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5. Terrorists’ acquisition of firearms and explosives: criminal, legal and grey sources

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1. INTRODUCTION

Terrorist acquisition of weapons and explosives has become an increasing concern for authorities across the globe, particularly since suicide attacks emerged as a mode of operation. Small arms have long been terrorists’ weapons of choice, but using assault rifles to kill as many civilians as possible, instead of applying them to target specific individuals or to threaten hostages, is a relatively new tactic. Also, the use of explosives is now, more than in the past, primarily aimed at causing mass victimization. Such tactics were seen in the attacks in Mumbai in 2008, Paris in 2015 and Sri Lanka in 2019, in which assault rifles as well as explosives were used, and in the bomb attacks of 2004 in Madrid, 2005 in London and 2016 in Brussels.

Experience of past attacks in the European Union (EU) has demonstrated that terrorists are able to acquire a range of different firearms, including military assault rifles and, in particular, Kalashnikov-type rifles (Duquet and Goris 2018). Consequently, policy-makers have responded with measures to prevent terrorist access to illicit firearms and explosives, including raw materials suitable for constructing improvised explosive devices (IEDs).

Terrorists mainly acquire and use what are defined as ‘small arms and light weapons’ (SALW). Small arms are, broadly speaking, weapons designed for individual use. They include, inter alia, revolvers and self-loading pistols, rifles and carbines, sub-machine guns, assault rifles and light machine guns. Light weapons are, generally, weapons designed for use by two or three persons serving as a crew, although some may be carried and used by a single person. They include, inter alia, heavy machine guns, hand-held under-barrel and mounted grenade launchers, portable anti-aircraft guns, portable anti-tank guns, recoilless rifles, portable anti-tank missile launchers and rocket systems,
portable anti-aircraft missile launcher systems and mortars of a calibre of less than 100 millimetres (United Nations 1997).

Explosives may be used to construct bomb vests and car, truck and parcel bombs, but they may also be hidden in suitcases and other smaller items that a single person can carry and deploy. In the Boston Marathon attack in 2013, for example, the two terrorists used pressure cookers which had been converted to IEDs.

The media usually reports which types of weapons were used in terrorist incidents, but it is more difficult to acquire a complete picture of how these firearms and explosives were obtained. The main reason is that most acts of terrorism occur in Asia (Iraq, Afghanistan, Pakistan) and Africa (Nigeria, Mali, Somalia), where arms are abundantly available because of ongoing conflict or thriving black markets. In most of these cases, little to no public information is available on how terrorists acquired their weapons. Generally, when firearms and explosives have been acquired on the black market it is not always possible for investigative authorities to identify and prove who supplied them. Inevitably, the picture we will draw in this chapter is, to some extent, incomplete and based on case examples rather than statistics.

In this chapter we address three topics. First, we will look in detail at the pathways through which different types of terrorist groups have acquired weapons and explosives in the past and present. Next, we will delve deeper into the role of the criminal underworld as a source of weapons and explosives related to the more recent terrorist attacks in the EU. Weapons may also be transferred from terrorist groups to the criminal underworld, or used in both domains. Finally, we address the legal and practical initiatives that have been taken to prevent the diversion of weapons and explosives to the criminal underworld and conflict zones across the world.

2. WEAPONS, EXPLOSIVES AND TERRORISTS: PAST AND PRESENT

Dealing in weapons and explosives is regulated rather than criminalized, and therefore trading can be both legal and illegal. To begin with, the legal or ‘white’ market comprises an estimated 80 to 85 per cent of the global trade in weapons and explosives. Next, about 10 to 15 per cent of the market is considered ‘grey’; this refers to firearms which governments supply covertly to insurgent groups in other countries, which are not entitled to procure weapons on the open market. Finally, some 5 per cent of arms deals take place on ‘black’ markets (Small Arms Survey 2001, p.165). Although these estimates include the trade in explosives and ammunition, little specific information on these categories is available. In this section we distinguish five main sources of weapons and explosives: legal acquisition of firearms and construction of
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improvised explosive devices from legal components (section 2.1); ‘grey’ supply by foreign regimes (section 2.2); exchange of weaponry between different terrorist groups (section 2.3); theft from legitimate owners and battlefield capture (section 2.4); and acquisition on the black market (section 2.5). Specific terrorist groups may, of course, obtain firearms and explosives from different sources simultaneously; suppliers may also change over time.

2.1 Legal Acquisition

Obviously, terrorists may have little trouble acquiring a firearm in countries where it is easy to purchase them legally. Gaining legal access to explosives is more complicated, as it would require a business in, for instance, the mining industry or another sector where explosives are commonly used. It would be difficult to establish such a company in preparation for a terrorist attack.

Terrorists sometimes use legally acquired firearms in attacks. The attacker who killed 77 people in Norway in 2011 legally obtained his Glock pistol and a semi-automatic rifle for sport shooting and hunting, respectively (Duquet et al. 2019). A second example is the 2017 Las Vegas shooting, where police found 23 firearms in the hotel room from which the perpetrator killed 58 people and wounded 422. At least a dozen were semi-automatic rifles modified to fire like automatic weapons (Horton 2017). In March 2019, another gunman killed 50 people in Christchurch, New Zealand. He had legally purchased five firearms, including two semi-automatic ones. In many parts of the world, a common policy reaction after public mass shootings with legally obtained firearms is to make it more difficult to legally possess certain types of firearms. After the Christchurch shooting, for example, most semi-automatic firearms and specific types of shotgun, as well as certain large capacity magazines, were banned (CNBC 2019).

The possibility of terrorists manufacturing firearms from legal components is an issue of concern for security forces and law enforcement agencies. Improvised and craft-produced SALW are, indeed, widespread in many parts of the world, even if they account for only a small fraction of global holdings (Hays and Jenzen-Jones 2018). Terrorists have used such weapons (see below), but few cases are known in which they manufactured firearms themselves or converted de-activated and blank-firing guns. It may, however, become easier to do so in the future, through the use of techniques such as 3D printing and because of the availability of detailed instructions on the internet.

The right-wing terrorist attack on the synagogue in Halle, Germany in October 2019, for example, was carried out by a perpetrator who used firearms that he assembled with 3D-printed firearm components (Dearden 2019).

Terrorists have regularly manufactured explosives from legal raw materials. Information on which products contain the necessary chemical components,
as well as how to construct an IED, is not difficult to find in the shady corners of the internet. Such devices have been used on numerous occasions, albeit mainly in Europe and the United States. However, in locales such as Iraq and Afghanistan, tinkering with chemicals is not necessary because military-grade explosives are readily available. Homemade explosives are often composed of triacetone triperoxide (TATP) or hexamethylene triperoxide diamine (HMTD) as the primary ingredients (Gibbons-Neff 2016). TATP was, for instance, used in the failed attempt by ‘shoe-bomber’ Richard Reid in 2001, and during the attacks in London (2005), Paris (2015) and Brussels (2016).

Although the chemicals that make up TATP, such as concentrated hydrogen peroxide and acetone, are easy to procure and the resulting explosive material is very potent, TATP is also highly unstable and prone to detonate prematurely. For example, in August 2017 things went wrong for the group that committed the attack in Barcelona several days later, when a premature detonation destroyed the house in which they were constructing IEDs. It killed two of its members, including their alleged leader (The Guardian 2017). Although some bomb-makers use manuals to construct their devices – the brothers responsible for the Boston Marathon attack in 2013 being one example – experts believe that others have learned the trade from experts in former and active conflict areas, such as Syria, Iraq and Afghanistan. One example of this was Najim Laachraoui, who was suspected of manufacturing the bombs used in Paris and Brussels (Gibbons-Neff 2016).

Potential terrorists who order large amounts of dual use substances for which they have no apparent legitimate purpose must ensure that they do not attract attention. Breivik, for example, rented a farm to legitimate the buying of large amounts of fertilizer and other chemicals. He also ordered small quantities of chemicals online in Norway, the United Kingdom and Poland. However, the latter purchase did indeed alert Norwegian Customs, because the chemical could be used as a detonator. The alert was, however, not followed up in time.

2.2 ‘Grey’ Supplies

The next option for terrorist groups to obtain firearms and explosives is through supplies from governments that support their cause, or that simply aim to destabilize the countries in which these groups operate. Of course, State actors will usually go to great lengths to conceal such arms transfers, for instance, by using private arms brokers and by creating complex logistical chains and paper trails in order to prevent shipments from being linked to them. As such, it is usually difficult to find proof of ‘grey’ arms supplies.

From the 1980s until the Good Friday Agreement of 1998, the Provisional IRA was one of the most well-armed groups in the world, and had obtained weapons and explosives from a variety of sources. It possessed hundreds of
assault rifles of diverse manufacture, such as the Belgian FN FAL, the German Heckler and Koch G3 and a variety of weapons designed in Russia, including AK47s, 12.7mm DShK heavy machine guns, RPG7 anti-tank rocket launchers and even a small number of SA-7B ‘Grail’ surface-to-air missiles, although the latter were never used. Explosives in its inventory included grenades and no less than two and a half tonnes of Semtex. It later became evident that the bulk of these weapons were donated by Libyan leader Colonel Gaddafi from stocks of the Libyan armed forces, and smuggled to Ireland in the mid-1980s (Sagramoso 2001). At present, however, there are no indications that there are government-sponsored arms transfers to terrorist groups operating in Europe (Duquet and Goris 2018).

A second example is rebel groups operating in the Sudanese region of Darfur. In the mid-2000s the Khartoum government accused a range of countries, including Eritrea, Chad, Libya, Israel and Uganda, of secretly supplying those groups with arms and ammunition. Some of these claims – shipments from Israel, for example – were rather weakly underpinned, if at all. Evidence that weapons were supplied to rebels in Darfur from Eritrea and Chad was more substantial. Relationships between both countries and Sudan had generally been hostile and all three countries have hosted, trained and equipped their enemies’ respective insurgent groups (United Nations 2006, p.27; Flint and de Waal 2008, p.207). Another explanation for Chadian involvement is the fact that the Zaghawa and Masalit tribes live on both sides of the border and relatives in Chad and Darfur help each other whenever necessary. The long and sparsely controlled border further eased arms trafficking (Spapens 2009).

A final example concerns Pakistan. The country has been associated on several occasions with supporting foreign terrorists in various ways, for instance, by tolerating preparatory activities on Pakistani territory. Before the 2001 attacks on the World Trade Center in New York, members of Al Qaeda had allegedly been allowed to operate freely in the country, acquire funds from State and non-State actors, access arms and munitions, train combat skills, move freely around the world and recruit openly for jihad (Khan 2005). There are also allegations that the Pakistani secret service was involved in the 2008 terrorist attacks in Mumbai. In 2016 a person who had helped to plot the attacks stated that he had met, throughout the process, with two handlers from the Inter-Services Intelligence directorate of Pakistan (ISI). He also stated that Lashkar-e-Taiba, the group that had been responsible for the attacks, operated under the umbrella of the ISI, and that in 2006 an agency official had offered to pay him to carry out reconnaissance trips to India before the attacks (Bari and Kumar 2016). Pakistan facilitated Lashkar-e-Taiba, for instance by allowing training camps in Kashmir, and failed to take action against leaders of the group whom the governments of India and America suspected of involvement. However, no hard proof materialized that ISI had masterminded the Mumbai...
attacks. Pakistan’s authorities have vehemently denied such accusations (Perlez and Masood 2008).

2.3 Cooperating Terrorists

Terrorist and insurgent groups may also supply each other with firearms and explosives. As early as the 1970s, groups such as the German Rote Armee Fraktion (RAF), the Popular Front for the Liberation of Palestine (PFLP) and the Japanese United Red Army (URA) cooperated in this respect. In 1970, for example, several members of the RAF went to Jordan for training in a camp run by the PFLP. At around the same time, the PFLP started supplying the URA with weapons and training. In 1972 three URA members attacked the Tel Aviv airport, killing 26 and wounding 80 people (Francis 1978).

More recently, Al Qaeda in the Islamic Maghreb (AQIM) has been supplying weapons, explosives and financial support to Boko Haram in Nigeria. A United States military commander in Africa stated that Boko Haram members had also travelled to AQIM training camps in northern Mali (Schmitt 2012).

Another example involves the government of Sudan, which claimed that the SPLA, which was at the time itself a rebel group fighting for the independence of South Sudan, had also delivered arms to its Darfur counterparts. A UN Panel of Experts indeed concluded that this had been the case in the 1990s, before the conflict had escalated (United Nations 2006). Flint and De Waal (2008, p.89) also mention contacts between the leaders of Darfur and South Sudan rebel groups. During these talks, the latter apparently expressed their willingness to provide arms. There is, however, no proof that systematic shipments had been organized.

Finally, the Easter attacks in Sri Lanka in April 2019 were committed by members of a small, disorganized group of Islamic radicals, the National Towheed Jamaat (NTJ), which had no history of lethal violence. It was therefore immediately assumed that the group had received support, training and possibly also weapons and explosives from abroad, to be able to prepare and execute such a complex operation. The attacks would not have been possible without reconnaissance of targets, bomb-making skills, safe houses, explosives, vehicles and coordination (Burke 2019). The Indian security agencies had apparently warned the Sri Lankan authorities after they had arrested a person who claimed to have trained members of the NTJ and forewarned that the attack was imminent (Gettleman et al. 2019). Although Islamic State claimed responsibility for the attack, this has yet to be confirmed. However, it is not uncommon for an international terrorist network to ‘subcontract’ an attack to local fanatics. In 2016, for example, the so-called Holy Artisan Bakery attack in Bangladesh was planned and coordinated by a Canadian of
Bangladeshi descent who was allegedly a member of Islamic State (Manik and Najar 2016). Islamic State also claimed responsibility for an attack on a Roman Catholic cathedral on the Philippine island of Jolo in January 2019 (Al Jazeera 2019). It must be noted that Islamic State regularly claims responsibility for attacks. However, it is difficult or impossible to prove if the group was indeed responsible for these.

2.4 Theft from Legitimate Owners and Battlefield Capture

There are many examples of terrorist groups obtaining weapons and explosives through theft. Firearms may be stolen from government agencies, such as the army or the police, but also from private owners.

Theft appears to be particularly important for already well-armed insurgent groups. It enables them to combine attacks on adversaries with the capture of new arms, ammunition and other equipment. In Darfur, for example, rebels seized thousands of firearms, as well as fuel, food and other supplies, during a range of attacks on police stations and military installations between February and April 2003. One rebel group claimed that it had captured ‘some 90%’ of its armament from Sudanese army barracks (Amnesty International 2004, p.34). Another group, the Lord’s Resistance Army (LRA), which operated in various African countries and was particularly notorious for abducting children and training them as soldiers, obtained weapons and ammunition by raiding local defence forces and army units. However, the LRA was active in regions which were literally awash with firearms and could also buy them from the civilian population, which was easy because ‘everyone had a gun’ (Small Arms Survey 2006).

More recently, Boko Haram captured most of its weapons from Nigerian military stocks. The group routinely raids police stations and military bases in search of weapons. Allegedly, sympathizers in the Nigerian military sometimes provide help. AQIM also regularly attacks police movements such as convoys, search operations and patrols, as well as military and police facilities. These include barracks, guard stations, police stations and headquarters buildings, which are often attacked with mortars, RPGs and explosives (Toney 2013). In addition, a detailed report by Conflict Armament Research on the arsenal of fighters of the Islamic State in Iraq and Syria indicated that this group recovered a significant share of their weapons, including firearms, from the national stockpiles of the Iraqi armed forces (Conflict Armament Research 2017).

Finally, in Europe, in 1999 the Basque terrorist group ETA stole no less than eight tonnes of Titadyn 30A commercial dynamite from a factory in Brittany where it was manufactured (Sagramoso 2001). It later transpired that, in this operation, ETA had cooperated with the Breton Revolutionary Army (ARB) (Expatica 2005). ETA used Titadyn explosives in numerous bomb attacks
and the type became a trademark of its involvement. A significant share of the firearms and ammunition held by ETA was the result of targeted thefts. In 2006, for example, ETA stole more than 400 handguns and 60,000 rounds of ammunition from a local firearms retailer (Florquin and Desmarais 2018).

2.5 Acquisition on the Black Market

Finally, terrorist and insurgent groups may acquire weapons and explosives on the black market. As explained above, in active or former conflict zones in Africa, the Middle East and Asia, large numbers of firearms are in the illegal possession of the population and terrorists will have little difficulty in finding someone who sells military-style weapons, such as Kalashnikov-type assault rifles. Small-scale or ‘ant trafficking’ of arms and other goods is common practice in remote border areas (United Nations 2004, p.11). Boko Haram, for instance, purchased small arms and occasionally some larger weaponry in Libya and possibly in Chad (United Nations 2012).

Arms trafficking may, however, also be more organized. For example, after the Libyan government lost control of its stockpiles in 2011, weapons started to flow across the region. In Niger, convoys transporting mainly small arms, light weapons and ammunition as well as Semtex explosive were regularly intercepted in the north of the country on their way to Mali (United Nations 2012). In 2014, Libya was identified as the primary source of materiel for terrorist groups in Mali (United Nations 2015, p.133). These groups often sent members into Libya with shopping lists of materiel, though they also relied heavily on criminal trafficking networks to replenish their arsenals (De Tessieres 2018, p.45). Thus, while small arms had previously been widely available in Nigeria and Chad, the collapse of Libya further flooded the market (Windrem 2014).

In Europe, terrorists who have no legal access to firearms mostly rely on contacts in the criminal underworld. Criminals may steal the weapons from their legal owners, obtain them from stockpiles abroad, divert the weapons directly from factories, convert them from deactivated and blank-firing weapons and, occasionally, manufacture firearms themselves (Spapens 2007). Sometimes weapons are obtained illegally with help from sympathizers. The Provisional IRA, for instance, also received handguns and other weapons from supporters in the United States, who sent the weapons to Ireland in postal packages (Sagramoso 2001).

When it comes to explosives, criminals may also be able to buy these illegally. A well-known example is the 2004 Madrid train bombings, in which terrorists were able to buy the materiel from a group of thieves who had stolen it from a mine in northern Spain (Expatica 2006). Smaller explosive devices,
such as hand grenades, can usually be obtained in the criminal underworld (Duquet et al. 2018).

3. THE ROLE OF THE CRIMINAL UNDERWORLD IN THE EU

In recent years, terrorists have used firearms and explosives to carry out several high-profile attacks in Europe. The Global Terrorism Database, for example, recorded 98 separate terrorist attacks with firearms in the EU between 2012 and 2016 (Duquet and Goris 2018). In recent years, law enforcement agencies across Europe have seized significant numbers of firearms during counter-terrorism operations (Duquet 2018). Until a few years ago, little research had been carried out on terrorist access to certain types of weapons (Savona and Mancuso 2017). A recent comparative study on terrorist access to illicit firearms markets across Europe (Duquet and Goris 2018), funded by the European Commission, has altered this picture and provided much insight into the crime–terror nexus with regard to firearms acquisition in Europe. In this section we will briefly describe the role of the criminal underworld in providing terrorists with access to firearms and explosives in Europe.

Illicit firearms markets in the EU are traditionally closed markets which only those with the right connections and reputations can access. Sophisticated firearms, such as military-grade assault rifles and sub-machine guns, are frequently only accessible to a limited number of criminals, even in countries with relatively high levels of illicit firearms proliferation (Duquet and Goris 2018). In particular, Islamist terrorist networks in Europe have relied on members with criminal pasts, who used their connections in the criminal underworld to acquire firearms. Such connections have also been observed between right-wing extremists and outlaw motorcycle gangs, for example, in Denmark (Europol 2012).

The overwhelming majority of perpetrators of recent jihadi terrorist attacks who had a criminal history were not involved in organized crime but instead in lower-level criminality – usually drug dealing and property crime, and sometimes armed robbery. Such activities, and stints in prison, helped to establish their contacts in the criminal underworld, through which they were able to acquire firearms. One example is the El Bakraoui brothers, two of the perpetrators of the Brussels attacks of 22 March 2016 that killed 32 people in suicide attacks using explosives at Brussels Airport and in the Brussels metro, who had been part of a network of violent criminals involved in armed robberies and violent car-jackings. It is generally believed that the brothers used their criminal contacts to obtain the firearms used in these terrorist attacks. The brothers also supplied firearms to the perpetrators of several other terrorist incidents in the EU (Duquet and Goris 2018).
Terrorists may have also learned how to use these weapons through their criminal activities (Basra et al. 2016). In some cases, terrorist groups have committed ordinary crimes to acquire funding for their activities, including for buying illicit firearms. For example, the former IRA and the Partiya Karkaren Kurdistan (PKK) allegedly used revenues from drug trafficking to financially support their cause (Curtis and Karacan 2002). However, there are also examples of terrorists who did not have criminal records but were still able to acquire firearms in the criminal underworld. In the foiled plot to carry out a drive-by shooting targeting policemen or soldiers in London in 2014, the prospective terrorists did not have a street-crime profile, but obtained weapons via a low-level street criminal in their community (Savona and Mancuso 2017). Another example is Mohammed Merah, the perpetrator of the 2012 Toulouse-Montauban attacks, who bought an Uzi sub-machine gun, ammunition and a bulletproof vest from his childhood friend Fettah Malki, who was involved in small-scale drug dealing and fencing of stolen goods (Florquin and Desmarais 2018).

Illicit arms dealers usually sell firearms to various buyers, not exclusively to terrorist networks. In the EU, trafficking and dealing in illicit firearms is a relatively small-scale criminal activity and dealers either sell arms to a wide range of customers in the criminal underworld or combine the arms trade with more profitable illegal activities (Spapens 2007; Spapens 2017; Duquet and Goris 2018). Law enforcement officials believe that the criminal gun dealers who sell firearms to terrorists are frequently not aware of the buyers’ terrorist intentions. Moreover, there are indications that illicit arms dealers are indeed reluctant to sell weapons to terrorists because the risk of being apprehended, as well as of receiving harsher punishment, increases when the firearms are intended for or used in a terrorist attack (Duquet and Goris 2018).

Terrorists tend to prefer assault rifles, but in most European countries these weapons are rather difficult to acquire, with access generally restricted to mid- or high-level criminals. Europol does, however, observe wider availability of assault rifles smuggled from the Western Balkans. The AK47s that were used in the Paris attacks of 2015 had been deactivated in Slovakia to be sold as decoration weapons. Criminals quickly detected that the weapons could easily be reconverted to lethal firearms, after which these Kalashnikovs increasingly turned up in, for instance, the Dutch and Belgian criminal underworld. Stricter EU regulation of deactivation procedures has helped to reduce the risk of ‘recycling’ (Duquet and Goris 2018).

In several cases terrorists have used low-quality firearms, such as converted alarm weapons (Duquet and Goris 2018). Alarm weapons, also referred to as ‘blank-firing firearms’, are portable devices that fire blank, non-bulleted cartridges. In outer appearance these are almost exact copies of the lethal varieties of the same mark and type, and therefore distinguishing between
them is difficult (Florquin and King 2018). Because alarm weapons’ components have not been manufactured for discharging lethal ammunition, there is a high risk of malfunction, or even explosion of the weapon (Spapens 2007). However, several Turkish manufacturers produce high-quality alarm weapons of stronger materials, which can be easily converted, and in recent years these conversions have proliferated in Europe (Florquin and King 2018). Converted alarm weapons often work with small-calibre ammunition; they are effective only at close range, and the above-mentioned risks increase with every shot fired. Therefore, such firearms are not very attractive for terrorist use, unless in, for instance, targeted close-range assassinations. Finally, the police and intelligence services have been worried about illicit arms dealing on the dark web. As terrorists have mostly relied on direct connections in the criminal underworld up to this point, ordering firearms online appears to be relevant only for those who lack access to illicit arms dealers. Buying a firearm on the dark web is, however, not impossible, as is illustrated by the public mass shooting in Munich, Germany in July 2016. In this case the 17-year-old perpetrator had contacted an illegal supplier through the dark web, who sold him a pistol and hundreds of rounds of ammunition (Duquet et al. 2019).

The link between acquisition of explosives and the criminal underworld has been minimally researched. We do know that commercial and military explosives are sold in the criminal underworld. For instance, Dutch criminals have been found in the possession of commercial explosives – used, for instance, to blow up ATMs – as well as military explosives, such as hand grenades (Boerman et al. 2017). In the EU there are, however, no recent examples of such explosives being used in terrorist attacks.

4. INITIATIVES TO PREVENT ACQUISITION OF FIREARMS AND EXPLOSIVES

The past decades have seen a range of different initiatives to prevent acquisition of SALW – the instruments are less specific when it comes to conventional explosives – by actors who are not legally entitled to possess these arms. Such initiatives have been taken both at the global and the regional levels. Normative frameworks specifically designed to curb terrorist access to these weapons are limited. Most developed frameworks are aimed at, on the one hand, preventing export of weapons to conflict zones and to regimes that might violate human rights, and, on the other, preventing members of the criminal underworld and other non-State actors from obtaining firearms. This section briefly discusses the initiatives of the United Nations (UN) at the global level, and goes on to address in more detail EU policies regarding weapons acquisition in the context of terrorism.
4.1 Initiatives in the Context of the United Nations

The topic of conventional weapons appeared on the agenda of the UN in the early 1990s. A first result was Resolution 46/36 (A-L) on General and Complete Disarmament, which was signed in 1991. It called for the establishment of a universal and non-discriminatory register to include data on international arms transfers, which came into effect on 1 January 1992. This enables the member states to provide import and export data annually on seven categories of conventional heavy equipment, such as battle tanks and combat aircraft, but it does not include SALW. There is, however, no obligation for the member states to report, and in 2016 only 45 filed a report to the UN Office for Disarmament Affairs (UNODA) (Ploumen and Koenders 2017, p.22).

In 2001, a second political agreement was concluded: the UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects (UN PoA). In the context of terrorism, the Programme is more relevant, because it includes the category of weapons most often used by terrorist and insurgent groups, and also expands registration to non-State actors. Key commitments related to information gathering and exchange, combating illicit manufacturing, enacting national legislation to control production and transfers of SALW, better identification and tracking of new weapons, improving security of weapons stockpiles, implementing post-conflict disarmament and destroying surplus arms that constitute stocks that are vulnerable to theft or other diversions (Bourne 2014). Although the UN PoA is thus quite comprehensive on measures to prevent the leaking of weaponry to insurgent groups in particular, it also has its weaknesses. For example, it contains no adequate definition of small arms and light weapons (Depauw and Baum 2016, pp.30–2). The crucial topic of ammunition is not addressed at all. And once again, the document is non-binding. Five years after the UN PoA was agreed upon, some countries had implemented almost all of its provisions, but no fewer than 55 member states had, at the time, not filed a single annual report on their progress (Kytömäki and Yankey-Wayne 2006).

Also in 2001, the UN Convention against Transnational Organized Crime was agreed upon. This legally binding treaty included the Protocol against the illicit manufacturing of and trafficking in firearms, their parts, components and ammunition. The Protocol specifically aims at promoting, facilitating and strengthening cooperation among States Parties. Member states are obliged to adequately criminalize firearms offences and enable confiscation, seizure and disposal. Preventative measures are included in the shape of provisions on record-keeping and marking as well as de-activation of firearms, and implementation of licensing or authorization systems for export, import and transit of weapons, as well as exchange of relevant information and cooperation. Finally, the Convention obliges the parties to establish a system for regulat-
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ing the activities of those who engage in brokering. Especially when seen in combination with the UN PoA, the Protocol can be considered as another step forward (Depauw and Baum 2016, p.34). However, it includes no provisions which expressly prohibit the export of firearms in specified circumstances, or obligations to conduct a risk assessment as part of an export licensing decision (Parker 2013).

Next, the International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons – also known as the International Tracing Instrument (ITI) – is worth mentioning. It was adopted in 2005 and its main purpose is to promote the development of international marking, record-keeping and tracing measures. The ITI has mainly been criticized because it is not legally binding and does not include ammunition, as well as for defining marking and record-keeping as national prerogatives and for lacking an effective implementation mechanism (Gramizzi 2014).

The Arms Trade Treaty (ATT) is a multilateral convention that regulates the international transfer of conventional arms, including SALW. The ATT establishes legally binding commitments governing the international trade – comprising the export, import, transit, transhipment and brokering – of conventional arms, including SALW (Parker and Wilson 2016). The strong point of the ATT is that it establishes detailed arms export licensing criteria and does include ammunition and parts and components, and thus expands existing provisions in the UN PoA and the Protocol. The ATT is also legally binding. Its main weakness is that parties that act in violation of the treaty cannot be sanctioned (Amnesty International 2015).

In 2017, the UN Security Council adopted Resolution 2370 on preventing terrorists from acquiring weapons. This resolution noted that all states should undertake appropriate measures, consistent with international law, to address the illicit trafficking in SALW, in particular to terrorists, and urged states to undertake the necessary steps to eliminate the supply of weapons to terrorists by taking appropriate legal action against those persons knowingly providing weapons to terrorists, by ensuring proper physical security and management for stockpiles of SALW, by encouraging the marking and tracing of SALW and by strengthening the necessary judicial, law enforcement and border control capacities and developing capabilities to investigate arms trafficking networks to address the link between transnational organized crime and terrorism.

Overall, we may conclude that the provisions laid down in the instruments described above would, as such, enable the prevention, to a large extent, of illegal arms transfers and trafficking. However, their effectiveness does depend on adequate implementation and the motivation of member states to actually enforce the instruments. And of course, as was mentioned above,
terrorists constitute a specific target group in the context of weapons and explosives and do require targeted attention. Next, we will look into the efforts of the EU in this respect.

4.2 EU Policies

Counter-terrorism is undoubtedly one of Europe’s major security priorities today. Although several EU member states have been confronted with terrorist incidents and groups for many years, the focus on European cooperation to prevent and combat terrorism is relatively new. For a long time, terrorism was mostly dealt with by member states as a domestic problem within the confines of their national borders. In the 1970s the first organized attempts to work together in the fight against terrorism could be observed in Europe. One of the early, and most important, forms of such cooperation is the TREVI group, formed in 1976 by European justice and interior ministers. Under this inter-governmental constellation police officials exchanged information and provided mutual assistance on terrorism and related international crimes, including efforts to better control firearms trafficking (Fijnaut 2019). The TREVI group functioned until its activities were integrated into EU policies following the 1992 Maastricht Treaty.

In recent years, EU policies to combat terrorism and to prevent firearms ending up in unauthorized hands have become increasingly intertwined. Increased policy attention to illicit firearms trafficking is strongly connected to a number of high-profile public mass shootings and terrorist attacks using firearms in Europe, such as the Paris attacks in 2015. A similar development can be observed in EU counter-terrorism policy. In the past two decades counter-terrorism has become one of Europe’s major security priorities, and various measures have been taken to prevent terrorist attacks and to improve cooperation between EU member states on this security phenomenon. As mentioned, EU member states first took a number of systematic initiatives to improve counter-terrorism cooperation in the 1970s, but they continued to consider terrorism primarily as a domestic problem and protected their national sovereignty when dealing with sensitive security issues. This gradually changed after the abolition of internal EU border controls. Member states increasingly accepted the need for more formal and concerted efforts to prevent and combat crime at the European level. Yet, counter-terrorism and more concerted European efforts to combat terrorism only became a top security priority in the EU after the terrorist attacks in the United States on 11 September 2001, gaining additional momentum in the wake of major terrorist incidents on European soil such as the bombings in Madrid in 2004 and in London in 2005 (Duquet and Goris 2018). Terrorist attacks in Europe also shifted the perception of terrorism from mostly an external threat to a domestic problem, since
the perpetrators of these attacks were not linked to international terrorist networks, but were home-grown and operated relatively independently (European Parliament 2017). In the 2005 EU Counter-terrorism Strategy, the European Council developed a more streamlined counter-terrorism policy in a single referential framework (Coolsaet 2010; Bures 2011). The Council explicitly noted the objective to combat terrorist access to firearms and explosives (Council of the European Union 2005).

Since the Madrid and London terrorist bombings in 2004 and 2005, the EU has taken various measures to prevent terrorists gaining access to firearms and explosives (European Commission 2005). In 2007 a Justice and Home Affairs (JHA) Council meeting was specifically dedicated to limiting the availability of arms and explosives to terrorists and criminals (Council of the European Union 2007a). Given the modus operandi of the Madrid and London attacks, the initial policy focus was mainly on explosives. Yet, illicit firearms trafficking increasingly gained policy attention. At the JHA Council meeting in 2007, the Council developed initiatives specifically targeting illicit firearms trafficking for criminal purposes, seeking to improve international law enforcement cooperation by proposing actions such as the adoption of standard procedures in member states for cross-border enquiries by police authorities in investigations of the supply channels of seized crime-related firearms (Council of the European Union 2007b). In 2010 illicit firearms trafficking was recognized as one of the main crime-related risks and threats facing Europe in the 2010–2014 Internal Security Strategy (Council of the European Union 2010a), and the Council adopted a European Action Plan to combat illegal trafficking in ‘heavy firearms’ for criminal purposes (Council of the European Union 2010b). Illicit firearms trafficking within and into the EU remained a key EU security concern and several initiatives were prepared to better regulate the legitimate market in firearms as well as to better combat illicit firearms trafficking. Various high-profile terrorist attacks involving firearms (and explosives) in Europe in 2015 strongly accelerated adoption of these initiatives (Duquet and Goris 2018). In the 2015 European Agenda on security, discussion of illicit firearms trafficking linked to the terrorist threat noted that ‘recent terrorist attacks have focused attention on how organized criminals are able to access and trade firearms in Europe, even military-grade firearms, in large numbers’ (European Commission 2015a).

After the Paris attacks of November 2015, the European Commission announced a multifaceted package of measures which included a number of legislative initiatives – including the proposal to significantly restrict legal firearms possession through a revision of the Firearms Directive (European Commission 2015b), which resulted in the formal amendment of the Directive by the European Parliament and Council in 2017, and the adoption of an implementing regulation on common standards for the deactivation of firearms.
The nexus between organized crime and terrorism (European Commission 2015c). In the immediate aftermath of these attacks, in 2015, the EU also adopted an extensive EU Action Plan against Illicit Trafficking in and Use of Firearms and Explosives. This Action Plan consists of four broad priorities, which are subsequently expanded on in a patchwork of concrete measures: (1) improving the intelligence picture on illicit firearms trafficking and the diversion of firearms from the legal market; (2) enhancing operational cooperation in the area of combating firearms trafficking by stressing the need for more joint efforts in cross-border actions, risk-based external border controls, disrupting illicit internet sales and training; (3) improving operational information collection and sharing by encouraging member states to optimize their use of already existing tools (such as SIS, Europol Information System and Interpol’s iARMS) and to proactively share such information with Europol; and (4) stronger cooperation with third countries, especially in South Eastern Europe, Middle East and Northern African countries, Ukraine and Turkey. The Action Plan highlights the link between firearms trafficking and terrorism, for example, in the context of tracking and tracing; online sale of illicit firearms; and the risk of diversion of weapons and explosives from the Libyan conflict to the EU (European Commission 2015d). The Action Plan also points at the importance of Regulation EU 98/2013 on the marketing and use of explosives precursors. The Regulation can prevent acts of terrorism by cutting access to the ingredients that are necessary for bomb-making, and by allowing early police investigations on suspicious transactions and other incidents (Official Journal of the EU 2013). In 2020, a new EU Action Plan on firearms trafficking for 2020–2025 was adopted, which focused on similar priorities as the 2015 Action Plan.

Investigation of serious organized crime related to illicit firearms has been integrated in the EU Policy Cycle/EMPACT (European Multidisciplinary Platform Against Criminal Threats). This policy cycle aims to tackle the most important threats posed by organized and serious international crime to the EU through improving and strengthening cooperation between the relevant services of the member states, EU institutions and EU agencies as well as third countries and organizations, including the private sector, where relevant. Based on Europol’s Serious Organised Crime Threat Assessment (SOCTA), the member states prioritize specific threats, which are then translated into Multi-Annual Strategic Plans (MASP) and Operational Action Plans (OAP). Trafficking in illicit firearms is considered particularly challenging because tackling the problem is among the priorities with the strongest cross-border dimension, and also involves the largest number of third countries – particularly those in the Western Balkans, from which a significant number of the illegal firearms that enter the EU originate. Online trade in illicit firearms is another operational priority.
5. CONCLUDING REMARKS

In this chapter we have shown the importance of terrorist networks’ acquisition of firearms and explosives. This increased as modern terrorists developed a goal of killing as many innocent people as possible, which usually requires assault rifles and substantial amounts of explosives. By contrast, in the 1970s, terrorists more often targeted individuals and hijacked airplanes – for which handguns and small explosives such as hand grenades would suffice – whereas, for instance, terrorist groups in Northern Ireland specialized in bombings. Nowadays, particularly Islamist groups, and to a lesser extent their right-wing counterparts, mostly acquire firearms through connections in the criminal underworld. Explosives are mostly manufactured from legally available components. This development underlines the importance of denying terrorists access to firearms and the components from which they may assemble explosive devices. Terrorist groups often become ‘visible’ when they attempt to acquire suitable weaponry, and many potential attacks have been prevented at this stage. Indeed, denying access to essential infrastructure is as important to curb terrorism as it is to tackle organized crime.

Almost all firearms used in the criminal underworld, and hence by terrorists, were manufactured legally and then at some point diverted to the illegal domain. There are many methods of diversion, which underlines the challenge that confronts authorities in their efforts to prevent weapons leaking to the criminal underworld. Furthermore, firearms are highly durable goods and weapons that may have been diverted in the past or have been left over from conflicts that have been concluded a long time ago; they resurface, sometimes after having been deactivated and later reconverted back to lethal weapons. Enforcement agencies have long realized that firearms trafficking can be tackled only through effective cross-border cooperation and information exchange, backed by a uniformized legal framework that prevents criminals from acquiring weapons in territories where loopholes exist or enforcement is lax. Indeed, as Duquet and Goris (2018) have noted, EU terrorists now seem to face higher barriers to acquiring firearms and components for manufacturing explosives, even if they have connections in the criminal underworld.

Looking from a criminological perspective at the problem of trafficking in firearms and explosives, it is important to underline the difference between, on the one hand, loosely organized terrorist networks and ‘lone wolves’ in the EU and the United States, for whom operating under the radar is crucial, and, on the other hand, the well-organized insurgent groups that often control an ‘ungoverned space’ in the countries in which they are active. Concepts such as ‘disorganized crime’ and the network perspective seem applicable to the first type of terrorism, and the arms trafficking networks involved (Reuter
1983; Spapens 2010). Particularly in the EU, firearms trafficking and dealing is a relatively small-scale criminal activity, and often a secondary activity for criminal networks involved in drug trafficking and violent property crimes.

However, different criminological concepts apply to insurgent groups. Such groups often rely on theft and battlefield capture, as well as covert supplies by foreign state actors who support their cause for their own political reasons. Here, perspectives such as state crime and state-corporate crime seem to be more appropriate (Chambliss 1989; Michalowski and Kramer 2006). Grey supplies usually involve complex international networks of arms brokers and transport companies, to prevent tracking and tracing. Although the United Nations has established a quite comprehensive control regime on paper, its effectiveness continues to depend on whether sovereign states wish to comply with it.

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Terrorists’ acquisition of firearms and explosives


