



Internal EUROJUST Report

Terrorism Convictions Monitor

Issue 31 July 2018 7/L/2018

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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 Operations Department 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 31 of the TCM covers the period January-April 2018. 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 judgement of the Court of First Instance of Antwerp, Belgium. The judgement concerns a foreign terrorist fighter (FTF) appearing in an ISIL beheading video.

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 respective National Desks will be further contacted for specific details, when needed.

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

I. Brief Summaries of Court Decisions

1. Terrorism Convictions/Acquittals per Member State

January - April 2018

Austria

January 2018

The Regional Court of Feldkirch acquitted an individual of the crimes of **membership in a terrorist organisation** due to **acting under duress**. The 21-year old Afghani national had been forced to undergo military training by the Taleban and to provide support for the organisation before he had escaped and fled from Afghanistan. Therefore, he had acted in support of the Taleban without any real intention.

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

The Regional Court of Wels acquitted an individual of the crimes of **membership in a terrorist organisation** due to the indictee's **missing intention**. The 24-year old Palestinian's indictment was based on his involvement in activities of the Popular Front for the Liberation of Palestine in a Lebanese refugee camp. The judgment is final.

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

February 2018

The Regional Court of Linz acquitted an individual of the crimes of **membership in a terrorist organisation** due to the **lack of evidence on the indictee's intention**. The 25-year old Lebanese national was accused of committing the crime by receiving several military trainings from Hezbollah.

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

The Regional Criminal Court of Vienna sentenced four individuals after it found them guilty of **membership in a terrorist and criminal organisation and other crimes**. A 19-year old Austrian national was sentenced to *26 months of imprisonment*, 10 months of which conditional. A 21-year old Russian national was sentenced to *15 months of imprisonment* and a *mandatory psychotherapy*. Another 22-year old Russian national was sentenced to *six months of imprisonment* and admitted to an *institution for mentally deranged offenders*. The fourth individual, an 18-year old Austrian national, received a *conditional sentence of three months of imprisonment* and has to undergo a *mandatory psychotherapy*. The offenders had set up a plan, mentored by a Chechen member of ISIL, to **commit a robbery and murder** in support of the

same terrorist organisation. The judgment has been appealed by the Vienna Public Prosecutor's Office.

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

The Regional Court of St. Pölten found two individuals guilty of **membership in a terrorist and criminal organisation**. Both indictees were sentenced to *two years of imprisonment*, 16 months of which are conditional with a probationary period of three years. The 23-year old Austrian national and the 20-year old national of Bosnia and Herzegovina had **shared jihadist propaganda in chat groups and via social media**. They also **planned to travel to Syria** in order to join ISIL. The judgment is final.

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

The High Court of Vienna rejected the appeal of an individual against the verdict of the court of first instance in a terrorism case. Accordingly, the offender, a 37-year old Austrian national, is guilty of **membership in a terrorist and criminal organisation** (ISIL) and was sentenced to *24 months of imprisonment*, 16 months of which are conditional for a probationary period of three years. The judgment is final.

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

The Regional Court of Salzburg found one individual guilty of **membership in a terrorist and criminal organisation** and sentenced him to *three years of unconditional imprisonment*. The 24-year old Syrian national travelled back to Syria in the summer of 2014 and served until February 2015 as a fighter and guardian for ISIL. The judgment is final.

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

March 2018

The Regional Criminal Court of Graz acquitted an individual of the crimes of **terrorism financing** due to the **lack of evidence**, and suspended the indictee's detention. The 39-year old Syrian national was accused of **providing a member of ISIL with assets via money transfer** from Austria to Turkey. The judgment is final.

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

April 2018

The Regional Criminal Court of Vienna found a 15-year old individual guilty of **membership in a terrorist and criminal organisation and of endorsement of terrorism**. The charges were based on the indictee's activities in **social media**. The Austrian national was sentenced to *10 months of conditional imprisonment* with a probationary period of three years.

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

The Regional Court of Korneuburg found an individual guilty of **membership in a terrorist and criminal organisation**, as well as of **forgery of official documents**. The 22-year old Russian national with Chechen background was sentenced to *20 months of imprisonment*. The sentence of first instance handed down in Korneuburg was appealed by both sides. In April 2018, the court of second instance ruled that the indictee be imprisoned for *three years*. The judgment is final.

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

Belgium

January 2018

The Court of First Instance of Antwerp, Mechelen division, found two defendants guilty of **participation in the activities of a terrorist group and threatening with a terrorist attack**. The two had joined ISIL in Syria and had been involved in the **production of audio material** with ISIL propaganda. They had also supported the **recruitment** of Belgian fighters to go to Syria and one of them had acted as **facilitator for aspiring FTFs** in his apparently high position within the ISIL hierarchy. The court heard also one of the defendants had sent an audio recording to a jihad expert in Belgium asking him to distribute it further. The recording features the other defendant **threatening Belgium with explosions**. The court ordered both men to serve *five years in prison* and pay a fine of EUR 6,000 each.

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

The Court of First Instance of Brussels tried *in absentia* a young man, who had allegedly participated in the activities of a terrorist group between February and May 2016. He had turned 18 on the day preceding the incriminating period but the juvenile judge decided to extend the applicable protection measures beyond his majority. In April 2016 the same judge had informed the public prosecutor that the youngster's father had reported that his son had **expressed his intention to leave for Syria**. This was acknowledged by the defendant during his interviews. He had also admitted **watching videos about jihad and beheadings** that had made him want to fight with ISIL against the 'koufars'. According to the court, the mere viewing of videos does not constitute an act contributing to the activities of ISIL, as it is an expression of the freedom of thought. However, the court found him guilty of a terrorist offence as he had informed his family that he wished to fight together with ISIL against the 'koufars'. The court sentenced him to *six months' imprisonment*.

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

February 2018

The Court of First Instance of Liege heard the case of a man charged with **participation in the activities of a terrorist group**. According to the prosecution, he had travelled to the Syrian-Iraqi conflict zone to **join the jihad and take part in a terrorist group**. His indoctrination was evident from the analysis of digital evidence. His travel to the conflict zone had been facilitated

by a **cell routing Belgian FTFs to Syria**. The court considered the charges proven and ordered a *five-year prison sentence and a fine of EUR 6,000*. The decision of the court has been appealed.

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

*A prison sentence of 37 months and a fine of EUR 6,000 were handed to a defendant found guilty of **attempted participation in the activities of a terrorist group** by the Court of First Instance of Antwerp. The court found that he had tried to join Jabhat al-Nusrah but had been sent back to Belgium from Istanbul. He had claimed he would go to Switzerland to watch a football match and then to Turkey to ski. He had taken all his money and his family had not been aware of his departure. He had also been in contact with his brother, a known FTF with Jabhat al-Nusrah. At his residence, the police had found an ISIL flag painted on the wall and then covered with other paint. His mobile telephone and tablet were full of videos and WhatsApp messages clearly demonstrating he had been aware of the terrorist nature of Jabhat al-Nusrah. The court heard also that he had posted a message on social media saying that he sought martyrdom.*

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

The Court of First Instance of West Flanders, Bruges division, heard the case of a young woman charged with **participation in the activities of a terrorist group**. The court **re-qualified the conduct as spreading or making otherwise public of a message with the purpose of inciting a terrorist offence**. In particular, the charges referred to making propaganda for ISIL via the internet, maintaining contacts with fighters in the conflict zone and providing moral and financial support to French nationals suspected of terrorist offences. All activities had been carried out over the internet. The court found that the defendant had been extremely active online and had uploaded content directly and indirectly inciting the commission of terrorist acts, including bomb attacks. The court found her guilty and ordered her to serve *four years in prison*, of which two on probation, and to pay a *fine of EUR 2,000*.

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

Five defendants charged with **participation in the activities of a terrorist group** were found guilty and another co-defendant was acquitted by the Court of First Instance of East Flanders, Dendermonde division. The court found that two of them had acted as a **logistical cell** from Belgium and provided material support to ISIL by **rendering funds to ISIL fighters**, creating social media accounts, buying tickets and providing funds for fighters leaving the conflict zone, **arranging their smuggling from Syria to Turkey** and hiding ISIL sympathisers of Kosovar origin. They received prison sentences of *54 and 48 months*, respectively. Another defendant, whom they had provided documents for money transfers, got a *four-year prison sentence*. He had tried to leave for Syria together with his Dutch girlfriend. Two other defendants, a mother and her son, had **provided funds** to their son/brother fighting for ISIL in the conflict zone. The money had been used to provide him with a more comfortable life, thus contributing to his physical and mental fitness for fighting the jihad, but also to buy weapons. The court found also that the moral support the FTF received from his mother had kept his will to continue the jihad alive. The two received *prison sentences of 12 and eight months*, respectively. The sixth

defendant, who had stayed with the first two and who according to his ex-wife had also been in the conflict zone planning to commit a suicide attack, was found not guilty of participation in the activities of a terrorist group. The court ruled that he held radical views and sympathized with ISIL; however, he had not participated in a single activity of a terrorist group while on Belgian soil.

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

March 2018

A prison sentence of five years and a fine of EUR 18,000 were ordered by the Court of First Instance of Brussels in the case of a man tried *in absentia* for **participation in the activities of a terrorist group in Belgium, Turkey and Syria**. The court heard that he had been **in frequent contact with a man believed to have played a major role in the preparation of the Paris attacks** of November 2015 and had worked in a bakery situated in a building where the leader of a terrorist cell, convicted in July 2015, used to reside. Shortly after he had left his parents' home, they had been notified by an unknown person that the defendant had **left for Syria**. He had been identified among other Belgian FTFs in Syria in several photos dated June 2014 and found on jihadist sites. His parents had been contacted in August 2014 by another FTF informing them of the death of their son. His brother, arrested in the framework of the investigations of the Paris and Brussels attacks, had also confirmed that the defendant had left for Syria to join ISIL. In the absence of objective evidence that the defendant had died in combat, the court found him guilty and ordered his immediate arrest.

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

A Belgian and a Moroccan national were sentenced to serve *five years in prison* and pay a *fine of EUR 6,000* each after the Court of First Instance of Antwerp found them guilty of **participation in the activities of a terrorist group**. The investigation against the two had been launched following their departure to Syria. Further evidence, including witness statements, revealed that they had joined terrorist groups in Syria. One of them had initially fought in the ranks of Jabhat al-Nusra; a year later he joined the Al Khadra khatibat and eventually Jaish Al Fath. The other one had stayed with Jabhat al-Nusra where he assumed a high-ranking position and was responsible for the foreign fighters.

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

Prison terms of five years and fines of EUR 8,000 were ordered by the Court of First Instance of Antwerp in the case of three women charged with **participation in the activities of a terrorist group**. Two of them had left for Syria in 2013 together with their husbands, who had fought for Majlis Shura Al Mujahedin and later died in battle. The two women, pregnant at the time, had returned to Belgium. The court heard that they held violent jihadist Salafist views and while in Belgium had stayed in contact with members of the group Way of Life and jihadist brides in Syria, including the third defendant. When interviewed, the two had stated their will to go back to Syria, which they did in July/August 2015, together with their young children. They claimed that the third defendant, married to a high-positioned ISIL fighter, had tried to recruit one of

them to marry a fighter. The court considered it proven that she had taken part in the activities of a terrorist group, based on the activities of her husband, her Facebook postings and her previous conviction. All these showed clearly that she supported ISIL's ideology and was actively involved with the terrorist group by recruiting women to marry fighters. The court ordered their immediate arrest.

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

A relative of two Belgian FTFs believed to be in Syria was found guilty of **participation in the activities of a terrorist group** by the Court of Appeal of Ghent and sentenced to *180 of community service and a fine of EUR 100, which was suspended for three years*. The defendant had been in contact with them and sent EUR 40 to one of them via his brother. He had also created an email address with a Facebook account intended for the same FTF.

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

The Court of First Instance of East Flanders, Dendermonde division, handed a penalty of *one year imprisonment and a fine of EUR 600* to a defendant who had been prosecuted for **having spread a false message about the existence of a threat for attack on persons or property** and for **having abused electronic means of communication**. The court considered it proven that he had **sent various messages warning of upcoming attacks** in the knowledge that there had been no real danger of such attacks.

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

A prison sentence of 30 years was ordered by the Court of First Instance of Antwerp in the case of a Serbian national residing in Belgium. The man had left for Syria in 2014 to join ISIL. He had been recognised, including by his sister, as one of the 20 or so men **appearing in a video published on 16 November 2014 in which they, together with a notorious ISIL commander, behead a group of kneeling men**. Intercepted conversations of his mother, with whom he had maintained contact, showed that he was fighting in Iraq, including the battle for Mosul. His mother and sister confirmed he was in Syria and fought for ISIL and was wounded in battle. The court found the man guilty of **participation in the activities of a terrorist group**. It considered the murder proven on the basis of his identification on the video (*for further details, see Chapter III. Legal Analysis*).

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

A 30-year-old Belgian national was sentenced to *seven years' imprisonment and a fine of EUR 12,000* after the Court of First Instance of Brussels found him guilty of **participation in the activities of a terrorist group and recruiting others to commit a terrorist offence**. The man admitted to have **distributed to his partner, his brother and some of his friends links and videos containing ISIL propaganda and inciting hatred**. The Court considers that the dissemination of such content in so far as it was intended to encourage adherence to the group's ideology should be considered participation in its activities. The man had also **discussed attack plans** with another man via Telegram, which the court considered substantial aid to ISIL. The

court heard also that he had tried to recruit his relatives to join ISIL and had induced his Telegram contact – a minor at the time - to commit a terrorist offence. The decision of the court has been appealed.

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

April 2018

A Tunisian man received a *five years' imprisonment* and a *fine* after the Court of First Instance of Antwerp convicted him of **participation in the activities of a terrorist group**. The man had travelled from Brussels to Istanbul and on to Sanliurfa at the Turkish-Syrian border in July 2014. According to his uncle's statements, he had become radicalised, changed his physical appearance and behaviour and left for Syria, where he had been residing in Raqqa. Based on these statements and ISIL list of fighters, the court concluded that the defendant had joined ISIL.

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

The Court of First Instance of Antwerp sentenced a Moroccan national *in absentia* to *five years' imprisonment* and a *fine* after it found him guilty of **participation in the activities of a terrorist group**. The court found that he had left for Istanbul from the Brussels airport in April 2013. He had told the air traffic police that he would not return. From Istanbul he had travelled to Syria. Open sources, including a Spanish news website, show him appearing in an ISIL propaganda video calling for the concurring of Spain. The court has issued a European Arrest Warrant.

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

Imprisonment of 15 years and a fine of EUR 3,000 were ordered by the Court of Appeal of Brussels in the case of a man of Senegalese origin who had **attacked two policemen** with a knife in October 2016. On appeal he was found guilty of **attempted assassination, assault and grievous bodily harm, and illegal manufacture, trade, storing or possession of firearms**. The sentence is harsher than that given at first instance when it was considered that there were no sufficient elements to establish that the attack had been committed with a terrorist intent. The decision of the court is final.

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

The Court of First Instance of Brussels heard the case of ten defendants charged with **leadership or participation in the activities of a terrorist group**. According to the prosecution, seven of them **had left for Syria to join the ranks of ISIL** and wage jihad. Evidence for that was to be found, among others, in intercepted communications and social media posts. The court convicted all seven of participation in the activities of a terrorist group and sentenced them *in absentia* to *prison terms of three to eight years and fines*. One defendant, who had **planned to travel to Syria but returned back** before he could reach the conflict zone, was acquitted. In his case, the court took into consideration the fact that he had not pursued his plans to commit an offence and had spontaneously decided to return. The remaining two defendants had played a leading role in radicalising and influencing youngsters to leave for Syria, providing



them with forged documents, guiding and facilitating their travel and integration into ISIL. The court handed them *a ten-year prison sentence and a fine* each. The decision of the court regarding three of the defendants has been appealed.

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

The **main living suspect of the 2015 Paris attacks** was sentenced to *20 years of imprisonment and a fine of EUR 6,000* by the Court of First Instance of Brussels for terrorist offences unrelated to the attacks. The same penalty was handed to his co-defendant. Both men had been arrested in Brussels on 15 March 2016 following a shoot-out with the police, which had left four officers injured. The two were found guilty of **attempted assassination and illegal possession of firearms**, both in a terrorist context. The decision of the court is final.

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

The Court of First Instance of Brussels found one defendant guilty of **participation in the activities of a terrorist group** and sentenced him *in absentia to five years' imprisonment and a fine*. The court heard that he had left for Syria in the summer of 2012 to join the armed fighting there. According to some information, he **may have died** in an air strike near Raqqa in August 2014. His death had also been mentioned in messages his sister had received from her husband in the conflict zone. According to his family, he worked in a children's hospital in Syria. He had been recognised by a returnee from Syria as a member of a fighting group.

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

The Court of First Instance of Namur found a 23-year-old Belgian woman guilty of **participation in the activities of a terrorist group** and sentenced her *in absentia to five years' imprisonment and a fine of EUR 24,000*. The court considered the charge proven based on the messages and images posted on her Facebook account and the findings of the investigation. After the guilty verdict was pronounced, the court ordered the woman's immediate arrest.

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

Finland

January 2018

The Helsinki District Court dropped the charges against two men accused of **planning to join a terrorist group in Syria** for lack of evidence. Both defendants were accused of intending to join the Katibat al-Muhajireen rebel group fighting in the Syrian war. One of the men was also suspected of **providing training** to commit terrorist acts, while the other was suspected of **recruiting others** to commit terrorist offences. Although it was confirmed that both defendants planned to travel to Syria, the evidence suggesting that this was with the intent to commit terrorist acts was insufficient.

Source: Yle

France

March 2018

Two French citizens received *12- and 14-year sentences* for their involvement in ISIL between the years 2013 and 2014. Both men had **appeared in an ISIL video** made by a Moroccan ISIL media operative and fighter. Before joining ISIL, one of the defendants had spent six months training with the French army to become a **paratrooper**. In 2014, he had returned to France and surrendered himself to the police, claiming that he had not committed any wrongdoings. The court, however, found out that **he had been a group leader** who had actively been involved in the armed conflict in Syria, supporting Jabhat al-Nusrah and ISIL.

Source: Le Figaro

Germany

January 2018

An 18-year-old Afghani national was given a *youth penalty of three years* by the Higher Regional Court of Munich after he was found guilty of **membership in a foreign terrorist organisation in four cases, three of which in combination with the use of a weapon of war, used also for attempted murder**. The court found that the man had been part of the Taliban in the period 2013 – 2015. He had received combat training and participated in three armed assaults in 2014 – 2015.

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

The Higher Regional Court of Düsseldorf acquitted an Algerian national of the charge of **membership in a foreign terrorist organisation**. The man had been prosecuted for his alleged membership in ISIL and involvement in the preparation of an attack in Düsseldorf.

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

February 2018

Three women and one man, **alleged members of a right-wing extremist group**, appeared before the Higher Regional Court of Stuttgart. According to the prosecution, the four, together with another suspect prosecuted separately, had formed part of an extreme right group in the period 2012 – 2016. They had perceived themselves as opposition to the ‘system media’ and as part of the ‘national resistance’ and as a ‘radical force’. They had **spread various inciting messages and content online** in conformity with their ideology with the objective to change the German political system. The four defendants were found guilty of **membership or leadership of a criminal group, combined with grievous bodily harm** and given *prison sentences of eight to 30 months*.

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

The Higher Regional Court of Berlin handed a *one-year-and-nine-month prison sentence* to an Algerian national found guilty of **membership in a foreign terrorist organisation**. The court heard that the man had engaged in internet activities (chats) discussing how to manage to successfully join the 'caliphate' as a fighter.

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

March 2018

A stateless person born in Saudi Arabia, who confessed to a **knife attack at a Hamburg supermarket** in July 2017, was sentenced by the Higher Regional Court of Hamburg to *life in prison*. Having killed one man and wounded six others, he was convicted of **murder, attempted murder and grievous bodily harm**.

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

The Higher Regional Court of Dresden heard the case of seven men and one woman accused to have formed **part of the extremist right group *Gruppe Freital*** since July 2015. The group had as objective to attack asylum seeker accommodations, as well as apartments, offices and vehicles of its political opponents. Group members had been accused of committing a **series of bomb attacks** in 2015, including on the vehicle of a left-wing politician and a left-wing party office, on a refugee camp, an asylum centre, etc. The charges against them included **leadership or membership in a terrorist organisation, multiple attempted murders and grievous bodily harm**. The court found all eight defendants guilty and sentences seven of them to *prison terms of five to ten years* and the eighth one to *a youth penalty of four years*.

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

The Higher Regional Court of Hamburg sentenced three Syrian nationals to years-long imprisonment for **membership in a foreign terrorist organisation (ISIL) and (attempted) document forgery**. The first defendant was sentenced to *six and a half years of imprisonment*; the other two were **minors** at the time of the offence and as such received a *youth penalty of three and a half years each*. The court found that the three had been part of an ISIL sleeper cell. The terrorist organisation had **arranged for them to travel to Germany** with fake passports, cash and mobile phones in 2015 and **await orders for an attack**.

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

A *youth penalty of three and a half years* was ordered by the Higher Regional Court of Düsseldorf in the case of a young German found guilty of **membership in a foreign terrorist organisation and preparation of a serious act against the State**. The court heard that in June 2014 he had left for Syria, at the age of 18, where he had joined other foreigners to form part of ISIL. He had returned to Germany in August 2015 but travelled back to Syria shortly after to re-join ISIL in its fighting.

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

In another case of a German FTF, the Higher Regional Court of Düsseldorf ordered a *prison term of two years* after it found the FTF guilty of **membership in a foreign terrorist organisation**. The court considered it proven that he had travelled to Syria in June 2014 to join ISIL as a foreign fighter.

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

A double German-Tunisian national was given a *thirty-month prison sentence* after the Higher Regional Court of Munich found him guilty of **recruiting members or supporting a foreign terrorist organisation, inciting others and expressing approval of crimes**. The court heard that in November 2015 he had **created and spread on the internet a document calling his fellow Tunisians to join ISIL**. In the period between February and November 2015 he had **published on Facebook various ISIL-linked images and videos**. In November 2015 he had also **glorified the Paris attacks** on Facebook and called for other violent acts and hate against the Jewish people.

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

The Higher Regional Court of Celle found one Turkish national guilty of **membership in a foreign terrorist organisation** and sentenced him to *18 months' imprisonment*. The court found that the man had belonged to the PKK and played a **leading role in the terrorist organisation's structures** in the Lohne-Dinklage area in the period between August 2014 and October 2016. The man had also acted as a co-leader for the region of Oldenburg.

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

Italy

March 2018

At the Court of Assizes of Milan one defendant was found guilty of **membership in a terrorist organisation** and **disseminating**, through an app and the internet, **material inciting or provoking the commission of terrorist acts**. The court sentenced the man to serve *28 months in prison* after it considered it proven that he had publicly instigated others to commit terrorist offences. The court found that he had praised and fostered anti-democratic feelings and religious hatred, and glorified jihad and martyrdom. He had used multiple Facebook profiles to promote the terrorist ideology and tools to pursue the goals of conquest and expansion of ISIL. The court considered the use of IT and telematic means an **aggravating circumstance**.

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

The Netherlands

January 2018

The District Court of Rotterdam ordered a *prison term of 367 days* in the case of a defendant declared partially liable for his acts. The man had travelled to Syria via Turkey. He had **participated in a training camp** at the Syrian-Turkish border run by the terrorist group Turkistan Islamic Party (TIP) and had, thus, joined the armed fighting. He had contributed to this fighting by acting as a border guard, armed with a Kalashnikov, and by stating his readiness to commit a suicide attack.

Source: Rechtspraak

The District Court of Oost-Brabant sentenced a man to *two years in prison, half of which suspended for a period of three years*, after it found him guilty of **recruiting a minor for the armed terrorist fighting and making threats to the victims and her brother**. He had been charged following reports from the family of the victim that he had been trying to convince her to go with him to Syria. He had also been accused of **spreading images and audio files calling to commit a terrorist act and possession of forbidden weapons**.

Source: Rechtspraak

March 2018

A teenager appeared before the District Court of Rotterdam charged with **participation in the terrorist organisations ISIL and the United Cyber Caliphate (UCC)**. The court heard that between November 2016 and June 2017 he had **made and distributed videos** on assignment of the UCC, as well as other videos inciting to armed (jihadist) fighting. The videos contained also images of executions. The young man had also regularly looked up ISIL videos, supported online their actions, placed ISIL propaganda on the internet and visited websites over suicides. He was found guilty and sentenced to *youth detention of six months and 181 days*, part of which suspended.

Source: Rechtspraak

The District Court of Rotterdam found one defendant guilty of **participation in a terrorist organisation (Jabhat al-Nusrah)** and sentenced him *in absentia* to *six years' imprisonment*. The court found that he had left for Syria at the beginning of 2014, where he had joined the terrorist group and where he is still believed to be residing. According to the prosecution, he had been enrolled in a training camp and had later assumed a leading role in the process of establishing the sharia law. The man, who is in contact with his family via Facebook Messenger, had been informed several times of the summons and the upcoming court hearings, including in the presence of the police, but had refused to be present at the trial stating he would never want to come back to the Netherlands. The court ordered his immediate arrest.

Source: Rechtspraak

April 2018

A *prison sentence of six years* was ordered by the District Court of Rotterdam in the case of a Dutch FTF, who had joined ISIL and is believed to be still in Syria. The man, tried *in absentia*, was found guilty of **participation in a terrorist organisation**. He had left for Syria in November 2013 and had been recognised in several videos from the conflict zone. The Dutch authorities had also received information from the US Department of Defense that an **ISIL registration form** on his name had been found in October 2015 in Syria. The court considered the form authentic. The defendant had been informed of the upcoming court hearings via Facebook Messenger. He had informed the police of his **intention to return to the Netherlands**, which was the reason why a hearing had been postponed to allow him to be present. Following news in the media that the defendant had died in battle, a journalist had published an article saying that he had received an open letter from the defendant addressed to the judge. The letter claimed that, together with his fiancée, he had **staged his own death** to ensure his safe trip to the Turkish border. It stated further that he would not be able to come back for the court hearing but would definitely do so in case he would be convicted and need to appear before the Court of Appeal. Based on the above, the court concluded that the defendant had clearly revoked his right to be present at the first instance trial. When considering the severity of the penalty, the court did not take into account the fact that the defendant had left for Syria in a period when less had been known about ISIL and the caliphate had not been declared. Furthermore, it considered it an **aggravating circumstance** that the defendant had been with ISIL in a period when the terrorist organisation had committed an increased number of attacks.

Source: *Rechtspraak*

The Court of Appeal of The Hague considered the case of a man already convicted of **preparation and commission of terrorist offences and attempted participation in a terrorist organisation**. The man had tried to travel to Syria twice to join ISIL or one of its affiliated groups involved in the jihad there. According to the Court of Appeal, the man had not demonstrated that he would like to participate in a constructive manner in the Dutch society. He did not want to cooperate with the probation office on the special conditions set by the first instance court. Therefore, the court ruled that it cannot rule otherwise than set a (long) unconditional imprisonment in conformity with the gravity of the facts and the need to guarantee the safety of the society. On these grounds, the Court of Appeal sentenced the man to serve a *prison term of 40 months*.

Source: *Rechtspraak*

Spain

January 2018

The National Court found one defendant guilty of **glorification of terrorism and humiliation of the victims of terrorism** and sentenced him to *one year in prison*. The court found that in 2013 and 2014 he had used his **Twitter account** to make publicly available messages praising

and justifying the violent methods used by terrorist organisations, such as ETA and GRAPO, and were offensive to victims of their acts. The decision of the court became final in February.

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

A *prison sentence of 18 months* was handed down by the National Court in the case of a Spanish national found guilty of **glorification of terrorism**. The court heard that in the period 2012-2014 he had posted a number of **messages in social media**, in particular Facebook, which praised ETA's ideology and acts. The messages had been published without any access restriction. The decision of the court has been appealed.

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

Six defendants appeared before the National Court for their alleged involvement in a **major terrorist network recruiting and sending fighters to join jihadist terrorist organisations abroad**. The investigation against the network had been launched in 2010 and culminated in 2014. It had revealed that the network had **facilitated the integration of foreign fighters into Al-Qaida in the Islamic Maghreb (AQMI), the Movement of Oneness and Jihad in Western Africa (MUJAO), Jabhat al-Nusrah and ISIL, in Mali, Libya, Syria and Iraq respectively**. It had members in Spain, Belgium, Luxembourg, Turkey, Tunisia, Libya, Mali, France and Morocco, all performing different functions, including recruitment, document forgery, financing, facilitators in the destination country, smugglers, etc. Taking into consideration the available evidence, the court convicted all six defendants of terrorist offences. The leader of the network was found guilty of **directing and promoting a terrorist organisation**, with a mitigating circumstance for confessing the crime, and was ordered to serve *eight years of imprisonment*, followed by probation for seven years. Four of his co-defendants were convicted of **belonging to a terrorist organisation** and received a six-year sentence each and a probation period of five years upon release. The four had also confessed to the crime. The sixth defendant was sentenced to *five years' imprisonment*, followed by a probation period of five years, after the court found him guilty of **collaboration with a terrorist organisation**. The decision of the court is final.

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

Three men charged with **participation in a terrorist organisation**, or alternatively **active and passive indoctrination**, were acquitted by the National Court. According to the prosecution, the men, who had been visiting the same mosque in Madrid, had been part of a closed Facebook group. They had discussed, among others, **plans to make an explosion**. During the house searches in their residences, the police had found extremist jihadist material. In the agenda of one of them, the police had found the telephone number of the man who had committed the **attack on the Thalys train in August 2015**. The court did not consider the evidence sufficient to find them guilty as charged. The prosecution has submitted an appeal.

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

February 2018

A *prison sentence of six months* was ordered by the National Court in the case of a young man found guilty of **glorification of terrorism** and **humiliation of the victims of terrorism**. Starting from 2012, he had used his Twitter account to publish messages and comments humiliating to the memory of ETA's victims and praising the acts of the terrorist organisation. When determining the penalty, the court considered the young age of the defendant, as well as the fact that he had admitted his acts and asked pardon to victims that may have felt insulted by his messages. The decision of the court is final.

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

The National Court heard the case of a man charged with **glorification of terrorism** for having allegedly posted a series of **tweets** praising the violent acts of the terrorist organisation ETA. The tweets had been publicly accessible without any restrictions for viewing. The court did not find him guilty and acquitted him of the charge.

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

March 2018

Two Moroccan nationals appeared before the National Court on charges of **belonging to a terrorist organisation**. The court heard that the two had been part of a **recruitment and indoctrination network sending fighters to join ISIL**. They had formed an autonomous cell operating from Morocco and linked to terrorists in Syria. Among those recruited by the network were two Spanish residents who appeared in a ISIL video threatening Spain. The two defendants had been **using social media to spread ISIL propaganda material, select and indoctrinate potential fighters** to join the terrorist organisation. The court found both men guilty as charged and sentenced them to *four years of imprisonment* each. One of the men got an additional prison sentence of *one year and a fine* as the police had found cannabis during his house search. The court ordered also their expulsion from Spanish territory.

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

The National Court acquitted one defendant charged with **glorification of terrorism and humiliation of the victims of terrorism**. The prosecution claimed that she had posted several messages and a video referring to terrorist organisations, such as ETA and GRAPO. The court found that it had not been her intention to glorify terrorism or humiliate its victims. The decision of the court is final.

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

A rapper charged with **glorification of terrorism, insult to the Crown and institutions of the State** appeared before the National Court. According to the prosecution, he had made comments on Twitter and published videos online that incited to violence. The court found him guilty as

charged and ordered him to serve *two years and one day in prison* and pay a *fine*. The man had already been convicted of glorification of terrorism in 2014.

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

Following an investigation into the online activities of two Moroccans residing in Spain, the prosecution pressed charges of **participation in a terrorist organisation**, or alternatively **active and passive indoctrination, glorification of terrorism and humiliation of the victims of terrorism**. The two were suspected of having been heavily radicalised and posting extremist material on their Facebook profiles in the period June 2014 – November 2016. During searches in their residences, the police had discovered jihadist material stored on the mobile devices they had used to connect to social media. The court did not consider it proven that the two had been in contact with terrorist groups or their members, that they had planned to join or collaborate with a terrorist group, commit a terrorist act, leave the country to join a terrorist organisation abroad, nor had their publications intended to recruit others to join a terrorist group or to commit a terrorist act. The two defendants were found guilty of **glorification of terrorism and humiliation of the victims of terrorism** and acquitted of the remaining charges. The court ordered them to serve *two years and one day in prison* each.

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

The National Court acquitted one defendant brought to court on charges of **glorification of terrorism**. He had been prosecuted for posting several **messages on his Twitter account** referring to terrorist organisations, such as ETA and GRAPO, in the period 2012 – 2016. The prosecution has submitted an appeal.

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

A prison sentence of *five years, 11 months and 29 days* was ordered by the National Court in the case of an ETA member with several previous terrorism convictions. The man was found guilty of **participation in a terrorist organisation** after the court heard that he had been part of ETA's structure. The man had left Spain after serving his sentence for a **previous conviction**. He had settled in France from where he had made contacts with ETA. He had received false documents and a car registration plate and had been instructed to leave for London, where he had been accommodated by another ETA member. Abroad, the man had formed part of ETA's organisation, which in exchange of material support provided assistance to its members. In January 2014 the Spanish authorities had issued a European Arrest Warrant on his name. He had been arrested in the UK in February 2016 together with another ETA member and surrendered later to the Spanish authorities.

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

The National Court found one defendant guilty of **terrorist assassination against a member of the armed forces and four counts of failed terrorist assassination** and sentenced him to *110 years' imprisonment*. The court considered it proven that, upon ETA's orders, he had carried out

an **attack against an army officer** in San Sebastian in December 1995. The officer had died after a bomb placed in his car had exploded causing also severe injuries to his daughter and several other persons in the vicinity of the car. The attack had been claimed by ETA. After examining the evidence, the court acquitted the man of the charge of **possession of explosives**.

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

April 2018

A 20-year-old woman of Moroccan origin was sentenced to serve *two years and one day in prison* after the National Court found her guilty of **self-indoctrination**. The court heard that she had become radicalised since 2014 and had maintained contacts with others investigated also for terrorist offences. She had intensely **published and spread radical jihadist content via YouTube, Facebook and Instagram**, including ISIL propaganda material intended to promote the jihad and present as legitimate the objectives of jihadist terrorist organisations. The decision of the court has been appealed.

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

Three leaders and seven members of a terrorist organisation were sentenced to *12 and eight years' imprisonment* respectively by the National Court. The men had been part of a network that had been formed in the beginning of 2014 among some frequent visitors of the mosque of Tarrasa. **The members of the network shared radical Islamist views, based on the violent Salafism**. In order to contribute to the fulfilment of ISIL's objectives, the leaders of the network had launched a recruitment and indoctrination campaign targeting young people willing to travel to Syria or Iraq and join the terrorist organisation. Three of the defendants had also tried to reach the conflict zone but had been arrested at the Bulgarian-Turkish border by virtue of European Arrest Warrants and sent back to Spain.

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

A former army professional was investigated for his alleged **involvement in the indoctrination of others to join ISIL**. The court heard that he had become radicalised and since December 2014 had researched the internet for jihadist material. During the house search in the framework of the investigation against his brother, the police had found **large amounts of jihadist multimedia material, including propaganda videos targeting women**, belonging to the defendant. Another search a few months later resulted in the discovery of more jihadist material related to Al-Qaida and ISIL. According to the prosecution, all material found in possession of the defendant was of radical nature and was intended to prepare the indoctrination and radicalisation of others, particularly women. The defendant was found guilty and ordered to serve *two years in prison*. Upon release, he would be subject to *special conditions* for a period of six years. Those include: electronic monitoring of his location, regular reporting to the authorities, immediate notification of a possible change of residence or work and prohibition to leave a certain territory determined by the judge. The decision of the court is final.

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



A man of Moroccan origin appeared before the National Court on charges of **indoctrination, praising or justification of terrorism, membership in a terrorist organisation or, alternatively, collaboration with a terrorist organisation**. According to the prosecution, the defendant had spread various jihadist materials via Facebook, Google Plus and YouTube since the beginning of 2015. He had also accessed a closed jihadist platform and several other online media with radical jihadist content. His online contacts included, among others, an undercover agent that had been admitted among the defendant's friends in April 2016. The court found the defendant guilty of collaboration with a terrorist organisation and sentenced him to *five years' imprisonment*.

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

United Kingdom

January 2018

A British couple was found guilty of **preparing ISIL-inspired chemical bomb attacks on British soil**. The male defendant was sentenced to *life imprisonment with a minimum term of 14 years*, whereas the female defendant to *12 years and five more under license conditions*. The couple, who had met on a dating-side, had **researched how to make homemade explosives and the deadly poison ricin**. WhatsApp messages containing information on making ricin, as well as ISIL propaganda material had been recovered by the authorities. One of the defendants had also contacted an ISIL commander and offered to conduct a lone-actor attack.

Source: Independent

A female was sentenced to *three and a half years of imprisonment* for **planning to travel to Syria to support ISIL**. Having admitted she had travelled to Syria for two months, the defendant pleaded guilty to a single count of **engaging in conduct in preparation of terrorist acts**. However, she claimed to have wanted to help the group as a nurse and not to engage in any acts of violence. Yet the messages retrieved from her phone had suggested otherwise.

Source: Birmingham Mail

In January 2018, a defendant was found guilty of **sharing ISIL propaganda materials via WhatsApp**. He was charged with **12 counts of disseminating terrorist documents** and with one count of **possessing a document likely to be useful to a person committing an act of terrorism**. Found guilty on all charges, he was sentenced to *three and a half years of imprisonment*.

Source: Halstead Gazette

February 2018

In February 2018, two male defendants were found guilty of a terrorist offence under Section 5 of the Terrorism Act 2006. The first defendant was sentenced to *a minimum sentence of 14 years*

in prison and the second defendant to *12 years in prison*. Although the full details of the suspects' plans or their target were unclear, the British authorities stated that the defendants were **conspiring to commit an attack in the United Kingdom**.

Source: *Northeast Police*

A British national was found guilty on **seven counts of encouragement of terrorism**, contrary to Section 1 of the Terrorism Act 2006 and one count of **disseminating a terrorist publication**, contrary to Section 2 of the Act. He was acquitted by the jury on one additional count of **encouragement of terrorism**. The defendant was convicted of **publishing and sharing violent extremist material and videos related to ISIL on social media**, with the view of encouraging others to engage with the terrorist organisation and carry out acts of terrorism. He was sentenced to *three years of imprisonment* for each offence; sentences will run concurrently.

Source: *Metropolitan Police*

A male was convicted and sentenced to *16 months of imprisonment* for having **disseminated a terrorism publication** contrary to Section 2(1) of the Terrorism Act 2006. He was found guilty of distributing a **hyperlink to an ISIL instructional video**, which showed how to kill someone and how to make explosive substances.

Source: *Birmingham Mail*

March 2018

A minor was charged on the count of **preparing for an act of terrorism**, on two counts of **encouraging terrorism online** and two counts of **possessing editions of an ISIL propaganda magazine**. He was found guilty of **plotting an ISIL-inspired attack** on a pop concert in Cardiff a month after the Manchester Arena attack, for which he received a *life sentence*, without the possibility of parole during the first 11 years of his sentence. The defendant had researched security details of the concert and had been found with a 'martyrdom letter', in which he had pledged allegiance to ISIL, as well as a claw hammer and a gutting knife. Furthermore, he had made Instagram posts in English and Arabic in which he had allegedly revealed his plan to carry out a terrorist attack.

Source: *Guardian*

A British teacher was found guilty of **attempting to recruit children to perform terrorist attacks** on London landmarks. He had planned to use guns and a car packed with explosives on **30 high-profile targets**, including Big Ben, the Heathrow Airport and the Queen's Guard. Teaching Islamic studies at a Secondary School, he had shown his classes ISIL propaganda videos and trained the children by role-playing attacks at a mosque. He had attempted to radicalize at least 110 children. Notebooks containing the plans of attacks had been retrieved from his home. He had been arrested in 2016 when attempting to board a flight to Turkey, on his



way to Syria. The defendant was sentenced to *life in prison* with a minimum term of 25 years. Two other individuals were convicted for **supporting** the defendant.

Source: *Sky News*

An Iraqi-born teenager was found guilty of **attempted murder** for the 2017 Parsons Green terrorist attack and was sentenced to *34 years of imprisonment*. His home-made bomb had partially exploded as the mainline train arrived at the Parsons Green Tube Station, injuring approximately 50 people. The defendant had pledged allegiance to ISIL and had been prior to the attack referred to the government's de-radicalisation programme.

Source: *Business Insider*

A 16-year old boy had been arrested in June 2017 for **attempting to join Jabhat al-Nusra** in Syria by booking a plane to Istanbul. He admitted to one count of **terrorist training**, two counts of **distributing terrorist publications**, one count of **possession of articles for a terrorist purpose** and one count of **preparation of terrorist acts**. Sitting as a youth court, the Westminster Magistrates' Court heard that the boy had shared terror training manuals, tutorials and videos, including a tutorial on how to access the dark web and make a petrol bomb or a video glorifying ISIL. He was released on bail, but breached his bail conditions by setting up a channel sharing terror training manuals. Sentencing is pending.

Source: *BBC*

April 2018

A male has been found guilty of **preparing acts of terrorism**, contrary to Section 5 of the Terrorism Act 2006, and sentenced to *eight years in prison*. The investigation had uncovered that he had been in contact with a Kenyan national discussing terrorist activities. Kenyan authorities had seized a computer from which conversations between the two men had been retrieved indicating their **support for ISIL** as well as revealing **plans to conduct an attack** in the UK and target the Jewish community. The man had been arrested while preparing to board a flight to Turkey, on his way to join ISIL in Syria. After his arrest, the UK authorities had further discovered that he had been in contact with a woman in Norway with whom he had discussed and planned to join the terrorist organisation.

Source: *Metropolitan Police*

Two brothers appeared before the Woolwich Crown Court as part of a group of young men planning to join ISIL. The two were found guilty of multiple terrorist offences. The first brother was charged with **preparation of terrorist acts and dissemination of terrorist publications**, contrary to the Terrorism Act 2006. After pleading guilty, he was sentenced to *three years and three months of imprisonment*. His brother pleaded guilty to **collecting information** contrary to the Terrorism Act 2000, **preparing terrorist acts**, and **dissemination of terrorist**

publications contrary to Terrorism Act 2006.¹ Prior to their trials, three of their associates were sentenced to six years and ten months in prison each after pleading guilty to multiple terrorist offences.

Source: *Metropolitan Police*

A British national was found guilty **of disseminating a terrorist publication and terrorist content on social media**. He was sentenced to *three years and nine months of imprisonment*. The court deemed his actions **intentional rather than reckless**. Furthermore, material that can be used in a terrorist attack, including a book of poison, had also found in his possession.

Source: *BBC*

¹ He was sentenced to four and a half years in prison in May 2018.



2. Other Court Decisions of Interest

January - April 2018

Bulgaria

April 2018

The District Court of Haskovo approved the **extradition** of a Moroccan national to Morocco where he faces charges for his alleged involvement with ISIL. He is accused of raising funds for ISIL and participating in training programmes for ISIL fighters. Moreover, he is accused of having carried a belt with explosives. He faces 20 years of imprisonment if he is found guilty by the Moroccan court. The extradition order by the Bulgarian court is final and cannot be appealed.

Source: Sofia Globe

Norway

January 2018

On 19 January 2018, the Borgarting Court of Appeal found one defendant guilty of **participation in recruiting members into a terrorist organisation and its financial/material support**. The court used as evidence tweeted and retweeted posts. The tweets/retweets were supported by several other pieces of evidence. The judgement is pending appeal.

Source: Liaison Prosecutor of Norway at Eurojust

II. Amendments in Legislation

January - April 2018

1. European Union

European Commission

January 2018

Commission Implementing Regulation (EU) 2018/50 of 11 January 2018 amending for the 280th time Council Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with the ISIL (Da'esh) and Al-Qaida organisations was adopted. The Regulation amends Annex I to Regulation (EC) No 881/2002 by deleting one and replacing another entry under the heading 'Natural persons'.

Source: Official Journal of the European Union

February 2018

Commission Implementing Regulation (EU) 2018/256 of 20 February 2018 amending for the 281st time Council Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with the ISIL (Da'esh) and Al-Qaida organisations was adopted. The Regulation amends Annex I to Regulation (EC) No 881/2002 by replacing one entry under the heading 'Natural persons'.

Source: Official Journal of the European Union

March 2018

Commission Implementing Regulation (EU) 2018/349 of 8 March 2018 amending for the 282nd time Council Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with the ISIL (Da'esh) and Al-Qaida organisations was adopted. The Regulation amends Annex I to Regulation (EC) No 881/2002 by adding two entries under the heading 'Natural persons' and one entry under the heading 'Legal persons, groups and entities'.

Source: Official Journal of the European Union

April 2018

Commission Implementing Regulation (EU) 2018/537 of 5 April 2018 amending for the 283rd time Council Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with the ISIL (Da'esh) and Al-Qaida organisations was adopted. The Regulation amends Annex I to Regulation (EC) No 881/2002 by adding one entry under the heading 'Legal persons, groups and entities'.

Source: Official Journal of the European Union

III. Legal Analysis

The analysis below has been produced in an attempt to provide an insight into a judgement concerning a FTF, who was prosecuted for his alleged participation in the activities of a terrorist group and for his role in the beheading of a group of captured Syrian soldiers and an American journalist made known to the world via a video made by ISIL. The analysis focuses on selected aspects of the judgement, rather than covering all issues and arguments considered by the court. It is intended to help practitioners by highlighting several issues that are of relevance in the context of the judicial response to the FTF phenomenon.

Procedure: Court of First Instance of Antwerp, Mechelen division²

Date of decision: 29 March 2018

Brief description of the facts

A Serbia national with a last known residence in Belgium was the subject of an investigation in relation to an ISIL video published on 16 November 2014. The video shows the beheading of a group of captured Syrian soldiers and an American journalist. The investigation revealed that the man had left for Syria in 2014 to join ISIL. Intercepted conversations with his family showed that he was participating in operations in Iraq, including in the battle for Mosul. His mother and sister confirmed he was in Syria fighting for ISIL and was wounded in battle. On 1 April 2016 the Belgian authorities issued a European Arrest Warrant and an international arrest warrant on his name.

The charges

Based on the findings of the investigation, the prosecution pressed the following charges against the defendant:

- A. **Premeditated murder** of an unidentified person, committed in Syria on an unknown date between 1 and 17 November 2014 – an offence that, due to its nature and context, can cause a serious harm to a country or an international organisation and is committed with the objective to instil fear in the population or to compel a government or an international organisation to perform or abstain from performing any act, or to or to seriously destabilise or destroy the fundamental political, constitutional, economic or social structures of a country or an international organisation (in violation of Articles 137 §1 and §2.1, 138, 392, 393 and 394 of the Belgian Criminal Code), and
- B. **Participation in an activity of a terrorist group**, committed in Belgium and abroad, in particular Syria and Iraq, in the period from 1 November 2014 till present (in violation of Article 139 and 140 §1 of the Belgian Criminal Code).

² The Operations Department would like to thank the National Desk of Belgium at Eurojust for kindly providing a copy of the judgement.

Procedural matters

Possible death of the defendant

According to an intercepted conversation between the mother of the defendant and another person held on 1 March 2017, the defendant was killed in battle four days before. The court noted, however, that there was no official death certificate or a civil procedure to declare him dead. In the absence of an official document stating his death, the court did not consider it proven that the defendant had died and did not drop the case against him.

End date of the incriminating period of charge B

The indictment stated that the incriminating period regarding charge B was from 1 November 2014 'till present'. The court held that the day of the referral of the case, 10 November 2017, should be considered the end of the incriminating period, as the court could not rule on facts beyond this date.

The evidence

The state security report

The file on the defendant was open based on a report from the state security service, dated 12 January 2016. The report mentioned that the defendant arrived in Belgium in 1995, at the age of 15, together with his parents who sought asylum in the country. In August 2015 the state security service received information that the defendant had left for Syria in 2014 and joined ISIL there.

The ISIL beheading video

On 16 November 2014, ISIL published a video called 'Although the disbelievers dislike it'. The video, lasting over 15 minutes, showed a masked jihadist fighter, identified as one of the high-ranking ISIL FTFs, as well as about 20 captured Syrian soldiers and an American journalist, kneeling in a row on the ground. An unmasked ISIL fighter armed with a knife stood next to each soldier and the journalist. Following a short speech by the masked leader, the kneeling men were simultaneously beheaded. One of the unmasked men had a strong physical resemblance to the defendant.

The wiretaps

The results of the wiretaps of the telephone number of the defendant's mother confirmed that he had left for Syria and was actively participating in the fighting in the conflict zone as a member of ISIL. For example, he told his mother on 27 October 2016 that Mosul had been attacked and his city seemed to be the next. He appeared to have some financial problems and he still had to pay for the weapon that he got from ISIL. In another conversation two days later he explained that he had given his testament to a certain man. He also asked his mother to send

to the same man USD 1,700 that he still owed to ISIL in case something would happen to him. He was worried that he may die in the upcoming big battle and would not go to paradise because of his debt. At a certain moment the defendant also asked his mother to send him money so that he and his family could escape. On 23 December 2016, he told his mother 'they burned them alive today . [...] we were very happy. Two dogs soldiers [...] we celebrated'.

The interviews of the defendant's mother and sister

The contents of the conversations were confirmed by the defendant's mother and sister during their interviews. The mother confirmed that:

- the defendant was in Syria and was part of ISIL;
- he participated in the fighting and was injured at a certain moment;
- he was in Syria and was then sent to Iraq but returned later to Syria;
- she sent money to him.

The defendant's sister stated that:

- she knew he fought in Syria, although he always denied to her that he did;
- her mother told her the defendant was injured;
- she heard from a cousin that there was a video of her brother on the internet.

When the investigators showed a screenshot of the video to the defendant's sister, she recognised him and started crying.

The ruling of the court

On charge A: commission of a terrorist murder of an unidentified victim, most likely a Syrian soldier captured by ISIL

The court held that there was no reason to doubt the authenticity of the images in the ISIL video. It considered that one of the men appearing on the video had a strong physical resemblance to the defendant and that his sister recognised him as one of the men involved in the beheading. Therefore, the court considered it proven that the defendant had murdered another person.

The court held further that, as provided for in Article 137 of the Belgian Criminal Code, a terrorist offence is an offence that with its nature or context can seriously harm a country or an international organisation. It is committed with a specific objective, namely to (1) instil serious fear in the population, (2) compel a government or an international organisation to perform or abstain from performing any act, or (3) seriously destabilise or destroy the fundamental political, constitutional, economic or social structures of a country or an international organisation. In the present case, it was clear that, by committing these murders and spreading worldwide such dreadful images, ISIL had the objective to instil serious fear in the rest of the world that the enemies of the caliphate will be beheaded.

The court concluded that charge A was proven in relation to the defendant.

On charge B: participation in an activity of a terrorist group

Article 139 of the Belgian Criminal Code defines a terrorist group as a structured association of more than two persons, existing for a certain period of time and acting in a concerted manner to commit terrorist crimes referred to in Article 137.

Participation in an activity of a terrorist group is punishable in conformity with Article 140 §1 of the Belgian Criminal Code. It is necessary that the perpetrator is aware that his participation contributes to the commission of a crime or a misdemeanour by the terrorist group, bearing in mind the broad understanding of these activities. Any assistance to a terrorist group, regardless of the nature of this assistance, is punishable as long as the person who provides it is aware of the terrorist objective of the group.

Bearing this in mind, the court held that it appeared from the information in the file that the defendant had joined the jihadist-Salafist terrorist organisation ISIL. It noted that the jihadist Salafists aim to establish a global dominance of the Islam and to create an Islamist state governed by the sharia. The most important means to achieve this aim is the armed fighting (jihad). The jihadist Salafists perceive it as a duty to fight corrupt leaders, scholars, non-believers and other enemies of the Islam by all means. The armed fighting is perceived as a material requirement for the establishment of the Islamist state.

The court ruled that ISIL is a terrorist organisation that fights in the Middle East, more specifically in Syria and the neighbouring countries, with the objective of establishing the so-called caliphate, i.e. a kind of state where democracy is abolished. This organisation rejects the legitimacy of states and organisations in the areas conquered by the caliphate and terrorises those who disrespect the rules of the sharia by committing atrocities.

The court noted further that the strengthening of the caliphate is a priority for ISIL, which is to be seen in its utmost aggressive attitude towards others (non-believers). Its strategy is aimed at deliberately creating chaos and terror in the whole world. Beheadings of the so-called non-believers are part of this strategy. Further to beheadings, suicide attacks, burnings, executions and stoning of people take place as well. Furthermore, ISIL commits abuses, sexual violence, rapes and forced marriages. Women and children are also among the targets of ISIL's humanitarian crimes.

The court concluded that the evidence in the file showed clearly that ISIL is a terrorist organisation in the meaning of Article 137 of the Belgian Criminal Code. It was also evident from the file, and in particular the results of the wiretaps, that the defendant had joined ISIL and participated in its activities. It was, therefore, beyond any doubt that he knew that his participation contributed to the commission of a crime or a misdemeanour by the terrorist group.

On these grounds, the court considered charge B proven in relation to the defendant.



The penalty

When determining the penalty, the court took into consideration the provisions of the law, the gravity of the facts and personality of the defendant.

The court considered the facts repulsive, showing the defendant's criminal mind and complete lack of morality and respect for the life of others, which was confirmed by the support he provided to ISIL. The court held further that terrorist crimes were considered the gravest type of crimes that directly affect the public order and/or the safety and stability of the society.

As the court considered both charges proven, it decided to impose one penalty for both offences, i.e. the harshest. It also took into account the defendant's criminal record and his previous convictions for several (attempted) thefts, use of violence, drugs-related offences, forgery of documents, fraud.

The court held that, due to the nature and the extreme gravity of the facts, only an effective imprisonment would be appropriate. The sentence, pronounced *in absentia*, included 30 years of imprisonment, deprivation of certain civil rights (e.g. to occupy a public office, be elected for public service, etc.) and a fine to be paid to the fund for assistance to victims of violence. The court ordered also the defendant's immediate arrest.

IV. The Way Ahead

Ongoing/Upcoming Trials

January - April 2018

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.

Belgium

In April 2018, a Brussels court ruled that there is enough evidence to put a French national on trial for allegedly killing four people with an assault rifle at a Jewish museum in Brussels in May 2014. He is further suspected of having fought with Islamist extremists in Syria and for being linked to the mastermind of the 2015 Paris attack. The trial is expected to begin in late 2018. His accomplice in the attack was formally charged by the Brussels court in 2015. A third suspected accomplice will not be put on trial due to a lack of evidence.

Source: Times of Israel

France

In January 2018, a suspect was charged by the French authorities for allegedly participating in the organisation of the 2015 Paris attacks. He is accused of having rented a car which was seen near three safe houses where the attacks were prepared. Furthermore, he is charged over his alleged involvement in an August 2015 attack on the Thalys train, which left two passengers injured. He was in Belgian custody, before being transferred to France under the condition that any eventual sentence will be served in Belgium.

Source: The Local

In January 2018, the first trial began for one of the alleged terrorists involved in the 2015 Paris attacks. The defendant was charged with harbouring two, now deceased, terrorists who committed the attack. Allegedly, he lent his apartment to a senior ISIL jihadist and his accomplice suspected of coordinating the attacks. It is yet unclear whether he actively conspired in helping the terrorists or whether he got caught up in the events unknowingly.

Source: The Local



Germany

A Syrian refugee was indicted in Germany for allegedly plotting an Islamist-inspired bomb attack with the goal of killing at least 200 people. According to the prosecution, the accused was intending to detonate an explosive device in Germany in the midst of a large concentration of people to create a climate of fear and uncertainty among the German population. He is accused of having bought precursors and other bomb-making materials. He is not believed to have been part of a terror cell.

Source: DW

Italy

A Norway-based defendant is being prosecuted in Italy for allegedly enticing recruits to fight in Iraq and Syria. The Italian prosecution contends that the defendant is behind Rawti Shax, a group dedicated to establishing an Islamist caliphate in Iraqi Kurdistan and conducting attacks in Europe or against Western interest. Moreover, the defendant allegedly founded the Sunni Kurd insurgent group Ansar al-islam, which merged with ISIL in 2014. He was previously convicted of threatening the Norwegian prime minister and other death threats as well as praising the 2015 Charlie Hebdo attack in Paris. Being a refugee in Norway since 1991, Norway pledged to extradite the defendant to Italy if he is successfully convicted by the Italian court.

Source: AP News

Poland

A Moroccan national was put on trial in Poland for allegedly being a member of ISIL and an accomplice of the suspected plotter of the 2015 Paris terrorist attacks. The suspect was also found with illegal narcotics and fake travel documents. Furthermore, the prosecution believes that the defendant was in personal contact with two other terrorists killed in an anti-terror raid in Belgium. If the defendant is convicted he will face six months to eight years in prison. He pleaded not guilty.

Source: RFI

Sweden

An Uzbek asylum seeker was charged by a Swedish criminal court with terror-related murder and attempted murder. Having sworn allegiance to ISIL, the defendant stole a truck and drove it into the pedestrians in a Stockholm shopping area in 2017. He did not admit to all attempted murder charges, but pleaded guilty to terrorism and attempted terrorism.

Source: The Local

United Kingdom

A British national was charged with planning terror attacks on the Oxford Street and Madame Tussauds Museum in London. According to the prosecution, he was allegedly planning a 'large scale multiple casualty' attack using a vehicle. Furthermore, he was charged for having intended to travel to Philippines to join ISIL, as well as for being in contact with a man in the Philippines who supports financially ISIL fighters. He is also suspected to having arranged funds or property for the purposes of terrorism.

Source: *Mirror*

