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**Preliminary Report on Terrorism and TOC
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1. Introduction

1.1 Investigations into the connections between terrorist and criminal groups have traditionally been hindered by the notion that the two types of organisations are said to have different – and ultimately irreconcilable – aims: criminals seek to profit, while terrorists pursue ideological objectives.¹ For a long time, this dichotomy fomented the conclusion that terrorist groups would not engage in criminal activity as doing so would be contrary to their ideological aims.²

1.2 In reality, however, there have been crossovers and common interests between criminal and terrorist organisations for several decades. As early as the 1980s, during the rise of Pablo Escobar and the Colombian drug cartels, scholars defined ‘narco-terrorism’ and debated whether it represented a true case of blurring criminal-terrorist lines.³ In more recent years, the term ‘criminal insurgency’ has been used to describe the way in which criminal organisations represent strategic security threats to states.⁴ Furthermore, it is no secret that the Taliban have at times depended on Afghanistan’s heroin production; that Hezbollah has invested into South America’s illicit narcotics industry since the 1980s; and that groups like the Irish Republican Army (IRA) have been involved in smuggling petrol, cigarettes, and counterfeiting consumer goods.⁵ Similarly, the aims of Al-Qaeda in the Islamic Maghreb – a group which has engaged in the smuggling of cigarettes and counterfeit products since its founding – are widely thought to have alternated from criminal to ideological.⁶

1.3 The most recent manifestation is what scholars have called a ‘new’ crime-terror nexus.⁷ Rather than the merging of entire (criminal and terrorist) organisations, the focus is on their social networks, environments, or *milieus*. Put simply: instead of being one or the other, criminal and terrorist groups have come to recruit from the same pool of people, creating (often unintended) synergies and overlaps that have consequences for how individuals radicalise and operate. This appears to be particularly relevant to the way in which terrorist groups like Daesh (also known as Islamic State, IS, ISIS, or ISIL) have operated in recent years in Europe.

1.4. A number of legal instruments have since long ago been approved to combat both TOC and terrorism, may it be at the universal or at the regional level. However none of them has ever envisaged a common regulation for both phenomena probably due to the changing nature of the two of them, but also because of the lack of a clear picture of the relationship between both forms of crime. Meanwhile international legal instruments clearly define what should be considered as organized crime, no common agreement exists still on a definition of terrorism. These difficulties have worsened due to the globalization process and to the speedy development of the TICs.

¹ Santiago Ballina, ‘The-Crime Terror Continuum Revisited,’ *Journal for Policing, Intelligence and the Power of Informal Networks*, Vol 6, No 2, 2011, pp.121-124.

² Steven Hutchinson and Pat O’Malley, ‘A Crime–Terror Nexus? Thinking on Some of the Links between Terrorism and Criminality’, *Studies in Conflict Terrorism*, Vol 30, Issue 12, 2007, pp.1095-1106; Chris Dishman, ‘Terrorism, Crime, and Transformation’, *Studies in Conflict & Terrorism*, Vol 24, No 1, 2001, pp.43-58.

³ John Picarelli, ‘Osama bin Corleone? Vito the Jackal? Framing Threat Convergence Through an Examination of Transnational Organized Crime and International Terrorism’, *Terrorism and Political Violence*, Vol 24, Issue 2, 2012, p.183. Also refer to Sylvia Longmire and John Longmire, ‘Redefining Terrorism: Why Mexican Drug Trafficking is More than Just Organized Crime’, *Journal of Strategic Security*, Vol 1, Issue 1, 2008, pp.35-51.

⁴ John Sullivan, ‘Criminal Insurgency: Narcocultura, Social Banditry, and Information Operations’, *Small Wars Journal*, December 2012, pp.1-13. Sullivan uses Los Zetas of Mexico as an example of a criminal insurgency.

⁵ Ron Moreau, ‘The Taliban’s New Role as Afghanistan’s Drug Mafia’, *Newsweek*, 12 June 2013; Matthew Levitt, ‘Iranian State Sponsorship of Terror’, *Testimony of Levitt, Joint Hearing of the Committee on International Relations*, 16 February 2005; Levitt, ‘Hizbullah Narco-Trafficking: A growing cross-border Threat’, *The Washington Institute*, September 2012; ‘Want to know what the IRA is now? It’s a trust fund’, *The Irish News*, 27 August 2015.

⁶ Refer to Samuel Aronson, ‘AQIM’s Threat to Western Interests in the Sahel’, *CTC Sentinel*, 7 April 2014, p.9.

⁷ Rajan Basra, Peter R. Neumann, and Claudia Brunner, *Criminal Pasts, Terrorist Futures: European Jihadists and the New Crime-Terror Nexus* (London: ICSR, 2016).

1.5 There exists a rich legal framework in order to fight against these two scourges of current international society separately. However reinforced cooperation of judiciaries, police services and intelligence agencies within the framework of democracy, respect for human rights and the rule of law is more and more needed. There seems to be no need for the adoption of new legal instruments, but rather for comparing in depth the existing ones in order to identify overlap but also potential lacunae to be solved. It was significant the fact that, at the time of the Brussels attacks, Belgium had not yet ratified the CoE Convention on the prevention of Terrorism. On the other hand existing legal instruments related to this problem are not competing tools, but rather complementary ones that could help above all to better counter terrorism in a most effective way, taking into account that this is a rather difficult offence since political shadows still hung above it and the lack of legal definition might end in impunity in certain cases. As it has been underlined by some authors but also by international organizations much of this interaction relies on political, economic and social instability⁸. Nevertheless the EU is not free from this threat since terrorism has become a global phenomenon. On the contrary, Europe has experienced a terrible wave of terrorist attacks where fruitful linkages between these two forms of crime have clearly emerged. Instability as far as Europe's security is concerned is narrowly connected not only to armed conflicts and wars taking place beyond its frontiers, but also with criminal organized groups operating within the EU's external perimeter, that is, within CoE territory. A comprehensive approach to this interaction and problems caused by it and a reflection on the best way to combine implementation of the existing legal framework for combating this situation has become urgent.

Part I: Crime and Terrorism: Links and Synergies

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1. Current Situation

1.1 The merging of criminal and terrorist milieus in Europe, which this report describes, may not be entirely new. In the mid-1990s, French newspapers referred to operatives of the Armed Islamic Group (GIA) as 'gangster terrorists' because many had previously been involved in local gangs.¹⁰ Likewise, several of the perpetrators of the Madrid train attacks in 2004 were former criminals, and financed their operation by selling drugs.¹¹ At the same time, there is clear evidence that the role of criminals in terrorist operations has become more pronounced, more visible, and more systematic with the rise of Daesh.

1.2 German Federal Police reported that of the 669 German foreign terrorist fighters for whom they had sufficient information, two-thirds had police records prior to travelling to Syria, and one-third had criminal convictions.¹² According to the Belgian Federal Prosecutor, half of his country's 'jihadists' had criminal records prior to leaving for Syria.¹³ A United Nations report

⁸EUROPEAN COMMISSION: "Study on paving the way for future policy initiatives in the field of fight against organized crime: the effectiveness of specific criminal law measures targeting organized crime", Final report, February 2015:

http://ec.europa.eu/dgs/home-affairs/e-library/docs/20150312_1_amoc_report_020315_0_220_part_1_en.pdf.

UNODC (2010): "The Globalization of Crime": https://www.unodc.org/documents/data-and-analysis/tocta/TOCTA_Report_2010_low_res.pdf

⁹ This report was prepared with the help of Rajan Basra and a team of researchers at the *International Centre for the Study of Radicalisation (ICSR)*, which included Adam Alayli, Kavish Bisseswar, Juliette Deroo, Lasse Nielsen, and Maximilian Ruf. I am also grateful for Claudia Brunner's contribution on the issue of public-private partnerships.

¹⁰ Kjøk Åshild and Lia Brynjar, 'Islamist Insurgencies, Diasporic Support Networks, and their Host States: The Case of the Algerian GIA in Europe 1993-2000', *FFI Report, Norwegian Defence Research Establishment*, 2001, p.28.

¹¹ 'Madrid bombers financed operation with drug sales, Spain says', *Associated Press*, 14 April 2004.

¹² BKA, BfV & HKE, 'Analyse der Radikalisierungshintergründe und -verläufe der Personen, die aus islamistischer Motivation aus Deutschland in Richtung Syrien oder Irak ausgereist sind', 2015, p.17.

¹³ Christophe Lamfalussy, 'Un djihadiste belge sur deux a un passé de délinquant', *La Libre*, 14 August 2015.

suggested a similar pattern amongst French foreign terrorist fighters.¹⁴ Officials from Norway and the Netherlands confirmed that 'at least 60 per cent' of their countries' 'jihadists' had previously been involved in crime.¹⁵ It is against this background that Alain Grignard, a commissioner of Brussels Federal Police, described Daesh as 'a sort of super-gang'.¹⁶

1.3 To better understand these dynamics, a multilingual team of researchers at King's College London compiled a database with the profiles and pathways of 79 European 'jihadists' with criminal pasts. All individuals in this sample were male and predominantly young (the eldest individual was 38 at the time of his mobilisation, with the youngest being approximately 16). The average (as well as median) age was 25. The high proportion of converts (19-22 per cent) was in line with estimates of converts amongst foreign terrorist fighters from the European Union.¹⁷ Furthermore, of the 79 individuals, two-thirds (67 per cent) had travelled, or attempted to travel, to Syria as foreign terrorist fighters.¹⁸ Many of these also numbered in the 38 per cent who participated in domestic terrorist plots.

1.4 The intensity of criminality among the individuals in the sample varied, from 'one-time' criminals, to repeat offenders, and more sustained 'career criminals'. Furthermore, the vast majority were low level, local criminals, with only very few operating on a national or transnational level. While the majority were at some point involved in 'petty crime' (68 per cent), nearly two thirds had violent histories (65 per cent).

1.5 Prison played an important role, with 57 per cent of the individuals having been incarcerated on at least one occasion. In twelve cases (15 per cent of the total, or 27 per cent of those who spent time in prison), criminals had embraced 'jihadism' in prison. Seven of these individuals were subsequently involved in a domestic terror plot, which means that they are significantly overrepresented among those involved in plotting terrorist attacks against their own countries. Furthermore, nearly 30 per cent of the individuals in our sample had experience with firearms. By contrast, 'white-collar crime' seemed to be a marginal issue, with just 6 per cent involved in either credit card fraud or identity theft.

2. Radicalisation

2.1 One of the most important questions regarding the crime-terror nexus is how criminal pasts contribute to processes of radicalisation, that is, the personal circumstances, experiences, narratives, networks and other factors that explain an individual's involvement in extremism and their mobilisation into violence.¹⁹ The profiles and pathways in the database suggest that Daesh's narrative is well-aligned with the personal needs and desires of criminals, and that it can be used to condone as well as curtail continued involvement in crime.

2.2 For up to ten of the individuals in the database, there was evidence for what is best termed a 'redemption narrative'. These were criminals who had experienced what has been termed a 'cognitive opening', a shocking event or personal crisis that prompted them to re-assess their entire life and become open for a radical change of values and behaviour.²⁰ They realised how their criminal behaviour had been harmful, that they needed to break with their past, and make up for their 'sins'. This then provided the rationale for their turn to religion and justified the involvement with groups like Daesh. Just like the criminal gangs of which they used to be members, these groups offered power, violence, adventure and adrenaline, a strong identity, and a sense of rebellion. This made the step from criminality to terrorism smaller than is

¹⁴ United Nations Analytical Support and Sanctions Monitoring Team, 'Analysis and recommendations with regard to the global threat from foreign terrorist fighters', 2015, p.11.

¹⁵ Interviews with Dutch and Norwegian police officers; 1-2 September 2016.

¹⁶ Paul Cruickshank, 'A view from the CT foxhole: an interview with Alain Grignard, Brussels Federal Police', *CTC Sentinel*, 21 August 2015.

¹⁷ Bibi van Ginkel and Eva Entenmann (eds.), 'The Foreign Fighters Phenomenon in the European Union', *International Centre for Counter-Terrorism – The Hague (ICCT)*, April 2016, p.52.

¹⁸ For a definition of foreign terrorist fighter, see United National Security Council Resolution 2178.

¹⁹ For a discussion of definitions, see Peter R. Neumann, 'The Trouble with Radicalization', *International Affairs*, 89(4) (2013), pp. 873-93.

²⁰ Quintan Wiktorowicz, *Radical Islam Rising: Muslim Extremism in the West* (London: Rowman & Littlefield, 2005), p.20.

commonly perceived – especially when considering that, unlike al-Qaeda, Daesh required practically no religious knowledge or learning, and cared little about the complexities of theological discourse.

2.3 The terrorist narrative can also serve as a *legitimiser* of crime. Anwar al-Awlaki, the radical cleric who helped to create al-Qaeda's online magazine *Inspire* and incited young Western Muslims to become 'lone wolves' during the late 2000s, repeatedly told his followers that 'stealing from your enemies' is not only permitted but, in certain cases, obligatory.²¹ Daesh draws on the same logic, with the most prominent example being Khalid Zerkani, a Belgian Daesh recruiter who was responsible for the recruitment and mobilisation of up to 72 foreign terrorist fighters.²² After becoming radicalised, Zarkani used his criminal 'skills' (and considerable charisma) to recruit young men as foreign terrorist fighters encouraging them to commit thefts and robberies,²³ which he justified on religious grounds.²⁴ The proceeds were then redistributed among the group and used to fund their travel to Syria, leading to Zerkani's nickname of *Papa Noël* (Father Christmas).²⁵

2.4 There is substantial evidence that criminal backgrounds accelerate radicalisation processes. The database shows that the period of mobilisation – that is, the time between joining an extremist group and becoming involved in violence – among the 30 individuals involved in domestic plotting was, in many cases, extraordinarily short, often less than four months or even just a few weeks. Furthermore, while there was no 'like-for-like' use of violence, the terrorist use of violence was always *more violent* than someone's criminal use of violence. These findings support the idea that familiarity with (criminal) violence produces terrorists that are not only more volatile but also more violent.

3. Prison

3.1 As various studies by the Council of Europe have shown, prisons are places of 'vulnerability' in which extremists can find plenty of 'angry young men' with criminal pasts who may experience cognitive openings and are 'ripe' for extremist radicalisation and recruitment.²⁶ They also bring together criminals and terrorists, and therefore create opportunities for collaboration, networking and 'skills transfers'. Not least, they often leave people who have served their sentences with few opportunities to re-integrate into society and become productive citizens.

3.2 For many new inmates, the very fact of imprisonment is a personal crisis, which raises profound questions about their lives while providing ample time to search for meaning.²⁷ This is precisely the reasons that recruiters from al-Qaeda, Daesh or other terrorist groups view prisons as a 'breeding grounds': not only are inmates vulnerable and experience cognitive openings, making them receptive to extremist ideas, they also tend to be part of the demographic that 'jihadist' groups are keen to attract – young men, who are often unfamiliar with their own religion yet impulsive, confident, willing to take risks, and have been in conflict with the state and established authorities.²⁸ Far from being an obstacle, their pasts have de-sensitised them to

²¹ Al-Awlaki cited in Thomas Joscelyn, 'Anwar al-Awlaki: Jihadists should steal from disbelievers', *Long War Journal*, 17 January 2011.

²² Pieter Van Ostaeyen and Guy Van Vlierden, 'Belgian Fighters in Syria and Iraq – An Important Review of Our Data', published on <https://pietervanostaeyen.com/2016/08/03/belgian-fighters-in-syria-and-iraq-an-important-review-of-our-data/>, 3 August 2016.

²³ Patrick J. McDonnell, "Papa Noel" – the militant recruiter in Brussels who groomed young men for violence', *Los Angeles Times*, 28 March 2016.

²⁴ Andrew Higgins and Kimiko De Freytas-Tamura, 'A Brussels Mentor Who Taught "Gangster Islam" to the Young and Angry', *New York Times*, 11 April 2016.

²⁵ Pieter Van Ostaeyen, 'Belgian Radical Networks and the Road to the Paris Attacks', *CTC Sentinel*, 16 June 2016.

²⁶ See, for example, "White Paper on Prison Overcrowding", *Council of Europe*, CM(2016)121-add3, 23 August 2016; "Draft Council of Europe Handbook for Prison and Probation Services Regarding Radicalisation and Violent Extremism", *Council of Europe*, PC-CP(2016), 24 October 2016; "Guidelines for Prison and Probation Services Regarding Radicalisation and Violent Extremism", *Council of Europe*, 2 March 2016.

²⁷ *Ibid.*, p.26

²⁸ See Andrew Silke, 'Holy Warriors: exploring the psychological processes of jihadi radicalization', *European Journal of Criminology*, Vol 5, No 1, 2008, p. 107.

law-breaking and violence, and may in fact have provided them with skills that can be used in terrorism.

3.3 Unless extremists are entirely separated from the rest of the prison population, which is not always be possible or advisable, prison environments have the potential to institutionalise a nexus between terrorists and criminals. This is of great benefit to the extremists: not only do they get access to potentially fruitful opportunities and targets for radicalisation, they can also take advantage of the criminals' skills and underground connections, facilitating access to forged documents, weapons, money, goods, or even safe houses. The most significant example is that of Chérif Kouachi, Amedy Coulibaly, and Djamel Beghal in France. Kouachi and Coulibaly first met inside Fleury-Mérogis prison near Paris in 2007, and formed a friendship after spending seven months on the same wing.²⁹ The pair – one an 'ordinary' criminal, the other an extremist – were then mentored and radicalised in prison by Djamel Beghal, an al-Qaeda recruiter.³⁰ In other words, prison made it possible for the network to be established that culminated in Kouachi and Coulibaly coordinating the January 2015 Paris attacks, which killed 17 people.

3.4 Four individuals in the database had been 'flagged' for radicalisation by the prison authorities but neither police nor intelligence agencies managed to follow up. The gravest example is Mehdi Nemmouche, a French citizen who killed four people at the Jewish Museum in Brussels in May 2014. He had been flagged as 'radical' by the prison authorities, but succeeded in travelling to Syria three weeks after his release.³¹ Equally noteworthy is the case of Omar el-Hussein, who killed two people during shootings at a cultural centre and a synagogue in Copenhagen in February 2015. Having been sentenced to two years in prison,³² he openly – and repeatedly – spoke of his desire to fight in Syria, prompting the authorities to flag him as potentially radicalised.³³ Over the course of his imprisonment, they reported him three times, but none of these alerts were ever investigated.³⁴

4. Operations

4.1 As early as 2013, Danish intelligence warned that the large numbers of criminals who were joining 'jihadist' groups would lead to the proliferation of firearms among would-be terrorists.³⁵ Two years later, the warning came true. Between Omar el-Hussein's two gun attacks (see 4.4), he went to his neighbourhood of Mjølnerparken, where he disposed of an M95 rifle that he had stolen during a home robbery and used during the first attack.³⁶ He then visited an internet café to meet with former gang associates, who likely supplied him with the ammunition that he used in the second attack. The same is true for Amedy Coulibaly (see 4.3). Upon seeing the media reports that followed the attacks in January 2015, the arms dealer that sold him his weapons pre-emptively turned himself in to the police, and confessed to supplying Coulibaly with Škorpion submachine guns, a rocket propelled grenade launcher, and the two AK-47s that the Kouachi brothers used in the attack against Charlie Hebdo.³⁷ Indeed, the July 2015 issue of *Dar al-Islam*, Daesh's French language magazine, featured instructions on acquiring weapons in which operatives were advised to conceal all external displays of religiosity, and instead adopt the look of a *jeune de cité* (a man from the estate) who is 'looking to make a robbery with a weapon'.³⁸

²⁹ Angelique Chrisafis, 'Charlie Hebdo attackers: born, raised and radicalised in Paris', *The Guardian*, 12 January 2015.

³⁰ Ibid.

³¹ Upon his return to Europe, he killed four people at the Jewish Museum in Brussels. See Scott Sayare, 'Suspect Held in Jewish Museum Killings', *New York Times*, 1 June 2014.

³² 'Baggrund: Her er hvad vi ved om Omar Abdel Hamid El-Hussein', *DR*, 16 February 2015.

³³ 'Omar ville til Syrien for at kæmpe', *Berlingske*, 16 February 2015.

³⁴ 'PET: Omar havde planer om at flygte efter terror-angreb', *BT*, 4 November 2015.

³⁵ PET Center for Terroranalyse, 'Truslen mod Danmark fra personer udrejst til Syrien', 23 October 2015, p.3.

³⁶ 'Terrortiltalt hjalp Omar El-Hussein', *Berlingske*, 17 March 2016; Michala Rask Mikkelsen, 'Riffel fra terrorangreb blev stjålet under hjemmerøveri', *Berlingske*, 18 February 2015. The rifle model is otherwise known as an RK 95 TP.

³⁷ 'Charlie Hebdo – Un Carolo se rend à la police prétendant avoir eu des contacts avec Amédé Coulibaly', *La Libre*, 14 January 2015.

³⁸ Al-Hayat, 'Dar al-Islam Numéro 5', 2015, p.33.

4.2 Other skills-transfers that are valuable to terrorist groups include, for example, the use of fake documents and access to safe houses, which enable terrorists to evade the authorities, and therefore increase the likelihood of a plot turning into a successful attack. Put simply, access to criminal skills makes it easier for terrorists to 'stay under the radar'. What matters in this regard are not specific abilities that former criminals may (or may not) possess themselves, but – rather – their access to networks through which they can be mobilised. According to Harry Sarfo, for example, a former foreign terrorist fighter from the northern German city of Bremen, Daesh fully understands this. He told journalists that, instead of looking for forgers, the group was actively trying to cultivate former criminals who 'have ties to organised crime and... know how to get fake IDs'.³⁹

5. Criminal Financing

5.1 The issue of terrorist financing has been looked at in numerous reports, resolutions, and international conventions.⁴⁰ Although general aspects of the problem are well covered, the linkage between crime and terrorist funding has not received the attention it deserves. Two recent studies have attempted to close this gap. A report by Magnus Normark and Magnus Ranstorp of the Swedish National Defence Academy focused on how European foreign terrorist fighters have funded their travel to Syria: in addition to loans, private donations, bank fraud, and business fraud, it consistently emphasises the role of petty crime.⁴¹ A study by Emile Oftedal of the Norwegian Defence Research Establishment (FFI) examined the financing of 40 terrorist plots between 1994 and 2013: though nearly three-quarters generated at least some of their income from legal sources,⁴² it shows that criminality – including drug-dealing, fraud, and illicit trade – played a significant role in nearly 40 per cent of the cases.⁴³ With increasing numbers of criminals who turn to terrorism, this source of funding is likely to become more significant.

5.2 Some terrorist groups have enormous budgets. But this only plays a limited role when it comes to the funding of terrorist attacks in the West, which has been largely separate and autonomous from centralised budgets. For more than a decade, these groups have encouraged their Western supporters to self-finance, while simultaneously promoting types of attacks that are cheap and easy to carry out.⁴⁴ This is reflected in Oftedal's analysis, which found that 90 per cent of the terrorist plots in Europe involved 'an element' of self-funding, with nearly half being *entirely* self-financed.⁴⁵

5.3 Terrorist activities in Europe are not expensive. Becoming a foreign terrorist fighter requires little more than buying an airline ticket to Turkey. An AK-47 machine gun can be acquired for less than €2,000, and a pistol for less.⁴⁶ The costs of buying a knife or renting a vehicle are negligible. Oftedal's study found that three-quarters of European plots between 1994 and 2013 cost less than €9,000.⁴⁷ According to the French finance minister, even the November 2015 Paris attacks were financed by a 'sum not exceeding €30,000'.⁴⁸ These are amounts that do not usually require external funding or a dedicated terrorist fundraising operation: they can be raised from personal assets and savings, legitimate sources such as work or loans, or small-scale criminal activities that terrorists with a criminal past used to make their living with – be it drug-dealing, illicit trade, or fraud.

³⁹ Cited in Rukmini Callimachi, 'How a Secretive Branch of ISIS Built a Global Network of Killers', *New York Times*, 3 August 2016.

⁴⁰ See, for example, "FATF IX Recommendations", *Financial Action Task Force, FATF-OECD*, February 2012; United Nations Security Council Resolutions 1373, 2178, 2253.

⁴¹ Magnus Normark and Magnus Ranstorp, 'Understanding terrorist finance: Modus operandi and national CTF regimes', *Swedish Defence University*, 18 December 2015.

⁴² Emile Oftedal, 'The financing of jihadi terrorist cells in Europe', *FFI Report, Norwegian Defence Research Establishment*, p.3 & p.26.

⁴³ *Ibid.*, p.19.

⁴⁴ See the excerpts from Suri's 'The Global Islamic Resistance Call' reproduced in Al-Malāḥim Media, 'Inspire Magazine – Issue 4', 2011, p.31.

⁴⁵ Oftedal, 'The financing', *op. cit.*

⁴⁶ 'France seeks new powers to monitor terror suspects' bank accounts', *Financial Times*, 23 November 2015

⁴⁷ Oftedal, p.26.

⁴⁸ 'Paris terrorists needed just €30,000 for assault', *The Local*, 3 December 2015.

5.4 Groups like al-Qaeda and Daesh encourage their followers to become involved in crime to finance their terrorist activities. This relates to an ideological doctrine which states that stealing from 'unbelievers' is not only permissible but worthy of commendation. Theft – or any form of crime – is equated with *ghanimah*, which translates as 'the spoils of war'. Daesh shares this doctrine, and has turned it into practical advice by telling operatives to use fraudulent documents to obtain cash. Its French language magazine, *Dar al-Islam*, states: 'You should (if possible) try to obtain false documents, in order to *reap the easy spoils*, such as opening a bank account and paying by cheque in societies with low restrictions' [emphasis added].⁴⁹

Part II: Legal Instruments combating TOC and terrorism: overlapping, lacunae or opportunities?

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1. Object and contents of and methodology for a legal approach

1.1. As it has been already pointed out in the first part of this preliminary report traditionally a dividing line existed between terrorism and international organized crime (e.g. different purposes although similar methods; lack of commonly accepted definition of the former contrary to the latter), a fact that provoked a separated legal approach to and regulation of these two forms of criminality.

However, evolution experienced by both phenomena and, in particular, paths followed by new terrorism make these crimes appear to be closer, according to last methods and practices used by Daesh mainly, but also by other jihadist terrorist groups (e.g. Boko Haram, Al-Shabab). These new terrorist organizations use old traditional criminal practices such as theft and extortion, but they also pursue a main goal: exercising political and economic control, adopting new methods familiar to those used by all kind of criminal organizations for those purposes: e.g. hierarchical military internal structure of Daesh according to its territorial claimed basis of the Caliphate, in contrast with a rather common horizontal structure with autonomous cells practiced by previous terrorist organizations (AL-Qaida). Or the fact of making recourse to the death punishment in case of abandoning the organization, following in this regard the example of e.g. Latin American "*maras*", mafia groups or drug-trafficking groups, the first ones using these methods. Thus, contradictory models cohabit nowadays and centralized and hierarchical practices coexist with rather decentralized terrorist groups more prone to merging, precisely due to this fact, with TOC groups.⁵⁰

Therefore, nowadays it's difficult to strictly maintain in all cases that terrorist associations or groups are not simultaneously criminal organizations *per se*, according to the methods used by them and meant purposes that they include⁵¹, but using in the case of terrorist groups a legitimizing political, religious or moral covering. In this regard a clear-cut division between both forms of criminality is not always easy to establish but sometimes even rather artificial.⁵²

⁴⁹ Al-Hayat, 'Dar al-Islam Numéro 5', 2015, p.33.

⁵⁰ See discussion by DISMAN, Ch.: "The Leaderless Nexus: When Crime and Terror Converge", *Studies in Conflict and Terrorism* (28): 237-252.

⁵¹ Different forms of interaction between TOC and terrorism have been proposed by academia. They can be sum up in four different models, according to Makarenko: alliances, operational motivations, convergence and birth of a hybrid organization, and black holes or terrorist states. In this regard see MAKARENKO, T. (2004) : "The Crime-Terror Continuum: Tracing the Interplay between Transnational Organized Crime and Terrorism", *Global Crime & (1)*: 129-145; MAKARENKO, T. & MESQUITA, M. (2014): "Categorising the crime-terror nexus in the European Union", *Global Crime* (15): 259-274; PHILLIPS, M.D. & KAMEN, E.A. (2014): "Entering the Black Hole: The Taliban, Terrorism, and Organized Crime", *Journal of Terrorism Research* (5): 39-48; HÜBSCHLE, A. (2011): "From Theory to Practice: Exploring the Organized Crime-Terror Nexus in Sub-Saharan Africa", *Perspectives on Terrorism* (5): 1-7.

⁵² UN International Peace Institute, *Transnational Organized Crime and the Palermo Convention: A Reality Check*, 2010.

1.2. Despite this reality, legal approach to both phenomena has been done in a rather separate way until now, considering both fields of action as isolated compartments. Consequently, international legal instruments that could be used in order to fight against both phenomena have not been properly or most efficiently applied up to now. It would be useful to explore new linkages amongst these existing legal instruments in order to fulfill some legal *lacuna*. In this regard the approach followed in this second part of this preliminary report has been to go in depth through legal instruments regulating each of the main identified areas of concern in order to understand definitions, scope and concrete approach in those legal instruments to the aforementioned areas and, in doing so, to try to find out shortages and potential responses –if any- to them.

This seems also to be the view of UN Secretary General,⁵³ who has insisted on the fact of making recourse to international conventions combating organized crime together with those concerning specifically the fight against terrorism in order to combat such a scourge and not only making recourse to the latter. UNGA⁵⁴ and UNSC⁵⁵ have expressed themselves in the same vein, consequently opening the door for States and international organizations to make all efforts in this respect.

1.3. As far as the identified crimes to be dealt with in this preliminary report related both to organized crime and terrorism are concerned, there are several major worrying areas, according to the new dimension, methods used and final goals pursued by current terrorists organizations or groups and on the basis of resolutions and reports prepared by the UNGA, UNSC and UN Secretary general. The following points are but hints of the different aspects to be covered by Part II of this report:

- Arms trafficking, in particular illegal trade of small and light weapons and explosives that have been specifically dealt with by the Additional Protocol to the Palermo Convention against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, in force since 2005,⁵⁶

- Trafficking in human beings or substances or/and elements related to them, such as women and children trafficking as foreseen by Additional Protocol to the Palermo Convention on TOC to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.⁵⁷ Women sexual exploitation and women trafficking have become usual crimes committed during the last decades and in particular the fact of selling women in order to get financial support for terrorist activities, as well as slavery practices related to human beings individually considered or applied to minorities living in territories under the control of terrorist groups, a situation that, according to UNSC, could be considered as crimes against humanity in certain cases.⁵⁸ Moreover, other crimes related to human beings should be included in this report, as this is remarkably the case of human organs trafficking, as punished by the Council of Europe Convention against Trafficking in Human Organs⁵⁹ as well as trafficking in counterfeited medical products;⁶⁰

⁵³ UN Secretary General Report to UNSC S/2016/92, 29/01/2016; also Report S/2016/501, 31/05/2016.

⁵⁴ E.g. AGNU latest Resolution A/RES/70/177, 8/01/2016, amongst many others.

⁵⁵ Amongst others CSNU Resolution S/RES/2199(2015), 12/01/2015.

⁵⁶ Ratified by most CoE Member States except for Andorra, France, Georgia, Ireland, Malta, Russian Federation and San Marino:

https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-c&chapter=18&clang=_en

⁵⁷ Ratified by all CoE Member States except for Andorra:

https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-a&chapter=18&clang=_en

⁵⁸ UNSC has even considered the possibility of qualifying such acts as crimes against humanity under certain circumstances in CSNU Resolution S/RES/2170(2014), par. 3.

⁵⁹ <http://www.coe.int/en/web/conventions/full-list/-/conventions/rms/09000016802e79ee>, ratified only by Albania at present

⁶⁰ <http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/211>, ratified by Albania, Armenia, Belgium, France, Hungary, Moldova, Spain and Ukraine.

- Smuggling of migrants, as prohibited by the Additional Protocol to the Palermo Convention against the Smuggling of Migrants by Land, Sea and Air;⁶¹

- Drug-trafficking, a crime that holds also a leading role as far as countering terrorism and organized crime together, but also terrorism financing are concerned⁶². This crime has been traditionally associated to the financing of terrorist groups, as the Taliban regime in Afghanistan showed years ago, but narrow links between drug-trafficking organizations and terrorist groups for wider purposes have been established, e.g, getting protection from *narco* groups –mainly Latin American groups and in particular Colombian and Mexican groups- and the use of their routes in order to protect circulation of terrorists (having access to weapons, or smuggling different goods, particularly important criminal offences as far as ISIS and illegal oil exploitation and sale are concerned);

- Destruction of cultural heritage: Meanwhile this crime has been traditionally punished under International Humanitarian Law, therefore in the framework of an armed conflict⁶³, this form of trafficking has been protected under UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (1970) in any circumstances, not only concerning armed conflict situations. More recently, destruction of such a heritage by terrorist groups has become an international concern⁶⁴. However, beyond this, smuggling and trafficking in such goods have been common means of financing activities of terrorist groups in particular in the case of certain Middle East states such as Afghanistan, Iraq, Egypt or Syria. This new phenomenon should be covered in a specific manner as far as terrorism or terrorist groups actions are concerned, as recent ICC case Prosecutor v. Al Mahdi (destruction of religious monuments in Mali by a member of Ansar Eddine, associated movement of Al Qaeda) would suggest concerning destruction but not trafficking with the aim of financing.⁶⁵

In this vein, the setting up of a Committee within the CoE that currently drafts a Convention superseding and replacing the European Convention on Offences relating to Cultural Property (ETS No.119), as well as its draft Explanatory Report, grounded on the previous worked carried out by UNESCO, EU and the International Institute for the Unification of Private Law, has to be remarked and most welcomed. It has to be recalled that any legislative action should be respectful with UNGA A/RES/69/196 containing the International Guidelines for Crime Prevention and Criminal Justice Responses with Respect to Trafficking in Cultural Property and Other Related Offences.

- Smuggling in different products (cigarettes, electronic devices prohibited by the “sharia” etc) and extortion, the latter being particularly exercised in the recent case of Daesh in the form of tax being compulsorily satisfied by other religious minorities in order to continue alive and living in their own land, a situation that has also to be analyzed in this report. In particular extortion is

⁶¹ Ratified by all CoE Member States except for Andorra:

https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-b&chapter=18&clang=_en

⁶² UN Secretary General, Report to UNSC, Doc. S/2016/501. The academia has gone deeply through this issue, being of particular interest the following papers: MYLONAKI, E. (2002): “The manipulation of organized crime by terrorists: Legal and factual perspectives”, *International Criminal Law Review* (2): 213-235; SHELLEY, L. & PICARELLI, J.: “Methods Not Motives: Implications of the Convergence of International Organized Crime and Terrorism”, *Police Practice and Research* (3): 305-318; ROTH, M.P. & SERVER, M. (2007): “The Kurdish Workers Party (PKK) as Criminal Syndicate: Funding Terrorism through Organized Crime, A Case Study”, *Studies in Conflict and Terrorism* (30): 901-920; FLANIGAN, S.T. (2012): “Terrorists Next Door? A Comparison of Mexican Drug Cartels and Middle Eastern Terrorist Organizations”, *Terrorism and Political Violence* (24): 279-294.

⁶³ UNESCO Convention for the Protection of Cultural Property in the Event of Armed Conflict (1954) and II Additional Protocol (1999); I Additional Protocol to the Geneva Conventions, Art. 53; II Additional Protocol to the Geneva Conventions, Art. 16.

⁶⁴ UNSC Resolution 2195(2014), S/RES/2195 (2014); EU Commission Action Plan to strengthen the fight against the financing of terrorism proposed on 02/02/2016, and European agenda on Security 2016.

⁶⁵ The Prosecutor v. Ahmad Al Faqi Al Mahdi, ICC, judgment of 27.09.2016; <https://www.icc-cpi.int/Pages/record.aspx?docNo=ICC-01/12-01/15-171>

considered to be an ancient crime linked traditionally to terrorism (carried out mainly through kidnapping) and it is being still used nowadays as a way of financing terrorist activities.⁶⁶

Most of the crimes mentioned above have been considered by UNSC as forms of international organized crime involved in the financing of terrorist activities or terrorist groups.⁶⁷ Additionally, all these crimes have already caught the attention of other international organizations and also of main CoE institutions, having the latter dealt with them in different instruments, such as reports, action plans, and PACE and Committee of Ministers' resolutions⁶⁸. In particular arms trafficking is a most worrying scourge to be solved through better use of legal cooperation instruments available in the existing international instruments taking into account two main elements: first, the utmost relevance that arms availability by terrorists has had in the commission of recent terrorist attacks in Europe; second, the fact that this illegal trafficking militates against democracy and the rule of law – main CoE's *raison d'être*- and constitutes the hardcore of one the Palermo Convention's Additional Protocols, being the Palermo Convention the cornerstone of the fight against TOC either at the universal or at the regional level, and a most ratified convention by all CoE Member States.⁶⁹

1.4. This having been said, the UN Palermo Convention on TOC shows two major shortages from a legal point of view. First of all the Convention lacks of any sort of monitoring system as it does not count on any particular form of controlling States' compliance with its provisions. This being currently the case, UNODC has consequently set up a software tool that allows individual signatories of UNTOC to upload key information on their implementation, together with the possibility of carrying out regional studies on the issue. In this regard it has been said that the Convention and its additional protocols should be considered as a starting point rather than an end in itself.⁷⁰ Second, the fact that many key elements in the Palermo Convention's provisions are not only left to the signatories' will, but also the fact that definition of key concepts playing a crucial role as far as cooperation is concerned are dependent upon domestic legal systems and upon definition of the said concepts offered by domestic provisions, as the legal technique used by the Convention is the "reenvoie" to national provisions. This legislative technique provokes much disparity amongst signatories to the treaty, as much diversity can be found in domestic regulations.

1.5. Comparison amongst the aforementioned international legal instruments provides us with a clear picture of means that CoE Member States count on in order to improve the fight against terrorism and organized crime and the best possible use to be done of each one of them. But it also maps the inefficiencies or gaps that the ensemble of those instruments show, paving the way for recommendations to be suggested in the final part of the definitive report in order to CoE Member States better fight against the most dangerous alliance of both forms of criminality.

⁶⁶ UN has called to fighting against this crime and not paying rescue sums required by these terrorist groups in order to avoid financing them. CSNU Resolutions adopted in the framework of Chapter VII of the UN Charter: S/RES/2133(2014); S/RES/2999 (2015). In this regard see: O'BRIEN, M. (2012): "Fluctuations Between Crime and Terror: The Case of Abu Sayyaf's Kidnapping Activities", *Terrorism and Political Violence* (24): 320-336.

⁶⁷ UNSC Resolution 2199(2015), S/RES/2199 (2015), adopted on the 12/02/2015. For a detailed list of linkages between specific terrorist groups and concrete organized crime episodes see EUROPEAN PARLIAMEN, DIRECTORATE-GENERAL FOR INTERNAL POLICIES, POLICY DEPARTMENT, CITIZENS' RIGHTS AND CONSTITUTIONAL AFFAIRS Repport: "Europe's Crime-Terror Nexus: Links between terrorist and organized crime groups in the European Union, Study for the LIBE Committee (2012), in particular see Annex D.

⁶⁸ In particular see CoE White Paper on transnational organized crime (2016); PACE Recommendation 1713 (2005) Democratic oversight of the security sector in member states; PACE Resolution 1524 (2006) The need for a greater transparency in the arms trade; PACE Doc. 14177, 13.10.2016, Moratorium on arms sales in the Middle East, still under discussion.

⁶⁹ All CoE Member States have ratified this Convention:

<https://www.unodc.org/unodc/en/treaties/CTOC/signatures.html>

⁷⁰ International Peace Institute, *Transnational Organized Crime and The Palermo Convention: A Reality Check*, December, 2010, 1.

2. Arms trafficking

2.1. Free movement of small and light weapons has become a major problem as recent terrorist attacks have demonstrated. Last terrorist attacks on European soil have shown that the access of radicalized individuals and terrorists to firearms or weapons in general has become too easy. Therefore, causes for this situation should be analyzed as well as proper legal responses to be given.

This crime plays a dual role with regard to current terrorism: as a means for committing terrorist attacks but also as a means of financing terrorism, like exchange of small firearms and their sale on the side of Al-Nusra Front or ISIS have recently demonstrated. Three major concerns relate to this form of organized crime: first, the inefficiency of recently ratified Arms Trade Convention; second, diversity and general lack of transparency of national systems authorizing arms transfers, including lack of accountability regarding those authorized transfers; and third, arms transfers to corrupt governments or governments involved in conflicts where those arms can finally end in the hands of terrorist groups, such as in the case of Iraq, meaning that the fight against corruption is a side action to be adopted when fighting against terrorism.⁷¹

Arms world expenditure has experienced a growth of 50% during the last decade, but it has reached 75% in the case of the Middle East, simultaneously to the rise of new international terrorism with a strong territorial component such as ISIS⁷². Consequently, commitment on the side of States to the Arms Trade Treaty has become a priority. This being said, and even if the regulation offered by the ATT is not a *panacea*, this is an important initiative for the purposes of fighting illicit arms trade or transfers; it would also be most desirable that States would subject their arms transfers -dual use material comprised- to common legal provisions. In this regard, the EU has encouraged EU Member States to cooperate with the efforts in order to draft the ATT as well as in order to finally ratify it.⁷³

2.2. Arms trafficking as a criminal offence has been regulated at the universal level by III Additional Protocol to the Palermo Convention, according to which illicit trafficking means: *“the import, export, acquisition, sale, delivery, movement or transfer of firearms, their parts and components and ammunition from or across the territory of one State Party to that of another State Party if any of the State Parties concerned do not authorize it in accordance with the terms of this Protocol or if the firearms are not marked in accordance with article 8 of this Protocol”*. The Protocol includes all problematic sides of this phenomenon: illicit manufacturing, trafficking and falsifying or illicitly obliterating, removing or altering the marking(s) on firearms; and not only of firearms but also their components, parts, and ammunition. The Protocol also includes ancillary offences: attempting to commit or participating as an accomplice; organizing, directing, aiding, abetting, facilitating or counselling the commission of one of the said offences.⁷⁴

However, despite having been regulated by this universal legal instrument profusely ratified by all States, including CoE Member States, some important *lacuna* must be remarked. First, it has been previously pointed out, either the Convention or its additional protocols are deprived of any particular monitoring system at present. But second and most important, the fact that definition of many key elements in the Protocol's provisions concerning arms trafficking are left to the signatories' domestic provisions, where much diversity can be found. This is clearly the case of the definition of what does “antique firearms and their replicas” mean,⁷⁵ or the concept of “licence” or “authorization” as well as the specific means of acceding to one of them.⁷⁶

⁷¹ Article 8 UNTOC.

⁷² Concerning the evaluation of 2015 trends in arms transfers see: SIPRI Fact Sheet (2016): “Trends in International Arms Transfers, 2015”.

⁷³ Council Decision 2010/336/CFSP of 14 June 2010 on EU activities in support of the Arms Trade Treaty, in the framework of the European Security Strategy, OJEU L 152, 18.06.2010; Council Decision 2013/269/CFSP, of 27 May 2013, authorizing EU Member States to ratify, in the interest of the European Union, the Arms Trade Treaty, OJEU L 155, 07.06.2013. All EU Member States have ratified the ATT ; 12 out of the remaining 19 CoE Member States non EU Members have still not done so.

⁷⁴ Article 5, a & b of the Protocol.

⁷⁵ Article 3 of the Protocol.

⁷⁶ Article 3, d, ii) of the Protocol.

Additionally, there are neither specific forms for registering firearms set up in the Protocol's provisions nor a common concept of "marking" or "deactivation" of firearms or common procedures in this regard, a most relevant gap in the case of terrorists acceding to weapons⁷⁷. In this vein the EU has shown a deep concern regarding these main issues, having put into practice legislative initiatives in order to better control any potential case of arm trafficking by ratifying on behalf of the EC the aforementioned Protocol to the UNTOC⁷⁸, then adopting Directive 2008/51/EC of the European Parliament and the Council of 21 May 2008, amending Council Directive 91/477/EEC on control of the acquisition and possession of weapons regarding intra-Community transfers of weapons,⁷⁹ insisting on protocols on the marking, deactivation of weapons and information registering systems, including weapons and ammunition by collectors and bodies concerned with historical and cultural aspects of weapons. The Directive sets up stronger requisites that those foreseen in the Protocol.

By Regulation 258/2012 the EU has addressed also arms trade and transfers with countries outside the EU. However there are still obstacles to tracing firearms and law enforcement due to differences across EU Member States regarding the marking of weapons, the categorization and registration of firearms and deactivation standards. These obstacles finally facilitate the misuse of firearms and their trafficking as terrorist attacks on European territory in 2015 and 2016 have demonstrated. In order to try to solve these problems within the EU area a proposal for a new Directive is being discussed within the EU Parliament since June 2016, but it seems to be urgent to extend this worry to other CoE Member States non belonging to the EU. The participation of terrorist individuals holding the nationality of particular CoE Member States not belonging to the EU in some of the latest terrorist attacks committed within the EU so suggests.

The privileged position of the CoE in this matter due to its composition lends much support and credibility to any initiative in this sense. As accompanying measures the EU has recognized more competences in favor of involved institutions: CEPOL, EUROPOL and CISE. After the Paris terrorist attacks the EU tries to make acquisition of firearms more difficult, in particular with regard to on-line acquisition, better exchange of information, adopting common norms on marking of weapons and better control of circulation of deactivated firearms, including a stricter control for collectors' weapons. The adoption of a Regulation by the Commission fixing minimum common standards concerning deactivation has also been decided. A special plan for the Balkans area was also proposed by the EU Commission in December 2015.

According to all these initiatives it seems clear that there is not sufficient control that can absolutely prevent terrorist groups from having access to firearms and that initiatives in this sense should be considered within the CoE legal framework.

3. Trafficking in human beings and other related crimes

3.1. According to the additional protocol to the Palermo Convention, trafficking in human beings is defined as "*recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other form of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs*".⁸⁰ Apart from the obligation of signatory

⁷⁷ Articles 8 and 9 of the protocol.

⁷⁸ Council Decision of 16 October 2001 concerning the signing on behalf of the European Community of the United Nations Protocol on the illicit manufacturing of and trafficking in firearms, their parts, components and ammunition, annexed to the Convention against transnational organised crime, OJEC L 280, 24.10.2001.

⁷⁹ OJEC L 179, 08.07.2008.

⁸⁰ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Organized Crime, Article 3 (a).

parties to the protocol of criminalizing such activities in their respective domestic legal systems and granting protection to the victims no much more is said about this form of organized crime.

3.2. Yet, different forms of human trafficking so portrayed in the protocol had been traditionally used by terrorist groups and, in particular, by jihadist groups, such as the abduction of girls and the fact of being subject to sexual slavery, with the notorious case of 200 students kidnapped by Boko Haram in a Nigerian school, the abduction of children and their training in terrorist training camps by Daesh, or the torture and slavery regime imposed on women and girls belonging to religious minorities in the territory under the power of the ISIS, in particular Yazidi women and girls.⁸¹

Stories concerning abduction of women and young girl by Taliban and who were finally sold, subject to ill treatment or sexually abused by superior military Taliban authorities have been reported at the time. At the same time the lack of specific provisions concerning human trafficking and terrorism in legal instruments combating organized crime, as it is the case of the Additional protocol to the Palermo Convention or other international legal instruments combating human beings trafficking has been denounced, a fact that demonstrates that gaps exist in this regard. The same criminal behavior was traditionally present in the FARC guerrilla practices.⁸² As Human Rights Watch has stated, many of the girls abducted or kidnapped and used as concubines or sold as sex slaves would not report their cases because of the whole issue of dishonor, but their abduction and trafficking still constitute a more discrete source of financing.⁸³

3.3. Trafficking in human beings has become one of the most lucrative and sophisticated industry that, according to the UN statistics, generates billions of dollar each year, only raking behind drug-trafficking. Like guns and drugs, women and children have been traditionally traded as commodities in the global black market, usually as victims of wealthy consumers. As it has been rightly pointed out, human trafficking is not only one of the first financial steps into the transnational and transcriminal mobsters' financial network but it is the bedrock of criminal syndicates as long as it is more profitable and also cheaper to trade with persons than trafficking drugs or weapons.⁸⁴ Taking into account its quick returns, very high profit margins, low risks of arrest, low investment costs and relatively light penalties as no relationship is usually established with major crimes such as terrorism, sex trafficking as emerged as a favorite crime for organized criminal groups and also for terrorist associations.⁸⁵ However, the fact of recruiting women with false promises of a paradise land would perfectly fit in the definition offered by the Additional Protocol, in particular in those cases where once arrived to their destinations recruited women were forced to marrying or to having children restlessly, so demonstrating that the recruitment was for the purpose of exploitation.

3.4. Another alleged form of human trafficking for the benefit of terrorism is the forced displacement or forced migration of peoples from their countries of origin -in particular from their conflict areas- towards developed countries. Once transformed into poor and discriminated migrant minorities within wealthy Western European states they become dependent upon those who sent them abroad, introducing these displaced communities into organized criminal groups

⁸¹ SYPER, F. (2014): "rape and Sexual Slavery Inside an ISIS Prison". The Daily Beast. Aug. 28, 2014;

<http://www.thedailybeast.com/articles/2014/08/28/rape-and-sexual-slavery-inside-an-isis-prison.html>;
PIERCE, S. (2014) : « ISIS Continues to Engage in Sex Trafficking ». Human Trafficking Search. Nov. 10, 2014; <http://humantraffickingsearch.net/wp/isis-continues-to-engage-in-sex-trafficking/> . WATSON. I.

(2014): "Treated like cattle: Yazidi women sold, raped, enslaved by ISIS", CNN, Oct. 30, 2014; <http://www.cnn.com/2014/10/30/world/meast/isis-female-slaves/>

⁸² HUTCHINSON, S. & O'MALLEY, P. (2007): "A Crime-Terror Nexus? Thinking on Some of the Links between Terrorism and Criminality, Studies in Conflict Terrorism (30): 1095-1107.

⁸³ SULLIVAN, K.(2001): "Kabul's Lost Women", The Washington Post, December 2001:

<http://www.washingtonpost.com/ac2/wp-dyn?pagename=article&node=&contentId=A62604-2001Dec18¬Found=true>. See also McGirk, T (2002): "Lifting The Veil On Taliban Sex Slavery (Feb 10, 2002): <http://www.time.com/time/magazine/article/0,9171,201892,00.html>

⁸⁴ DOLAN, Ch. (2002): "Terrorism and Trafficking Finding the Nexus. IAST Report: <http://www.iast.netreports.htm>

⁸⁵ GONZÁLEZ, E. (2013): "The Nexus between Human Trafficking and Terrorism/organized Crime: Combating Human Trafficking By Creating a Cooperative Law Enforcement System, Law School Students Scholarship, Paper 227: http://scholarship.shu.edu/student_scholarship/227

which would support and assist them in order to get forged document, have a home, find a job and, once introduced in receiving states' societies, financially contribute to those who helped them to escape from a conflict area. And it is so even if the origin of their displacement and disgrace are these very same groups. The final result would be the fact of getting those groups easily radicalized or, at least, some of their members transformed into sympathizers keen on funding their cause.⁸⁶

3.5. Children trafficking has become one of the most used forms of trafficking in human beings used by terrorist groups, as traditionally warlords and guerrillas in Africa have demonstrated, paving the way for the so called soldier children. But far from insurgency episodes, current terrorism is making reiterated recourse to this form of criminality, as recent training camps for children set up by Daesh have demonstrated. Situations of forced recruitment of minors by Al-Shabaab or Hisbul Islam have also been reported.⁸⁷ It seems obvious that any attempt to effectively fight against terrorism and organized crime will have to address human trafficking. Existing legal instrument do not still include this common approach or are not yet being construed or implemented from this point of view which is, nonetheless, most needed.

In this regard the CoE Convention on Action against trafficking in human beings⁸⁸ should be recalled. The Convention narrowly follows provisions included in the Palermo Convention Additional Protocol -in particular definition of trafficking in human beings-, although it counts on richer provisions that deal not only with criminalizing at the domestic level the described behaviors and the protection of victims, but also sets up criminal substantive and procedural provisions and includes a monitoring system (GRETA) in order to periodically evaluate States parties compliance with it. However the text of this Convention does not even refer to terrorism or any potential relationship between both forms of crime.

3.5. Finally trafficking of organs, a critical form of crime recently regulated by the CoE,⁸⁹ as well as trafficking in counterfeited medicament products addressed to humans -a significant source for the financing of terrorist actions-, likewise regulated by a CoE Convention, are new emerged forms of crime directly related to the fight against terrorism and organized crime. In this vein it is worth mentioning the reasoning recently made by a terrorist group in the sense of accepting the fact of removing organs from an "infidel" in order to be transposed to a jihadist, according to an absolutely aberrant interpretation of some general Coran Rules⁹⁰.

⁸⁶ CINAR, B. (2010): "Human Trafficking is used ofr Recruiting Terrorist", Second Annual Interdisciplinary Conference on Human Trafficking, University of Nebraska, Lincoln, <http://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1023&context=humtrafconf2>;

⁸⁷ UNHRC (2011): "Trafficking in persons report";

<http://www.unhcr.org/refworld/country,,USDOS,,SOM,,4e12ee4ac,0.html>

⁸⁸ ECTS 197. See its text in <http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/197>. Czech Republic and Russian Federation are still not parties to it.

⁸⁹ ECTS 216. See its text in <http://www.coe.int/en/web/conventions/full-list/-/conventions/rms/09000016802e79ee>

⁹⁰ <http://graphics.thomsonreuters.com/doc/document.pdf>