



EUROJUST Report

Terrorism Convictions Monitor

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Introduction

The Terrorism Convictions Monitor (TCM) is intended to provide a regular overview of the terrorism-related developments throughout the EU area. The Monitor has been developed on the basis of **open sources information** available to the Case Analysis Unit and methodologies such as individual case studies and comparative analysis. There is a link provided to each of the respective articles found on the Internet. **In addition, the current TCM includes information exclusively provided to Eurojust by the national authorities of several Member States by virtue of Council Decision 2005/671/JHA with no links to open sources.**

Issue 24 of the TCM covers the period **September – December 2015**. It includes an overview of the concluded court proceedings in the reporting period, a selection of upcoming and ongoing trials as well as an update on relevant legal developments. The analytical part of the report contains an analysis of a judgment of the Court of First Instance of Brussels of 29 July 2015. The judgment concerns a terrorist group that was responsible for the indoctrination of young people and the financing and facilitation of their travel to join the jihad. Among those sentenced *in absentia* is a person suspected to have been linked with the deadly attacks in Paris in November 2015. He was killed in a police action shortly after the attacks.

The general objective of the TCM is to inform and kindly invite the National Members to review, confirm, and, if possible, complete the information retrieved from the various open sources. The present issue is sent for information only as the reported court decisions have already been verified with the National Desks at Eurojust and used in the drafting of Eurojust's Contribution to the EU Terrorism Situation and Threat Report (TE-SAT) 2016. A summary of the contribution is also included in the present report.

The National Correspondents for Eurojust for Terrorism Matters are invited to provide information on an ongoing basis to Eurojust, in conformity with Council Decision 2005/671/JHA.

I. Court Decisions

1. Terrorism Convictions/Acquittals per Member State

September - December 2015

Austria

September 2015

On 8 September 2015 the court of Linz found an 18 year-old man guilty of **participation in a terrorist organisation** and sentenced him to 15 months, 10 of which under probation for three years. The young man had planned to travel to Syria to fight for the terrorist organisation IS. He had booked a one-way ticket to Istanbul, where he had rented an apartment which he had shared with several other young people. The investigators had traced his messages from Turkey and he had been stopped before he could reach Syria. The decision of the court is final.

Source: Information transmitted to Eurojust by virtue of Council Decision 2005/671/JHA/[DerStandard.at](#)

On 18 September 2015 the court of Graz convicted a 20 year-old woman of **participation in a terrorist organisation**. She was sentenced to 12 months' imprisonment under probation of three years. She had travelled from Graz via Vienna to Istanbul with the aim to continue to Raqqa together with a German national. She had planned to marry him there and support his fight and the terrorist organisation IS. They had been stopped by the Turkish authorities and extradited to Austria and Germany respectively. Her co-traveller is prosecuted in Germany. The decision of the court is final.

Source: Information transmitted to Eurojust by virtue of Council Decision 2005/671/JHA/[Salzburg.com](#)

On 21 September 2015 the court of Graz convicted two girls of 16 and 17 years of age of **participation in a terrorist organisation**. They both received 14 months and 12 months respectively, both under probation of three years. The elder girl had married an IS jihadist in Syria through Skype, while the younger one had been engaged to an IS member. They both had planned to travel to Syria and to support the terrorist organisation IS by taking care of the household of IS fighters. The decision of the court has been appealed.

Source: Information transmitted to Eurojust by virtue of Council Decision 2005/671/JHA/[Kurier.at](#)

The court of Vienna sentenced a man to four years' imprisonment after it found him guilty of **participation in a terrorist organisation**. The man had logistically and financially supported unknown perpetrators to go to Syria (providing money, cars, mobile phones, information to

members of the terrorist organisation IS in Syria). He had been in charge of organising transport to Syria for persons, who would like to join the IS. The decision of the court has been appealed.

Source: Information transmitted to Eurojust by virtue of Council Decision 2005/671/JHA/[Wienorff.at](#)

October 2015

On 1 October 2015 the court of Vienna convicted a 21 year-old woman of a Chechen origin, her 20 year-old boyfriend and his mother of **participation in a terrorist organisation**. The three had been arrested in Turkey when trying to travel to Syria in July 2014 in order to join the terrorist organisation IS. They were sentenced to 19 months, 24 months and 21 months respectively. The decision of the court is final.

Source: Information transmitted to Eurojust by virtue of Council Decision 2005/671/JHA/[DiePresse.com](#)

November 2015

The St. Pölten Court convicted a 17 year-old youngster of **participation in a terrorist organisation**. He was sentenced to 18 months under three years' probation. When determining the sentence, the court considered the fact that he had been a minor when committing the indicted acts. His interest in Islam had led him to visit mosques where he had met several contacts or members of the terrorist organisation IS. He confessed his role in the distribution of propaganda videos, speeches of IS leaders and videos of executions carried out by the IS. The materials had been distributed on Facebook and in a WhatsApp group between April 2014 and March 2015. In total, approximately 50 video messages containing radical Islamist content had been distributed. According to the prosecutor, he had tried to influence other people with the ideology of jihad. The decision of the court is final.

Source: Information transmitted to Eurojust by virtue of Council Decision 2005/671/JHA/[Meinbezirk.at](#)

The St. Pölten Court found a 24 year-old man guilty of **participation in the terrorist organisation IS**. He was sentenced to five years' imprisonment. The man had travelled to Syria in 2013 and taken part in combat. He had been arrested after an anonymous tip. The decision of the court has been appealed.

Source: Information transmitted to Eurojust by virtue of Council Decision 2005/671/JHA/[Heute.at](#)

Belgium

November 2015

At the Court of First Instance of Antwerp one defendant was charged with **participation in an activity of a terrorist group, training abroad to commit terrorist offences and attempted participation in an activity of a terrorist group**. The court acquitted him of the first two offences, allegedly committed in 2014, when he had gone to Syria to visit his sister and passed

by a military camp of the terrorist organisation IS. At the camp, he had studied the Koran and followed physical training. The court, however, did not consider the latter as training with the purpose to commit terrorist offences. The court found that he had not participated in IS' activities. However, the court considered it proven that in 2015 the defendant had tried to go to Syria to join the IS and take part in its terrorist activities. For the latter, he was sentenced to three years' imprisonment, two of which suspended for a period of five years, and a fine. The decision of the court has been appealed.

Source: Information transmitted to Eurojust by virtue of Council Decision 2005/671/JHA

The Court of First Instance of Antwerp found one defendant guilty of **participation in an activity of a terrorist group** and sentenced him to five years' imprisonment, half of which suspended for a period of five years, and a fine. The court held that he had visited Syria, where he had joined the group Katibat-al-Khadra and participated in the fighting against the Syrian regime. According to the court, the group supports ideologically and strategically the terrorist organisation IS. The court ruled further that the defendant had been aware of the techniques used by the group, e.g. suicide attacks, and rejected the claim that he had not been aware of the terrorist nature of the group. The decision of the court is final.

Source: Information transmitted to Eurojust by virtue of Council Decision 2005/671/JHA

A 26 year-old woman appeared at the Court of First Instance of Brussels suspected of having joined a terrorist group in Syria. She had self-radicalised in 2014, adopting the ideology and lifestyle promoted by the terrorist organisation IS. Six months later, she had established a contact with a person, who was convicted of terrorist offences and sentenced to 20 years' imprisonment in July 2015. She had travelled to Syria via Turkey together with her five year-old daughter and concluded a religious marriage with him. The court found her guilty of **participation in an activity of a terrorist group** and sentenced her to three years' imprisonment, suspended for a period of five years, and a fine of EUR 1800. The decision of the court is final.

Source: Information transmitted to Eurojust by virtue of Council Decision 2005/671/JHA

At the Court of First Instance of Brussels six defendants were charged with **participation in an activity of a terrorist group**, one of them with a leading role. The latter, who is a Moroccan national, was suspected of being an active member of a terrorist cell in Belgium with the objective of recruiting and facilitating the travel of people willing to fight the jihad in Somalia. He was sentenced on 6 November 2015 to three years' imprisonment, suspended for a period of five years, and a fine of EUR 1000. The second defendant had already been convicted for participation in the terrorist group Al-Shabaab on 27 June 2013. In the present case he was sentenced to ten years' imprisonment and a fine of EUR 60000. The court considered it proven that in December 2013, together with another co-defendant, he had travelled to Syria to join the terrorist group Jabhat al-Nusrah. He is believed to have died in a suicide attack in Iraq in 2015. His co-traveller was sentenced to four years' imprisonment, suspended for a period of five years,

and a fine of EUR 6000. The three other defendants, all Belgian nationals, had travelled to Syria and joined the terrorist group Jabhat al-Nusrah. Two of them were ordered to serve five years in prison and the third one was given four years, suspended for a period of five years. The court ordered them also to pay fines ranging between EUR 6000 and EUR 18000. One of the convicted persons had submitted an appeal.

Source: Information transmitted to Eurojust by virtue of Council Decision 2005/671/JHA

The Court of First Instance of Brussels found four defendants guilty of **participation in an activity of a terrorist group**, one of them in a **leading** role. Three of them were further convicted of **document forgery** and one of **torture** and **illicit restraint**. The court handed down sentences of between four and seven years' imprisonment and fines of up to EUR 6000. The four had been radicalised and all, except for one, travelled to Syria to join the terrorist groups Jabhat al-Nusrah and/or Majlis Shura Al-Mujahdin. The one who had not managed to get to the conflict zone had been arrested in Turkey in the framework of another criminal investigation. He had provided various types of support to fighters in Syria. The leader of the group had acted as a reference person for young people who wanted to join the fighting in Syria. He had travelled twice to the conflict area, in the company of other co-defendants. One of the convicted persons was sentenced *in absentia*. The decision of the court has been appealed by the defence of three of them.

Source: Information transmitted to Eurojust by virtue of Council Decision 2005/671/JHA

Six young people were charged with **participation in the activities of a terrorist group** in two joint criminal cases. One of the defendants, a 25 year-old woman, had left Belgium in 2013 with her 5 year-old daughter to go Syria and marry a jihadist who she had met on the Internet. Via Facebook, she had encouraged other Belgian girls to travel to Syria. She was sentenced to five years' imprisonment and a fine of EUR 6000. While in Syria, the young woman had stayed in contact, via Skype and Facebook, with a friend of hers who also held radical ideas and supported the terrorist organisation IS. She was sentenced to three years' imprisonment, suspended for a period of five years, and a fine of EUR 6000. The other defendants had been arrested at Charleroi Airport when trying to leave for Syria via Greece. One of them was sentenced to five years' imprisonment and a fine of EUR 6000, while the other two were given three and four years respectively, suspended for a period of five years and fines of EUR 3000. The sentencing of the fourth defendant was postponed for a period of five years. The decision of court is final.

Source: Information transmitted to Eurojust by virtue of Council Decision 2005/671/JHA

December 2015

In May 2015, the Court of Appeal of Brussels found six defendants guilty of **leadership of and participation in the activities of a terrorist group**, as well as some other offences, including use of false documents, forgery of business and banking documents, illegal stay, etc. The conviction followed the appeals against two judgments delivered in May and October 2014 when

several defendants had faced charges of leadership of and participation in the activities of a terrorist group. The Court of Appeal handed down prison sentences between two and 18 years. The court also ordered all convicted persons to pay a fine or serve additional time in prison. Some of the defendants had been arrested while attempting to cross the border between Somalia and Kenya. They had been held in custody for illegal stay in Kenya for a year prior to their extradition to Belgium (*for further details, please see issues 20, 21 and 23 of the TCM*). One of the convicted men had ceased the Court of Cassation, invoking a violation of rights of the defence. In December, the Court of Cassation rejected all arguments submitted by the appellant.

Source: Information transmitted to Eurojust by virtue of Council Decision 2005/671/JHA

The Court of First Instance of Antwerp found one defendant guilty of **participation in an activity of a terrorist group** and **public incitement to commit terrorist crimes** and sentenced her to five years' imprisonment and a fine of EUR 15000. She had posted messages on her Facebook page showing that she had joined the terrorist organisation IS in Syria and actively encouraged others to come and support IS. She had also called for the murder of a famous Belgian politician. The federal magistrate had requested Facebook to identify the user of the Facebook profile but it had been rejected as the user was not to be found in the jurisdiction of the requester (in the absence of an IP address in the EU).

Source: Information transmitted to Eurojust by virtue of Council Decision 2005/671/JHA

Germany

September 2015

One defendant appeared at the Higher Regional Court of Berlin after he was charged with **membership in a terrorist organisation abroad**. The defendant had already been convicted of supporting a terrorist organisation in April 2011 and sentenced to 22 months, which he still needs to serve. In the summer of 2013, the defendant had travelled to Syria together with his wife and six young children. There he had joined the terrorist organisation Junud Al-Sham and received weapons training. He had also recorded videos for recruiting new members of the group. He had returned to Germany in September 2013. The court found him guilty and sentenced him to six years' imprisonment. The decision of the court is final.

Source: Information transmitted to Eurojust by virtue of Council Decision 2005/671/JHA/Bild.de

October 2015

The Higher Regional Court of Düsseldorf heard the case of one defendant, who had travelled to Syria in July 2014. There he had joined the terrorist organisation IS and – after having agreed to become a fighter – started attending a military training camp. Before completing the training camp, he had left Syria and returned to Germany in August 2014. He was charged with **membership in a terrorist organisation abroad** and **preparation of a serious violent**

offence endangering the state. The Higher Regional Court of Düsseldorf sentenced him to two years and six months' imprisonment after it found him guilty as charged.

Source: Information transmitted to Eurojust by virtue of Council Decision 2005/671/JHA/[Bild.de](#)

December 2015

The Higher Regional Court of Celle heard the case of two defendants charged with **membership in a terrorist organisation abroad**. The defendants had travelled to Syria in May 2014 and joined the terrorist organisation IS as fighters. The first one had been trained in using weapons and had also been involved in recruiting new members. He had transported wounded IS fighters to a hospital following an IS attack in Iraq, detained two Syrian civilians and taken them to IS's self-proclaimed police. He was charged also with **preparation of a serious violent offence endangering the state**. His co-defendant had been appointed as a possible suicide bomber. He had also recruited others and accompanied an injured IS fighter to a hospital in Turkey. Both men had returned to Germany in August and September 2014 respectively. The court found them guilty as charged and sentenced them to serve, respectively, four years and three months, and three years in prison. The decision of the court has been appealed.

Source: Information transmitted to Eurojust by virtue of Council Decision 2005/671/JHA/[TheLocal.de](#)

Greece

October 2015

The Three Member Felony Court of Appeals of Thessaloniki acquitted two Turkish nationals, alleged members of the terrorist organisation The Revolutionary People's Liberation Party-Front (DHKP-C). The two were charged with **membership in a terrorist organisation**, with **possession of weapons and explosives** for the purposes of the terrorist organisation as an aggravating circumstance. The prosecution claimed that the two possessed and manufactured weapons, ammunition, explosives and other types of military equipment with the aim of supplying illegal groups and organisations and inflicting harm on others. The court did not consider the charges proven and found the defendants not guilty.

Source: Information transmitted to Eurojust by virtue of Council Decision 2005/671/JHA

Lithuania

October 2015

The Vilnius District Court found one defendant guilty of **threatening to commit a terrorist crime**. The man had appeared in the vicinity of the President's Office in the Lithuanian capital carrying a suitcase. He had threatened to blow up the suitcase, which, in his words, had contained a bomb. When the police had opened the suitcase, they had found empty bottles in it.

Due to the mental disorder the man suffered, the court ordered a compulsory medical measure – the stationary observation in a specialised mental health care facility.

Source: Information transmitted to Eurojust by virtue of Council Decision 2005/671/JHA/[15min.lt](#)

The Netherlands

September 2015

The District Court of Rotterdam acquitted one defendant who had been prosecuted for **preparing a terrorist attack and contributing in training for terrorism**. According to the prosecution, the contents of a notebook found with the defendant, as well as his chat messages on Facebook revealed the actual intentions he had. The notebook contained a recipe to make an explosive that was to be used against the police or the armed forces; threats to the Dutch society, an oath of allegiance to the terrorist organisation IS and violent threatening messages. On Facebook, he had declared to be a supporter of IS and had expressed his will to go to Syria. He had been asking his Facebook friends to receive instructions and videos on how to make an explosive. According to the court, at the time when the defendant was making the notes in his notebook or engaging in the Facebook chats, he did not have the intention to travel to Syria or commit an attack with a self-made or any other explosive.

Source: Information transmitted to Eurojust by virtue of Council Decision 2005/671/JHA/[Rechtspraak.nl](#)

December 2015

An investigation targeting a recruitment network resulted in the conviction of nine persons in December 2015. Six of them were found guilty of **participation in a criminal organisation with a terrorist intent** and received sentences of up to six years. They had been part of a recruitment cell that engaged in instigating, recruiting, facilitating and financing young people who wanted to travel to Syria to fight. Two of them are still believed to be fighting in Syria and were convicted *in absentia*. The court considered two of the other co-defendants to be followers and ordered lesser sentences. A woman, who was not part of the organisation, was also found guilty of **spreading material** with the purpose of inciting the commission of a crime. In its ruling, the District Court of The Hague held that the objective of the jihadist fighting groups in Syria is to overthrow the regime of the Syrian president and establish a pure Islamist society or state. Their purpose is to instil fear in large parts of the population of Syria. The court confirmed that the crimes these groups commit, such as murder, manslaughter, explosions, etc., are committed with terrorist intent and are, therefore, terrorist crimes.

Source: Information transmitted to Eurojust by virtue of Council Decision 2005/671/JHA/[Rechtspraak.nl](#)

Slovenia

December 2015

At the District Court in Koper, an Italian national was brought to court on charges of **terrorism** under Article 108 of the Slovenian Criminal Code, unlawful manufacture and trade of narcotic drugs, illicit substances in sports and precursors to manufacture narcotic drugs under Article 186 and forging documents under Article 251. He had been investigated for his alleged involvement in the sending of a letter with lethal doses of cyanide to the Czech Minister of Finance. He had denied the terrorist charge and admitted dealing in narcotic substances online. The court acquitted him of the terrorist offence and found him guilty of the other two, for which he was ordered to serve one year and three months in prison. The decision of the court has been appealed.

Source: Information transmitted to Eurojust by virtue of Council Decision 2005/671/JHA/24ur

Spain

September 2015

The Audiencia Nacional found one defendant guilty of committing an **attack resulting in death** and **illegitimate use of a stolen motor vehicle** and sentenced him to a prison term of 36 years. The defendant, who had been part of ETA's *Araba* command in 1978-1979, had been brought to court in relation to his role in the assassination of a police officer. In March 1979, together with three other persons, he had stepped into a car and forced the couple sitting in it to drive to a forest, where the two victims had been tied to a tree, while the four perpetrators drove away. The four then had returned to the city of Vitoria and entered the home of the police officer, opening cross fire. The shooting had resulted in the instantaneous death of the victim. Sometime later, the police had found the weapon used to kill the victim. The decision of the court is final.

Source: Information transmitted to Eurojust by virtue of Council Decision 2005/671/JHA

In the framework of an investigation into online glorification of terrorism, the police had uncovered a Facebook and a Twitter account used by one person to post a vast number of messages, comments and images explicitly justifying acts of the terrorist organisation ETA, glorifying various activities of its members and humiliating its victims. The messages, comments and images had been made public, without any restriction to access them. The online activities of the person had continued until his arrest by the police. Taking into consideration the available evidence, the Audiencia Nacional found him guilty of **glorification of terrorism** and sentenced him to an imprisonment of one year. The decision of the court is final.

Source: Information transmitted to Eurojust by virtue of Council Decision 2005/671/JHA

While patrolling the streets of Salvatierra during local festivities celebrated in October 2014, the police had encountered one person trying to put a sticker bearing ETA's anagram on a wall. The police had attempted to approach him but he had run away to his home where he had finally

been caught. Later that same day, the police had come to his home to inform him of the opening of a judicial proceeding against him. In September 2015, at the Audiencia Nacional he was convicted of **glorification of terrorism** and handed down a prison term of one year. The decision of the court is final.

Source: Information transmitted to Eurojust by virtue of Council Decision 2005/671/JHA

At the Audiencia Nacional one defendant was found guilty of **glorification of terrorism** and sentenced to one year imprisonment, which was suspended for a period of two years. Starting from 2012, he had used his Twitter account to publicly distribute messages, photographs and texts intended to praise members of the terrorist organisations ETA and GRAPO, justify their acts and humiliate their victims. The decision of the court is final.

Source: Information transmitted to Eurojust by virtue of Council Decision 2005/671/JHA

The Audiencia Nacional convicted two leaders and nine members of a terrorist network that had been recruiting, indoctrinating and training potential foreign terrorist fighters. The network had been established at the beginning of 2012 and included two cells that were operating in a coordinated manner in the Spanish town of Ceuta and in Morocco. Members of the network had financed and facilitated the travel to Syria and Iraq and the subsequent integration of their recruits into the terrorist organisations ISIL and Jabhat al-Nusrah. In order to supervise the process, one of the leaders of the network, who resided in Brussels, had made numerous trips to the border zone between Turkey and Syria. The court heard that at least six fighters recruited by the network had died in suicide attacks in the conflict zone. Based on the available evidence, the court found all defendants guilty of leadership and membership of a terrorist organisation respectively and sentenced them to serve between ten and 12 years in prison. One of them was also convicted of illegal possession of firearms. The decision of the court has been appealed.

Source: Information transmitted to Eurojust by virtue of Council Decision 2005/671/JHA

October 2015

One defendant was sentenced to 150 years' imprisonment after the court found him guilty of **terrorist assassination, attack, failed attack, causing terrorist destruction, and 5 counts of injuries**. The man, who had a previous conviction of terrorist offences in France, had established ETA's *Barcelona* command in 1985. The command had planned and executed an attack targeting the Guardia Civil in April 1987. The attack had been carried out by means of a car bomb which had been detonated at a metro station when a vehicle of the Guardia Civil had been passing by. As a result of the attack, one civilian had been killed and two Guardia Civil officers injured and significant material damage had been caused. The decision of the court is final.

Source: Information transmitted to Eurojust by virtue of Council Decision 2005/671/JHA

The Audiencia Nacional found one defendant guilty of **glorification of terrorism** and sentenced her to one year imprisonment. The court heard that through her Facebook account she had

spread messages with the purpose to glorify the terrorist organisation ETA, its actions and members. The messages had included images of imprisoned ETA members, posters, banners, etc. The decision of the court is final.

Source: Information transmitted to Eurojust by virtue of Council Decision 2005/671/JHA

The Audiencia Nacional found one defendant guilty of **glorification of terrorism** and sentenced him to one year imprisonment. Using his Twitter profile, he had posted messages and images intended to glorify the terrorist organisation ETA, its actions and members. The postings had included posters, photographs of ETA members leaving prison, images recreating the scene of a deadly ETA attack in 1973, etc. The decision of the court is final.

Source: Information transmitted to Eurojust by virtue of Council Decision 2005/671/JHA

One defendant was charged with **glorification of terrorism** and brought to the Audiencia Nacional after she had posted messages and images, supporting the terrorist organisation ETA, its actions and members and humiliating their victims. She had used her Facebook profile to spread material showing ETA's leaders and ideologists, photographs of imprisoned ETA members, comments regarding the use of violence, etc. The court found her guilty as charged and sentenced her to one year imprisonment. The decision of the court is final.

Source: Information transmitted to Eurojust by virtue of Council Decision 2005/671/JHA

November 2015

The Audiencia Nacional found one defendant guilty of **glorification of terrorism** and sentenced him to 18 months' imprisonment. He had been prosecuted for having posted various tweets glorifying the terrorist organisation ETA, its actions and members. The tweets had referred to a sketch of an ETA attack in 2013, a still of a movie related to an assassination executed in 1973, a portrait of a deceased ETA member, etc. The decision of the court is final.

Source: Information transmitted to Eurojust by virtue of Council Decision 2005/671/JHA

The Audiencia Nacional found one defendant guilty of **glorification of terrorism** and sentenced him to one year imprisonment. The court heard that in the period 2012-2014 he had posted numerous messages on his Facebook page justifying the acts of the terrorist organisation ETA and humiliating its victims. The messages had contained photographs with ETA's anagrams, propaganda messages, etc. The decision of the court is final.

Source: Information transmitted to Eurojust by virtue of Council Decision 2005/671/JHA

A Moroccan national appeared at the Audiencia Nacional on charges of **glorification of terrorism**. According to the prosecution, he had uploaded a self-made video on YouTube. The video, consisting of five parts, had been a clear homage to the former Al Qaida leader, killed by U.S. troops in Pakistan. It had contained calls to join the jihad, speeches of other leading jihadist

figures and images of Al Qaida training camps. The same YouTube channel had been used to publish 28 other videos, with similar violent and radical content. During the house search in the defendant's home, the police had also found a notebook with Arabic texts. His personal computer had been used to produce 33 videos posted on YouTube. The court found him guilty as charged and sentenced him to 18 months' imprisonment.

Source: Information transmitted to Eurojust by virtue of Council Decision 2005/671/JHA

The Audiencia Nacional heard the case of four defendants charged with **glorification of terrorism**. The four had been prosecuted for their alleged involvement in the organisation of a commemoration of deceased ETA members. The event had been planned for 9 March 2014 and members of the families of deceased ETA members had also been invited. The event had brought together some 500 persons. According to the prosecution, the defendants had participated in an act commemorating the deceased. The Audiencia Nacional acquitted all four of the charges.

Source: Information transmitted to Eurojust by virtue of Council Decision 2005/671/JHA

December 2015

The Audiencia Nacional sentenced two defendants to 296 years' imprisonment each after it found them guilty of **2 counts of assassination, 10 counts of attempted assassination, and causing terrorist destruction**. The two had formed ETA's *Ekaitz* command. In June 1991, they had prepared a package with a bomb intended for a company, which had been involved in the construction of a highway. The device had been constructed in a way to ensure explosion in case someone would attempt to deactivate it. As the recipient had changed its address and the package could not be delivered, the transportation company had tried to reach the sender. The attempt had failed and the police had been contacted. The package had exploded and killed two of the officers that had been examining it. Others had been injured and significant material damage had been caused. The defence has submitted an appeal against the convictions.

Source: Information transmitted to Eurojust by virtue of Council Decision 2005/671/JHA

Two female and one male defendants were prosecuted for **causing terrorist destruction** following an explosion of a bomb inserted in a backpack and left in front of the office of a company in Bilbao in January 2009. According to the prosecution, the three defendants had manufactured the bomb. The device had exploded while the authorities had been trying to deactivate it. As a result, two officers had been seriously injured and significant material damage caused. In February 2006, the terrorist organisation ETA had claimed the attack in a message to a newspaper. The Audiencia Nacional found the three defendants guilty and ordered them to serve 15 years in prison each. One of them had been temporarily surrendered by France in March 2015 upon the request of the Spanish authorities.

Source: Information transmitted to Eurojust by virtue of Council Decision 2005/671/JHA

The Audiencia Nacional found one defendant guilty of **belonging to a terrorist organisation, storing of weapons of war and ammunition, storing of explosives, two counts of conspiracy for terrorist assassination, and theft of a motor vehicle with a terrorist purpose**. He had been prosecuted for having taken part in the planning of an assassination of a high-ranking police officer. In the months prior to the assassination, the defendant had closely monitored the daily routines of the victim, as well as some politicians and state officials. Following a failed assassination attempt, he had escaped to France. The assassination had been attempted again in November 2001 by means of a car bomb, which had exploded as the car of the victim had passed by. As a result of the explosion, 94 persons had been injured and significant material damage caused. The executors of the attack had already been convicted for their role in the terrorist act.

Source: Information transmitted to Eurojust by virtue of Council Decision 2005/671/JHA

Following orders received by leaders of the terrorist organisation ETA, a group of several persons had placed an explosive device at the bottom side of a car and parked it in front of the Guardia Civil barracks in Torremolinos. They had activated the device in the evening and, as a result, four persons had been injured and damage caused to buildings and vehicles in the vicinity. The car used for the attack had been bought by the defendant some time before the explosion. The Audiencia Nacional found the defendant guilty of **four counts of failed assassination, causing terrorist destruction and falsification of an official document (licence plate)** and sentenced him to imprisonment of 104 years, four months and five days.

Source: Information transmitted to Eurojust by virtue of Council Decision 2005/671/JHA

The Audiencia Nacional found one defendant guilty of **glorification of terrorism** and sentenced to him to six months' imprisonment. He had been prosecuted for having posted various images and messages praising violent acts of the terrorist organisation ETA and its members. The posted material had been made publicly accessible, without any restrictions or limitations. The material included images of street violence, a monolith honouring ETA, pro-independence photographs and messages.

Source: Information transmitted to Eurojust by virtue of Council Decision 2005/671/JHA

At the Audiencia Nacional one defendant was brought to court on charges of **terrorist assassination, causing terrorist destruction, four counts of causing terrorist injuries and 16 counts of injuries**. He had been prosecuted for his alleged role in a terrorist attack in March 2001. According to the prosecution, the defendant had prepared a car bomb that was to be used. The car had been parked in front of a building of the Ministry of Justice in Madrid. The attack had been intended to cause multiple casualties. As a result of the explosion, a police officer had been killed, many other people had been injured and material damage caused. The court found the defendant guilty as charged and sentenced him to 83 years' imprisonment and a fine of EUR 21600. The decision of the court became final in January 2016. Other persons involved in the attack had already been convicted for their role in the terrorist act.

Source: Information transmitted to Eurojust by virtue of Council Decision 2005/671/JHA

A 29-year old man was charged with **two offences under the Terrorism Act**. Prosecutors in Scotland claimed that between 2007 and 2013 he had **collected or made a record of information likely to be useful to a person committing or preparing an act of terrorism**. This allegedly included footage of terror attacks, as well as instructions on 'urban assassinations' and 'guerrilla tactics'. A second charge alleged that he '**with the intention of committing acts of terrorism**' engaged in various actions between 2006 and 2013. Accusations listed in the indictment included a claim he had had an 'equipment list' for attending a terrorist training camp in Afghanistan. He was also said to have possessed 'advice for those involved in conducting terrorist attack planning operations'. The charge further purported that he had documents, recordings and files containing 'extreme ideology'. The accused denied the charges and gave evidence accusing the terrorist organisation IS of hijacking Muslim history and stated the Al Qaida material on his computer was for research purposes only. The jury returned non-guilty verdicts for all charges.

Source: [The BBC](#)

[REDACTED]

[REDACTED]

[REDACTED]

A neo-Nazi extremist was found guilty of plotting a terror attack 'for the Aryan people'. The accused had described in his diary his plan to assassinate a member of the British royal family with a high powered sniper rifle in order to bring about his son's succession to the throne. The

court heard he suffered from agoraphobia and depression and felt alienated and marginalised for being a white, ginger-haired man. He compared himself to the Norwegian terrorist who carried out a massacre in the summer of 2011. He had been arrested after his half-brother had found papers in his bedroom, in which he had outlined his racial hatred. Earlier in 2015 a jury could not agree upon a verdict; however, following a retrial, he was found guilty of **preparing terrorist acts**. Nevertheless, the jury rejected aspects of the allegations that he possessed chemicals to make cyanide and dimethyl sulphoxide, and stockpiled paraphernalia, including syringes, screw top spray and face masks. In December 2015, the court ordered his indefinite detention under the Mental Health Act.

Source: *The Independent*

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At the Kingston Crown Court two brothers of a man killed fighting for the terrorist organisation IS in Syria were found guilty, after a retrial, of helping others to travel to fight in Syria. The pair was convicted of offences related to the preparation of terrorist acts by providing assistance to others and making their bank accounts available to facilitate the transfer of money for terrorist purposes. Police said they had also purchased equipment and clothing and made plans to travel to Syria to fight for a proscribed organisation. One brother was sentenced to six years for **preparing terrorist acts** and another six years, to run concurrently, for **preparing to travel**. The other was sentenced to six years for preparing terrorist acts. He will also serve two months concurrently for possession of a mobile phone in prison.

Source: [The BBC](#)

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At the Woolwich Crown Court one defendant was found guilty of two counts of **preparing to commit acts of terrorism**. He had planned to travel to Syria and join the terrorist organisation ISIS. To this end, he had booked flights to Turkey for himself and four others. During his stay in Turkey, he had decided to abort his plans and follow the advice of his family to return home. He had been arrested upon his return to the United Kingdom in March 2015.

Source: [CPS](#)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

December 2015

A returnee from Syria was convicted of 13 terrorism-related offences by the Central Criminal Court. The defendant had travelled to Syria between November 2013 and May 2014. Upon his return to the United Kingdom, the police had found a large number of firearms related videos in his phone. The videos were **considered useful to an individual committing or planning to commit an act of terrorism**. As a result of the house search, the police had also found other terrorist material, including three audio files containing detailed instructions for terrorists preparing to engage in guerrilla warfare. A training video showing how to use a firearm to kill people in close combat had also been found on his phone. According to the prosecution, the evidence gathered from his phone strongly indicated that he was **preparing or planning an act of terrorism**. Contrary to his claims to have travelled to Syria for humanitarian purposes, pictures on his phone showed him holding an automatic assault rifle. The court sentenced him to four and a half years' imprisonment.

Source: CPS

The Kingston Crown Court sentenced a 21 year-old man to six years' imprisonment after it found him guilty of **preparation of acts of terrorism**. He had attempted to travel to Somalia to join the terrorist organisation Al-Shabaab but had been arrested before he could leave. In his phone, the police had found a history of visits to six websites with terrorist content. According to the prosecution, he had been radicalised following a stay in a psychiatric hospital. His family had alerted the police, leading to his arrest at the airport.

Source: CPS



Terrorism Convictions Monitor

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2. Other Court Decisions of Interest

September - December 2015

European Court of Human Rights

October 2015

Three Pakistani nationals arrested in April 2009 in the context of a counterterrorism operation in the United Kingdom brought a case (application no. 5201/11) to the European Court of Human Rights (ECHR). The three had been detained for 13 days and then released without charge. During their detention, they had been brought twice before a court, which had granted the warrants for their further detention. They had been then taken into immigration detention and returned voluntarily to Pakistan. With regard to the hearings on requests for prolongation of their detention, the three applicants claimed that certain evidence in favour of their continued detention had been withheld from them. One such hearing had been held for a short period in closed session. They had also complained about the search of their homes during their detention.

In its judgment, the ECHR held that there had been no violation of Article 5 § 4 (right to take proceedings to challenge lawfulness of detention) of the European Convention on Human Rights and that there had been no violation of Article 8 (right to respect for private and family life) of the Convention. The ECHR accepted that the UK authorities had suspected an imminent terrorist attack and had launched an extremely complex investigation aimed at thwarting it. The court ruled that Article 5 § 4 could not be used to prevent the use of a closed hearing or to place disproportionate difficulties in the way of police authorities in taking effective measures to counter terrorism. The court held that in this particular case the threat of an imminent terrorist attack and national security considerations had justified restrictions on the applicants' right to adversarial proceedings concerning the warrants for their further detention. Similarly, the Court found that the fight against terrorism and the urgency of the situation had justified a search of their homes on the basis of a search warrant issued by a judge but framed in relatively broad terms. The ECHR held that there had been sufficient safeguards against the risk of arbitrariness in respect of the proceedings for warrants of further detention and in respect of the search warrants.

Source: *European Court of Human Rights*

Legal Update

September - December 2015

1. EU

Council of the European Union

November 2015

On 20 November 2015, the Council adopted conclusions of the Council of the European Union and of the Member States meeting on enhancing the criminal justice response to radicalisation leading to terrorism and violent extremism.

A multi-disciplinary and holistic approach to deal with foreign terrorist fighters was proposed, including the sharing of information between law enforcement, security services, prosecution and, where applicable, with local authorities and social workers. It was concluded that Member States should develop de-radicalisation, disengagement and rehabilitation programmes in prisons, in preparation of release and after release to promote reintegration. It was suggested that this should include providing an adequate number of well-trained religious representatives in prisons to give support to social workers and counsellors in order to create a secure prison environment. Member States were invited to consider alternative measures to prosecution in all stages of the procedure, among which was rehabilitation as a condition for probation or suspension of a prison sentence. Member States should follow the best practices highlighted by the RAN Prison and Probation working group and to make use of the RAN Centre of Excellence.

The development of risk assessment tools and tools to detect early signs of radicalisation were also highlighted. Particular consideration was made to using and further developing a risk assessment tool for the judiciary, based on an individual approach, including the possibility to re-evaluate the risk at regular intervals, taking into account that de-radicalisation is a dynamic process. Member States were also encouraged to make full use of ECRIS and the Commission is to submit a proposal for the extension of ECRIS to cover third country nationals.

It was suggested that the underlying factors leading to terrorism and violent extremism should be targeted through preventative measures, in the development of programmes and actions, including in the field of education, to promote Fundamental Rights, the Rule of Law and tolerant and pluralistic societies. Reflecting this, Member States will produce methods and tools on how to break stereotypes and develop counter-narratives through the creation of networks and public spaces for dialogue. In this context, Member States were directed to address in particular the use of the internet for the purposes of terrorist radicalisation and recruitment, as well as on-line hate speech. Cooperation on strategic communication involving internet service providers and the creation of internet referral units was encouraged, following the support to the Europol Internet Referral Unit and to the Syria Strategic Communications Advisory Team.

Focus was given to provide continued training through the European Judicial Training Network (EJTN), CEPOL, Eurojust, the RAN Centre of Excellence, and, where appropriate the

Confederation of European Probation (CEP), Europol and Europris, as well as exchanging information in relation to national practices and lessons learnt. Member States should also draw upon the work carried out in other relevant bodies in response to radicalisation leading to terrorism and violent extremism. Eurojust will continue to monitor trends and developments by use of its Terrorism Conviction Monitor (TCM) of the applicable legislative framework and relevant jurisprudence in the Member States as regards terrorism and violent radicalisation, including the use of alternatives to prosecution and detention.

The Council invited the Presidency, the Commission and the EU Counter-Terrorism Coordinator to report, as and when appropriate, to the Council about progress in the implementation of these conclusions.

Source: Council of the European Union

December 2015

On 4 December 2015, the Council approved the compromise text agreed with the European Parliament concerning the directive involving the use of passenger name record (PNR) data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime. Under the new directive, airline carriers are obliged to provide member states with the PNR data from flights entering or departing from the EU. The aim of the directive is to regulate the transfer of data of passengers from international flights to the member states, along with the processing of the data by the competent authorities. Member states will also be able to collect PNR data concerning selected intra-EU flights. In order to receive the PNR data, each member state is required to set up a 'Passenger Information Unit'.

The rules set out in the directive have created new standards for the use of such data, particularly in relation to the retention, purpose, storage and the exchange of data between the member states and third countries. Data will initially be stored for six months, after which they will be masked out and stored for a period of four and a half years, with a strict procedure to access the full data. Moreover, the purposes for which PNR data can be processed in the context of law enforcement proceedings includes the use in pre-arrival assessments of passengers against pre-determined risk criteria or in order to identify specific persons and the use in specific investigations/prosecutions. The appointment of a data protection officer in each Passenger Information Unit is also mandatory.

PNR data has been used in the past and has been essential in investigations concerning certain cross-border crimes, such as human and drug trafficking, obtained on the basis of specific legislation or general legal powers. It should be noted that the UK and Ireland have opted in to this directive but Denmark will not participate. The Parliament's Civil Liberties, Justice and Home Affairs Committee is expected to vote on the text in due course. It will be then submitted to the European Parliament for a vote at first reading, and to the Council for adoption. Once adopted, member states will have two years to bring into force the laws, regulations and administrative provisions necessary to comply with the directive.

Source: Council of the European Union

European Commission

September 2015

Commission Implementing Regulation (EU) 2015/1517 of 11 September 2015 amending for the 236th time Council Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with the Al Qaida network was adopted. The Regulation amends Annex I to Regulation (EC) No 881/2002 by adding one entity under the heading 'Natural persons'.

Source: Official Journal of the European Union

Commission Implementing Regulation (EU) 2015/1540 of 29 September 2015 amending for the 237th time Council Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with the Al Qaida network was adopted. The Regulation amends Annex I to Regulation (EC) No 881/2002 by deleting one and adding seven entities under the heading 'Natural persons'.

Source: Official Journal of the European Union

October 2015

Commission Implementing Regulation (EU) 2015/1815 of 8 October 2015 amending for the 238th time Council Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with the Al Qaida network was adopted. The Regulation amends Annex I to Regulation (EC) No 881/2002 by adding eighteen entities under the heading 'Natural persons', two entities under the heading 'Legal persons, groups and entities and deleting two entities under the heading 'Natural persons'.

Source: Official Journal of the European Union

December 2015

Commission Implementing Regulation (EU) 2015/2245 of 3 December 2015 amending for the 239th time Council Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with the Al Qaida network was adopted. The Regulation amends Annex I to Regulation (EC) No 881/2002 by adding one entity, replacing another entity and deleting four entities, all under the heading 'Natural persons'.

Source: Official Journal of the European Union

A proposal for a new directive on combating terrorism and replacing Council Framework Decision 2002/475/JHA was presented in December 2015 by the European Commission. In the European Agenda on Security, the Commission identified upgrading the EU framework to address terrorism as a priority and announced its intention to update the existing criminal law

legislation in this area to meet new challenges. One of the most pertinent challenges to Member States is the phenomenon of an increasing number of individuals who travel abroad for the purposes of terrorism and the threat they pose upon their return.

Known as ‘foreign terrorist fighters’, the latest Europol EU Terrorism Situation and Trend Report (TE-SAT) analysed that the current scale of the phenomenon is growing: by late 2014, the overall number of people who have departed from the EU to conflict areas was estimated to have exceeded 3000 and is now assessed to have reached 5000, while at the same time the number of returnees was reported to have increased in some Member States. While foreign terrorist fighters constitute a primary source of concern, the threat posed by home-grown terrorists, radicalised lone attackers and ‘frustrated’ terrorist travellers (for example following seizure of their passport) was also highlighted.

Terrorist groups and individuals have made use of the Internet by using a network of accounts on a variety of social media platforms which allows for rapid dissemination of terrorist and radical materials. Framework Decision 2002/475/JHA already criminalises certain terrorist acts, including in particular the commission of terrorist attacks, participation in the activities of a terrorist group, including financial support to these activities, public provocation, recruitment and training to terrorism, as well as rules on aiding and abetting, incitement and attempt of terrorist offences. However, it does not explicitly require the criminalisation of travel to third countries with terrorist intentions, nor does it explicitly require the criminalisation of being trained for terrorist purposes. Furthermore, it only requires criminalisation of terrorist financing to the extent that funding is provided to a terrorist group, but not if provided to all offences related to terrorist activities, including recruitment, training or travelling abroad for terrorism.

However, these offences are referred to in the UNSCR 2178 (2014) and in the Additional Protocol to the Council of Europe Convention on the prevention of terrorism, adopted in May 2015 implementing certain criminal law provisions of the UNSCR 2178 (2014), in particular its operative paragraph 6. The Additional Protocol requires the criminalisation of the following acts; participation in an association or group for the purpose of terrorism (Article 2), receiving training for terrorism (Article 3), travelling or attempting to travel for terrorist purposes (Article 4), providing or collecting funds for such travels (Article 5) and organising and facilitating such travels (Article 6). It also requires parties to strengthen the timely exchange of information between them (Article 7).

In order to implement the obligations arising from the Additional Protocol it was deemed necessary to revise Framework Decision 2002/475/JHA. The draft Directive also proposes to criminalise the following behaviours; attempt of recruitment and training, travel abroad with the purpose of participating in the activities of a terrorist group, and the financing of the various terrorist offences defined in the draft Directive.

Furthermore, the proposal also foresees the criminalisation of travel to any country, including to those within the EU and including to the country of nationality or residence of the perpetrator, for the purposes of engaging in terrorist activities. In addition, and in line with the necessity to capture different forms of support to terrorist activities, including trade transactions and import

and export of goods destined to support the commission of terrorist offences, the proposal contains a clarification that any such material support would be covered by the provisions of the Directive. Furthermore, the proposal improves upon existing provisions on aiding and abetting, incitement and attempt, as well as rules on jurisdiction, ensuring consistency and effective application of the relevant provisions and avoiding loopholes. Finally, it includes additional provisions governing specific support measures to victims of terrorism.

The implementation of the new provisions into the directive have undergone several stages of assessment reports, including the report of September 2014 on the implementation of the amendments introduced by Framework Decision 2008/919/JHA. The 2014 implementation report was supported by an external study looking not only into the transposition by the EU Member States of Framework Decision 2008/919 JHA into national legislation, but also carried out an assessment of the implementation of the legal framework adopted by the EU Member States to combat terrorism in practice.

The study revealed a common understanding of terrorist-related crimes such as public provocation, recruitment and training to terrorism have ensured that in particular, cross-border cases are dealt with more efficiently. More specifically, the study concluded that most stakeholders considered that the new offences helped them tackle the preparatory stages of terrorist activities. From a law enforcement and judicial point of view, cases related to the new offences involving more than one Member State could be handled more efficiently due to a common approach to criminalising offences. Overall, the added value of the Framework Decision 2008/919/JHA was regarded as high for EU Member States that did not already have a legal framework specifically to tackle terrorism; for those that did, added value lay in strengthening the framework for cooperation with other Member States in tackling the preparatory stages of a terrorist action.

Eurojust was asked to look into whether existing criminal offences in Member States are sufficient to tackle new phenomena such as in particular the flow of foreign terrorist fighters to third countries. The appraisal by Eurojust revealed doubts as to the effectiveness of such measures calling for a revision of the existing legal framework.

The implementation of the Directive will be monitored by the Commission on the basis of the information provided by the Member States on the measures taken to bring into force the laws, regulations and administrative provisions necessary to comply with the Directive.

The Commission shall, after two years following the deadline for implementation of this Directive, submit a report to the European Parliament and to the Council, assessing the extent to which the Member States have taken the necessary measures to comply with this Directive. Four years after the deadline for implementation of the Directive, a report will be submitted to the European Parliament and the Council, evaluating the impact and added value and possible recommendations. The Commission will undertake consultations with Member States and stakeholders, notably Europol, Eurojust and the Fundamental Rights Agency and will also take into account the information provided by Member States under Council Decision 2005/671/JHA.

Source: European Commission

2. Member States

Luxembourg

December 2015

On 24 December 2015 Luxembourg adopted a new law, which implements the provisions of the UN Security Council Resolution 2178 (2015). The law introduced amendments in 13 articles of the Criminal Code and 12 articles of the Criminal Procedural Code, which are designed to improve the response to the threat posed by foreign terrorist fighters.

The amendments provide for a new definition of incitement to terrorism (Article 135-11), which includes messages broadcasted or communicated to the public in any other form, including through electronic communication networks, in the presence of others, or in a private or a virtual space, which could be accessed by other persons. The amendments extend also the definition of recruitment for terrorism (Article 135-12) and training for terrorism (Article 135-13). Also, the procurement and production of explosive devices and firearms was further specified in Article 134, which concerns the preparation of the commission of a terrorist offence.

The amendments envisage that persons convicted of terrorist offences hand in their passports and ID cards to the competent authorities. Furthermore, the national jurisdiction was extended to any person, who on or from the territory of Luxembourg travels, or prepares to travel, to another State, with the intention to commit, organise, prepare or participate in terrorist offences.

A new Section X-1 was also added to the Code of Criminal Procedure. This Section foresees the possibility of an investigative judge to impose a ban on leaving the national territory and invalidate the passport and ID of a person who is a subject of a preliminary investigation.

Source: National Desk of Luxembourg at Eurojust

The Netherlands

December 2015

In the Netherlands, several draft legal acts are being discussed in implementation of the Programme for an Integral Approach towards Jihadism.

The House of Representatives has approved the bill amending the Law on Dutch nationality expanding the possibilities for revoking the Dutch nationality of those who have committed a terrorist offence. The bill is now to be discussed and approved by the Senate. Furthermore, an amendment to the Law on special measures addressing metropolitan problems has been submitted to the House of Representatives for discussion. The amendment allows for screening of future tenants for possible radical, extremist or terrorist behaviour. Also, the rules governing the availability and use of precursors for explosives are to be discussed with a view to limiting

access to such precursors. Discussions are also pending on the proposal to allow revoking the Dutch nationality in the interest of the national security. With the aim to protect the national security, it has also been proposed to allow the authorities to impose the duty to report, ban to enter a specific area or to leave the country for those who, due to their behaviour, can be linked to (support of) a terrorist organisation. It has been further proposed to amend the Passport Law and provide for the invalidation of Dutch passports and ID cards of those who have been banned from leaving the country.

In addition, some other amendments are in the making. They are intended to improve the procedure for removal, by telecommunications providers, of illegal online content, allow for the termination of social security payments, tax benefits or student credits for those who have left the country to join a terrorist organisation, etc.

Source: National Desk of the Netherlands at Eurojust

Slovak Republic

December 2015

The Slovak Parliament amended the Slovak Constitution and several other legal acts, as part of the so-called 'anti-terrorism package' adopted as a Constitutional Act No. 427/2015 Coll and Act No. 444/2015 Coll.

In conformity with the amendment in the Constitution, Article 17 paragraph 3 was changed to extend the duration of the custody for crimes of terrorism from 48 up to 96 hours. The court was also given the power to rule on custody of a person suspected of committing the crime of terrorism without stating the reasons of the custody.

Crimes of terrorism are defined by Article 140b of the Criminal Code and include 'the offence of establishing, plotting and supporting a terrorist group under §297, the offence of terrorism and some forms of involvement in terrorism under §419, the crime committed by members of terrorist groups and crime committed on specific motives under §140 point e)'. The offence of 'establishing, plotting and supporting a terrorist group' also became an 'especially serious crime', as defined in Article 10 of the Criminal Code.

Furthermore, the amendments introduce some other fundamental changes e.g. the possibility to record communication of a suspect or a convict by telecommunication means, which takes place while the person is in prison or in custody, with the exception of the communication with the defence lawyer; enlargement of the protection of witnesses who provide information; increased use of the temporary suspension of accusations or suspension and interruption of criminal prosecution of accused persons who cooperate with the authorities; extension of the rights of police, especially regarding the search of a vehicle and closing public areas in case of a danger; extension of the rights of Slovak Information Service and the Military Intelligence, etc.

Source: National Desk of the Slovak Republic at Eurojust

United Kingdom

October 2015

On 22 October 2015, the United Kingdom signed the Council of Europe Additional Protocol to the 2005 Convention on the Prevention of Terrorism. The Protocol aims to set minimum standards at international level for the criminalisation of recruitment and receipt of training for terrorism, and of travelling abroad for the purpose of terrorism, and gives effect to UN Security Council Resolution 2178, with which the United Kingdom is already compliant.

Source: National Desk of the United Kingdom at Eurojust

II. Judicial Analysis

The present analytical chapter has been produced in an attempt to provide an insight into terrorist judgments rendered throughout the EU area. It is intended to help practitioners and offer relevant case studies and/or comparative analyses. The judgments to be analysed have been purposefully selected. The analysis focuses on the most interesting aspects of the case, rather than covering all issues and arguments addressed by the court.

1) Procedure: Court of First Instance of Brussels¹

Date of decision: 29 July 2015

Introduction

The analysis below concerns a joint case against an organised network (for ease of reference, hereinafter called 'the Brussels cell'), which had been recruiting, indoctrinating and facilitating the travel to Syria of potential fighters. The prosecution claimed that the Brussels cell had facilitated the departure of many young people to Syria. Those young people had been indoctrinated with the violent jihadist and Salafist doctrine by the cell's leaders. They had been financed and facilitated into the conflict zone, where they had joined the groups Kataib Al Muhajireen, Sfn Moujahideen, Jabhat al-Nusrah and the Islamic State in Iraq and the Levant (ISIL). In some cases, whole families had left for Syria; in others, members of the groups had travelled together with their siblings.

The *modus operandi* of the cell reveals a solid structure and organisation covering every aspect of its functioning. The case is of particular interest due to the fact that one of the defendants sentenced *in absentia* is believed to have played a major role in the attacks that took place in Paris on 13 November 2015. He was reported dead following a police action in the aftermath of the attacks.

In addition to this defendant, 18 others did not appear in court and were also tried *in absentia*; some of them were claimed or reported to have died in combat.

In its ruling, the court acquitted two defendants and found the remaining ones guilty as charged. It ordered prison sentences up to 20 years, as well as monetary penalties.

¹ The Case Analysis Unit would like to thank the National Desk of Belgium at Eurojust for kindly providing a copy of the judgment.

The charges

The prosecution brought to court three separate cases: Case I, II and III. One of the defendants in Case I was also charged under Case II, while Case III concerned two defendants who were also charged under Case II. Due to the links among the cases, the court decided to combine them.

A summary of the charges brought against the defendants is presented below.

Charge	Case I Defendants	Case II Defendants	Case III Defendants
Leadership of a terrorist group	1, 2	1, 2, 5, 6, 8, 10	
Participation in an activity of a terrorist group	3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15	3, 4, 7, 9, 11, 12, 13, 14, 15, 16, 17	
Fraudulent acquisition of items	1, 5	3	
Possession of illegally obtained items	1, 2, 5, 6, 13		
Manufacturing, selling with benefits, seceding, transporting or carrying of prohibited weapons	1, 4		
Acquisition of a foreign passport and fraudulent delivery to a third person	1		
Document forgery and use of forged documents		1	1, 2
Kidnap of a minor		5	
Theft of a licence plate		3	
Fraud by using false documents or fraudulent representation of facts		1	
Use of false name		1, 3	1, 2

The evidence

The evidence considered by the court included statements and testimonies of the defendants and of family member of fighters in Syria; contents of intercepted conversations; photographs; statements posted on websites; surveillance and undercover agent reports; outcomes of house searches, etc.

Applicability of Article 141bis of the Criminal Code

The prosecution claimed that some of the defendants had travelled to Syria, where they had joined militant groups, such as Katiba al-Muhajirin, Jabhat al-Nusrah or ISIL. According to the prosecution, these groups constituted terrorist groups, as defined in Article 139, paragraph 1 of the Criminal Code. Therefore, defendants who had knowingly participated as members or leaders in activities of these groups were to be found guilty of participation in an activity of a terrorist group or leadership of a terrorist group.

In contrast, the defence counsel of Defendants 4 and 25 claimed Article 141bis of the Criminal Code² was applicable in this case. Article 141bis of the Criminal Code refers to armed forces, as defined and governed by international humanitarian law (IHL). According to the defence counsel, the conflict in Syria is a non-international armed conflict (NIAC) and the groups some defendants had joined were in fact 'armed forces' in the meaning of this Article.

When ruling on this claim the court considered the terrorist nature of the groups the defendants had joined in Syria. It considered also the fact that the defendants' intention had not been to go to Syria to fight a brutal regime and to restore freedom, but to join terrorist groups and fight jihad with the aim of imposing, by force and terror, a Sunni Salafist regime governed by sharia law. All defendants had joined Salafist terrorist groups, promoting 'global jihad' and aspiring to establish a worldwide caliphate. They considered the Shiites and the 'kuffar' (non-believers) their enemies.

The court held that the groups the defendants had joined did not meet the criteria to qualify as 'armed forces' in the framework of a NIAC. Those groups were made up of scattered cells, with no links among the cells. The groups did openly carry weapons or distinctive signs. They were unable to establish a disciplinary regime, which can respect IHL. They were unable to lead joint and concerted actions, or to speak in one voice.

The court referred, for example, to the fact that some defendants had stayed very briefly 'in the area' and travelled back and forth to Belgium, Turkey and Syria, without the need to inform anyone. Defendants needed also to buy their own weapons, ammunition and combat clothing. The court noted that the defendants had formed isolated groups, which did not form a military organisation with a chain of command, and a unifying structure for all its members.

² The article stipulates that the Title I *ter*. Terrorist Offences of the Criminal Code does not apply to the acts of armed forces during an armed conflict as defined and governed by international humanitarian law, or to the acts of a State's armed forces in the framework of the execution of their official tasks, as far as such acts are governed by other requirements of international law.

The court concluded that the defendants had not been part of 'armed forces' in an armed conflict, as defined and governed by IHL, in the sense of Article 141bis of the Criminal Code.

The court held that the jihadist recruitment and facilitation networks targeted by Case I and Case II were in fact structured associations of more than two people, established over a certain period of time and comprised of people acting in concert to commit terrorist offences, as provided for in Article 137 of the Criminal Code. They did not constitute an 'armed force' in a NIAC. The court concluded that the defendants, who had joined the above-mentioned terrorist groups in Syria or participated in the activities of the networks in Belgium, could not benefit from the exception provided for in Article 141bis of the Criminal Code.

Terrorist nature of the group

In conformity with paragraph 1 of Article 137 of the Criminal Code, the terrorist nature of a group stems from the specific gravity of the offence the group intends to commit and the specific objective to seriously intimidate a population or unduly force public authorities or an international organisation to take or refrain from taking certain action or seriously destabilise or destroy the fundamental political, constitutional, economic or social structures of a country or an international organisation.

The terrorist intent of a group could be indicated by acts, such as pledging allegiance to Al Qaida, joining an organisation whose aim is to overthrow the established power and to create an Islamic regime applying the sharia law by means of violence (jihad), or working together with Islamic groups waging jihad to coordinate actions against their enemies ('non-believers and their allies').

For the group to be qualified as a terrorist group it is not necessary that it had perpetrated terrorist offences set out in Article 137 of the Criminal Code; it is enough that the actions of the group had a terrorist intent. The court recalled also a judgment of the Court of Appeal of Brussels of 19 January 2007, according to which it was not required that the group had already committed or prepared a concrete terrorist offence.

Participation and leadership of a terrorist group

Paragraph 1 of Article 140 of the Criminal Code incriminates the behaviour of '*any person who takes part in an activity of a terrorist group, including by supplying information or material resources to the terrorist group, or by any other form of funding an activity of the terrorist group, with the knowledge that this participation contributes to committing a terrorist offence*'.

With regard to the participation in an activity of the terrorist group, the court held that the type of the contribution or its occasional or systematic occurrence was irrelevant. Furthermore, the contribution did not need to be directly linked to committing an offence. It is, however, necessary to prove the knowledge that such participation contributes to committing an offence by the terrorist group.

The leaders of the cell had organised every aspect of its activities: from the recruitment of youths to the departure to or from Syria. The leaders were also the 'main hub' of information, enabling the fighters in Syria to communicate with other members of the cell in Belgium or with their families.

The defence requested the acquittal of several defendants by arguing that the prosecution did not present enough evidence to support the charges. The court ruled, however, that the charges of leadership of a terrorist group and participation in an activity of a terrorist group were proven with regard to all defendants, except for Defendants 10 and 11. In the case of Defendants 2, 16 and 17, the court ruled that there was insufficient evidence to prove the charge of leadership of a terrorist group. It, therefore, re-qualified the charge into participation in an activity of a terrorist group. The court also requalified the charge of participation in an activity of a terrorist group into leadership of a terrorist group with regard to Defendant 23.

Role of the defendants

Defendant 1 [Case I], arrested on 24/02/2014: The defendant was the leader of the Brussels cell. The court established that, with knowledge and intent to cause harm, he had indoctrinated and incited young people to participate in terrorist attacks in Syria, incited young people to commit petty offences in Brussels in order to finance activities in Syria, and financed and facilitated others to travel to Syria to take part in the fighting by providing housing, forged documents and contacts and by smuggling wanna-be fighters into Syria. It was established that at least 18 of his acquaintances had left for Syria. According to his statements, the armed battle, i.e. the armed jihad, is a religious obligation for every Muslim. The goal of this armed battle is to introduce a totalitarian Islamic state where there is no place for democracy, as the democratic system is in violation of the sharia.

Furthermore, the court referred to the contacts Defendant 1 had with members of the Al Qaida-affiliated terrorist organisation Al-Shabaab. At least seven of those were well-known jihadists convicted on 21 May 2014 to between five and 20 years' imprisonment for financing and providing forged documents to Al-Shabaab. The court referred also to the international contacts of the Brussels cell via Defendant 1 with the following persons: a smuggler, who could ensure entry into Syria; members of Dawla Islamiya, who could reach Defendant 1 when the terrorist group captured Defendant 16. Furthermore, the court referred to the contacts of Defendant 1 with terrorist organisations in Syria. It was his contacts in Syria that allowed the exfiltration of Defendant 11 from the conflict zone. The court pointed out that it was impossible to join terrorist groups with a clear Al Qaida profile, such as Kataib Al Muhajireen, Sfn Moujahideen, Jabhat al-Nusrah or ISIL, if no contacts existed between the Brussels cell and these groups.

The court also pointed out that the intentions of the defendants were to be interpreted from the very secretive use of means of communication to contact each other or other members abroad. Defendant 1 was presented as very careful and used a secret code and third persons' phones to communicate.

Defendant 1 and other leading persons had indoctrinated Belgian youths with the violent jihadist and Salafist doctrine. In addition, the young people had gradually been isolated from their environment. This indoctrination had taken place when these young people had to face difficult situations and felt misunderstood or lonely. They had been introduced to Defendant 1 via the mosque or a common acquaintance. Statements of family members and information collected on different defendants showed that these young people had completely changed their mentality and clothing. Defendant 1 also committed other criminal offences, such as theft (of luggage at the train station) and possession of prohibited arms (switchblade knife).

Defendant 2 [2 in Case I and 7 in Case II]: The defendant was a member of the Brussels cell. He had gone to Syria in January 2013, together with Defendant 27, received training by ISIL and then participated in combat. Together with Defendant 1, he had indoctrinated and incited young people to participate in terrorist attacks in Syria, incited young people to commit petty offences in Brussels in order to finance activities in Syria, raised funds and facilitated others to travel to Syria to combat. He had also committed theft (battery charger). He had returned to Belgium via Germany in May 2013 and left for Morocco in June 2013. He had been extradited to Belgium in March 2014 on the basis of an international letter rogatory issued by the Belgian authorities.

Defendant 3 [Case I], arrested on 09/03/2014: The defendant was a member of the Brussels cell. He had recruited and helped other members (e.g. Defendant 4) to travel to Syria by collecting money for their journey. He had concluded a religious marriage with Defendants 10 and 11. In October 2013, he had told an undercover agent that Defendants 1 and 4 had been members of Al Qaida. He had tried to leave for Syria to join ISIL. He had been arrested in Serbia in March 2014 and extradited to Belgium.

Defendant 4 [Case I], arrested on 24/02/2014: The defendant was a member of the Brussels cell. He is fluent in Arabic and had translated texts used for the indoctrination of young people. He had collected money on Internet via donations to fund his participation in the fighting in Syria. In 2013, he had left for Syria, via Turkey (Istanbul). He had returned without receiving any training or participating in combat. He had been stopped at the airport upon return to Belgium in September 2013 and admitted he had been to Syria to see for himself how the situation was.

Defendant 5 [Case I]: The defendant was a member of the Brussels cell. According to the files found in his computer, he is one of the persons who held the most extremist views. He had financially and materially supported the cell by stealing IDs and goods.

Defendant 6 [Case I]: The defendant was a member of the Brussels cell. He is French. He had provided important financial and material support by stealing IDs and goods (jewels). He had left for Syria in 2014.

Defendant 7 [Case I]: The defendant was a member of the Brussels cell. He had been indoctrinated by Defendant 1, and had committed a fraud by declaring the loss of his passport in order to leave for Syria in 2013, as soon as he had turned 18. In Syria, he had joined Jabhat al-Nusrah.

Defendant 8 [Case I]: The defendant was a member of the Brussels cell. He had turned 18 in 2012, and had been seen at Defendant 1's place in 2013. On the following day he had left for Syria to join Jabhat al-Nusrah.

Defendant 9 [Case I], possibly dead since 12/2014: The defendant was an active member of the Brussels cell. He had turned 18 in 2014 and soon after that he had left for Syria. He had joined ISIL in Raqqa.

Defendant 10 [Case I], arrested on 26/02/2014: The defendant is the sister of Defendant 11 and the religious wife of Defendant 3. She had financially supported her religious husband while he had been in Syria. She had tried to go to Syria in 2013, together with her sister, but had been stopped by the Turkish authorities and returned to Belgium. She was acquitted by the court.

Defendant 11 [Case I], arrested on 26/02/2014: The defendant is the sister of Defendant 10. In 2013, they had left for Syria. Shortly after she had arrived, she had been pulled out of Syria with the help of Defendant 1 and returned to Belgium together with her brother, who had gone to Turkey to look for her. She was acquitted by the court.

Defendant 12 [Case I]: The defendant was an active member of the Brussels cell. He is a radical imam who used to preach at a mosque. The mosque was the same one where Defendant 1 used to go to pray, and where most of the other defendants had been radicalised. On 9 November 2012, the Foreigners Office³ had issued an order for Defendant 12 to leave the Belgian territory. The order had been based on Defendant 12's public order offences committed in Spain, his illegal stay in Belgium, absence of visa and suspected marriage of convenience. He had joined ISIL in 2012.

Defendant 13 [Case I]: The defendant was a member of the Brussels cell. He had supported financially the cell and Defendant 1. He is presumed to have joined ISIL in Raqqa, Syria, in April 2014.

Defendant 14 [Case I]: The defendant was a member of the Brussels cell. He had left for Syria in 2013 via Italy and Turkey. He is presumed to have joined ISIL.

Defendant 15 [Case I], possibly dead since 26/03/2014: The defendant was a member of the Brussels cell. He had travelled to Syria several times. During one of his trips to the conflict zone in January 2014 he had been accompanied by Defendant 20 and his underage brother. In the media, he had been reported to have been fighting in the ranks of ISIL and to have died in March 2013.

Defendant 16 [1 in Cases II and III], arrested on 25/07/2013: The defendant was a leader of the Brussels cell. He is the son of Defendant 24, the half-brother of Defendants 21 and 23, and nephew of Defendant 25. He had indoctrinated, recruited and incited young people to participate in terrorist attacks in Syria, participated in combat, provided financial and logistic support to others to leave for Syria. He had gone several times to Syria in 2012 and 2013. In February 2013 he had travelled to Syria together with Defendant 21 and other person and returned together with Defendant 21 in later that month. In March 2013 he had been sent to

³ The Foreigners Office is a federal office dealing with immigrant population and asylum applications.

back to Belgium by the Turkish authorities. In July 2014, he had been arrested at Schiphol airport by the Dutch authorities and surrendered to Belgium in August 2014.

Defendant 17 [2 in Case II]: The defendant was a leader of the Brussels cell. He had collected money through illegal activities and thus financed the cell. In 2013, he had gone several times to Syria. During one of his return trips in 2013, he had been accompanied by Defendant 15. In Syria, he had joined Kataib Al Muhajireen, Sfn Moujahideen and Jabhat al-Nusrah, received training and participated in combat.

Defendant 18 [3 in Case II and 2 in Case III]: The defendant was an active member of the Brussels cell. He had left for Syria in 2014 together with Defendant 21 and presumably participated in combat. He had been responsible for recruiting young people on websites and financing the cell by committing petty criminal offences.

Defendant 19 [4 in Case II], arrested on 10/07/2014: The defendant was a member of the Brussels cell. He had travelled several times to Syria, where he had joined Jabhat al-Nusrah and participated in combat. During his trip in November 2013, he had been accompanied by Defendants 21 and 23. He had returned to Belgium, via Schiphol airport in Amsterdam in January 2014. He had been questioned by the Belgian authorities in February 2014 and then released. In March 2014, he had left Belgium again to try to convince the wounded Defendant 21 to return to Belgium.

Defendant 20 [5 in Case II], officially confirmed dead by the French authorities in 2015⁴: The defendant was a leader of the Brussels cell. According to his father, Defendant 20 had radicalised after his release from prison in 2012. Similar to some other cell members, who had recruited and persuaded their siblings to take part 'in the cause', Defendant 20 had abducted his 13-year old brother, known in the media for being the youngest jihadist ever. They had left together for Syria, via Germany and Turkey, in the company of Defendant 15. During the search carried out in Defendant 20's home after the abduction of his brother, the authorities had found various stolen items, including car licence plates. In Syria, Defendant 20 had joined ISIL. He seemed to be very proud of his membership in the terrorist organisation, as he had appeared in a footage driving a 4x4 vehicle, trailing six corpses behind him.

Defendant 21 [6 in Case II]: The defendant was a leader of the Brussels cell. He had recruited others and provided logistic support to those who wanted to leave for Syria. He had also spread or made public messages with the purpose of inciting the commission of terrorist offences and threatening to kill or injure others. In 2013, he had left for Syria, where he had joined Kataib Al Muhajireen, Sfn Moujahideen, Jabhat al-Nusrah and later ISIL and participated in combat.

Defendant 22 [8 in Case II]: The defendant was a member of the Brussels cell. Together with his wife, Defendant 31, his son, Defendant 30, and his underage daughter, he had left for Syria in October 2013. His intention had been to join, together with his son, a jihadist brigade and arrange for the marriage of his young daughter to a jihadist fighter. The defendant and his son, Defendant 30, had joined ISIL. The two had gone to Turkey to sell their passports for EUR 3000.

⁴ Numerous media sources have reported on the operations carried out by the French authorities following the 13 November 2015 attacks in Paris. See for example [Francetvinfo.fr](http://francetvinfo.fr).

Defendant 23 [9 in Case II]: possibly dead since 05/01/2014: The defendant was an active member of the Brussels cell. In 2013, he had left for Syria, where he had joined Jabhat al-Nusrah and participated in combat. Together with his mother, Defendant 24, and his half-brother, Defendant 16, he had travelled to Syria in April 2013. At the time, he had an apartment in Adana, Turkey, and had known a famous smuggler. In Syria, he had joined Jabhat al-Nusrah and participated in training and combat. According to a telephone conversation between two other defendants, he had become a leader ('emir') of a group of Belgian and French fighters. The charge against him was re-qualified from participation into leadership of a terrorist group.

Defendant 24 [10 in Case II]: The defendant was an active member of the Brussels cell. She is the mother of Defendants 16, 21 and 23 and the sister of Defendant 25. She had been radicalised for many years. In 2007, for example, she had been in contact with another radical female convicted in 2010 of participation in a terrorist group.⁵ The latter was the wife of a Taliban fighter, who had committed a suicide attack on 9 September 2009 while pretending to be a Belgian journalist. Defendant 24 had left for Syria in 2013, together with Defendants 16, 21 and 23. She had returned to Belgium, via Amsterdam, in April 2014.

Defendant 25 [11 in Case II]: She was a member of the Brussels cell. She is the sister of Defendant 24. She had never travelled to Syria but sent money to Defendants 16, 21, 23 and 24.

Defendant 26 [12 in Case II]: The defendant was a member of the Brussels cell. In 2013, he had left for Syria, where he had joined Katibat Al-Muhajireen and ISIL.

Defendant 27 [13 in Case II]: The defendant was a member of the Brussels cell. In January 2013, he had left for Syria, via Turkey, together with Defendant 2. In Syria, he had joined Katibat Al-Muhajireen and ISIL.

Defendant 28 [14 in Case II]: possibly dead since 04/2014: The defendant was a member of the Brussels cell. In 2012, he had left for Syria, where he had joined ISIL in Aleppo.

Defendant 29 [15 in Case II]: The defendant was a member of the Brussels cell. In 2012, he had left for Syria, where he had joined Jabhat al-Nusrah.

Defendant 30 [16 in Case II]: The defendant was a member of the Brussels cell. In October 2013, he had left for Syria, via Turkey, together with his parents, Defendants 22 and 31, and his young sister. He had received training, joined ISIL and participated in combat.

Defendant 31 [17 in Case II]: The defendant was a member of the Brussels cell. In October 2013, she had left for Syria, via Turkey, together with her husband, Defendant 22, her son, Defendant 30, and her underage daughter.

Forgery of documents and use of forged documents

The court considered it proven that Defendants 16 and 18 had been involved in forgery of documents and use of forged documents. The offences had been committed with the purpose to

⁵ The judgments in the case has been analysed in issues 8 and 9 of the TCM.

mislead the Belgian and Turkish authorities in order to travel to Syria or facilitate the travel of other cell members to Syria to fight in the ranks of terrorist groups.

The court referred, for example, to the stealing of foreign passports. The photographs on these passports were replaced and they were used to leave for Syria.

Fraud and theft to finance a terrorist group

The court considered it proven that Defendants 2, 5, 16 and 18 had the objectives to finance and facilitate the departure of cell members willing to travel to Syria. The court established that cell members committed criminal offences by, inter alia, defrauding the State or banks in order to gain money and by selling of stolen items (tablets, smartphones, jewels). Defendants' statements and reports of an undercover agent revealed that these frauds and thefts had been justified and encouraged by the concept of 'ghanima'.⁶

In addition to the stolen foreign passports, mentioned above, cell members had also stolen licence plates, which they had used to mislead authorities and travel freely within the EU when leaving for Syria.

The defendants had also collected money from donations of third persons. A charity with a misleading name had been used to collect funds. The charity had been advertised on websites as serving humanitarian objectives and seeking to help provide medical aid. Donations had been collected under false allegations leading donors to believe that the needed items would be bought in Turkey for a lower price. The charity had been used by Defendant 10 to transfer money to jihadist fighters in Syria.

The penalties

The court pointed out that the offences of the defendants were particularly grave. The defendants had the objective to establish, by means of violence, a totalitarian religious state anywhere in the world. They contested the democratic values and the human rights and wanted to abolish the rule of law and the open society. They had no respect for the opinion and life of others. The court underlined that the defendants wanted to fight all 'non-believers'. There is no room for freedom, human rights, personal development, science or culture within their terrorists groups. They claimed to defend the Muslims worldwide but their acts were of no benefit to the Muslim community.

When determining the penalties, the court took into consideration the nature and gravity of the offences, the circumstances under which they were committed, as well as each defendant's role, personality, age and criminal record. With regard to the latter, the court pointed out the following:

⁶ Right to pillage, literally meaning 'spoils of war' (*unofficial translation*).

- Defendant 6 had been convicted in 2005 by the Tribunal de Grande Instance de Nanterre (France);
- Defendant 15 had been convicted in 2013 of possession of a narcotic substance;
- Defendant 17 had been convicted in 2010 of drug offences;
- Defendant 18 had been convicted in 2013 of arms trafficking;
- Defendant 19 had been convicted in 2011 of theft;
- Defendant 20 had been convicted in 2011 of robbery;
- Defendant 21 had been convicted in 2007 of threats using illegal arms;
- Defendant 23 had been convicted in 2007 of rape of a minor and assault on a police officer;
- Defendant 30 had been convicted in 2012 of theft with violence.

The court ordered the following penalties:

Defendant	Offence(s)	Penalty	Other
1	Leadership of a terrorist group; fraudulent acquisition of items; possession of illegally obtained items; manufacturing, selling with benefits, seceding, transporting or carrying of prohibited weapons; acquisition of a foreign passport and fraudulent delivery to a third person	12 years' imprisonment Fine of EUR 5000	
2	Participation in an activity of a terrorist group; possession of illegally obtained items	5 years' imprisonment Fine of EUR 3000	Trial <i>in absentia</i> International arrest warrant
3	Participation in an activity of a terrorist group	5 years' imprisonment Fine of EUR 2500	Partial suspension of the imprisonment for a period of 5 years
4	Participation in an activity of a terrorist group; manufacturing, selling with benefits, seceding, transporting or carrying of prohibited weapons	5 years' imprisonment Fine of EUR 1000	Partial suspension of the imprisonment for a period of 5 years
5	Participation in an activity of a terrorist group; fraudulent acquisition of items; possession of illegally obtained items	5 years' imprisonment Fine of EUR 2500	Partial suspension of the imprisonment for a period of 5 years
6	Participation in an activity of a terrorist group; possession of illegally obtained items	10 years' imprisonment Fine of EUR 5000	Trial <i>in absentia</i> International arrest warrant
7	Participation in an activity of a terrorist group	5 years' imprisonment Fine of EUR 1500	Trial <i>in absentia</i> International arrest warrant
8	Participation in an activity of a terrorist group	5 years' imprisonment Fine of EUR 1500	Trial <i>in absentia</i> International arrest warrant

Defendant	Offence(s)	Penalty	Other
9	Participation in an activity of a terrorist group	5 years' imprisonment Fine of EUR 1500	Trial <i>in absentia</i> International arrest warrant
10	Participation in an activity of a terrorist group	Acquitted	
11	Participation in an activity of a terrorist group	Acquitted	
12	Participation in an activity of a terrorist group	5 years' imprisonment Fine of EUR 1500	Trial <i>in absentia</i>
13	Participation in an activity of a terrorist group; possession of illegally obtained items	5 years' imprisonment Fine of EUR 1500	Trial <i>in absentia</i>
14	Participation in an activity of a terrorist group	5 years' imprisonment Fine of EUR 1500	Trial <i>in absentia</i> International arrest warrant
15	Participation in an activity of a terrorist group	10 years' imprisonment Fine of EUR 1500	Trial <i>in absentia</i> International arrest warrant
16	Leadership of a terrorist group; document forgery and use of forged documents; fraud by using false documents or fraudulent representation of facts; use of false name	8 years' imprisonment Fine of EUR 3000	Partial suspension of the monetary penalty
17	Leadership of a terrorist group	5 years' imprisonment Fine of EUR 2500	Partial suspension of the imprisonment for a period of 5 years
18	Participation in an activity of a terrorist group; fraudulent acquisition of items; theft of a licence plate; use of false name	7 years' imprisonment Fine of EUR 1500	
19	Participation in an activity of a terrorist group	5 years' imprisonment Fine of EUR 1500	
20	Leadership of a terrorist group, abduction of minor	20 years' imprisonment Fine of EUR 5000	Trial <i>in absentia</i> International arrest warrant
21	Leadership of a terrorist group	20 years' imprisonment Fine of EUR 10000	Trial <i>in absentia</i> International arrest warrant
22	Leadership of a terrorist group	10 years' imprisonment Fine of EUR 3000	Trial <i>in absentia</i> International arrest warrant
23	Leadership of a terrorist group	20 years' imprisonment Fine of EUR 10000	Trial <i>in absentia</i> International arrest warrant

Defendant	Offence(s)	Penalty	Other
24	Leadership of a terrorist group	8 years' imprisonment Fine of EUR 3000	
25	Participation in an activity of a terrorist group	10 months' imprisonment Fine of EUR 1000	Suspension of the sentence for a period of 5 years
26	Participation in an activity of a terrorist group	5 years' imprisonment Fine of EUR 1500	Trial <i>in absentia</i>
27	Participation in an activity of a terrorist group	5 years' imprisonment Fine of EUR 1500	Trial <i>in absentia</i> International arrest warrant
28	Participation in an activity of a terrorist group	5 years' imprisonment Fine of EUR 1500	Trial <i>in absentia</i>
29	Participation in an activity of a terrorist group	5 years' imprisonment Fine of EUR 1500	Trial <i>in absentia</i> International arrest warrant
30	Participation in an activity of a terrorist group	10 years' imprisonment Fine of EUR 1500	Trial <i>in absentia</i> International arrest warrant
31	Participation in an activity of a terrorist group	2 years' imprisonment Fine of EUR 1000	Suspension of the sentence for a period of 5 years

In cases where the court ordered suspended sentences, it referred to specific terms and conditions for the suspension, as set by the law. The fines to be paid by the convicted persons were to be indexed, as provided for by the law, to amounts between EUR 6000 and EUR 60000. In case of non-payment in due time, the fine could be replaced by additional imprisonment of between one and three months. Furthermore, the court ordered deprivation of rights listed in Article 31 paragraphs 1 to 6 of the Criminal Code (right to occupy public posts, to be elected, to serve in the armed forces, etc.) for a period of ten years.

III. Topic of Interest

The Year 2015 in Numbers

The present chapter contains quantitative and qualitative analysis of data transmitted by Eurojust by virtue of Council Decision 2005/671/JHA on the exchange of information and cooperation concerning terrorist offences, according to which Member States shall collect all relevant information concerning prosecutions and convictions for terrorist offences and send it to Eurojust. The analysis is based on data for the entire year 2015. The analysis has also been used in preparing Eurojust's contribution to the EU Terrorism Situation and Trend Report (TE-SAT) 2016.

Court proceedings, verdicts and individuals in concluded court proceedings

In 2015, 12 EU Member States reported to have concluded a total of 217 court proceedings in relation to terrorism (*please see Figure 1 below*).⁷

Figure 1



- Member States with terrorism-related convictions/acquittals
- Member States without terrorism-related convictions/acquittals

⁷ Information on terrorism-related court decisions in 2015 were sent to Eurojust by Austria, Belgium, Denmark, France, Germany, Greece, Lithuania, The Netherlands, Slovenia, Spain, Sweden

In case a verdict pronounced in 2015 was appealed and the appeal was concluded before the end of the year, Eurojust counted the proceeding as one and reported only on the latest/final verdict.

The concluded court proceedings concerned 513 individuals, 85 of which were female. Nine individuals in Spain and two individuals in Greece were tried several times in the framework of different criminal proceedings in 2015.⁸ As a result, the total number of verdicts pronounced for terrorism-related offences in 2015 was 526. Some defendants in Belgium and The Netherlands did not appear in court and were sentenced *in absentia*.

Figure 2 – Number of individuals in concluded court proceedings for terrorist offences per EU Member State in 2013, 2014 and 2015⁹, as reported to Eurojust

MEMBER STATE	2013	2014	2015
AUSTRIA	1	2	29
BELGIUM	8	46	120
CYPRUS	1	0	0
CROATIA	0	1	0
CZECH REPUBLIC	8	1	0
DENMARK	8	13	1
FINLAND	0	4	0
FRANCE	49	36	14
GERMANY	14	11	17
GREECE	9	10	38
IRELAND	8	0	0
ITALY	8	4	0
LITHUANIA	2	4	1
NETHERLANDS	4	5	18
ROMANIA	1	0	0
SLOVAK REPUBLIC	0	1	0
SLOVENIA	0	0	1
SPAIN	141	191	166
SWEDEN	0	0	2
TOTAL	313	444	513

⁸ In 2015, there were two individuals who were tried three times and seven individuals who were tried twice for different offences in Spain. In Greece, two individuals were tried twice for different offences. The verdicts pronounced in the different court proceedings were counted separately when analysing the data on verdicts.

In 2015, [REDACTED], while Spain remains the Member States where the largest number of individuals were convicted or acquitted of terrorist offences.

Some of the verdicts reported in 2015 are final while others are pending judicial remedy, as appeals have been submitted.¹⁰

Type of terrorism

In 2015, the majority of verdicts were pronounced in relation to religiously inspired terrorism.¹¹ It is for the first time since 2008 that concluded court proceedings in the EU result in a higher number of verdicts for religiously inspired terrorist offences than for separatist terrorist offences. In Austria, Belgium, Denmark and Sweden all verdicts concerned religiously inspired terrorism. The highest number of those (120) was rendered in Belgium.

The majority of the verdicts for religiously inspired terrorism concerned offences related to the conflict in Syria and Iraq. In 2015, Member States reported to Eurojust an increase in prosecutions and convictions of foreign terrorist fighters. These prosecutions and convictions concerned individual travellers, as well as recruitment and facilitation activities and networks. In some cases, individuals were arrested prior to departure, while other cases involved returnees or persons who are still believed to be fighting in Syria and/or Iraq or who may have died in battle.

As in previous years, the majority of the verdicts pronounced in Spain concerned separatist terrorism and in particular the terrorist organisation ETA. Also courts in France, Germany and The Netherlands convicted defendants brought to court for offences related to activities of other separatist terrorist organisations (e.g. the PKK and the LTTE). Guilty verdicts for left-wing terrorist offences were handed down in Germany, Greece and Spain, while Spain was the only Member State that reported a proceeding related to right-wing terrorism.

A large part (36) of the female defendants in the concluded proceedings in 2015 appeared in court in relation to separatist terrorism offences, which confirms a tendency observed in previous years. In line with the general increase in the verdicts for religiously inspired terrorist offences, the number of female defendants tried in the courts of the Member States for such offences also increased from seven in 2014 to 27 in 2015.

¹⁰ According to Council Decision 2005/671/JHA, the information to be submitted to Eurojust is in relation to final convictions. Due to the specifics of reporting, Member States submit information on both final and not final decisions. Therefore, reference is also made to those decisions pending judicial remedy and they are included in the reported numbers.

[REDACTED]

Figure 3 – Number of court results in 2015 per EU Member State and per type of terrorism, as reported to Eurojust

MEMBER STATE	Religiously inspired	Separatist	Left wing	Right wing	Not specified	TOTAL
AUSTRIA	29	0	0	0	0	29
BELGIUM	120	0	0	0	0	120
DENMARK	1	0	0	0	0	1
FRANCE	5	9	0	0	0	14
GERMANY	11	2	4	0	0	17
GREECE	0	0	40	0	0	40
LITHUANIA	0	0	0	0	1	1
NETHERLANDS	17	1	0	0	0	18
SLOVENIA	0	0	0	0	1	1
SPAIN	13	159	1	3	1	177
SWEDEN	2	0	0	0	0	2
TOTAL	198	171	45	3	109	526

Convictions and acquittals

In 2015, all reported terrorism-related prosecutions in Denmark, France, Germany, Lithuania and Sweden resulted in convictions. Germany is the only Member State that reported no acquittals in the period 2010-2015.

In 2015, acquittals constituted 21% of all verdicts pronounced for terrorist offences. This percentage is slightly lower than those in 2014 (24%) and 2013 (23%) and continues the downward trend compared to the years before (30% acquittals in 2012 and 31% acquittals in 2011). In some cases, defendants were acquitted of terrorist offences but convicted of other offences, such as illegal possession of firearms, forgery of documents, arson, etc.

Figure 4 – Number of verdicts, convictions and acquittals per EU Member State in 2015, as reported to Eurojust

MEMBER STATE	CONVICTIONS	ACQUITTALS	TOTAL	ACQUITTALS in %
AUSTRIA	27	2	29	7%
BELGIUM	116	4	120	3%
DENMARK	1	0	1	0%
FRANCE	14	0	14	0%
GERMANY	17	0	17	0%
GREECE	25	15	40	38%
LITHUANIA	1	0	1	0%
NETHERLANDS	12	6	18	33%
SLOVENIA	0	1	1	100%
SPAIN	95	82	177	46%
SWEDEN	2	0	2	0%
TOTAL	416	110	526	21%

In 2015, prosecutions for religiously inspired terrorist offences had the most successful rate, with 94% guilty verdicts pronounced. Similar to 2014, the verdicts in relation to separatist terrorism in 2015 had the highest acquittal rate (47%).¹⁴

Figure 5 – Conviction and acquittal rate per type of terrorism in 2015, as reported to Eurojust

TYPE OF TERRORISM	CONVICTION RATE	ACQUITTAL RATE
Religiously inspired	94%	6%
Separatist	53%	47%
Left wing	67%	33%
Right wing	67%	33%

Penalties

Courts in the Member States ordered various penalties for those found guilty of terrorist offences in 2015. They included imprisonment, monetary penalties, treatment in mental health care facilities, and community orders. In some cases the court imposed also restrictions on civil rights and bans on entering the national territory upon completion of the prison term, or revoked the citizenship of those convicted of terrorist offences.

The prison sentences ordered by the courts in 2015 ranged between seven days and 397 years. In some cases (part of) the sentence was suspended or made conditional for a certain period of time. In other cases guilty verdicts were handed down but no penalty was ordered yet.

The average prison sentence handed down for terrorist offences in the EU in 2015 was seven years, which is slightly higher than the reported average in 2014 (six years).¹⁵ The majority (61%) of the penalties handed down with the guilty verdicts in 2015 were of up to five years' imprisonment, which is slightly less than in 2014 (70%). The number of sentences of ten and more years' imprisonment constituted 20% of all penalties, which represents an increase compared to 2014 (13%).

In 2015, the average prison sentence for left-wing terrorist offences was the highest (12 years), marking a slight decrease compared to 2014 (14 years). Separatist terrorism verdicts carried an average prison sentence of ten years, which is lower than the one in 2014 (13 years). The average prison sentence given for religiously inspired terrorist offences increased from four years in 2014 to six years in 2015.¹⁶

It should, however, be taken into consideration that the severity of the penalty in each case would depend on the respective offence and cannot serve any comparative purposes. Also, in some Member States the average sentence is calculated on the basis of one conviction, while in others it is based on a considerably higher number of convictions.

¹⁵ For the purpose of the calculation of the average prison sentence, penalties exceeding 40 years of imprisonment and life sentences were counted as 40 years. In the cases where the court ordered a minimum number of years of the life sentence to be served, the sentence was included in the overview with the minimum number of years indicated.

Figure 6 – Average sentences (excluding non-prison penalties) per Member State in 2015, as reported to Eurojust¹⁷

MEMBER STATE	Average sentence in years
AUSTRIA	2
BELGIUM	6
DENMARK	4
FRANCE	4
GERMANY	5
GREECE	14
NETHERLANDS	3
SPAIN	11

¹⁷ The overview does not include Lithuania, where one individual was sentenced to stationary observation at a specialised mental health care facility, and Sweden, where two individuals were sentenced to life imprisonment.

IV. The Way Ahead

Ongoing/Upcoming Trials

September - December 2015

The overview below includes a selection of ongoing and upcoming trials where decisions are expected within the next few months. Any further developments, resulting in convictions or acquittals, will be presented in the next issue(s) of the TCM.

France

Seven alleged members of a network that sent fighters to Syria in 2013 have been charged with terrorist offences by the French prosecution. Among those charged is a man suspected to have played a leading role in the November 2015 Paris terrorist attacks. The man, who is tried *in absentia*, was a friend of the French man accused of the attack on the Brussels Jewish museum in May 2014. Both were among the jailers of four French hostages held in Aleppo between July and December 2013. He also knew the three men who carried out the January 2015 attacks in Paris and praised their acts in an IS propaganda video. In September 2014 he was placed on the U.S. State Department's list of ten designated global terrorists, considered the most dangerous to U.S. security.¹⁸

Source: [Le Figaro](#)/[BBC](#)

Germany

A 35-years-old man known as an Islamist preacher was arrested on 15 December 2015 for acting as a cell's leader of a Syrian terrorist group, Jaish al-Muhajireen wal-Ansar, in Germany since 2013. He is accused of recruiting and providing financial and logistical support to the above-mentioned terrorist group. The man is a well-known Salafist, leader of a so-called 'Sharia police' attempting to enforce Islamic law in the streets.

Source: [Reuters](#)

On 8 December the Higher Regional Court in Stuttgart started the trial against four men, three of whom of Lebanese nationality. The men are suspected to have supported a foreign terrorist group in 2013, namely Ahrar al-Sham in Syria. The group played a very significant role at the beginning of the revolution in Syria. The suspects have allegedly provided funds and logistical

¹⁸ The outcome of the trial will be reported in the next issue of the TCM.

support to the organisation, including German ambulances and military equipment for a total amount of EUR 133000.

Source: [Augsburger Allgemeine](#)

United Kingdom

In September 2015, a 38 year-old man was charged with three offences contrary to the Terrorism Act. Two of the charges relate to alleged payments totalling GBP 4500 in which he knew or had had reasonable cause to suspect that it would be used for the purposes of terrorism. The other charge is in relation to allegedly making property available for the purposes of terrorism. The money and equipment was alleged to have been destined for his nephew, who prosecutors say was fighting for the proscribed organisation Jabhat al-Nusrah. He was released on conditional bail after appearing at Woolwich Crown Court in October 2015. He is expected to enter a plea to the charges in February 2016.

Source: [The Sentinel](#)



Terrorism Convictions Monitor



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