

National Jurisprudence summary

German case no. 5-2 StE 11/18, 5 July 2019

The Stuttgart Higher Regional Court ruled that the defendant, a German national, was guilty of a war crime against property in concurrence with participation as a member in a foreign terrorist organisation on two counts, of participation as a member in a foreign terrorist organisation in concurrence with two concomitant counts of intentional exercise of actual power over a weapon of war and in concurrence with two concomitant counts of intentional unlawful possession of a semi-automatic handgun and participation as a member in a foreign terrorist organisation.

Sentence

5 years

Summary

The Court found that the defendant participated in a foreign terrorist organisation as a member from January 2014 to August 2017. Her conduct fulfills the requirements for participation as a member in the organisation given that she identified herself with the IS ideology, actions and goals, and submitted to the organisation's will. The defendant lived with her husband solely in towns that were controlled by IS, in homes and with furnishings that it had seized and given to the couple. The use of the seized homes served the interests of IS in reinforcing its claim to power and making it more difficult or impossible for the territory to be recaptured by opposing military forces. At the same time, the defendant was involved in propaganda for IS and she ran two German-language public blogs in which she glorified life with IS and recommended emigrating and joining IS. In doing so, she assumed a role that was of fundamental importance to the continued existence of the organisation.

During her stay, she also had at her disposal two firearms and two weapons of war, at times simultaneously. She underwent training in the use of firearms and, during the period of the offence. The Court ruled that by possessing and using these weapons the defendant was guilty of the intentional exercise of actual power over a weapon of war without permission in concurrence with two concomitant cases of the intentional unlawful possession of a semi-automatic handgun.

Further, the defendant ultimately attended 10 executions as an IS representative. By appearing at public executions carried out by IS, she assumed representative duties for the organisation in order to strongly reinforce IS's claim to power locally and to intimidate the local civil population.