

**EUROJUST**

---

**October 2011**

# **Terrorism Convictions Monitor**

## **EUROJUST Report**

Based on open sources information

### **Issue 11**



# Contents

---

## **I. Introduction**

---

## **II. Terrorism Convictions Overview**

**1. Terrorism Convictions/Acquittals by Member State May-August 2011**

**2. VSIE/ARE Convictions in EU and Third Countries**

**3. Comparative Analysis Terrorism Convictions May-August 2011**

---

## **III. Legal Update**

**1. EU**

**2. EU Member States Overview**

**3. Other Policy Measures of Interest**

---

## **IV. The Way Ahead**

---

## **V. Judicial Analysis on Selected Cases**

**1. Judgement Denmark**

**2. Judgement Spain**

---

## **Appendix**

**Contact and Analysis Team**

---



# I. Introduction

---

## Why a Terrorism Convictions Monitor

**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 (CAU) and methodologies such as individual case studies and comparative analysis. There is a link provided to each of the convictions and acquittals found on the EUROJUST Intranet External News and/or the Internet. **In addition, the current TCM includes also information exclusively provided to Eurojust by the national authorities of one EU Member State by virtue of Council Decision 671/JHA/2005 with no links to open sources.**

Issue 11 of the TCM covers the period **May-August 2011**. It contains also a judicial analysis chapter pertaining to two cases from the recent past.

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. In the cases where such a confirmation and/or follow-up is needed, a special icon  will appear. The respective National Desks will be further contacted for specific details. In cases where the information has already been provided, it will be noted by a .

**National correspondents on terrorism are still encouraged to provide information for 2011 on an ongoing basis to Eurojust, in conformity with Council Decision 671.**

## II. Terrorism Convictions Overview

---

### 1. Terrorism Convictions/Acquittals by Member State May-August 2011



#### Denmark

##### **May 2011**

A Danish court found a 25 year old ethnic Chechen man guilty of an attempted act of terrorism against a Danish newspaper which in 2005 printed cartoons of the Prophet Mohammad. The Belgian citizen was arrested after he accidentally set off a small blast at the Hotel Jorgensen in the centre of the Danish capital on September 10 2010, injuring only himself. The court found he sought to attack with a bomb made of acetone peroxide the offices of the daily Jyllands-Posten whose caricatures of the Prophet sparked Muslim outrage and violent protests in 2006 in the Middle East, Africa and Asia. He received a punishment of twelve (12) years in prison.

Source: [Reuters](#)



##### **June 2011**

A Danish appeals court upheld a guilty verdict of a Somali man convicted of attempted murder and terrorism for his axe attack on a cartoonist who caricatured the Prophet Mohammed. The High Court has also found the defendant guilty of attempted terrorism in having tried to kill the cartoonist and has for the most part upheld the lower court's reasons in determining guilt. The defendant, 29, was found guilty by the lower court in February and sentenced to nine years in prison to be followed by permanent expulsion from Denmark.

The appeals court lengthened the prison sentence to ten (10) years.

Source: [Reuters](#)



#### France

##### **May 2011**

On 24 May, a court in Paris sentenced four ETA members to ten (10), nine (9), five (5), and seven (5) years in prison, respectively. All of them were arrested in France between November 2006 and July 2007 and will be expelled from that country after serving their sentence. Another ETA member was sentenced in absentia to three (3) years in prison.

Source: [L'Express](#)



A French court sentenced four members of Basque separatist group ETA to jail terms ranging between four (4) and six (6) years. Three of them were arrested in 2006 on charges of arms possession and making explosive devices. ETA members were dressed in black T-shirts imprinted with "Jon, who was kidnapped, tortured, murdered," in reference to an ETA activist whose body was found in March 2010 in a morgue in Toulouse, south of France eleven months after his disappearance.

Source: [Le Figaro](#)



### **June 2011**

The Paris Court of Cassation rejected an appeal by an Algerian Islamist, arguing that his conviction for bombings in Paris in 1995, passed by a special court of assizes, had not to be substantiated. In its ruling, the Court found that "there has been compliance with the requirements and conventional law" invoked by the convicted in order to challenge his sentence of life imprisonment, with a minimum sentence of twenty (22) years, pronounced in 2007 in first Instance and upheld on appeal in 2009. He was convicted of complicity in three bombings, including that of July 25, 1995 at the metro station Saint-Michel (8 dead, 150 injured) in central Paris. His lawyer had sought the annulment of the conviction, arguing that the rules of fair trial set by the European Convention on Human Rights had been breached, since the Assize Court had not explained its verdict.

Source: [Ennaharonline](#)



### **Germany**

### **May 2011**

A German-Syrian dual national, who has admitted belonging to al-Qaida, has been convicted of membership in a terrorist group and given a prison sentence of four (4) years and nine (9) months. The Frankfurt state court also found that he trained at an al-Qaida paramilitary camp in Pakistan's lawless border region.

Source: [Reuters](#)



### **Italy**

### **June 2011**

A trial against one Belgian and one French national, charged with membership of an al-Qaeda cell, which was allegedly preparing an attack on France's main international airport, ended with penalties of eight (8) years imprisonment for both defendants. The two were active in propaganda

campaigns for Muslim extremists and running recruitment rings for jihad fighters.

Source: [La Repubblica](#)



## **Spain<sup>1</sup>**

### **May 2011**

On the 22<sup>nd</sup> September 2008, the French police received information regarding two suspicious vehicles parked besides a tent near to the Spanish-French border. During the respective searches the police identified two individuals and found material labelled as referring to ETA.

The Juzgado Central de Instruccion issued a European Arrest Warrant the 18<sup>th</sup> December 2008 against both subjects. On the 17<sup>th</sup> December 2009 the Court of Appeals of Versailles agreed the transfer of both subjects to the Spanish authorities to stand trial.

The Spanish public prosecution service presented charges for belonging to a terrorist organisation, illegitimate possession of firearm, possession of explosive material, forgery of official documents and vehicle theft.

The *Audiencia Nacional* on the 10<sup>th</sup> May 2011 condemned the two individuals to ten (10) years imprisonment and a special ban to occupy public positions for participation in a terrorist organisation; one (1) year and seven (7) months imprisonment and ban to stand for elected positions for illicit possession of fire arm; six (6) years imprisonment and ban for ten (10) years ban to stand for elected positions for illicit possession of explosives; two (2) years imprisonment and fine for twelve (12) months at 260 euro daily and ban to stand for elected public positions for the forgery of official documents and six (6) months imprisonment and ban to stand for public elected official for six (6) years for the charge of illegitimate possession of vehicle.

The defence appealed the sentence arguing that the decision violated the Principle of speciality and procedural warranties as the crime of illicit possession of explosive for which they were condemned was not included either in the European Arrest Warrant or in the decision of the court of Versailles transferring the procedure to Spain. Additionally the sentenced was recurred due to an alleged violation of the right equal application of the law as the sentenced for these crimes in France are punished with lighter penalties. The Supreme Court confirmed the sentence of first instance of the *Audiencia Nacional*.

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



[News](#)

---

<sup>1</sup> Please note that information transmitted to Eurojust by virtue of Council Decision 671/JHA/2005 after the issuing date of the current TCM has not been included and will be referred to in the next issue.

Five individuals willing to help and collaborate with the terrorist group ETA, between July and December 2008 committed acts qualified by the Spanish Public Prosecution Service as collaboration with a terrorist organisation. The *Audiencia Nacional* sentenced one male to seven (7) years imprisonment, fine during eighteen (18) months at 10 Euros daily and ban to stand as candidate to elections of public official; two females and one other male have been sentenced to five (5) years imprisonment, fine during eighteen (18) months at ten (10) euro daily and ban to stand in elections for public officials for charges of collaboration with a terrorist organisation. Another female was acquitted of all charges.

On the appeal promoted by the defendants, the Supreme Court acquitted one female defendant due to the violations of the principles of presumption of innocence and "*nemo tenetur se detegere*" as the only evidence against her was her self-incriminating deposition which the court found was obtained through coercive methods. Regarding one male defendant the Supreme Court also acquitted him due to the violation of the principle of presumption of innocence, as the first instance sentence was based on the initial deposition of one of the female defendants, deposition that was declared by the court as illegitimately obtained. The other two individuals were also acquitted due to the violation in the first instance of the right to be presumed innocent.

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



[Decision](#)

The *Audiencia Nacional* sentenced one male to five (5) years imprisonment, eighteen (18) months fine of six (6) euro daily and banning to stand for elected public positions during the time of the sentence. He was accused of collaboration with a terrorist organisation for providing information regarding targets to two other terrorists.

He was originally sentenced to ten (10) years imprisonment on the 17<sup>th</sup> December 2008 by the Criminal Court of Paris for, among other crimes, participation in a criminal organisation aiming to implement a terrorist attack.

The facts were committed from September 2001 to July 2003. He was detained in France the 30<sup>th</sup> July 2003 and handed temporarily to the Spanish authorities for the period 14<sup>th</sup> October 2010 until 20<sup>th</sup> August 2010 to stand for trial.

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



[News](#)

On the 22<sup>nd</sup> February 2001 active members of ETA, aiming to murder a municipal politician, installed an explosive device (bomb vehicle) near the train station Martutene in Donostia/Guipuzcoa. The explosion killed two

persons, wounded many others and created extensive material damages. The Spanish prosecutor presented charges against two individuals for murder through a terrorist attack and attempted murder through a terrorist attack.

The *Audiencia Nacional* acquitted one of them of all charges due to the lack of corroboratory evidence supporting the deposition of the other co-accused and condemned the other to two counts of twenty five (25) years and six counts of fifteen (15) years of imprisonment, totalling one hundred forty (140) years of imprisonment.

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



[Decision](#)

On the 21<sup>st</sup> December 2008, one Spanish national allegedly participated as speaker in an act commemorating and celebrating a deceased ETA leader. The Spanish public prosecution service qualified the act as apology of terrorism. The *Audiencia Nacional* sentenced the defendant to one (1) year imprisonment and seven (7) years ban to stand for public official positions.

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



[Decision](#)

Within the activities of the "Comando Donosti" two individuals accompanied by 25 militants executed an attack against the residence of police officers in San Sebastian. The attack consisted in shooting against the residence while their inhabitants were inside. The shooting took place on the 23<sup>rd</sup> of June 1995 and caused material damage to the building.

The Spanish public prosecution service qualified the acts as attempted murder, illegal use of motor vehicle and modification in the registration of a vehicle.

The *Audiencia Nacional* sentenced both accused to fourteen (14) years imprisonment for the charges of attempted murder related to the activities of an armed organisation, six (6) months arrest and fine of 3.000 euro and ban to drive motor vehicles during one (1) year for the count of illegitimate use of motor vehicle and four (4) years two (2) months and one (1) day reduced imprisonment and fine of 3.000 euro for the charge of illegitimate modification the registration of a motor vehicle.

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



[Decision](#)

During the night of the 19<sup>th</sup> August 2000, members of ETA placed an explosive device under an official vehicle of the *Guardia Civil* (police) parked on the street. Two officers boarded the vehicle minutes before the explosive was detonated. Both officers died as a consequence of the explosion.

ETA claimed responsibility for the attack through a communication addressed



to a local newspaper.

For this acts, the *Audiencia Nacional* sentenced the three suspects to two (2) counts of thirty (30) years for the charge of terrorist attack inducing death and fifteen (15) years imprisonment and absolute banning to stand in public elections for the charge of destruction through terrorist attack. Additionally, all subjects were sentenced to provide compensation to the siblings of the victims.

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



[News](#)

On the 20<sup>th</sup> April 2008, an explosive device was detonated at the entrance of the regional headquarters of a national Spanish political party. ETA claimed responsibility for the attack through a communication sent to a local newspaper. The Spanish prosecution service charged one individual for his participation in the attack as part of the activities of the ETA's "Comando Tontor".

The *Audiencia Nacional* sentenced him to three (3) years imprisonment and absolute ban to stand for elections for nine (9) years. Additionally, the suspect was sentenced to compensate the insurance body which paid damages to the victims.

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



[News](#)

On the 29<sup>th</sup> September 2009 a bus was forced to stop by unidentified subjects. Once the bus was stop and the passengers forced to exit, the accused allegedly sprayed a flammable substance and lit the bus on fire. ETA claimed responsibility for the attack through a local newspaper.

The public prosecution service charged one individual for damages in the context of terrorist activities.

The *Audiencia Nacional* acquitted him of all charges as the main evidence used by the prosecution was based on a glove found in the scene which was impossible to link to the accused.

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



[News](#)

During a search executed on the 16<sup>th</sup> December 2008, the *Ertzaintza* (police) found electronic information related to the infrastructure of the local police headquarters. Allegedly, since 2006 until their detention in 2008, two individuals collaborated with ETA collecting information and transferring it to members of the organisation in France. The Spanish prosecution service charged both for collaboration with a terrorist organisation.

The *Audiencia Nacional* sentenced both to eight (8) years imprisonment and

ban to stand for public elected official positions for the time of the sentence. Both were also sentenced to cover the financial cost of the trial.

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



[News](#)

## June 2011

Related to the murder attempt of the 17<sup>th</sup> January 2002 against the President of the Spanish business group "El Cerreo Español", the attack which consisted of a parcel bomb was intercepted by the Basque Autonomous Police. As his participation on the events was not beyond doubt, the Court (Audiencia Nacional) acquitted the defendant. He was surrendered temporarily by the French authorities the 30<sup>th</sup> May 2011.

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



[Decision](#)

Two individuals were charged for stealing a caravan from French tourists in Spain, who were kept as hostages for two days and a year later for using the vehicle to perpetrate a car bomb attack in Oropesa del Mar (Castellon).

The *Audiencia Nacional* sentenced both subject to eight (8) years imprisonment and fourteen (14) years ban to stand in public elections for the terrorism count. Additionally, both were sentence to compensate the victims of the material harm caused by the explosion.

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



[Decision](#)

One individual was acquitted by the *Audiencia Nacional* for the installation of an explosive device at the headquarters of "Instituto Nacional de la Seguridad Social" in Zarautz (Guipuzcoa - Spain) causing extensive material damages to the building.

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



[Decision](#)

In the context of an extortion campaign implemented by ETA, two females were requested to provide the terrorist organisation 200.000 euro.

The subjects were at the time partners in a company and provided voluntarily 6.000 euro to ETA. The organisation replied in a letter thanking the contribution and inviting them to contact the organisation in case they wanted to contribute further to the Euskal Herría activities.

The Audiencia Nacional sentenced both to one (1) year imprisonment, three month fine of 50 euro daily and banning for public elected position for two

(2) years and nine (9) months for collaboration with a terrorist organisation with the mitigating element of insurmountable fear.

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



[News](#)

Due to his radical Salafi jihadism ideology, sponsored by many terrorist groups as Al Ansar and within the orbit of Al Qaeda, one individual held since 2000 several meetings with subjects of similar ideology in a butchery located in Burgos. These meetings took place when the butchery was closed to the public and the topics were related to the situation in Iraq, Afghanistan and some terrorist as [REDACTED].

The accused was sentenced by the *Audiencia Nacional* to five (5) years imprisonment, banning for public elected positions during the time of service and eighteen (18) months fine at 3 euro daily.

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



[Decision](#)

One individual manufactured and stored explosives in his parents' apartment in order to execute attacks against French and Spanish telecommunication infrastructures. The attack took place the 16<sup>th</sup> January 2009. During the searches and seizures the police found material to manufacture explosives, ETA labelled material, computers and telephones.

The *Audiencia Nacional* sentenced him to eight (8) years imprisonment and ten (10) years ban to stand in elected public office for the count of membership to a terrorist organisation; six (6) years imprisonment for the count of damages; fifteen (15) years imprisonment for each of the twenty four (24) counts of attempted murder and eight (8) years imprisonment for the count of possessing explosives. Additionally, the accused was banned to approach the municipality for additional (10) years to the three hundred seventy (370) years of the sentence, to pay for the cost incurred in the judicial procedure and to compensate the telecommunication companies and the municipality affected.

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



[News](#)

On the 4<sup>th</sup> July 2000, during a search and seizures executed by the police of a meeting place located in a bar, several ETA labelled materials were found as well as material to manufacture explosives. The owner of the bar was charged for storing flammable and explosive materials. The *Audiencia Nacional* acquitted him on 13<sup>th</sup> July 2011.

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



#### News

One individual accompanied by another subject rented a flat in Valencia in order to use it as an operational base to store explosive in that territory. Following a pre-established plan, on the 1<sup>st</sup> July 2003 both subjects made bookings at hotels in order to ensure that there would be rooms available for the moments of the explosive attacks. They entered into the rooms and placed explosive devices concealed in their luggage.

On the 22<sup>nd</sup> July 2003 a local newspaper received a phone call on behalf of ETA warning about the presence of the explosives in rooms of two hotels. Police evacuated both buildings. The explosions took place at 12.05 and 12.15 producing harm to police officers deployed in the building and serious material harm to the building itself.

The Spanish prosecution service brought charges against one of the suspects for terrorist attacks and attempt murder. The *Audiencia Nacional* condemned him for two counts of terrorist attack to seventeen (17) years of imprisonment each for six (6) counts of terrorist attack against members of the security forces to nineteen (19) years imprisonment and for eight (8) counts of murder through terrorist attacks to fifteen (15) years imprisonment.

Additionally, the subject was sentenced to compensate several public institutions and wounded police officers.

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



#### Decision

The 22nd March 2005, after a demonstration organised for the death in Uruguay of an ETA militant a group of face-covered activist launched several incendiary devices (Molotov cocktails) against the branch of a local bank producing serious damage to its infrastructure. The police intervened in order to disperse the demonstration. No arrests were made during the police intervention.

The public prosecution service charged one individual for his alleged participation in a terrorist attack. The *Audiencia Nacional* acquitted him of all charges and revoked all preventive measures applied on him.

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



[http://audiencia-nacional.vlex.es/vlex/es/vid/-271771566\\_\(partial\)](http://audiencia-nacional.vlex.es/vlex/es/vid/-271771566_(partial))

### **July 2011**

The 28th February 2002, one male and one female, in the context of the activities of the "Comando Argala", installed an explosive device in a supermarket trolley with the intention of killing a municipal official. The bomb was activated wounding the people transiting the area and creating serious damages to the building surrounding it. No fatal casualties were

reported.

The *Audiencia Nacional* sentenced both accused to eighteen (18) years imprisonment for twenty (20) charges of attempting terrorist attacks and ban to stand in public elections and seventeen (17) years for the charge of destruction of property through explosives additionally to provide economical compensation to the victims in the terms established by the decision.

Source: Information Consejo General del Poder Judicial



[Decision](#)

On the 9th July 2005 after a rally in support of one an imprisoned member of ETA, one individual gave a speech justifying and promoting the armed fight and the actions of the terrorist organisation. The *Audiencia Nacional* acquitted him of all charges.

Source: Information Consejo General del Poder Judicial



[Decision \(no official site\)](#)

On the 31st January 1998, one female, in company of others, attacked the residence of a police officer with Molotov cocktails, damaging the residence. The *Audiencia Nacional* sentenced her to fifteen (15) years imprisonment and ban to stand in elections for charge of destruction through fire attack, four (4) years imprisonment and ban to stand in elections for the charge of terrorist attract, six (6) years imprisonment for the charge of illegitimate possession of flammable substances.

Source: Information Consejo General del Poder Judicial



[News](#)

On the 31st December 2000, an unidentified person on behalf of ETA called the reception of a hotel warning that a car bomb was set to explode at a certain time. The police intervened and deactivated the device.

In the context of a different operation, the French police entered the residence of a subject finding a document containing the written statement that was provided to the hotel where the car bomb was set.

The court in Spain issued an EAW and the subject was surrendered to Spanish authorities in order stand trial.

The accused was sentenced to twelve years imprisonment and ban to stand in public elections for the count of attempt terrorist attack with explosives.

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



Spain's National Court acquitted a former Basque separatist leader who was sentenced to two years in prison for defending terrorism.

The one-time leader of the outlawed Batasuna party, linked to the armed

group ETA, was convicted in 2010 for defending terrorism while paying homage in 2005 to an imprisoned ETA member. But the Supreme Court ordered a retrial saying one of the judges had made impartial comments. The National Court said it had acquitted the defendant for lack of evidence.

Source: [NWCN.com](#)



## **United Kingdom**

### **July 2011**

An internet blogger has been jailed for twelve (12) years after admitting soliciting the murder of MPs who had voted in favour of the Iraq War. The convicted, 23, was also sentenced for other terrorism offences. Prosecutors at Bristol Crown Court said he had used a website called revolutionmuslim.com to encourage others to attack MPs. The website has since been closed down by the authorities in the US.

As well as being jailed for 12 years, the defendant was ordered to serve an additional five (5) years' extended period on licence.

The other terror offences included one for intent to stir up religious hatred and three counts of collecting information likely to be of use to a terrorist.

Source: [BBC News](#)



## 2. VSIE/ARE Convictions in EU and third countries



### Switzerland

#### July 2011

Three environmental activists with links to European anarchist groups were found guilty of plotting a bomb attack on an unfinished IBM nanotech research facility near the Swiss city of Zurich.

Switzerland's highest criminal court declared 35-year-old individual, his 29-year-old wife and their 26-year-old friend guilty of conspiring last year to destroy the research centre as it neared completion.

The trial drew attention to a loose-knit network of European anarchists, with prosecutors linking the trio to extremist environmental and animal-rights movements that have claimed responsibility for several violent attacks in the U.S. and Europe since the 1990s.

The Italian couple and a Swiss citizen living in Italy were handed prison sentences ranging from three (3) years and four (4) months to three (3) years and eight (8) months. This was slightly higher than federal prosecutors had recommended.

Source: [Yahoo.com](#)



### 3. Comparative Analysis Terrorism Convictions May-August 2011

**Member States with convictions/ acquittals** Terrorism related trials in several EU Member States have resulted in convictions/ acquittals in the period May–August 2011 (*please see map below*).



*Figure 1 EU Member States with terrorism convictions/acquittals in the period May-August 2011*

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



Based on the information available in the open sources, several comparative charts have been drawn to illustrate some facts of particular interest. By exception, the numbers for Spain contain also information provided to Eurojust in implementation of Council Decision 671 of 2005.

### Number of convictions/acquittals in terrorism trials per Member State

Member State	Convicted	Acquitted	Total	Acquitted (%)
Denmark	2	-	2	0%
France	10	-	10	0%
Germany	1	-	1	0%
Italy	2	-	2	0%
Spain	24	13	37	35%
UK	1	-	1	0%
<b>TOTAL</b>	<b>40</b>	<b>13</b>	<b>53</b>	<b>25%</b>

Figure 2 Number of convictions/acquittals per Member State

The chart contains the information regarding the number of convictions/acquittals per Member State over the period May-August 2011.

### Length of sentences

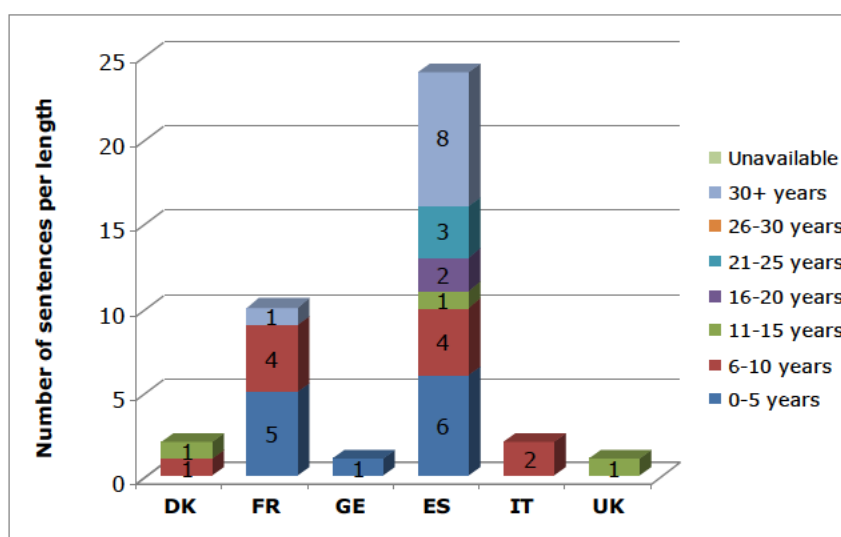


Figure 3 Length of sentences per Member State

The chart illustrates the information regarding the length of terrorism related sentences per Member State over the period May-August 2011.

## Affiliation of tried individuals

Member State	Islamist	Left wing	Separatist	Total
Denmark	2	-	-	2
France	1	-	9	10
Germany	1	-	-	1
Italy	2	-	-	2
Spain	1	-	36	37
UK	1	-	-	1
<b>TOTAL</b>	<b>8</b>	<b>-</b>	<b>45</b>	<b>53</b>

Figure 4 Affiliation of tried individuals

The chart illustrates the information regarding the affiliation of convicted individuals, in cases when it was expressly stated, over the period May-August 2011.

## Age of convicted individuals

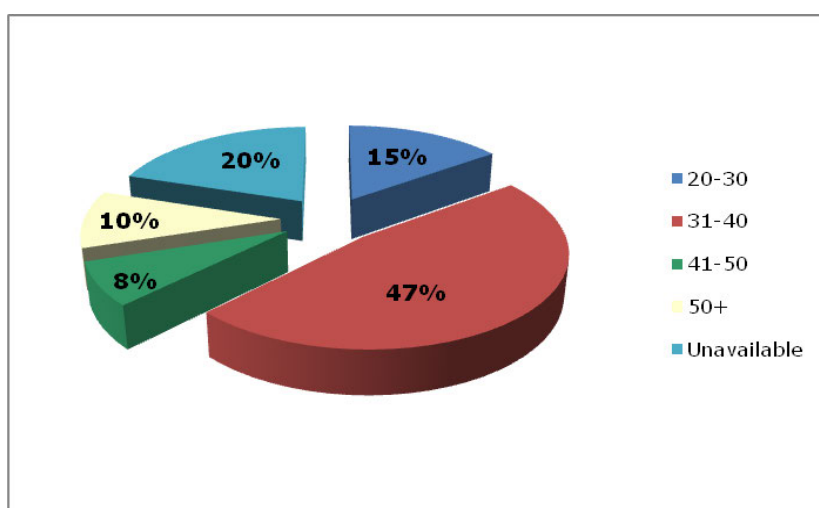


Figure 5 Age of convicted individuals

The chart illustrates the information regarding the age of convicted individuals in the EU Member States over the period May-August 2011.

## Gender of convicted individuals

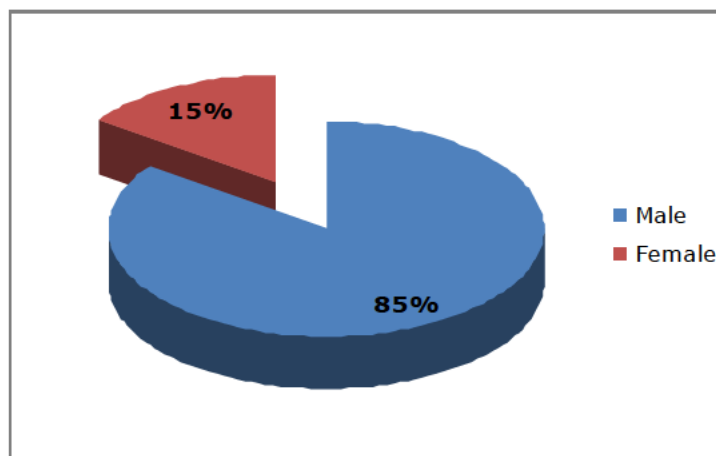


Figure 6 Gender of convicted individuals

The chart illustrates the information regarding the gender of convicted individuals in the EU Member States over the period May-August 2011.

---

## III. Legal Update

---

### 1. EU



#### July 2011

Commission Implementing Regulation (EU) No 748/2011 of 28 July 2011 amending for the 153rd time Council Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with [REDACTED], the Al-Qaida network and the Taliban.

Source: [Official Journal of the EU](#)

#### August 2011

Council Decision 2011/487/CFSP of 1 August 2011 amending Common Position 2002/402/CFSP concerning restrictive measures against [REDACTED], members of the Al-Qaida organisation and the Taliban and other individuals, groups, undertakings and entities associated with them.

Source: [Official Journal of the EU](#)

Council Regulation (EU) No 754/2011 of 1 August 2011 amending Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with [REDACTED], the Al-Qaida network and the Taliban.

Source: [Official Journal of the EU](#)

### 2. EU Member States Overview



#### Germany

#### June 2011

In Germany, the anti-terror laws were extended for four years. The laws were originally passed by the former Social Democratic-Green coalition government following the September 11, 2001 attacks in the United States. They gave security forces greater powers to access data such as flight information from airlines and the movement of money between bank accounts of terrorism suspects. The existing regulations expire in January next year. A political compromise has been reached so that the laws would be applied for the next four years "as far as they are necessary". However, some will be strengthened. For example anti-terrorism authorities will in future be able to gather information about flights and bank accounts from central points, where previously they had to collect the data from individual airlines and banks.

Other laws will be scrapped, including those that give authorities the power to obtain information about mail and post office boxes. So-called “mini-eavesdropping,” whereby officers place microphones on their own bodies for self-protection, will be dropped.

Source: [The Local](#)



## July 2011

A third version of the UK Counter-terrorism strategy (CONTEST) has been published in July 2011.

The aim of CONTEST is to reduce the risk to the UK and its interests overseas from terrorism, so that people can go about their lives freely and with confidence. The scope of this revised CONTEST strategy has been broadened to cover all forms of terrorism. The counter-terrorism strategy will continue to be organised around four work streams, each comprising a number of key objectives:

- ▲ Pursue: to stop terrorist attacks;
- ▲ Prevent: to stop people becoming terrorists or supporting terrorism;
- ▲ Protect: to strengthen the protection against a terrorist attack; and
- ▲ Prepare: to mitigate the impact of a terrorist attack.

Source: [homeoffice.gov.uk](#)

### 3. Other policy measures of interest

In July 2011, Europol and Eurojust held a joint conference in The Hague to discuss “the phenomenon of increased violence committed by some extremists in the name of animal rights.”

Together with a tactical meeting held at Eurojust in April 2011 on the same topic, the conference clearly identified the need for a wider exchange of information to provide the Member States’ authorities with a clear picture of ongoing criminal activities. There is a tendency to underestimate the importance of the phenomenon and of the links between criminal actions committed in different countries. Forensic analysis clearly demonstrates that some attacks committed in the EU have used the same modus operandi and that the devices used are similarly manufactured.

From the context of the conference, it became obvious that the violent criminal activities are often orchestrated at an international level. To this end, a need for increased law enforcement coordination at an international level was identified, as well as more awareness on a local police and judicial level.

The conference recommendations include:

- a. Encouraging Member States’ authorities to prevent and fight all forms of violent criminal extremism and developing, at an EU level, a renewed dialogue on animal protection and animal welfare to allow all concerned parties to express their needs and concerns in a democratic way
- b. Exploring the possibility of sharing technical data with the relevant parts of the corporate security community and their branch organisations, respecting the data protection regulations within Europol

and Eurojust's existing legal frameworks

- c. Developing a common strategy with the corporate security community to further cooperation between EU institutions and the relevant parts of the private sector.

The above recommendations were supported by a conclusion that called for increased information exchange with Europol and Eurojust on attacks, prosecutions and convictions in animal rights extremism cases. This will lead to the identification of good practice, increased sharing of experience and ultimately a more efficient and coordinated approach in tackling the phenomenon.

Europol and Eurojust are currently supporting ongoing inquiries in a number of Member States that are linked to crimes committed in the name of animal welfare.

Source: [animalrights.net](https://animalrights.net)

## IV. The Way Ahead

---

The CAU has been following the current developments in several trials and/or upcoming trials where decisions are expected within the next few months. They include *inter alia*<sup>2</sup>:



**DE**

A trial against three men held on suspicion of planning a bomb attack. The three suspects were arrested after allegedly buying bomb-making chemicals.

A trial against a 25-year-old man accused of supporting terrorism and recruiting members for extremist Muslim groups. The accused allegedly posted videos, audio and texts on the Internet praising jihad, or holy war.



**ES**

A trial against a former leader of the armed Basque separatist group ETA for allegedly trying to kill a businessman with a parcel bomb in 2002.

A trial against three Basque police who are accused of blowing the whistle during an investigation into ETA racketeering. They face charges of collaborating with a terrorist organization, concealment and disclosure of confidential information.



**FI**

Ongoing investigations of suspected fundraising and recruitment for terrorist activities abroad involving support for the hard-line Islamic al-Shabaab movement in Somalia.



**FR**

Terror charges pressed against four men accused of seeking to reach militant training camps in the Pakistan-Afghanistan region. The four face preliminary charges of criminal association with a terrorist enterprise. One is also accused of terrorism financing.

An appeal against a verdict condemning 20 individuals to prison in a case involving charges of extortion, ransom collection under duress and threat, money laundering and funding of a terrorist organisation.

---

<sup>2</sup>Ongoing trials in Germany and UK, reported in the previous TCM issue, continue to be monitored and their outcome will be presented in the next edition(s) of the report.



A trial against five Sri Lankans accused of illegally funding the Tamil Tiger rebels in their country's 26-year civil war, group which has been branded a terrorist organization by the European Union, as well as of membership of an international terror organization. Prosecutors and defense attorneys are expected to lay out their cases later this month and a verdict is likely towards the end of October.



A trial against a man charged with four offences under the Terrorism Act relating to material found on a computer pen drive. He is accused of having instructions on how to make the poison ricin and a bomb.

A trial against a man accused of arranging or managing a meeting in support of the IRA in April 2011. He is also charged with aiding and abetting people in the wearing of clothing to arouse a reasonable suspicion that the wearers were IRA members or supporters.

A trial against a man charged with six counts of possessing information which may be useful to someone who commits or prepares for an act of terrorism.

A trial against a man accused of terrorist offences involving explosives substances, having firearms and ammunition with the intent to endanger life and possession of items for terrorism.



An upcoming trial of three men accused of perpetrating terrorist activities.

Any further developments, resulting in convictions in the above-mentioned or any other trials, will be presented in the next edition(s) of the Terrorism Convictions Monitor.



## V. Judicial Analysis on Selected Cases

---

### **Foreword**

*The present analytical chapter has been produced in an attempt to provide a different insight on terrorist judgments throughout the EU area. It is intended to help practitioners and offer relevant case studies and comparative analyses.*

*The judgments to be analysed have been purposefully selected. In order to ensure a unified approach to the analysis, it has been conducted following a special methodology. The main categories analysed in a 1<sup>st</sup> instance judgment include: brief description of the facts, peculiarities in the investigation phase, the offences accused, the offences convicted, the sentence handed down, etc. In case of an appeal judgment, the grounds for appeal are also studied as well as the decision of the appeal judges on the charges and sentences.*

*The analysis of judgments could identify several lines of comparison. They include, for example: brought charges vs. convicted offences (within a judgment), 1<sup>st</sup> instance judgment vs. appeal judgment (within the same case), judgments of different accomplices in the terrorist enterprise/organisation brought to trial together and judgments for relatively comparable criminal offences in different trials (within 2 or more judgments).*

*The latter line of comparison is of a particular interest from an analytical point of view in order to identify similarities and differences in the Member States. The deliberate selection of judgments for similar offences will help shed some light on the respective type of terrorist phenomenon as well as the outcome of criminal proceedings/trials in one or more EU Member States. In order to ensure relativity and comparability, judgments from one and the same instance should be selected for comparison e.g. 1<sup>st</sup> instance judgments should be compared with 1<sup>st</sup> instance judgments, appeal judgments with appeal judgments, etc.*

### **Introduction**

Two cases concerning a similar modus operandi are presented below, one from Denmark that resulted in a conviction and one from Spain that led to the acquittal of the accused individual.

## **Judgement Denmark**

**Court:** the Copenhagen District Court (Kobenhavns Byret)

**Procedure:** Ruling of the court of the 1<sup>st</sup> instance

**Date of the court ruling:** 31 May 2011

### **Introduction**

On 31 May 2011, the Copenhagen District Court issued a judgement in case of an attempted act of terrorism. The defendant, 25-year-old Belgian citizen of Chechen ethnic origin, was found guilty of making a letter bomb with the aim of sending it to the office of the Danish newspaper "Jyllands-Posten", which in 2005 published cartoons of the Prophet Mohammad. The perpetrator did not succeed in completing the attack, as, while preparing the letter bomb for posting, he accidentally set off an explosion in a hotel in the centre of Copenhagen injuring only himself.

### **Background of the case and the claims put forward by the parties**

The defendant was arrested in Copenhagen in a park nearby the hotel where the bomb exploded on 10 September 2010, shortly after the explosion.

A jury assisted the case. The indictment was presented on 3 May 2011.

**The prosecution** put forward the indictment for two charges:

**Charge 1: Terrorism** under the **Danish Criminal Code, section 114, paragraph 1, points 1 and 7, and section 21**, in that the defendant, in the time period before 10 September 2010, with the intention of terrifying the population to a serious degree or unlawfully forcing the Danish or foreign authorities or an international organization to undertake or omit to undertake an action, or to destabilize or destroy the fundamental political, constitutional, economic or social structures of a country or an international organization, **attempted to commit** actions as described in the above-mentioned sections of the Criminal Code, in the nature that could cause serious damage to Denmark or to another country, by making a letter bomb, using the explosive material TATP, with the aim of arranging an explosion at the office of "Jyllands-Posten", Viby, or another unspecified location in Denmark or abroad, which was unsuccessful as the bomb exploded before being sent.

**Charge 2:** Breach of the **Danish Criminal Code, section 192a, paragraph 1**, and the **Offensive Weapons Act, section 2, paragraph 1, and section 1, paragraph 1, points 1, 2 and 3**, in that the defendant, on 10 September 2010, in a hotel in Copenhagen, under particularly aggravating circumstances, was in **possession of a loaded pistol and 2 additional magazines** with a total of 40 bullets.

The prosecution put forward the case for imprisonment for not less than 12 years, confiscation of the weapons and permanent deportation of the defendant in accordance with

the **Aliens Act sections 49, 24, 22 and 32.**

**The defendant** put forward the case for acquittal with regard to the first charge and the case for the court's mildest sentence with regard to the second charge. The defendant did not object with regard to the confiscation and deportation.

#### **The court's analysis of presented evidence and statements by the parties**

The evidence presented by **the prosecution** proved that the defendant arrived in Denmark on 7 September 2010 under an assumed name, that on the same day he booked into a hotel in Copenhagen under another assumed name and that on 9 September he booked a bus ticket to return to Belgium from Copenhagen under yet another assumed name.

**The defendant** stated that he brought the bomb and the loaded pistol with spare magazines to Denmark for reasons of personal safety, but he was not willing to give the reasons for this, as well as he was not willing to give the reason why he travelled under the false identities.

**The defendant** stated that the bomb was originally stored within an alarm clock case, and he used to mount the bomb close to the door of hotel rooms where he was sleeping. He further stated that, in several days before the explosion, he dismantled the bomb because he no longer felt he needed it but, while dismantling it, he dropped some metal pellets into the explosive. The defendant stated that, at the moment of the explosion, he was in the process of taking these metal pellets out of the explosive, and the reason of the explosion was that he accidentally bumped the box containing the explosive against the toilet in the hotel.

On the basis of the evidence presented by **the prosecution** and acknowledged by **the defendant, the court deemed to be proven that the defendant, at a post office, while wearing a mask, bought certain items which he later used for preparation of the letter bomb** (a cardboard box, a roll of tape and two envelopes) and that he later purchased a Nintendo game, which box he also later used for preparation of the letter bomb.

The evidence presented by **the prosecution** and based on the forensic research proved that, after the explosion of the bomb in the toilet of the hotel, traces of the explosive TATP were found on a metal container and a pair of rubber gloves obtained from the defendant's bag; metal pellets, including pellets with traces of glue, were found in the ceiling and on the floor of the toilet; a 9-volt battery with the poles torn off and with traces of glue and cardboard, torn-off stripped pieces of wire with loops, fishing line with traces of glue, a plastic box with a pattern of metal pellets and fragments of envelopes were found on the floor in the toilet. A city map of Copenhagen was also found in the defendant's bag in the toilet, with the address of "Jyllands-Posten" written on it in handwriting, and a ballpoint pen.

**The defendant** acknowledged that he wrote the address on the map.

According to the experts' statements presented by **the prosecution**, the bomb that exploded in the hotel toilet was a finished bomb; this bomb had been put inside two envelopes; the metal pellets had not been dropped but had been fixed to a layer of cardboard within the Nintendo game plastic box facing up towards the lid of the box; the layer of cardboard had been put between the metal pellets and the TATP, and the battery had been close and, possibly, next to the center of the explosion.

With the above-mentioned evidence, **the court maintained that the defendant, at the time when the bomb exploded, had completed or was in the process of completing**

**the bomb and had packed it into two envelopes with a view of posting it.**

**The defendant's** statement that he brought the bomb with him for his own safety, and that he dismantled the bomb and was in the process of collecting the metal pellets from out of the TATP when the bomb accidentally exploded, were disregarded as not credible.

**The defendant** stated that he looked for the address of "Jyllands-Posten" on the computer of a roommate tourist in the hotel on the night of 10 September 2010 because he wanted to help that person to look for a job, and also because he was thinking of looking for a job for himself. The defendant stated that he wrote down the address of the newspaper because he wanted to publish a job advertisement. This statement was also found not credible.

With the above-mentioned evidence, **the court maintained that the defendant, who had the map with the address of "Jyllands-Posten" and a pen with him in the hotel toilet at the moment of the explosion, had intended to send the bomb to the office of "Jyllands-Posten" in Visby, Jutland,** with the aim of terrifying the Danish people to a serious degree, unlawfully forcing the Danish or foreign authorities or an international organization to undertake or omit to undertake an action or to destabilize or destroy the fundamental political, constitutional, economic or social structures of a country.

In weighing up the above-mentioned evidence, **the court placed an emphasis on the following facts:**

- the fact that the defendant was in the process of preparing a letter bomb for posting;
- the fact that files about manufacturing explosives and files containing militant Islamist propaganda materials were discovered on the hard drive belonging to the defendant;
- the fact that the defendant, in October 2009, in Bremen, visited a mosque related to a radical Islamic leader;
- the fact that the defendant used false identities for his travel to Copenhagen and stay in the hotel, and that he had removed the identity numbers from his leg prosthesis and from his pistol, as these numbers could help identifying him;
- the content of the letter that the defendant had addressed to his mother and that was found hidden with him after he was visited by his mother in detention on 30 September 2010;
- the statement by the hotel roommate of the defendant that, in the opinion of that person, it was not the case that the defendant looked on the homepage of "Jyllands-Posten" in the Internet for the purpose of seeking for jobs.

According to the experts' statements presented by **the prosecution**, the explosive used in the letter bomb (TATP) was a highly sensitive explosive and its handling involved high risk; a friction, impact or static electricity could provoke an explosion. There was a risk that the bomb could explode unintentionally while being transported in the form of a letter. The bomb had a potentially fatal effect within a distance of 1-2 meters. The court also took into account the fact that **the defendant** himself stated that he had a lot of knowledge about explosives. Based on this, **the court deemed to be proven that the defendant's intention with the letter bomb was to ensure that the person opening the letter**

**would be killed**, given the fact that the letter bomb was constructed by the defendant in the way that the explosion would be set off by the person opening the letter.

### **The verdict**

#### **Regarding charge no. 1:**

It was established that the defendant intended to carry out a terrorist attack through bombing and manslaughter, in the scope and with the consequences as described in section 114, paragraph 1, points 1 and 7, of the Danish Criminal Code. Given that the attempt was unsuccessful, he was found **guilty of attempting terrorism**, in accordance with section 21 of the Danish Criminal Code.

#### **Regarding charge no. 2:**

Based on the defendant's admission of the charge and the other evidence established in the case, he was found **guilty of possession of weapons** (the pistol and the associated ammunition), under particularly aggravating circumstances, in accordance with section 192a, paragraph 1, of the Danish Criminal Code; section 2, paragraph 1, of the Offensive Weapons Act; and section 1, paragraph 1, points 1, 2 and 3, of the Offensive Weapons Act.

### **The sentence:**

- **The defendant was sentenced to 12 years of imprisonment.**
- The pistol and the associated ammunition are to be confiscated from the defendant.
- The defendant is to be deported from Denmark with a permanent ban on return.
- The defendant shall pay the costs of the case.

While elaborating on **the length of the imprisonment**, 9 votes were in favor of the term of 12 years and 3 votes were in favor of the term of 14 years of imprisonment.

The majority emphasized that the starting point for determining the punishment for attempted terrorism through bombing and manslaughter is 12 years, accordingly to the **Supreme Court's judgment** produced in **UfR 2008.1587H** and, in this case, no grounds were found for deviating from this point in favor of a more punitive sentence.

The minority found that the starting point in this case should be deviated from in favor of a more punitive sentence, because it could be maintained that the defendant travelled to Denmark alone with a view to carrying out the terrorist attack, that planning was exact and that the attempted actions were very close to being completed and implemented.

The decision on the length of the imprisonment was taken accordingly to the majority vote. For the confiscation of the ammunitions and for the deportation, the jury voted unanimously.

\* \* \*

**Judgement Spain** (the full text of the decision is included in pdf format)



sentencia[REDACTED].pdf

**Court:** Audiencia Nacional – Criminal chamber – Fourth Section.

**Procedure:** Reference case number: 3/05; Investigation Nº 5/05; Juzgado Central de Instrucción Nº2

**Date of the court ruling:** 29/07/2011 (Decision Nº15/2011)

A former military chief of ETA was cleared by the Audiencia Nacional on the basis of lack of evidence linking him to the attempted assassination of the President of the Council of administration of a media group occurred on January 17, 2002. The attack consisted of a parcel bomb addressed to the executive. The device was intercepted and deactivated by the regional Basque police.

The judgment of the fourth section of the Criminal Chamber dictated that the evidence presented by the prosecution is "insufficient" to link the accused to the terrorist action. During the trial, the prosecution argued that intelligence experts revealed that the perpetrators of the attack were members of the 'K-Olaia command', to which the defendant supposedly belonged to at the time of the facts.

The evidence consisted of documents related to the planning of the attack seized during a raid to ETA's safe house in the French town of Tarbes in December 2002. The Audiencia Nacional also took into account traces of biological remains discovered on a map, a brush and a bra, found in the residence of two ETA's members, both convicted for the attack of January 2002. The police also found a blue folder and a magazine crossword puzzle in which the writing of the defendant was identified.

The court concluded that the evidence effectively proved that the accused was into contact with the perpetrators of the attack, however does not demonstrate that he participated in the planning or execution, and thus it acquitted the defendant.

\* \* \*

## **Appendix:** Contact and Analysis Team

---

### **Contact**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

---

### **Analysis Team**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

---