



Internal EUROJUST Report

Terrorism Convictions Monitor

Issue 30 April 2018 3/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 30 of the TCM covers the period September-December 2017. 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 issued in December 2017 by the District Court of Rotterdam in the Netherlands. The judgement concerns a returnee from Syria and addresses the use of an ISIL registration form as evidence in criminal proceedings.

The general objective of the TCM is to inform and kindly invite the National Members to review, confirm, and, if possible, complete the information retrieved from the various open sources. The present issue is sent for information only as the reported court decisions have already been verified with the National Desks at Eurojust and used in the drafting of Eurojust's Contribution to the EU Terrorism Situation and Threat Report (TE-SAT) 2018. A summary of the contribution is also included in the Topic of Interest chapter of the present report.

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 September - December 2017

Austria

September 2017

At the Higher Regional Court of Graz two women and three men were charged with **membership in a terrorist and criminal organisation (ISIL)**. All five were nationals of the Russian Federation. The court pronounced guilty verdicts and sentenced them *to prison terms between seven years and ten and a half months*. The latter penalty was given to a woman, found guilty of **giving false testimony in court and shielding the offenders**. The decision of the court is final.

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

A Pakistani-born Austrian national was ordered to serve a *three-year prison term* after the Higher Regional Court of Vienna found him guilty of **membership in a criminal and terrorist organisation (Jabhat al-Nusrah)**. The decision against the 24-year-old man is final.

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

The Higher Regional Court of Vienna found a 20-year-old FYROM national guilty of **instigation and endorsement of terrorist offences**. The man was charged with membership in a terrorist organisation (ISIL); however, he was acquitted of this charge as the court considered there was not sufficient evidence to prove it. He was sentenced to *six months of imprisonment* for the instigation and endorsement offence. The decision of the court is final.

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

November 2017

The Higher Regional Court of Innsbruck sentenced one individual to *18 months of imprisonment* after it found him guilty of **membership in a terrorist organisation** and of **having undergone terrorist training**. The 24-year old Russian national supported Junud ash-Sham and participated in a terrorist training at the Turkish-Syrian border. The decision of the court is final.

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

A 27-year-old stateless man was found guilty for **committing a terrorist offence and participating in a criminal and a terrorist organisation** and was sentenced to *life-long*

imprisonment. The court found that the man had belonged to the terrorist organisation Hamas. It also heard that he had used social media to call on others to kill Jewish people in Jerusalem. The man had already been convicted of terrorist offences in Israel and sentenced to nine years in prison. The Supreme Court confirmed the earlier sentence of the Higher Regional Court of Krems.

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

A Moroccan and an Algerian nationals appeared before the Higher Regional Court of Linz charged with **membership in a criminal and terrorist organisation (ISIL)**. The court found them guilty as charged and ordered them to serve *six years and six and a half years in prison* respectively. The decision of the court is final.

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

Belgium

September 2017

The Court of First Instance of Antwerp, division Mechelen, found one defendant guilty of **participation in the activities of a terrorist group** and sentenced him to *five years' imprisonment* and a fine. The man, who already had a criminal record, had left for Syria in October 2014, together with his wife. There **he had joined ISIL**. While in Syria, he used a Facebook profile to post messages and images, including a photograph of himself with a machine gun in his hands and bullets around his neck. The messages and the images clearly showed he had been involved in the fighting there. Messages sent by his wife to her mother also made it clear that he had joined ISIL and wanted to die as a martyr. According to his brother, the man had been trained by ISIL and fought for the terrorist organisation. The man, who is a subject of a EAW, was sentenced *in absentia*.

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

A *prison sentence of three years* and a fine was handed down to an Iraqi national found guilty of **participation in the activities of a terrorist group and providing terrorist training on how to manufacture and/or use explosives, firearms**, etc. The latter was documented on videos in his camera. The court in Charleroi heard that he had also tried to indoctrinate and recruit some of his relatives to join ISIL. The decision of the court is final.

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

October 2017

The Court of First Instance of Liège acquitted four alleged members of the PKK who were charged with **collecting money to finance the terrorist organisation and its activities**. The

court ruled that it was not proven that the funds the men had collected had been for the benefit of the PKK. The decision of the court has been appealed.

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

A 20-year-old Syrian-born woman appeared before the Court of First Instance of Ghent charged with **attempted participation in the activities of a terrorist group**. The court heard that she had been detained at the Brussels airport in May 2015 attempting to travel to Turkey from where she would enter Syria and join her boyfriend, who had been fighting for ISIL. She had initially denied her intention to travel to Syria/Iraq but admitted later that she had planned to marry her boyfriend and live with him in Raqqa. According to the court, in the specific context of the caliphate, **marrying an ISIL fighter, raising a family and running the household should be considered providing material support to a terrorist group**, knowing that the group would commit a crime with the help of this support. The court held that her will to travel to the caliphate demonstrated her readiness to contribute to one of its core objectives – the establishment of control of extremist Salafist supporters across the region. Her presence and daily support would have further encouraged her boyfriend to be part of ISIL. Her wish to become his wife, share a household and if necessary raise a family, in the specific context, could not be interpreted otherwise but as implicit but clear approval of the extremist violence in which her boyfriend was involved. The court considered the facts proven. Due to the woman's age, the nature of her incentives and the fact that she had cut off her connections with extremist circles, the court decided to set specific *probationary conditions for a period of five years aimed at her social rehabilitation and the prevention of further radicalisation*.

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

The Court of First Instance of Bruges found a Moroccan national guilty of **participation in the activities of a terrorist group** and sentenced him to *five years' imprisonment* and a fine. The man **had left for Syria in October 2014**. His ex-wife and colleagues confirmed his radicalisation; one of them had even received a photograph on which the defendant was holding a bazooka. His Facebook account contained images from the battlefield in Syria, including beheadings and photographs of the defendant dressed in a military outfit and holding weapons. Prior to his departure, he had conversations with fighters in the conflict zone about training provided on the spot. Since November 2014 his Facebook profile had been accessed using Iraqi IP addresses. In June 2015 the Belgian authorities had issued an EAW on him.

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

The sentence of *30 months' imprisonment*, half of which suspended for a period of five years, given to a 21-year-old Belgian national by the Court of First Instance of Liege was confirmed by the Court of Appeal. The man was found guilty of **association with the purpose of leaving the national territory in view of committing, in Belgium or abroad, a terrorist offence**. The court heard that he had made comments in social networks or SMS messages, visited websites, downloaded images and shared videos demonstrating his radical views. However, the court did

not consider it proven that he was guilty of participation in the activities of a terrorist group, as initially charged.

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

*Prison sentences of five years and fines were ordered by the Court of First Instance of Brussels to three defendants found guilty of **participation in the activities of a terrorist group**. The men were sentenced *in absentia*. The court found that one of them had left for Syria in September 2012 and joined Majlis Shura Al Mujahidin. He had used his Facebook profile to issue **threats against the USA, France and Russia, promote the jihad**, post photographs of himself with an automatic weapon, etc. He had also kept contacts with one of the other two defendants who had been with Majlis Shura Al Mujahidin in Syria since December 2012. **Both men had also been convicted in February 2015 in the case against 45 members and supporters of Sharia4Belgium**. The third defendant had left for Syria in March 2014. He had followed a one-month military training with ISIL upon arrival. When contacting his family he had used a Turkish telephone number known to have been used by several Belgian foreign terrorist fighters and detected in the context of an organised route for smuggling people into Syria.*

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

November 2017

The Court of First Instance of Brussels handed down a *nine-year prison sentence* and a fine to the former soldier who had **attacked two police officers in the Brussels Schaarbeek neighbourhood** in October 2016. According to the prosecution, there was no doubt that the attack was of terrorist nature and he had intended to kill the officers. The authorities were also aware of his trip to Turkey in 2016 and his plans to go to Syria. The court recognised the existence of some elements relating to terrorism. It referred also to the fact that the defendant had been hit by a Federal Police vehicle in 2011 and had perceived that as a plot against him. He also blamed the police for the death of his daughter. The court found the man guilty of **committing an attack and injuring others, as well as manufacturing, trading, possessing or storing of prohibited arms**. The decision of the court has been appealed.

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

Two men were brought before the Court of First Instance of Charleroi on charges of **participation in the activities of a terrorist group**. The men had been **recruited by a cell in Belgium and had left for Syria in February 2014 to join ISIL** there. Both are believed to have died in the conflict zone. The court noted, however, that in some cases deaths of fighters are staged to mislead the police and intelligence services. In the absence of a death certificate or another official document attesting their death, the court decided to proceed with the case and sentenced the men *in absentia* to *prison terms of five years and fines*.

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

Four-year suspended sentences were ordered by the Court of Appeal of Brussels to two men tried by a first instance court in July 2016 together with seven others. They had been involved in a **plot to home-jack a drug dealer and steal EUR 700,000 which would be used to finance departures of aspiring foreign terrorist fighters** to Syria or to support Belgians jihadists who were already in the conflict zone. One of the two men, who appeared before the Court of Appeal is a former Guantanamo Bay detainee, linked to various departures to Syria, as well as to former members of the Moroccan Islamist Combatant Group (GICM) involved in the terrorist attacks in Madrid in March 2004. The Court of Appeal increased the sentence he had been given at first instance and overthrew the acquittal of the other man.

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

December 2017

The Court of Appeal of Antwerp stayed the case of a 25-year-old Belgian national sentenced in February 2017 to 28 years in prison for **murdering** a prisoner while fighting with jihadist groups in Syria. Before going to Syria, the defendant had been part of Sharia4Belgium. He had returned to Belgium in 2013 after being wounded in the conflict. **His victim had been murdered because his family had not been able to pay the ransom.** The matter came to light after the man had admitted the killing while talking on the phone to his then girlfriend. He had first admitted the killing, but had later retracted his confession. However, he had produced a video of the murder. The judge found that it was proven that the man had shot from close range on two occasions and that he had tried to film the crime, which constituted premeditated murder (*for further details, please see TCM, issue 28*). The Court of Appeal was presented with several reports concerning the mental state of the man, which indicated a complex psychiatric pathology, requiring residential observation in a specialised institution. In the absence of such, the court could not establish the mental state of the man and ruled that the case should be stayed.

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

A group of six defendants appeared before the Court of First Instance of Mechelen on suspicions of **having planned to travel to Syria to join the jihad or, as an alternative, commit a terrorist attack in Belgium.** The court heard that they had formed part of a group of like-minded youngsters, who had met regularly and also set up a Facebook group to communicate. Two of them had travelled to Turkey where they had contacted another defendant, who had promised to get them in touch with a smuggler into Syria. Another defendant had also tried to cross the border with Syria but failed and returned to the Netherlands. Two of the other men had provided guidance, instructions and support to the aspiring fighters. One of the defendants was acquitted, while the others were found guilty of **participation in the activities of a terrorist group**, in the case of two of them as leaders. The leaders were also found guilty of recruitment for terrorist purposes. The court ordered *prison sentences of five to ten years* and fines.

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

The Court of Appeal of Mons confirmed the convictions pronounced by the Court of First Instance of Charleroi against two men who were part of the so-called Jumet cell. The cell had **used social networks to make propaganda for ISIL**. One of them, who had a leading role, had tried to join ISIL. He had assisted many other aspiring jihadists, promising to provide them with funds, organising marriages and encouraging them to commit attacks. In June 2017, he had been found guilty of **participation in the activities of a terrorist group as a leader and armed rebellion**. The other man had **supported morally and psychologically fighters in Syria and Iraq** and systematically provided them with information on other jihadists in Belgium. The court confirmed the *sentences of seven and eight years' imprisonment* and reduced the fines the two men had to pay.

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

Czech Republic

September 2017

The District Court of Třebíč found a 20-year-old man guilty of **approval of a criminal act and support for a movement suppressing human rights and liberties**. The man had expressed his approval of the terrorist attack carried out on 19 December 2016 in Berlin, Germany. He had also publicly supported ISIL and the murder of the Russian Ambassador to Turkey. The court sentenced the man to *seven months of imprisonment*. The decision of the court is not final.

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

A 58-year-old Czech national appeared before the Municipal Court of Prague. He was charged with **spreading Islamist propaganda**. The court did not consider the charge proven and acquitted the man. The decision of the court is not final.

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

Two men and three women were acquitted of **preparing a terrorist attack** by the Municipal Court of Prague. According to the prosecution, they had been planning to commit a bomb attack on a train. The decision of the court is not final.

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

Denmark

November 2017

The Supreme Court confirmed the conviction pronounced by the Glostrup City Court against a Danish-Turkish national, who had **joined ISIL on two occasions**. The man had travelled to Syria in 2013 and 2015. There he had received training, including on the use of weapons. According to

the Supreme Court, this in itself would lead to a penalty of four years of imprisonment. The man had also provided financial support to the terrorist organisation (DKK 20,000) (*for further details, see TCM issue 26*). The court found him guilty of **joining ISIL, receiving training, financing of terrorism and publicly approving terrorist crimes** (the 2015 Copenhagen attacks). It ordered him to serve *six years in prison*. Due to his double nationality and his substantial ties with Turkey, he was deprived of his Danish citizenship and expelled from Denmark indefinitely. The decision of the court is final.

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

At the Eastern High Court a 17-year-old girl was sentenced to *eight years' imprisonment* after the court confirmed the guilty verdict issued in May 2017 by the Holbæk Court on charges of **attempted terrorism**. The girl had been 15 years old when she had **tried to make bombs** to be used in terrorist attacks against her own former local school and against a Jewish school in Copenhagen. The first attack had not been carried out because she had not received an order from ISIL/jihadists with whom she corresponded via the internet. The second attack been prevented as she had been arrested by the police. The girl, who used to live in a countryside village, had become self-radicalised via the internet and via chat contacts in just a few months after having converted to Islam. She had bought chemicals to produce TATP and started experiments with the substance in the basement of her house. The decision of the court is final.

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

December 2017

Two men were convicted of **joining ISIL as foreign terrorist fighters in the summer of 2013 and having tried to get weapons training**. The men, aged 16 and 25 at the time of the offences, had stayed for some weeks in Syria. ISIL registration forms had been found on their names. The younger man got a most lenient sentence of *three and a half years' imprisonment*. The other defendant was also found guilty of **serious weapons offences** committed in Denmark and already had a criminal record. When determining the penalty, the court referred to the above-mentioned judgement of the Supreme Court that ruled that a foreign terrorist fighter would usually get four years of imprisonment for travelling to Syria and joining ISIL.

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

France

September 2017

A **returnee from Syria** was sentenced to *six years' imprisonment* after he had spent time in the conflict zone in 2014 and 2015. A co-defendant, who had **intended to travel and join the jihad** there, was given a *four-year prison sentence*. The decision of the court is final.

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

A man, who had planned to kill a French politician, was sentenced to *five years' imprisonment* after the Paris Criminal Court found him guilty of **individual terrorist enterprise**. In October 2015, he had contacted the Interior Ministry's anti-jihad reporting platform and the French Association of Victims of Terrorism, stating that he had become radicalised in prison and had been planning to kill a Socialist member of the Parliament. According to his statements, he had received implicit instructions from radical Islamists to commit an attack while he had been serving a sentence for drug trafficking in the prison of Réau.

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

A 36-year-old convert to Islam, his mother and ex-wife were found guilty of **criminal conspiracy to commit terrorist acts** by the Paris Criminal Court. The couple and their two young children had **tried to reach Syria** on four occasions in the summer of 2014, where the man had plans to join Jabhat al-Nusrah or ISIL. They had returned three times as the Turkish authorities had stopped them from entering the country. The man's mother had helped in their fourth attempt. According to the prosecution, the man had been fascinated by radical Islam and had maintained close contacts with several jihadists. The court sentenced him to *five years in prison*, while his ex-wife and mother were given *four and two years suspended* respectively.

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

A *prison sentence of six years* was handed down by the Paris Criminal Court to a young French convert who had dreamt of seeing her religious husband die as a martyr and joined him twice in Syria in 2012-2013 and in 2014. According to the court, she had **unconditionally supported the jihadist cause and knowingly organised scams to fund it**. Her husband, sentenced *in absentia* to 20 years' imprisonment in July 2017, was part of the Cannes-Torcy terrorist cell. He was believed to have been training new recruits in Syria. When she had returned from Syria in 2014, she had a prison relationship with another member of the Cannes-Torcy cell also sentenced to 20 years in prison. The brother and sister of her husband, who had raised funds for terrorist purposes, were given *three and two years in prison* respectively. Another relative, tried *in absentia*, was sentenced to *ten years in prison*.

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

Five defendants appeared before the Paris Criminal Court on charges of **criminal conspiracy to commit terrorist acts**. Four of them were suspected to have **facilitated the travel of jihadist fighters to Syria**, while the fifth one was accused of **financing of terrorism**. In some tapped telephone conversations they had discussed an attack on the Nîmes synagogue. The court handed down sentences ranging from *four to ten years' imprisonment*.

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

A *prison sentence of three years* was ordered by the Paris Criminal Court to a man, who had been **planning to travel to Syria** in the period end of 2015-2016. The decision of the court has been appealed.

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

October 2017

A mother of a French foreign terrorist fighter, who had converted to Islam and followed her son to Syria, was sentenced to *ten years in prison*. The court heard that she had **travelled to Syria** three times between 2013 and 2014. She had also **helped several young women to get to the conflict zone**. She had been arrested in July 2014 when preparing her next journey to Syria.

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

The brother-in-law of the man, who had attacked a Jewish school in Toulouse some years ago, was tried on charges of **criminal conspiracy to commit terrorist acts** together with five other men. The six had been part of a group, who had **left for Syria at the beginning of 2014**. They denied having fought for ISIL and claimed they had come back to France disillusioned from the reality in Syria. Some of the men had previously been convicted of terrorist offences. The court sentenced them to *prison terms ranging from five to 15 years*.

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

Two twin brothers, aged 24, were sentenced to *six years' imprisonment* each for having **joined ISIL** in Syria in 2014. The two had radicalised after they had been fired from the company where they both used to work. They claimed they had gone to Syria to help the Syrian people. They had planned to join Jabhat al-Nusrah but had been brought to ISIL by some Chechens. They claimed further that they had refused to train and had not embraced ISIL's extreme ideology. The twins had returned to France via Turkey in the autumn of 2014.

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

Three men suspected of **planning a terrorist act** were sentenced to *three to four years in prison*. Two of them had also planned to travel to the Syrian-Iraqi conflict zone and join the jihad there. The decision of the court has been appealed.

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

November 2017

Two men believed to be still **fighting in Syria** were sentenced *in absentia* by the Paris Criminal Court. The two were sentenced to *prison terms of ten years*. The decision of the court is final.

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

The Paris Criminal Court handed down sentences of *three and five years* respectively to two women, who had **helped a 15-year-old teenager from Avignon to go to Syria** in 2014. One of them had hosted the minor in her home until the departure, while the other had joined in the trip to the conflict zone. A third defendant received a *ten-year sentence*. The decision of the court has been appealed.

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

Following an investigation into an alleged fund-raising scheme for the benefit of the PKK in the 10th district of Paris, eight persons were brought before the Paris Criminal Court. They were suspected to have been involved in collecting funds to finance terrorist and guerrilla actions against the army in northern Turkey led by the PKK's armed wing. Certain Parisian businesses run by Turkish nationals of Kurdish origin had been revealed to have worked within an organised money laundering network. The eight were charged with **participation in a terrorist organisation and financing of terrorism**. One of them was acquitted and the others were convicted, receiving sentences of six months to three years. The decision of the court has been appealed.

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

Germany

September 2017

Two Syrian nationals were convicted by the Higher Regional Court of Munich of **membership in a foreign terrorist organisation** and sentenced to *four years of imprisonment* and a *two-year young offender custodial sentence* respectively. Both men had been members of the terrorist group Ahrar al-Sham in Syria. Between August 2013 and April 2014, they had participated in the fight against the Syrian military and rebels in the Aleppo region. The decision of the court is not final.

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

October 2017

An Afghani national was sentenced to *four years of imprisonment* by the Highest State Court of Berlin after it found him guilty of **membership in a foreign terrorist organisation**. As a **member of Taliban**, he participated in 2014 and 2015 in two combat missions. The decision of the court has become final.

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

A German national of Somali origin was convicted by the Higher Regional Court of Frankfurt am Main for **membership in a foreign terrorist organisation** and sentenced to *two years and ten months of imprisonment*. The court found that he had been trained in an Al-Shabaab training

camp and had been assigned to an Al-Shabaab defence post between the years 2012 and 2013. The decision of the court is final.

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

December 2017

The Higher Regional Court of Koblenz acquitted an Afghan defendant of **membership in a foreign terrorist organisation**. The man was accused of being a member of the Taliban between early 2014 and mid-2015. As the bodyguard of local Taliban leaders, he had allegedly participated in the kidnapping and murder of at least one Afghan soldier. The decision of the court is not final.

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

A Jordanian national was acquitted by the Higher Regional Court of Düsseldorf of **support of a foreign terrorist organisation and conspiracy to murder**. He was accused of conspiracy in a bomb attack in Düsseldorf. The decision of the court is final.

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

Greece

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Italy

September 2017

The Criminal Court of Genoa found three defendants guilty of **participation in a terrorist organisation** and sentenced them to *prison terms of five to six years*. The three had been part of a jihadist cell active in Liguria and Brescia linked with other Islamist fundamentalists across

Europe. They had exchanged messages in social media from which it had become clear that they had been considering to commit an attack and had been ready to die as martyrs. A fourth co-defendant was acquitted.

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

The Netherlands

October 2017

A 28-year-old man of Iraqi origin was sentenced to *three years' imprisonment* at the District Court of The Hague. The court found him guilty of **preparing to commit terrorist crimes**. It heard that the man had **tried to travel to Syria or Iraq to join ISIL** and take part in the jihad. He had collected various jihadist materials, visited websites with information on the armed jihad, martyrdom and/or war crimes, expressed his wish to go to Syria to join the armed jihad, gathered information on how to obtain a forged passport, collected money for the trip, etc. He had been arrested in October 2015. When determining the penalty, the court considered the high risk of recidivism and limited intellectual capacity of the defendant. One year of his prison sentence was suspended, and a probation period of five years was set in combination with special conditions.

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

The Court of Appeal of The Hague considered the appeal submitted in the case of a man who claimed he had travelled to Syria to start up a transportation company there. The man, who held extremist jihadist views and possessed jihadist material, had researched how to travel to Syria and join Jabhat al-Nusrah and followed lessons in Arabic. He had made several money transfers and sent a telephone, laptops/computers to jihadist fighters in Syria. The court found him guilty of **training for terrorist purposes, participation in a terrorist organisation and financing of terrorism** and sentenced him to *three and a half years' imprisonment*, 12 months of which suspended with a three-year probation period. Another man, who had planned to leave for Syria and join the jihad, was found guilty of **training for terrorist purposes** and sentenced to *two years' imprisonment*, one of which suspended with a probation period of three years.

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

The District Court of Zeeland-West-Brabant acquitted a 23-year-old man of **participation in a terrorist organisation**. The man was prosecuted on suspicion that he had trained in a training camp in Syria or Turkey in 2013, and had **tried to leave for Syria** in October 2016 and join the jihad.

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

A *prison term of two years* was ordered by the District Court of Amsterdam in the case of a 38-year-old man. The court heard that he had **tried to travel to Syria** to join ISIL. The court found him guilty of **attempt to participate in a terrorist organisation**. It suspended six months of the prison sentence and set a probation period of two years, under special conditions.

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

The Court of Appeal of s'-Hertogenbosch considered the appeal submitted in the case of a man charged with **training for terrorist purposes and participation in a terrorist organisation**. The man had travelled to Syria, where he claimed he wanted to give out dates to the refugees. The court found there was no sufficient evidence to prove that he had participated in the jihad and trained in a camp. The man was acquitted.

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

November 2017

The District Court of Rotterdam found one defendant guilty of several offences including **preparation to commit terrorist crimes and possession of a firearm** and sentenced him to *four years' imprisonment*. When arrested, the man had been found in possession of a firearm, large amounts of fireworks, 239 jihadi and ISIL videos, a training video and a bomb-making video. In a wiretapped conversation the man had discussed possible targets of an attack in the Netherlands.

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

A *prison sentence of three years* was ordered by the District Court of Rotterdam against a man found guilty of **participation in a terrorist organisation**. The court found that the man had travelled to Iraq, where he wanted to start a life and settle. He soon got involved with ISIL and carried out various activities in favour of the terrorist organisation, including **cooking in a hospital and cabling**. The court suspended one year of the prison sentence and set a probation period of three years.

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

The District Court of The Hague ordered the *hospitalisation in a psychiatric institution* of a man convicted of **threatening to commit a terrorist act**. The man had posted messages on Twitter referring to ISIL, which must have been intended to instil fear in the population of The Hague. A post had referred to a bomb he claimed he had placed in a street in the city. The court declared him not liable.

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

The **first female returnee** from Syria to be sentenced for a terrorist offence in the Netherlands was given a *two-year prison term*, of which one year on probation. She was convicted by the District Court of Rotterdam of having helped her husband to travel to Syria and participate in the fighting there.

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

A Surinam-born man, arrested on suspicions to have **abducted a minor girl and tried to radicalise her**, appeared before the District Court of Oost Brabant. The man was accused of marrying her in a religious marriage and planning to take her to Syria to join the jihad. The court found him guilty of **abduction and abuse of a minor** but acquitted of preparation to commit terrorist acts and preparation to participate in a terrorist organisation.

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

December 2017

A man, who already had a criminal record, was convicted of **training for terrorist purposes** at the District Court of Rotterdam and sentenced to *two and a half years' imprisonment*. The man admitted he had radicalised and had been considering to commit a terrorist act or travel to Syria. He had visited websites with videos of beheadings and other violent content, as well as weapon selling web shops.

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

The Court of Appeal of The Hague acquitted a Syrian-born man charged with **participation in a terrorist organisation** for his involvement with the group Liwa al-Tawhid. The court ruled that he had probably participated in the activities of the group **but it cannot be considered a terrorist organisation** in the meaning of Article 140a of the Dutch Criminal Code in the respective period. Further to the acquittal, the court confirmed the jurisdiction of the Dutch courts as the man resided in the Netherlands.

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

A returnee from Syria was sentenced to *four years in prison* after the District Court of Rotterdam convicted him of **participation in a terrorist organisation**. The man had been charged with having been part of ISIL in the period 10 November 2013 – 21 March 2017. He had been investigated following the receipt of information from the U.S. Defence Department, including a copy of his **registration form with ISIL**. The court considered the form authentic (*for further details, see chapter Legal Analysis*).

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

An 18-year-old girl was found guilty of **preparation to participate in a terrorist organisation** and sentenced to *three months' imprisonment*. The court found that she had **wanted to travel to Syria** in the summer of 2016, when she was still underage, to join (a fighter of) ISIL and take part in the jihad. She was also suspected to have conspired with another to commit an act of martyrdom but was acquitted of the latter.

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

Following the referral of his case back to the Court of Appeal of Arnhem-Leeuwarden by the Supreme Court, a 20-year old man was sentenced to *eight months' imprisonment*. The court found him guilty of **preparation to commit terrorist acts and providing means to another to commit a terrorist offence**. In February 2015, the man had been acquitted by the District Court of Gelderland, together with another co-defendant. The two had been arrested in Kleve, Germany, on suspicion of preparatory acts to commit crimes with a terrorist objective or of being on their way to Syria to commit either common crimes or terrorist crimes (*for further details, see TCM issue 22*).

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

The District Court of Rotterdam acquitted two men suspected to have **participated in the PKK** and carried out various activities as part of the terrorist organisation after it had been banned. According to the court, the fact that they had attended meetings was insufficient to prove that they had conspired to recruit for the armed fighting or train others.

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

Spain

September 2017

One female defendant was convicted by the National Court of **collaboration with a terrorist organisation** in violation of Article 575.3 of the Criminal Code and sentenced to *two years of imprisonment*. She had unsuccessfully attempted to travel with her partner, who had already been convicted of terrorist activities in Morocco, from Malaga to Istanbul, and subsequently to Syria to join the terrorist organisation ISIS. In their second attempt, they had travelled with a minor from Malaga to Istanbul, where they had the intention to meet a contact person to cross the border to Syria and join ISIL. They had been detained in Istanbul. The decision of the court is final.

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

October 2017

The Spanish High Court dismissed the application of a Moroccan national for appeal against his sentence pronounced in February 2017 by the National Court. In February, the defendant was

convicted of **recruitment and self-indoctrination activities** and sentenced to *eight years of imprisonment* for having published on Facebook numerous messages and images of one the ISIL leaders, as well as some having jihadist content. He had used a photo of the same jihadist leader as his profile photo. The man had been arrested in Germany and surrendered to Spain in execution of a European Arrest Warrant issued by the Spanish authorities (*for further details, see TCM issue 28*). The decision of the court is final.

Source: Information submitted to Eurojust by virtue of council decision 2005/671/JHA

A Moroccan citizen was acquitted by the National Court of **membership in a terrorist organisation**, in violation of Article 572.2 of the Criminal Code, and of **supporting a terrorist organisation and indoctrination**, in violation of Articles 577 and 575. He was convicted on the count of **drug trafficking** and sentenced to *three years of imprisonment*. The defendant had sought collaboration with the Spanish National Intelligence Centre (CNI) via a text message. He had established personal contact with a man of whom he thought to be a member of CNI. In the belief that he had been collaborating with the Agency, the defendant had opened several profiles on Facebook to contact individuals willing to take action and travel to Iraq and Syria to join the terrorist organisation ISIL, or to act in Spain on behalf of this organisation. The defendant had published messages, images and videos with information about ISIL's activities and praised them. He had declared his will to go to Syria and met with an ISIL recruiter in Turkey. The defendant had followed the instructions of the alleged CNI contact, with whom he had met on multiple occasions, and who had given him information about his own contacts in the terrorist network and copies of the conversations with the contacts on WhatsApp. In return for his cooperation, the defendant had asked to have his residence card renewed. The defendant had also sold cocaine and when arrested, he had been found in possession of cocaine and two precision scales.

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

A man was convicted by the National Court of 11 counts of **attempted murder** in violation of Articles 572.1.1 and 2 and Articles 138 and 139.1 of the Criminal Code and of attempt to **cause an explosion** contrary to Articles 571 and 346 of the Criminal Code. The defendant was sentenced to *14 years of imprisonment* for each count of attempted murder, to *seven years of imprisonment* for attempting to cause the explosions, and was acquitted of possession of weapons. The court heard that the defendant had been a member of ETA's *KATU* command. With the aim of causing destruction and killing as many people as possible, he had placed an explosive device in the headquarters of the Guardia Civil in Comillas (Cantabria), scheduling its explosion at 4 o'clock in the morning. Despite his intentions, the device had failed to explode. The decision of the court has been appealed by the defence counsel.

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

One defendant, who had drawn the anagram of the terrorist organisation ETA on the facades of multiple houses in Arechavaleta (Guipúzcoa), was convicted by the National Court of

glorification of terrorism, contrary to Article 578 of the Criminal Code and sentenced to *one year of imprisonment*. The court hears that he had also written messages of support to ETA. The decision of the court is final.

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

November 2017

A defendant was convicted by the National Court of **self-indoctrination and glorification of terrorism**, and was sentenced to *two years of imprisonment for each crime* and to a period of supervised probationary freedom. The penalty was reduced based on his confession. The court heard that the defendant had entered self-indoctrination process in the jihadist theories with the purpose to be trained to carry out terrorist acts. For this purpose, he had visited internet pages with jihadist content. He had also posted pictures and messages with criminal content on his Facebook profile. The decision of the court is final.

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

The High Court of Spain has considered the applications made by an Algerian national against his conviction and sentence of November 2016. At the National Court, the man was convicted of **self-indoctrination**, in violation of Article 575.2 of the Criminal Code, and was sentenced to *three years and six months of imprisonment* and to four years of supervised probationary freedom. The National Court had established that the man had used his Facebook account to post comments in Arabic, praising ISIL and criticizing the USA, Israel and their allies. Images of ISIL armed members, executions, dead bodies, etc., as well as various documents in Arabic had been found in his mobile telephone. The material seized with the man had matched the material used by ISIL for recruitment and indoctrination for the jihad. (*for further details, see TCM issue 27*). The deliberations of the High- Court concerning self-indoctrination were of particular interest. The main issue was to clarify the requisites for considering whether an action constituted a crime of self-indoctrination. That no one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence is at the core of the self-indoctrination debate.

According to Article 575.2 of the Spanish Criminal Code, a person commits an offence of self-indoctrination if such is committed with the purpose of being trained to carry out terrorist acts, of developing own indoctrination activities and military- or combat trainings, or developing techniques for the development of chemical or biological weapons. Spanish jurisprudence defines self-indoctrination as indoctrination completed by the same person as the person who is the target of the indoctrination. The purpose thereof must be the training to carry out a terrorist act, which would demonstrate the integration of the individual within the terrorist organisation or group, or collaboration therewith.

The High Court exposed the insufficient coverage of the crime of self-indoctrination by international instruments. Accordingly, the UN Security Council Resolution 2178/2014 does not foresee the crime of self-indoctrination. Moreover, the Framework Decision 2002/475/JHA of the Council of the EU, as amended by Framework Decision 2008/919/JHA and EU Directive

2017/541 also does not include indoctrination as an offence in itself. Although, the list of crimes covered by the Council of Europe Convention for the Prevention of Terrorism made in Warsaw on 16 May 2005, and its Additional Protocol, includes 'receiving training for terrorist purposes', the Convention leaves it to the Signatory States whether to sanction such self-training modalities or not. Therefore, a restrictive interpretation of the criminal legislation is necessary in order not to violate the right to freedom of thought and the right to information. Only self-indoctrination for terrorist purposes is a crime. The aim thereof must be to initiate a person to commit or participate in a crime or to join a terrorist organisation.

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

One defendant appeared before the National Court charged with **concealment**, in violation of Article 451 of the Criminal Code. The court heard that the defendant had **helped a suspect of the terrorist organisation Resistencia Galega to flee justice**. Knowing the circumstances, the defendant had helped the suspect to avoid her arrest and hide in the Portuguese town of Vila Real under a different name. After the arrest of the suspect, the defendant had gone to the address where she had been living to hide or collect items stored there to avoid seizure by the Spanish authorities. The defendant was convicted as charged and sentenced to *six months of imprisonment*. The imposed penalty was reduced based on the defendant's confession. The decision of the court is final.

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

A Moroccan woman was convicted by the National Court of **collaboration with a terrorist organisation** and was sentenced to *two years of imprisonment*. The penalty was reduced based on the defendant's confession. The defendant used to live in Spain with her two minor children. She had relocated her children to Morocco, where they had started a process of indoctrination culminating in the integration of the minors into ISIL. Upon returning to Spain, the minors had continued to be in contact with their indoctrinator, who had tried to convince them to travel back to Morocco and then to Turkey. The minors had started preparations for the trip and consulted their contact person in Morocco via the internet. The defendant has confessed to the facts and assumed her responsibility. The decision of the court is final.

Information submitted to Eurojust by virtue of Council Decision 2005/671/JHA

December 2017

Twelve defendants were convicted by the National Court of **glorification of terrorism**, in violation of Article 578 of the Criminal Code and sentenced to *two years of imprisonment* each. They were members of the Hip-hop group 'La insurgencia' and had, via social networks such as YouTube, produced and distributed songs and videos supporting the terrorist organisation GRAPO. The decision of the court is not final.

Information submitted to Eurojust by virtue of Council Decision 2005/671/JHA

Two men were charged at the National Court with being members of JARRAI-HAIKA and were convicted of **membership in the terrorist organisation**. They were sentenced *to two years of imprisonment* each. The penalty was reduced based on a confession and collaboration with the court. The two had been responsible for coordinating and directing youth supporters of the activities carried out by ETA. JARRAI-HAIKA developed instructions for the terrorist organisations ETA and KAS for juveniles and activities threatening those who did not support ETA. The decision of the court is final.

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

Two men were convicted by the National Court of **humiliation of victims of terrorism and glorification of terrorism**, in violation of Article 578 of the Criminal Code. They were sentenced to *one year of imprisonment* each. The men had sent messages via Twitter, knowing that they would offend at least one victim of terrorism with their messages.

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

A man was acquitted by the National Court of **attempted murder and illegal possession of weapons**. He had been prosecuted in relation to an incident in April 1992, when two policemen had noticed two suspicious individuals in the village of Irun. After the policemen had requested identification, the suspects had fired at the policemen and fled from the scene. Having examined the evidence, the court concluded that the prosecution had not proven the participation of the defendant in the incident.

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

Two men were convicted by the National Court for **membership in a terrorist organisation**, in violation of Articles 515 and 516.2 of the Criminal Code, and were sentenced to *one year and six months of imprisonment*. The penalty was reduced based on the agreement between the prosecution and the defendants and due to a delay in the proceedings. In the agreement, the defendants acknowledged their participation in several events organised by Batasuna. They assumed that their conduct was contrary to the law, expressed their commitment to the renunciation of any activity related to the use of violence, and their wish that this recognition would contribute to the reparation of the damages to and suffering of the victims of terrorism.

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

Two defendants were convicted by the National Court of **membership in a terrorist organisation** and were sentenced to *two and four years of imprisonment respectively*. A third defendant was convicted of **glorification of terrorism** and was sentenced to *two years and one day of imprisonment*. The first defendant had belonged to a propaganda apparatus targeting women and recruiting them to come to Syria and join the activities of ISIL. For this purpose, videos and images had been used presenting the caliphate as paradise for children and women. Following their radicalisation, the women had then travelled to Syria with the purpose of joining

the terrorist organisation. Furthermore, the defendant had used social media networks to glorify the activities of ISIL. The first two defendants were found to be members of ISIL. The third defendant had published on his GOOGLE+ account various videos and comments supporting the terrorist actions committed by ISIL.

Information submitted to Eurojust by virtue of Council Decision 2005/671/JHA

Sweden

November 2017

The Court of Appeal of Malmö upheld the *six-month prison sentence* given to a 34-year-old man in February 2017 by the Malmö District Court. The man had been charged with having urged others to **finance ISIL via Facebook**. He had posted a message asking for help to supply weapons to those fighting 'at the front'. The message also contained the names of two men who could be contacted to obtain a bank account number for financial transfers. One of those two men is on the UN and EU list of terrorist financiers. The post could be accessed by anyone, even without a Facebook account. The defendant denied the charge and claimed he had taken over the Facebook account from a stranger. The case is reported to have no precedent in Sweden.

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

United Kingdom

September 2017¹

The Leeds Crown Court found one defendant guilty of **making or possessing an explosive under suspicious circumstances** as governed by Explosives Substance Act 1883, Section 4 (1). The man, who is a British national, was arrested in April 2016. He was given a *community order of 120 hours unpaid work*.

Source: National Desk of the United Kingdom at Eurojust

A British/Turkish national, arrested in October 2014, was convicted by the Kingston Crown Court of **acquisition, use and possession of criminal property**, based on Proceeds of Crime Act 2002, Section 329. He was sentenced to *two years and nine months of imprisonment*.

Source: National Desk of the United Kingdom at Eurojust

A defendant of an Afghan nationality was convicted by the Kingston Crown Court of **collecting information of a kind likely to be useful to a person committing or preparing an act of**

¹ The summaries below are based on information provided by the UK authorities related to proceedings on offences under anti-terrorism legislation, as well as other offences assessed to be terrorism related.

terrorism, in violation of Section 58 of the Terrorism Act 2000. The court sentenced him to *12 years and six months of imprisonment*.

Source: National Desk of the United Kingdom at Eurojust

A British national was arrested in February 2017 and sentenced by the Central Criminal Court in September 2017 to *five years of imprisonment*. He was convicted of **preparation of a terrorist act** with the intention of committing such terrorist act, falling under Section 5 (1) (a) of the Terrorism Act 2006.

Source: National Desk of the United Kingdom at Eurojust

A *prison term of one year and four months* was handed down by the Westminster Magistrates' Court to a British national arrested in January 2017. The man was convicted contrary to **Section 23 of the Terrorism Prevention and Investigation Measures Act 2011**.

Source: National Desk of the United Kingdom at Eurojust

Two male defendants of Irish nationality were convicted by the Laganiside Court of **possessing articles for use in terrorism**, in accordance with the Terrorism Act 2000. They were sentenced to *two years of custodial sentence and two years on licence*.

Source: National Desk of the United Kingdom at Eurojust

A British national was found guilty by the Westminster Magistrates' Court of **having wilfully failed to comply with a duty imposed under or by virtue of Schedule 7** on Port and Border Controls of the Terrorism Act 2000. In line with Paragraph 18 (1) (a) & (2) of the Schedule, he was sentenced to *12 months of conditional discharge*.

Source: National Desk of the United Kingdom at Eurojust

Two British nationals were sentenced to serve *two years and nine months in prison* each after the Kingston Crown Court found them guilty of **fraud by false representation**. The offence is contrary to Section 2 of the Fraud Act 2006.

Source: National Desk of the United Kingdom at Eurojust

Following his arrest in February 2017, a British national was found guilty of **encouragement of terrorism** by the Central Criminal Court. In violation of Section 1 (2) (a) (b) (i) of the Terrorism Act 2006, the defendant had published a statement likely to be understood by some or all of the members of the public as a direct or indirect encouragement or other inducement to the commission, preparation or instigation of acts of terrorism or Convention offences, and intended the members of the public to be directly or indirectly encouraged or otherwise induced by the statement. He was sentenced by the court to serve *six years and six months in prison*.

Source: National Desk of the United Kingdom at Eurojust

October 2017

The Nottingham Crown Court found a British national guilty of **dissemination of terrorist publications**, in violation of Section 2 (1) (a) of the Terrorism Act 2006. His conduct was intended to be a direct or indirect encouragement or other inducement to the commission, preparation or instigation of acts of terrorism. Following the guilty verdict, the court handed down a *six-year prison sentence*.

Source: National Desk of the United Kingdom at Eurojust

A British national was convicted by the Barrow Magistrates' Court of **improper use of public electronic communications network**, as laid down in Section 127 of the Malicious Communications Act 2003. He was ordered to serve *18 weeks in prison*.

Source: National Desk of the United Kingdom at Eurojust

The Southwark Crown Court sentenced an Algerian national to *nine months of imprisonment*. The defendant was found guilty of **possession of articles for use in frauds**, under Section 6 of the Fraud Act 2006.

Source: National Desk of the United Kingdom at Eurojust

Following his arrest in April 2014, a British man was found guilty by the Central Criminal Court of **intentionally assisting another person in preparing a terrorist act**, in violation of Section 5 (1) (b) of the Terrorism Act 2006. He was sentenced to *six years of imprisonment*.

Source: National Desk of the United Kingdom at Eurojust

At the Central Criminal Court a defendant appeared before the court on charges of **preparing a terrorist act with the intention of committing such terrorist act**, in violation of Section 5 (1) (a) of the Terrorism Act 2006. The court found him guilty as charged and sentenced him to *16 years in prison*.

Source: National Desk of the United Kingdom at Eurojust

A female defendant of a British nationality was arrested in October 2016. She was sentenced in October 2017 to *nine months of imprisonment* by the Liverpool City Magistrates' Court. She was found guilty of using **threatening, abusive or insulting words or behaviour, or displaying any written material which is threatening, abusive or insulting**, intended to stir up racial hatred, or having regard to all the circumstances racial hatred is likely to be stirred up thereby as laid down in Section 18 (1) of the Public Order Act 1986.

Source: National Desk of the United Kingdom at Eurojust

An Algerian national was arrested in October 2017 and found guilty of **possessing false documents with improper intention**, in violation of Section 4 of the Identity Documents Act 2010. A few days after his arrest the Manchester Magistrates' Court sentenced him to *one year of imprisonment*.

Source: National Desk of the United Kingdom at Eurojust

A *prison sentence of one year* was handed down to an Algerian national arrested in October 2017. Shortly after his arrest he was found guilty by the Manchester Magistrates' Court of the charge of **fraud by abuse of position**, in violation of Section 4 of the Fraud Act 2006.

Source: National Desk of the United Kingdom at Eurojust

A female British defendant, arrested in April 2014, was charged with **dissemination of terrorist publications** under Section 2 (1) and (11) of the Terrorism Act 2006. She was sentenced in October 2017 by the Sheffield Crown Court to *one year and six months of imprisonment*.

Source: National Desk of the United Kingdom at Eurojust

The West Hampshire Magistrates' Court found one defendant guilty of **improper use of public electronic communications network**, contrary to Section 127 of the Communications Act 2003. The defendant, who had been arrested in August 2017, was ordered to pay a fine of GBP 500.

Source: National Desk of the United Kingdom at Eurojust

Following her arrest in March 2017, a female of an Irish nationality was sentenced in October 2017 by the Cardiff Magistrates' Court to *three months of imprisonment*. Having dispatched an article/substance by post, rail or any other means with the intention of inducing in some other person a belief that it is likely to explode or ignite and thereby cause personal injury or damage to property, she was found guilty of **a bomb hoax** in accordance with Section 51 (1) (b) of the Criminal Law Act 1977.

Source: National Desk of the United Kingdom at Eurojust

A British national, arrested in January 2016, was charged with **encouragement of terrorism** in violation of Section 1 of the Terrorism Act 2006. The defendant was convicted in October 2017 by the Central Criminal Court and sentenced to *five years and eight months of imprisonment*, to run concurrent.

Source: National Desk of the United Kingdom at Eurojust

A female of a British nationality was arrested in March 2017 and charged with dissemination of terrorist publications. She was found guilty by the Central Criminal Court in October 2017 of **possession, distribution and circulation of a terrorist publication** with the intent of a direct or indirect encouragement or other inducement to the commission, preparation or instigation of acts of terrorism, as laid down in Section 2 (1) (a) and Section 2 (2) (a) & (f) of the Terrorism Act 2006. The court sentenced her to serve *two and a half years in prison*.

Source: National Desk of the United Kingdom at Eurojust

Following her arrest in April 2017, a British defendant was convicted by the Woolwich Crown Court in October 2017 for **having prepared a terrorist act with the intention of committing such act**, contrary to Section 5 (1) (a) of the Terrorism Act 2006. She will serve *11 years in prison*.

Source: National Desk of the United Kingdom at Eurojust

November 2017

A female defendant of a British nationality was convicted in November 2017, following her arrest in July 2016. The Central Criminal Court sentenced her to *two years of imprisonment*, to run concurrent, for **dissemination of terrorist publications**, contrary to with Section 2 (1) and Section 2 (11) of the Terrorism Act 2006.

Source: National Desk of the United Kingdom at Eurojust

The Leeds Crown Court convicted one defendant of **having prepared a terrorist act with the intention of committing such act**, in violation of Section 5 (1) (a) of the Terrorism Act 2006. The man, arrested in April 2017, was sentenced to *five years and four months of imprisonment*.

Source: National Desk of the United Kingdom at Eurojust

The Worcester Magistrates' Court ordered a young man to spend *two years in a mental health institution*. The court found him guilty of **having an article with a blade or point in a public place**, in violation of Section 139 of the Criminal Justice Act 1988.

Source: National Desk of the United Kingdom at Eurojust

A British national was arrested in January 2017. In November 2017, he was found guilty by the Southwark Crown Court of **fraud by false representation** under Section 1 (2a) (3) (4) & 2 of the Fraud Act 2006 and sentenced to *three years of imprisonment*.

Source: National Desk of the United Kingdom at Eurojust

December 2017

The Lewes Crown Court found one defendant guilty of **possessing a firearm with the intent to cause fear of violence**, under Section 16 (a) of the Firearms Act 1968. The man, who had been arrested in July 2017, was sentenced to serve *four years and three months in prison*.

Source: National Desk of the United Kingdom at Eurojust

A male of an Algerian nationality was sentenced by the Central Criminal Court to *11 years of imprisonment*. The defendant was found guilty of **possessing an article in circumstances which give rise to a reasonable suspicion that his possession is for a purpose connected with the commission, preparation or instigation of an act of terrorism**, as laid down in Section 57 (1) of the Terrorism Act 2000.

Source: National Desk of the United Kingdom at Eurojust

An Irish national was handed down a *four-month imprisonment sentence* by the Obar Magistrates' Court. Arrested a few days prior to the conviction, the defendant was charged and found guilty of wearing an item of clothing in such a way or in such circumstances as to arouse reasonable suspicion that he is a member or supporter of a proscribed organisation, as laid down in Section 13 (1)(a) of the Terrorism Act 2000.

Source: National Desk of the United Kingdom at Eurojust

An Irish national was handed down a *four-month imprisonment sentence* by the Obar Magistrates' Court. Arrested a few days prior to the conviction, the defendant was charged and found guilty of **wearing an item of clothing** in such a way or in such circumstances as to arouse reasonable suspicion that he is a member or supporter of a proscribed organisation, as laid down in Section 13 (1)(a) of the Terrorism Act 2000.

Source: National Desk of the United Kingdom at Eurojust

At the Strabane Magistrates' Court one defendant was found guilty of **wearing an item of clothing** in such a way or in such circumstances as to arouse reasonable suspicion that he is a member or supporter of a proscribed organisation, as laid down in Section 13 (1)(a) of the Terrorism Act 2000. The court sentenced him to *four months' imprisonment suspended for a period of two years*.

Source: National Desk of the United Kingdom at Eurojust

Following his arrest in August 2016, a British national was found guilty by the Kingston Crown Court in December 2017 of **encouragement of terrorism**, in violation of Section 1 of the Terrorism Act 2006. He will serve *three years in prison*.

Source: National Desk of the United Kingdom at Eurojust



A male of a Colombian nationality was arrested in November 2017 and sentenced in December 2017 to *18 weeks of imprisonment*. He was found guilty by the Kingston Crown Court of **possessing false identity documents with improper intention**, in violation of Section 4 of the Identity Documents Act 2010.

Source: National Desk of the United Kingdom at Eurojust

At the Leeds Crown Court a Czech national, arrested in June 2017, was charged with **making, knowingly possessing, or having under his control an explosive substance**, under such circumstances as to give rise to a reasonable suspicion that he is not making it or does not have it in his possession or under his control for a lawful object, in line with Section 4 (1) of the Explosives Substance Act 1883. The court found him guilty of the charge. Sentencing is pending.

Source: National Desk of the United Kingdom at Eurojust

2. Other Court Decisions of Interest

September - December 2017

Norway

November 2017

A 38-year-old man was indicted and convicted at the Oslo District Court of **conspiracy to commit a terrorist act** and of **participation in a terrorist organisation**. He had travelled to Syria with his wife and five children in 2014, where he had participated in ISIL training- and recruitment programmes, firearm trainings and troop movements. When he and his family had returned to Norway after a few weeks spent in Syria, he had been arrested. He was sentenced to *seven years and six months of imprisonment*. The man has submitted an appeal.

Source: Liaison Prosecutor of Norway at Eurojust

A 34-year-old man was indicted and convicted at the Oslo District Court of **conspiracy to commit a terrorist act** and of **participation in a terrorist organisation**. He had travelled to Syria in 2014, where he had participated for the duration of a few days in ISIL training- and recruitment programmes, firearm trainings and troop movements. He stayed in Syria for one and a half years. He was sentenced to *seven years and six months of imprisonment*. The man has submitted an appeal.

Source: Liaison Prosecutor of Norway at Eurojust

II. Amendments in Legislation

September - December 2017

1. European Union

European Commission

September 2017

Commission Implementing Regulation (EU) 2017/1571 of 15 September 2017 amending for the 277th 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 entry under the heading 'Natural persons'.

Source: Official Journal of the European Union

Commission Implementing Regulation (EU) 2017/1773 of 28 September 2017 amending for the 278th 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 identifying data for five entries under the heading 'Natural persons'.

Source: Official Journal of the European Union

October 2017

Commission Implementing Regulation (EU) 2017/1834 of 9 October 2017 amending for the 279th 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 identifying data for one entry under the heading 'Natural persons'.

Source: Official Journal of the European Union

2. Member States

Austria

September 2017

An amendment of Section 278c of the Austrian Criminal Code came into force on 1 September 2017. This provision lists the criminal offences which given the respective intention can constitute terrorist offences. The amendment also includes also bodily harm, not only aggravated bodily harm as hitherto.

Source: National Desk of Austria at Eurojust

France

October 2017

Law No.2017-1510 of 30 October 2017 reinforced the internal security and the fight against terrorism. It came into force on 31 October 2017, just before the end of the state of emergency. The law strengthened the administrative police measures (establishment of secure perimeters, possibility of closing places of worship), created new administrative control and surveillance measures and an administrative regime for home visits upon authorisation and under control of the Judge of Liberties and Detention of the Court of Paris (former administrative house searches). The law introduced also a new terrorist offence making it a crime for a person with authority over a minor to involve the latter in a terrorist criminal conspiracy.

Source: National Desk of France at Eurojust

III. Legal Analysis

The analysis below has been produced in an attempt to provide an insight into a judgement concerning a returnee from Syria, who was prosecuted for terrorist offences. 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 foreign terrorist fighter phenomenon.

Procedure: District Court of Rotterdam (10/960372-16)²

Date of decision: 18 December 2017

Brief description of the facts

The Dutch authorities launched an investigation into alleged participation in a terrorist organisation concerning a Dutch national suspected to have fought in the ranks of ISIL. The investigation was triggered by information provided to the Dutch Military Intelligence and Security Service (*Militaire Inlichtingen- en Veiligheidsdienst, MIVD*) by the U.S. Department of Defence. The information referred to a registration form allegedly filled in when the defendant joined the terrorist organisation. The defendant, who had arrived to the Netherlands as a refugee in 2000 and had been given Dutch nationality in 2007, was suspected to have been part of ISIL in a period when the terrorist organisation had intensified its terrorist attacks and executions of civilians.

The charges

The defendant was charged in conformity with Article 140a paragraph 1 of the Criminal Code³, as follows:

- Participation in one (or more) terrorist organisation(s), namely IS, ISIS or ISIL and/or Tahrir al-Sham (formerly known as Jabhat Fateh al-Sham and Jabhat al-Nusrah), in any case an organisation or organisations affiliated with IS and/or Al Qaida, supporting the armed jihad and having as objective the commission of terrorist crimes, in the period 10 November 2013 – 21 March 2017 in Syria and/or Iraq and/or Yemen, alone or in association with others.

² An anonymised copy of the judgement is available at <https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBROT:2017:9915>.

³ Article 140a paragraph 1 reads as follows: "Participation in an organisation which has as its purpose the commission of terrorist offences shall be punishable with imprisonment of up to 15 years or a fifth category fine." (unofficial translation). A fifth category fine can amount up to EUR 82,000.

In particular, he was suspected to have committed one or all of the following:

- A. Intentionally set fire and/or caused an explosion likely to generally endanger property, seriously injure and/or endanger another person's life, which had resulted in a person's death (as provided for in Article 157 of the Criminal Code⁴), committed with a terrorist intent (Article 176a of the Criminal Code⁵);
- B. Committed manslaughter with a terrorist intent (Article 288a of the Criminal Code⁶);
- C. Committed murder with a terrorist intent (Article 289⁷, in combination with Article 83⁸ of the Criminal Code);
- D. Conspired, intentionally prepared and/or promoted crimes provided for in Articles 176a (crimes committed with a terrorist intent), 289a (murder) and/or Article 96 paragraph 2⁹ of the Criminal Code);

⁴ Article 157 reads as follows: "Anyone who intentionally sets fire, causes an explosion or a flood shall be punished with:
1. imprisonment of up to 12 years or a fifth category fine, if such act is likely to generally endanger property;
2. imprisonment of up to 15 years or a fifth category fine, if such act is likely to endanger the life of another person or to cause a risk of grievous bodily harm to another person;
3. life imprisonment or imprisonment of up to 30 years, or a fifth category fine, if such act is likely to endanger the life of another person and the act has caused a person's death." (unofficial translation)

⁵ Article 176a reads as follows: "If a serious offence, punishable under Articles 157, 159, 160, 161, 161bis, 161quater, 161sexies, 162, 162a, 164, 166, 168, 170, 172, 173a or 174, is committed with terrorist intent, the determinate term of imprisonment prescribed in that Article shall be increased by one half, and if the serious offence carries a determinate term of imprisonment up to 15 years, life imprisonment or a determinate term of imprisonment of up to 30 years shall be imposed."

⁶ Article 288a reads as follows: "Manslaughter committed with terrorist intent shall be punishable with life imprisonment or a determinate term of imprisonment of up to 30 years or a fifth category fine." (unofficial translation)

⁷ Article 289 reads as follows: "Any person who intentionally and with premeditation takes the life of another person shall be guilty of murder and shall be punishable with life imprisonment or a determinate term of imprisonment of up to 30 years or a fifth category fine."

⁸ Article 83 reads as follows: "A 'terrorist offence' shall be understood to mean:

1. any of the serious offences defined in Articles 92 to 96 inclusive, 108(2), 115(2), 117(2), 121, 122, 157(3), 161quater(2), 164(2), 166(3), 168(2), 170(3), 174(2) and 289, as well as in Article 80(2) of the Nuclear Energy Act, if the serious offence has been committed with terrorist intent;
2. any of the serious offences which carry a term of imprisonment under Articles 114a, 114b, 120a, 120b, 130a, 176a, 176b, 282c, 289a, 304a, 304b, 415a and 415b, as well as Article 80(3) of the Nuclear Energy Act;
3. any of the serious offences defined in Articles 140a, 282b, 285(3) and 288a, as well as in Article 55(5) of the Weapons and Ammunition Act, section 6(4) of the Economic Offences Act, Article 33b of the Explosives for Civil Uses Act and Article 79 of the Nuclear Energy Act."

⁹ Article 96 reads as follows:

"1. Conspiracy to commit any of the serious offences defined in sections 92-95a shall be punishable by a term of imprisonment of up to ten years or a fifth category fine.

2. Any person who, with the intention of preparing or promoting any of the serious offences defined in Articles 92-95a:
 1. seeks to induce another person to commit, to cause an innocent person to commit or to participate as co-offender in the commission of such serious offence, or to aid and abet its commission or to provide opportunity, means or information for its commission;
 2. seeks to obtain for himself or for others the opportunity, means or information for the commission of the serious offence;
 3. has in his possession objects which he knows are intended for the commission of the serious offence;
 4. prepares or has in his possession plans for the commission of the serious offence, which are intended for communication to others;
 5. seeks to prevent, obstruct or frustrate any measure taken by the government to prevent or suppress commission of the serious offence;
 shall be liable to the same punishment."

Articles 92-95a concern serious offences against the security of the State.

- E. Had in his possession one or more weapons and/or ammunition of category II and/or III (in conformity with Article 26 paragraph 1 of the Weapons and Ammunition Act), committed with a terrorist intent and/or with the aim to prepare or facilitate a terrorist crime (Article 55 paragraph 1 and/or 5 of the Weapons and Ammunition Act).

Based on the charges, the prosecution pled for an imprisonment of six years, reduced with the time served on remand.

The evidence

ISIL registration form

According to an official report, dated 24 November 2017, the MIVD had received information from the U.S. Department of Defence on a Dutch national, who had registered with ISIL as a fighter on 10 November 2013. The man had registered under a nickname used by the defendant. The report contained a copy of the form in Arabic and its translation into English and Dutch.

The form bore a symbol generally known as ISIL's symbol



and also contained the following text (in Arabic):

Islamic State in Iraq and the Levant

General Borders Directorate

Mujahedeen's data

The form was referred to in the MIVD's report as a 'registration form'. It contained personal data, such as name, nickname, mother's name, address, place and date of birth, as well as information concerning the place, date and way of entry into Syria, countries visited prior to arrival, previous participation in jihad, preference to join as fighter, martyr or suicide killer, deposited items and a contact person.

Authenticity of the registration form

The court heard that on 25 April 2016 Interpol's Washington Bureau had disseminated an Excel file with 5,185 names found in ISIL registration forms. The Dutch authorities had identified 16 persons on the list, who had registered as Dutch nationals or with a Dutch address or telephone number. Inquiries into those 16 persons had revealed that, further to the defendant, at least five

persons had been suspected to have left for Syria and four others had been possibly identified and believed to have left the Netherlands. One person had been prosecuted for participation in a terrorist organisation on the basis of the list but was acquitted by the Regional Court of Rotterdam on 12 April 2017.¹⁰

The Dutch authorities had further established that the personal data in the registration forms of the above-mentioned persons, concerning date and place of birth, nickname and mother's name for example, was identical with the information available to the police.

Based on the fact that the personal data in the registration forms was identical to the personal data of at least five persons suspected to have left the Netherlands, as well as the fact that the registration forms contained data identical to the data known to the police, the court concluded that the registration form concerning the defendant could be an authentic ISIL registration form.

Whether the form was in fact authentic was decided by the court on the basis of the defendant's statements.

Defendant's statements

In several interviews with the investigators, he had stated the nicknames that he used, his mother's and brother's names, his previous residence in the Al Havy at Tijari neighbourhood in Al Hudaydah, Yemen, and his trips to the UK and the USA, where he had stayed between 31 December 2012 and 8 November 2013 and worked in a supermarket in Brooklyn. From the USA he had travelled to Turkey, where he had left on 10 August 2014. The defendant had also declared that he had visited Syria and Saudi Arabia and, when confronted with an expired Yemeni passport, had eventually admitted it was his.

Information in the registration form

The registration form contained the same nickname, as the one used by the defendant, as well as the same year of birth. It concerned a Dutch national of Yemeni origin, who had resided in Al Hadida (in other translations written as Al Hudayda(h) or Hodaidah) in Al Hay Attijari. The person from the registration form used to be a salesman in a store, had worked ten months in the U.S., spent eight months in the UK and 11 years in the Netherlands as a refugee. He had also visited Saudi Arabia, Syria, Morocco and Egypt. His mother's name was the same as that of the defendant's mother and his contact person was his brother, who had the same name as the defendant's brother. The telephone number of the contact person provided in the form turned out to be the number of the defendant's brother. A passport and a mobile telephone were mentioned as deposited items.

¹⁰ According to the court in that case, the submitted evidence originated from an official report of the General Intelligence and Security Service (*Algemene Inlichtingen- en Veiligheidsdienst, AIVD*), which referred to a registration form. However, the authenticity of this registration form could not be established on the basis of other available evidence. Despite the availability of a written document, it could not be admitted as evidence as it was not corroborated by other evidence (in conformity with Article 344, paragraph 1(5) of the Criminal Procedure Code). The ruling of the Regional Court of Rotterdam is available at <https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBROT:2017:2713>.

The form mentioned also the point of entry into Syria (Aazaz or L'zaz, a town in Syria at the border with Turkey) and the date of entry (10 November 2013). As mentioned above, it was established that the defendant had entered Turkey on 8 November 2013.

The information in the form suggested that it had been provided by the defendant. In particular, the relation between the arrival of the defendant in Turkey on 8 November 2013 and the entry into Syria on 10 November 2013 made it very unlikely that someone else had pretended to be the defendant.

Furthermore, the Yemeni passport, which the defendant had initially denied but later admitted to be his, had been found in Northeast Syria. According to a report of the Dutch International Legal Assistance Centre (*Landelijk Internationaal Rechtshulp Centrum*) of 4 April 2017, the passport had been found by the Syrian Democratic Forces (SDF) when fighting in the vicinity of Ash Shaddadi. The SDF had handed the passport over to the US armed forces in March 2016. The circumstances in which the passport had been found were not clear; however, it was confirmed that there was an offensive of the SDF in February 2016, in which they had pushed IS out of (Ash) Shaddadi.

The report of the International Legal Assistance Centre was not intended to serve as evidence in a criminal case. The court, however, disregarded this fact as it did not see the reason why the copy of the defendant's passport should not be used as evidence, particularly after the defendant had been confronted with it during several interviews and it had been attached to several interview reports. The same approach was applied to the information received from the U.S. investigative authorities. As evident from the defence's plea, the counsel also assumed that the copy and the reports could be used. According to the court, the above proved that the defendant had registered with ISIL on 10 November 2013, near Aazaz in Syria, at the Syrian-Turkish border. He had stayed there for ten months until 10 August 2014, when he had left Turkey via Istanbul.

The defence case

The defence challenged the authenticity of the documents providing the available evidence. It claimed further that even if the documents were authentic, they did not prove that the defendant had been in Syria. It claimed that it could not be excluded that someone had stolen the defendant's identity and registered with ISIL, using his personal data and a false Yemeni passport. The court, however, considered it proven beyond reasonable doubt that the referred passport was not false and it was the one used by the defendant when he had arrived in the Netherlands in 2000. It bore an incoming stamp from the Roissy Charles de Gaulle airport in Paris, France, dated 23 June 2000, while the defendant had registered at the Dutch Immigration and Naturalisation Service on 29 June 2000.

The defence pointed out that it remained unclear whether the SDF had taken the passport from a particular IS fighter. The court, however, referred to the defendant's statement of 24 August 2017 when he had admitted that the Yemeni passport shown to him was his. In view of the evidence presented above, the manner in which the passport had been found was no longer of importance. The fact that the defendant claimed he had sold items on a market in Turkey

between 8 November 2013 and 10 August 2014 but could not prove it also played a role. Despite the concrete questions he was asked, he did not name a concrete address where he had stayed, people he had been in contact with or places he had visited.

Finally, the defence referred to the inconsistency in the defendant's statements. The court recognised those but stated it was under the impression that at times the defendant deliberately tried to cause confusion. On other occasions, he had made consistent statements, such as the ones concerning the stamps in his Dutch passport or the ones from 24 August 2017 when he had been confronted with the photographs of his brothers and with his Yemeni passport. The defence had also requested a triple report, to which the defendant had partially cooperated. The report did not demonstrate signs of confusion in the defendant.

The ruling of the court

The court considered it proven beyond any reasonable doubt that the registration form on the nickname of the defendant was an authentic ISIL registration form. This conclusion was based on the findings concerning the list of names put together on the basis of the registration forms found in Syria, in combination with the statements of the defendant and the copy of the defendant's Yemeni passport. Furthermore, the court considered it proven that the defendant had provided the information stated in the registration form, considering the nature of the information that would have been primarily known to the defendant and the relation between the dates of entry into Turkey and Syria.

The court held that the defendant had registered as a fighter with ISIL on 10 November 2013 and had, till 10 August 2014, been part of ISIL, an organisation placed on the UN Sanctions List and internationally recognised as terrorist.¹¹ The court considered the charges partially proven, insofar as the defendant had, in the period 10 November 2013 – 10 August 2014, participated in IS and ISIL, which had as objective the commission of terrorist crimes, namely

- A. Intentionally set fire and/or caused an explosion likely to generally endanger property, seriously injure and/or endanger another person's life, which had resulted in a person's death (as provided for in Article 157 of the Criminal Code), committed with a terrorist intent (Article 176a of the Criminal Code);
- B. Committed manslaughter with a terrorist intent (Article 288a of the Criminal Code), and/or
- C. Committed murder with a terrorist intent (Article 289, in combination with Article 83 of the Criminal Code), and/or
- D. Conspired, intentionally prepared and/or promoted crimes provided for in Articles 176a, 289a and/or Article 96 paragraph 2 of the Criminal Code), and/or
- E. Had in possession one or more weapons and/or ammunition of category II and/or III (in conformity with Article 26 paragraph 1 of the Weapons and Ammunition Act),

¹¹ See also the ruling of the Court of Appeal of The Hague of 6 October 2017, available at <https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:GHDHA:2017:2855>.

committed with a terrorist intent and/or with the aim to prepare or facilitate a terrorist crime (Article 55 paragraph 1 and/or 5 of the Weapons and Ammunition Act).

The defendant was acquitted of the remaining part of the charges.

The penalty

When determining the penalty, the court considered the severity of the offence, the circumstances under which it had been committed, as well as the defendant's personality and personal circumstances.

With regard to the offence, the court noted that in November 2013 the defendant had registered with the banned jihadist terrorist organisation ISIL in Syria, under his nickname and using his Yemeni passport. He had stayed there for nine months. In the period when the defendant had been part of ISIL, the terrorist organisation had committed more terrorist attacks with numerous casualties¹² and executions of civilians¹³. During the same period, namely on 29 June 2014, ISIL had declared the caliphate Islamic State in parts of Syria and Iraq and changed its name into IS.¹⁴ The caliphate was seen as the ultimate Islamic State in which IS-supporters could live under the strong rules of a fundamentalist version of the Islam. The territory of the caliphate was defended and extended with violence and the rights of the dissenting were violated in a very brutal manner. Fighting groups, such as ISIL (and later IS), have committed large-scale human rights violations, such as summary executions, murder, torture and mutilation of prisoners of war and civilians. Many of the crimes committed by ISIL and later IS were committed with the explicit objective to instil fear in the population in these territories and are therefore indisputably terrorist crimes.

When determining the penalty, the court also took into consideration the lack of a criminal record of the defendant in the Netherlands, as well as the following reports:

- A report from the probation office, dated 1 December 2017, stating that due to the defensive and suspicious attitude of the defendant it could not be established to what extent he shared an ideology which legitimised violence. The probation office could also not assess the possibility for recidivism, as the defendant denied the charges.
- A joint report from a psychiatrist, psychologist and a neurologist, dated 8 November 2017, stating that the defendant had no psychic complaints during his stay at the terrorist wing of the prison in Vught, except for problems with his memory. He was not mentally confused, had no psychotic thoughts, hallucinations or complaints related to his mental state and/or fears. There were no indications that he had suffered a brain damage and his intellectual capacity was difficult to assess. Due to the limited psychological and psychiatric examination and the fractional cooperation of the defendant, no conclusion

¹² As described in the report *From Insurrection to Jihad. (Jihadist-)Salafist Groups and the Fighting in Syria and Iraq (Van opstand naar Jihad. (Jihadi-)Salafistische groepen en de strijd in Syrië en Irak)*.

¹³ Ibid, p. 187.

¹⁴ Ibid, p. 135.

could be drawn on his frustration tolerance, aggression management, impulse control, conscience and empathy abilities, the presence of disorders, or his inner world.

The court concluded that the defendant had committed a serious crime by participating in the activities of ISIL (later IS), which could only be punished by imprisonment.

The sentence

When determining the severity of the penalty, the court considered penalties rendered in similar cases, as well as the inculpating period. The fact that the defendant had fought in the ranks of the terrorist organisation and had therefore actively participated in the armed conflict, or at least planned to do so, was considered an aggravating circumstance, as well as the fact that he had joined ISIL and later IS after the declaration of the caliphate, in a period when the organisation had committed more terrorist attacks with numerous victims and had executed civilians in a violent manner.

The court rejected the plea of the defence to reduce the penalty on the grounds that the defendant had left for Syria in a period when less had been known about the hostilities committed by IS, the caliphate had not been declared yet and no executions of Westerners had been committed yet. The court took into account the fact that the defendant did not state his motives to travel to Syria or to leave. It also considered that even before declaring the caliphate, ISIL had been responsible for violent incidents in Syria (but not only), which targeted also civilians. The defendant had stayed with IS also after it had declared the caliphate.

The court sentenced the defendant to a prison term of four years. It ordered the return of the defendant's passport and ID card to the municipality of Amstelveen. Several items seized from the defendant were to be returned to him. Those included some cash, four bank cards, two telephones and some knives. With regards to the knives, the court concluded that, based on photographs presented to the court at the last minute and in the absence of other documents, it was not possible to establish that the possession of such knives violated the law.

IV. Topic of Interest

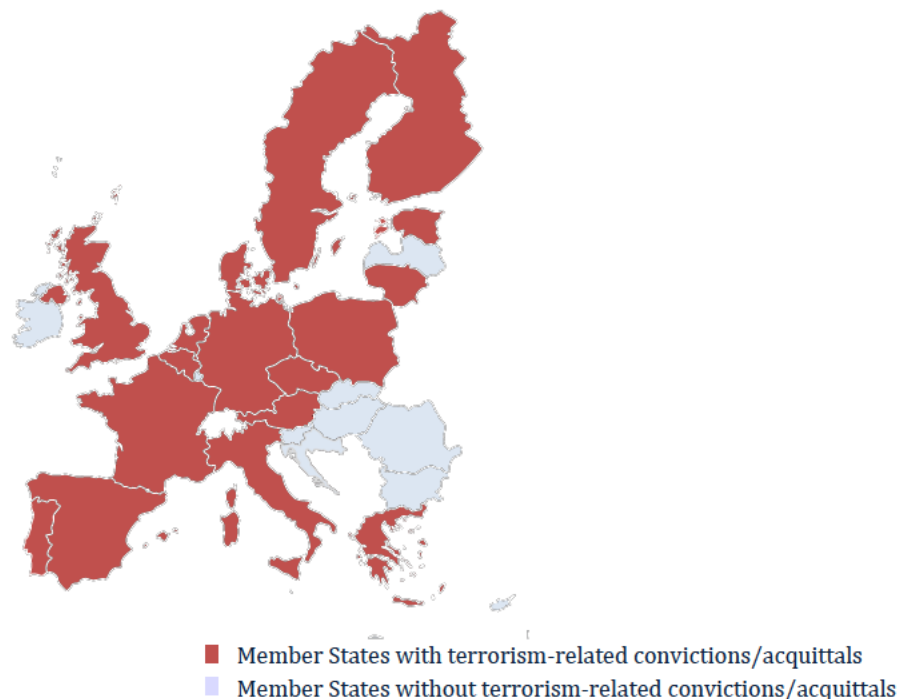
The Year 2017 in Numbers

The present chapter contains quantitative and qualitative analysis of data transmitted by Eurojust by virtue of Council Decision 2005/671/JHA on the exchange of information and cooperation concerning terrorist offences. The analysis is based on data for the entire year 2017. The analysis has also been used in preparing Eurojust's contribution to the EU Terrorism Situation and Trend Report (TE-SAT) 2018.

Court proceedings, verdicts and individuals in concluded court proceedings

In 2017, 17 Member States reported a total of 565 individuals who were convicted or acquitted of terrorist offences (please see Figure 1 below).¹⁵

Figure 1



¹⁵ Information on terrorism-related court decisions in 2017 was sent to Eurojust by Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Italy, Lithuania, The Netherlands, Poland, Portugal, Spain, Sweden and the United Kingdom. The UK contribution includes proceedings on offences under anti-terrorism legislation, as well as other offences assessed to be terrorism related. The UK data refers only to convictions. In case a verdict pronounced in 2017 was appealed and the appeal was concluded before the end of the year, Eurojust counted the proceeding as one and reported only on the latest/final verdict.

Figure 2 – Number of individuals in concluded court proceedings for terrorist offences per EU Member State in 2015, 2016¹⁶ and 2017, as reported to Eurojust

MEMBER STATE	2015	2016	2017
AUSTRIA	29	26	18
BELGIUM	120	136	85
CZECH REPUBLIC	0	0	8
DENMARK	1	8	4
ESTONIA	0	2	2
FINLAND	0	4	2
FRANCE	14	66	120
GERMANY	17	30	34
GREECE	38	3	19
HUNGARY	0	2	0
ITALY	0	11	23
LITHUANIA	1	1	2
NETHERLANDS	18	42	46
POLAND	0	0	4
PORTUGAL	0	1	1
SLOVENIA	1	1	0
SPAIN	166	154	69
SWEDEN	2	4	3
UNITED KINGDOM	106	89	125
TOTAL	513	580	565

In 2017, the United Kingdom was the Member State that reported the highest number of individuals in concluded court proceedings for terrorist offences (125), followed by France (120) and Belgium (85).¹⁷ In France and Spain four individuals were tried twice during the year in different terrorism proceedings. As a result, the total number of verdicts (convictions or acquittals) pronounced for terrorism-related offences in 2017 was 569.

Some of the defendants who appeared before courts in the EU Member States were minor of age at the time of trial and/or when the offences were committed. The number of female defendants judged in 2017 (66) increased compared to 2016 (53). The practice in some countries to render sentences *in absentia* continued with respect to defendants who were believed to be in conflict zones or were claimed to have died but were not officially declared dead. Some individuals sentenced for terrorist offences in 2017 had previously been convicted of terrorism in the same Member State or abroad.

¹⁶ The data for the previous years corresponds to the data reported in the respective TE-SAT reports.

¹⁷ The UK data includes proceedings on offences under anti-terrorism legislation, as well as other offences assessed to be terrorism related. Similar to previous years, the UK data for 2017 refers only to convictions.

The majority of the verdicts reported in 2017 are final while others are pending judicial remedy, as appeals have been submitted.¹⁸

Type of terrorism

In 2017 the vast majority of verdicts in the Member States (352) concerned jihadist terrorism confirming a trend that started in 2015.¹⁹ Similar to the recent years, the largest part of the verdicts for jihadist terrorism concerned offences related to the conflict in Syria and Iraq; however persons who had engaged with Al Qaida, the Taliban or Al-Shabaab were also tried in 2017. In one case in Austria a member of Hamas was imprisoned for life after the Supreme Court found him guilty of membership in a terrorist organisation and attempted incitement to murder as terrorist crime.

The highest number of verdicts for jihadist terrorism in 2017 (114) were rendered in France. Austria, Denmark, Estonia, Finland, Italy, Poland, Portugal and Sweden reported only verdicts for jihadist terrorism in 2017. The vast majority of jihadist terrorism verdicts rendered in 2017 was in relation to ISIL or its affiliated groups.

As in previous years, Spanish courts tried the largest number of individuals charged with separatist terrorism offences in the EU in 2017. One of them belonged to the terrorist group Resistencia Galega, while all others belonged to or were affiliated with ETA. In France, Germany and the Netherlands PKK members were convicted of participation in the terrorist organisation, recruitment and training of its members, while in Belgium four persons were acquitted for alleged fund raising for the PKK. In the Netherlands also five members of the LTTE were sentenced by the Supreme Court to serve prison terms for their role in the terrorist group, after the court ruled that the claim that LTTE fighters could be defined as 'combatants' cannot be supported under international humanitarian law and they can be prosecuted and sentenced under Dutch criminal law. In Lithuania, a man who had attempted to support and finance the Real IRA was imprisoned by the Court of Appeal.

In 2017 courts in the Czech Republic, Greece and Spain heard left-wing terrorism cases marking an increase in such cases compared to last year. Germany was the only Member State that reported verdicts for right-wing terrorist offences. The majority of the female defendants (42) were tried for jihadist terrorist offences confirming an upward trend from the past couple of years.

¹⁸ According to Council Decision 2005/671/JHA, the information to be submitted to Eurojust is in relation to final convictions. Due to the specifics of reporting, some Member States submit information on final decisions only, while other Member States report also on not final decisions. The data provided by the United Kingdom did not distinguish between final decisions and decisions pending judicial remedy. As reported, all convictions in the United Kingdom are effective from the moment of their being pronounced, even if an appeal is made.

¹⁹ The data provided by the United Kingdom was not broken down by type of terrorism and is therefore not included in the numbers in this section.

Figure 3 – Number of verdicts in 2017 per EU Member State and per type of terrorism, as reported to Eurojust

MEMBER STATE	Jihadist	Separatist	Left wing	Right wing	Not specified	TOTAL
AUSTRIA	18	0	0	0	0	18
BELGIUM	81	4	0	0	0	85
CZECH REPUBLIC	3	0	5	0	0	8
DENMARK	4	0	0	0	0	4
ESTONIA	2	0	0	0	0	2
FINLAND	2	0	0	0	0	2
FRANCE	114	8	0	0	0	122
GERMANY	27	3	0	4	0	34
GREECE	2	0	17	0	0	19
ITALY	23	0	0	0	0	23
LITHUANIA	0	1	0	0	1	2
NETHERLANDS	37	7	0	0	2	46
POLAND	4	0	0	0	0	4
PORTUGAL	1	0	0	0	0	1
SPAIN	31	26	14	0	0	71
SWEDEN	3	0	0	0	0	3
UNITED KINGDOM	0	0	0	0	125	125
TOTAL	352	49	36	4	128	569

Convictions and acquittals

In 2017, Denmark and Estonia were the two Member States that had only convictions and no acquittals for terrorist offences.²⁰ Also Austria, Belgium, France, Germany, Italy and Spain witnessed a vast majority of successful prosecutions resulting in convictions for terrorist offences. The record high conviction rate registered in 2016 (89%) continued also in 2017. In some cases, defendants were acquitted of terrorist offences but convicted of other offences, such as an attack on air transport, drug trafficking, burglary, attempted extortion, preparation of an explosion, theft, firearms offences, abduction of a minor, etc.²¹

²⁰ The UK data for 2017 refers only to convictions and is not included in the numbers in this section.

²¹ Eurojust considers it one verdict if an individual is convicted of more than one terrorist offence within the same proceeding, or convicted of a terrorist offence and acquitted of another offence. If an individual is acquitted of a terrorist offence and convicted of another offence, the verdict is included in the overview as acquittal of terrorism.

Figure 4 – Number of verdicts, convictions and acquittals per EU Member State in 2017, as reported to Eurojust

MEMBER STATE	CONVICTIONS	ACQUITTALS	TOTAL	ACQUITTALS in %
AUSTRIA	17	1	18	6%
BELGIUM	71	14	85	16%
CZECH REPUBLIC	2	6	8	75%
DENMARK	4	0	4	0%
ESTONIA	2	0	2	0%
FINLAND	0	2	2	100%
FRANCE	117	5	122	4%
GERMANY	32	2	34	6%
GREECE	15	4	19	21%
ITALY	22	1	23	4%
LITHUANIA	1	1	2	50%
NETHERLANDS	32	14	46	30%
POLAND	3	1	4	25%
PORTUGAL	0	1	1	100%
SPAIN	60	11	71	15%
SWEDEN	1	2	3	67%
UNITED KINGDOM ²²	125	-	125	-

All prosecutions for right-wing terrorist offences resulted in convictions in 2017. The concluded jihadist terrorism cases continued to have a very high conviction rate (89%), similar to 2016 (92%) and 2015 (94%). The acquittal rate among the verdicts related to separatist and left-wing terrorism was higher (29% and 28% respectively).²³

Figure 5 – Conviction and acquittal rate per type of terrorism in 2017, as reported to Eurojust

TYPE OF TERRORISM	CONVICTION RATE	ACQUITTAL RATE
Jihadist	89%	11%
Separatist	71%	29%
Left wing	72%	28%
Right wing	100%	0%

²² The UK data for 2017 refers only to convictions and is not included in the calculations of percentages.

²³ The data provided by the United Kingdom was not broken down by type of terrorism and is therefore not used to calculate the conviction rate.

Penalties

Similar to 2016, the average prison sentence for terrorist offences in the EU in 2017 was five years.²⁴ The lowest prison sentence ordered by courts in the EU Member States in 2017 was a month and a half. Sentences of up to five years of imprisonment remained the majority of the penalties handed down with the guilty verdicts in 2017 (61%); sentences of ten and more years of imprisonment remained similar to 2016 (12%).

The most severe penalty – imprisonment of 158 years – was handed to an ETA member in Spain convicted of 11 counts of attempted assassination. As mentioned above, in Austria a 27-year-old member of Hamas was sentenced to life-long imprisonment for having used social media to call on others to kill Jews in Jerusalem. The same sentence was pronounced in Germany against a man who had attempted to attack the train station in Bonn in December 2012 and planned the murder of a political party leader. Also courts in the United Kingdom ordered life sentences to persons found guilty of preparing to commit acts of terrorism. It should, however, be taken into consideration that the severity of the penalty in each case would depend on the respective offence and cannot serve any comparative purposes.

Figure 6 – Average sentences (excluding non-prison penalties) per Member State in 2017, as reported to Eurojust

MEMBER STATE	Average sentence in years
AUSTRIA	6
BELGIUM	5
CZECH REPUBLIC	3
DENMARK	6
ESTONIA	3
FRANCE	6
GERMANY	6
GREECE	17
ITALY	5
LITHUANIA	6
NETHERLANDS	3
POLAND	2
SPAIN	5
SWEDEN ²⁵	1
UNITED KINGDOM	5

²⁴ For the purpose of the calculation of the average prison sentence, penalties exceeding 40 years of imprisonment and life sentences were counted as 40 years. In the cases where the court ordered a minimum number of years of the life sentence to be served, the sentence was included in the overview with the minimum number of years indicated. In some Member States the average sentence is calculated on the basis of one conviction, while in others it is based on a considerably higher number of convictions.

²⁵ The average sentence in Lithuania and Sweden is based on one conviction in each country.

Left-wing terrorist offences continued to bear the highest average prison sentence (ten years). The average prison sentence for jihadist terrorist offences remained five years, and for separatist and right-wing terrorist offences it was four years.²⁶

In addition to prison terms, several courts imposed fines, restrictions on civil rights, travel bans and expulsion from the national territory. In France some of the convicted persons were written in the national judicial database for terrorist offenders. In some cases youth penalties were given or the sentence was partially or fully suspended. In other cases the sentencing or the execution of the prison sentence was postponed upon certain conditions, or no penalty was yet ordered at the time of reporting.

In the cases in which the guilty verdicts did not result in prison sentences, the courts ruled on fines, community service, rehabilitation or community orders. Treatment in a mental health institution was ordered in some cases, in addition to or as an alternative to imprisonment. In one occasion it was also ordered for a person declared insane and acquitted of terrorist offences.

²⁶ The data provided by the United Kingdom was not broken down by type of terrorism and is therefore not included in the overview.

V. The Way Ahead

Ongoing/Upcoming Trials

September - December 2017

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

The trial against the man, who is believed to be the only survivor from the terrorist cell that committed the terrorist attack in Paris and Saint-Denis in November 2015, started in December 2017. The man was arrested in Brussels in March 2016 and surrendered to France. He is to be temporarily surrendered to Belgium to stand trial in relation to a shoot-out with the Belgian police in Voorst a few days before his arrest.

Source: De Redactie

The Belgian authorities have brought charges against two persons suspected to have been involved in the August 2015 attack on a Thalys train riding between Amsterdam and Paris. The two, charged with participation in the activities of a terrorist group, have allegedly helped the man who committed the attack. The two were arrested recently together with other two persons, who have already been released.

Source: BBC

Germany

A 32-year-old German citizen has been charged with membership in a terrorist organisation (ISIL) and committing a war crime. According to the prosecution, he travelled to Syria in 2013. There he joined ISIL and fought for the terrorist group. The man is suspected to have also filmed an incident in which his unit beat and threatened with torture a member of an enemy militia.

Source: AP

