



EUROJUST Report

# Terrorism Convictions Monitor

Issue 15 January 2013





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## Introduction

**The Terrorism Convictions Monitor (TCM)** is intended to provide a regular overview of the terrorism-related developments throughout the EU area. The Monitor has been developed on the basis of **open sources information** available to the Case Analysis Unit (CAU) 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 also 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 15 of the TCM covers the period **September-December 2012**. It contains an overview of the concluded court proceedings in the reporting period, a selection of some upcoming and ongoing trials as well as a reference to a court decision related to violent single issue extremism (VSIE) and/or animal rights extremism (ARE). The analytical part of the report is dedicated to the phenomenon of the PKK terrorism in the light of its activities in Europe.

The general objective of the TCM is to inform and kindly invite the National Members to review, confirm, and, if possible, complete the information retrieved from the various open sources. In cases where such a confirmation and/or follow-up is needed, a special icon  will appear. The respective National Desks will be further contacted for specific details. In cases where the information has already been provided, it will be noted by a . **Some of the reported court decisions have already been used in the drafting of the Eurojust's Contribution to the EU Terrorism Situation and Threat Report TE-SAT 2013.**

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. Court Decisions

### 1. Convictions/Acquittals per Member State September – December 2012

#### Belgium

##### November 2012

The spokesman of the now dissolved radical Islamist group Shara4Belgium was sentenced to six months in prison for **inciting hate, violence and discrimination against non-Muslims**. The public prosecutor had initially pleaded for a one-year sentence in addition to a 300-euro fine and a 10-year reduction of certain civil liberties of the defendant. On 1 June 2012 he had posted a video on the Sharia4Belgium YouTube channel where he praised the violent actions of a woman against a police officer, who had stopped her for wearing a niqab in public. The incident led to the breakout of riots. The court believed that the statements the defendant made, urging other Muslims to “stand up” and “defend the honour of fellow Muslims”, constituted incitement of hatred, violence and discrimination. His lawyer believed that he should be eligible for parole in less than one month’s time as he had already been in police custody for six months prior to his sentencing. According to the prosecutor in Antwerp, he has already started serving his outstanding sentences of two periods of six months. The exact amount of time he still has to serve will be decided by the Ministry of Justice. In May 2012 he had already been sentenced to two years on similar charges relating to an incident, in which he had threatened the husband of a recently deceased right wing politician. The November 2012 decision of the court is final.

Source: [Het Laatste Nieuws](#), Information transmitted to Eurojust by virtue of Council Decision 2005/671/JHA.



##### December 2012

A court in Mechelen sentenced a man to five years’ imprisonment for **planning to commit a terrorist attack**. The defendant had posted his plans to commit a terrorist attack on an extremist website. On the site he claimed it would cause more damage than the 2004 Madrid train bombings. His thirteen co-defendants were acquitted of the charge. Three of them were, however, found guilty of violations of the weapons law and given three-month sentences. The thirteen were accused of trying to join extremist militants in Chechnya. The federal prosecutors had been striving for sentences of up to seven years; however, it was not determined which group the thirteen wished to join or what type of offenses they planned to commit. The decision of the court has been appealed.

Source: [Gazet van Antwerpen](#), Information transmitted to Eurojust by virtue of Council Decision 2005/671/JHA.



## Denmark

### December 2012

Five defendants who were accused of committing a series of **arson attacks** across Copenhagen as part of a radical left-wing terror campaign were found not guilty of committing terrorist actions. The five defendants were arrested in April 2011, as they attempted to set fire to the police academy in Copenhagen. They were accused of plotting and carrying out arson attacks against targets, which included the Greek Embassy, the Danish police and several fur companies. They were charged under Denmark's anti-terrorism legislation and could have faced a maximum sentence of life in prison. The case marks the first time that Danish anti-terrorism legislation (which was passed by Parliament in 2002) has been used to prosecute a left-wing case. Since its adoption in 2002, the legislation has only been used to prosecute religiously-inspired extremists. All five defendants were found guilty of participating in arson attacks. The prosecution had argued that their targets were typical targets of far left groups. In addition, the prosecution argued that their intention was to significantly frighten the population, which constitutes the legal definition of a terrorist act. The defence lawyers insisted that the defendants had targeted symbols, rather than people, and that the attacks had barely been noticed by the public. The judges and three of the six jurors wanted to convict two of the men of terrorism; however, as there was no majority among the jurors, the men were found not guilty. The prosecution has appealed the decision.

Source: [The Copenhagen Post](#), Information transmitted to Eurojust by virtue of Council Decision 2005/671/JHA.



## France

### September 2012

Six defendants were brought to court on charges of **criminal conspiracy to prepare terrorist acts, document forgery and making of explosives for a terrorist organisation** (ETA). The court found them guilty and pronounced sentences, as follows: two were handed down five-year prison sentences, the other two received three years and the remaining two had to serve thirty months in jail. Definite bans from entering the French territory upon completion of the prison terms were also ordered. The decision of the court is final.

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



### October 2012

The Paris Criminal Court found two defendants guilty of **criminal conspiracy to prepare terrorist acts, document forgery and making of explosives for ETA** and sentenced them to four years' imprisonment each, three of which suspended. In February 2008 the couple had provided shelter to two persons wanted for their participation in the 2006 attack at the Madrid airport. The four had been arrested in a house in San Juan de Luz in France. During the house search, the police had found a



thousand euro allegedly meant for ETA, as well as the contact details of people linked to the terrorist organisation. The decision of the court is final.

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



At a trial at the Paris Criminal Court one defendant was found guilty of **criminal association with a terrorist purpose** and was handed down a two-year suspended sentence. The sentence came thirteen years after he had allegedly conspired to steal eight tons of explosives. In June 2005 he had been convicted of the conspiracy, together with thirteen ETA and Breton militants, and sentenced to six years' imprisonment. He had been the only one of the fourteen who had submitted an appeal. The decision of the court is final.

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



### November 2012

The Paris Criminal Court convicted two defendants for being **members of ETA's logistical apparatus** as well as for **making and transporting explosives**. The two had been arrested in Dijon in 2008 after they had caused a car accident while driving in a stolen vehicle. The court ordered prison sentences of five and six years respectively. The decision of the court is final. In December 2012 one of the two was surrendered to Spain on charges of possession of explosives and weapons, and intended assassination.

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



The Paris Criminal Court sentenced one defendant to eight years' imprisonment for **belonging to ETA's military apparatus**. The judge justified the penalty with the fact that the man had resumed his activities after he served a four-year sentence for membership of ETA in Spain. The judge also ordered a definite ban from entering France upon completion of the prison term. The decision of the court is final. The man, who declared to be of a Basque nationality, had been arrested in the South of France in February 2009.

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



Two ETA members were brought to court in Paris on allegations of **being privileged collaborators of three of the organisation's leaders** and having certain responsibilities related to **collection of information, forgery and extortion**. The two had been arrested in Paris in June 2009. During the trial, they claimed ETA membership but insisted that the court should take into consideration the organisation's calls to the Spanish and French authorities to initiate a dialogue on what they referred to as "the consequences of the conflict". The court convicted them and sentenced them to six years in prison each. The sentences were merged with previous penalties. In May 2011 the two had been sentenced to four and five years respectively for their activities in ETA's political structures between 2005 and 2006. One of them had a previous conviction in 2009 for belonging to ETA's reserve forces, while the other had been found guilty of recruiting members for the terrorist organisation. The two



will be banned from entering France after serving their prison sentences. The decision of the court is final.

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



Two defendants were handed down twenty-year prison sentences and were ordered a definite ban from entering the French territory upon completion of their prison terms. The two were found guilty of **criminal conspiracy to prepare terrorist acts, document forgery and making of explosives for a terrorist organisation** (ETA) by the Paris Criminal Court. The decision of the court is final.

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



## December 2012

The Paris Criminal Court found one defendant guilty and sentenced him to five years' imprisonment for having participated in the military-logistical structures of ETA. He had been arrested in June 2010 after stealing a car in Central France. The charges against him included **belonging to ETA, theft of a vehicle, possession and transportation of weapons and munitions and knowingly receiving money generated by extortion from the so-called "revolutionary tax"**. He was also associated with the murder of a French police officer in Paris, together with another ETA activist. The decision of the court included a pecuniary penalty and a definite ban from the French territory upon completion of the prison term. The decision is final.

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



Fifteen individuals and one legal entity were brought to court on allegations of terrorist financing and conspiracy to prepare terrorist acts. The alleged activities were believed to have been carried out for the benefit of the left-wing group, Devimici Halk Kurtulus Partisi – Cephesi (DHKP-C). Four of the defendants were tried in absentia. The court found all sixteen defendants guilty of **conspiracy to prepare terrorist acts** but acquitted them of the terrorist financing offence. Sentences of between two and seven years' imprisonment were handed down to the fifteen individuals. The court also ordered the dissolution of the legal entity.

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



## Germany

### November 2012

In November 2012 the Higher Regional Court of Frankfurt issued a decision on the case against an Afghan citizen who had operated a website, which he used for jihadist recruitment and propaganda. The man was found guilty of **recruiting supporters of a terrorist organisation abroad on eleven cases** and sentenced to two years and six months' imprisonment. Some of the offences had been committed



before he turned twenty-one. The court, however, applied the general criminal law and not the law for minors, as his actions were not typical youth offenses. The decision of the court is final. An earlier conviction of the same person for the charges at stake, reported in issue 13 of the TCM, referred to nineteen such offences and resulted in a sentence of three years and three months' imprisonment.

Source: [Hessisches Ministerium der Justiz, für Integration und Europa](#), Information transmitted to Eurojust by virtue of Council Decision 2005/671/JHA.



### December 2012

A former neo-Nazi who converted to Islam and joined the German Taliban Mujahidin (DTM) was brought to court in Berlin following allegations that he had been a member of the DTM between December 2009 and July 2010. The man had spent thousands of euro in order to go to Waziristan in the North-Western part of Pakistan together with his wife. It was there that officials believed he had received training in using firearms and explosives. The couple had been arrested in Turkey in 2010. The Berlin Court found him guilty of **membership of a terrorist organisation abroad** and sentenced him to four years and three months' imprisonment. The decision of the court is final.

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



At a trial at the Higher Regional Court in Frankfurt three defendants were brought to court for their participation in the attempted assassination of Sikh religious leaders. Two of them were found guilty of **membership in a terrorist organisation abroad**, the Khalistan Zindabad Force (KZF), as well as of **participation in an attempted assassination and violation of the Law on Arms**. They were sentenced to four years and four years and three months in jail respectively. The third defendant was convicted of **supporting a terrorist organisation abroad** in four cases and handed down a sentence of one year and nine months. The decision of the court is not final.

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



## Greece

### October 2012

Four defendants were brought to court on charges of **participation in a terrorist group**, as well as a number of **bomb-related offences** aimed at endangering foreign objects and human beings and **complicity in explosions**. All four were found guilty by the court. Three of them were handed down sentences of thirty-four years' imprisonment and the fourth one was ordered to serve a six-year prison term. The decision of the court is not final.

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





## December 2012

A Greek court sentenced four individuals to four years' imprisonment each. The four had been charged with participation in a terrorist group and terrorist actions. The charges had been subsequently modified and the convictions constituted of **formation of a gang** and **illegal weapon possession**. Pecuniary penalties were also handed down. The decision of the court is not final.

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



## The Netherlands

### October 2012

A Dutch court tried one person on charges of **importing and possessing illegal firearms**. The offences constituted a violation of articles 14 and 26 of the Law on firearms and munitions. The court found him guilty and sentenced him to twelve months' imprisonment. The decision of the court is not final.

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



## Spain

### September 2012

The Supreme Court admitted the appeal of one defendant and rejected that of another following their January 2012 conviction by the Audiencia Nacional. The two had been brought to court, together with a third defendant, on allegations to have formed a part of ETA's reserve forces and having been in a position to carry out terrorist acts both on Spanish [REDACTED] territory. Various materials attributed to ETA, as well as explosive-making instructions had been found during a house search, [REDACTED] [REDACTED]. In January 2008 the three had been surrendered to Spain. Two of them had been found guilty of **participation in a terrorist organisation** and **forgery of an official document with a terrorist purpose** by the Audiencia Nacional and had been handed down sentences of eleven years' imprisonment and a fine. The third defendant had been convicted of forgery of an official document, for which a prison term of six months and a fine had been ordered by the court, and had been acquitted of the terrorism-related offences (*for details, please see issue 13 of the TCM*). Admitting one of the appeals, the Supreme Court acquitted the defendant of participation in a terrorist organisation and reduced the sentence to two years' imprisonment and a fine.

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



Two suspects, who were brought to court on charges of **glorification of terrorism and dishonour of property**, were found guilty by the Audiencia Nacional and sentenced to one year' imprisonment



each. The two had been arrested in relation to street demonstrations in July 2010, during which ETA members and prisoners were praised. The decision of the court is not final.

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

R

The Audiencia Nacional found four defendants guilty of **glorification of terrorism** and sentenced them to one year' imprisonment each. The penalty is in conformity with the one sought by the prosecution. A protected witness had seen the four defendants place photographs of ETA prisoners in a public location in Basauri in October 2011. At the time of their detention, the police also found ETA-related banners and posters of different sizes. The decision of the court is not final.

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

R

At a trial at the Audiencia Nacional seven defendants were found guilty of causing **terrorist damages** and were sentenced to one year' imprisonment each. They had been arrested on allegations that, together with others, they had formed part of an ETA-supporting group, involved in street violence (the so-called "kale borroka"). They had attacked the police station in Lekeitio in September 2009 with the intention to seriously disturb the public order and frighten the local population; which had caused damage to the surrounding buildings and disturbed the traffic. The decision of the court is final.

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

R

### October 2012

The Audiencia Nacional sentenced three GRAPO members to seventeen years' imprisonment each for their involvement in an attack against a company that had resulted in considerable damage to businesses and buildings in the vicinity. The attack took place in Madrid in the early hours of 29 January 1998. The court convicted the three persons of **terrorist ravage** and, in addition to the prison sentences, ordered them to pay compensation to victims of the attack. The defence of the three submitted an appeal.

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

R

Three defendants were brought to court at the Audiencia Nacional for their alleged involvement in the attack on a TV- and radio-telecommunications booster in November 2008 in Bilbao. An explosive device had been placed at the location of the booster, which when detonated, had caused disruptions in the transmission of a number of Spanish and French TV and radio stations. The attack had been claimed in January 2009 in a message sent to the newspaper Gara. The three defendants were acquitted of causing **terrorist damages** but found guilty of **placing explosive devices** and sentenced to a prison term of eight years each. The decision of the court is final.

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

R

The Audiencia Nacional acquitted one defendant brought to court for his **alleged role in a planned attack** in August 1990 in San Sebastian, when a package containing an explosive device had been sent

to a local Guardia Civil station. The police succeeded in deactivating the device. The decision of the court is final. In June 1994 some ETA members, participating in the “Comando Mendi”, had been convicted for their role in the attempted attack.

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



The Audiencia Nacional acquitted three individuals for their alleged role in the planned escape from prison of one of them. The escape had been initially planned for May 2007 and later for June 2008. The prisoner had been accused of **conspiracy to violate a sentence with a terrorist purpose, conspiracy to terrorist kidnapping, conspiracy to commit robbery with intimidation with a terrorist purpose**. The court did not consider it proven that his lawyer had participated in or collaborated with ETA. The prisoner’s sentimental partner was also acquitted of **collaboration with a terrorist organisation**. The decision of the court is final.

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



## November 2012

Two defendants were found guilty by the Audiencia Nacional and sentenced to seventeen years’ imprisonment each in relation to a parcel bomb sent to the head of the Lawyers’ Association in Guipúzcoa in October 2000. The bomb, received at the home of the victim, had been deactivated by the police. Both defendants were convicted of **intended serious injuries in service of a terrorist organisation, and possession and transportation of explosive substances with terrorist purposes**. The decision of the court is final.

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



The Audiencia Nacional handed down a two-year prison sentence to one defendant who was found guilty of **possession of explosive or inflammable devices**. He had been arrested in relation to the investigation on an explosive device placed inside the BKK bank in Arzentales in March 2006. The device did not burst due to some malfunctioning and was discovered by a civilian, who informed the police. The decision of the court is final.

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



## December 2012

The Audiencia Nacional acquitted six defendants who had been charged with **participation in a terrorist organisation**. The same charges, initially brought against four other individuals, had been withdrawn by the prosecution. The trial was in relation to allegations of activities attributed to the terrorist organisation SEGI. They included frequent gatherings at locations in Hernani where different ETA- and Batasuna-related materials had been found. The police had also carried out a number of house searches in the home of some of the defendants, during which various documents, CDs and information materials had been found. The decision of the court is final.

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





### Sweden

#### September 2012

The court of appeal in Gothenburg upheld the acquittal of three men charged with **plotting to murder** a controversial Swedish artist for depicting the Prophet Mohammed as a dog in a Swedish newspaper in 2007. The appeals court found a number of circumstances that raised suspicions that the three suspects were plotting to murder the Swedish artist. Firstly, the suspects had actively been looking for the artist on the night of their arrest, all three of the men had knives at the time of their arrest, and all three had given inconsistent information regarding their actions in the days prior to the arrest. According to the court of appeal, there was no concrete evidence proving that the suspects had been planning to murder the artist as was alleged by the prosecutor. The three men had initially been suspected of terror crimes, but the charges were later downgraded to preparing to commit murder.

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



### United Kingdom

#### September 2012

One defendant was found guilty of three counts of **possessing a document or record likely to be useful to a person committing or preparing an act of terrorism** and sentenced to twelve months' imprisonment. The documents found in his possession contained instructions on how to carry out an assassination as part of jihad as well as preferred targets and nationalities. The man had a previous conviction of soliciting murder and stirring up racial hatred from 2007. The initial six-year sentence, which he had received for these offence, had been reduced to four years following the submitted appeal.

Source: [Crown Prosecution Service blog](#).



#### October 2012

Prison sentences were handed down to two men accused of placing a "crude" pipe bomb outside the Alliance Party headquarters. The suspects, aged 39 and 44, were sentenced to four and four-and-a-half years in prison respectively. The judge made the distinction in sentencing because he believed the older suspect had been the one who carried out the attack, while the other had acted as a courier. Both suspects pleaded guilty to **possessing the pipe bomb**, which was thrown into the backyard of the Alliance Party headquarters. The defence argued that the bomb appeared to have been placed as part of a series of hoax bombs that were placed throughout Belfast over a period of 48 hours in relation to a protest about issues within the prison. The judge stated that the two had been involved in an ongoing terrorist campaign aiming to cause disruption to the public and police.

Source: [Belfast Telegraph](#).



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

## December 2012

At a trial at the Old Bailey one defendant pleaded guilty to **possessing a record or information likely to be useful to a person committing or preparing an act of terrorism**. Two editions of Al Qaida's Inspire magazine had been found on a micro SD memory card in her mobile. According to her lawyer, she had downloaded the magazines in order to better understand her brothers, who had been sentenced in February 2012 to twelve and sixteen years' imprisonment for their involvement in a plot to blow up the Stock Exchange. She was sentenced to one year' imprisonment and is expected to be released after serving half of her sentence.

Source: [BBC](#).







### 2. Other Court Decisions of Interest September – December 2012

#### Italy

##### September 2012

Italy's highest court upheld the convictions of 23 Americans, nearly all of whom are current or former CIA officers, for their role in the kidnapping of an Egyptian terror suspect in 2003. The Americans on trial had been facing the possibility of seven to nine years' imprisonment for their involvement in the kidnapping of the terror suspect who vanished after leaving his apartment in Milan. Italian authorities used cell phone records from the time and location of the abduction to determine that CIA officers snatched him and drove to a nearby air base from where he was flown to Egypt. It was there that, according to Italian court documents, the terror suspect was subjected to beatings and electric shocks during his interrogation process. The public prosecutor said he brought the case to the court because he believed these types of renditions violated international law. The case raised questions about which U.S. officials under investigation were eligible for protection under diplomatic immunity. According to officials, the suspects never received diplomatic or military immunity although U.S. officials had claimed that one of the suspects was entitled to immunity under NATO's Status of Forces Agreement. In an interview the prosecutor applauded the court ruling, stating that NATO immunity does not protect those who participate in kidnappings.

Source: [The Washington Post](#).

#### Spain

##### October 2012

The Supreme Court (Case Law: Sentence of the Supreme Court, dated 30 October 2012) confirmed that the membership of a satellite group of a leading terrorist organisation requires not only belonging to it as a formal member, but also a proactive availability to obey the instructions from that leading terrorist group. A distinction is made from belonging to a leading terrorist organisation, as in such cases the proactive availability is presupposed or required. The case law confirmed the position of the First Instance Chamber and the Prosecution Office. This position is summarised below.

**Ruling 1/2.012 12 January, First Section of the Judicial Chamber for Criminal Cases of the Audiencia Nacional concerning the terrorist organisation SEGI.**

**Jurisprudence summary:** The ruling of the Audiencia Nacional establishes the requirements for the conviction of a member of the terrorist organisation affiliated with ETA. Mere militancy is not enough, rather it requires:

- 1) An active participation in the organisation;
- 2) Awareness of the connection with the ETA terrorist organisation;

- 3) Awareness that the actions contribute to its activities and purposes.

The judgement condemns those persons, members of SEGI, who conduct activities in support of the same or for its purposes, and acquits defendants, whose membership of SEGI was not considered to be sufficiently established, or those who, despite being SEGI militants, did not consciously carry out activities in support of the organisation or its purposes.

**Established facts:** SEGI is an organisation that is designed, coordinated, commissioned and controlled by ETA, a group that through the use of arms, explosives and other means, commits crimes against those who do not share its proclaimed aim of securing the independence of the Basque Country. SEGI has been declared as an illegal organisation by the Supreme Court.

The defendants, who were convicted, were members of the SEGI organisation in Errenteria (Basque Country) and carried out the following activities: recruitment, indoctrination and planning for SEGI, collection of funds by selling tickets, inserting slogans with threats in the doorway of the residence of a member of the Ertzaintza (Basque Country police force), participation in videos and SEGI propaganda, possession of seized material of the organisation.

**Legal foundation:** Referring to rulings of the Supreme Court, the decision states:

- a) Terrorism, as stated in the Supreme Court rulings 290/2010 and 480/2009, is not and cannot be a static phenomenon but extends and diversifies in a gradual and constant way, through a wide range of activities. Therefore the legislator, in mandatory response to this complex phenomenon, must also expand the criminal range of behaviours, which must objectively be considered as terrorism.
- b) A terrorist organisation that pursues pseudo-political purposes can try to achieve these purposes not only through acts of terrorism but also through actions that, considered by themselves, could not be qualified as acts of terrorism (non-violent protests, acts of political propaganda, etc.).
- c) With reference to SEGI, the differentiation between it and the armed terrorist organisation ETA cannot be maintained. The initial purpose of SEGI was not to give a simple moral support to an armed action, but to take up the activities necessary for ETA's business maintenance in order to sustain its militants, and the institutional and social destabilisation with the aim of creating an alarm situation or social insecurity - an activity that supplements the real terror exercised by the armed organisation itself, a complementary activity, but under the direction of ETA.<sup>1</sup>

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

## Norway

### September 2012

A Norwegian appeals court upheld the convictions of two men involved in a plot to bomb a Danish newspaper, which had published cartoons of the Prophet Mohammed. The first defendant, a Norwegian national, considered to be the mastermind behind the planned attack, had been sentenced to seven years' imprisonment in January 2012. The other defendant, an Iraqi national, residing in Norway, had been sentenced to three and a half years in prison. The appeals court added a year to the sentence of the first defendant and removed half a year from the sentence of the second. Prosecutors had originally demanded that they receive eleven and five years respectively. The court failed to come

<sup>1</sup> The analysis has been kindly provided by the competent Spanish authorities.



to a decision over the guilt of a third man who had been arrested at the same time as the other two suspects. Although the suspect had been acquitted in January 2012 for the most serious charges, he was sentenced to four months in jail for having helped the other two procure bomb-making materials.

Source: [The Local](#).

### Court of Justice of the European Union

#### November 2012

The Court of Justice has set aside the judgment of the General Court, which annulled the inclusion of Al-Aqsa on the list of persons and entities whose funds have been frozen. As previously mentioned in the ongoing/upcoming trials section of TCM issue 14, the case concerned appeals of a judgment, on the freezing of assets, held by Stichting Al-Aqsa, as part of the EU measures to combat terrorism. The Court of Justice found that the Council had accurate information and evidence in the file showing that a decision falling within the criteria established by European Union law had been taken by a competent authority in the Netherlands against Al-Aqsa. Secondly, the Court of Justice considered that the Council complied with its obligations to review the grounds, justifying the decision to freeze Al-Aqsa's funds. In addition, the Court of Justice felt that the Council's decision did not infringe on Al-Aqsa's right to property. Lastly, the Court of Justice rejected Al-Aqsa's argument that the Council's decision did not satisfy the duty to state reasons, which is required under EU law. As a result, the Court of Justice dismissed the initial action brought by Stichting Al-Aqsa.

Source: [Court of Justice of the European Union](#).

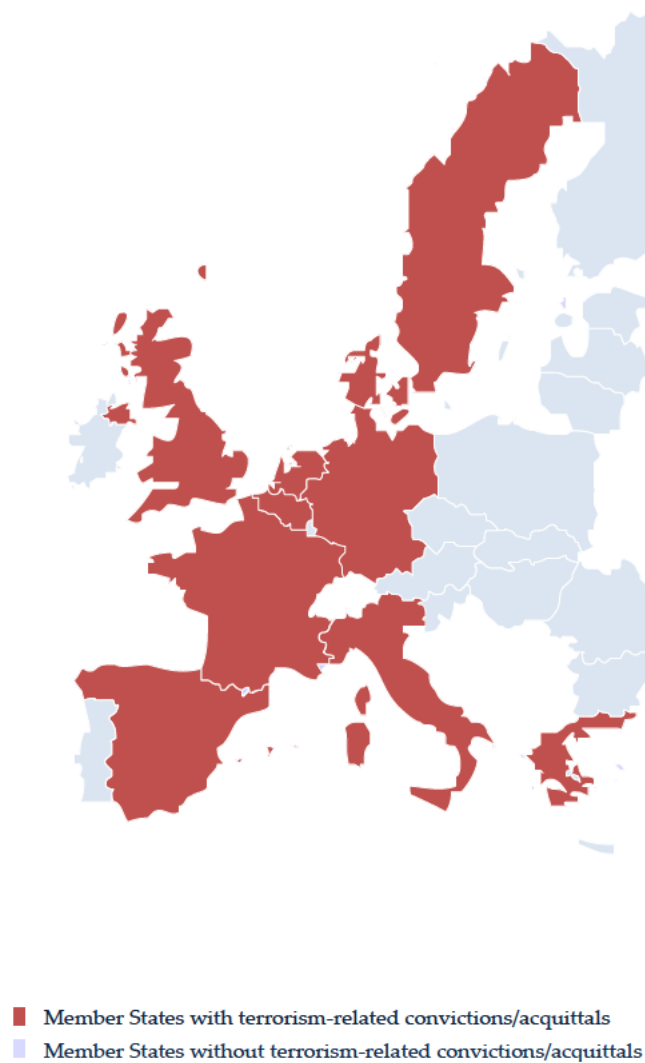
## II. Comparative Analysis

### September – December 2012

#### Court Decisions in the EU Member States

In the period September – December 2012 terrorism-related court decisions were reported in nine EU Member States: Belgium, Denmark, France, Germany, Greece, the Netherlands, Spain, Sweden, and the United Kingdom (*please see Figure 1 below*).

Figure 1



## Convictions and Acquittals

The verdicts handed down in the period September-December 2012 included 29% acquittals in total. This percentage is lower than what was reported for the period January-August 2012 covered by the previous two issues of the TCM. Member States, like Germany, Greece and the Netherlands, have a full conviction rate with no acquittals throughout the reporting period as well as the rest of 2012. In France and the United Kingdom all court decisions in September-December 2012 contained guilty verdicts. In Denmark and Sweden the court pronounced non-guilty verdicts only (*please see Figure 2 below*).

Figure 2

MEMBER STATE	CONVICTIONS	ACQUITTALS	TOTAL	ACQUITTALS AS %
Belgium	5	10	15	67%
Denmark	-	5	5	100%
France	33	-	33	0%
Germany	5	-	5	0%
Greece	8	-	8	0%
Netherlands	1	-	1	0%
Spain	23	15	38	39%
Sweden	-	3	3	100%
United Kingdom	5	-	5	0%
<b>TOTAL</b>	<b>80</b>	<b>33</b>	<b>113</b>	<b>29%</b>

## Types of Terrorism

As reported in the TCM since 2008, the majority of verdicts, also in the period September-December 2012, related to separatist terrorism. Traditionally, Spain is the Member State with the highest number of verdicts in separatist terrorism cases. In Belgium, the Netherlands and Sweden verdicts on religiously-inspired terrorism cases were the only type reported for the period September-December 2012, but also for the rest of 2012. Courts in Denmark and Greece pronounced decisions in left-wing terrorism cases only, while France had the highest number of verdicts on this type of terrorism (*please see Figure 3 below*).



Figure 3

MEMBER STATE	SEPARATIST	RELIGIOUSLY-INSPIRED	LEFT-WING	TOTAL
Belgium	-	15	-	15
Denmark	-	-	5	5
France	17	-	16	33
Germany	-	5	-	5
Greece	-	-	8	8
Netherlands	-	1	-	1
Spain	35	-	3	38
Sweden	-	3	-	3
United Kingdom	2	3	-	5
<b>TOTAL</b>	<b>54</b>	<b>27</b>	<b>32</b>	<b>113</b>

Unlike in the previous reporting period, the present cases of religiously-inspired terrorism had the highest acquittal rate (48%), while the acquittal rates for both left-wing and separatist terrorism decreased significantly to 16% and 28% respectively.

## Types of Convicted Offences

The overview below presents the types of offences of which the individuals brought to trial were found guilty.<sup>2</sup> The overview focuses on offences that appear more than once in the guilty verdicts. In order to ensure certain relativity, the offences are shown as a percentage. In the cases when one individual was found guilty of more than one offence, all convicted offences are included separately. The analysis considered the countries' specifics and definitions of offences in the national legislations. With a view to avoid fragmentation and terminology or translation inaccuracies, some offences have been grouped, e.g. offences such as "participation in a terrorist organisation", "belonging to a terrorist organisation", "membership of a terrorist organisation" have been combined under "membership of a terrorist organisation or similar".

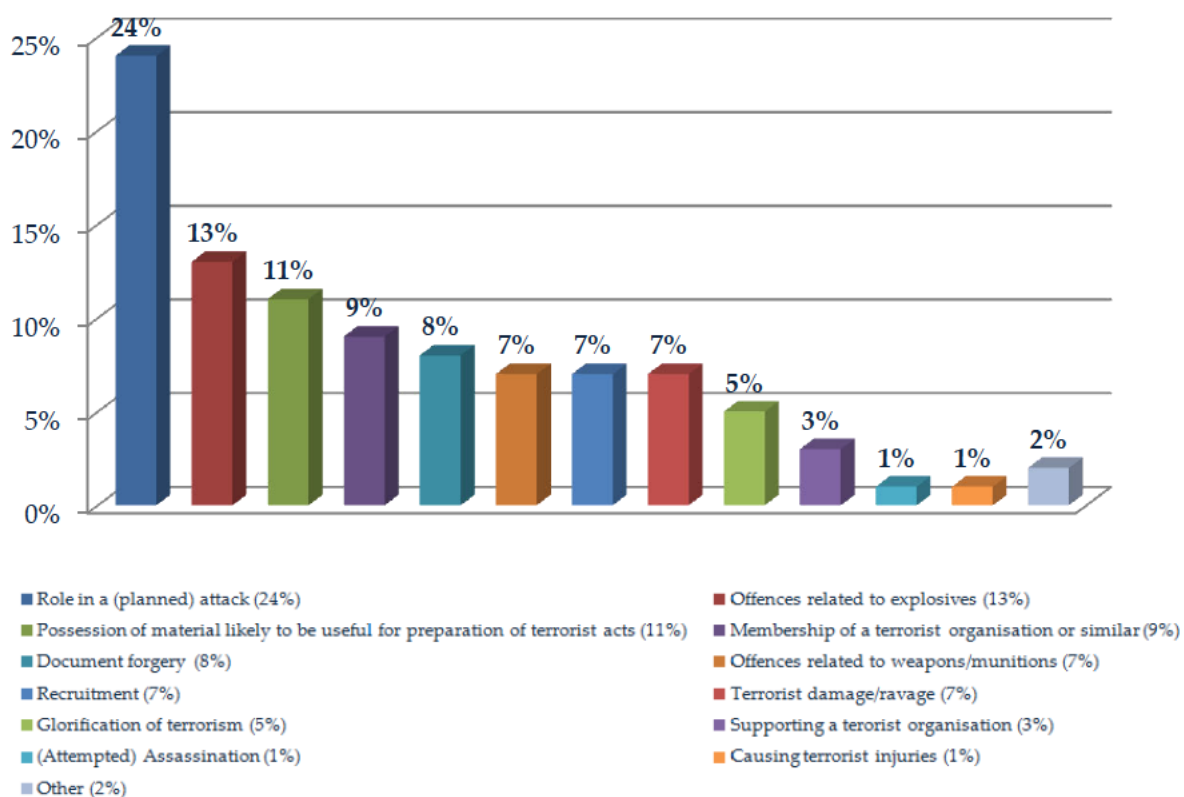
A closer look at the information available in open sources or shared with Eurojust reveals a rather wide spectrum of terrorist offences in the Member States concerned (*please see Figure 4 below*). A relatively high percentage of the convicted offences were related to roles in a (planned) terrorist attack (24%). A similar finding was reported in the TCM covering the first four months of 2012. The second largest type of offences, the offences related to explosives (possession, storage, transportation, etc.), presented 13% of the total, which is an increase as compared to the rest of the year. Possessing a record or information likely to be useful to a person committing or preparing an act of terrorism

<sup>2</sup> The overview that follows is based on the information on offences as found in open sources or as reported to Eurojust by the national authorities. Open sources information can be incomplete or inaccurate; therefore the overview should be treated with caution until confirmed by the competent authorities of the respective Member States.

constituted 11% of the total number of convicted offences in the reporting period. Offences of membership of a terrorist organisation *or similar* (9%) decreased slightly in comparison with what was reported in the period January-August 2012.

Figure 4

### Types of Convicted Offences

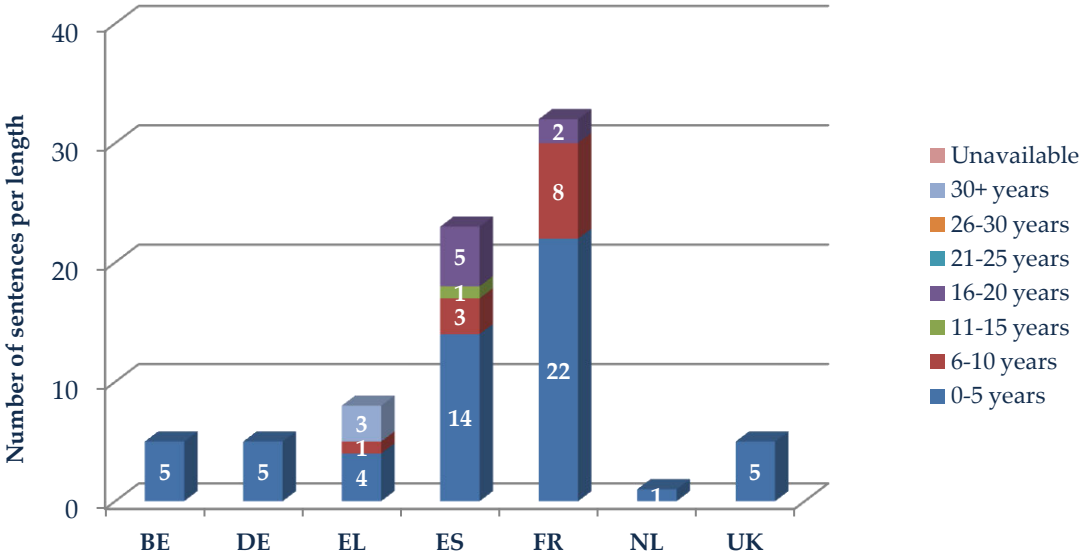


### Pronounced Sentences

The severity of the penalties pronounced in the concluded court proceedings in the period September-December 2012 ranged between three months and thirty-four years' imprisonment (*please see Figure 5 below*). In some cases the sentence was fully or partially suspended; pecuniary penalties were given as well. The court ordered also the dissolution of one legal entity that was found guilty of a terrorist offence in France. Prison sentences were sometimes accompanied by temporary deprivation of certain civil rights or a banishment to enter the national territory upon completion of the prison term.

Approximately 70% of the sentences handed down in the reporting period included prison terms of up to five years. This percentage is almost double as compared to what was reported in the previous issue of the TCM. The number of sentences of between six and ten years' imprisonment decreased significantly and constituted 15% of the total. These two combined presented 86% of all prison sentences handed down for terrorist offences, which is an increase as compared to the rest of the year.

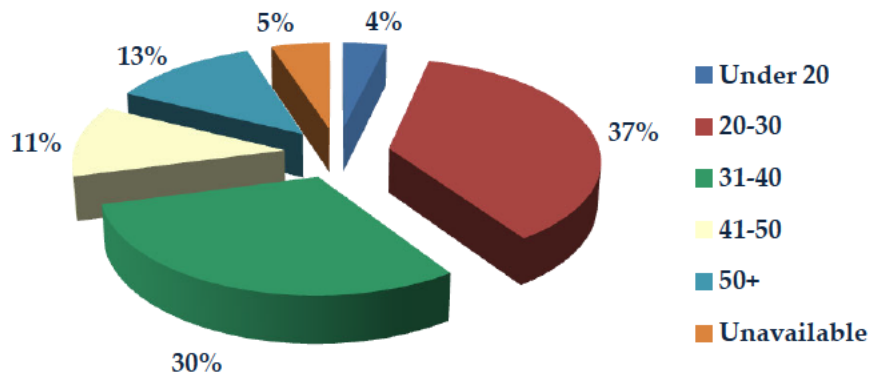
Figure 5



### Age of Convicted Individuals

Similar to the findings for January-August 2012, the majority of the individuals convicted for terrorist offences in the reporting period was aged between twenty and forty years (*please see Figure 6 below*). This time, however, the data on the age of those found guilty, where available, shows that the largest group of terrorism convicts is in their twenties. For the first time in 2012 several of the sentenced individuals were twenty years old or less.

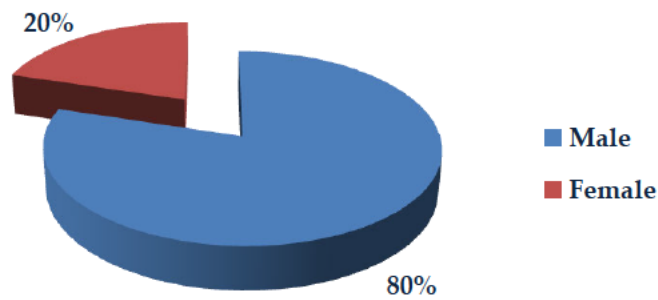
Figure 6



### Gender of Convicted Individuals

Of the 80 defendants found guilty in the reporting period 16 were female. This constituted 20% of the total number of guilty verdicts (*please see Figure 7 below*) and marks an increase as compared to the data available for the rest of the year.

Figure 7



### III. Legal Update

#### 1. EU

#### September – December 2012

##### European Commission

##### September 2012

Commission Implementing Regulation (EU) No 803/2012 of 7 September 2012 amending for the 177th time Council Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with the Al Qaida network.

Source: [Official Journal of the European Union](#).

Commission Implementing Regulation (EU) No 807/2012 of 11 September 2012 amending for the 178th time Council Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with the Al Qaida network.

Source: [Official Journal of the European Union](#).

##### October 2012

Commission Implementing Regulation (EU) No 921/2012 of 8 October 2012 amending for the 179th time Council Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with the Al Qaida network.

Source: [Official Journal of the European Union](#).

Commission Implementing Regulation (EU) No 933/2012 of 11 October 2012 amending for the 180th time Council Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with the Al Qaida network.

Source: [Official Journal of the European Union](#).

Commission Implementing Regulation (EU) No 1002/2012 of 29 October 2012 amending for the 181st time Council Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with the Al Qaida network.

Source: [Official Journal of the European Union](#).

##### November 2012

Council Decision 2012/686/CFSP of 6 November 2012 amending Decision 2012/333/CFSP updating the list of persons, groups and entities subject to Articles 2, 3 and 4 of Common Position 2001/931/CFSP on the application of specific measures to combat terrorism.

Source: [Official Journal of the European Union](#).





Council Implementing Regulation (EU) No 1015/2012 of 6 November 2012 amending Implementing Regulation (EU) No 542/2012 implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism.

Source: [Official Journal of the European Union](#).

### December 2012

Commission Implementing Regulation (EU) No 1142/2012 of 3 December 2012 amending for the 182nd time Council Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with the Al Qaida network.

Source: [Official Journal of the European Union](#).

Commission Implementing Regulation (EU) No 1155/2012 of 5 December 2012 amending for the 183rd time Council Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with the Al Qaida network.

Source: [Official Journal of the European Union](#).

Council Decision 2012/765/CFSP of 10 December 2012 updating the list of persons, groups and entities subject to Articles 2, 3 and 4 of Common Position 2001/931/CFSP on the application of specific measures to combat terrorism and repealing Decision 2012/333/CFSP.

Source: [Official Journal of the European Union](#).

Council Implementing Regulation (EU) No 1169/2012 of 10 December 2012 implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism and repealing Implementing Regulation (EU) No 542/2012.

Source: [Official Journal of the European Union](#).

Commission Implementing Regulation (EU) No 1187/2012 of 11 December 2012 amending for the 184th time Council Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with the Al Qaida network.

Source: [Official Journal of the European Union](#).

## 2. EU Member States

### Denmark

#### October 2012

A new draft legislation has been proposed that would enable authorities to revoke the broadcast license of media organisations accused of supporting terrorism in any form. The new bill stipulates that programmes should in no way be affiliated to any form of terror organisations. The proposal comes as a response to the government's inability to shut down the Kurdish television broadcasting service, Roj TV, which is based in Copenhagen and has been accused of supporting terrorism. Under current legislation, programmes are prohibited from creating bias based on race, ethnicity, sexual

orientation, religion or nationality. The bill would expand this list by including sympathy towards terrorism.

Source: [The Copenhagen Post](#).

## France

### October 2012

French authorities presented plans for new anti-terrorism laws, which would give authorities more power to arrest individuals, who have attended radical training camps abroad. The bill would amend the French Criminal Code making terrorism-related crimes committed outside France punishable in the country. Individuals who are convicted under the proposed new law could face up to ten years' imprisonment for association with a terrorist enterprise. In addition, the proposed law would allow authorities to monitor the telecommunications data of the creators of extremist websites. The proposed new law comes seven months after a French citizen, who claimed to have attended Al Qaida style training camps abroad, had killed seven people in a wave of shootings in and around Toulouse.

Source: [The Nation](#).



### IV. Judicial Analysis

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

**Procedure<sup>3</sup>:** Copenhagen City Court (Kobenhavns Byrets) (1st degree); the first instance judgement has been appealed to the High Court

**Date of decision:** 10 January 2012

**Defendants:** Roj TV A/S and Mesopotamia Broadcast A/S METV

**Charges:** Promoting a terrorist organisation (actions under Sections 114, 114a, 114b, 114c or 114d of the Danish Criminal Code)

**Outcome:** All the charges based on sections 114a, 114b, 114c and 114d of the Criminal Code were proven, referring to the criminal activities committed only in the period from 7 February 2008 to 10 September 2010 (therefore, not in the full time period alleged in the indictment).

PKK has been qualified as a terrorist organisation.

#### Summary of the prosecuted facts

**Period of the criminal activities:** From 10 June 2006 to 24 September 2010.

**Description of the criminal conduct:**

Roj TV A/s and Mesopotamia Broadcast A/S METV committed the following acts:

- Repeatedly releasing TV programmes that included interviews with PKK activists and supporters, reports on fighting between Kurds and Turkish authorities and on PKK training camps, whereby functioning as a mouthpiece for the PKK;
- Disseminating invitations to join the PKK and to participate in its terrorist activities, and mentioning the PKK and its terrorist activities in a glorified manner, which amounted as a whole to promotion of the activities of the terrorist organisation PKK/KONGRA-GEL.

**Links with other organisations:**

Links between PKK and HPG, PKK and TAK were found.

<sup>3</sup> An extract of the present court decision has been kindly provided by the competent Danish authorities.

## Legal challenges

The following arguments were used to convict the defendants:

- 1) **HPG and TAK are responsible for terrorist attacks – HPG and TAK are wings of the PKK – the PKK is a terrorist organisation**

**Evidence brought to support the findings:**

- a) An open-source based report prepared by the Danish Security and Intelligence Service, Centre for Terror Analysis (CTA)  
The report provided information on the scope and nature of terrorist activities of PKK, HPG and TAK since the resumption of the use of violence in 2004 (types of attacks, targets, victims, goals which the attacks intended to achieve). The report describes HPG as the military wing of PKK, which normally claims responsibility for attacks in Eastern Turkey. TAK has been described as a cover organisation for the PKK, which has instigated attacks in Western Turkey. The report gave an account of specific attacks committed between 9 February 2006 and 7 June 2011 “that the PKK, HPG and TAK are believed to have instigated”. The court emphasized that, according to the report, “some of the attacks leading to civilian victims were aimed at civilian and not military targets”.
- b) Witnesses’ statements  
The details of the CTA report concerning the links between the PKK and HPG, and the PKK and TAK, were confirmed by witnesses’ statements (three witnesses interviewed in Turkey and one witness in Denmark) (*the details of the witnesses’ statements are not available in the court’s reasoning and decision part of the judgment*).
- c) Terrorist organisations lists  
The court took into consideration the fact that PKK is included in the EU list as a terrorist organisation, as well as in several national lists (Australia, Canada, the United Kingdom and the USA).
- d) Content of the news reports from Roj TV and TV2  
The court took into account the content of the news reports from Roj TV and TV2 presented in the court (reports on specific attacks carried out mainly by HPG, which led to deaths and injuries; interview in a PKK training camp with a guerrilla soldier talking about an attack in which she had been involved).

**The court’s conclusion:** Based on the information in the CTA prepared report, confirmed by witnesses’ statements, the court considered HPG and TAK to be the wings of the PKK, which implied that the PKK is responsible for attacks committed by these organisations.

Furthermore, based on the overall assessment of the news reports from Roj TV and TV2 presented in the court, the information provided by the CTA report and supported by the witnesses’ statements, and the lists of terrorist organisations of the EU and other countries, the court has found that, during the relevant period, PKK committed or intended to commit acts of terrorism falling within the scope of section 114 of the Criminal Code.

**Dismissed evidence:** The court said that the statements made by the defendants regarding circumstances in Turkey, including the human rights situation, did not lead to any other conclusion considering the scope and nature of the attacks against civilians committed by the PKK.

2) **One-sided presentation of PKK views constitutes pro-PKK propaganda – Regular propaganda broadcastings make the defendants responsible for aiding and abetting the PKK's activities**

**Evidence brought to support the findings:**

a) Content of TV programmes and news reports

- One-source based content: Most of the news reports from Roj TV's coverage of the conflict between the Turkish authorities and the PKK were based exclusively on sources from within the PKK and its wings, or among PKK supporters, without the use of any other sources.
- The TV station did not distance itself from the reported messages: PKK leaders were given extended airtime to explain the views of the organisation, to invite others to join the organisation and also to call for insurrection, while the programmes' hosts listened passively. Moreover, the images used during the broadcasts and the language applied by the programmes' hosts contributed to highlighting the messages.
- Presentation in a positive light of PKK activities: Some reports and programmes described the guerrilla movement in a positive light, praised as heroes killed guerrilla fighters, and portrayed the PKK as the superior part of the conflict.

b) Regularity of broadcasts

The court said that propaganda is required to be performed at a certain regularity to make the defendant contribute to aiding and abetting PKK activities, while isolated news reports with propaganda elements over a long period would be insufficient. In this regard, the court took into account that in the period from 7 September 2008 to 10 September 2010 the news reports were broadcasted regularly at evenly distributed intervals.

**The court's conclusion:** The unilateral coverage of PKK on Roj TV, including the conflict between the PKK and the Turkish authorities, with repeated invitations to take part in insurrection and actions, invitations to join the organisation/the guerrilla movement, and the presentation of dead guerrillas as heroes, is pro-PKK propaganda and not merely statements of sympathy. Such propaganda is found suited to make persons want to join the PKK and to retain their membership.

Considering the time and frequency with which the reports were broadcasted, the court concluded that in the period from 7 September 2008 to 10 September 2010, when news reports were broadcasted regularly at evenly distributed intervals, the defendant acted as mouthpiece for the PKK, thereby aiding and abetting the PKK's terrorist activities. However, the individual news reports from 2006 and 2007 were not sufficient for aiding and abetting PKK activities.

**Dismissed evidence:** The court said that the statement by a witness from the Danish Security and Intelligence Service giving his assessment of the news reports and programmes was not sufficient proof that the TV station aided and abetted the PKK through the full time period stated in the indictment.

Also, the court disregarded assertions by defendants that, had their request for permission to submit additional news clips been allowed, the court would have seen many critical statements about the PKK. The court observed that the reason cited by the defendants was to give "a wider knowledge" of the programmes and not to show specifically that the TV station had a critical



attitude towards the PKK. The court pointed out that submission of news clips with different content could not counterbalance the content of the examined clips and, therefore, would not lead to a different outcome.

The reference by the defendants to the Danish Radio and TV Board's decision finding that the TV station did not incite hatred was dismissed as irrelevant for the very reason that the Board did not consider the issue of the alleged violation of section 114e of the Criminal Code.

**Other facts reviewed by the court:** The court considered the following issues as not crucial for completion of the *actus reus* alleged in the indictment, but important in connection with sentencing:

**Funding for the defendants' TV station was provided by PKK**

**Evidence brought to support the finding:**

a) Witness' statement

According to a witness statement, the funding for the TV station was provided to a great extent by the PKK, which channelled the funds from its finance division EMB, through foundations, enterprises (as payments for commercials), and as fundraising contributions.

b) Documents found during house searches

The witness' statement was supported by documents found during the house search in a flat in Antwerp, where a person affiliated with EMB was arrested, and also by documents found during the house search at the defendants' offices in Copenhagen.

c) Analysis by KMPG on the defendants' financial statements

The witness statement was further supported by analysis prepared by KMPG of the defendants' financial statements as compared with the financial statements found during the house search in Antwerp and identical financial statements found during the house search in Copenhagen. The analysis revealed to a very great extent an overlap between the income indicated in the defendants' financial statements and the income from EMB indicated in the compared statements.

**The court's conclusion:** From 2006 to 2010 Roj TV was funded to a considerable extent by the PKK.

**The content of Roj TV programmes was determined by persons affiliated with Roj NV in Belgium**

**Evidence brought to support the finding:**

Witnesses' statements: According to statements by four witnesses, the programmes broadcasted by Roj TV were produced by Roj NV in Belgium to a great extent. The witnesses were unable to state the names of the person(s) in charge of the selection of programmes to be broadcasted by Roj TV.

**The court's conclusion:** The decisions on the content of the programmes were made in Belgium by persons affiliated with Roj NV; the persons responsible for Roj TV in Denmark had no influence on the decision-making process.

**Roj TV/Roj NV were linked to PKK: PKK issued guidelines on the TV programmes' content**

**Evidence brought to support the finding:**

- a) Documents with guidelines from the PKK

Documents originating from central PKK organs were found on computers at Roj NV. The documents contained criticism of TV programmes and guidelines for the programmes' design. Although the documents were not available in paper format as signed documents, the court found that their number and content reflected the pattern which itself was a sufficient proof that from 2007 to 2010 Roj NV received guidelines from the PKK for the broadcastings of Roj TV.
- b) Witness' statement

The link between the PKK and Roj NV was further confirmed by a witness stating that ideology trainings were given to journalists in a PKK camp, and that cameras were sent by Roj NV to the PKK for the purpose of making photos and video recordings for Roj TV.
- c) Document concerning repayment of salaries by Roj NV employees

A document found with Roj NV indicated that employees were to repay their salaries. This document corresponded to the findings of the above-mentioned house search in Antwerp, where documents showing that several Roj NV's employees repaid their salaries in 2006 and 2008 were found.

**The court's conclusion:** The decisions as to what was to be broadcasted about the PKK on Roj TV were made by persons with close links to the PKK who were given instructions from PKK organs.

Objective conditions for imposing criminal liability:

**The court found that the objective conditions for imposing criminal liability on the defendants were met.**

**Evidence brought to support the finding:**

- The defendant Roj TV A/S was the company in charge of the TV station Roj TV during the relevant period.
- The defendant Mesopotamia Broadcast A/S METV was the company which applied for registration of the TV channel Roj TV as a satellite television provider, and, after the application was granted, made the channel available for Roj TV A/S, therefore, participated in the completion of the *actus reus*.

Subjective conditions for imposing criminal liability (intent):

For the assessment of the defendants' intent, the court considered only the time period when, according to the court's finding, Roj TV's programmes aided and abetted PKK activities (from 7 February 2008 to 10 September 2010). **The court found that the defendants had the intent to aid and abet the PKK**, in the relevant time period, by means of the broadcasted TV programmes.

**Evidence brought to support the finding:**

- a) Witness' statement by the former Director General

On the basis of the witness' statement by the defendants' former Director General, the court found that this person was familiar with the fact, or must have considered it highly probable, that the PKK performs or intends to perform acts prohibited by section 114 of the Criminal Code. The witness himself acknowledged that he was

aware that the programmes broadcasted by Roj TV constituted pro-PKK propaganda, and that Roj TV was funded by the PKK. The court also found that the person must have considered it highly probable that the PKK influenced the content of programmes on Roj TV.

b) Content of the programmes

Due to the content of the programmes, the court came to the same conclusion as above also in respect of the current Director General of the defendants, although this person refused any knowledge of the PKK's funding of Roj TV.

c) Items found during house searches

On the basis of items found during house searches (financial statements, telephone number in a notebook, e-mails, statements of a fundraising account and payment forms) the court was satisfied that the current Director General of the defendants was aware of the PKK's funding of Roj TV.

**Dismissed evidence:** Based on the evidence obtained during house searches, the court disregarded the witness' statement by the current Director General of the defendants that he had no knowledge of the PKK's funding of Roj TV.

## Sentence

Both defendants were **found guilty** as charged and sentenced each to **40-day fines of DKK 65,000**, as set out in section 114e, cf. section 306, of the Criminal Code.

In connection with the sentencing, the court emphasised the length of the period during which the acts were carried out, the frequency and dissemination of the acts, the detailed planning, and the way in which the TV station attempted to appear as an independent TV station, while being funded and influenced by the PKK. The court also took into account the defendants' income in 2008 – 2010.

Due to the nature of the acts committed by aiding and abetting a terrorist organisation, the court found that it was not contrary to Article 10 of the ECHR (freedom of expression) to punish the acts in this manner.

### **Disqualification and confiscation claims were not allowed**

The prosecutor's claim for disqualification of the defendants companies was not allowed by the court on the grounds that the sanction provided by section 79(1) of the Criminal Code could only be used against natural persons. The prosecutor's claim for confiscation of the broadcasting license was not allowed on the grounds that the issued license, by its nature, constituted a decision by the Radio and TV Board and, therefore, could not be considered as an "object" within the meaning of section 75(2)(i) of the Criminal Code.

## V. Topic of Interest

### PKK's Activities in Europe

#### PKK as a Terrorist Organisation

Europe has been the home of a large Kurdish diaspora. Estimations indicate that there are around 1 million Kurds living in Europe, with nearly 85% having originally come from Turkey.<sup>4</sup> The number of Iraqi Kurds in Europe has increased since 2003 following the American-led military intervention. These Iraqi Kurds have formed a large part of the Kurdish communities in the Netherlands, Sweden and the United Kingdom. Germany has the largest predominantly Turkish-origin Kurdish population in Europe with an estimated 500,000-700,000 Kurds living in Germany.<sup>5</sup> The PKK has been accused of using these large Kurdish communities to draw up support for their cause.

According to the Global Terrorism Database and its list of the twenty most active terrorist organisations in terms of attack frequency and fatalities in the period 1970-2006, the PKK rates at no.10 regarding the frequency of attacks and at no.12 regarding the number of fatalities.<sup>6</sup> Since 1984, when the armed campaign against the Turkish government was launched, the PKK-led fight for Kurdish autonomy has claimed more than 40,000 lives.<sup>7</sup>

The EU added the PKK to its list of persons, groups and entities that are subject to Common Position 2001/931/CFSP on the application of specific measures to combat terrorism in 2002.<sup>8</sup> On 31 July 2002 action was brought before the Court of First Instance of the European Communities on behalf of the PKK and the Kurdistan National Congress (KNK) against the Council of the European Union. The applicants pleaded for partial annulment of Council Decisions 2002/334/EC<sup>9</sup> and 2002/460/EC<sup>10</sup>, which placed the PKK on the EU terrorist list. The grounds submitted by the applicants included, inter alia, that the ban was imposed on an organisation, which was non-existent or not presently involved in terrorism. The applicants also claimed that there was a breach of the internationally recognised right of self-determination, of cultural, civil and political rights as well as a breach of fundamental rights of

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<sup>4</sup> Eccarius-Kelly, Vera "Interpreting the PKK's Signals in Europe", Perspectives on Terrorism, Vol 2, No 11 (2008).

<sup>5</sup> *Ibid.*

<sup>6</sup> *The Global Terrorism Database: Accomplishments and Challenges*, Perspectives on Terrorism, Vol 4, No 1 (2010).

<sup>7</sup> "Paris PKK shooting: Chauffeur under formal inquiry", BBC, 21 January 2013.

<sup>8</sup> Council Decision of 2 May 2002 implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism and repealing Decision 2001/927/EC (2002/334/EC) and Council Common Position of 2 May 2002 updating Common Position 2001/931/CFSP on the application of specific measures to combat terrorism (2002/340/CFSP), Official Journal of the European Communities L 116, 3 May 2002.

<sup>9</sup> *Ibid.*

<sup>10</sup> Council Decision of 17 June 2002 implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism and repealing Decision 2002/334/EC (2002/460/EC), Official Journal of the European Communities L 160, 18 June 2002.



expression and association.<sup>11</sup> In a judgment, dated 3 April 2008, the Court of First Instance (Seventh Chamber) annulled Council Decision 2002/460/EC in so far as it concerns the PKK. According to the Court, as a result of the absence of any reasoning expressly appearing in Council Decision 2002/460/EC or provided immediately thereafter, the applicant was not placed in a position, in which it was able to understand, clearly and unequivocally, the reasoning of the Council.<sup>12</sup> Similarly, also on 3 April 2008, the same Chamber of the Court issued a judgment, with which it annulled Council Decision 2004/306/EC of 2 April 2004 implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism and repealing Decision 2003/902/EC<sup>13</sup> in so far as it concerned KONGRA-GEL, the political wing of the PKK.<sup>14</sup> Following the judgment, the EU was reported to have said in a statement that the ruling did not affect the validity of the list, concluding that its interpretation of the ruling did not include the removal of the PKK from the list.<sup>15</sup>

## PKK's Criminal Enterprises

Since the arrest of PKK's leader in 1999, its activities in Europe have predominantly ranged from acts of civil disobedience, dissemination of nationalist propaganda, demonstrations and solidarity marches and organising cultural events such as festivals and public education campaigns. However, the PKK, which has been known to use Europe as a retreat for its operatives, has also been seen as a criminal enterprise.<sup>16</sup> The PKK has been known to use its illicit activities in Europe to generate a large portion of the funds needed to finance its paramilitary activities in Turkey. Jane's Intelligence Review quotes official Turkish estimates maintaining that the PKK collects some \$615-770 million annually; while NATO's Terrorist Threat Intelligence indicates this number to be closer to \$50-100 million per year.<sup>17</sup> The main crimes committed by PKK members in Europe as well as their main profit generators, as reported by the EU Terrorism Situation and Threat Report (TE-SAT) 2012, remain extortion, money laundering, facilitating illegal immigration, drugs and human trafficking. The report refers to the decreasing number of arrested individuals linked to the PKK but names Europe as a logistical support base for funding, recruitment, training and propaganda. The TE-SAT 2012 also refers to the arrests, carried out in France, Germany and Romania in 2011, of a number of individuals suspected of being members of the PKK or supporting its criminal activities. The majority of the arrested individuals were allegedly involved in the fundraising of guerrilla operations in Turkey and the maintenance of guerrilla camps in Northern Iraq. Some of the funds collected were believed to be used to sponsor EU-based propaganda centres and training camps.<sup>18</sup>

<sup>11</sup> Action brought on 31 July 2002 on behalf of Kurdistan Workers Party (PKK) and Kurdistan National Congress (KNK) against the Council of the European Union, Official Journal of the European Communities C233/32, 28 September 2002.

<sup>12</sup> Such a statement of reasons was provided to the applicant only in April 2007.

<sup>13</sup> Council Decision of 2 April 2004 implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism and repealing Decision 2003/902/EC (2004/306/EC), Official Journal of the European Communities L 99, 3 April 2004.

<sup>14</sup> Judgment of the Court of First Instance (Seventh Chamber), 3 April 2008, European Court of Justice.

<sup>15</sup> *Kurdish group no longer on EU terror list*, msnbc.com, 3 April 2008.

<sup>16</sup> Eccarius-Kelly, Vera "Interpreting the PKK's Signals in Europe", Perspectives on Terrorism, Vol 2, No 11 (2008).

<sup>17</sup> *Kurd and pay – Examining PKK financing*, Jane's Intelligence Review, 13 March 2008.

<sup>18</sup> EU Terrorism Situation and Threat Report (TE-SAT) 2012, Europol.



Some reported arrests that took place in 2012 include the August detention of eight men in relation to alleged PKK fundraising in Denmark. According to estimates, \$24.6 million has been shipped from Denmark to the PKK.<sup>19</sup> In December 2012 the Dutch authorities arrested 55 suspected PKK members gathered together at a secret meeting in a recreation park. The arrest came after a previous action carried out in a camping in Zevenaar, during which other suspected PKK-related persons had been arrested.<sup>20</sup>

Some examples of the alleged involvement of the PKK in criminal activities include:

- **Irregular migration:** In recent years the PKK has reportedly used the profits obtained from running sophisticated people-smuggling networks to raise funds for its terrorist activities. Some of the common routes the PKK has been known to use in order to transport refugees from Northern Iraq to Italy for example include routes such as Istanbul-Milan, Istanbul-Bosnia-Milan and Turkey-Tunisia-Malta-Italy.<sup>21</sup>
- **Drug trafficking:** The most profitable criminal activity the PKK has allegedly engaged in is drug trafficking. The location of the PKK's stronghold in the far South-Eastern corner of Turkey has enabled the PKK to play a major role in moving drugs westwards from their countries of origin.<sup>22</sup> The PKK has been known to be involved in all aspects of the drug supply chain, from cultivation to street distribution. In addition to being directly in charge of running drug trafficking rings, the PKK is known for "taxing" other ethnic Kurdish drug traffickers who operate in Western Europe.<sup>23</sup>
- **Money laundering:** Some sources refer for example to one association established in 2001 in the Netherlands, which is alleged to have been supervising the financial initiatives of the PKK/KONGRA-GEL and to have laundered the proceeds gained from illicit activities such as drugs.<sup>24</sup>

Recently, the Turkish press, quoting reports from the Federal Office for the Protection of the Constitution in both Germany and Austria, published details about the organisation and its activities, including fundraising, of the PKK in Europe.<sup>25</sup> It mentions 3 main headquarters and 44 organisations under the roof of an umbrella organisation in Germany; 4 main regions of operation in France; and 20 foundations in Austria under the roof of a PKK support organisation. The PKK has been accused of forcing the members of these organisations to pay a "tax", which can amount to one month's salary to fund its activities.<sup>26</sup>

In an attempt to target the organisation's financial resources in Europe, the Turkish government has recently decided to share dossiers, including evidence, with the EU Member States, to give them the

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<sup>19</sup> "Danish police arrest 8 people suspected of terror financing for supporting Kurdish militants", The Washington Post, 19 August 2012.

<sup>20</sup> "Tientallen vermeende PKK'ers opgepakt", www.nu.nl, 3 December 2012.

<sup>21</sup> Curtis, Glenn E., and Tara Karacan. "The Nexus among Terrorists, Narcotics", Library of Congress (2002).

<sup>22</sup> *Ibid.*

<sup>23</sup> Randy Beers and Francis X. Taylor, "Narco-Terror: The Worldwide Connection Between Drugs and Terror," testimony before Senate Committee on the Judiciary, Subcommittee on Technology, Terrorism, and Government Information, 13 March 2002.

<sup>24</sup> Pek, A. and B. Ekici, "Narcoterrorism in Turkey: The Financing of PKK-KONGRA GEL from Illicit Drug Business", University of Pittsburgh, USA

<sup>25</sup> "German, Austrian reports expose PKK's structure, activities in Europe", Today's Zaman, 28 August 2011.

<sup>26</sup> Wittrock, P. "How the PKK Operates in Europe", Spiegel Online, 11 July 2008.



resources necessary to take stronger action against terrorist financing; the names of companies providing financial aid to the PKK were also sent to the relevant countries.<sup>27</sup>

## PKK Propaganda and Media Involvement

In addition to hampering the PKK's fundraising efforts in Europe, officials have sought to reduce the influence of European based Kurdish media outlets from drawing up support for PKK's activities. Authorities successfully pursued the closures of Med-TV in the United Kingdom in 1999 and Medya-TV in France in 2004. In addition, authorities have pursued the same result with a similar channel, Roj TV, which is based in Denmark and broadcasts programmes via satellite to Kurdish communities throughout Europe.<sup>28</sup> In May 2007 and in April 2008 the Danish Radio and Television Board ruled that Roj TV's programmes did not incite hatred on grounds of race, sex, religion or nationality; they merely broadcast information and opinions.<sup>29</sup> In January 2012 the Copenhagen City Court found Roj TV A/S and Mesopotamia Broadcast A/S METV guilty of promoting a terrorist organisation (actions under Sections 114, 114a, 114b, 114c or 114d of the Danish Criminal Code) and sentenced to pay 40-day fines of DKK 65,000 each (*for details, please see Chapter IV. Judicial Analysis*). The decision has been appealed to the High Court.

In June 2008, the German Ministry of Interior banned the activities of Roj TV as well as those of Mesopotamia Broadcast. According to the Ministry, Roj TV encouraged violence, and helped the PKK find recruits to stage attacks in Turkey.<sup>30</sup> Following the actions against Mesopotamia Broadcast and Roj TV in July 2008, the Federal Administrative Court found that Roj TV's programmes were clearly biased in favour of the PKK and that Mesopotamia Broadcast and Roj TV played a role in inciting violent confrontations between persons of Turkish and Kurdish origin in Turkey and exacerbated tensions between Turks and Kurds living in Germany. The Federal Administrative Court referred a question to the Court of Justice of the European Union as to whether a Member State is precluded from taking measures with regard to a television broadcaster established in another Member State on the ground that that broadcaster's activities and objectives run counter to the prohibition on infringing the principles of international understanding. In its judgment, dated 22 September 2011, the Third Chamber of the Court of Justice ruled that a Member State is not precluded from adopting measures against a broadcaster established in another Member State if the activities and objectives of that broadcaster run counter to the prohibition of the infringement of the principles of international understanding. These measures, however, cannot prevent retransmission on the territory of the receiving Member State, as this is to be determined by the national court of the originating Member State.<sup>31</sup>

The PKK has also allegedly been involved in attacking and threatening Turkish media outlets operating in Europe. In February 2012 a group of masked men and alleged supporters of the PKK entered the Paris office of the Turkish newspaper Zaman and started breaking windows and

<sup>27</sup> "Turkey targets PKK financial sources in Europe", SETimes.com, 1 September 2011.

<sup>28</sup> Eccarius-Kelly, Vera "Interpreting the PKK's Signals in Europe", Perspectives on Terrorism, Vol 2, No 11 (2008).

<sup>29</sup> Decision regarding complaint from the Radio and Television Supreme Council, Bibliotekogmedier.dk.

<sup>30</sup> Terrorism Conviction Monitor, Issue 2, 2008. Original article: *Germany bans PKK affiliated-satellite broadcaster Roj TV*, Today's Zaman, 26 June 2008.

<sup>31</sup> Judgment of the Court (Third Chamber), European Court of Justice, 22 September 2011.



equipment and threatening employees. On the same day alleged supporters of the PKK firebombed the newspaper's offices in Cologne.<sup>32</sup>

### The Recent Shootings in Paris and the Future of Peace Talks

The January 2013 killing of three Kurdish women, in the Kurdish Information Centre in Paris, has raised a lot of questions. One of the women, an alleged founder of the PKK, is believed to have played a leading role in garnering financial and political support for the Kurdish cause in Europe. The other two are reported to have been Kurdish activists. Various hypotheses on the possible actors behind the shooting have been voiced.<sup>33</sup> By the time the present report was produced, the French police have arrested two ethnic Kurds for their possible involvement in the shooting. One of the two was soon released. The other, a PKK member who was the driver of the assassinated activists, has been placed under investigation for conspiracy to commit the murders and for their actual execution, both as part of a terrorist group.<sup>34</sup>

The shooting came soon after it was reported that the Turkish government and the imprisoned PKK leader had agreed on a roadmap to end a three-decade-old insurgency. According to the roadmap, the PKK was to lay down arms in March 2013. As stated by the media, the government would in turn grant more rights to the Kurdish minority.<sup>35</sup> Following the Paris shootings, however, the future of the peace talks remains unclear.

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<sup>32</sup> "Attacks against Turkish-language Newspaper in Cologne, Paris Threaten Free Reporting, Says OSCE Media Freedom Representative" Organisation for Security and Co-operation in Europe, 17 February 2012.

<sup>33</sup> "3 Kurds Are Killed in Paris, in Locked-Door Mystery", The New York Times, 10 January 2013.

<sup>34</sup> "Paris PKK shooting: Chauffeur under formal inquiry", BBC, 21 January 2013.

<sup>35</sup> "Turkey agrees on PKK peace plan: reports", www.news.co.au, 9 January 2013.

## VI. VSIE/ARE

### Concluded/Ongoing trials

September – December 2012

#### United Kingdom

##### December 2012

The High Court granted a permanent injunction against Stop Huntingdon Animal Cruelty (SHAC) and the National Anti-Vivisection Alliance (NAVA), preventing them from entering Harlan Laboratories UK at Shardlow Business Park. According to the court, there was “overwhelming evidence of a course of conduct against individuals working for or visiting the various premises of Harlan Laboratories UK Ltd which amounts to harassment”, causing alarm, distress, fear and intimidation to the targets of the protestors’ actions and words. The ruling pointed out that “human rights cannot be used as a charter for law-breaking and so the protestors are not entitled to commit the tort of harassment or to commit criminal acts in the course of exercising their rights to freedom of expression and freedom of assembly”. The court took into account the “important point that protestors are at liberty to organise rallies and other protests at locations away from Harlan premises”, as well as the possibility to communicate their message very effectively to a much wider audience via the internet and the press.

Source: [Westlaw International](#).



### VII. The Way Ahead

#### Ongoing/Upcoming Trials

September – December 2012

*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.*

#### Denmark

Eight suspects were arrested for allegedly funding the PKK. Seven of the eight suspects were kept in remand in an attempt to prevent them from influencing the investigation while the eighth suspect was released. The seven held on remand appealed the decision to the High Court while the prosecution appealed the decision to release the eighth suspect arguing that the individual was also capable of hindering the ongoing investigation. The eight suspects are alleged to have collected between 27-140 million kroner (3.6-17.7 million euro). The arrests were made in connection with an investigation into the Copenhagen based Kurdish TV station Roj TV which had been fined 2.6 million kroner in January 2012 for violating Denmark's anti terror laws (*for details, please see Chapter IV. Judicial Analysis*).

*Source: [The Copenhagen Post](#).*

#### Germany

A trial against the 79-year old woman suspected of belonging to the far left group Revolutionary Cells during the 1970s began in Frankfurt in September, following her extradition from France. The suspect is believed to have been involved in the deadly attack on an OPEC summit in Vienna in 1975. Prosecutors believe she supplied weapons and explosives to a commando who was involved in the plot to take hostages at the meeting in Vienna. The attack led to the death of three people including members of the Iraqi and Libyan OPEC delegations as well as a police officer. A convicted militant accused the woman of recruiting him to take part in the attack. She was charged with three counts of murder and one count of attempted murder. The defendant's 71-year old partner was also on trial for his alleged participation in several arsons/bombings, which prosecutors believed they committed together in various German cities. The duo had fled to France in 1978, where they were arrested in 2000. A year later German officials requested that they be extradited back to Germany. In December 2010 France's highest administrative court quashed the pair's bid to block the request, which enabled their extradition to Germany in 2011.

*Source: [The Local](#).*

## Greece

Eighteen individuals are set to appear in court for having participated in the anarchist group the Conspiracy Cells of Fire. Some of the suspects have already received lengthy jail sentences for their involvement in attacks against two former Greek ministers as well as on the Macedonia-Thrace Ministry in Thessaloniki. This time the suspects were brought to court on charges in connection with more than 200 bomb attacks carried out by the group between 2008 and 2011. The eighteen defendants will face charges of being members of the Conspiracy of Cells of Fire, making and possessing explosives, carrying out bombings and participation in carrying out bombings. In total the eighteen defendants will be charged with more than 200 terrorism-related offences.

Source: [HR-Net](#).

## United Kingdom

Four men jailed over a failed London bomb plot in 2005 have launched a bid to overturn their convictions. Their lawyers are arguing that a senior scientist has raised concerns regarding key evidence that was used during their trial. The defendants believe that evidence showing that their bombs were not viable, was not presented during their trial in 2007. Three of them, who have been jailed for life, had taken backpacks carrying explosives onto London metro and bus lines. The incident took place just two weeks after the 7 July attacks, which claimed the lives of 52 London commuters. The fourth suspect, who had backed out of the attack at the last minute, had received a thirty-three year prison sentence. During their 2007 trial the men, who went through with the attack, had argued that they had deliberately constructed their devices so that they would not explode, claiming they merely wanted to carry out a high profile hoax in protest against the military intervention in Iraq. The appeal is largely based on concerns that the statements made by an expert witness were not considered reliable. The four men's lawyers argue that there was a failure to disclose the doubts of the expert witness's colleagues which means that the convictions are unsafe. The three men, who tried to detonate their devices, have already had one appeal rejected. They can therefore only make an appeal by asking the Criminal Cases Review Commission to examine whether there was a miscarriage of justice. The fourth suspect, who was not part of the previous challenge, can still file an appeal directly at the Court of Appeal.

Source: [BBC News](#).

A Birmingham man is in court facing charges for three offences under the Terrorism Act, including possessing information useful for preparing an act of terrorism. The man was arrested in March 2012 after police allegedly found a document entitled "39 Ways to Serve and Participate in Jihad" in his possession. He has been granted conditional bail.

Source: [Associated Press](#).



### United States of America

A radical Muslim cleric pleaded not guilty to terrorism charges in a court in New York. The trial comes after a highly publicised extradition procedure from the United Kingdom. He is facing terrorism charges for his alleged involvement in the kidnapping of Western tourists in Yemen in 1998, in which three British and one Australian citizens were killed. He is also facing charges for allegedly supporting the establishment of a training camp in Oregon and facilitating violent jihad in Afghanistan. He will stand trial in August 2013. Officials believe the trial will last six to eight weeks and will involve the examination of 15-20 witnesses. U.S. officials are believed to have collected 8,500 documents of evidence against the cleric, which includes evidence collected by the police in the United Kingdom. Two other suspects, who were extradited from the United Kingdom, were charged with participating in the bombings of two U.S. embassies in East Africa in 1998, which killed 224 people. Their trial will commence in October 2013 and is expected to last up to three months.

Source: [The Telegraph](#).



# Contact and Analysis Team

## Contact

[Redacted Contact Information]

## Analysis Team

[Redacted Analysis Team Information]

