



Universal Jurisdiction Under Scrutiny

A Quantitative Analysis of 250+ Syrian Cases

Syria Justice and
Accountability Centre



Universal Jurisdiction Under Scrutiny – A Quantitative Analysis of 250+ Syrian Cases

June 2023



The Syria Justice and Accountability Centre

About the Syria Justice and Accountability Centre

The Syria Justice and Accountability Centre (SJAC) strives to prevent impunity, promote redress, and facilitate principled reform. SJAC works to ensure that human rights violations in Syria are comprehensively documented and preserved for use in transitional justice and peace-building. SJAC collects documentation of violations from all available sources, stores it in a secure database, catalogues it according to human rights standards, and analyzes it using legal expertise and big data methodologies. SJAC also supports documenters inside Syria, providing them with resources and technical guidance, and coordinates with other actors working toward similar aims: a Syria defined by justice, respect for human rights, and rule of law.

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Cover: Alaa M. at Trial

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01 Executive Summary

This report by the Syria Justice and Accountability Centre (SJAC), critically assesses the prosecution of crimes committed in Syria since March 2011. As the conflict entered its twelfth year in 2023, SJAC examined what has been achieved in terms of justice and accountability for Syrian survivors. After an extensive review of terrorism and core international crimes cases prosecuted in various countries around the globe, SJAC analyzed domestic prosecutions to identify emerging themes and lessons learned.

Key findings and recommendations are:

- States are predominately prosecuting their own citizens for crimes committed in the Syrian conflict, although universal jurisdiction (UJ) permits the prosecution of foreign nationals.
- Prosecution of Syrian government officials and associated militias only began in the last four years yet remain limited to low and midranked individuals.
- Sentences for individuals affiliated with terrorist groups increase when charged cumulatively with atrocity crimes while the overall length of proceedings only increases slightly.
- The prosecution of core international criminal cases is mainly conducted in states that conduct structural investigations into crimes committed in the Syrian conflict.
- In foreign fighter cases, prosecutors should continue cumulative charging to more comprehensively capture the crimes committed and to facilitate the participation of survivors.
- More states should prosecute Syria-related crimes to share the burden of those states currently prosecuting these crimes.
- More resources should be made available to national judiciaries in UJ states to reduce the length of proceedings.
- More transparency in the form of centralized and multilingual outreach about Syria-related crimes is required to set realistic expectations for survivors.

Recommendations:

- All states must repatriate their foreign fighters to provide fair and transparent trials. As both suspects and survivors, each individual has the right to trial.



Alaa M. led into the courtroom in Frankfurt, Germany

02 Introduction

Recent convictions of [*former Syrian intelligence members*](#), and the commencement of a trial against a [*Syrian doctor*](#) in Germany, were widely [*celebrated as milestones*](#) in achieving justice and accountability for crimes committed in the Syrian conflict. These trials are held in Germany under the principle of universal jurisdiction, which contends that certain crimes are so grave that they affect humankind as a whole and can be prosecuted by any state regardless of where, by whom, or against whom the crimes were committed. With the continued absence of an international judicial forum, foreign domestic trials remain the main avenue for Syrians to achieve justice and accountability.

SJAC has tracked more than 250 domestic prosecutions involving crimes committed by all sides to the conflict in Syria since 2011 and compiled a comprehensive database. Updates to this list are featured in SJAC's annual "[*State of Justice in Syria*](#)" report. With the launch of this report, SJAC is publishing the full searchable database for the first time. This chart will be updated biannually. To provide a better understanding of the justice avenues available to Syrians and to set realistic expectations of what domestic prosecutions can and cannot achieve, SJAC conducted a quantitative analysis of Syria-related foreign domestic criminal cases that arose between March 2011 and December 2022. This analysis focuses on a variety of factors, such as prosecuted perpetrators, prosecuting countries, charges, and length of proceedings. Key findings are illustrated in graphics in the context of judicial and political developments throughout the conflict.

This report concludes with recommendations to states, prosecutors, and relevant practitioners to ensure that the past twelve years serve as a learning opportunity for all states willing to prosecute crimes committed extraterritorially, in Syria and elsewhere. For survivors of these crimes, the report presents a complementary resource to SJAC's previous publications on domestic prosecutions, such as its [*Universal Jurisdiction Guides*](#). SJAC seeks to provide a differentiated understanding of relevant judicial trends and their implications for the future. More specifically, the report acknowledges the positive developments in holding perpetrators of atrocity crimes accountable while highlighting actions that would facilitate a more comprehensive prosecutorial approach.



The Trial of Anwar Raslan - Press Gather Outside the Higher Regional Court in Koblenz, Germany

03 Methodology

Since 2019, SJAC has assiduously tracked cases related to crimes committed in the Syrian conflict that are prosecuted domestically in different states around the globe. Because Syria is [*not a state party*](#) to the International Criminal Court (ICC) and Russia [*vetoed the United Nations Security Council*](#) (UNSC) draft referring Syria to the ICC, domestic trials remain the only forum in which crimes committed in the Syrian conflict can be prosecuted for the foreseeable future.

Composition of the Case Database

Throughout its work, SJAC aims to pursue a victim-centered approach. Thus, this report focuses on the survivors of crimes committed in the Syrian context and the implications of related prosecutions on the lives of survivors and transitional justice for Syrians. In the following report, “Syria-related” or “crimes committed in the Syrian conflict” are defined as acts that had a direct impact on the lives of Syrians within Syria. Crimes committed without this direct link are excluded from the analysis. Examples of such cases include attempted travel to Syria and online recruitment. Nonetheless, cases that relate to acts committed outside of Syria which impact peoples’ lives inside Syria, such as funding terrorist individuals or groups operating inside Syria, the proliferation of weapons or trafficking of sanctioned dual-use goods to Syria, and the recruitment of individuals who enter Syria are included in the case database.

The database is not intended to be a comprehensive list of all Syria-related cases. Due to a lack of available information about relevant criminal proceedings in the media and a lack of full transparency by prosecutorial and judicial authorities in many states, SJAC’s team was unable to confirm whether it has identified all Syria-related criminal cases. In its effort to track as many cases as possible, SJAC’s team has closely monitored press releases from domestic

law enforcement, prosecutors, and courts, as well as existing databases and media reporting. A list of the most prolific and reliable sources can be found in Annex I.

In its efforts, SJAC benefited from the work of the Syrian-led editorial network Independent News Team (INT). INT is continuously scanning the media and official press releases from relevant authorities to track criminal cases related to the Syrian conflict, including cases concerning regional armed groups more broadly, and cases of attempted travel to or attempted support of groups operating inside Syria. Research conducted by INT is published in Arabic on its [*Facebook page*](#) to expand Syrians’ access to information on ongoing cases. In this regard, INT acts as an essential source of new information for SJAC’s efforts to track Syria-related cases.

Considering these resources, as well as SJAC’s capacities dedicated to the tracking of Syria-related cases, the cases in the database represent a unique and thorough collection of criminal cases related to the Syrian conflict.

Captured Data

SJAC’s database not only acts as a list of cases, it also captures several key details of each proceeding. For example, important dates, such as date of arrest, date of indictment, and dates of first and last trial days are captured. This data is important to measure the length of proceedings and identify trends and developments. Given the multiplicity of actors in the Syrian conflict, the database also records the affiliation of defendants and suspects. Additionally, the citizenship and gender of defendants and suspects are tracked as well as the charges and verdicts against them.

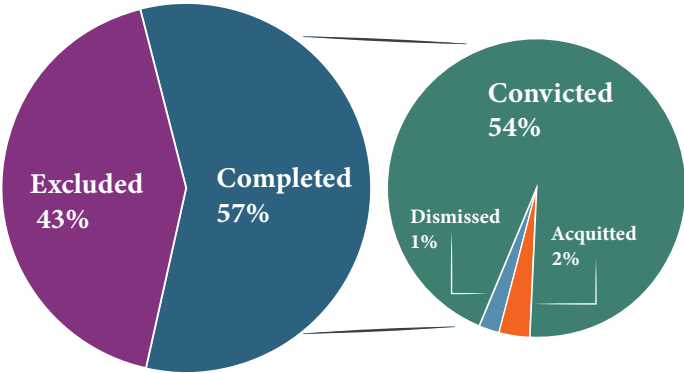
While the information is true to the best of SJAC’s knowledge, information may be subject to change without notice. Information gaps and further implications of insufficient transparency will be discussed throughout the report.

Generating Substantiated Results

Out of the 258 Syria-related prosecutions recorded in the database, SJAC identified 148 completed cases. “Completed” means that a court’s judgment became final, or that it was appealed and the decision was handed down, before December 31, 2022. Since proceedings are prone to rapid changes, SJAC’s report does not consider pending cases, however they are included in the database. An exception is made for the assessment of prosecution trends. Pending cases from 2021 and 2022 contributed to more valuable assumptions for the years to come. Moreover, the lack of transparency rendered the status of 12 cases unclear. These cases are excluded from the analysis. Three cases were terminated on other grounds (death, suicide, and financial settlement). These cases do not appear in the assessment because the captured data was not sufficiently detailed nor comparable to other cases. The inclusion of only completed cases allows SJAC to make substantiated judgments about the outcome of the proceedings. It further guarantees reliable and stable results that are not subject to any changes in the future.

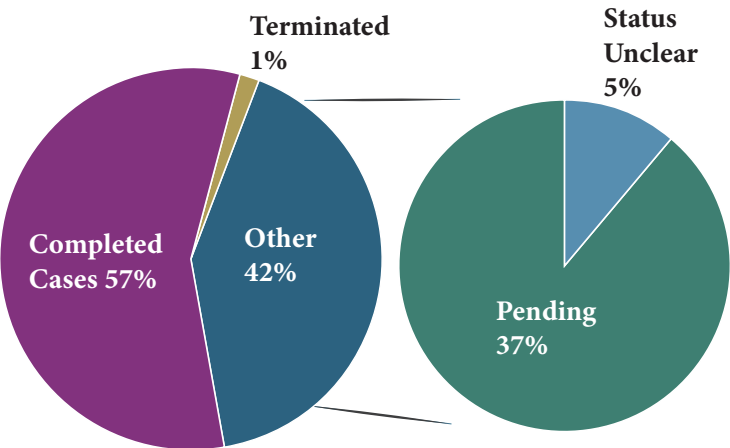
Consequently, SJAC examined 57% of all tracked cases. These cases predominantly resulted in convictions, though a limited share of the prosecutions resulted in dismissals and acquittals. The following report details the findings related to these cases and provides conclusions and recommendations for justice efforts under universal jurisdiction, for Syria and other worldwide conflicts.

0.b) Case Status of Considered Cases



The case status reflects the outcome of the prosecution for the considered cases. It highlights the predominance of convictions in Syria-related prosecutions. The report further details the different charges brought forward by the prosecution. In the sections, the results related to terrorism, core international crimes, and cumulative charges are separately studied.

0.a) Methodology



SJAC’s database recorded 258 cases of which 148 were completed by December 31, 2022. Cases that were still pending were not considered.

04 Prosecution of Terrorism Offenses

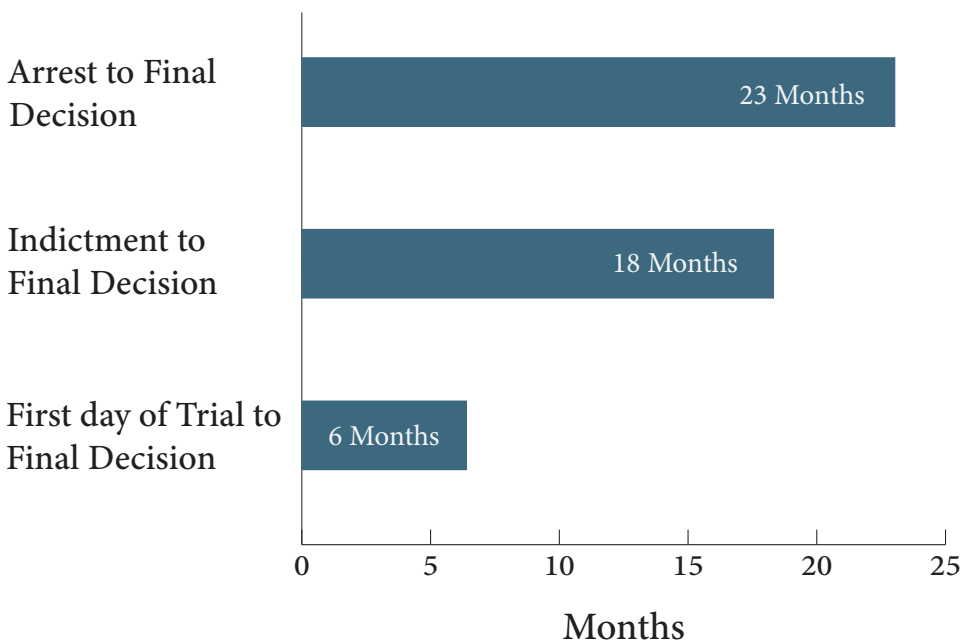
Then and Now

Following the start of the conflict in 2011, lengthy and complex investigations into the alleged crimes were initiated. Due to this complexity, the first arrests and trials prosecuting terrorism offenses related to the Syrian conflict started in 2013. In their effort to prosecute the crimes committed in Syria, states have taken distinct approaches. Countries like Australia, the United States (U.S.), and the United Kingdom (UK) started prosecuting their own citizens who attempted to travel to join the Islamic State (ISIS) or other terrorist groups in Syria. On the other hand, states such as Belgium, France, and Germany tried alleged terrorist fighters and members who actively engaged and fought for ISIS or Jabhat al-Nusra (Al-Nusra). The different approaches to prosecute individuals continued over the next ten years in different facets. European states remain at the forefront of prosecuting terrorist offenses committed in Syria. To the contrary, states like the U.S. and Canada focus on prosecuting crimes of support for terrorist groups, in the form of recruitment, financing, and providing resources.

The U.S. invests resources in investigators becoming trusted persons (i.e. posing as interested individuals or as terrorist recruiters) to identify individuals considering and preparing to leave the U.S. to join terrorist groups in Syria.

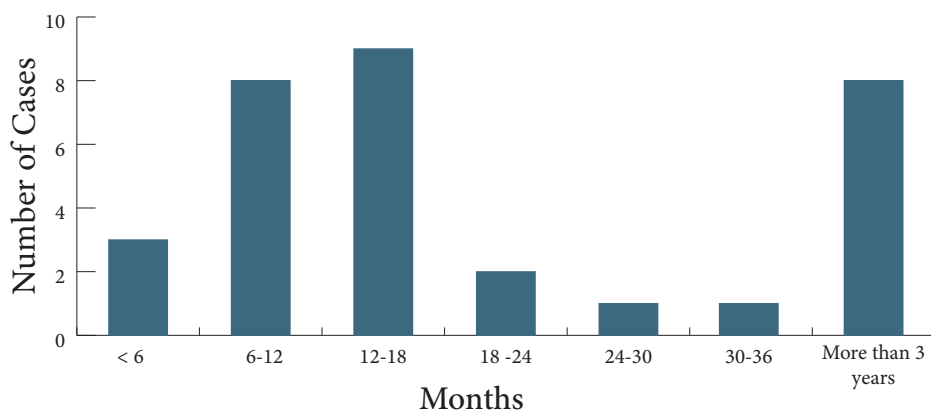
All of these investigations are resource intensive not only in the leadup to arrests of suspects but also in the prosecutorial work and trials. It is often challenging for prosecutors to identify relevant and credible witnesses, requiring them to rely on investigative leads sourced from Syrian civil society or immigration authorities. Many investigations do not result in cases being brought to trial due to these challenges. Of those cases that have been made public, SJAC determined the average length of proceedings in Syria-related terrorism prosecutions. The results demonstrate that from the day of an arrest to a final decision it may take almost two years on average. A closer look, however, reveals that the majority of terrorism-cases are completed within 18 months. Due to a lack of information, the length of the investigation phase remains obscure. The overall length of prosecutions can thus not be studied.

1.a) Average Length of Terrorism Prosecutions



Only final judgments were considered. Potential pandemic-related delays of proceedings between March 2020 and December 2022 could not be measured and were thus not considered in this calculation.

1.b) Arrest to Final Decision



The histogram demonstrates that most terrorism cases have a duration of six to eighteen months. However, cases that are not completed within this timeframe may last more than three years from the day of arrest.

While this analysis on the length of proceedings relates to cases where defendants are present in the prosecuting state and court, some states have initiated prosecutions despite the absence of the alleged perpetrator. In 2017, two indictments were filed in the Netherlands (*Thierry K. et al*) and the U.S. (*Mohamed Amiin Ali Roble*). Neither indictment led to the conviction of the defendants, as of the publication of this report. France, on the other hand, convicted one person in absentia in April 2017 (*Othman Garrido*). In 2020, based on an Ankara-Paris extradition agreement, he was extradited to France to face a 15-year prison term. France has not pursued any further trials in absentia for terrorism since then. Belgium was the only country that conducted several trials in absentia between November 2015 and October 2021. However, of the six Belgian cases that tried eleven individuals in absentia, only one case led to the execution of the sentence against two female ISIS members (*Fatima Benmezian and*

Rahma Benmezian) in November 2019. Several of these co-defendants remain at large.

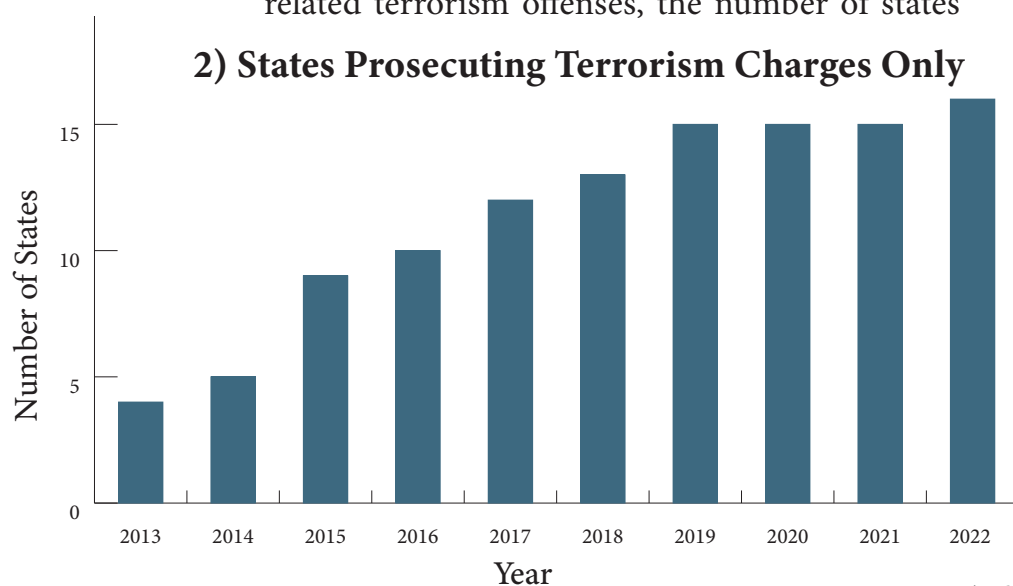
Notably, SJAC identified five acquittals since 2013. All cases were based on terrorism charges. Two of the acquittals were connected to at least one other defendant who was convicted. For the acquitted defendants, the German courts could not find that the defendants actively participated in or supported terrorist organizations. However, there was sufficient evidence against their codefendants. This means that for the two

acquittals, the direct linkage to Syria or an impact on the lives of Syrians could not be established. The average length for the prosecutions that resulted in acquittals was 10.5 months. The four states that acquitted individuals of terrorism charges were Bosnia-Herzegovina, the Netherlands, the UK, and Germany. These four states acquitted individuals affiliated with anti-government forces. The verdicts were issued in 2020 and 2021. In these years, the number of prosecuting states rose to the highest seen since 2013. The key actors and development related to terrorism offenses are examined in detail below.

Key Actors

In 2013, the first arrest warrants were executed, indictments filed, and trials opened. While in the first year, only four states prosecuted Syria-related terrorism offenses, the number of states

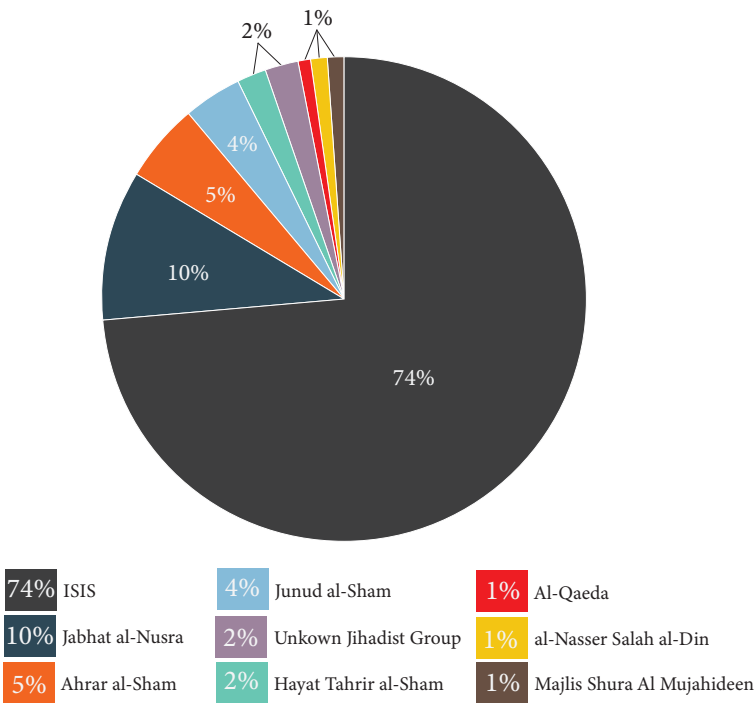
2) States Prosecuting Terrorism Charges Only



had quadrupled to sixteen by December 2022. In addition, four states have prosecuted terrorism and core international crimes cumulatively (see below at section 05.).

Belgium leads the prosecution of terrorism offenses in absentia and is at the forefront of prosecuting Syria-related terrorism offenses in general. Balkan states, such as Kosovo and Bosnia and Herzegovina, are increasingly prosecuting Syria-related terrorism offenses, as these states are actively *repatriating citizens* from camps in Northeast Syria where alleged ISIS members and their children are being held. From 2013 through 2022, ISIS remained the main target of prosecutions, as most of the perpetrators

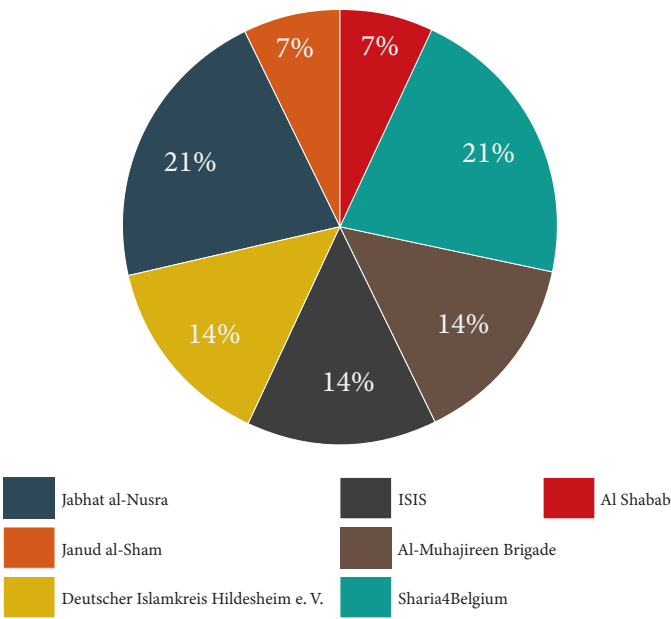
3.a) Prosecuted Terrorist Groups (primary affiliation)



SJAC tracked nine different affiliations in terrorism cases. ISIS and Jabhat al-Nusra remain the top two primary affiliations, yet prosecutions of ISIS members occur seven times as often.

that were being prosecuted were ISIS-affiliates (74 %). However, around 15% of these cases dealt with perpetrators who later changed affiliations to different groups and thus have a secondary affiliation.

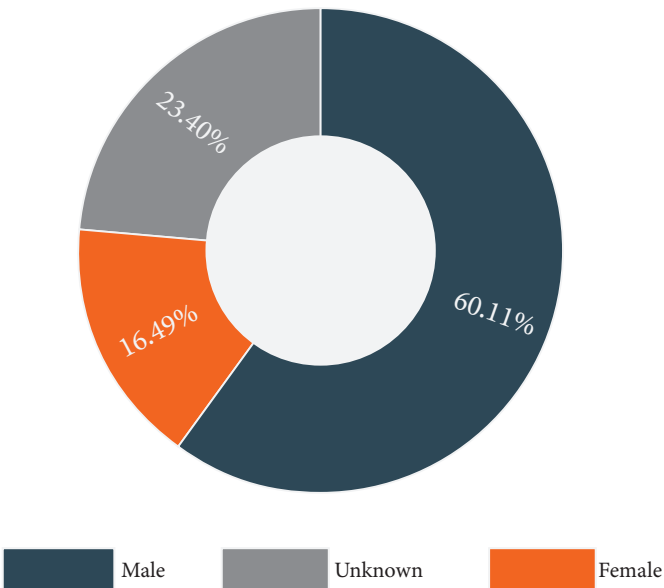
3.b) Prosecuted Terrorist Groups (secondary affiliation)



Notably, the second affiliation of individuals prosecuted for terrorism offenses does not correspond to the primary affiliation. ISIS drops from the main targeted organization to nearly converge with all other groups.

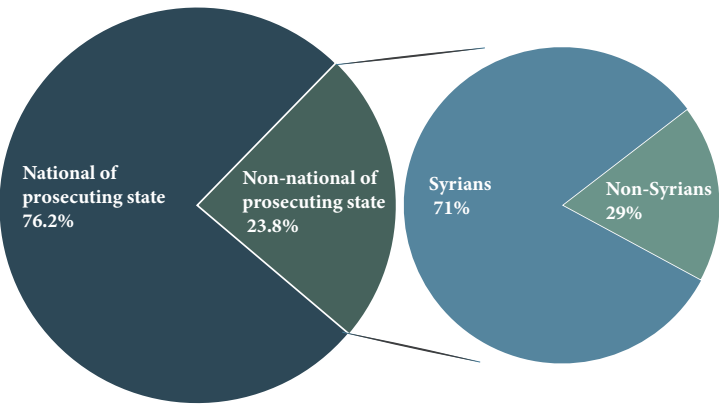
States have been slow to repatriate women and children from Syria and consequently prosecuting female affiliates of terrorist groups. Therefore, the large majority of perpetrators of Syria-related terrorism offenses that were being prosecuted between 2013 and December 2022 were men.

4) Gender Balance of Individuals Prosecuted for Terrorism Offenses



Further, states continue to predominantly prosecute their citizens as so-called “returning foreign terrorist fighters” (FTFs). Over the last ten years of prosecuting terrorism cases, only a small number of Syrians were prosecuted as non-nationals for these crimes.

5) Nationality of Prosecuted Individuals



Charges

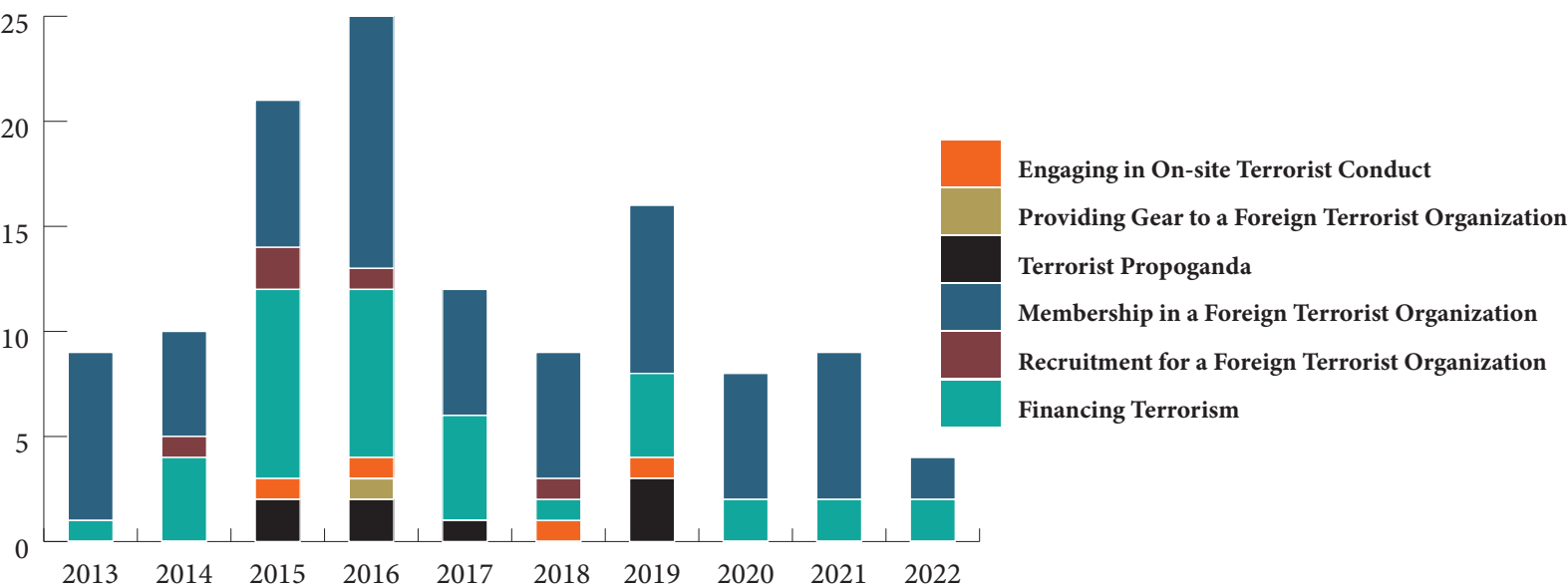
Perpetrators of terrorism-related crimes faced a variety of charges. In comparing charges, it should be noted that the scope of criminalization, as well as the terminology of domestic anti-terrorism legislation, differs from state to state. Some states, such as Sweden, have not criminalized membership

in a foreign terrorist organization. Despite differences in terminology, the underlying conduct remains the same, whether it is called “membership,” “participation,” or “association.” The same applies to providing money to persons participating in foreign terrorist groups. Most states have criminalized this as “financing terrorism,” but other states have criminalized this as “providing material support.” In addition to specific terrorist offenses, perpetrators are often charged with other domestic crimes, such as violation of arms control laws or violation of

The different terms used in terrorist offenses generally include four main patterns of criminal conduct:

- Financing terrorism
- Recruitment for a terrorist organization
- Spreading terrorist propaganda
- Being integrated in terrorist structures
- Direct engagement in terrorist conduct during hostilities such as killing or hostage taking
- Providing weapons and materiel to a terrorist organization
- Providing logistical support in the form of travel assistance

6) Prosecutions of Terrorist Conduct



Due to above-mentioned case selection, limiting cases in the database to those with conduct that had a direct impact on Syria and Syrians living in Syria, cases that solely dealt with terrorist propaganda are not included. Terrorism propaganda charges in this bar chart are connected to cases that also included other charges with a clear, direct impact on Syria and Syrians living in Syria.

sanctions. Female terrorist members who are mothers often face additional charges relating to violating a duty of care to their children.

The number of completed cases in 2022 is low, as many cases are still ongoing. However, the number of terrorism accusations and charges initiated in 2022 (comprising executed arrests and indictments filed) is the second highest number of charges since 2013 and matches 2015. The high number of initiated terrorism cases in 2022 will be reflected in the prosecution trends for the years to come.

While this section focuses on terrorism charges and corresponding domestic crime charges, a recent trend in prosecuting crimes committed in the Syrian conflict is so-called “cumulative charging”. This approach relates to both terrorist offenses and core international crimes. Its rationale and all relevant trends and figures are discussed in the next section.



Anwar Raslan at Trial (©: AFP Pool Thomas Frey)

05 Cumulative Charging

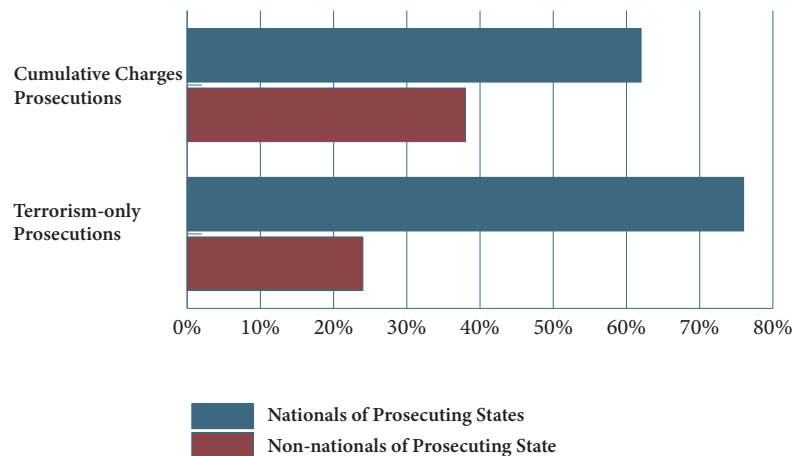
Rationale

Since 2015, several domestic prosecutor's offices have charged alleged terrorists with both core international crimes and terrorism offenses – in a practice known as “[cumulative charging](#).” This approach is aimed at more adequately encompassing contributions to different criminal conduct and has resulted in both higher sentences for terrorist affiliates and more comprehensive justice for survivors.

Comparison to Regular Terrorism Prosecutions

As of December 2022, cumulative charging in Syria-related terrorism cases was only applied by European states. Germany and the Netherlands are particularly active in this regard, having arrested, indicted, and tried several individuals on cumulative charges. The majority of cases completed before the end of 2022 were conducted in Germany, while several cases prosecuted in the Netherlands remain pending on appeal. France is also prosecuting [Lafarge](#), an industrial company, using this same strategy. The building materials manufacturer pleaded guilty to terrorism charges in a parallel proceeding in the U.S. in October 2022. The cumulative charges against

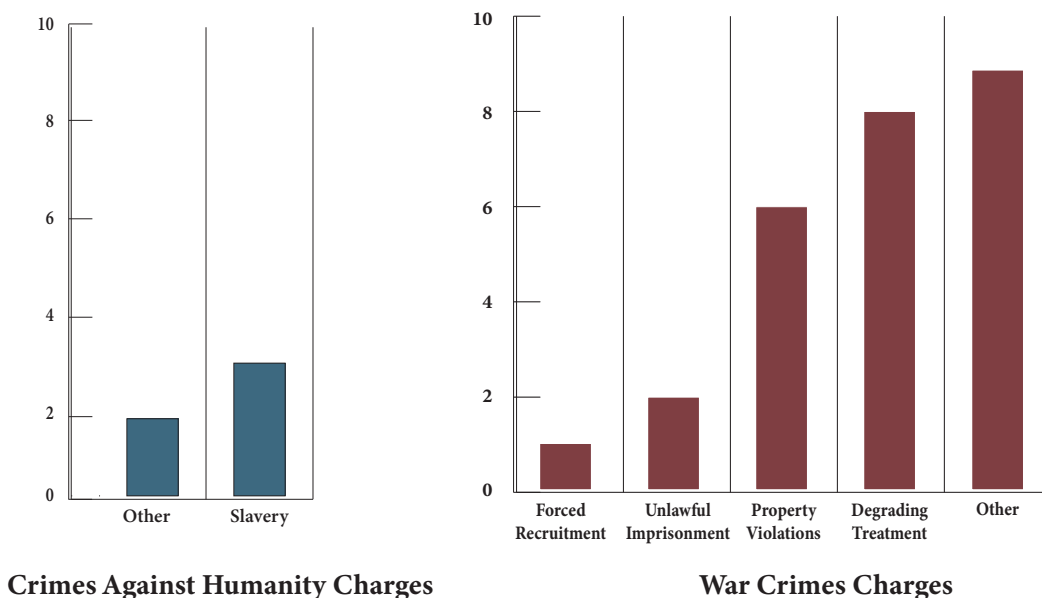
7) Nationality of Individuals Facing Prosecution in %



Lafarge remain at trial in France and may deliver important clarifications on corporate liability for core international crimes.

While terrorism-only prosecutions predominantly focus on nationals of the prosecuting state, the trend in cumulative charging indicates that both non-nationals and nationals of the prosecuting state are targeted. Whether this trend will persist and lead to the equal prosecution of nationals and non-nationals remains to be seen. So far, the non-nationals prosecuted using cumulative charges, are all Syrian.

8) Core International Crimes Charges in Syria-related Cumulative Charging Prosecutions



Core International Crimes Most Charged

The vast majority of core international crimes charges in these cases are war crimes, such as property violations or inhuman and degrading treatment of persons protected under international humanitarian law. Many cases also charge crimes against humanity, such as slavery. As of December 2022, SJAC recorded only two cases involving genocide charges in the Syrian context. One case is being prosecuted alongside terrorism charges (*Jalda A.*) and one alongside war crimes and crimes against humanity (*Taha Al.-J.*).

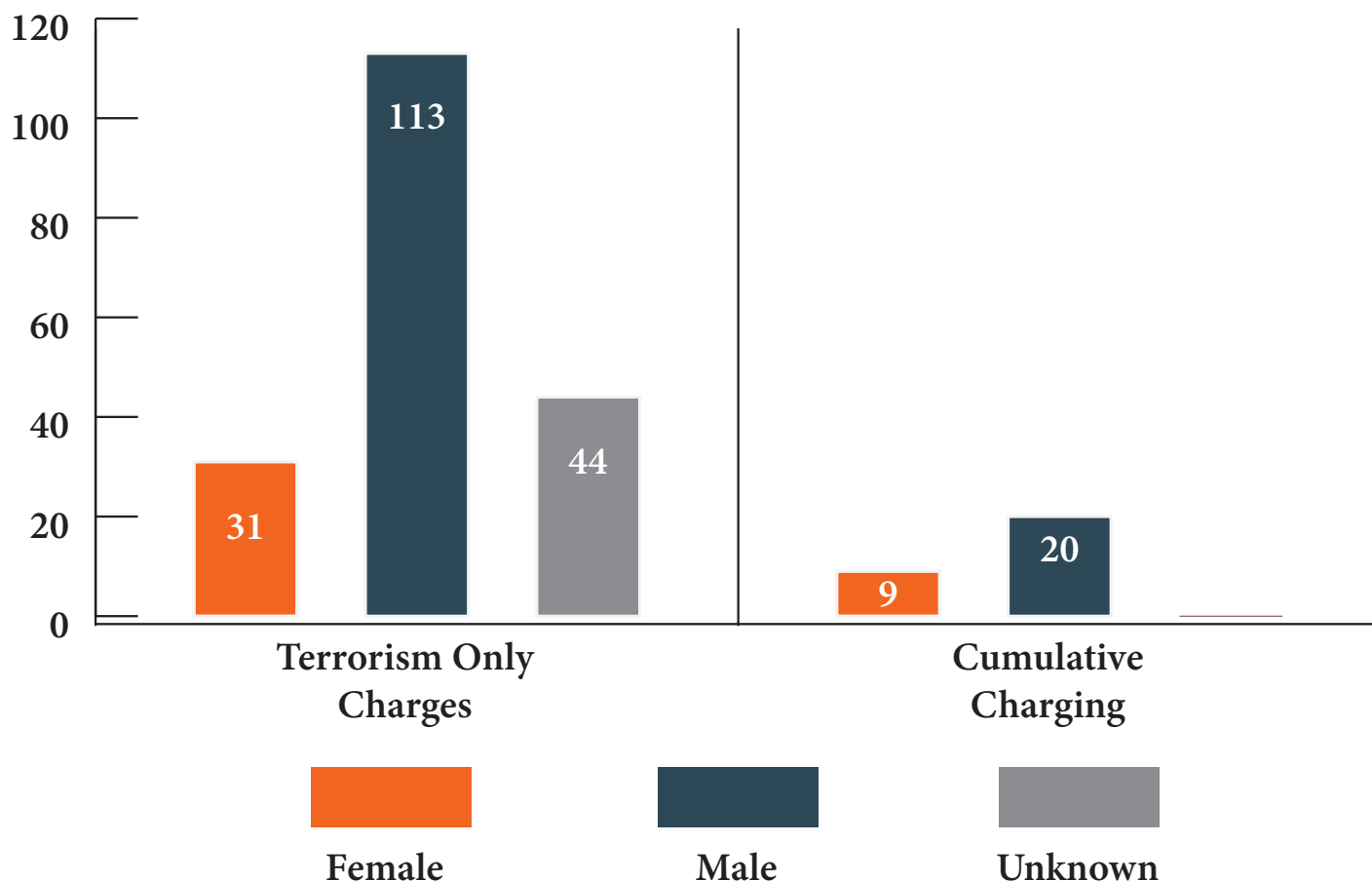
Germany was the first country to charge and convict a female terrorist affiliate with the war crime of recruiting child soldiers, however, the appeal is still pending, so the case could not be reflected in the

overall data. The overall share of female accused did not significantly increase compared with terrorism-only prosecutions. Whether this is due to lacking gender context during the investigation phase, the slow repatriation of women, or a combination of both, cannot be ascertained based on the available data. However, a recent trend indicates that female accused are charged with membership in a foreign terrorist organization and war crimes against property cumulatively. This may result in a more gender-balanced prosecution practice in the future.

Benefits and Shortcomings

The average sentence in cumulative charges prosecutions is significantly longer than in terrorism-only prosecutions. SJAC compared the data on the length of sentences in those states where convictions were reached on both cumulative charges as well

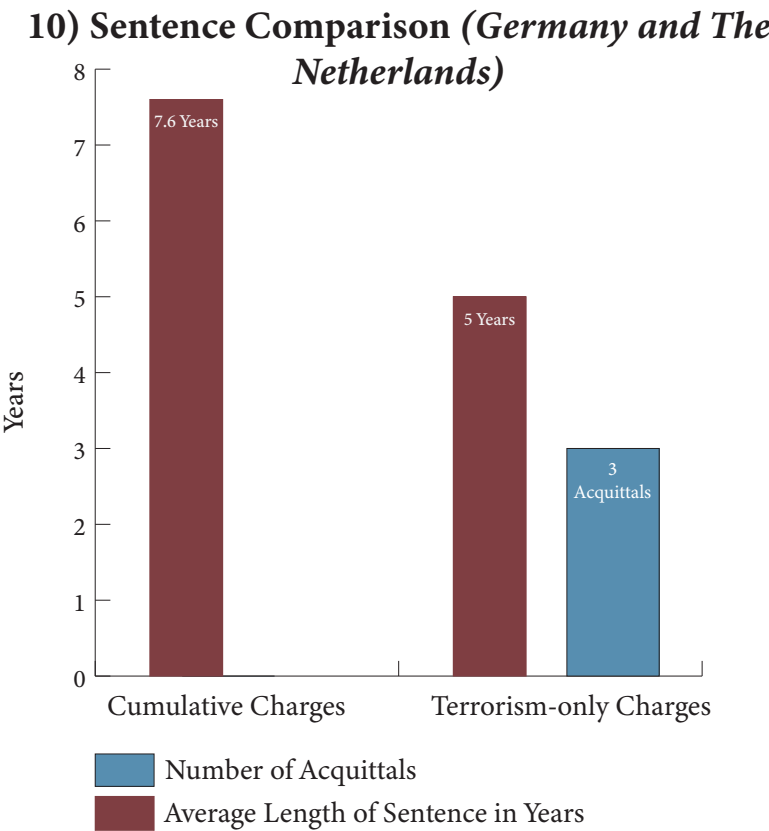
9) Gender Balance of Individuals Prosecuted in Germany, Sweden, Hungary and The Netherlands



as terrorism-only charges (Germany and the Netherlands). An overall comparison indicates that the number of acquittals may reduce in cases with cumulative charging. Yet, with only three acquittals on terrorism-only charges in the Netherlands and Germany, and no final acquittal based on cumulative charges, drawing a substantiated conclusion is not possible. In contrast, sufficiently available data

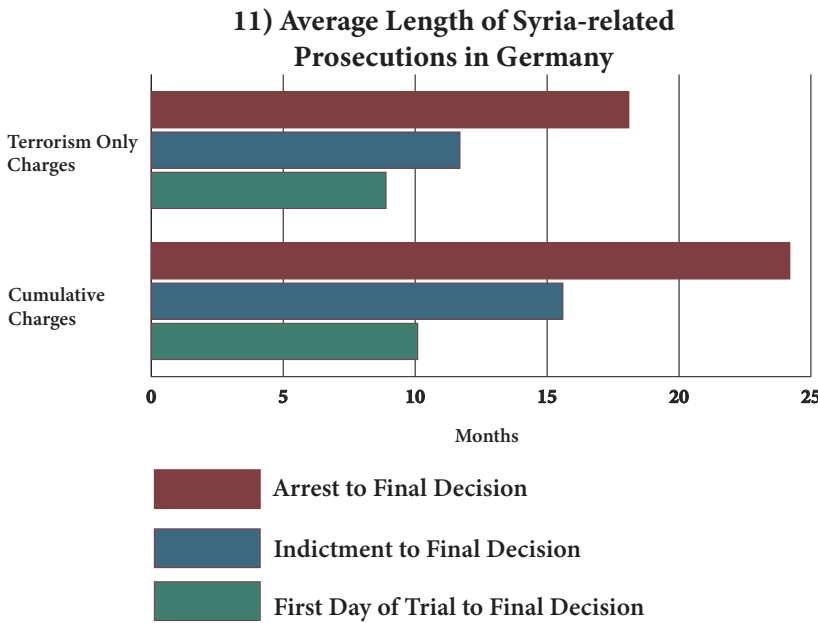
In states that completed both prosecutions based on cumulative charges and terrorism-only related trials, proceedings including cumulative charging required more time to reach a final judgment.

As of December 2022, Germany is the only state that has completed several trials for both cumulative and terrorism-only charges. The below table reflects the



Life sentences passed by German courts were not counted as life sentences, since the maximum duration of a life sentence under German law is 15 years. The length can thus be measured numerically and considered when calculating the average length of sentences.

suggests that the overall length of sentences increased by 50%. While the higher rate of conviction could be attributed to the decision to include cumulative charges in the indictment, it might also be attributed to other causes, such as a stronger prosecution case at the outset.



Potential pandemic-related delays of proceedings between March 2020 and December 2022 could not be measured and were thus not considered in this calculation.

change in the length of proceedings for cumulative charges prosecutions in Germany. The average length of prosecutions for cumulative charges in Germany was 24 months compared to 18 months in terrorism-only cases. However, the time at trial in the considered cases is about equal. Other states do not provide sufficient data to make average calculations. A preliminary analysis of ongoing proceedings in the Netherlands confirms that trials with cumulative charges are longer. The available data also indicates that cumulative charging in Germany resulted in a 34% increase in the duration of trial proceedings while the total time between the day of arrest to sentencing only increased by 13%. In other words, the investigation and charging of defendants were not significantly delayed by cumulative charging

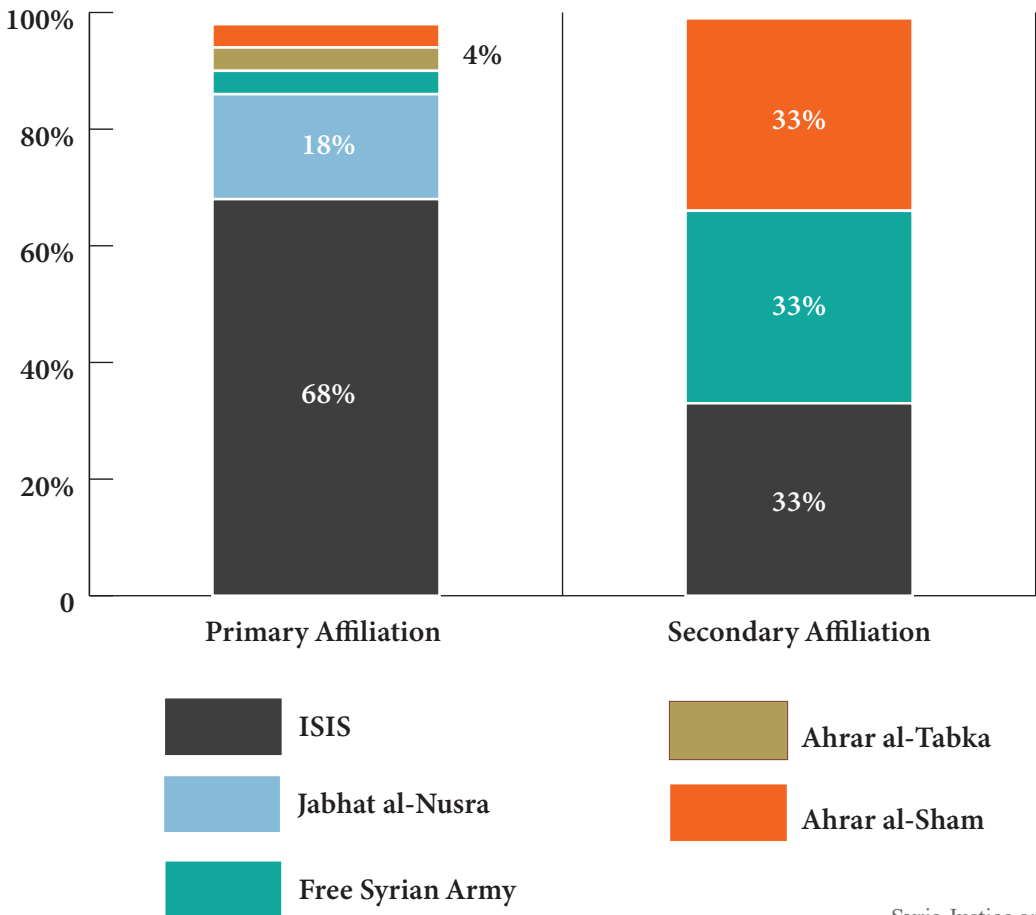
(i.e. pre-trial), but the time at trial increased by one third. This speaks to the efficiency of war crimes units within prosecution and investigation offices and the need for increased resources for the judiciary to deal with international cases. It also speaks to the increased complexity of trying core international crimes and proving the contextual elements unique to these international crimes.

While the range of prosecuted terrorist groups did not diversify compared with terrorism-only proceedings, the additional core international crimes charges still capture the broader activities and context in which these groups and their affiliates act within the Syrian conflict. A large majority of individuals prosecuted with core international crimes were affiliated with ISIS. The change from primary and secondary affiliation in cumulative charging almost mirrors the findings related to terrorism-only prosecutions. However, the groups differ. While ISIS and Jabhat al-Nusra remain the dominant terrorist

groups, cumulative charges were also raised against other groups. Notably, affiliates of the Free Syrian Army were convicted on cumulative charges or core international crimes, but rarely on terrorism-only charges.

Cumulative charges may also more fully capture the activities of female ISIS affiliates by not only charging them with membership in a terrorist organization but also qualifying their activities in running a household as a contribution to crimes against humanity and war crimes. This trend acknowledges that ISIS-affiliated women were not merely victims of ISIS or “ISIS brides” but also played an *integral role* to spread the organization’s ideology in many cases. Such cases can further help improve victim participation in prosecuting terrorist affiliates. For example, survivors held in captivity by ISIS or family members of persons killed by a terrorist group can engage in the proceedings as civil parties and provide valuable evidence.

12) Affiliation of Individuals Prosecuted for Terrorism Offenses and Core International Crimes



06 Prosecution of Core International Crimes

Rationale

While universal jurisdiction trials are not limited to Syria, the conflict in Syria marks the first time that (foreign) domestic prosecutions of core international crimes were initiated amidst an ongoing conflict. To combat the ever-growing number of crimes and the wealth of evidence states like France, Germany, and Sweden have initiated [structural investigations](#). These states are gathering various types of evidence without an initial focus on individual perpetrators or specific crime patterns. Instead, the gathered evidence is continuously being analyzed to lay a foundation for the prosecution of individuals.

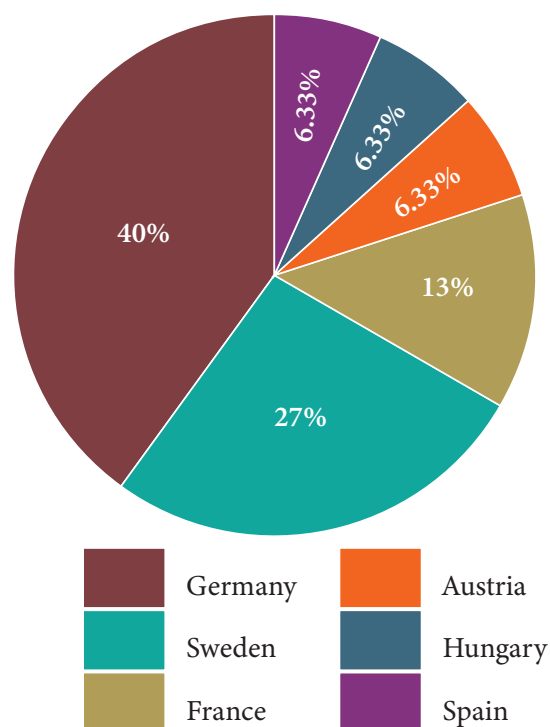
Key Actors

The data collected by SJAC on the prosecution of Syria-related core international crimes confirms that states conducting structural investigations of the Syrian conflict are the same states that are prosecuting the most core international crimes cases. Prosecutions in France, however, experienced a significant setback when a panel of the country's highest court, the *cour de cassation*, ruled that crimes against humanity (CAH) allegedly committed in Syria could not be prosecuted by French authorities because Syria has not criminalized the respective conduct. As a consequence, France has not prosecuted many Syria-related war crimes cases successfully. However, the prosecution practice in France may change following the appeals in two Syrian war crimes and crimes against humanity cases. Due to the double criminality requirement codified in a 2010 penal norm, the suspects could not be prosecuted in France. It postulates that French authorities can only prosecute crimes that are criminalized in French law and the law of the state where the crimes were committed. Although French decision-makers have long been determined to remove the relevant legislative hurdles, yet to date, no changes have been adopted in the political sphere. The full *cour de cassation* will presumably issue a decision before legal changes are made since the public hearing

took place on March 17, 2023. In this respect, the court examines whether the French laws prevent the French courts from considering universal jurisdiction cases concerning Syria or other states that have not criminalized crimes against humanity and a decision is expected on May 12, 2023. It may affect [over 40](#) ongoing proceedings.

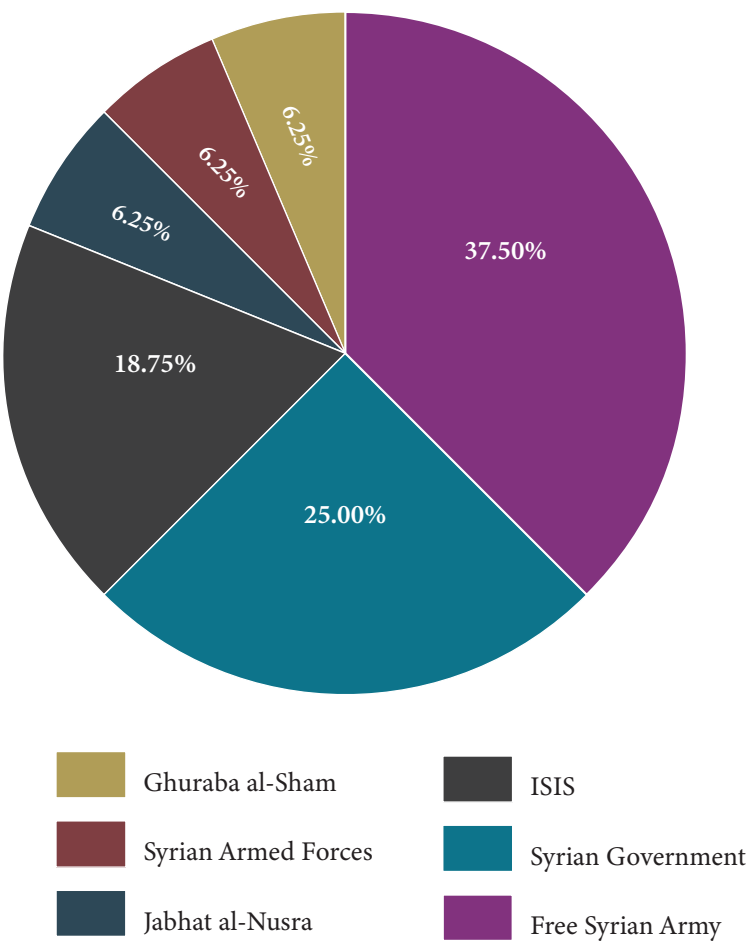
In Spain, a country that is not conducting structural investigations of the Syrian conflict, efforts to prosecute Syria-related core international crimes were limited in 2019 when a complaint filed by civil society against several Syrian intelligence officers was dismissed. The court applied a narrow definition of 'victim,' thereby limiting civil society engagement and justice for relatives. The decision was appealed and confirmed by the Spanish Constitutional Court. Nonetheless, six EU member states have prosecuted core international crimes based on universal jurisdiction and reached final judgments. Germany and Sweden currently represent more than half of the cases, however, an increase in the number of cases suggests a potential increase in the number of states as well.

13) Share of States That Have Prosecuted Syria-Related Core International Crimes



Contrary to the prosecution of terrorism offenses or cumulative charging, the prosecution of core international crimes not only targets terrorist groups operating in Syria, but the Syrian government, its armed forces, and affiliated militias. This closes a significant impunity gap as the Syrian government remains the single largest perpetrator in the conflict, but its affiliates were rarely held accountable before 2018.

14) Affiliation of Individuals Prosecuted for Syria-related Core International Crimes



Given that Spain did not consider prima facie evidence when deciding on the admissibility of a Syria-related complaint concerning core international crimes, this case is not considered in the calculations on which this diagram is based.

A closer look at the prosecuted individuals who are affiliated with the Syrian government, however, reveals that currently only mid- and low-level perpetrators are being held accountable for their involvement in committing core international crimes. Complaints against high-ranking members of the

armed forces or intelligence services remain under investigation and have so far led to an arrest warrant issued by Germany against Jamil Hassan, former head of the Syrian Air Force Intelligence Directorate, as well as arrest warrants issued by France against Jamil Hassan, Ali Mamlouk, head of the Syrian National Security Bureau, and Abdel Salam Mahmoud, head of the Air Force Intelligence’s Al-Mazzeah Branch. These warrants have been pending execution since 2018 and currently have little chance of leading to an arrest or further progress because European authorities cannot arrest the suspects unless they set foot in Europe. Furthermore, only one case concerned an affiliate with the Syrian Armed Forces. However, the case was dismissed in France.

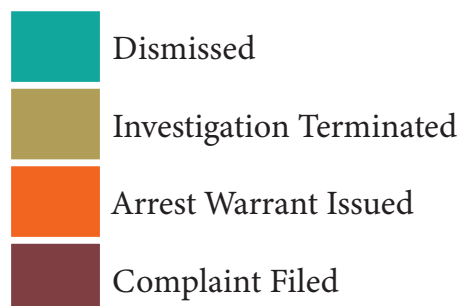
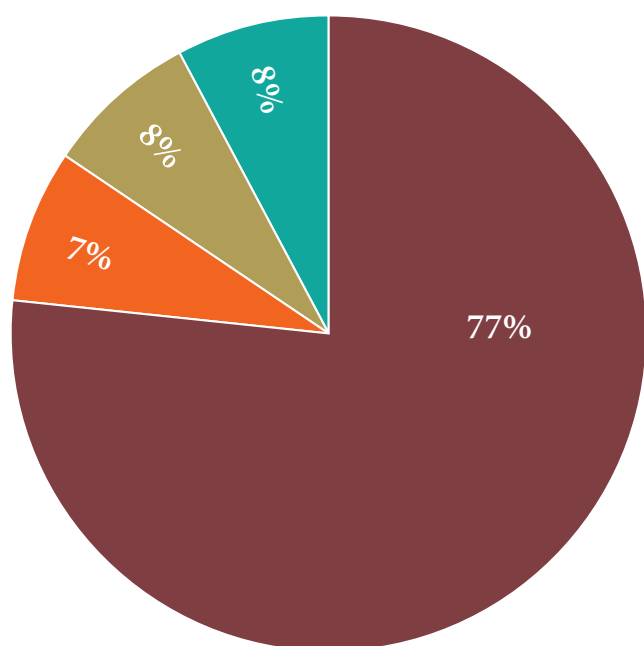
Civil Society Advocacy

In the cases that have gained traction and led to arrests, moved to trial, or reached a final judgment, civil society has played a prominent role. Since 2012, several organizations have filed complaints on behalf of Syrian victims against various Syrian government officials and military officers in different European states. While the complaints may not necessarily move forward, the mere filing and the public communication about them enable Syrians to impact prosecutorial priorities. These include the use of chemical weapons by the Syrian government, sexual and gender-based violence (SGBV), and torture at specific intelligence branches. By focusing on cases initiated by Syrian civil society, prosecutors facilitate more meaningful justice for Syrians as it reflects the concerns of a vocal group of Syrians and empowers them as active participants in the justice process. In any event, through such complaints, survivors regularly provide valuable evidence in the form of testimony or other documentation.

An important aspect of civil society engagement is also raising awareness for a gender sensitive approach in prosecutions related to the Syrian conflict. There remains, however, a gender imbalance concerning core international crimes prosecutions. Engagement of female survivors is insufficient as only a small number of the cases that SJAC identified included female survivors. This is contrary to cumulative charging in slavery cases where women who were held by ISIS on Syrian territory are often included.

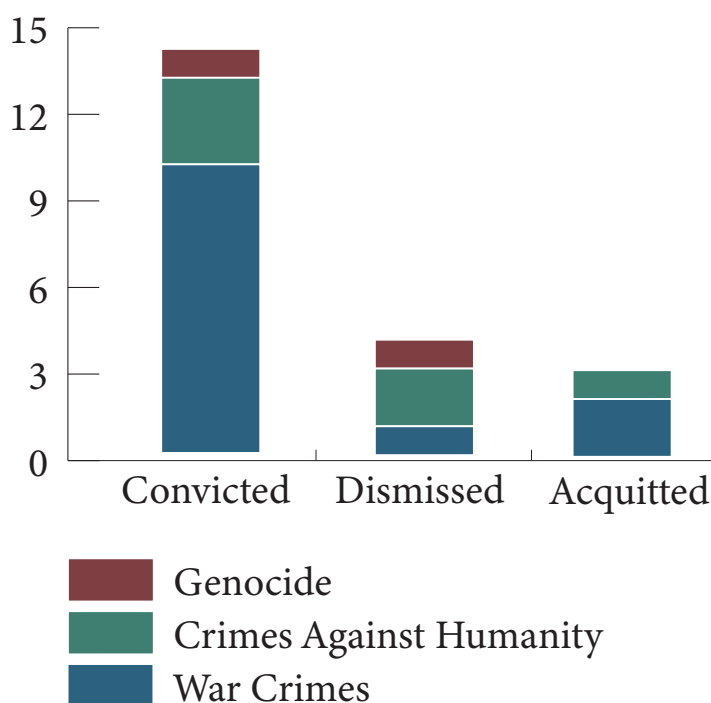
Women face more obstacles to testifying in court or with police and prosecution authorities. They may be related to the time of day for which a testimony is scheduled simply due to the lack of childcare. Moreover, the gender dimension could be balanced by a greater focus on SGBV crimes compared to other crimes if they have suffered both. While this can be emotionally difficult and warrant special assistance, it may reduce the limited role of women as survivors in justice processes and better address the role of gender overall.

15.a) Civil Society Complaints Against Individual Affiliated with the Syrian Government



In complaints filed since 2012, civil society organizations were equally focused on war crimes and crimes against humanity. In contrast, prosecutors have filed more war crimes charges to the exclusion of crimes against humanity charges. Notably, as of December 2022, all crimes against humanity charges were filed against affiliates of the Syrian government, while war crimes charges were filed against affiliates across all groups. Since 85% of civil society complaints are still pending, the prospects of success for the inclusion of crimes against humanity charges cannot be estimated.

15.b) Core International Crimes Charges in Completed Syria-related Proceedings



Nonetheless, it is worth noting that the charges brought forward by the prosecution did not only lead to the completion of the trial but also an overwhelming number of convictions compared to dismissals and acquittals.

Other factors leading to limited CAH cases for Syria may include jurisprudence such as the French *cour de*

cassation decision, holding that CAH in Syria could not be prosecuted in France. To date, according to the available data only one criminal complaint filed on behalf of Syrian survivors has moved forward. Cases initiated by prosecution offices with the help of survivors' evidence, on the other hand, led to arrests, indictments, trials, and convictions.

Benefits and Shortcomings

Preliminary data available on completed proceedings based on core international crimes charges (6 cases) in Germany confirms previous observations as to the efficiency of investigations. It has taken German police about six months to file indictments concerning core international crimes charges

following an arrest. The German judiciary, on the other hand, requires around sixteen months to proceed from receiving an indictment to issuing a final judgment. As of December 2022, Syria-related core international crimes trials in Germany lasted an average of 2 years from the day of the arrest to the final judgment. Cases pending in France point to extensive pretrial detentions. Following arrests between January 2020 and December 2021, France has yet to issue indictments in these cases. Syria-related core international crimes thus present a lengthy undertaking across all states, as the available (albeit limited) data indicates.



Alaa M. at Trial

07 What to Expect in the Coming Years

Key Actors and Policies

Following the establishment of specialized war crimes units, as well as joint investigation teams and the implementation of structural investigations, European states, in particular Germany, Sweden, France, and the Netherlands will likely remain at the forefront of prosecuting crimes committed in the Syrian conflict. If no additional resources and personnel are dedicated to the judiciary, trials concerning core international crimes will remain lengthy undertakings in most states.

The present trend in the U.S. is to prosecute only terrorism cases related to the Syrian conflict. Amendments to the U.S. War Crimes Act are [*unlikely to change*](#) this assessment as these amendments do not apply to crimes committed before 2023. As part of these terrorism prosecutions, the U.S. has focused on cases of attempted travel and material support provided from U.S. soil. A review of cases published on the [*U.S. Department of Justice's*](#) website reveals that considerable resources are being used in these investigations, namely undercover agents to disclose ISIS sympathizers planning to travel to Syria or trying to support the groups by sending money or materiel. The U.S. government has also suggested that it has identified [*technical solutions*](#) to fill gaps in U.S. law, although criminalization of CAH is unlikely to occur in the near term.

Canada has adopted a similar approach through the so-called '[*Mr. Big*](#)' investigation method. According to this method, investigators manifest engagement with certain criminal organizations and solicit others to join them, thereby providing information and committing criminal acts that can be used against them. Although Canada has incorporated universal jurisdiction over war crimes, crimes against humanity, and genocide, prosecutions of terrorism-related conduct remain the preferred approach in the Syrian context. Belgium has pursued a similar

approach as it is very active in prosecuting Syria-related terrorism cases. However, Belgium has not proceeded with cumulative charges, nor with Syria-related core international crimes prosecutions. In prosecuting Syria-related terrorism cases, Belgium often resorts to trials *in absentia*. Convictions in such cases are rarely executed and the participation of both survivors and perpetrators is limited.

Prosecutorial Trends

The data analyzed by SJAC has shown that structural investigations – as they are being conducted by Germany and Sweden – have proven to be fruitful in the prosecution of core international crimes committed in the Syrian conflict. States that have implemented this strategy will continue along this path, as the recent initiation of structural investigations into crimes committed in Ukraine indicates. Both [*Germany*](#) and [*Sweden*](#) have stated that this mode leads to the effective prosecution of core international crimes in conflict situations.

The European Union Agency for Criminal Justice Cooperation (Eurojust) also stressed the benefits of structural investigations in prosecuting Syria-related core international crimes at the [*first 2022 biannual meeting*](#) of the Genocide Network. The members of the network acknowledged the benefits of joint investigation teams (JITs) in this regard. These prosecutorial mechanisms will thus become increasingly important to European states prosecuting core international crimes committed in the Syrian conflict. The network again reiterated the importance of domestic prosecution efforts and mutual assistance during its second [*2022 biannual meeting*](#) in November where the IIIM also presented its new [*Gender Strategy and Implementation Plan*](#), which aims to integrate gender analysis into the mechanism's work and to capture the gender-related implications for affected individuals and communities. It promises to reduce disadvantages

for victims and survivors caused by gender. Due to the latest increase in prosecutions of female returnees in many European States, the efforts may lead to a better understanding of the structures in which the individuals were integrated. It may further reflect the full dimension of the harm done. The network further provided a useful [overview of national jurisprudence](#) of EU member states in January 2023 listing international crimes committed worldwide of which twenty are Syria-related. The growing number of collection of cases demonstrates the great efforts to fight impunity collectively.

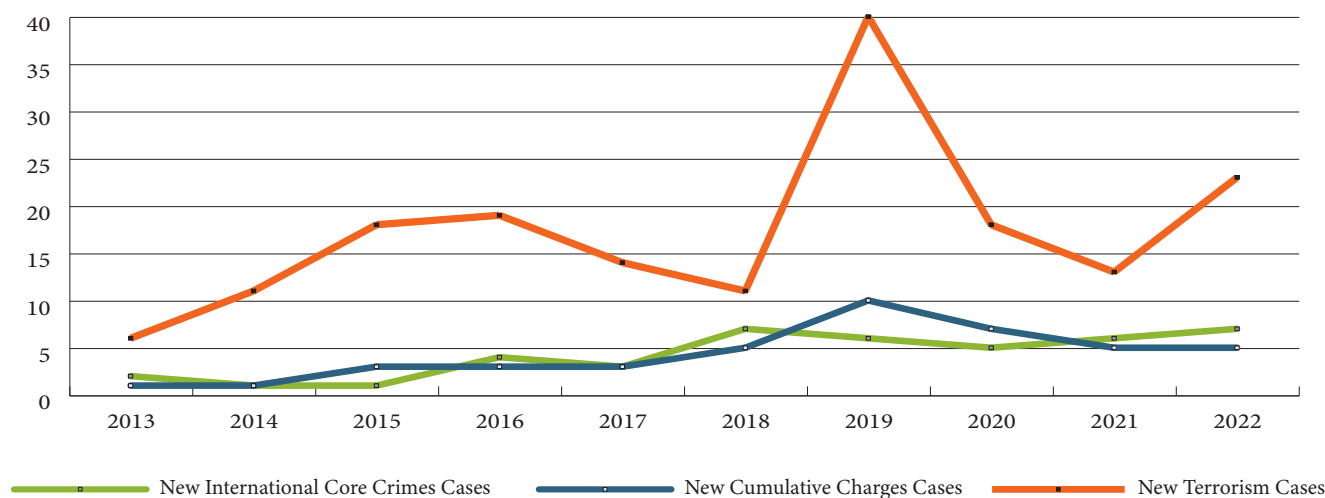
European prosecutors are also [increasing cooperation in bringing cumulative charges](#) against individuals affiliated with terrorist groups. This is especially the case for states like Sweden, where membership in a foreign terrorist organization is not criminalized and cumulative charging thus significantly increases sentences for convicted terrorists. Most Syria-related cases remain terrorism-only proceedings. Only a few core international crimes cases arise each year, as persons associated with the Syrian government, armed forces, intelligence services, or affiliated militias form the smallest group of prosecuted individuals.

Based on available information of all Syria-related cases based on the start date (arrest/indictment/first trial day) of a case.

Implications for Perpetrators and Survivors

Various countries' domestic efforts in to achieve justice and accountability for Syrians in the absence of any international judicial forum persist. Additionally, the prosecution of core international crimes opens opportunities for survivors and families of victims to actively participate in judicial proceedings. While prosecuting membership in a foreign terrorist organization or other terrorism charges (e.g. recruitment or financing) concentrates on structural, technical, and administrative elements of the crimes, core international crimes focus on the individuals who were harmed. Furthermore, terrorism-related charges can often be prosecuted with non-personal means of evidence, such as social media posts from a suspect, transcripts of communication, or bank transfer documentation. The prosecution of core international crimes committed in the Syrian conflict often requires the testimonies of insider witnesses to assess the working mechanisms and hierarchies, and eyewitnesses to describe specific conduct. This also provides a chance for survivors to seek justice for the harm they suffered by providing testimony to prosecutors and police. However, such cases take years to move from arrest to final judgment, not including the time required for investigations preceding an arrest. Participation of survivors and victim families in criminal proceedings thus requires patience and resilience. While the courts

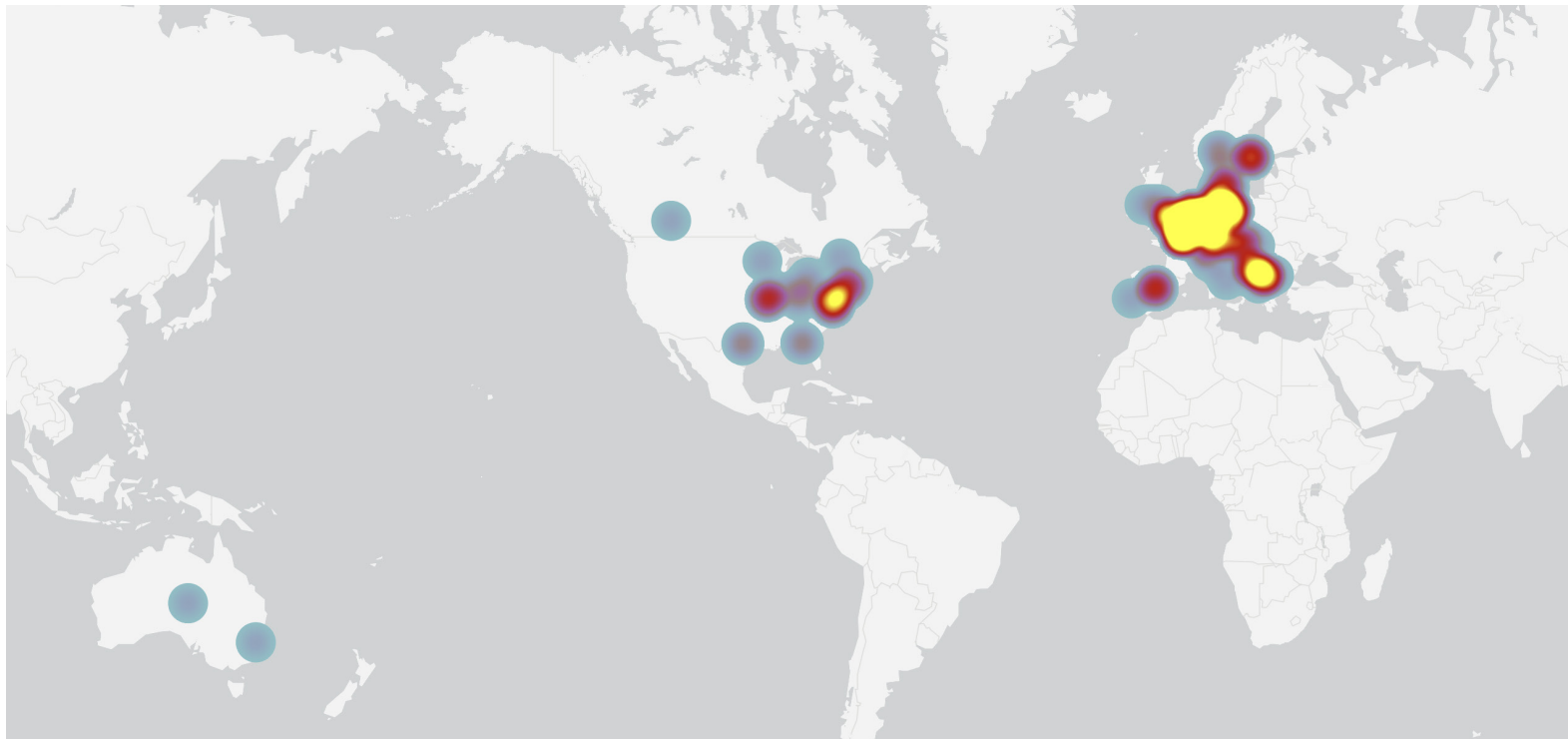
16) Trend of Prosecution Practice for Terrorism, Core International Crimes, and Cumulative Charging



should ensure psychosocial support during the proceedings, it lacks full access and remains a key area for improvement.

Civil society organizations can support survivors by providing them with legal and the necessary psychosocial assistance. In addition, CSOs can amplify the voices of Syrians regarding crime patterns or alleged perpetrators they consider to be worthy targets for transitional justice purposes. Nonetheless, data analyzed by SJAC has shown that states like Spain have narrowed opportunities for civil society initiation of cases. Similar complaints

filed in other countries also have not led to concrete outcomes for several years. This is particularly the case for complaints concerning high-level affiliates of the Syrian government. They continue to be out of reach of any prosecuting state and affiliates are unlikely to be arrested and face trial in the foreseeable future. Nevertheless, evidence provided through such complaints can feed into existing (structural) investigations and contribute to other cases.



SJAC's [Interactive Map](#) of Syria-Related Universal Jurisdiction Cases

08 Recommendations

In compiling this report, SJAC and its partners faced considerable obstacles in regard to the availability and accessibility of information surrounding these proceedings. Despite the team's multilingualism, the team could not determine what happened to a few foreign terrorist fighters and affiliates after their repatriation. Due to the lack of media attention, this was particularly an issue in examining repatriated Kosovar fighters' cases. Spanish authorities also provided little information on the outcome of terrorism suspects after they were arrested. In Germany, on the other hand, a significant amount of information about these proceedings is available through the authorities and courts. However, this requires familiarity with the websites of all Higher Regional Courts and local General Prosecutors' Offices to obtain the data, as information is not centralized. This data is, at times, only available for the last few years, as earlier press releases and statements are not maintained on the websites.

Based on these experiences and the data analyzed in this report, SJAC proposes the following recommendation to all states that are currently prosecuting or may prosecute Syria-related crimes in the future to improve the prosecution of terrorism and core international crimes and provide meaningful and comprehensive justice to the victims of these crimes:

- Prosecutors should consider using cumulative charges in terrorism cases where it is supported by the underlying facts of a case;
- States should work to reduce the length of UJ proceedings by:
 - ▶ Allocating more resources to the judiciary to reduce backlogs and court delays;
 - ▶ Continuing to engage in judicial and investigative cooperation to avoid redundancies;
 - ▶ Sharing the burden of prosecutions amongst interested states.
- Improve public outreach by investigators, prosecutors, and courts by sharing and storing information about terrorism, cumulative charges, and core international criminal cases in multiple languages to ensure survivors are informed about ongoing proceedings. This information should be available on an accessible and easy to use website.
- Set realistic expectations with survivors regarding legal procedures and prosecutorial limitations by:
 - ▶ Increasing communication with survivors beyond sharing recent updates on individual cases;
 - ▶ Providing more information about the length of proceedings and prosecutorial limitations, for example in relation to high-ranking government officials.
- Prosecute more affiliates of the Syrian government, the single largest perpetrator in the conflict, to close an existing impunity gap.
- Avoid wasting resources on prosecuting foreign terrorist fighters in absentia because these convictions are neither likely to be executed in the near future, nor do these trials respect the rights of the defendants. They also do not represent the needs of survivors in participating in justice processes and seeing perpetrators held accountable.
- Include sexual and gender-based violence in prosecutions of crimes committed in the Syrian conflict.
- Continue to repatriate female ISIS affiliates from Syria utilizing cumulative charging as this more comprehensively captures the magnitude of women's contribution to the crimes of the organization and presents a more victim-centered approach.

ANNEX I

List of sources providing information on Syria-related criminal proceedings

Name/Link	Description
<i>Middle East Eye</i>	News updates on Syria-related prosecutions around the globe (ENG and FR)
<i>The United States Department of Justice</i>	News regarding Syria-related (terrorism) prosecutions in the United States (ENG)
<i>German Federal Prosecutor General</i>	News regarding major Syria-related arrests and indictments in Germany (GER and ENG)
<i>Netherlands Public Prosecution Service</i>	News regarding Syria-related prosecutions in the Netherlands (NL and ENG)
<i>The Counter-Terrorism Division of the Crown Prosecution Service</i>	Summaries of (Syria-related) terrorism prosecutions in the United Kingdom since 2016 (ENG)
<i>International Crimes Database</i>	Summaries and additional resources concerning criminal proceedings, including Syria-related terrorism and core international crimes proceedings (ENG)
<i>Balkan Insight</i>	News regarding Syria-related (terrorism) proceedings in the Balkans (ENG)
<i>Enab Baladi</i>	General Syria-related news, including coverage of UJ trials (AR and ENG)
<i>Syria Direct</i>	Syria news site with some coverage of UJ trials (AR and ENG)
<i>Justiceinfo</i>	International Justice website with global coverage (FR, ENG, SPA, UK, RU)

Syria Justice and Accountability Centre



syriaaccountability.org | [@SJAC_info](https://twitter.com/SJAC_info)