



Foreign fighters. The criminalization of the involvement in military operations in a foreign state. The case of Albania

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Abstract

In 2013, Albania, as well as several other countries in the region, such as Kosovo, Bosnia and Herzegovina, Montenegro, North Macedonia, or Serbia, faced a dangerous phenomenon, where some citizens left the country, to join the fighting in Syria. This created a significant challenge for Albanian authorities, who struggled to handle, investigate, and prosecute these cases due to a legal gap in the Albanian Criminal Code. Specifically, there was no provision that prohibited the participation of Albanian citizens in violent actions or armed conflicts outside the country. This paper examines a case study approach, focusing on a criminal proceeding initiated in December 2013 by the Prosecutor's Office for Serious Crimes of Albania. The case was referred by the State Intelligence Service and involved a group of individuals who, under the guise of religious beliefs, encouraged others to engage in terrorist activities. Through this case study, the paper aims to explore the factors behind the phenomenon, the challenges faced by the authorities, and the legal responses to the issue. Additionally, the paper includes a legal analysis of the Albanian criminal legislation regarding foreign fighters, supported by a statistical analysis of 10 years of criminal proceedings data from the Albanian Prosecution Office. The analysis reveals that the legal gap in Albania's criminal code created challenges in prosecuting foreign fighters prior to the introduction of new legislation. The study finds that the criminalization of involvement in foreign military operations has been an effective preventive measure. The analysis of the statistical data over the past decade show that these legal reforms have had a significant impact on reducing the flow of foreign fighters and enhancing Albania's capacity to combat this phenomenon.

Keywords: criminal code, foreign fighters, preventive measure, terrorism

1. Introduction

Leaving the country by some citizens to join the fighting in Syria in 2013 became a concern and dangerous phenomenon for Albania as well as for several other countries in the region, such as Kosovo, Bosnia and Herzegovina, Montenegro, Macedonia and North, or Serbia. The Albanian authorities found themselves in difficulties in handling, investigating and punishing these cases because there was a legal gap in the Criminal Code of the Republic of Albania, where there was no provision for the prohibition of the participation of Albanian citizens in violent actions or armed conflicts outside the territory of the Albanian state.

The regulation and legal solution that the UN Convention against the Recruitment, Use, Financing and Training of Mercenaries (1989), had given to the issue of foreign fighters, could not be applied directly by Albania, because Albania had not signed and ratified the UN Convention of 1989. Under these conditions, the law enforcement institutions found themselves in a legal gap dealing with cases where Albanian citizens were involved in violent actions or armed conflicts outside the territory of the Albanian state. On 20 December 2013, the Prosecutor's Office for Serious Crimes of Albania registered the criminal proceedings no.275/2013, for the criminal offenses of "*Recruiting persons to commit acts with terrorist intent or financing of terrorism*" and "*Incitement, public appeal and propaganda for committing acts with terrorist purposes*", referred by the State Intelligence Service, where a group of people were identified, who conveyed religious beliefs to the people, encouraging them to carry out various actions with terrorist purposes. This case, which ended with 9 defendants sentenced to prison, is analysed as a case study in this paper, because following the legal changes and amendments in the Criminal Code it had a deterrent effect on Albanian citizens leaving the country to join the fighting in Syria. Referring to the statistical data of the prosecution office of Albania, generated from the information published on the official website, after 2015, the number of criminal cases for these offenses has decreased significantly (see below the tables 1 and 2).

1.1 Research purpose

The research purpose of this paper is to examine the legal, social, and policy responses to the phenomenon of Albanian citizens leaving the country to join the fighting in Syria in 2013. Specifically, the paper aims to analyze the legal gap in the Albanian Criminal Code that hindered effective prosecution of foreign fighters before the introduction of new legislation and to evaluate the effectiveness of the legislative response in addressing the legal gap, with a focus on the criminalization of involvement in foreign military operations and its preventive impact. The main goal of the research is to provide recommendations for future policy and practice, focusing on the integration of social strategies and long-term initiatives to address the root causes of radicalization and recruitment, particularly among vulnerable populations.

1.2 Research questions

This study aims to answer the following research questions:

1. How did Albanian authorities face the phenomenon of the foreign fighters joining the conflict in Syria, prior to the legal reforms in the Albanian Criminal Code?
2. What were the factors behind the phenomenon of Albanian citizens leaving the country to join the fighting in Syria?
3. How did the legal gap in the Albanian Criminal Code impact the prosecution of foreign fighters before new legislation was introduced?

4. What was the effectiveness of the legal amendments in the Albanian Criminal Code regarding the participation of Albanian citizens in foreign conflicts, particularly in reducing the flow of foreign fighters?

1.3 Discussions and limitations

The analysis presented one legal situation where the law enforcement institutions faced difficulties in prosecuting citizens leaving the country for joining the armed conflict in Syria. The main discussion point of the study is the lack of a provision in Albania's Criminal Code that prohibited the involvement of citizens in violent actions or armed conflicts outside the country. This created a major legal challenge for authorities in prosecuting such actions. The introduction of legal reforms in Albania's Criminal Code is discussed as a response to the legal gap. The study presents evidence that these reforms, criminalizing involvement in foreign military operations, were effective in reducing the flow of foreign fighters. Statistical data from the Albanian Prosecution Office is used to demonstrate the positive impact of these legal amendments, showing a significant decline in criminal cases related to foreign fighters post-2015.

The study focuses primarily on Albania, with brief mentions of other regional countries. A more detailed comparative analysis of how neighboring countries (like Kosovo, Bosnia and Herzegovina, etc.) responded to similar challenges could offer broader insights into regional trends and strategies. In terms of legal background, the research places significant emphasis on the legal and criminal aspects of the issue, including changes to the Albanian Criminal Code. However, it does not deeply explore other potential contributing factors, such as the role of international diplomacy or community-level prevention programs, which could provide a more comprehensive understanding of the issue. On the other hand, the paper highlights the socio-economic backgrounds of individuals who joined the fighting but does not deeply analyze the broader social or psychological factors (e.g., radicalization processes, recruitment networks) that led to their decisions. Further qualitative research into individual experiences and motivations would complement the legal and statistical analysis, that could be the topic of another research paper.

2. Methodology

This paper presents a mixed-methods approach to explore the reasons behind the phenomenon in which Albanian citizens traveled to Syria to join the conflict, specifically during the year 2012. The methodology consists of three primary components: legal analysis, case study examination, and statistical data analysis.

The first phase of the methodology involves a comprehensive analysis of the Albanian legal framework in relation to international standards. The focus was on identifying the gaps in the legal system that may have allowed Albanian citizens to join foreign conflicts with impunity. This analysis involved a review of the Albanian Criminal Code before and after its amendment in 2014, specifically focusing on the absence of provisions addressing the participation of citizens in foreign conflicts. A comparison was made with international legal frameworks and counterterrorism standards to assess how Albania's laws aligned with global norms and where they fell short. This review provided the basis for understanding the legal limitations faced by Albanian authorities in responding to the emerging phenomenon.

The second methodology component centers around a detailed case study of criminal proceeding no. 275/2013, initiated by the Prosecutor's Office for Serious Crimes of Albania. The case was referred by the State Intelligence Service, involving a group of individuals accused of spreading extremist religious ideologies and encouraging violent actions with terrorist purposes. The analysis involved a detailed study of the case, tracking its progress from the initial investigation through its various stages, including decisions at the lower courts and till in the final ruling by the Supreme Court of Albania. Data collection for this component involved reviewing court records, legal documents, and prosecutorial reports. This case study helped to identify the underlying causes of the foreign fighter phenomenon, including the motivations of the individuals involved, and to assess the legal and institutional response to the issue. Furthermore, the analysis examined the impact of the case on the broader efforts to curb the involvement of Albanian citizens in foreign conflicts.

The third part of the methodology involves the analysis of statistical data from the Albanian Prosecution Office, covering a period of ten years. The data includes information on criminal offenses related to terrorism and involvement in foreign conflicts, particularly after the amendment of the Albanian Criminal Code in 2014, which introduced provisions criminalizing participation in foreign military operations. This statistical analysis was conducted by reviewing publicly available prosecution records, including annual reports and crime data summaries. Quantitative methods were used to assess trends in prosecutions related to foreign fighters, comparing the number of cases before and after the legislative changes. The analysis also considered the geographical and demographic distribution of cases, as well as the outcomes of prosecutions. This helped to evaluate the effectiveness of legal reforms in reducing the phenomenon of foreign fighters and to measure the overall impact of the legal interventions on the judicial response to terrorism-related offenses.

Data for the legal analysis was collected from official website of the Prosecution General institution of Albanian. The Criminal Code and amendments, as well as from international legal frameworks on terrorism and counterterrorism are open data documents. For the case study, primary sources such as court rulings, prosecutorial documents, and official statements were reviewed. The statistical data analysis involved gathering criminal proceedings data from the Albanian Prosecution Office, focusing on cases of terrorism and foreign fighter involvement. Quantitative analysis techniques were used to identify correlations in the data, comparing pre- and post-legal amendments periods. Data validation was achieved through cross-referencing multiple sources, including judicial reports and law enforcement documents.

3. The concept of the foreign fighter and their legal position according to the Albanian legislation

There are some international treaties established to control the use of mercenaries, such as the Additional Protocol I and II to Article 47 of the Geneva Convention (1949), the Organization of African Unity (OAU) Convention for the Elimination of Mercenaries in Africa (1972), and the International Convention against the Recruitment, Use, Financing and Training of Mercenaries (1989). These treaties regulate, for the most part, the relationship between states concerned with the use of mercenaryism. The UN Convention, against the Recruitment, Use, Financing and Training of Mercenaries, has established new standards in the definition of mercenaryism, and evaluation criteria for entities that will have to be considered as mercenaries in internal or interstate conflicts. This convention prohibits the recruitment, training, use, and financing of mercenaries. Also, it extends on the Geneva Conventions Protocol I, which in

Article 47(1) states that a mercenary shall not have the right to be a lawful combatant or prisoner of war. The meaning of mercenaryism is given in article 1 of the UN Convention against the Recruitment, Use, Financing and Training of Mercenaries, adopted 04 December 1989 by the General Assembly resolution 44/34, according to which:

1. A mercenary is any person who: (a) Is specially recruited locally or abroad in order to fight in an armed conflict; (b) Is motivated to take part in the hostilities essentially by the desire for private gain and, in fact, is promised, by or on behalf of a party to the conflict, material compensation substantially in excess of that promised or paid to combatants of similar rank and functions in the armed forces of that party; (c) Is neither a national of a party to the conflict nor a resident of territory controlled by a party to the conflict; (d) Is not a member of the armed forces of a party to the conflict; and (e) Has not been sent by a State which is not a party to the conflict on official duty as a member of its armed forces.

“A foreign fighter is an individual who leaves his or her country of origin or habitual residence to join a non-State armed group in an armed conflict abroad and who is primarily motivated by ideology, religion, and/or kinship” (Geneva Academy of International Humanitarian Law and Human Rights, 2014).

3.1 Literature review

While the Geneva Conventions offered protection to combatants under certain conditions, mercenaries were explicitly excluded from the protections granted to prisoners of war (Article 47). This provision has been subject to debates, as the rise of private military and security companies (PMSCs) has blurred the line between state military personnel and mercenaries, especially in recent conflicts in Africa and the Middle East (Haken, 2011). The phenomenon of foreign fighters (FFs) has garnered significant attention in international studies, particularly since the conflict in the Middle East. The United Nations Security Council Resolution 2178 (2014) addressed the growing threat of FFs, focusing on the individuals traveling abroad to participate in armed conflict. This resolution also provided a helpful definition of FTFs: “[Foreign terrorist fighters are] *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, 2014). International literature highlights the increasing complexity of these legal frameworks as conflicts evolve. Researchers have noted that, historically, mercenaries were primarily viewed as motivated by personal gain and were treated as unlawful combatants. However, with globalization and privatization of military services, this distinction has blurred (Avant, 2005). Another author, Hegghammer states that a foreign fighter (1) has joined, and operates within the confines of an insurgency, (2) lacks citizenship of the conflict state or kinship links to its warring factions, (3) lacks affiliation to an official military organization (Hegghammer 2010, 58). This definition seems to separate the concept of foreign fighters from soldiers, mercenaries, and any other violent actors who have crossed a border to fight on behalf of a particular group. On the other hand, Malet, have analyzed methods of recruiting foreign fighters. As recruiters tailor their recruitment strategies to reflect the goal of saving a shared community, they must understand what groups they are trying to target. To make a connection with potential recruits, they must identify their cause in relation to the potential foreign fighters. At this time, individuals who are highly active in the institutions of that community (that has been previously identified by the insurgent group) and identify with it closely, but who tend to be marginalized within their broader polities, often because they are part of some minority groups often participate as a foreign fighter (Malet 2009, 14). Recruiters do their best to

persuade potential recruits that their participation (as foreign fighters) is “necessary for the survival of their people, and ultimately, their own” (Malet 2009, 15).

3.2 Albanian legal background

The attitude of the Albanian legislator regarding the concept of foreign fighters or mercenaryism and the legal treatment of the phenomena that accompany them, is expressed in the report of the draft law on some changes to the Criminal Code, approved by law no. 98/2014. If up to a certain historical moment, international voluntarism, i.e. participation in armed conflicts outside state territory, based on principles that are linked to certain personal ideals, political convictions, religious philosophies or of any kind, should make a difference from the activity of mercenaryism, which was aimed at economic benefit or any other material good, subsequent social-political developments in the international arena have oriented the legal treatment of these phenomena in the same criminal framework- it is stated in the report on some changes to the Criminal Code (2014).

Albania was among the first countries that, in implementation of the Resolution 2178 (2014) of the Security Council, took concrete steps reflected in the national legislation. With the adoption of amendments to the Criminal Code on 31.07.2014, it was aimed to strengthen the ability to address the problem of foreign terrorist fighters, considering illegal and criminally punishable, the participation, organization or any incitement to participate in military actions of a foreign country.

In December 2017, the Security Council adopted resolution 2396 (2017) to reaffirm the definition of foreign terrorist fighters (FTFs) and call upon Member States to tackle the threat posed by FTFs returning from conflict zones. The definition adopted by the Security Council contains several elements, which should be highlighted. First, the Security Council definition only applies to foreign fighters who travel for the purpose of “terrorist” activity. However, not all foreign fighters travel specifically for terrorist purposes. While these fighters may be guilty of a crime in their home state for privately engaging in an armed conflict in another country, they are not necessarily “terrorists” and, thus, cannot be treated as such. FTFs also differ from mercenaries, who fight abroad on behalf of Governments or privately financed entities (Lister, 2015) and are “*motivated to take part in the hostilities essentially by the desire for private gain*” (Protocol Additional to the Geneva Conventions Protocol I, 1949). However, in cases where financial and political or ideological interests significantly overlap, these individuals may fall within the scope of the definition of FTFs.

The Albanian criminal legislation has been continuously improved and updated, aligning with international standards. Continuous efforts and achievements have been made in Albanian legislation and in anti-terrorism measures. Criminal offenses in the Criminal Code of the Republic of Albania, related to terrorism are mainly included in Chapter VII, and are mainly grouped in articles from 230 to article 234, as well as in Section III, from articles 261 to 266 of this Code. The last legal changes to the Criminal Code related to the prevention of terrorism dates to 2014 and came because of the necessity to prohibit by law the participation of the Albanian citizens in a foreign conflict.

Until 2017, the exercise of the criminal prosecution of the criminal offenses related to terrorism was under the competence of specialized institutions of justice such as the Prosecution of Serious Crimes and their trial by the Court of Serious Crimes Tirana, which had the power to investigate this category of criminal offenses throughout the Albanian territory. With the Constitutional amendments of 2016 within the framework of the justice reform and later changes in the Code of Criminal Procedure, (approved by law no. 35, dated 30.07.2017), the

jurisdiction for terrorism offenses is under the Special Prosecutor's Office against Corruption and Organized Crime (SPAK) and the Court against Corruption and Organized Crime, as two new independent and specialized structures in the fight against corruption and organized crime.

Albania has defined the priorities on the fight against terrorism in the cross-sectoral strategy of the fight against terrorism, 2023-2025 and the action plan 2023-2025, approved with the Decision of the Council of Ministers No. 81, dated 14.2.2023 "On the approval of the Intersectoral Strategy for the Prevention of Violent Extremism and the Fight Against Terrorism. Meanwhile, in this strategy, the concept of foreign fighters is defined as follows: *"Foreign terrorist fighters, individuals who travel to a country that is not their country of residence or citizenship, in order to commit, plan, preparing or participating in terrorist acts or providing or receiving terrorist training, even in connection with an armed conflict"*.

In Albania, the fight against terrorism has been assessed as a national priority. Albania was among the first countries that, in implementation of Resolution 2178 (2014), took concrete steps reflected in the national legislation. By amending the Criminal Code, it was aimed to strengthen the ability to address the problem of foreign terrorist fighters, considering it illegal and punishable, participation, organization or any incitement to participate in military actions of a foreign country.

Article 265/c of the Penal Code provides for the penalization and corresponding punishment for those persons who, in a public way, by any form, or means, call for participation in combative or violent actions provided as criminal offenses by Article 265/a.

This provision aims to penalize subjects who, through media bodies, online social forums or any other type of form, encourage subjects to commit the criminal offenses provided for by the above provision to commit the respective criminal offenses.

According to the European Commission, Albanian 2018 Report, out of 144 Albanian citizens who left for Syria, about 45 citizens have returned to Albania, and in this context, the challenge is the deradicalization and reintegration of foreign fighters after returning to their homeland. The danger posed by returned fighters consists of their potential connections with extremists in the region or Europe, in the connections they may have with extremists in conflict zones. On the other hand, returnees can be considered trained and experienced in the use of weapons and explosives, increasing the likelihood of terrorist activity within the country, or even in the region.

For this reason, initiatives, strategies and action plans of law enforcement institutions and intelligence services have been undertaken by the Albanian state, to assess any necessary information to prevent and draw up reintegration plans, especially for returned women and children.

4. The case of foreign fighters in Albania

In 2013, Albania, as well as several other countries in the region, such as Kosovo, Bosnia and Herzegovina, Montenegro, North Macedonia, or Serbia, faced a dangerous phenomenon, that of the departure of their citizens, to join the fighting in Syria. According to the reported data, about 144 citizens left Albania as foreign fighters in 2012 and 2015 (European Commission, 2018). Meanwhile, about 45 people returned within a few months, before the adoption of a law criminalizing the act in 2014 (BIRN, 2016).

On December 20, 2013, the Prosecutor's Office for Serious Crimes of Albania registered the criminal proceedings no. 275/2013, for the criminal offenses *"Recruitment of persons for the*

commission of acts with terrorist purposes or the financing of terrorism" and "Incitement, public summons and propaganda for the commission of acts with terrorist intent", provided by articles 231 and 232/a of the Criminal Code. The registration of this proceeding was made based on the letter of the General Prosecutor's Office of the Republic of Albania, through which was forwarded the information of the State Information Service for the referral of a criminal offense, where a group of people, who through religious beliefs were recruiting citizens, encouraging them to carry out various actions with terrorist purposes in Syria (Decision no. 58, dated 03.05.2016 of the Court of First Instance for Serious Crimes, of the Republic of Albania). Immediately after the registration of this proceeding, the Prosecutor's Office for Serious Crimes authorized some telephone and environmental interceptions to identify these persons, their involvement in criminal activities and taking preventive measure because of the danger that they presented for the public security. Data on the loss of life of some Albanian citizens, were confirmed during the first days of the investigation of this case. The first confirmation was the fact of the death of D. Rasha, former frequenter of the mosques in the "New Ring" and the one in Fushë Mezes, on the outskirts of the city of Tirana. From the investigative actions, as well as according to the information of the judicial police, it resulted that suspected author of this criminal proceedings no. 275, of the year 2013, have been identified as G. B, B. H and G. P, respectively heads of the mosques in the "New Ring", Fushë Mzeze and in the Musalana of Cërrik, with contacts and joint activities between them. Likewise, it has been documented the location of many people, some of whom had gone in Syria with their families, creating concerns for their relatives in Albania, especially for cases where heads of families were killed. In the first days of January 2014, were verified some frequenters of these mosques, among whom were citizens E. D and B. V, as new recruited persons, ready to go to Syria. From the documents in the criminal file, was proven that, even though the news of D.Rasha's death was recent and known by them, they obeyed the call of the suspects to go to Syria with the aim of participating alongside or as part of the groups fighting there to create and expand the Islamic state (Decision no. 58, dated 03.05.2016 of the Court of First Instance for Serious Crimes, of the Republic of Albania).

The Prosecution of Serious Crimes, after the end of the investigations, filed criminal charges against 9 defendants, involved in this criminal activity. The defendants were charged with three criminal offences: *"Recruitment of persons for the purpose of committing terrorist acts"*, provided for by Article 231 of the Criminal Code, *"Incitement, public appeal and propaganda for the commission of criminal offenses with terrorist purposes"*, provided for by Article 232/a of Penal Code, and *"Inciting hatred or strife between nations, races and religions"* provided for by Article 265 of the Criminal Code of the Republic of Albania.

During the investigation and the trial, the Prosecutor's Office and the Court of Serious Crimes of the Republic of Albania faced several procedural problems in this case. First, it was the fact that the defendants did not recognize the authority of the state and the court, since according to them they only know the Sharia, and they did not agree to defend themselves with lawyers, since their protector was Allah. The defendants in this trial pretended that they were only being punished for being Muslims and as such they are being punished for their ideology. They admitted during this trial that they had sent fighters to Syria, and they did so based on the obligations defined in the Qur'an, in which it is said that Jihad or the Holy War is an obligation for every Muslim. During the investigation and trial of this case, witnesses' evidence and written evidence were taken and examined. It was documented that several people recruited and who had fled to Syria, were called to the trial of this case as witnesses. During the investigation of the case, it was not possible to prove that these persons had committed terrorist acts, but they were qualified as victims of their recruiters, deceived and influenced in some cases by economic necessity, in some other cases, even by indoctrination religious. The persons

identified in this investigation, who fled to Syria and were involved in combat operations, have been killed. It is necessary mentioning the fact that the Albanian criminal legislation of the time, when these criminal offenses were committed, did not foreseen as a criminal offense the involvement of Albanian citizens in armed conflicts in other countries.

Analysing the cases dealt with in this criminal proceeding, gave us the possibility to know the origin and some of the reasons that led these citizens to the fighting in Syria. They mostly stemmed from social problems, which are not only found in rural areas, but also in the heart of the capital. In some cases, the recruiters took advantage of the religious piety of the victims, in some other cases, taking advantage of the difficult economic and family conditions of the recruits.

Meanwhile, several Albanian citizens recruited to Syria have been qualified by the Prosecutor's Office as witnesses and in some cases also as victims, as long as it was not proven that they had committed terrorist acts. From the data administered in the investigation file and reflected in the court decision no. 58 of 2016 of the Court for Serious Crimes, it results that in most cases, the recruited persons were unemployed, with economic and family problems. In all cases, the recruits questioned during this trial as witnesses, testified that their travel and other expenses were paid until they arrived in Syria.

The Court of First Instance for Serious Crimes of the Republic of Albania, with the Decision no. 58, dated 03.05.2016, sentenced to prison the 9 (nine) defendants. B.H, accused as the leader of the group, was sentenced to 18 years in prison, while G. P and G.B were sentenced to 17 years each. Z. I was sentenced to 16 years while V.M, O.R and E. B were sentenced to 13 years each. F.S was sentenced to 12 years while A. T was sentenced to 7 years. For them it was decided to serve the sentence in a high security prison, due to the social dangerousness of the criminal offences consumed. After their appeal, the Court of Appeal for Serious Crimes decided (The decision nr. no. 118, dated 30.11.2016) to uphold the decision no.58, dated 03.05.2016 of the Court of First Instance for Serious Crimes. The defendants appealed the case even in the Supreme Court. With the decision no. 00-2023-1559, dated 5.10.2023, the Supreme Court decided not to accept the appeal presented by some defendants, assessing that the decisions of the lower courts were regular in both formal and procedural aspects.

The defendants, in this criminal process, did not recognised the Constitution and the laws of the Albanian state, and rejected any state authority claiming that their prosecution and punishment was related to the fact of their being Muslims. One of the defendants, G. B, claimed innocence and referred to the Qur'an in his lectures; he claimed that helping and supporting the war in Syria was not terrorism, but helping and supporting the Muslim brothers; in his claims before the court, he emphasized that the charges against him and the other defendants represented a war against Allah. Regarding these claims, the Supreme Court, in the argumentation of the decision to dismiss the appeal by some defendants, stated that:

47. For the court, freedom of expression, freedom of conscience and religion represent fundamental human freedoms that are sanctioned in the Constitution of the Republic of Albania, in articles 21 and 24, while their exercise is realized through laws and by-laws issued in implementation of her. Even though the defendant G.B and the other defendants in the process do not recognize and do not want to recognize the Constitution as the fundamental law of the state, they cannot be unlimited in the exercise of their freedoms. Exercise of freedom of expression, conscience, religion, etc. it is possible within the limits of not harming the interest of other individuals and the public interest.

48. Through the lectures, despite the references in the Qur'an, the defendant, aiming through them to support terrorist groups or specific terrorist attacks, as in the case of the

attacks in Paris, seriously violated legal relations established for the protection of life, freedom of person etc. and, for the protection of the entire legal order. Through propaganda, writings, appeals, the defendant opposed and condemned inter-religious harmony as an added value of the Albanian people, thus violating the legal relations established for the protection, recruitment and equality of citizens. Through the organizational and management activity for the recruitment of persons with the purpose of their participation in terrorist groups, the defendant seriously violated the legal relations established for the prohibition of the recruitment of persons, with the purpose of including them in the composition of terrorist groups. The defendant G.B is not found guilty and is punished because he read the Qur'an and preached it but because, through his active and illegal actions, he violated legal relations specially protected by laws which he does not recognise and does not agree to apply”.

To avoid the criminal responsibility, the defendants have claimed that at the time of the recruiting facts, there was no terrorist group. Allegation, which the court had assessed as unaccepted, saying that: *"It is true that the UN Security Council, on 30.05.2013, through an amendment to Resolution 1267 (1999) and Resolution 1989 (2011) on Al Qaeda, added to the list of groups and organizations associated with Al Qaeda, also the Jabhat Al Nusra group, but before that, specifically on 11.12.2012, the US State Department, through an amendment to Executive Order no. 13224, dated 15.10.2004, listed it as a terrorist organization, while for the court, the terrorist activity is not considered to have started at the time of listing, because it had started before this moment.*

In the situation that at these organizations would not be listed as terrorist groups, the prosecution office would be in front of a legal gap for their criminal prosecution, because the Albanian legislation did not foresee a ban on the involvement of Albanian citizens in armed conflicts of another state.

This was one of the main reasons, that the Parliament of Albania in that period undertook an accelerated procedure, for the approval of some provisions in the Criminal Code of the Republic of Albania, prohibiting the involvement of Albanian citizens in the armed conflicts of another state. The amendment and additions to the Criminal Code were initiated by a group of deputies. The draft law was deposited in the Parliament of Albania on 25.02.2014. Changes and additions were approved by law no. 98, dated 31.07.2014 “On some additions to law no. 7895, dated 27.1.1995 “Criminal Code of the Republic of Albania”, as amended. These additions to the Criminal Code entered into force on September 3, 2014. Specifically, three criminal provisions have been added, article 265/a “*Involvement in military operations in a foreign state*”, the sentence for which is from five to ten years in prison; article 265/b “*Organizing the involvement in military operations in a foreign state*” the sentence for which ranges from eight to fifteen years in prison and article 265/c “*Call for involvement in violent military operations in a foreign state*” the sentence for which goes up to three years imprisonment.

These legal changes gave an immediate effect in reducing the number of people leaving for Syria. Referring to the statistical data of the prosecution office (2013-2023) there were only two cases of involvement in military operations in a foreign state, one in 2020 and one person in 2022.

In the tables of the statistical data are included:

1. Number of registered proceedings, which show how many legal cases were initiated under specific criminal offenses related to terrorism and involvement in foreign military operations.

2. *Number of defendants convicted*: This indicates how many individuals were convicted for each crime.

3. *Yearly breakdown*: Each year is presented as a separate row, which allows us to track trends over time, such as fluctuations in the number of proceedings or convictions.

The key statistical values from these tables are, *frequency* (how many times certain events (such as legal proceedings or convictions) occurred in each period (annually) and *trend analysis* (observing changes over time, such as the drop in convictions or registered proceedings from 2015 to 2022, signaling a reduction in such activities).

Table 1: *Statistical data of the General Prosecutor Office of Albania for the criminal offenses related to terrorism*

	Article 231 of CC Recruitment of persons for committing acts with terrorist intentions or financing of terrorism		Article 232 of CC Training to commit acts of terrorist intentions		Article 232/a of CC Incitement, public calls and propaganda for committing acts with terrorist intentions	
	Number of registered proceedings	Number of defendants convicted	Number of registered proceedings	Number of defendants convicted	Number of registered proceedings	Number of defendants sent for trial
Year 2023	0	0	1	0	0	0
Year 2022	0	0	0	0	1	0
Year 2021	0	0	2	0	9	1
Year 2020	0	0	0	0	6	2
Year 2019	0	0	2	0	0	0
Year 2018	0	1	0	0	0	0
Year 2017	0	9	0	0	0	0
Year 2016	1	0	0	0	3	0
Year 2015	0	0	0	0	5	10
Year 2014	0	0	0	0	0	0
Year 2013	0	0	0	0	1	0

Source: *Annual Report of the Prosecutor General Office of Albania (2012-2023)*, web: www.pp.gov.al

Table 2: *Statistical data of the General Prosecutor Office of Albania for criminal offenses related to involvement in fights in a foreign country.*

	Article 265/a¹ Involvement in military operations in a foreign state		Article 265/b Organizing the involvement in military operations in a foreign state		Article 265/c Call for involvement in violent military operations in a foreign state	
	Number of registered proceedings	Number of defendants convicted	Number of registered proceedings	Number of defendants convicted	Number of registered proceedings	Number of defendants convicted
Year 2023	0	0	0	0	0	0
Year 2022	1	0	0	0	0	0

¹ Criminal provisions were added by law 98/2014, dated 31.07.2014 "On some additions and changes to law no. 7895, dated 27.1.1995, "Criminal Code of the Republic of Albania", as amended

Year 2021	0	0	0	0	0	0
Year 2020	1	0	0	0	0	0
Year 2019	0	0	0	0	0	0
Year 2018	0	0	0	0	0	0
Year 2017	0	0	0	0	0	0
Year 2016	0	0	0	0	0	0
Year 2015	0	0	0	0	0	0
Year 2014	0	0	0	0	0	0
Year 2013	-	-	-	-	-	-

Source: Annual Report of the Prosecutor General Office of Albania (2012-2022) web: www.pp.gov.al

At the other hand, media has played an important role in raising awareness among citizens in Albania, facing the problem of some citizens leaving the country to join the fights in Syria. Media gave high importance to informing every day about the cases of citizens who went to Syria, the problems encountered and the consequences with loss of life and serious health damage. At the other hand, the media gave wide coverage to the criminal case of the 9 imams and their propaganda using religion as a form of recruitment to join the conflict in Syria. This helped as awareness for those people who were under the influence of their propaganda, but still not clear about what they were asked to do when leaving the country.

5. Conclusions

The phenomenon of a small but significant number of Albanian citizens leaving the country to join the fighting in Syria was a serious issue that was evaluated seriously by Albanian law enforcement institutions. The immediate initiation and registration of criminal proceedings in response to these activities marked an essential first step in curbing the recruitment for foreign conflicts. The initial step involved the immediate initiation of criminal proceedings, which were essential in curbing recruitment for foreign conflicts. The subsequent swift legislative intervention closed a legal gap by criminalizing the involvement of Albanian citizens in foreign military operations, proving to be an effective preventive measure. According to the Albanian Prosecution Office's statistical data (2013-2023), only two cases of involvement in military operations abroad were reported post-2015, reflecting the success of these legal reforms.

While these immediate legal responses have effectively limited the flow of foreign fighters, it is essential for Albania to build upon these legal measures by implementing more comprehensive, long-term strategies to address the root causes of radicalization and foreign fighter recruitment. The analysis of the case study indicates that many of the individuals who joined foreign conflicts were often facing socio-economic challenges such as unemployment, poverty, and limited opportunities, especially in rural areas. This highlights the need for Albania's policy framework to extend beyond criminal justice measures to more inclusive, preventive strategies. Specific policy recommendations include first implementing Long-term Social Integration Strategies. It is essential to complement criminal measures with robust social policies aimed at reducing unemployment and improving social mobility, especially in rural areas where economic opportunities are limited. Creating job opportunities and vocational training programs targeted at young people and individuals from disadvantaged communities can reduce the appeal of extremist ideologies by offering constructive alternatives to joining foreign conflicts.

Prevention through education is a critical tool in combating radicalization. Albania should invest in comprehensive educational initiatives and awareness campaigns targeting vulnerable groups, especially young people. Schools, universities, and community centers should be equipped with programs that address radicalization, promote critical thinking, and highlight the dangers of foreign conflicts. These programs should also incorporate the experiences of those who returned, especially women and children, to share real-life stories and lessons learned from the consequences of joining such movements.

Strengthening the role of community engagement and local authorities should be an institutional priority in this aspect. Local governments and community leaders play a critical role in preventing radicalization by fostering environments of inclusion, tolerance, and social cohesion. Policymakers should invest in community-based programs aimed at preventing alienation and creating spaces for open dialogue about grievances, fears, and ideological challenges. This will be particularly important in rural areas where people may feel isolated or marginalized.

The reintegration of returnees, particularly those involved in foreign conflicts, is a key aspect of long-term prevention. Albania should develop tailored reintegration plans that include psychological support, educational opportunities, and vocational training to help returnees rebuild their lives. Special attention should be given to women and children, addressing their unique needs and ensuring they receive tailored support to reintegrate into society successfully. This approach will prevent stigmatization and aid their transition back to normal life, reducing the risk of re-engagement in extremist activities.

At the other hand, Albania should continue to collaborate with international organizations, neighboring countries, and intelligence agencies to share best practices, gather information, and coordinate strategies to prevent radicalization and combat the foreign fighter phenomenon. By strengthening international partnerships, Albania will improve its capacity to respond to evolving challenges in an increasingly interconnected global context. This collaboration will be critical in identifying emerging threats and ensuring a coordinated approach to countering radicalization.

To enhance the legal framework for addressing foreign fighters, Albania should consider ratifying international agreements, such as the UN Convention against the Recruitment, Use, Financing, and Training of Mercenaries (1989). Ratification of this convention would provide Albania with a solid international legal foundation to more comprehensively address the issue of foreign fighters, aligning its domestic laws with global standards and reinforcing the country's commitment to countering terrorism and extremism.

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