

The UK should urgently legitimise the revocation of UK citizenship to the Islamic State's British members

By Democratic Audit UK

*The Islamic State has recently taken control of huge swathes of the Middle East, with British citizens thought to be amongst those involved in the violence. **Simon Hale-Ross** argues the European Union must stop dwelling on the human rights issue and adopt the directive dealing with Passenger Name Records, and the UK must seek to legitimise the removal of UK jihadist passports.*



Abu Bakr al-Baghdadi, the Leader of the Islamic State (Credit: [thierry ehrmann](#), CC BY 2.0)

An international collaborative approach is vital to combat the international terror threat posed by IS jihadist members. The European Union must stop dwelling on the human rights issue and adopt the directive dealing with Passenger Name Records, and the UK must seek to legitimise the removal of UK jihadist passports.

The [seriousness](#) of the threat posed to the UK and the European Union, from their own citizens who subscribe to the Islamic State's (IS) ethos, and have additionally been fighting with them cannot be overstated. Their religious beliefs are medieval rendering negotiation pointless and ineffective, the ideology of the group is dangerous and destabilising, and the political aspirations and actions are abhorrent. They have been described as a [cancer](#) and [will not rest](#) until they attain their [objective](#).

The catalyst for these new heightened debates was the [Joint Terrorism Analysis Centre](#)'s (JTAC) raising of the UK's terror threat level from [substantial](#) to [severe](#), meaning that an attack is now highly likely. This was evidently in direct response to the approximated 500 UK British citizens currently fighting with the jihadist terror group the [Islamic State](#) (IS), formerly known as the [Islamic State in Iraq and Syria/Levant \(ISIS/ISIL\)](#), in conjunction with the publication of the brutal beheading of the US journalist [James Foley](#), an act committed by a terrorist with a British accent. Although such beheadings and slaughter of [Iraqis](#) has been going on for quite some time, this incident authenticated concerns at home for many westerners.

This has prompted the UK government to propose new legislation creating a new legal framework to remove passports from UK citizens. The controversial debate surrounding airline data sharing with intelligence officials has also returned, with David Cameron pressing the European Union to enact a [directive](#), thus harmonising the

legal response across the 28 Member States. Cameron irrefutably knows that a domestic measure alone will prove inadequate.

Dealing with the removal of UK citizens' passports first, it is clear the possibility of effectively rendering a person stateless is growing. The legality of such a response is another matter entirely. There are two United Nations (UN) Conventions that the UK has long been a signatory, one of which serves to prevent a State from rendering a citizen stateless. [The Convention](#) relating to the Status of Stateless Persons 1954 and the 1961 Convention on the Reduction of Statelessness. The 1961 Convention represents an international instrument safeguarding citizens from inappropriate and unfair threats of statelessness. The Home Secretary, using [Royal Prerogative](#) power can revoke a person's UK citizenship entitlement, so long as the person concerned holds a dual nationality. The two issues facing the government are; the need to place this power on the statute book, carefully worded to reduce judicial intervention; and how to legitimately remove a UK only citizens passport, rendering them stateless.

This is where David Cameron's dexterity can be perused in his use of words, describing the actions of UK citizens fighting for IS, as [disloyal](#). Articles 8 and 9 of the [1961 Convention](#) expressly forbid the deprivation of nationality on racial, ethnic, religious or political grounds. Although the [religious beliefs and political aspirations](#) shown by members of IS are abhorrent, this would appear to satisfy the above definition. However, under the Convention, if a citizen has committed acts inconsistent with the duty of loyalty to the State, the State retains the right to deprive that citizen of nationality, even if this leads to statelessness. Proportionality and due process are the key terms that new UK legislation must conform, adhering to these safeguards. Should such wording be carefully expressed, satisfying the UK's international obligation to the UN and additionally the European Convention on Human Rights (ECHR), the legitimacy of rendering a person stateless may be made possible.

The further issue deals with the debate surrounding the sharing of the Passenger Name Record ([PNR](#)) with intelligence agencies and officials. Such data is already accessible by UK counterterrorism officials, evidenced by the [Miranda](#) debacle in August 2013. However, no EU wide legal consensus exists, with the subject proving to be a [divisive sticking point](#) for the current negotiations between the [Commission](#), the [Council of Ministers](#) and the [European Parliament](#). The PNR tends to include not only names, addresses and merely meal choices, but credit card details and phone numbers, and potentially sensitive data on ethnic origin, health, political views and sexual orientation. Because of such sensitivity one can understand [MEP's](#) concerns with regards to data protection and civil liberties, however, such information would only be made available to counterterrorism agencies and used in accordance with the law. The States primary charge is to safeguard its citizens. Indeed, one cannot seek to enjoy [qualified human rights](#) (Article 8-11 ECHR) without the [absolute rights](#) being protected, such as [Article 2](#) ECHR Right to Life.

Despairingly, the EU, despite [pressure from the UK](#) and other Member States, cannot approve a directive legitimising PNR sharing, yet decisively [agreeing](#) to share such data with the US in April 2012. Additionally, Canada is now waiting for approval from the European Parliament to also share such data.

A EU directive covering PNR information, made available in real time will provide the security services with exceptional opportunities to stop and search, question and detain terror suspects. It would mean that terror suspects would find it extremely difficult to travel around the EU without being detected. In the UK, police powers regarding passenger and crew information are regulated by section 32 of the [Immigration, Asylum and Nationality Act 2006](#). The requirement to provide PNR can only be imposed in writing and by a police officer if he thinks it is necessary in the prevention, detection, investigation or prosecution of criminal offences, or for safeguarding national security. The problem here is that the police require prior intelligence to suggest a particular suspect is travelling to or from the UK. With recent [reports](#) suggesting up to 250 UK citizens are believed to have returned home after fighting with IS, travelling through Germany and Turkey, the need to improve the situation is clear particularly when contemplating the UK are somewhat uncertain as to who the potential 250 UK citizens are. As Turkey is not a EU Member State, further agreements are required in addition to the directive.

An immediate adoption of the EU directive is paramount in providing a common framework between EU Member States in releasing the PNR, in real time, to ensure the safety of citizens from terror attacks carried out by returning IS jihadist fighters. The problem of international terrorism is not limited to the UK and requires an

international response. [Mehdi Nemmouche](#), a French national evidences this, killing three people at a Jewish Museum in Brussels earlier this year, after returning from spending a year in Syria fighting for ISIS/ISIL. Considering EU directives allow the Members States some time to successfully implement new legislation, the sooner the EU agree the better.

Passport removal must also be carefully considered as an option and David Cameron has made it clear that the proposed powers will be [specific](#) and not representative of a knee jerk reaction. Since the release of the video showing the brutal beheading of James Foley in August, [Steven Sotloff](#) has become the latest victim, murdered by the same British jihadist with a [further warning](#) accompanying the grotesque killing.

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