect returnees. **Good Practice #17** Strengthen investigations and prosecutions of FTFs, when appropriate, through improved information sharing and evidence gathering.
Indonesia Workshop *November 2016*			**Good Practice #11** See above	**Good Practice #17** See above **Addendum Recommendation 7** Consider using administrative procedures within a rule of law framework to effectively mitigate the risk posed by RFTFs.
Tunisia Workshop *April 2017*				**Good Practice #16** Build and use evidence-based, individual-level risk assessment frameworks for returnees, evaluate their condition and establish appropriate engagement approaches accordingly **Good Practice #19** Develop comprehensive reintegration programs for

				returning FTFs **Addendum Recommendation 2** Use individual risk assessment tools that provide a basis for tailor-made interventions. **Addendum Recommendation 3** Apply a case-by-case approach and address specific categories of returnees **Addendum Recommendation 6** Integrate rehabilitative measures within and beyond the criminal justice response.
Balkans II Workshop *December 2017*	**Good Practice #1** Invest in the long-term cultivation of trusted relationships with communities susceptible to recruitment, considering the broader set of issues and concerns affecting the community. **Good Practice #2** Develop a wide range of proactive, positive counter-narratives and alternative activities, offering non-violent, productive alternatives to help those in need, as well as means to channel frustration, anger, and concerns without turning to violence. **Good Practice #4** Empower those who are best-placed to affect change, including youth, families, women, and civil society, to take ownership in the development and messaging of positive counter-narratives to the violent extremist agenda. **Good Practice #5** Prevent the identification of the FTF phenomenon or violent extremism with any religion, culture, ethnic group, nationality, or race.	**Good Practice #6** Reach out to communities to develop awareness of the FTF threat and build resilience to violent extremist messages. **Good Practice #9** Adopt tailored and targeted approaches for CVE responses to radicalization and recruitment, based on the specific motivational factors and intended audience.		**Good Practice #15** See above **Addendum Recommendation 4** Invest and develop a close partnership with local government and local communities to deal with Returning FTFs. **Addendum Recommendation 5** Engage and build sustainable partnerships with multi-disciplinary actors in the private sector and civil society organizations.

Accompanying Note to Annex:

Many of the good practices of The Hague-Marrakech Memorandum were addressed in the four workshops referred to in this policy brief. However, it was never the aim to address them all, as the focus of each workshop was chosen in close partnership with the recipient states and based on the assessed needs. Nonetheless, this accompanying note to the annex wishes to provide some context on why some of the good practices were not touched upon in the four workshops.

With the aim to conduct workshops that inform more comprehensive and multi-stakeholder responses, five good practices and one Addendum recommendation were not included in the programmes of the four workshops, namely: good practices 3, 8, 12, 13, 18, and Addendum recommendation 1.

Good practice 18 specifically advises to "prepare and exercise responses to the kinds of terrorist acts for which FTFs may have [gained] special skills", such as the use of roadside bombs and marauding firearm attacks. To that effect this good practice is too specific and operational as a practice to have been extensively discussed during one of the four workshops.

Moreover, although the need for better information sharing and use of a wider range of possible sources, as mentioned in good practice 15, were identified during the workshops and specifically addressed during Europol's lecture in the first Balkans workshop, and more generally in the fourth workshop in the context of CVE, it was not discussed in-depth as described in Addendum recommendation 1.

The issues of involving the private sector (good practice 8), in particular (social) media partners in devising counter-narratives (good practice 3), were not included in any of the four workshops. This was in part due to the fact that cooperation and trust between other actors was not yet of the level that they could also start deliberations with private sector partners.

In addition, good practices 12 and 13 particularly deal with disrupting and preventing FTF travel through appropriate screening measures and use of tools to prevent the misuse of travel documents, mainly in relation to air travel. The content of these good practices is of a specific technical level that it would only be interesting for a very targeted group and preferably discussed as part of a well-placed workshop that is for example more precisely designed for the prevention and disruption of FTF (air) travel.

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Walle Bos, Bibi van Ginkel and Tanya Mehra
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About ICCT

The International Centre for Counter-Terrorism – The Hague (ICCT) is an independent think and do tank providing multidisciplinary policy advice and practical, solution-oriented implementation support on prevention and the rule of law, two vital pillars of effective counter-terrorism.

ICCT's work focuses on themes at the intersection of countering violent extremism and criminal justice sector responses, as well as human rights-related aspects of counter-terrorism. The major project areas concern countering violent extremism, rule of law, foreign fighters, country and regional analysis, rehabilitation, civil society engagement and victims' voices.

Functioning as a nucleus within the international counter-terrorism network, ICCT connects experts, policymakers, civil society actors and practitioners from different fields by providing a platform for productive collaboration, practical analysis, and exchange of experiences and expertise, with the ultimate aim of identifying innovative and comprehensive approaches to preventing and countering terrorism.